WILPF Submission to the UN Office of the High Commissioner for Human Rights' Report on Addressing 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

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Introduction

Following the Office of the High Commissioner for Human Rights (OHCHR)'s report on the nuclear legacy of the Marshall Islands (A/HRC/57/77), the OHCHR was requested by the Human Rights Council (A/HRC/57/26) to prepare a second report addressing the challenges and barriers to the full realisation and enjoyment of the human rights of the people of the Marshall Islands, stemming from the state's nuclear legacy. The theme of this report is truth and justice; WILPF's submission frames the issue as one of nuclear colonialism and advocates for the application of transformative justice principles and practices.

Nuclear colonialism

The history of nuclear weapons is a history of colonialism. All activities associated with nuclear weapons—from the mining of uranium to the processing of nuclear fuel and building of the bomb, from the detonation of the weapons in tests to the storage of radioactive waste—have imposed a disproportionate impact on Indigenous Peoples around the world.[1]

The uranium used in the first atomic weapons came from Shinkolobwe in the (then-called) Belgian Congo, now the Democratic Republic of the Congo,[2] and from Port Radium, land of the Sahtu Dene First Nations on the shores of Great Bear Lake in so-called Canada.[3] At both sites, local workers were forced to mine in unsafe communities, and the health of workers and communities were gravely impacted. Today, Indigenous Peoples and other local community members work for low wages in dangerous places like uranium mines and nuclear fuel processing centres, which are often situated in low-income and/or on Indigenous lands. Radioactive waste storage is often also imposed on Indigenous lands and within other marginalised communities.[4]

Nuclear test sites have likewise been intentionally situated away from the political and economic centres of nuclear-armed states, built instead upon colonised and occupied land of Indigenous and racialised people. "The testing sites chosen were viewed by these nuclear weapons states as 'open' or 'empty' spaces with little vocal resistance," writes Australian scholar and activist Dimity Hawkins. "But these traditional lands were neither empty nor silent."[5]

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[1] Ray Acheson, *Notes on Nuclear Weapons and Intersectionality in Theory and Practice*, Princeton University, Program on Science and Global Security, June 2022. Available at: https://sgs.princeton.edu/sites/default/files/2022-06/acheson-2022.pdf.
[2] Gabrielle Hecht, *Being Nuclear: Africans and the Global Uranium Trade* (Cambridge, MA: The MIT Press, 2012).
[3] Sofia Bant, "CANATOMIC: Canada's Neglected Uranium History," YouTube, 26 June 2023. Available at: https://www.youtube.com/watch?v=VBjHzM67syw.
[4] Ray Acheson, "Nuclear Industry," In *'Petrobromance,' Nuclear Priesthood, and Police Repression: Feminist Confrontations of Violent Industries, and Movements to Abolish Them* (New York: Women's International League for Peace and Freedom), pp. 16–60.
[5] Dimity Hawkins, "Nuclear weapons testing in the Pacific: lessons for the Treaty on the Prohibition of Nuclear Weapons," unpublished paper in author's possession, draft as of 21 May 2018, p. 11.

Between 1946 and 1996, France, the United Kingdom (UK), and the United States (US) tested over 315 nuclear weapons across the Pacific. These tests contaminated vast areas in the Marshall Islands (Bikini and Enewetak islands), Australia (Monte Bello, Emu Field, and Maralinga), French Polynesia (Moruroa and Fangataufa), and Kiritimati (Christmas island), Kalama (Malden) Island, and Johnson Atoll. As a result of the testing, Pacific Islanders suffered displacement followed by malnutrition and near starvation, lost access to traditional food sources, as well as being exposed to radioactive fallout. They were subjected to medical experiments and have suffered greatly from the health impacts of the testing.[6]

In the Marshall Islands alone, the US government detonated 67 nuclear bombs between 1946 and 1958. This created immediate and lasting harm, leaving what the then-UN Special Rapporteur on toxics, Baskut Tuncak, described as "a legacy of contamination, illness and anguish."[7] He said the US nuclear testing in the Marshall Islands "is one of the cruellest examples of environmental injustice witnessed."

The 67 atomic explosions vaporised whole islands, "carving craters into its shallow lagoons and exiling hundreds of people from their homes."[8] The health, social, and economic impacts of these tests have devasted generations of Marshallese people. Some of these impacts are gendered. In 2012, Calin Georgescu, the UN Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes visited the Marshall Islands to assess the impact on human rights of the nuclear testing conducted by the United States from 1946 to 1958.[9] He found these impacts to be devastating, intergenerational, and highly gendered. Beyond the physical impacts, more investigation, testimony, and research are necessary to understand the broader social and economic impacts across intersectional identities within the Marshall Islands.[10]

After it finished exploding nuclear bombs in the Pacific Ocean, the US government left behind its radioactive waste in the Runit Dome, or what is locally called "The Tomb". The dome is located on Runit Island, one of the forty islands of the Enewetak Atoll of the Marshall Islands. The United States buried the waste from nuclear tests inside the crater made from one of its tests, sealing it under a dome of concrete. The dome holds

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[6] Nic Maclellan, *Banning Nuclear Weapons: A Pacific Islands Perspective* (Melbourne: International Campaign to Abolish Nuclear weapons, 2014). Available at: https://www.icanw.org/banning_nuclear_weapons_a_pacific_islands_perspective.

[7] Baskut Tuncak, "75th anniversary of the Trinity nuclear tests, 16 July 2020," UN Office of the High Commissioner of Human Rights, 16 July 2020. Available at: https://www.ohchr.org/en/press-releases/2020/07/75th-anniversary-trinity-nuclear-tests-16-july-2020.

[8] Susanne Rust, "How the U.S. betrayed the Marshall Islands, kindling the next nuclear disaster," *Los Angeles Times*, 10 November 2019. Available at: https://www.latimes.com/projects/marshall-islands-nuclear-testing-sea-level-rise.

[9] Calin Georgescu, *Report of the Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes, Addendum*, A/HRC/21/48/Add.1, September 2012. Available at: https://digitallibrary.un.org/record/734444.

[10] See *Unspeakable Suffering: The Humanitarian Impacts of Nuclear Weapons* (New York: Reaching Critical Will of the Women's International League for Peace and Freedom, 2013) for examples of such harm. Available at: https://reachingcriticalwill.org/images/documents/Publications/humanitarian-impact-nuclear-weapons-2nd-edition.pdf.

more than 3.1 million cubic feet of radioactive soil and debris, including "irradiated military and construction equipment, contaminated soil and plutonium-laced chunks of metal."[11]

Today, the Tomb is at risk of collapsing from rising sea levels and other effects of climate change. "Tides are creeping up its sides, advancing higher every year as distant glaciers melt and ocean waters rise," warns the *Los Angeles Times*. "Spiderweb cracks whipsaw across its cap and chunks of missing concrete pock its façade. Pools of brown, brackish water surround its base, and vines and foliage snake up its sides."[12]

Yet the US government has abdicated accountability for the harms caused by the tests, the radioactive waste it left behind, and the climate change now threatening the disposal site—even though it is directly responsible for all of these things. The "compact of free association" signed with the US government in 1968 makes it challenging for the Marshall Islands to claim compensation or develop an independent foreign policy, another signature of colonial rule and likely part of the reason the Marshall Islands has not yet joined the Treaty on the Prohibition of Nuclear Weapons (TPNW) despite its horrific experience with these bombs. Today, the US routinely test fires intercontinental ballistic missiles at the Marshall Islands from California, another potential challenge to the Marshall Islands' compliance with the TPNW.

From its nuclear testing to its haphazard radioactive waste disposal, from its arrogant assumption of power over lands and peoples in the Pacific Ocean, to its continued control over Marshallese policy, the US imposition of nuclearism in the Marshall Islands can only be described as colonial. Standing atop the Tomb in her 2018 video poem, activist Kathy Jetñil-Kijiner asks, "Who anointed them with the power to burn?"[13]

Transformative justice

"Governments and colonial forces exploded nuclear bombs on our sacred lands—upon which we depend for our lives and livelihoods, and which contain places of critical cultural and spiritual significance—believing they were worthless," said 35 Indigenous groups, including from the Marshall Islands, in a statement to the negotiations of the TPNW in July 2017. Delivered by Karina Lester, a Yankunytjatjara-Anangu woman from South Australia, the statement explained that Indigenous people "were never asked for, and we never gave, permission to poison our soil, food, rivers and oceans."[14]

Addressing nuclear colonialism and the racialised and gendered harms it has generated over decades requires accountability, apology, repreparations, remediation, and more. In its project on highlighting voices from the Pacific Islands, the Asia Pacific Leadership

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[11] Rust, op. cit.
[12] Ibid.
[13] Dan Lin and Kathy Jetñil-Kijiner, *Anointed*, 2018. Available at: https://vimeo.com/264867214.
[14] "Indigenous Statement to the UN Nuclear Weapons Ban Treaty Negotiations," United Nation, New York, 16 June 2017. Available at: https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nuclear-weapon-ban/statements/IndigenousStatement.pdf.

Network composed a multilayered approach to nuclear justice, without imposing a singular definition.[15] Concepts included in their approach are:

- **Retributive justice**—acknowledgement of harm, creation of tribunals, public apologies, remediation of contaminated areas, compensation for damage, etc.
- **Restorative/reparative justice**—fair access to health care and mental health care, restoration of cultural and food practices, repatriation and resettlement of displaced communities, support for research, access to historical records, as well as the provision of freedom from nuclear threats through disarmament, etc.
- **Procedural justice**—recognition that harm from the use or threat of nuclear weapons is a human rights violation, generation of information about the humanitarian impacts of nuclear weapons, investigation and evaluation of compensation systems, amplifying voices and demands of victims and survivors, supporting grassroots organisations and frontline communities working for nuclear justice and disarmament, etc.

These provide essential ingredients for the pursuit of nuclear justice in the Marshall Islands and beyond. Another framework that can provide useful is that of **transformative justice**. Developed by anti-violence activists of colour, transformative justice aims to create responses to violence that, as activist Kelly Hayes explains, "build support and more safety for the person harmed, figure out how the broader context was set up for this harm to happen, and how that context can be changed so that this harm is less likely to happen again."[16]

Transformative justice stands in direct opposition to the criminal punishment system and the actors and institutions that are part of it, including the police, courts, and prisons. It is built upon the premise that the criminal-industrial complex is violent and dehumanising and does not provide justice for those who are survivors of violence. Rather than being grounded in punishment, transformative justice requires people to challenge their punitive impulses, while prioritising healing, repair, and accountability.[17]

There are several ways in which the work of transformative justice can take place, including through community accountability processes; by creating safe spaces and sanctuaries to support people escaping from violence; through awareness raising campaigns about specific dynamics of violence and how to prevent them; through the practice of a circle; or practices steeped in conflict mediation and conflict resolution. Each type of violence will have to be addressed in a certain way and will require different tools.[18]

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[15] See https://apln.network/projects/voices-from-pacific-island-countries/infographic-what-is-nuclear-justice.
[16] Kelly Hayes, "The Sentencing of Larry Nassar Was Not 'Transformative Justice.' Here's Why." In: *We Do This 'Til We Free Us* (Chicago: Haymarket Books, 2021).
[17] Ibid.
[18] Ejeris Dixon and Leah Lakshmi Piepzna-Samarasinha, "Strategies and Stories from the Transformative Justice Movement," In: *Beyond Survival: Strategies and Stories from the Transformative Justice Movement* (Chico, CA: AK Press, 2020).

While developed as a community process to deal with interpersonal harm, transformative justice can provide important values and practices when dealing also with state, international, and institutional violence. Below we explore some of these values and how to operationalise them.

Centering survivors' experiences

Transformative justice focuses on addressing the harm perpetrated, and centring the concerns and experiences of the person who was harmed.[19] Far too often, under the criminal-industrial complex, those affected by violence are not given opportunity to voice their experience and the harm it has caused them and their people, land, water, and other relations. Their needs and preferences on how to address said harm are also overlooked. Transformative justice aims to change that by making space for survivors' voices, needs, and demands.

There are several ways in which this can be done. Some communities have found it important to organise public mourning ceremonies. Audrey Huntley, in writing about her work supporting the families of missing and murdered Indigenous women and girls, trans, and Two-Spirit people (MMIWG2SP), highlights the Memorial Marches that have taken place every 14 February in so-called Canada since 1991. Every year, people gather to honour the lives of the MMIWG2SP from their communities. They share water and strawberries in the height of winter, even under extremely cold temperatures. "The power of these marches and ceremonies lies in the reclamation and practice of public ceremony and grief, breaking through the shroud of silence surrounding these murders," says Huntley.[20]

Another important way found by communities to highlight their experience has been to document the harm perpetrated. For instance, since 2013, the group No More Silence has been working with the Toronto community to create a database documenting the lives and deaths of over two hundred women and Two-Spirit community members in Ontario. "We keep track of our missing and murdered women, girls, and Two-Spirit people better than the state, which has an interest in keeping the numbers low. More importantly, we want to honour their memory. We want the information to be controlled by the community and accessible to the community and for the community—not locked away in a government database," emphasises Huntley.[21]

The secrecy or obfuscation of nuclear harm is well-known by the people of the Marshall Islands, whose testimonies about nuclear colonialism and harms have been dismissed for decades while official information can be challenging to access. It is essential that the lived experiences, needs, and concerns of the Marshallese guide any accountability process. As demonstrated in the examples above, documenting and publicly acknowledging the harm perpetrated has proven to be an important element for communities affected by violence. In this sense, there is still a general lack of

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[19] Ibid.
[20] Audrey Huntley, "5: From Breaking Silence to Community Control." In: *Beyond Survival: Strategies and Stories from the Transformative Justice Movement* (Chico, CA: AK Press, 2020).
[21] Ibid.

knowledge about the full extent of the nuclear legacy experienced in the Marshall Islands. This follows a pattern of secrecy that accompanies nuclear tests in all places where they were conducted. As the Nuclear Truth Project contests in its report *Challenging Nuclear Secrecy*, barriers to accessing information and archives are a continued form of nuclear colonialism.[22]

In some instances, people have been successful in investigating and shedding light on the extent of the harm caused by nuclear testing and how it has been poorly addressed by the nuclear-armed states, such as the case of the French nuclear testing in the Pacific. The Moruoa Files, an investigation led by Princeton University's Program on Science and Global Security along with Disclose and Interprt, provided scientific evidence of fallout from nuclear testing in so-called French Polynesia, and has resulted in French parliamentary inquiries and challenges to their compensation system.[23]

Investigations like this can be used as a model for other places and situations, but the process of gathering and sharing information also needs to be done carefully. Huntley was also involved in the Traces of Missing Women Project in 2004, in which she interviewed several family members of missing Indigenous women. She shared about the importance of respecting traditional practices when engaging with Indigenous communities. For instance, she received the following guidance from her elder: "Every time you cross into a new territory, put your tobacco down, and the sisters on the other side will decide who comes to you and whether they want their stories told."[24] By respecting those Indigenous communities' practices, she was able to establish a relationship of trust that created the space for people to share their stories.

In this regard, when engaging with communities impacted by nuclear harms, it is essential to keep in mind that many will have their own customs or protocols about relating with people outside of community, and may have laws or practices that may apply when engaging on sensitive issues. Considering this, the Nuclear Truth Project developed a series of protocols for civil society workers, governments, scientists, medical workers, or others from the outside, to offer general guidance when approaching work with affected community members. "These protocols aim to protect the vulnerable, shield from further trauma and harm, and ensure any efforts for remediation and assistance are centred in the work to redress both historic and any future harms from nuclear activities," says the Project.[25]

Engaging with the perpetrator of violence

In a transformative justice process, those who have committed harm need to listen and reflect upon what this harm has meant to those affected, and what changes they need

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[22] *Challenging Nuclear Secrecy: a discussion of ethics, hiearchies and barriers to access in nuclear achives*, Nuclear Truth Project, March 2025. Available at: https://nucleartruthproject.org/resources.
[23] See the Moruoa Files, https://moruroa-files.org. See also *WILPF Submission for the Universal Periodic Review of France*, Women's International League for Peace and Freedom, October 2022. Available at: https://www.wilpf.org/advocacy_documents/submission-for-the-upr-of-france.
[24] Huntley, op. cit.
[25] See https://nucleartruthproject.org/protocols.

to make to their behaviour to appropriately address it. In the case of nuclear testing and waste in the Marshall Islands, so far the US government has been unwilling to engage in any such process in good faith.

Nevertheless, the experiences of survivors and affected communities can still be raised in spaces in which representative of the US government are present, including at the United Nations and in relevant treaty bodies. It is thus also the responsibility of the rest of the international community—states, UN offices, and civil society—to facilitate the participation of affected communities within the work of relevant forums, including the Human Rights Council, the UN General Assembly First Committee on Disarmament and International Security, the Nuclear Non-Proliferation Treaty, and the TPNW.

Understanding the context of harm

Another important element of transformative justice is that it aims to understand the context in which the harm took place, focusing on institutions and structures that perpetuate, foster, and maintain violence. This approach is underpinned by the idea that to "create safer environments, people and circumstances must be transformed."[26] When dealing with the nuclear legacy in the Marshall Islands, this means acknowledging the systems of oppression that uphold the existence of nuclear weapons. These include, among others, colonialism, which believes that it can conduct nuclear tests or store nuclear waste on stolen lands; racism, which categories certain bodies and lands as disposable sacrifice zones; and patriarchy, which reinforces the social hierarchies, control, and domination necessary for nuclearism.[27]

A transformative justice process would need to recognise these broader structural forms of violence that enabled the US government to engage in nuclear testing in the Marshall Islands, leave behind radioactive waste, and largely abdicate responsibility for the resulting and ongoing harms. An effective process would acknowledge these forms of structural violence as root causes of nuclear colonialism and work to abolish the systems that underpin nuclear colonialism. This is an act of decolonisation, a core part of the UN's mandate and essential to preventing future harm.

Prevention

This speaks to another element of transformative justice, which is to prevent the harm from happening again. To guarantee that nuclear weapons are no longer tested or used, it is necessary to eliminate them. In the Second Meeting of States Parties to the TPNW, communities affected by nuclear weapons said in a joint statement that "Healing comes through action," and called for nuclear-armed states to join the TPNW and be accountable for their actions. "Let us all commit to put an end to the possession,

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[26] Mariame Kaba, "Moving Past Punishment: Interview with Ayana Young." In: *We Do This 'Til We Free Us* (Chicago: Haymarket Books, 2021).
[27] Ray Acheson, "Notes on Nuclear Weapons and Intersectionality in Theory and Practice," Program on Science and Global Security, Princeton University, June 2022. Available at: https://sgs.princeton.edu/sites/default/files/2022-06/acheson-2022.pdf.

development, testing, use and threat of use of nuclear weapons, so that not one more person will suffer as we have," they said.[28]

The international community is responsible for actions that would prevent nuclear harm and injustice from recurring. Such actions can include joining and implementing the TPNW and supporting relevant UN resolutions on nuclear justice, the humanitarian impacts of nuclear weapons, and related issues. More broadly, other states have an obligation to support the Marshall Islands in its quest for truth and justice. This could include financial or material support for investigations, tribunals, community justice, and other truth-telling and affected community led processes. It should also include diplomatic and economic pressure on the United States to engage in nuclear justice processes as described in this report, to open archives and provide information to affected communities; and to reassess its compensation, reparation, remediation, and accountability mechanisms regarding nuclear testing and waste in the Marshall Islands. Furthermore, for states parties to the TPNW in particular, it must include the full and effective implementation of the TPNW's provisions on victim assistance, environmental remediation, and international cooperation and assistance.

Recommendations

States, civil society, and UN entities should:

- Recognise the legacy and ongoing impacts of nuclear colonialism, and approach nuclear justice as an issue of structural violence that requires the full abolition of nuclear weapons and decolonisation;
- Support transformative justice practices and approaches to nuclear harm, led by affected communities;
- Follow the Nuclear Truth Project protocols for engagement with affected communities, including respect and reciprocity;
- Commit to openness and transparency with official nuclear archives and refrain from practices the entrench barriers for affected communities to access them;
- Facilitate the participation of affected communities within the work of relevant international forums;
- Support investigations into the physical, environmental, health, economic, and social impacts of nuclear weapon use, testing, development, and deployment, including from gendered and intersectional perspectives;
- Urge nuclear-armed states to reassess their mechanisms for compensation, reparation, remediation, and accountability in relation to nuclear harms;
- Support people's tribunals and other truth-telling and memorial initiatives; and
- All states, including the nuclear-armed states, must sign, ratify, and fully implement the Treaty on the Prohibition of Nuclear Weapons.

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[28] Affected Communities Satetement to the Second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons, November 2023. Available at: https://reachingcriticalwill.org/images/documents/Disarmament-fora/nuclear-weapon-ban/2msp/statements/29Nov_Affected_Communities.pdf.