The United Nations as an international body should not promote the narrative that "Structural Violence"[1] is permissible by any international human rights standards by insinuating in whatever shape or form that the espousal clause of the Compact of Free Association is lawful particularly given the fact that such a law was only considered by US Public Law in due consideration to a provision known as the Changed Circumstance Petition which highlights human rights responsibilities As the Compact of Free Association between the Marshall Islands and America which is USA PUBLIC LAW states in its preamble "Affirming that their Governments and their relationship as Governments are founded upon respect for human rights."[2] Victims Assistance and environmental remediation is severely needed as was mentioned in Ambassador Amatlain Kabua's statement when she stated that the Nuclear Ban Treaty makes clear that "there is an important responsibility for user states - those that have tested or used such weapons - to provide adequate assistance for affected victims, and regarding environmental remediation. We consider this to be an important statement of international law. We also consider that there remains a basic humanitarian need of assistance from the UN system. "In this regard, I wish to recall the 1995 NPT Conference outcome documentation, which states that the Conference "acknowledges the existence of a special responsibility towards those people of the former UN Trust Territories who have been affected as a result of the nuclear weapons tests conducted during the period of the Trusteeship." (1995 NPT/CONF.1995/MC.III/1)

The outstanding issue of the Changed Circumstance Petition (CCP) presented to the United States without action on their part as former Strategic Trust administrator goes against Human Rights. Marshallese negotiators inserted a changed circumstance provision to the infamous 177 settlement which allows the Marshall Islands to petition U.S. Congress for additional funding if losses or damages were discovered after the effective date of the 177 agreement, these injuries could not have been reasonably identified at the effective date of the agreement, and such failures provide legal humanitarian basis to render the agreement manifestly inadequate. The U.S. Congressional record is clear in showcasing America's commitment towards international law particularly in upholding human rights as they crafted the Compact agreement. The Congressional Record is clear that during the debate, human rights were considered deeply by the American government hence why Alan Cranston elaborated doubts on the agreement stating that the provisions established in the $150 million trust fund denied 5,000 Marshallese, who had already filed claims, a day in court. Senator James McClure, then Ranking

[1] https://study.com/academy/lesson/institutional-violence-definition-lesson.html#:~:text=Structural%20violence%20occurs%20when%20a,be%20isolated%20to%20individual%20cases.

[2] https://drive.google.com/file/d/1Wn3SC0JXsUBG_p7plRLDsYJK-3ySOq9C/view?usp=drive_link

Minority Member of the Committee on Energy and Natural Resources responded directly to these concerns stating vividly that:

> Article IX of the subsidiary contains a changed circumstance clause which would allow the Marshallese to ask Congress for relief if circumstances develop which could not have been foreseen, such as newly identified claimants. As you indicated, there is a continuing moral and humanitarian obligation on the part of the United States to compensate any victims – past, present, or future of the nuclear testing program. For this reason, I fully expect that if new claims develop, Congress should and will provide any assistance required, absent compelling contradictory evidence…There is an enormous burden on Congress to state affirmatively that if future valid claims develop we will do everything possible to compensate adequately all newly-identified victims.[3]

After the Marshall Islands entered into a compact of free association with Washington in 1986, its new parliament, the Nitijela, created a Nuclear Claims Tribunal to adjudicate claims for compensation for health and environmental legacies. Over the next twenty years Marshallese survivors and scientific experts provided the NCT with detailed information about the nuclear era and its impacts.
By the time the NCT began winding up in 2010, its judges had awarded a total of US$2.3 billion in compensation for property damage, loss of land use, personal injury, hardship and suffering, as well as for clean-up of contaminated lands. But the trust fund set up under the 1986 compact, with Washington's one-off injection of

[3] https://www.events-swiss-ippnw.org/desmond_doulatram_paper?fbclid=IwAR07HSspH81GG4C1YEyOg02X-7l_DJpfpesHWa2rXxqFzlp5i_XpOG8MxxU

US$150 million, fell well short of that figure. To this day, hundreds of millions of dollars of compensation remains unpaid.

That could have been the end of the story, but for a provision in the 1986 compact. The Marshall Islands government, says the compact, can seek further funding for nuclear legacies if it can demonstrate "changed circumstances." Circumstances *have* changed, and that change came from an unexpected quarter: new archival material transferred from Washington to the Marshallese capital, Majuro, in the mid 1990s.[4]

America's arms race against the Soviet Union provided the perfect opportunity to continue nuclear weapons development in the Marshall Islands through a policy of nuclear deterrence. Although the UN Strategic Trust granted the U.S. several requirements in fostering the inhabitants of the Marshall Islands towards self-government and economic self-sufficiency including protecting their health and natural resources, military strategies took precedent despite the United States willingly signing the United Nations Charter Trusteeship agreement in 1947. This was a far cry from American exceptionalism and bordered around American realism. In the words of former Secretary of State Henry Kissinger who served as National Security Adviser, "There are only 90,000 people out there. Who gives a damn?" The nuclear testing period in the Marshall Islands did not go heavily unchallenged however. Described as a "peace and freedom loving people," the Marshallese had been petitioning U.S. administrators and military officials for years, but Micronesia's unique postwar status as a strategic trusteeship omitted them from U.S. and international legal remedies. As early as 1953, an original request to cease nuclear testing was presented by Marshallese Congress woman Dorothy Kabua, the first indigenous inhabitant of the Trust Territory to sit in a UN Trusteeship Meeting. Unfortunately, her request fell on deaf years. A year later, her warning would come into fruition in 1954 during the infamous Bravo incident. Weeks after the Bravo incident, a formal petition was lodged to the United Nations by

[4] https://insidestory.org.au/preserving-nuclear-memories/

Marshallese petitioners Dwight Heine and Atlan Anien and customary chieftains Kabua Kabua and Dorothy Kabua. The petition sought to cease the nuclear testing program after fallout victims were identified in the Marshallese atolls of Utrik and Rongelap. Sadly, this petition was defeated by a UN Resolution. Another petition in 1956 presented by Marshallese petitioner Dwight Heine was also defeated at the expense of Dwight Heine being suspended from his job for presenting such a petition to the anger of US officials. Two UN resolutions in response to the Marshallese people's formal petitions in 1954 and 1956, Trusteeship resolutions 1082 and 1493, remain the only time in which any UN organ every explicitly authorized specific use of nuclear weapons and the Marshallese people have carried a burden which no other people should ever have to bear exclaims Marshallese UN Ambassador Amatlain E. Kabua. There was also a Petition from Representative Amata Kabua Concerning the Pacific Islands Trust Territory relating to human experimentation. Kabua reported that Americans had conducted human blood tests of the inhabitants of the region. When taken together with other reports to the Trusteeship Council and Security Council regarding the status of the healthcare system in the Trust Territory of the Pacific Islands, Dr. Wilson states that "the United States clearly understood that the nuclear tests had a negative impact on the physical well-being of the inhabitants." Regardless, the tests continued and ended in 1958.

There can be no closure without full disclosure of declassified documents and full reparations through the established avenue of the Changed Circumstance Petition in the Compact that US Congress drafted. We consider this to be an important statement of international law. We too at REACH-MI also consider that there remains a basic humanitarian need of assistance from the UN system also.

Finally, it should also be made clear that the United Nations cannot create the same situation as before making the Marshall Islands the receiver of blame as it did during its period of the Trusteeship when it failed to provide proper oversight that led to its current situation.

"Our present view is that we are strongly concerned that the TPNW's provisions on responsibility for addressing nuclear testing impacts have an ineffective and inappropriate shift of the primary burden from the States which have undertaken such testing, to the host nation where such testing occurred. We view this shift to be beyond the envelope of international human rights law as it has been specifically applied to the Republic of the Marshall Islands. Indeed, our primary concern with this treaty is that for the Marshall Islands, joining the treaty could impair ongoing and future efforts to effectively address testing impacts by those responsible for undertaking such testing and those with the capacity to adequately respond.

We are concerned that provisions in the TPNW relating to the responsibility of a State Party which has used or tested such weapons could be interpreted as being silent to the positive obligations of Non-States Parties which have tested or used such weapons. In the case of the Marshall Islands, the responsible State – the United States of America – does not appear to be in a position to join this

treaty (and become a State Party, with obligations therein) in the foreseeable future. Thus, obligations in the treaty would, in present circumstances, be potentially inapplicable to the US.[5]

Despite numerous appeals to Congress, the situation remains dire due to the ongoing "Structural Violence" of an unenacted CCP that brings back situations of the past to the fore where the UN, our greatest benefactor, continues to turn a blind eye through lack of enforcement capability.[6] Sadly, The new changing circumstance in the form of climate change is an equally pressing one to consider on top of this nuclear colonialism dilemma. Flooding in Kili, where the people of Bikini were resettled by U.S. military personnel, is becoming more and more frequent at every King Tide. The Human Rights Office of the High Commissioner has indicated that "climate change impacts severely limits the range of human rights by people throughout the world, including the rights to life, water and sanitation, food, health, housing, self-determination, culture and development." As Pacific islanders, climate change poses the greatest threat to the existence of Marshallese nuclear victims given their natural ties to their land and waters. By not formally addressing these various changing circumstances, including the formal Changed Circumstance Petition submitted to U.S. Congress in the year 2000, human rights violations continue to plague a large number of Marshallese, especially the nuclear victims who sacrificed immensely to the American military cause having paid the ultimate price for peace and security. And Yes, Colonialism also Caused Climate Change as IPCC has Reported.The Intergovernmental Panel on Climate Change released a final report that explores the significance of the sixth report finally naming "colonialism" as a historical and ongoing driver of the climate crisis.[7] This apparent structural violence existing within the international machinery forces the Marshall Islands to entertain available avenues, often unconventional means, to draw light to its story despite the 'colonial narrative impeding on its ability to adapt to current circumstances'.[8] The only legal hope currently sought as an option other than existing avenues seems to be the costly and timely

[5] Minster John Silks letter to Pacific Islands Forum Minister
https://docs.google.com/document/d/1DhM7xzk6wzqcWa7YXaJcx1MauQ3Sx7T1/edit?usp=sharing&ouid=116058295816982232791&rtpof=true&sd=true

[6] **Marshall island Speaker Kenneth Kedi Testimony for 2023 Compact of Free Association**
https://www.youtube.com/watch?v=H9uRVHsAMvc

[7] https://atmos.earth/ipcc-report-colonialism-climate-change/?fbclid=IwAR0HP6aFpeHP5ehhfmEihE4rF22WV4Sw91yINl4lxQ8AUJKtbhwZiA0Gi-0

[8] Autumn Bordner, "Climate Migration & Self Determination," *Columbia Human Rights Law Review*
https://hrlr.law.columbia.edu/files/2019/11/3-Bordner_FINAL.pdf

option of a Congressional Reference Case according to the National Strategic Action Plan of the National Nuclear Commission which could prove difficult during a divided America's tumultuous politics but the UN must do its moral duty to ensure we are at least heard fairly. We need Nuclear Justice by first stopping the structural violence of the unfair narratives of the espousal clause which is metaphorically akin to beating up a child who is made unaware of their injuries and then preventing them from suing in the future once they get the evidence that their abusers held on to knowingly.