



# General Assembly

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## Human Rights Council

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Agenda item 3

**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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Fiji**

**Comments by the State\***

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\* The present document is being issued without formal editing.



## **Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

### **Comments by the Republic of Fiji on the Report of the Special Rapporteur**

1. The Government of the Republic of Fiji would like to thank the Special Rapporteur Mr. Dainius Pūras for his visit to Fiji which took place from 28 November 2019 to 5 December 2019.

2. We express our appreciation to the Special Rapporteur for acknowledging the level of cooperation shown by the Fijian Government during his meetings with Government officials at the various Hospitals, health centers and nursing stations in the various parts of Fiji, and the opportunity to meet with a wide range of stakeholders from civil society and non-government organisations during the course of his visit.

3. After having reviewed the report on the Republic of Fiji, we make the following comments and in respect of Part III: Right to Mental Health of the report:

(a) Whilst the Mental Health Act 2010 (**Act**) provides for electro-convulsive therapy (**ECT**) it must be administered in strict conditions and requires the full informed consent of a person before administration of the same.

(b) Sections 72 section 76 of the Act provide in detail circumstances pertaining to the administration of ECT and the maintenance of an ECT register. The Act provides that ECT must not be administered to a person unless there are present during the administration of the ECT not less than 2 medical practitioners (of whom the medical practitioner administering the ECT may be one), one of whom is experienced in the administration of ECT; and another of whom is trained and experienced in the administration of anesthetics.

(c) The Act also provides that in circumstances where a person is presumed to be incapable of giving informed consent to the administration of ECT where if, when consent is sought, the person is affected by medication that impairs the person's ability to give that consent, then the decision to administer ECT should be deferred until such a time as the person is able to give or refuse his or her informed consent. Furthermore, Any person who administers ECT in contravention of the Act is guilty of an offence and is liable for a fine not exceeding \$1,000 or imprisonment for a term not exceeding 5 years or both.

(d) Whilst a Tribunal may decide that a patient may be administered ECT, in circumstances where it is unclear whether a patient is capable of giving his or her informed consent to ECT, or whether ECT is necessary, an authorized health care professional may apply to the Review Board for an ECT Consent Inquiry or ECT Administration Inquiry.

(e) Section 75 of the Act prescribes in robust detail the process and procedures that must be followed by the Review Board in relation to ECT inquiries.

(f) After if after considering the medical opinions and other information placed before it, if the Review Board is satisfied that consent was obtained by the patient or in cases where the patient is incapable of giving informed consent, the Review Board is satisfied that ECT is a reasonable and proper treatment and is necessary and desirable for the safety or welfare of the patient, the Review Board may approve a course of treatment and must specify the number of treatments that are approved (not exceeding 12 during each course of treatment).

4. 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.