

To whom it may concern at the OHCHR,

Hello. My name is Chloe Shrager, I am a scholar of international nuclear policy and human rights at Stanford University and a freelance journalist who has spent the last 3 years studying the nuclear legacy of the Marshall Islands and advocating for nuclear justice through my reporting work. I had the privilege to travel to the Marshalls in the summer of 2023 to report a long-form essay investigating the ongoing impacts of the nuclear legacy as the Compact of Free Association was being renegotiated. You can find my complete report here: <https://inkstickmedia.com/forgotten-fallout-the-unfulfilled-promise-of-nuclear-justice-for-the-marshallese/>

What I include here is a summary of some of the most important takeaways from my report. I first summarize the vast inadequacy of US compensation for its crimes and legal evasion of its responsibilities, outlining how the Compact of Free Association is a woefully inadequate piece of policy that is far from fulfilling the criteria of justice (full financial settlement and a formal US apology). Second, I provide further details from my investigation that reveal the extent of the United States' crimes against the Marshall Islands.

### **The Catch-22 of Compensatory Policy: the Compact of Free Association**

Ratified in 1986, the Compact of Free Association is the bedrock of US policy in the Pacific, and specifically, dictates the nature of the United States' compensatory relationship with the Marshall Islands in recompense for its nuclear crimes there. However, the Compact was ratified on a completely uneven playing field that radically favored the US, an imperialist superpower well-versed in international law, and resulted in something that can be regarded less as a treaty and more as a baffling puzzle of complex legalese and punitive loopholes that the US has jumped through for decades since its establishment. It took me a full three months of dedicated research into the legal aftermath to grasp what happened when the Compact of Free Association was originally signed – a total and unapologetic manipulation of a less powerful, less-resourced, brutalized Island nation by the most powerful and resourced nation in the world.

The original Compact released the US from any pending legal claims, dismissing the \$7.1 billion in lawsuits that the Marshall Islands had brought against US courts for their actions. In replacement, it granted \$150 million in compensation and established the Nuclear Claims Tribunal as a “means to address past, present and future consequences of the Nuclear Testing Program.”

The international tribunal, created in partnership by both countries, was meant to conduct an objective assessment of the full extent of all nuclear-related damages in order to compensate victims, but it was severely underfunded. Even though the tribunal evaluated personal injuries and loss of land damages totaling over \$2.3 billion, the United States never appropriated more than the original \$150 million payment.

Technically the Marshall Islands can apply for more funds through a “Changed Circumstances Petition” as outlined in the Compact, but the US rejected the only petition filed in 2004.

The Nuclear Claims Tribunal ran out of that compensation money 15 years ago. No nuclear victims who applied for compensation ever received their full award. Most received around 80% of their claim in their lifetime but some received as little as 1%, according to the Tribunal's only remaining employee Emma Gulibert. Of the over 3,000 people who applied for claims, Gulibert thinks more than half of the applicants died before they ever received any compensation at all. Many other applications from those still alive were abandoned when the tribunal ran out of money.

Today, the United States maintains that the 1986 agreement was binding in providing the **full and final settlement for all nuclear-related claims**, and it has declined to give more money to the tribunal since. The US State Department's **official stance** is that it has provided more than \$600 million to the affected communities — one billion in today's dollars — which includes the original Compact payment in addition to the resettlement trust funds of the affected atolls and radiation-related healthcare program costs. Even so, these funds account for only **a fourth** of what the tribunal determined as the rightful reward.

The recent expiration and subsequent renegotiation of the Compact of Free Association was a pivotal moment in the Marshallese fight for nuclear justice. It presented an opportunity for the Marshallese to rewrite the details of their long-imbalanced relationship and finally seek justice in the form of an apology and total financial reparation.

But that opportunity has been squandered. Both parties **signed** to renew the Compact and two other related agreements on Oct. 16, 2023, all of which are now slated for congressional approval. But according to Marshallese officials I spoke to, the new deal doesn't satisfy the conditions of justice. **They say that the new deal does not compensate the victims adequately, and it does not issue a formal recognition of and apology for the nuclear legacy.** What began as a chance to address the Compact's past failings has become nothing more than a reinforcement of them, and the Marshall Islands' nuclear issue has fallen between the cracks yet again.

The new deal grants \$1.5 billion in general aid over the next 20 years — including the continued funding of healthcare, education, and postal services — and an additional \$700 million to a separate Compact trust fund for unspecified use, totaling \$2.2 billion altogether. The only amount explicitly earmarked for legacy-related issues is \$15 million for a nuclear history museum and improving document archives.

While generous, the problem with this pending economic aid package is that none of it is designated for nuclear compensation. There has been public discussion over whether the \$700 million Compact fund investment will be put toward nuclear remediation, but as of right now, the intended use of the funds has not been specified.

"The only thing we've agreed is that it will reflect the [Marshallese] government's wishes," Joseph Yun, the US Special Envoy to lead Compact negotiations, said about the money, **but he**

**also suggested to me that if the Marshall Islands wanted to make the \$700 million available as recompense funding for nuclear legacy issues, the United States would not approve.**

Editor of the Marshall Islands Journal Giff Johnson wrote to me in an email that “Anyone who thinks the islands have leverage and negotiating power need to look beyond the superficial geopolitical environment to what is the result in the [Marshall Islands] Compact.”

The Marshall Islands has been trapped in a cycle of unwilling victimhood to what long-time lawyer of the Bikinian peoples, Jonathan Weisgall, calls “three of the most important events of the 20th and 21st centuries in one time and place: imperialism, nuclear, and climate change.”

Many considered Compact negotiations to be the last chance to secure compensation and recognition that America’s nuclear legacy continues to impact the Marshall Islands. Now, the Marshallese will be legally locked into place by this Compact — financially limited by the inadequate economic provisions they’ve agreed to — for at least the next two decades, watching as their nuclear past fades further into forgotten history.

### **New Details of US Crimes and Cover-up**

*Through my reporting, I uncovered previously unreported details on the blatant censorship of information within US military operations concerning the tests.*

US **medical reports** from the time report that sixty-four inhabitants of Rongelap received “an estimated dose of 175 rads of whole-body gamma radiation,” but independent scientific analysis since has concluded that the government’s numbers were a severe underestimation. In **congressional testimony** from a 2005 oversight hearing, independent researchers Sanford Choen & Associates estimated that the people of Rongelap actually experienced a dose of 300 to 400 rads at the time of the Bravo test.

It is common knowledge that Rongelap was not warned or evacuated prior to the Bravo blast, but new information I reported suggests that the disaster that was and followed the explosion was not the unsuspected mistake officials have always chalked it up to be and was the cause of blatant negligence.

First off, going against scientists’ recommendations that Rongelap and other neighboring atolls be included in the “danger” zone, US Interior Department and Atomic Energy Commission officials drew the boundaries precisely to exclude them, according to “Operation Crossroads: The Atomic Tests at Bikini Atoll,” a book by Weisgall, the Bikinian peoples’ long time lawyer.

Secondly, and maybe more shocking: going against US officials’ **claims** that they only have predicted a 5- to 6-megaton explosion and were thus nowhere near prepared for the 15-megaton blast that actually took place, a **declassified document** from six days before the test recommended positioning one monitoring aircraft “on the basis of a twenty-megaton yield” and two others “on the basis of a twelve-megaton yield.”

In other words, the memo suggests that officials knew the bomb could explode with a yield of up to 20 megatons, putting Rongelap well within the fallout danger zone. The precise maximum possible yield prediction is redacted from the document.

A US Department of Defense Threat Reduction Agency **final report** found that the commander of Bravo's scientific task force predicted "an upper-limit larger than 15 [megatons]." The United States' stance has always been that the unexpectedly high yield came as a surprise to weapons designers and testers, but the report concludes that "the 15 [megaton] yield was not a total surprise."

### **The Myth of the Four Atolls**

*Something I uncovered in my reporting was the prevalent narrative in the Marshall Islands that the United States has historically and consistently downplayed the actual widespread impact of the nuclear fallout in what is called the "myth" of the four atolls.*

Since the Bravo bomb in 1954, America has sewn a narrative of limited impact. The US government **exclusively recognizes** Bikini, Enewetak, Rongelap, and Utrik — coined the 'four atolls' — as exposed to radiation and fallout, inadvertently drawing a line between those places and the rest of the Marshall Islands.

But much evidence exists to the contrary, shattering this myth and providing evidence to the hypothesis that the entirety of the Marshall Islands was contaminated by the radioactive fallout of Bravo and the 66 other tests. This evidence includes:

- A **new study** released in late July before peer review used state-of-the-art modeling technology to find that the fallout from the Trinity test, the first-ever atomic bomb, detonated in Los Alamos, New Mexico, reached all but two of the continental United States, Canada, and Mexico within ten days of detonation. Bravo, comparably, was 600 times bigger than Trinity, and it was only one bomb. There were 66 others, some with explosive yields up to two-thirds the size of Bravo.
- A previously secret **January 1955 AEC report** shows that ten populated atolls received fallout exposure that exceeded the US National Commission for Radiation Protection standard of 500 millirems adopted in 1957, and twenty of the inhabited atolls exceeded the International Committee for Radiological Protection maximum permissible level of 170 millirems set two years later in 1959. Allowed US radiation level maximums further decreased to 100 millirems in 1990.
- A declassified **Department of Defense document** from April of 1954 confirmed that the residents of Ailuk Atoll received a fallout dose comparable to the Utrik people. The report states that the "only other populated atoll which received fallout of any consequence at all was Ailuk." While Utrik was evacuated after the Bravo test, **Ailuk's** 400 residents were not, due to the "effort required."
- In 2004, the same **National Cancer Institute study** that predicted yet-to-develop cancers also notably stated that they would come from all over the Marshall Islands, not just from

the four atolls. This was the first time a government agency admitted to widespread exposure.

Islanders from other atolls are excluded from the remediation initiatives afforded to the four atolls through the Compact. The now-dead Nuclear Claims Tribunal was the only way for impacted islanders from outside the four atolls to get compensated for their medical expenses.