**Call for inputs for the OHCHR’s report on the nuclear legacy in the Marshall Islands**

Human Rights Council resolution 51/35 of 13 October 2022 ([**A/HRC/RES/51/35**](https://undocs.org/A/HRC/RES/51/35)) entitled “Technical assistance and capacity-building to address the human rights implications of the nuclear legacy in the Marshall Islands” requested OHCHR to prepare a report on addressing the challenges and barriers to the full realization and enjoyment of the human rights of the people of the Marshall Islands, stemming from the State’s nuclear legacy.

The following input is based on my research into the colonial and imperial dimensions of British nuclear energy and weapons projects. The input therefore offers a comparative approach to the human rights implications of nuclear legacies in the Marshall Islands. Historical perspectives on human rights in the Pacific can help place these legacies in longer-term interactions between nuclear states and the distinctive cultures and environments of the Pacific. In the modern period, these interactions were dominated by colonisation and imperial geopolitics, including practices of indentured labour and resource exploitation.

In order to appreciate the human rights implications of nuclear legacies in the Pacific, it is necessary to study not only the effects of nuclear operations and tests, but also their causes and roots in a range of colonial traditions about land, race and science. Why did nuclear states choose to test in certain places and subject certain peoples to risk? In part, the answer to this question lies in hierarchies and value systems about human and environmental worth. Nuclear infrastructures and tests were founded upon—and made culturally and legally permissible by—these hierarchies and systems. They instrumentalised forms of colonial thought about Pacific environments and peoples through weapons of unprecedented violence.

This relationship between the colonial and the nuclear is borne out by papers in the state archives of nuclear powers who tested in the region. It is well-known, for example, that American anthropologists submitted favourable reports to the military about the suitability of the Marshall Islands for testing. Similar logic shaped British assessments of risk during its hydrogen bomb trials, which would only cause ‘slight risk’ among ‘primitive peoples’. American and British perceptions of Pacific peoples may have reflected longstanding labour practices, where Marshallese and I-Kiribati were transported between islands to work on plantations as indentured labourers. Likewise, the American and British perception of the coral reef atolls on which Marshallese and I-Kiribati lived, which were often short of fresh water and fertile soil, was also disparaging. Such atolls were seen at best as either sites of phosphates extraction or geopolitical units in the struggle for air and naval supremacy.

By rooting nuclear infrastructures in the colonial and imperial contexts that dominated the Pacific, it is also possible to ‘de-exceptionalise’ the rhetoric that tends to surround nuclear weapons tests and radioactive fallout. While the weapons tested in the Pacific were exceptional in the scale of their potential violence, their environmental and humanitarian health impacts have been complex and often inextricably linked to other colonial ills. For this reason, I was cautioned by the Australian historian, Heather Goodall, about using the term ‘nuclear-affected communities’ to describe the Anangu peoples affected by British nuclear weapons tests in South Australia. According to Heather, a leading research for the Royal Commission into British Nuclear Weapons Tests in the 1980s, it was more accurate to describe the Anangu as an ‘invasion-affected community’, since they had suffered a whole range of challenges and losses from settler encroachments on their land.

In Kiritimati, the base and site of British hydrogen bomb trials, the impacts of nuclear legacies have also been multifaceted. The atoll was not properly cleaned up until the early 2000s, forty years after nuclear weapons were first tested on and offshore its south-east point. While radiological clean-ups and surveys had been performed on an intermittent basis since the tests, it was may have been the dumping of non-radiological toxic waste that posed a threat to locals: asbestos and bitumen barrels in particular. As well as conducting nuclear tests, it was also commonplace for British forces to spray the atoll with around 5,000 gallons of carcinogenic DDT per week: a practice that lasted for around a decade.

The human rights implications of nuclear legacies also have legal roots in ambiguities about sovereignty in atoll environments. Of course, this is demonstrated above all by the former role of the Marshall Islands as an American Trust Territory under the UN, as well its ongoing role in the Compacts of Free Association. In the period before and during atmospheric nuclear weapons testing, however, the sovereignty of numerous atolls was either uncertain or actively contested between the USA and Britain. In fact, the Americans and British embarked on colonisation programmes in the Phoenix Islands in the mid-1930s.

Uncertainties about sovereignty were exploited for military and scientific purposes. The legal scholar, Giorgio Agamben, has theorised this exploitation as representing ‘states of [legal] exception’: places and territories where hegemonic states can contract out of the legal duties and obligations that otherwise bind them. The experience of the Marshall Islands and other atoll nations provide a vivid illustration of this theory, with certain atolls also having been used for chemical and biological weapons programmes. Between the USA, Britain and France, the ‘exceptional’ legal treatment of atolls also encouraged geopolitical horse-trading. For example, the UK allowed the USA to use Kiritimati to conduct 24 nuclear weapons tests in exchange for a nuclear submarine and access to its underground test site in Nevada.

I submit this input not as a legal scholar, nor as rights expert, but as an historian whose research suggests that colonial contexts are highly significant for how we conceptualise nuclear legacies and human rights in the Pacific.