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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on his visit to Fiji

Comments by the State*

* The present document is being issued without formal editing.

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Comments by the Republic of Fiji on the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on his visit to Fiji (A/HRC/43/53/Add.1)

1. The Government of the Republic of Fiji would like to thank the Special Rapporteur Mr David Boyd for his visit to Fiji which took place from 7-18 December 2018. We express our appreciation to the Special Rapporteur for acknowledging the level of cooperation and transparency shown by the Fijian Government during his meetings with Government officials and the opportunity to meet with a wide range of stakeholders from civil society and non-government organisations, landowners, informal settlements, judiciary and legal practitioners.

2. After having reviewed the report on the Republic of Fiji, we make the following comments and observations:

- (a) With regard to Part III of the report “Environmental context and challenges” we make the following remarks on paragraph 26:

Whilst Fiji has not signed UNDRIP, the strong and salient provisions of the Fijian Constitution recognise indigenous people or the *iTaukei*, their ownership of *iTaukei* lands, their unique culture, customs, traditions and language.

Further, section 28 of the Fijian Constitution specifically provides that the ownership of all *iTaukei* land shall remain with the customary owners of that land and *iTaukei* land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with the processes outlined in section 27 of the Fijian Constitution.

The Fijian Constitution also provides for the first time rights of landowners to fair share of royalties for not just the extraction of minerals but also the exploration of minerals. It is prudent to note that the rights of *iTaukei* people are protected under the Constitution, in particular in sections 27-30 (inclusive).

- (b) With regard to Part IV(C) “Access to justice and effective remedies” we make the following remarks on paragraph 38:

The Tribunal is established in accordance with section 56 of the Environment Management Act 2005. Section 56 outlines the composition of the Environment Tribunal. The Environment Management Act 2005 is published online and available to all persons through the following hyper link <https://laws.gov.fj/Acts/DisplayAct/2576>

Furthermore, rules of procedure are also outlined under the Environment Management Rules (2013) which are also publically available at the above hyper link.

Decisions of the Environment Tribunal can be accessed directly by writing to the Environment Tribunal Registry for a copy which is made available on request.

- (c) With regard to Part IV(D) “A safe climate” we make the following remarks on paragraph 52:

The Environment and Climate Adaptation Levy as the name suggests is a climate adaptation levy the purpose of which is to assist with climate mitigation and adaptation project, which also include the upgrading of rural infrastructure following the aftermath of tropical cyclone Winston in 2016.

As such the funds used with respect to the upgrading of roads were in direct relation to climate adaption measures.

3. In conclusion, the Republic of Fiji welcomes the recommendations outlined in the Special Rapporteur's report and we look forward to future consultation and cooperation with the office of the Special Rapporteur in implementing these recommendations.
