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Visite dans les Îles Marshall

Rapport de la Rapporteuse spéciale sur les droits humains des personnes déplacées dans leur propre pays, Paula Gaviria Betancur*, **

Résumé

Dans le présent rapport, la Rapporteuse spéciale sur les droits humains des personnes déplacées dans leur propre pays, Paula Gaviria Betancur, rend compte de sa visite dans les Îles Marshall, du 5 au 15 octobre 2024.

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** Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.

Annexe

Rapport de la Rapporteuse spéciale sur les droits humains des personnes déplacées dans leur propre pays, Paula Gaviria Betancur, sur sa visite dans les Îles Marshall

I. Introduction

1. The Special Rapporteur on the human rights of internally displaced persons, Paula Gaviria Betancur, conducted an official country visit to the Marshall Islands from 5 to 15 October 2024, at the invitation of the Government. The purpose of the visit was to assess the human rights situation of internally displaced persons in the context of the country's nuclear legacy, disasters and the adverse effects of climate change and the ongoing military presence of the United States of America, identify good practices and make recommendations to relevant stakeholders.

2. During her visit, the Special Rapporteur travelled to Majuro and Kwajalein Atolls, including Delap-Uliga-Djarrit and the islands of Ejit, Lib and Ebeye. She met with the President of the Marshall Islands, the Presidential Envoy for Gender, Youth and Children and the Presidential Envoy for Nuclear Justice and Human Rights, representatives of the following ministries: foreign affairs and trade; natural resources and commerce; environment; culture and internal affairs; health and human services; justice, immigration and labour; and education, sports and training. She also met with the Office of the Chief Secretary, the Environmental Protection Authority, the Marine Resources Authority, the National Disaster Management Office, the Climate Change Directorate, the National Nuclear Commission, representatives of the local governments of Bikini-Kili-Ejit, Rongelap, Utirik and Lib islands, members of the *Nitijela* (parliament) and the Council of *Iroij* (traditional chiefs), members of the diplomatic and donor community, including of the Embassy of the United States, representatives of the United Nations in the Marshall Islands, civil society organizations and internally displaced persons.

3. The Special Rapporteur is grateful to the Government for its cooperation prior to and during the visit, in particular the Ministry of Foreign Affairs and Trade and the National Nuclear Commission. She expresses her appreciation to the Office of the Resident Coordinator in Micronesia and the Pacific Regional Office of the United Nations High Commissioner for Human Rights for their extensive support in preparing the mission. Above all, she is grateful to the many internally displaced persons who shared their testimonies with her.

II. Context

A. Background

4. The Marshall Islands consist of 29 populated atolls, five islands and over 1,200 islets, with 180 km^2 of land dispersed over 1.9 million km^2 of ocean. The Pacific country is remote, located roughly halfway between Australia and the State of Hawaii, United States, with an average elevation of only 2 m above sea level. The resident population is around 38,000 people, while around 47,000 Marshallese reside in the United States. Seventy-five per cent of the resident population resides in Majuro and Ebeye. The economy is based on subsistence agriculture, fishing and copra production.[1]

5. The Marshall Islands were first settled over 2,000 years ago by Austronesian navigators. During the First World War the islands were occupied by Japan, a situation the international community legitimized by conferring a League of Nations mandate to Japan.

[1] Nacanieli Bolo and others, *Sudden-Onset Hazards and the Risk of Future Displacement in the Marshall Islands,* Risk Profile (Internal Displacement Monitoring Centre, Geneva, 2022), pp. 6 and 7.

During the Second World War, the United States occupied the Marshall Islands. The United Nations granted the United States a formal trusteeship over the Pacific Islands in 1947, including the Marshall Islands. The Marshall Islands declared independence in 1979 by adopting a constitution, although independence was not recognized by the United States until 1986, with the entry into force of the Compact of Free Association.

B. Internal displacement in the Marshall Islands

1. Nuclear testing programme

6. In 1946, as an occupying power with no internationally legitimized jurisdiction, the United States forcibly displaced the Indigenous People of Bikini Atoll, around 167 persons, to Rongerik Atoll, before carrying out two atomic bomb tests in Bikini Atoll. The Bikinians were inaccurately informed that their displacement would be temporary and pressured to consent on the basis that their displacement would be "for the good of all mankind". Rongerik Atoll had under 1 square mile of arable land and a lagoon one fourth the size of Bikini's, meaning that it lacked the resources to sustain displaced Bikinians, who began reporting food shortages later that year. At that time, the Enewetakese, Enjebi, Rongelapese and Wotho were also displaced while tests were under way.[2]

7. In 1947, the United Nations granted the United States formal jurisdiction over the Marshall Islands as part of the Strategic Trust Territory of the Pacific Islands, despite the fact that the United States had subjected the Marshallese to forced displacement, nuclear fallout and food insecurity during three years of occupation.[3] During the trusteeship, the United States carried out at least 65 additional nuclear weapons tests, resulting in the repeated forced displacement of Indigenous populations across the Marshall Islands.

8. In 1948, the people of Bikini were relocated from Rongerik to Kwajalein Atoll following a Trust investigation that had found that the Bikinians were starving. They were then moved to Kili Island, after they ostensibly voted to do so. It is dubious, however, whether it was a truly free decision, as they were not permitted to remain on Kwajalein, and Kili was one of the few culturally appropriate options made available, as it was uninhabited and not controlled by a paramount chief. Kili provided fewer opportunities for fishing and agriculture than Bikini, exposing the Bikinians to food insecurity again. In 1956, some Bikinians were moved to Jaluit to ease pressure on Kili's limited resources but were displaced again to Kili in 1958 after a cyclone destroyed the new settlement. In 1967, the United States assured the Bikinians that they would be able to return following a radiological decontamination project undertaken by the Government of the United States. It was completed in under a year and the atoll was declared safe for habitation. Some Bikinians returned in 1971. Subsequent surveys, however, revealed dangerous levels of radioactivity remaining in Bikini Atoll. In 1978, the population was displaced again, to Kili and Ejit, where most remain today. Bikinian leaders had attempted to find alternatives to Kili for their resettlement but were ultimately unsuccessful.[4]

9. The invasion by the United States of Enewetak Atoll in 1944 displaced its Indigenous Peoples and disrupted the atoll's pre-existing sociopolitical structure, wherein the Enewetak and Enjebi peoples had maintained two separate polities in different parts of the atoll. Due to the atoll's devastation during the Second World War, both peoples were initially displaced by the United States to Aomon, which belonged to the Enewetak *Iroij*, before the Enjebi moved to another island in the atoll belonging to the Enjebi *Iroij*.[5]

10. In 1947, Enewetak was requisitioned for nuclear testing and the Enjebi and Enewetak were moved to Ujelang. Ujelang lacked the resources to feed the displaced, however, an issue that was exacerbated by a rat infestation. Shipments of food from the Trust were unreliable,

[2] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[3] See Security Council resolution 21 (1947).
[4] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[5] Defense Nuclear Agency, *The Radiological Cleanup of Enewetak Atoll* (Washington, D.C., 1981), pp. 23 and 24, available at https://www.dtra.mil/Portals/61/Documents/NTPR/1981-DNA_The%20Radiological%20Cleanup%20of%20Enewetak%20Atoll-web.pdf.

subjecting displaced persons to repeated food insecurity and starvation. Displaced Enewetak and Enjebi occupied a Trust vessel in 1967 to protest their living conditions and began petitioning for the right to return, lodging appeals to the Trusteeship Council and via the *Nitijela* to the United States. Decontamination to enable their safe return took place from 1977 to 1980. Only three islands in the atoll, however, Enewetak, Medren and Japtan, all within the homelands of the Enewetak, were decontaminated. In 1980, 500 displaced Enewetak and Enjebi returned to those islands. In 1979, the Enjebi voted to return to the Enjebi homelands. While the United States Department of Energy and Department of the Interior warned that the radiation levels in the Enjebi homelands remained too high for human habitation,[6] the United States Department of Defense asserted that the Enjebi homelands were habitable following the decontamination, although that analysis appears to have been based solely on the levels of a single radioactive nuclide – plutonium – while many other radioactive nuclides were also present.[7] Ultimately, no funds were allocated by the United States Congress for the resettlement of the Enjebi homelands, despite an appeal from the Department of the Interior, and the Enjebi remain displaced today.[8]

11. In 1954, nuclear fallout from the Castle Bravo nuclear test on Bikini Atoll was dispersed across the Marshall Islands. Within a day, the 82 Rongelapese on Rongelap and Ailinginae, who had not been notified that nuclear tests were taking place nor given any indication of risks to them, began experiencing radiation sickness; 157 residents of Utirik Atoll experienced nuclear ash falling on their islands. Although the Government of the United States was made aware of the exposure soon after the blast, the Rongelapese were not evacuated until more than 48 hours after their exposure, while the Utirikese were only evacuated 72 hours later. Up to 1,600 Marshallese on other atolls were also exposed to nuclear fallout, including residents of Ailinginae, Ailuk, Bikar, Jemo, Likiep, Mejit, Rongerik, Taka, Ujelang, Wotho and Wotje, but were not evacuated.[9]

12. The Rongelapese and Utirikese remained on Kwajalein for three months. The Utirikese were then authorized to return home, while the Rongelapese were displaced to Ejit until 1957, when they were permitted to return, along with 200 Rongelapese who were not on the island during testing. The United States was aware of lingering radioactivity but deemed Rongelap and Utirik safe for habitation. The Rongelapese experienced increased miscarriages, stillbirths, birth defects and thyroid abnormalities over the next three decades. The United States was aware of and even instrumental in identifying many of those problems but did not relocate the population, despite multiple requests to do so, including a formal request from the *Nitijela* in 1983; the United Nations also declined to assist.[10] In 1985, Greenpeace evacuated the 300 remaining Rongelapese to the island of Mejatto, where they remain displaced. The Utirikese experienced similar health effects but were not relocated after returning home.

2. Other military activities

13. In 1951, the United States forcibly displaced more than 500 Marshallese from its military base on Kwajalein Island to Ebeye.[11] The United States did not consult with or seek consent from those displaced nor with the landowners. No compensation was provided until 1964, when a 99-year lease was signed with the landowners. That agreement was not freely entered into, given that the Marshallese were not self-governing and the United States had threatened to use eminent domain to acquire the land unless its terms were accepted.[12] After nuclear testing ended, the United States repurposed Kwajalein as a missile defence testing site. Those tests, which continue today, entail missiles being fired from the United States

[6] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[7] See https://www.dtra.mil/Portals/125/Documents/NTPR/newDocs/ENEWETAK/DTRA%20ECUP%20Fact%20Sheet_Mar2017-Final.pdf.

[8] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[9] Ibid. and https://minddfiles.nuclearsecrecy.com/0058769.pdf, p. 29.

[10] See https://www.abc.net.au/news/2024-11-13/rainbow-warrior-rongelap-nuclear-testing-evacuation-greenpeace/104269958.

[11] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[12] See https://digitallibrary.un.org/record/3838195?v=pdf.

mainland and shot down over Kwajalein Atoll. The repurposing of the base resulted in multiple new waves of forced displacement. In 1960, residents of Roi and Namur islands in Kwajalein Atoll were displaced to Enubirr and Ebeye islands by the United States for the construction of an additional military base; they received no compensation until they reoccupied their lands in protest in 1979. From 1961 to 1966, the United States displaced the people of Lib Island to Ebeye, as Lib fell within the potential impact zone for missile defence testing.[13] They were not eligible for any compensation until 2023, under the third Compact of Free Association.

14. In 1965, the residents of 47 islands that lay in the impact zone for missile testing – the Mid-Atoll Corridor – were displaced to an increasingly overcrowded Ebeye. While they received some compensation, it was not sufficient to pay for rent and utilities on Ebeye. While around 194 were directly displaced, more than 1,470 had traditional land claims in the area, but were not compensated. In 1969, Mid-Atoll landowners reoccupied their lands, demanding compensation and access to the land to grow food, as they could not grow crops on Ebeye, highlighting the impact of displacement on their food security. Compensation was expanded in 1970 to 1,470 landowners but resulted in a decrease in per capita compensation. Furthermore, not all displaced Mid-Atoll residents received compensation, and protests continued until the United States agreed to renegotiate payments in 1978. The collapse of Ebeye's overburdened sewage system led to a public health crisis that prompted the re-occupation of various islands in Kwajalein by displaced people seeking improved conditions on Ebeye until 1979, when Kwajalein landowners negotiated a new lease with the United States.[14]

15. In 1982, the Governments of the Marshall Islands and the United States signed a new military use and operating rights agreement for the islands that were part of the Kwajalein military base. That agreement granted the United States a 50-year rental term and provided $9 million per year to be paid by the Government of the Marshall Islands, rather than by the Government of the United States, to the Kwajalein landowners. The Kwajalein landowners protested, as they believed that the agreement would not improve their living conditions and they had been excluded from the negotiations between the two Governments regarding the use of their lands.[15] They requested increased compensation, including funds to develop Ebeye, and opposed the continued use of their lands for missile testing.[16] The United States mounted a pressure campaign to retain its lease, withholding rental payments for Kwajalein until the Government of the Marshall Islands could convince the landowners to end their protests, cutting off food, water, sanitation and banking services to the atoll and refusing to acknowledge a proposed vote by the landowners as to whether missile tests should continue.[17] A temporary agreement between the Government of the Marshall Islands and the Kwajalein landowners was reached in 1982, after the United States agreed to reduce the lease term and consider increasing the compensation.[18]

16. The United States ultimately refused to increase the rental payments, prompting further protests and the reoccupation of islands in Kwajalein in 1985.[19] The continuation of the rental agreement under the same terms had already been provided for under the Compact of Free Association, which had been signed by the Governments of the United States and the Marshall Islands in 1983. The Kwajalein landowners rejected the Compact and continued their protests until 1986, when the Compact entered into force and the Government of the

[13] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[14] Ibid.

[15] See *The New York Times*, "800 Protesters Occupy U.S. Base Area on an Atoll", 8 July 1982; and https://www.gao.gov/assets/a233465.html.

[16] See Robert Trumbull, "Marshall Island landowners protest U.S. missile base pact", *The New York Times,* 21 June 1982, and Robert Trumbull, "U.S. and Marshall Islands split on a plebiscite", *The New York Times*, 25 July 1982.

[17] See Walter Pincus, "U.S. withholding rent on missile-target atolls", *The Washington Post*, 1 July 1982.

[18] See Robert Trumbull, "Pacific atolls show feisty independence", *The New York Times*, 24 October 1982.

[19] See Robert Trumbull, "Pacific Islanders occupy 'Star Wars' test site", *The New York Times*, 17 November 1985.

Marshall Islands invoked eminent domain to requisition their lands and forcibly remove the remaining protesters.[20] The Kwajalein landowners have continued to advocate for improved compensation and their return to their lands during subsequent renegotiations of the Compact but they remain displaced, without the option to return.

3. Disasters and climate change

17. As a low-lying island State in a region subject to seasonal typhoons and dramatic changes in rainfall patterns stemming from the El Niño/Southern Oscillation, the Marshall Islands are highly vulnerable to displacement in the context of both sudden- and slow-onset disasters. From 2008 to 2021, disasters displaced over 2,000 people, or around 5 per cent of the country's population, primarily through flooding during storm surges or so-called king tides, which are higher-than-normal tide events. Past large-scale disaster displacements were driven by cyclones, with typhoons Roy and Zelda displacing 3,500 and 5,000 people in 1988 and 1991, respectively.[21]

18. Slow-onset disasters linked to the adverse effects of climate change pose an existential displacement threat. The sea level has risen by 10 cm over the past 30 years and is expected to rise by another 19 cm over the next 30 years. That increase not only raises the risk of severe floods but could also eventually displace the entire population; in the worst-case scenario, the country could experience a sea level rise of 2 m by 2100, equivalent to its average elevation.[22] The threat of sea level rise has prompted the Marshall Islands to include planned relocation as part of its national adaptation plan for coping with the impacts of climate change. Planned relocations are envisaged only as a last resort, however,[23] reflecting community consultations that indicate that most Marshallese strongly prefer to remain on their lands despite the predicted sea level rise.

19. Coastal erosion is reducing the already limited habitable land on the islands and may displace people inland and enable more frequent and severe floods, causing further displacement. Coastal erosion and flooding risks are exacerbated by coral bleaching due to rising sea temperatures,[24] as degraded coral reefs leave coastlines without a protective buffer against erosion, waves and storm surges.[25] Drought is another hazard; the most severe recent disaster in the Marshall Islands was a drought that affected around half the country's population from 2015 to 2016, and some families were reportedly displaced as a result.

20. Displacement risk is particularly high in the urban areas of Majuro and Ebeye, where the population density obliges more people to live on marginal land and leaves them with few areas for safe evacuation or relocation. Meanwhile, the outer islands have less access to services for disaster preparedness and recovery, including shelter, protection and assistance, and their residents are more likely to engage in land- and sea-based livelihoods susceptible to the impacts of climate change.[26]

21. Marshallese displaced by nuclear tests and military activities are disproportionately at risk of displacement linked to disasters and climate change. The Bikinians and Rongelapese were displaced to islands that were previously uninhabited in part because of their susceptibility to disasters. Kili, home to displaced Bikinians, is one of the lowest-lying islands in the country, prone to sea level rise and flooding. Mejatto, home to displaced Rongelapese, has experienced increasingly high temperatures and frequent droughts. The Enjebi and Enewetakese depend on food from the highly contaminated Enewetak lagoon, which could be contaminated further as sea level rise causes leakage from the Runit Dome, a nuclear waste storage facility on the atoll.[27]

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[20] See https://digitallibrary.un.org/record/124577/files/T_PET-10_476-EN.pdf.

[21] Bolo and others, *Sudden-Onset Hazards,* pp. 4 and 9.

[22] See https://sealevel.nasa.gov/internal_resources/523/Majuro_Marshall%20Islands_combined.pdf.

[23] See Marshall Islands, *National Adaptation Plan (Papjelmae)*: *Responding to the Impact of Climate Change* (2023).

[24] Bolo and others, *Sudden-Onset Hazards*, p. 6.

[25] See https://www.usgs.gov/programs/cmhrp/news/coral-bleaching-event-can-increase-flood-risk-economic-losses.

[26] Marshall Islands, *National Adaptation Plan*, pp. 103–105, 107 and 108.

[27] Ibid., pp. 19, 97 and 99.

22. Ebeye, home to many displaced persons from Kwajalein Atoll and atolls affected by nuclear tests, is highly prone to sea level rise, flooding and coastal erosion. The population density is, by some estimates, higher than that of Manhattan, New York or of Hong Kong, China, meaning that many residences are built on marginal land, while shelters are limited, meaning that any disaster carries significant displacement risk.[28] The high population density and lack of green spaces expose residents to urban heat dome effects and a greater risk of communicable diseases, whose spread may increase with climate change.[29]

III. Legal, policy and institutional context

A. Applicable frameworks

23. The presence of the United States, after it took military control of the Marshall Islands from Japan, would legally have constituted occupation under the Convention respecting the Laws and Customs of War on Land, which was in force at the time. The presence of the United States was not manifestly consented to by the Marshallese nor did they effectively contest the military control by the United States, which taken together formed the constitutive elements of occupation.[30]

24. The Convention mandates that an occupying power take all measures to restore and ensure public order and safety and prohibits the confiscation of private property; in the Marshall Islands, nearly all property is privately owned.[31] The Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), in force from 1949 and ratified by the United States in 1955 – prior to the displacement of residents of the Mid-Atoll Corridor, Roi-Namur and Lib Island – prohibits transfers and evacuations of protected persons, including civilians under occupation, unless the security of the population or imperative military reasons so demand. Any transfer or evacuation should provide those displaced with satisfactory conditions of hygiene, health, safety and nutrition. The Fourth Geneva Convention mandates penal sanctions for grave breaches, which include biological experiments, wilfully causing great suffering or serious injury to body or health and unlawful transfer.

25. The Trusteeship in the period 1947–1986 was unique in that the United States effectively eliminated any checks and balances on its authority by arguing for the designation of the islands as a strategic trust. That permitted their use for military activities and ensured oversight by the Security Council, where the United States enjoyed veto power, rather than the General Assembly, which oversaw the remainder of the Trust Territories.[32] Under the trusteeship agreement, the United States was obligated to ensure political, economic and social advancement and the health of the population, protect natural resources and guarantee inhabitants the right to freedom of movement, subject only to the requirements of public order and security.[33]

26. The Marshall Islands has ratified most core human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. It has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced

[28] Shannon Marcoux, “Trust issues: militarization, destruction and the search for a remedy in the Marshall Islands”, *Columbia Human Rights Law Review Online*, 9 January 2021, p. 101.
[29] Marshall Islands, *National Adaptation Plan*, p. 104.
[30] See https://blogs.icrc.org/law-and-policy/2022/07/26/armed-conflict-ukraine-ihl-occupied-territory.
[31] See https://2021-2025.state.gov/reports/2024-investment-climate-statements/marshall-islands.
[32] See https://research.un.org/en/docs/tc/territories.
[33] See Security Council resolution 21 (1947).

Disappearance. The Marshall Islands is a party to the Rome Statute of the International Criminal Court, which establishes the forcible transfer of civilians without grounds permitted under international law as a crime against humanity (art. 7 (1) (d) and 2 (d)). The country is in the process of establishing a national human rights institution.

27. Several domestic instruments deal with displacement in the context of disasters and climate change, including the National Environmental Protection Act, the Land Acquisition Act, the Planning and Zoning Act, the Disaster Assistance Act and the Disaster Risk Management Act. The former three instruments deal with land arrangements in the case of population movements, while the latter two outline coordination and response arrangements during disasters. Relevant polices include the 2050 Climate Strategy (*Tile Til Eo*), which outlines measures needed to prevent displacement and eventually provide for the consolidation or planned relocation of certain communities, policies that are further outlined in the Sea Level Rise Policy and the National Adaptation Plan. As a member of the Pacific Islands Forum, the Marshall Islands applies relevant regional frameworks, including the Pacific Regional Framework on Climate Mobility, the 2023 Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-related Sea-Level Rise and the Boe Declaration on Regional Security.

B. Bilateral agreements

28. Post-independence relations between the United States and the Marshall Islands have been governed through the Compact of Free Association, first signed in 1986 and renewed twice, in 2003 and 2023, with the most recent iteration entering into force in 2024. The first Compact provided the Marshall Islands with independence, except with regard to defence and security matters, which remained under the authority of the United States. The Compact outlines economic and development assistance to be provided to the Marshall Islands by the United States, including disaster management services through its Federal Emergency Management Agency, and grants Marshallese the right to live and work in the United States, although without a path to citizenship.[34]

29. The subsidiary Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association (177 Agreement) outlined compensation measures for those affected by nuclear testing, notably through the provision of a $150 million trust fund divided among the Bikini, Enewetak, Rongelap and Utirik Peoples. A separate trust fund for the Enjebi was established under the main Compact agreement. The 177 Agreement provided funds for the Marshall Islands to obtain technical assistance to address the impacts of nuclear testing on health and food production and conduct radiological surveillance. Technical assistance could be obtained, however, only from United States government agencies, not independent parties.[35]

30. The 177 Agreement provided for the establishment of an independent nuclear claims tribunal mandated to render a final determination on all claims related to the United States nuclear testing programme. A changed circumstances clause allowed for the Government of the Marshall Islands to request the United States Congress to provide for injuries should additional loss or damage to property and person related to the nuclear testing programme become evident after the signing of the 177 Agreement. The Agreement, however, undercut those remedy mechanisms by specifying that the tribunal had no jurisdiction over the United States or its nationals and that the submission of a changed circumstances request did not require the United States Congress to appropriate funds, stipulating that the Agreement constituted the full settlement of all claims past, present and future relating to the nuclear testing programme.[36]

31. The Compact of Free Association contains the subsidiary Military Use and Operating Rights Agreement that obliges the Government of the Marshall Islands to provide the United

[34] See https://www.congress.gov/99/statute/STATUTE-99/STATUTE-99-Pg1770.pdf.
[35] See https://www.doi.gov/sites/doi.gov/files/section-177-agreement.pdf.
[36] Ibid.

States with certain sites in Kwajalein Atoll for military purposes, while provisions within the main Compact oblige the Government of the Marshall Islands to pay rent to Kwajalein landowners. The United States does not have to negotiate with the landowners directly. The 177 Agreement was renewed in 2003, opening a few islands during specified periods for cultural practices, while allowing the United States military presence to continue until 2086.[37]

32. The 2003 and 2023 iterations of the Compact provided additional assistance in the form of grants, loans and trust funds. Such assistance was presented as ex gratia charitable aid rather than compensation or remedy for forced displacement, violations of the obligations of the United States under the Trusteeship or other violations of international humanitarian and human rights law. The Marshall Islands has lobbied for additional funding to address outstanding claims from the four atolls recognized in the original Compact and for compensation to other areas exposed to fallout or displacement. Such claims have been rebuffed by the United States, citing the espousal clause of the 177 Agreement. The third Compact expanded the scope of areas eligible for Trust Fund assistance to Ailuk, Likiep, Lib, Mejit, Wotje, Wotho, Aur, Rongerik and Ujelang but due to their "extraordinary needs",[38] rather than as remedy for the effects of nuclear testing and other military activities, a characterization that many have questioned, as other atolls also have significant development needs.

C. Institutional efforts to address internal displacement

33. In the context of the nuclear legacy, the Marshall Islands sought to prevent displacement and ensure protection, assistance and remedy for the displaced through several channels, including petitions before the Trusteeship Council, lawsuits brought before United States courts and the establishment of the Nuclear Claims Tribunal, which assessed more than $2.3 billion in damages to victims of the nuclear testing programme before it ran out of funding in mid-2009.[39] Pursuant to the 177 Agreement, the Marshall Islands submitted a changed circumstances petition to the United States Congress in 2000 requesting additional funding based on the declassification of documents relating to the nuclear testing programme, new scientific evidence on radiation safety and a more comprehensive assessment of damages made by the Tribunal.[40]

34. In 2017, the Marshall Islands established the National Nuclear Commission, which is mandated to seek justice for harms incurred under the nuclear testing programme, including displacement. The Marshall Islands advocated to the Human Rights Council for the adoption of its resolutions 51/35 and 57/26 to address the human rights implications of the nuclear legacy, pledged under the Human Rights 75 initiative to seek transitional justice for its nuclear legacy and to prioritize addressing climate change and related displacement as a member of the Council, established the role of Presidential Envoy for Nuclear Justice and Human Rights in 2024,[41] presented at public hearings on the request for an advisory opinion relating to the obligations of States in respect of climate change before the International Court of Justice and formed a steering committee to prepare a new changed circumstances petition.

35. Regarding disasters and climate change, the Marshall Islands has demonstrated significant leadership as the first country to submit a nationally determined contribution under the Paris Agreement, with ambitious greenhouse gas emissions reduction targets. The 2050 Climate Strategy is aimed at achieving net-zero emissions and a full energy transition. In 2023, the country updated its Disaster Management Act and published a national adaptation plan, which outlines climate risks, necessary policy reforms, sectoral action plans and a national adaptation pathway, with sequenced measures based on the severity of climate

[37] See https://www.state.gov/wp-content/uploads/2019/02/04-501.3-Marshall-Islands-Com-Military-Use-wRelAgmtCS.pdf.

[38] See https://www.state.gov/wp-content/uploads/2024/07/24-501-Marshall-Islands-Regional-Issues-Trust-Fund.pdf.

[39] Marshall Islands National Nuclear Commission, *Nuclear Justice for the Marshall Islands: A Strategy for Coordinated Action FY2020–FY2023*, p. 11.

[40] See https://www.bikiniatoll.com/petition.html.

[41] A/HRC/57/77, paras. 29–31.

impacts observed at key decision points. The prevention of displacement is prioritized, although later phases allow for planned relocations if necessary. The national adaptation plan is one of the few that have been developed under a highly participatory approach based on extensive community consultations, including in the outer islands.

IV. Impact of displacement on human rights

A. Rights of Indigenous Peoples

36. The Guiding Principles on Internal Displacement underline the obligation of States to prevent the displacement of Indigenous Peoples in view of their special dependency on and attachment to their lands. The case of the Marshall Islands embodies the importance of that principle. During the visit of the Special Rapporteur, nearly every Marshallese stakeholder with whom she spoke, particularly displaced persons, emphasized the profound ties between their land and sense of identity. While many displaced Marshallese have rebuilt their lives elsewhere, they retain a deep sense of dislocation due to their inability to return to their lands of origin.

37. The Human Rights Committee has ruled that the forced displacement of Indigenous Peoples under circumstances that require them to abandon their cultural practices is a violation of not only their civil and political rights but that of their descendants, as transmission is essential to the continuity of Indigenous identity.[42] That encapsulates the situation of Marshallese displaced to other parts of the country, as well as that of those who have migrated to the United States under the Compact, where they and their descendants are liable to lose their culture and identity. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights stipulate that all peoples have the right to self-determination and that States Parties responsible for the administration of Trust Territories should promote self-determination for those under their jurisdiction.

38. The United States has repeatedly undermined the right to the self-determination of Indigenous Peoples of the Marshall Islands, most notably through the Compact and its subsidiary agreements. Those are aimed at presenting the displacement in the context of nuclear testing as fully remedied and codifying the displacement for military purposes in Kwajalein Atoll. During the Trusteeship, underinvestment in developing the economy and public services furthered dependency on the Compact,[43] both as a source of funding and as it granted Marshallese citizens the right to have access to better-funded services, particularly health and education, through migration to the United States. During the plebiscite preceding the Compact, the United States resisted the use of a ballot that would allow Marshallese to choose full independence, pushing for a ballot that would offer a choice only between free association, with the United States retaining military control, and continuing the Trusteeship.[44] The final ballot asked voters to state whether or not they approved of the Compact and, if they did not approve, provided an option to request the Government of the Marshall Islands to undertake further negotiations. That formulation was less clear than a direct choice between free association and independence.

39. It is legally questionable whether the original Compact represented a legitimate international agreement, given the efforts of the United States to undermine the plebiscite, and because the terms of the Compact were negotiated while the Marshall Islands was under the authority of the United States.[45] During the visit, Marshallese interlocutors, including members of the Government, voiced concerns regarding transparency and inclusivity in the negotiations relating to the renewal of the Compact in 2023 and expressed surprise at the

[42] See https://www.ohchr.org/en/press-releases/2025/05/guatemala-un-human-rights-committee-adopts-landmark-decision.

[43] Marcoux, “Trust issues”, pp. 123–130.

[44] Robert Trumbull, “U.S. and Marshall Islands split on a plebiscite”, *The New York Times*, 25 July 1982.

[45] A/HRC/57/77, para. 57.

outcome of the negotiations. It is unclear whether that lack of inclusivity was attributable to the Government of the Marshall Islands, the Government of the United States or both.

40. The United States has undermined the self-determination of the Marshallese people by obscuring the responsibility of the United States for displacement and reframing the issue as one of internal divisions, as may be seen in the lease agreement for Kwajalein, where the United States obliged the Government of the Marshall Islands to coerce the Kwajalein landowners to make their land available. In 1956, the United States coerced the Bikinians, Enewetakese and Enjebi, who were then non-self-governing and under the authority of the United States, to sign preliminary agreements waiving their rights to bring claims against the United States for the loss of their lands, stating that such claims could be made only against their own representatives.[46] Lib Islanders reported that a portion of their leadership had been sequestered prior to the displacement for closed-door negotiations with the United States and then returned to convince the population to leave.

41. Self-determination includes the right of a people to dispose of their natural wealth and resources, and no people may be deprived of their means of subsistence. The unremedied contamination of arable land and fishing waters by nuclear and military waste has reduced the viability of the Marshall Islands' traditional economy, increasing dependence on Compact funding. Displaced Bikinians, Rongelapese and Enjebi no longer have access to their ancestral lands, nor can Bikinians and Rongelapese fish in their home lagoons. Drought, coral bleaching, rising sea temperatures and ocean acidification, all potentially exacerbated by climate change, further threaten traditional livelihoods and sources of economic growth.[47]

42. A good practice for the self-determination of displaced persons is the maintenance of unified political representation for diaspora communities that have lost their traditional homelands. That includes the local governments of Bikini-Kili-Ejit and of Rongelap, which also has jurisdiction over Mejatto.

43. Under the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous Peoples should not be forcibly removed from their lands or territories without their free, prior and informed consent. Displacement from Bikini, Enewetak and Kwajalein Atolls took place when their residents were not able to provide free consent as residents of a Non-Self-Governing Territory. It is clear that they did not consent to permanent displacement, given that victims of nuclear displacement filed multiple petitions with the Trusteeship Council and lawsuits in United States courts requesting the return of their lands or remedy, while the Kwajalein landowners have repeatedly protested the rental agreements. None of those communities were provided the option to refuse relocation. Meanwhile, the Rongelapese and Utirikese were forced to evacuate after their atolls were contaminated, meaning that their consent was not obtained prior to the circumstances that forced their relocation.

44. Consent could not have been fully informed. The effects and extent of radioactive contamination were not fully understood, even by the United States, and the Marshallese were not provided with all the information that the United States did possess, as evinced by the declassification of millions of documents containing pivotal information regarding the nuclear testing programme by the United States between 1994 and 1997.

B. Right to an adequate standard of living

1. Right to food and water

45. Bikinians and Enewetakese were relocated to Rongerik and Ujelang atolls, both of which had less arable land and smaller lagoons for fishing than their home atolls and could not support the displaced populations, leading to widespread food insecurity and starvation. Consequently, the Bikinians were evacuated briefly to Kwajalein and then moved to Kili in 1948. Kili had more arable land than Rongerik but lacked a lagoon and was surrounded by rough seas, making fishing a challenge and causing food insecurity again by 1960. The

[46] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[47] Bolo and others, *Sudden-Onset Hazards*, pp. 6 and 7.

Enewetakese and Enjebi remained on Ujelang, facing food insecurity and starvation for over 30 years, until returning to Enewetak Atoll in 1979. Despite access to Ujelang's lagoon, they were not provided sufficient materials for maintaining their canoes, and food stores were frequently decimated by rats. Bikinians on Kili and Enewetakese and Enjebi on Ujelang depended on Trust food shipments. Those were unreliable and infrequent, however, due to maritime conditions and a shortage of vessels.[48]

46. The right to food stipulates that food must be adequate, a criterion defined in part by the absence of adverse substances in food.[49] Following nuclear tests, the Bikinians were given guarantees of safety and allowed to return home from 1969 to 1978, while the Rongelapese returned from 1957 to 1985, after similar guarantees. During their return, both peoples were exposed to radioactivity in their food and water. While the United States was aware of those risks and partially informed the Rongelapese and Bikinians of them, they did little to remedy the situation. The Rongelapese were provided with incomplete information on the radioactivity in their food and were not shipped food or evacuated by the Trust authorities. The Bikinians received intermittent food shipments and were evacuated only several years after the extent of food contamination had become clear.[50]

47. Displaced Enjebi, Bikinians, and Rongelapese remain reliant on food shipments from the United States, which are reportedly irregular, of poor quality and not culturally appropriate. The Enjebi and Enewetakese who returned to Enewetak rely on fish from the atoll's lagoon, which has never been decontaminated and remains highly radioactive.[51] Displaced persons report that the same fish species may be safe to eat in one location and poisonous in another due to the distribution of naturally occurring ciguatoxins in the marine food chain. Known patterns of the distribution of those fish were disrupted by nuclear testing and displacement.

48. In Kwajalein, the previously food-sovereign peoples of islands requisitioned for military use were largely displaced to Ebeye, which is too densely populated and short on arable land for livestock-raising or agriculture.[52] Many protests by Kwajalein landowners have centred around access to their islands for food-growing purposes.[53] Fishing in the Kwajalein lagoon is problematic due to submerged military detritus and other waste and pollutants from the military garrison, which have contaminated fish stocks with arsenic, polychlorinated biphenyls and other substances known to pose a health hazard.[54]

49. The disruption of Marshallese food systems as a result of displacement and environmental contamination has shifted diets. Displaced persons recounted the challenges of feeding their families through land-based methods, with many relying on poor-quality food shipments or cash assistance provided by the United States or turning to a diet heavy on readily available processed foods. The contrast between the diet of Marshallese with access to their ancestral lands and those in displacement is significant; the Special Rapporteur observed that the people of Lib Island who had returned following displacement consumed a diet rich in local produce and lean proteins rather than processed food.

50. Disasters and climate change may further the dependence on processed food, as drought, saltwater intrusion and marine degradation may limit the ability of Marshallese to produce food locally. Sea level rise could threaten the long-term habitability of certain areas by contaminating the country's drinking water.[55]

[48] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[49] E/C.12/1999/5, para. 8.
[50] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[51] A/HRC/57/77, para. 15.
[52] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[52] Marcoux, "Trust issues", p. 119.
[53] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[54] Marcoux, "Trust issues", p. 115.
[55] Bolo and others, *Sudden-Onset Hazards*, p. 10.

2. Right to housing, and housing, land and property rights

51. Marshallese displaced from Kwajalein, Enewetak, Bikini and Rongelap were frequently relocated to poor-quality housing, insufficient for the numbers of displaced persons. Many buildings constructed by the United States were not designed to withstand the tropical climate, and materials for the upkeep of those homes were not provided.[56]

52. In Ebeye and Majuro, the limited land for development obliges many to live on low-lying or coastal marginal land, leaving them exposed to the impacts of flooding, coastal erosion and sea level rise. During disasters, there is a shortage of dedicated shelters, meaning that displaced persons must shelter in schools, churches or other community structures that are not fit for purpose, lacking adequate sleeping areas, water and sanitation facilities, accessibility for older persons or persons with disabilities and privacy for women and girls.

53. Under the traditional land tenure system in the Marshall Islands, nearly all land is privately owned, which can pose challenges in the context of internal displacement. The same parcel of land may have up to three different claimants, including the *iroij* or traditional chief, who is the ultimate arbiter of land tenure, resource use, land distribution and dispute resolution, the *alap*, or clan head, who supervises the maintenance of lands and their daily activities, and the *ri-jerbal*, or worker.[57]

54. The complexity of land tenure renders it challenging to implement displacement-related climate mitigation and adaptation and disaster risk reduction measures, including prepositioning disaster relief supplies in warehouses, constructing protective infrastructure, dredging to reinforce shorelines and identifying land for planned relocations. Although a voluntary land registration system is in place, the overall picture of land claims is unclear; as more people become displaced in the context of climate change and move to areas where they have traditional claims, land conflicts may become an issue.[58] The Special Rapporteur was pleased to learn that the Government had launched a dialogue with traditional landowners regarding land reforms for climate change mitigation and adaptation.

55. In Kwajalein Atoll, where displaced landowners are meant to receive payment from the Government for the use of their lands, the complexities of the traditional land tenure system render it unclear whether payments are equitably distributed among landowners with different levels of interest in the same parcel of land. The *iroij* and *iroijlaplap* (paramount chief) are considered to have the principal interest in comparison with the *alap* or *ri-jerbal*.[59] The latter two groups may be more materially affected by the loss of land, as they may have few alternatives to land-based livelihoods, yet may receive less compensation.

3. Right to health

56. The right to health is the right that has been violated most directly by the exposure to radioactive contamination. Displaced Rongelapese and Utirikese experienced radiation sickness immediately following nuclear tests, including burns, itching, nausea and diarrhoea and, in later years, an increased incidence of cancer, reproductive issues, birth defects and thyroid abnormalities.[60] Displaced persons were often exposed to radiation multiple times, during both testing and premature returns to Rongelap, Utirik and Bikini Atolls. While some received healthcare for their radiation-related conditions during the Trusteeship, they were not consistently informed of findings and prognoses related to their health nor on the rationale behind the treatments that they received.[61]

57. The right to health includes freedom from non-consensual medical treatment and experimentation.[62] That right was grievously violated by Project 4.1, a programme of covert

[56] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[57] See https://www.un.int/marshallislands/marshallislands/travel-marshall-islands.
[58] Marshall Islands, *National Adaptation Plan*, pp. 129 and 178–180.
[59] See https://www.gao.gov/products/b-227438.
[60] A/HRC/21/48/Add.1, paras. 21–23; and A/HRC/57/77, paras. 33–36.
[61] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.
[62] E/C.12/2000/4, para. 8.

medical experimentation intended to study the effects of radiation on human subjects.[63] Displaced Rongelapese and Utirikese and their descendants report having been subjected to humiliating exams, forced to strip naked in public settings, having their teeth extracted regardless of whether it was medically necessary, being subjected to bone marrow sampling and the harvesting of the organs of their community members after death, all without a clear explanation, consent or compensation.

58. Forced displacement from around Kwajalein to Ebeye, where the spread of communicable disease was exacerbated by overcrowding, frequent flooding and inadequate water and sanitation facilities, had an impact on the right to health. Lib Islanders faced deadly outbreaks of whooping cough, polio and influenza on Ebeye; prior to their displacement, they had had low mortality rates and limited experience of infectious disease. Similarly, those displaced from Kwajalein experienced outbreaks of polio, influenza and meningitis.[64]

59. Displaced persons are often bereft of the terrestrial and marine resources necessary to feed themselves and rely increasingly on more readily available processed foods, which has increased rates of non-communicable diseases; many interlocutors noted that the Marshall Islands has one of the highest rates of type 2 diabetes in the world.[65] Those dynamics may be exacerbated by the impacts of disasters and climate change, including drought and marine system degradation, on the viability of agriculture and fishing. Flooding and sea level rise may facilitate the spread of waterborne communicable diseases.[66]

60. The displaced persons of the Marshall Islands continue to experience significant mental health challenges, given the trauma of displacement, a profound sense of cultural loss, uncertainty regarding their continued exposure to health hazards from radiation and military activities and insecurity stemming from hosting a United States military presence, which could render them vulnerable to attack during future conflicts. Residents of low-lying atolls have reported increasing levels of despair at the prospect of their displacement from the lands that provide their identity and livelihoods.[67]

61. Access to healthcare is a general challenge, particularly outside of Ebeye and Majuro. Many interlocutors cited that issue as a major driver of migration to the United States. There are few specialized doctors; notably, there is no oncologist or radiation and chemotherapy services in the country. There is only one psychiatrist for the entire population. Despite the prevalence of communicable diseases on Ebeye, displaced people and other residents generally do not have access to the better-equipped hospital located on the military base of the United States.[68]

4. Right to remedy

62. The United Nations Declaration on the Rights of Indigenous Peoples mandates redress mechanisms for displacement and other violations of free, prior and informed consent. The right to remedy encompasses equal and effective access to justice, adequate, effective and prompt reparation and access to relevant information.[69] That includes the elements of a transitional justice approach, encompassing truth, accountability, guarantees of non-recurrence, reparations and memorialization.[70]

63. Effective access to justice has been elusive. The Special Rapporteur was not made aware of any efforts to hold the United States accountable for breaches of international humanitarian law as an occupying power, nor has the United States faced consequences for breaches of its Trusteeship obligations to ensure the political, economic and social development of the Marshall Islands, safeguard the health of the population and guarantee

[63] See https://www.dtra.mil/Portals/125/Documents/NTPR/newDocs/NTREReport/WT-923-Proj%204.1%20Response%20of%20Humans%20Accidentally%20Exposed%20to%20Significant%20Fallout%20Radiation%20Op%20CA.pdf.

[64] See https://www.osti.gov/opennet/servlets/purl/16365056.pdf.

[65] See https://www.ncbi.nlm.nih.gov/books/NBK581937/table/ch5.tu22.

[66] Bolo and others, *Sudden-Onset Hazards*, p. 10.

[67] Marshall Islands, *National Adaptation Plan*, p. 129.

[68] Marcoux, “Trust issues”, p. 122.

[69] General Assembly resolution 60/147, annex, sect. VII.

[70] A/HRC/57/77, para. 54.

freedom of movement. During the Trusteeship, in 1954 [71] and 1956, [72] Marshallese representatives petitioned the Trusteeship Council to end nuclear testing and displacement. In both instances, the Council permitted nuclear testing to continue, despite the explicit mandate given to the United States to protect the inhabitants against the loss of their lands and resources and to protect their health. The United States invoked military necessity to continue nuclear testing during the Trusteeship, raising questions of whether international humanitarian law prohibitions on forcible transfer and biological experiments such as Project 4.1 would apply. The United Nations has also not remedied harms suffered by the Marshallese during the Trusteeship and neither the United Nations nor the United States has ever issued a formal apology to the Marshallese.

64. Lawsuits brought before United States courts by the displaced Bikinians [73] and Enewetakese[74] and, collectively, by the Rongelapese, Utirikese and other peoples[75] affected by contamination were suspended during negotiations on the Compact of Free Association and eventually dismissed on the basis that the 177 Agreement had withdrawn jurisdiction from the United States courts to hear claims related to the nuclear testing programme.[76] Although the 177 Agreement permits the Marshall Islands to request additional redress from Congress, the United States Department of State contested an official Marshallese request in that regard, denying that the declassification of information on the full extent of contamination constituted "changed circumstances", while suggesting that it would be appropriate to apply a higher threshold for acceptable radiation exposure for Marshallese than for American citizens.[77] The United States also questioned the methodology of the Nuclear Claims Tribunal, noting that the United States had played no role in evaluating claims and that the amounts awarded exceeded United States standards. An independent assessment, however, found the Tribunal's methodology to have been reasonable.[78]

65. Kwajalein landowners have continued to dispute the rental arrangement since the first renewal of the Compact, in 2003, asserting that their lands were illegally seized and provided to the United States without just compensation. Despite the lawsuits that the landowners have brought before the High Court of the Marshall Islands and the potential applicability of Rome Statute prohibitions on the forced displacement starting in 2002, the lease continues.[79]

66. Climate justice is elusive. The Marshall Islands is responsible for a mere 0.00001 per cent of global emissions,[80] yet faces an existential displacement threat from climate change. Although the country has developed ambitious rights-based policies to deal with climate change, the full implementation of those frameworks will require extensive funding from countries that have contributed the most to climate change. The cost of the implementation of the national adaptation plan is estimated at $35 billion, with the bulk of resources to be externally mobilized.

67. Reparation has not been adequate, effective or prompt. Although the Nuclear Claims Tribunal had awarded more than $2.3 billion in claims, it was able to pay out only around $77.5 million before its funding was exhausted.[81] Other claims have not yet been assessed due to the Tribunal's lack of resources. By 2000, nearly half of the claimants had already

[71] See Trusteeship Council resolution 1082 (XIV).

[72] See United Nations Trusteeship Council, 151st report of the Standing Committee on Petitions on petitions from the Marshallese Congress Hold-Over Committee (T/PET.10/29) and from Mr. A. Elliot Castello (T/PET.10/L.1) concerning the Trust Territory of the Pacific Islands (T/L.649).

[73] *Juda v. United States* and *John v. United States/People of Bikini v. United States*.

[74] *Peter v. United States* and *People of Enewetak v. United States*.

[75] *Nitol v. United States.*

[76] See https://www.justice.gov/osg/brief/john-v-united-statespeople-bikini-v-united-states-opposition#:~:text=2808.-,2.,under%20the%20caption%20Nitol%20v.

[77] See https://2001-2009.state.gov/p/eap/rls/rpt/40422.htm#sum.

[78] Dick Thornburgh, Glenn Reichardt and Jon Stanley, *The Nuclear Claims Tribunal of the R.M.I.: An Independent Examination and Assessment of its Decision-Making Processes* (Washington, D.C., Kirkpatrick & Lockhart LLP, 2003), available at https://www.bikiniatoll.com/ThornburgReport.pdf.

[79] See Giff Johnson, "RMI chief steps up fight over US base", *Guam Daily Post*, 12 October 2009.

[80] Marshall Islands, *Tile Til Eo 2050 Climate Strategy: "Lighting the Way"* (2018), p. 6.

[81] See *The Marshall Islands Journal*, "Tribunal records preserved", 13 November 2015.

died with their claims still unfulfilled.[82] The United States reports providing only around $600 million to the affected communities.[83] It is difficult to argue that the Compact funds constitute remedy, given that the United States receives significant strategic return through the continued lease of Marshallese land for military purposes. Physical remediation is also elusive, as Bikini, Rongelap and Enewetak Atolls have never been fully decontaminated.

68. Some trust funds have been depleted due to mismanagement and potential fraud by local government officials. The Bikini Resettlement Trust Fund had, until 2017, funded local government operations and provided payments to displaced citizens but was depleted from $59 million in 2017 to less than $100,000 in 2023, after the local government – against the wishes of the national Government – successfully appealed to the Department of the Interior of the United States to remove oversight of expenditures. While some funding went towards community purchases, other expenditures were for private property, personal vehicles and travel.[84] Many community members reported struggling to meet their basic needs following the fund's depletion. Some interlocutors raised questions about the Enjebi Community Trust Fund, alleging that it had also been inappropriately depleted.

69. The Marshallese were not provided with full information regarding their displacement and have not received it to this day. Although millions of pages of documents pertaining to nuclear tests were declassified in 1994, potentially millions of pages more are pending declassification, which the United States estimates would be cost-prohibitive.[85] Many Marshallese report that they still do not understand the circumstances that led to their displacement, nor whether they were exposed to health threats from radiation or missile testing. They lack confidence in the information provided by the United States, particularly regarding radiological and environmental assessments, given the long legacy of partial or incomplete information. There has not been a comprehensive analysis of radiological contamination; the only so-called nationwide radiological study conducted to date covered around one-third of inhabited islands.[86]

70. Policy changes implemented by the United States administration inaugurated in January 2025 may adversely affect assistance to displaced persons. Although core Compact funding is reportedly secure, as it is mandated by a bilateral treaty, the Marshall Islands has experienced delays in the disbursement of funding, and sectoral grants from the United States for some essential services have been eliminated.[87]

5. Disasters and climate change

71. Despite strong policy frameworks in the Marshall Islands, there is scope to improve the national responses to displacement in the context of disasters and climate change. Coordination, including between climate change actors, national and local disaster management actors and national and local governments, remains a challenge and impedes the effectiveness of responses. That is exacerbated by the difficulties of communication and of positioning supplies on outer islands. Community disaster preparedness remains a gap, with few interlocutors able to identify instances in which they had participated in preparedness exercises.

72. Displacement is not systematically considered in disaster and climate policy frameworks in the Marshall Islands. The country has no national policy dealing with displacement and human mobility in the context of climate change that covers the delegation

[82] See https://www.bikiniatoll.com/petition.html.

[83] See https://2021-2025.state.gov/u-s-relations-with-marshall-islands.

[84] See Pete McKenzie, "$59 million, gone: how Bikini Atoll leaders blew through U.S. trust fund", *The New York Times*, 3 May 2023; Dan Frosch and Christine Mai-Duc, "Nuclear tests ravaged their home. Their leaders drained a compensation fund dry", *The Wall Street Journal*, 15 July 2023; and Scott Jones, "How officials bought luxury 'government' cars with funding for victims of US nuclear testing", *The Telegraph*, 6 August 2023.

[85] See https://www.archives.gov/files/pidb/recommendations/marshall-islands-feasibility-study-2022-.pdf.

[86] A/HRC/57/77, para. 68.

[87] See Giff Johnson, "Marshalls Compact funds secure; grants slashed to the islands", *Marianas Business Journal,* 10 March 2025.

of institutional roles and responsibilities. The needs of displaced communities in their full diversity are not always considered, including the specific needs of women, young people, older persons, persons with disabilities and those living in poverty. There is a lack of systematic and harmonized data collection, centralization and management, which can lead to fragmented approaches, redundant data collection efforts and policies that are not evidence-based, although the Special Rapporteur is encouraged by efforts to implement an integrated disaster information system in the Marshall Islands, which could provide an opportunity to improve data collection on disaster displacement and establish a broader displacement tracking mechanism.

73. Policy changes implemented by the United States administration inaugurated in January 2025 may affect vital services to prevent displacement and assist displaced persons in the Marshall Islands. The Marshall Islands has the right to the services of the Federal Emergency Management Agency under the Compact. The Agency's funds have been frozen and its staff dramatically reduced and, at the time of writing, the United States is considering abolishing the agency altogether.[88] The United States Agency for International Development was responsible for the implementation of the mandate of the Federal Emergency Management Agency in the Marshall Islands, which in turn was implemented through a contract between the United States Agency for International Development and the International Organization for Migration (IOM). The United States Agency for International Development has since been abolished, while IOM has lost 30 per cent of its funding globally, largely due to defunding by the United States.[89]

V. Conclusions and recommendations

74. **The Marshall Islands faces a complicated and multifaceted displacement situation attributable to the international community's neglect and failure to protect a small island developing State from forces beyond its control, including the military ambitions of a nuclear superpower and the impact of climate change. The Marshallese are Indigenous Peoples whose culture, livelihoods, spiritual practices and identity are deeply tied to their land, making the experience of displacement one of immeasurably profound loss. Nevertheless, the Marshallese are not solely victims but have sought redress actively for the injustices that they continue to suffer through international human rights diplomacy and leadership on climate change. The Special Rapporteur encourages the Government to expand those efforts by continuing its pursuit of transitional and climate justice and ensuring the systematic integration of displacement considerations in all relevant frameworks, taking a human rights-based approach that prioritizes the most vulnerable.**

75. **The international community must take accountability for its role in enabling the displacement of the Marshallese during the Trusteeship and for allowing climate change to threaten the country's existence, despite its minimal emissions. The United States bears particular responsibility for much of that displacement and for violating the rights of the Marshallese to self-determination and free, prior and informed consent. Those harms have not been remedied by the unequal terms of treaties that provide strategic returns to the United States while serving as attempts to legitimize the arbitrary displacement of Indigenous Marshallese and impede their efforts to seek meaningful justice.**

76. **In line with the Guiding Principles on Internal Displacement and the Framework on Durable Solutions for Internally Displaced Persons of the Inter-Agency Standing Committee, the Special Rapporteur makes the recommendations set out below.**

77. **The Special Rapporteur recommends that the Government of the Marshall Islands:**

[88] See Gabe Cohen, "'We're not preparing': As Trump officials vow to eliminate FEMA, the agency is already in turmoil", CNN, 26 March 2025.

[89] See https://www.iom.int/news/update-iom-operations-amid-budget-cuts.

(a) **Develop a comprehensive rights-based framework on internal displacement aligned with international standards, covering prevention, protection and assistance, and solutions to displacement that are applicable to displacement in the context of disasters, climate change, planned relocations and all other relevant displacement drivers, informed by a participatory approach and lessons learned from the nuclear and military legacies;**

(b) **Establish or mandate an agency to serve as the institutional home for all matters relating to internal displacement, including oversight and the implementation of any framework on internal displacement;**

(c) **Ensure the systematic inclusion of displacement considerations in legal and policy frameworks relating to disasters and climate change;**

(d) **Strengthen land registration through advocacy, creating incentives to increase voluntary land registration and undertaking negotiations towards a more comprehensive approach to land registration, land tenure and the safeguarding of housing, land and property rights, emphasizing community participation, non-discrimination and gender equality;**

(e) **Provide systematic oversight of funds intended for displaced persons in order to prevent fraud and mismanagement and conduct a full and transparent investigation into existing and future irregularities;**

(f) **Continue efforts to establish a national human rights institution and include internal displacement as a priority issue within its mandate;**

(g) **Implement a centralized information management system to track displacement;**

(h) **Continue working with relevant stakeholders, including traditional landowners, towards the land reforms necessary for effective disaster response and climate change mitigation and adaptation;**

(i) **Continue efforts to seek remedy, accountability and transitional justice for arbitrary displacement and violations of the rights of displaced persons under international humanitarian law, international criminal law and international human rights law;**

(j) **Strengthen disaster preparedness, including by conducting exercises at the community level in high-risk areas and prepositioning supplies in the outer islands;**

(k) **Mobilize support and funding for a comprehensive public radiological survey and feasibility studies for more comprehensive decontamination efforts;**

(l) **Mobilize support and funding for expanding health services for communicable and non-communicable diseases and for the implementation of a food systems pathway to improve food security and nutrition;**

(m) **Continue to mobilize support and funding for the implementation of climate mitigation and adaptation measures;**

(n) **Undertake meaningful consultations with all Marshallese with traditional ownership or use rights to lands requisitioned for military use in Kwajalein Atoll regarding their views on the continuation of the lease arrangements and appropriate compensation and advocate for their expressed preferences;**

(o) **Promote transparency around issues relating to the protection and remediation of displaced persons, including community engagement and the involvement of all relevant government officials in relevant negotiations, such as those relating to the Compact.**

78. **The Special Rapporteur recommends that the Government of the United States:**

(a) **Issue a formal apology to the Marshall Islands for forced displacement and other violations of their rights during the Trusteeship;**

(b) **Fully declassify all records related to the nuclear testing programme, in particular the human rights impacts thereof and information regarding displacement and risks to the health and well-being of Marshallese in the context of ongoing military activities;**

(c) **Permit the exercise of the remediation measures agreed in the 177 Agreement, including by not impeding the presentation of a changed circumstances petition to the United States Congress and providing the funding necessary for the conclusion of the work of the Nuclear Claims Tribunal and the payment of outstanding and future judgements;**

(d) **Work with the Government of the Marshall Islands to ensure the free, prior and informed consent of all Marshallese with traditional ownership or use rights to lands requisitioned for military use in Kwajalein, including the right to terminate lease arrangements;**

(e) **Ensure that cuts to foreign assistance do not violate treaty obligations and do not have further detrimental impacts on the rights of Marshallese, particularly regarding disaster management;**

(f) **Fully remedy the environmental impacts of nuclear and military activities, in line with the polluter pays principle.**

79. **The Special Rapporteur recommends that the United Nations and the international community:**

(a) **Issue a formal apology to the Marshall Islands for the failure to address forced displacement, requests for relocation and other rights violations under the Trusteeship;**

(b) **Establish a remedy mechanism for rights violations experienced under the Trusteeship;**

(c) **Provide funding, technical assistance and capacity-building for implementing climate change mitigation and adaptation measures, strengthening disaster response, conducting a comprehensive radiological survey and feasibility studies for decontamination, improving healthcare and education systems and diversifying the economy, with a view to reducing dependence on Compact funding;**

(d) **Continue to provide technical assistance and capacity-building to the Marshall Islands to address the nuclear legacy.**