

Comments on the challenges and barriers to the full realization of the human rights of the people of the Marshall Islands stemming from the State’s nuclear legacy

*they say you, your daughter
and your granddaughter, too
will wander rootless
with only a passport to call home¹*

– Kathy Jetñil-Kijiner, Marshallese poet

I. Introduction

The Center for International Law (CenterLaw) Philippines respectfully submits the following input on the challenges and barriers to the full realization of the human rights of the people of the Marshall Islands stemming from the State’s nuclear legacy. In particular, our comments focus on the role of international institutions in holistically supporting justice efforts for the Marshallese and future generations impacted by continuous nuclear testing and weapons development, as well as the contributions of Indigenous practices to achieve accountability and redress for similar harms, drawing on comparative lessons from Indigenous environmental activism in the Philippines.

II. Justice for the impacts of nuclear testing

Nuclear legacy is a “legacy of cancerous diseases, continuous state of poor health, [and] alienation from [] land.”² Therefore, justice for this harm requires more than compensation—it requires truth-telling, participatory decision-making, and system-level contributions to make impacted communities “whole” again and ensure non-repetition. The Marshallese have experienced a wide range of rights violations including forced displacement, intergenerational health consequences, long-term ecological contamination, and socioeconomic disruption. This requires—in addition to financial restitution, rental and livelihood assistance, social welfare provision, and land compensation—institutional reforms to environmental regulations, health governance, and climate disaster response.

Primarily, the responsibility for accountability measures lies with the state responsible for nuclear testing in the Marshall Islands—and the Compact of Free Association (COFA) outlines existing obligations for the U.S. to fulfill. Yet, the U.S. government has refused to fully fund nearly \$2.3 billion USD in claims adjudicated by the Nuclear Claims Tribunal, for damage to property, health, and livelihoods.³ The UN Special Rapporteur on human rights and toxic waste has called on the U.S. to provide “full funding for the Nuclear Claims Tribunal to award adequate

¹ <https://www.map.llc.ed.ac.uk/creative-writing/dear-matafele-peinem/>

² <https://charterforcompassion.org/arts/arts/international-reflective-writing/marshall-islands.html>

³ <https://insidestory.org.au/the-long-shadow-of-bravo/>

compensation for past and future claims.”⁴ However, even the reparations scheme under the Tribunal is inadequate⁵—as the narrow definition of affected atolls and individuals fail “to take into account the frequent movement of Marshallese between atolls or the lingering effects of radiation.”⁶ Reparations through compensatory funds from the U.S., therefore, need to include as eligible Marshallese those who live on other atolls who have been similarly affected by testing⁷ such as those exposed to fallout drift but not originally designated as test zones; cancer victims born after the testing period should also receive compensation with no categorical limitations on “radiation-related” cancer eligibility. The case of French Polynesia’s compensation model for atmospheric nuclear testing offers a compelling precedent: claimants exposed to radiation above minimal thresholds benefitted from a presumption of causation in compensation adjudication.⁸

Justice requires further addressing the health impacts of nuclear testing on a structural level, given the inequities that are produced from the intergenerational impacts of this harm.⁹ Radiation exposure from the tests has led to significantly elevated rates of thyroid cancer, leukemia, reproductive disorders, and birth defects in affected atolls. Thus, long-term investments in public health infrastructure in the Marshall Islands are essential—this should include mobile clinics and cancer screening programs, reproductive and maternal health services, and funding for studies on the long-term hereditary effects of radiation exposure and cancer registries.¹⁰ This technical assistance, funding, and programming should be developed in consultation with affected communities and Marshallese healthcare providers, including targeted recruitment of those health workers in the diaspora.¹¹

⁴ UN General Assembly, A/HRC/21/48/Add.1, September 3, 2012. This aligns with general principles of international environmental law, including the ‘polluter pays’ principle and the duty to make full reparation under customary international law as recognized in the Chorzów Factory case (<https://www.lawjournals.org/assets/archives/2021/vol7issue1/7-1-42-484.pdf>).

⁵ Davor Pevec, The Marshall Islands Nuclear Claims Tribunal: The Claims of the Enewetak People, 35 Denv. J. Int’l L. & Pol’y 221 (2006).

⁶ <https://www.armscontrol.org/act/2014-03/no-promised-land-shared-legacy-castle-bravo-nuclear-test>.

This limitation runs contrary to the UN Human Rights Committee’s position that compensation must be adequate, effective, and promptly accessible to all affected individuals, regardless of restrictive geographic designations.

(<https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>).

⁷ <https://www.armscontrol.org/act/2022-11/news/us-marshall-islands-grapple-nuclear-legacy>

⁸ <https://arxiv.org/abs/2103.06128>. The following profile highlights legal and policy developments in French Polynesia’s approach to the legacy of nuclear testing (as of 2019):

<https://iwgja.org/en/french-polynesia/3418-iw2019-french-polynesia.html?highlight=WyJudWNsZWYll0=>

⁹ Civil society has called for restoring Medicaid (U.S. public healthcare) for Marshallese, harnessing the capacity of aid organizations to provide quality healthcare in RMI, and other measures to achieve health equity.

<https://digital.lib.washington.edu/server/api/core/bitstreams/5f307d5f-d44a-463a-8ced-c7645ba3251b/content>

¹⁰ Financing this through expansion of programming and eligibility for existing frameworks, like the Four Atolls Healthcare Program is feasible.

<https://www.doi.gov/oia/press/OIA-Announces%242.2-Million-in-FY-2025-Funds-for-Four-Atoll-Healthcare-in-the-Marshall-Islands>

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<https://www.undp.org/pacific/stories/frontlines-resilience-undps-deepening-commitment-marshall-islands> (highlighting National Nuclear Commission and UNDP initiatives that draw lessons from global

While the 2023 negotiations to renew the COFA between RMI and the U.S. introduced a new trust fund arrangement for preserving and memorializing the legacy of nuclear testing, the Compact retains troubling language that allotted funds that will be deemed as final settlement and satisfaction of all past, present, and future compensation for the Marshallese, regardless of the extent of the damages and the continuing persistence of the harm. This is in contravention of international legal standards on environmental harm and intergenerational equity,¹² because it unduly limits the rights and interests of future Marshallese generations.¹³ Through the rights retained by the RMI in the “Changed Circumstances Petition” condition, the COFA needs to be renegotiated to explicitly address nuclear legacies through financing compensation, healthcare and environmental remediation, monitoring, and scientific assessments of radioactive sites (such as studying groundwater at Runit Dome¹⁴); expanding eligibility criteria to cover all affected communities (even those indirectly exposed to harm); and, in consultation with and represented by Marshallese, adopting a robust monitoring and evaluation framework or independent oversight board that establishes frequent and comprehensive consultations with Indigenous and displaced communities, and sets clear indicators for implementation of the Compact. Moreover, criticism of COFA has included lack of transparency—specifically, that there is no *closure* for the nuclear legacy without *disclosure* of scientific and policy documents related to the historical testing—so the renegotiated COFA should include public reporting requirements to support trust and accountability.

In addition to the fulfillment of American obligations, justice for the legacy of nuclear testing requires an apology from the United Nations, as the body under whose administrative authority the U.S. authorized the use of nuclear weapons in Trusteeship Resolutions 1082 and 1493 in

approaches to nuclear issues and develop technical partnerships for healthcare). Such measures are integral to fulfilling Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right to the highest attainable standard of health and requires states to take steps for prevention, treatment, and control of epidemic and occupational diseases. (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>).

¹² Stockholm Declaration, principles 1 & 2.

¹³ “This Agreement constitutes the full settlement of all claims, past, present and future, of the Government, citizens and nationals of the Marshall Islands which are based upon, arise out of, or are in any way related to the Nuclear Testing Program, ... and of all claims for equitable or any other relief in connection with such claims including any of those claims which may be pending or which may be filed in any court or other judicial or administrative forum.” 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 art. X(1). See also Maljean-Dubois, Sandrine. “The No-Harm Principle as the Foundation of International Climate Law.” Chapter. In *Debating Climate Law*, edited by Benoit Mayer and Alexander Zahar, 15–28. Cambridge: Cambridge University Press, 2021; <https://doi.org/10.1017/S2047102522000395>.

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https://www.researchgate.net/publication/264812066_Radioactive_waste_buried_beneath_Runit_Dome_on_Enewetak_Atoll_Marshall_Islands

1954 and 1956, respectively.¹⁵ A formal resolution apologizing to the Marshall Islands is necessary for symbolic reparations and for the work of the UN to remain true to its values of accountability through acknowledging institutional responsibility.¹⁶ In the same vein, pursuing the adoption of U.S. Congressional resolution 202—which proposes a formal U.S. apology to the Marshallese, acknowledgement of the nuclear legacy, improvement of healthcare provision, and completion of groundwater studies at Runit Dome—is critical for both its symbolic and material impact.¹⁷

To supplement formal legal channels, people’s tribunals are powerful mechanisms for independent, community-led documentation of harm, comprehensive record-keeping, and providing survivor testimony to advance accountability through concrete recommendations and holistic reparation schemes. A potential People’s Tribunal of the Republic of the Marshall Islands should be supplemented with the formal establishment of a Truth and Reconciliation Commission, with support from the international community and engagement of Indigenous Marshallese leaders and organizations.¹⁸ Any such efforts need to prioritize the participation and representation of displaced communities, and include a gender-sensitive approach to investigating the impacts of radiation exposure (e.g., reproductive health harms and hereditary conditions) to address gaps in documentation of the nuclear legacy.¹⁹ An explicit focus on the socioeconomic impact,²⁰ including multidimensional poverty, loss of livelihood, and

¹⁵ <https://pang.org.fj/in-support-of-rmis-human-rights-council-resolution/> (“We note the earliest international appeal by the people of the RMI to stop the deadly nuclear weapons tests being carried out by the United States in their islands was made on 6 May 1954, when they filed a petition with an urgent plea to the United Nations Trusteeship Council on the nuclear weapons testing, saying they were ‘not only fearful of the danger to their persons from these deadly weapons, but also concerned about the increasing number of people removed from their land’, and ‘requesting that all experiments with lethal weapons in the area be immediately ceased.’”)

¹⁶ See, e.g., UN formal apology to Rwanda for failure to prevent genocide, available at:

<https://time.com/66095/rwanda-genocide-keating-apology>

¹⁷ <https://www.congress.gov/bill/118th-congress/house-joint-resolution/202/text>

¹⁸ See, e.g., Mauritius Truth and Justice Commission (2009-11) (established to document colonial history, impact, and recommend reparations for descendants of enslaved persons); Truth and Reconciliation Commission of Canada (2009-15) (established in relation to abuse of Indigenous population, after reparations program, dispute resolution program, and State apologies were implemented).

¹⁹ To ensure meaningful participation of all stakeholders, and given that a significant diaspora of Marshallese reside in the U.S., digital platforms should supplement in-person engagement in any justice processes to ensure widespread participation in all consultations on reparations. The Marshall Educational Initiative is one such organization that serves to link community members and facilitate dialogue, so they would be highly relevant CSO stakeholders to involve in decisionmaking.

<https://www.mei.ngo/nuclear>. Active engagement of youth from the Marshall Islands and diaspora communities is similarly crucial to all documentation and advocacy efforts, and can be facilitated through targeted mentorship programs to set up pathways to local, regional, and international leadership on this issue. Jo Jikum is one such program dedicated to youth empowerment in decisionmaking and climate adaptation within the RMI. They are listed at

<https://www.localfutures.org/programs/global-to-local/planet-local/place-based-education/jo-jikum/>.

²⁰ <https://www.usp.ac.fj/pace-sd/projects/protectpacific/interactive-case-studies/community-experience/> (“Many Marshallese in the U.S. struggle with low-paying jobs and face difficulties navigating the complex systems needed to access healthcare and benefits promised by the Compact of Free Association treaty. As climate impacts worsen, it is likely that more Marshallese will seek refuge in the U.S., driven by the compounded effects of nuclear contamination and climate change.”)

marginalization of the Marshallese should be included in the potential Commission’s mandate.²¹ The establishment of a Commission to explicitly address the legacy of nuclear testing would be the first of its kind and, while specific to the concerns and priorities of the impacted Marshallese, would serve as a model for other countries impacted by nuclear colonialism.

III. International cooperation and financing

International cooperation through multilateral and bilateral commitments to disinvest from and disarm nuclear weapons can help achieve justice for present and future generations impacted by nuclear testing.²² All nuclear-armed states should prioritize the ratification of the Treaty on the Prohibition of Nuclear Weapons (TPNW) and the Comprehensive Nuclear Test Ban Treaty (CTBT), and states impacted by nuclear colonialism should be given a platform to provide input on how to realize the protections and remedies afforded therein. Implementation must also be subject to transparent monitoring mechanisms that include nuclear-affected states as equal decision-makers, not merely as recipients of assistance. For example, the TPNW must be strengthened by clarification regarding its victim assistance and environmental remediation provisions,²³ and support for an international trust fund to finance the implementation of the treaty.²⁴ Specifically, interpretation of the TPNW must not absolve the U.S. of its responsibility to clean-up nuclear damage and address lasting health outcomes, and must more broadly reaffirm the principle that responsibility to address the harms of nuclear weapons lies with the states that have used them.²⁵ Additionally, the Partial Test Ban Treaty (PTBT) needs to be strengthened, possibly through an additional protocol, to require similar environmental remediation and reparative justice measures like healthcare provision and subsidy.

21

<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/seeking-compensation-radiation-survivors-marshall-islands> (an anthropological perspective on claims before the Nuclear Tribunal, highlighting downstream effects such as community fragmentation and the conclusion that “compensation must reflect the actual biophysical and sociocultural damages and losses experienced by residents”)

²² See Stockholm Declaration, principle 24 (on duty to cooperate).

²³ TPNW Art. 6 (“Each State Party shall, with respect to individuals under its jurisdiction who are affected by the use or testing of nuclear weapons, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion... Each State Party, with respect to areas under its jurisdiction or control contaminated as a result of activities related to the testing or use of nuclear weapons or other nuclear explosive devices, shall take necessary and appropriate measures towards the environmental remediation of areas so contaminated.”)

²⁴ See Harvard Law School International Human Rights Clinic (HLS IHRC), “Designing a Trust Fund for the Treaty on the Prohibition of Nuclear Weapons: Precedents and Proposals” (2023), https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2023/01/011323_Trust-Fund-Report-Combined.pdf; HLS IHRC, “Designing a Trust Fund to Maximize the Humanitarian Impact of the TPNW: Responses to Key Questions” (2025), <https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2025/02/TPNW-TF-3MSP-2-27-25-FINAL-2.pdf>.

²⁵ UNGAR 78/240 on victim assistance and environmental remediation; Rio Declaration art. 7 (common but differentiated responsibilities).

As discussed in section II, nuclear legacy is not simply a historical event, but a present reality for Marshallese.²⁶ Enewetak Atoll retains a concrete dome storing residual nuclear waste as a byproduct of US testing and, in addition to leakage, rising sea levels imperil the security of the waste; this has clear continuing economic and livelihood implications for residents who cannot harvest and sell crops due to the radioactivity.²⁷ The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management is binding on the U.S. and confers obligations to cooperate with the RMI to address the storage and disposal of radioactive waste and to compensate for this clear environmental threat.²⁸

Additionally, forums for international criminal justice, such as the International Criminal Court (ICC), can provide avenues for justice and accountability that provide an enforceable underpinning to other multilateral environmental agreements. The impacts of nuclear testing intersect with ongoing and increasing calls to expand the ICC's jurisdiction over ecocide as an international crime.²⁹ Ecocide is defined as "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts."³⁰ This legal framework directly applies to nuclear weapons testing in the Marshall Islands, due to its scale and lasting impact, as well as the well-documented knowledge of its risks to the Marshallese at the time of testing.³¹ Adoption of similar ecocide criminal provisions at the regional and national³² level shows that this approach is gaining consensus and traction.³³

26

<https://www.ohchr.org/sites/default/files/documents/issues/toxicwastes/cfis/justice-remedies/subm-access-justice-effective-sta-republic-marshall-islands-ssion.pdf>

²⁷ Shaun Burnie, "Tracing radiation through the Marshall Islands: Reflections from a Greenpeace nuclear specialist" (2025),

<https://www.greenpeace.org/international/story/74328/tracing-radiation-through-the-marshall-islands-reflections-from-a-greenpeace-nuclear-specialist/>; Tibi Puiui, "The Crumbling Runit Dome: The Hidden Nuclear Nightmare of the Marshall Islands" (2024),

<https://www.zmescience.com/ecology/the-crumbling-runit-dome-the-hidden-nuclear-nightmare-of-the-marshall-islands/>

²⁸ Convention arts. 1(1)-(3) & art. 3(3) (applying the Convention to declared radioactive waste, and to waste from military programmes when those materials are permanently transferred to civilian management). Runit Dome was constructed by the US Army and was transferred to the RMI by the COFA.

²⁹ Independent Expert Panel for the Legal Definition of Ecocide, Commentary and Core Text (2021), <https://static1.squarespace.com/static/5ca2608ab914493c64ef1f6d/t/60d1e6e604fae2201d03407f/1624368879048/SE+Foundation+Commentary+and+core+text+rev+6.pdf>

³⁰ Vanuatu, Proposal - Independent Crime of Ecocide (2024), available at:

<https://ecojurisprudence.org/wp-content/uploads/2024/11/Vanuatu-Proposal-Rome-Statute.pdf>

³¹ Arjun Makhijani, The Legacy of U.S. Nuclear Testing in the Marshall Islands (2025),

https://www.greenpeace.de/publikationen/Report_MarshallIslands_EV.pdf

³² <https://ecocidelaw.com/existing-ecocide-laws/> (summary of existing and proposed laws at national jurisdictions).

³³ See, e.g., Directive 2024/1203 of the European Parliament and of the Council (April 11, 2024), para. 21 (listing criminal offences that "lead to catastrophic results" like "widespread and substantial damage which is either irreversible or long-lasting to the quality of air, soil, or water" should be punished with more severe penalties). See also ELI Report on Ecocide

(https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI_Report_on_Ecocide.pdf) and Manual for National Criminalization

(https://law.ucla.edu/sites/default/files/PDFs/Promise_Europe/MANUAL_FOR_A_NATIONAL_CRIMINALIZATION_OF_ECOCIDE-5.pdf)

In 2014, the RMI filed applications at the International Court of Justice (ICJ) to hold major nuclear-armed states, including the U.S., accountable for lack of nuclear disarmament.³⁴ The ICJ dismissed their suit in 2016 on jurisdictional grounds. However, in line with the successful and relevant 2023 General Assembly resolution seeking an advisory opinion on climate change,³⁵ the legacy of nuclear testing has similar relevance and urgency that can support the request for an ICJ advisory opinion on the legal obligations of nuclear-armed states in relation to historical and continuing environmental harms. The relevance of this request is widespread among other Pacific and climate-vulnerable states. Recent trends in the Inter-American system, such as the 2025 advisory opinion on States' obligations in the context of the climate crisis, provide a wealth of international legal standards to apply and progressively expand in the context of the legacy of nuclear colonialism.³⁶

As discussed in section II, justice in the context of the nuclear legacy requires adequate, accessible and sustained funding for environmental remediation and research for impacted communities.³⁷ This intersects with international efforts to currently develop cooperative climate justice financing; as such, these dialogues and frameworks should explicitly include the concerns of those states impacted by nuclear testing,³⁸ by integrating nuclear redress and remediation measures into climate adaptation and disaster resilience programming.³⁹ The involvement of blended finance mechanisms and established funding sources like the Green Climate Fund or the Loss and Damage Fund under the UNFCCC should be used to address the threat of radioactive leakage from climate-induced flooding and other compounded climate vulnerabilities.⁴⁰

IV. Indigenous justice systems, cultural practices, and civil society efforts

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<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/environmental-disaster-and-resilience-marshall-islands-0> (discussing the Nuclear Zero lawsuits)

³⁵ UN General Assembly, A/RES/77/276, "ICJ Advisory Opinion on Climate Change," 2023.

³⁶ Inter-American Court of Human Rights, Advisory Opinion AO-32/25 (May 29, 2025) (relevant to the establishment of a TRC on the nuclear legacy, e.g., "Above all, the Court observes that preventing human rights violations in the context of the climate emergency, under the general duty of guarantee provided for in Article 1.1 of the Convention, depends on the foreseeability of the risk of such violations. It is incumbent upon the State, therefore, to generate complete, accurate, truthful, useful, and timely information to identify and mitigate threats to human rights arising both from the adverse impacts of climate change and from the measures adopted to address them." para. 504)

³⁷ See Rio Declaration principle 2 (addressing transboundary environmental harms) & principle 16 (polluter pays principle).

³⁸ <https://www.ucs.org/resources/what-nuclear-testing>

³⁹ See Republic of the Marshall Islands, Input to the UN Special Rapporteur on the promotion and protection of human rights in the context of climate change's report on Fossil Fuel-based economy and human rights (2025), available at: <https://www.ohchr.org/sites/default/files/documents/issues/climatechange/cfis/cfi-fossil-fuel/subm-fossil-fuel-based-sta-marshall-islands.docx#:~:text=Intersectionality%20with%20the%20nuclear.if%20not%20abated%20and%20resolved> (discussing intersectionality with nuclear legacy).

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<https://www.ohchr.org/en/press-releases/2024/10/marshall-islands-international-community-morally-bound-support-efforts> (discussing this responsibility in the context of displaced persons);

<https://pina.com.fj/2024/03/04/when-are-we-going-back-nuclear-displacement-in-the-marshall-islands/> (discussing RMI youth activism in relation to the climate-nuclear nexus)

In line with the Marshall Islands' population's Indigenous identity, the legacy of nuclear testing needs to be addressed as part of a broader "nuclear colonialism,"⁴¹ thereby requiring decolonization—through remediation of environmental harm, recognition of the ethnocentrism of nuclear policy and the unequal relationship between Marshallese and the U.S., and recognition of the marginalization of Indigenous experience in narratives about, or policies to rectify, those harms.⁴² Specifically, the forced displacement of atoll residents has existential implications for their Indigenous identity (include land and inheritance practices),⁴³ in addition to the negative material impacts on subsistence and shelter; as atolls were rendered uninhabitable, the displacement continues, so does the nuclear legacy.⁴⁴ Land return or restitution, supported by long-term ecological restoration policies that facilitate safe resettlement of impacted communities, food security, and otherwise sustainable use of damaged areas, is critical to an Indigenous rights-based approach to justice in the context of nuclear testing. Moreover, listening to calls from Indigenous civil society actors - promoting a sharing approach to resource use and environmental stewardship (including nuclear energy generation),⁴⁵ resisting "greenwashing" that justifies land dispossession of Indigenous peoples in the name of conservation⁴⁶—is important to counteract longstanding marginalization of Indigenous peoples' self-determination and interests.

Article 29 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)—which the U.S. has committed to achieving⁴⁷—guarantees the right to the conservation and protection of their environment and the obligation of states to implement measures for redress,⁴⁸ while

⁴¹ Alicia Berube, "Expendable Lands and Colonial Legacies: Nuclear Testing in the Marshall Islands" (2024), <https://www.wagingpeace.org/expendable-lands-and-colonial-legacies-nuclear-testing-in-the-marshall-islands/>; see also <https://www.ucs.org/resources/nuclear-frontline-communities> (using the framework of "nuclear frontline communities")

⁴² See Barbara Rose Johnston, Nuclear Disaster: The Marshall Islands Experience and Lessons for a Post-Fukushima World (2015) <https://www.researchgate.net/publication/283228095>

⁴³ <https://minorityrights.org/country/marshall-islands/#:~:text=Marshall%20Islands%20%2D%20Minority%20Rights%20Group> ("The Marshall Islands are traditionally a matriarchal society, with land passed down matrilineal descent. However, these traditions have been disrupted by changing populations and migration to urban areas, making the tracing of land rights more problematic... Due to the displacement that occurred as a result of nuclear testing, many Marshallese have become disconnected from their indigenous traditions: for instance, they are unable to perform migratory practices involving the gathering of various cultural goods from islands that remain contaminated. Displacement has also undermined the cultural connection of Marshallese to their customary lands.")

⁴⁴ <https://only.one/read/vanishing-shores>

⁴⁵ <https://www.ipmsdl.org/statement/joint-intervention-of-cisa-and-yamasi-people-in-the-15th-session-of-the-unpfii/> (e.g., in the case of North American Indigenous exposure to nuclear energy and its risks)

⁴⁶ <https://news.mongabay.com/short-article/2025/07/indigenous-communities-left-in-the-dark-on-chevron-carbon-scheme-on-their-land/>

⁴⁷ A/RES/69/2; see also Indigenous and Tribal Peoples Convention, 1989 art. 16 (needs more ratifications)

⁴⁸ See also 29(2) & (3) ("States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent... States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.")

Articles 8 and 10 confer obligations on States to provide mechanisms for redress when Indigenous peoples are dispossessed of their territories or forced to transfer without FPIC or compensation. The UN Permanent Forum on Indigenous Issues should take an active role in addressing the challenges and identifying paths to remediation for this nuclear testing legacy issue, as well as monitor compliance with any commitments taken in light of the standards in UNDRIP.

The experience of Indigenous peoples in the Philippines provides a comparative framework, where Indigenous peoples rights and environmental protection are legally enshrined but barriers remain to the realization of those rights. The Indigenous Peoples' Rights Act (IPRA) recognizes Indigenous ownership and control of ancestral lands, including the right to free, prior, and informed consent (FPIC).⁴⁹ Notably, under the IPRA framework, consent must be given with enough time to respect Indigenous peoples' consensus processes, and to be granted by leaders or elders installed by Indigenous Political Structures—which requires recognition of those Structures and clear guidelines to ensure the absence of manipulation, coercion, or intimidation.⁵⁰ The National Commission on Indigenous Peoples (NCIP) provides platforms to resolve disputes based on customary laws, traditions, and practices, and the Commission retains quasi-judicial powers over claims involving Indigenous peoples' rights (after all remedies under Indigenous customary law have been exhausted).⁵¹

Philippines Indigenous activists have advocated for a formal Indigenous Peoples Code, encompassing land titles, customs and traditions, justice systems, and revenue-sharing for ancestral lands.⁵² Indigenous peoples have suffered a human rights “protection gap”—lacking effective institutions to receive their complaints, investigate violations, and provide remedies.⁵³ Recommendations include: maximum favor be accorded to Indigenous peoples in resolving conflicts of law with national legislation; special training programmes for judicial actors regarding Indigenous rights and cultures; and taking all necessary measures to prevent recurrence of violations, by securing consultations and FPIC with corporate actors. Thus, any of the recommendations listed in sections II and III above, including the adoption of a TRC or other justice mechanism, should recognize existing Indigenous political structures, and provide financial support for their operation and sustainability, rather than sidelining Indigenous leadership and establishing alternative structures. The Philippine experience with IPRA shows that even strong codified protections for Indigenous peoples require robust and independent enforcement institutions to be effective, otherwise rights remain largely theoretical.

⁴⁹ RA 8371, <https://ncip.gov.ph/wp-content/uploads/2020/03/IPRA-LAW.pdf>

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<https://www.idea.int/sites/default/files/2023-11/recognition-for-indigenous-peoples-rights-in-the-philippines.pdf>

⁵¹ Sections 3 & 8,

<https://ncip.gov.ph/wp-content/uploads/2025/01/AO-01-2024-NCIP-Rules-of-Procedure.pdf>

⁵² <https://parliament.bangsamoro.gov.ph/2024/02/21/barmm-lawmakers-file-indigenous-peoples-code/>

⁵³ <https://iwgia.org/en/philippines/1678-philippines-obstacles-concerning-access-to-justice>