

Mandates of the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to development and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Ref.: AL PLW 1/2025
(Please use this reference in your reply)

17 October 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to development and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, pursuant to Human Rights Council resolutions 55/2, 57/31, 55/5, 51/7 and 54/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged environmental and human rights negative impacts including on the human right to a clean, healthy and sustainable environment and cultural rights linked to United States military construction projects in Palau which allegedly may not have fully complied with national environmental procedures or ensured the free, prior, and informed consent of affected Indigenous communities.

According to the information received:

Palau gained independence in 1994 through the Compact of Free Association with the United States, which formally ended United States trusteeship and granted the United States extensive authority over defense matters, including access to land, sea and airspace.

In 2017, an agreement between Palau and the United States was signed that asserts that United States military activities are subject to Palauan environmental laws and not the United States. This agreement marked a significant shift, ensuring that all United States defense operations in Palau are now bound by Palau's environmental protection regulation.

Approximately 70 per cent of Palau's population is Indigenous Palauan. Its system of governance integrates democratic structures and traditional leadership, with the roles of customary chiefs explicitly protected under the Constitution. Palauan cultural identity is tied to the cultural practices and the environment, a relationship that is reflected in its legal, political and environmental frameworks.

Palau's Legal Environmental Framework

The Palauan Environmental Quality Protection Act (EQPA) provides a comprehensive legal framework for environmental protection and regulates all activities with potential environmental impacts, stating the nation's deep cultural and ecological ties to its land and marine resources. The Act also recognizes that such links are essential to Palauan identity and an economy driven by eco-tourism.

The EQPA mandates a comprehensive Environmental Impact Statement (EIS) for any significant project, and includes a full assessment of environmental, cultural and socio-economic impacts, mandatory public consultations in accessible formats and local language, incorporation of community and traditional leaders' feedback, and the mandatory review by the Environmental Quality Protection Board (EQPB). According to Palauan laws, without EQPB approval, projects cannot proceed. The EQPA also states that any approved project valued at over \$1 million must secure the necessary permits and pay an environmental impact fee equal to 0.15 per cent of the project's value. Additionally, Palau's Constitution recognizes the right to a clean, healthy, and sustainable environment.

Human and Environmental Impacts

According to the information received, the following are the impacts that presumably have occurred imperiling the Palauan ecosystems, the health and well-being of Palauan communities, including their right to a clean, healthy and sustainable environment, and the human rights of Indigenous Peoples.

Angaur

On Angaur Island, the United States military is actively constructing a receiver facility. Approximately 271,807 square meters of pristine forest, which is also the island's largest nesting ground for the critically endangered Palau megapode and a vital habitat for the endangered Palauan ground dove, had already been razed, causing irreversible environmental damage. The cleared area includes mangroves essential for coastal protection and play an essential role in climate change mitigation and adaptation, as well as in preventing, minimizing, and responding to losses and damages caused by climate change and in defending human rights that are affected by climate change. Such area also includes mesei (taro) patches and women's fishing grounds vital to food security and cultural practices. Local residents report the disappearance of crab species and disruption of entire ecosystems, with one contractor reportedly killed by wave inundation during construction.

From the information provided, the construction of the facility proceeded without previously conducting an Environmental Impact Statement (EIS) or obtaining required permits under Palau's Environmental Quality Protection Act, violating national law. Although permits were later issued, their validity is in question due to retroactive approval and continued construction and contracts advanced before the permits. Additionally, according to the information

received, basic information was not provided to the local population, neither public hearing or any other form of engagement for people to learn, ask questions, or give their consent were organized. Community members report being denied access to key fishing and farming areas, and subjected to routine road closures, gunfire, missile testing, and light pollution, all conducted without notice, consent, or transparency. These situations have severely impacted daily life, Indigenous rights, and environmental integrity on the island.

Ngaraard

In Ngaraard State on Babeldaob Island, the United States is developing the transmitter component paired with the receiver facility that is being built in Angaur, which has raised serious procedural, environmental, climate, and cultural concerns.

In 2023 the corresponding EIS was released, once the project started. However, the document was not provided in Palauan, the official language of the country, and failed to include a clear project description, baseline environmental data, meaningful impact analysis, or consideration of alternatives and cumulative effects, all of which are legally required under Palau's Environmental Quality Protection Act. The consultation process was also deeply flawed as there was no engagement in required pre-EIS consultations with local communities or resource owners, and comments submitted in Palauan language during the 30-day review period were dismissed as irrelevant. The EIS had just one page regarding consultation, stating that consultations were conducted in 2017, but without any details about who was consulted and what was discussed during these consultations. Although the final EIS was issued in February 2024 with nearly 1,000 pages of previously undisclosed studies, there was no opportunity given to the public to review or comment on them prior approval. The EQPB approved the project, but Ngaraard State law stipulates that final permitting authority rests with the local government, which intends to conduct its own review. Moreover, before the EIS was finalized, in 2022 a \$118 million construction contract was awarded and earthmoving activities are already underway, in violation of Palauan law and without necessary permits.

Hatohobei and Kayangel

In Hatohobei State and Kayangel Atoll, which comprises several islands in the southwest of the country, the United States military has constructed in recent years two radar facilities in ecologically and culturally sensitive areas without compliance with Palau's environmental laws, community consultation requirements, prepared required environmental assessments or obtaining required permits. In Hatohobei, two radar installations were built, one on Helen Reef, a designated conservation zone and Important Bird Area that supports 1.8 per cent of the global population of black noddy (20,000-24,000 birds), and serves as a nesting ground for sooty terns, boobies, frigatebirds, and other tropical birds. It is also Palau's most critical nesting site for melob (green sea turtles), an endangered species protected under international law. The radar facility was built just offshore at Helen Reef in Hatohobei State, and is nearly the same size as Helen Island itself, threatening both the reef's biodiversity and

ecological function. The second site, on Hatohobei Island, was constructed adjacent to the community cemetery and in an area formerly home to several bird species. With their habitat destroyed, the birds have been observed roosting on the radar equipment itself.

In Kayangel, another Important Bird Area, the military is constructing a radar site within habitat essential to the endangered Palauan megapode, which holds cultural and ecological significance and represents one-third of the species' national population. In all cases, community reports and available public data indicate that construction proceeded without environmental impact assessments, permits, or local consultations, in direct violation of Palauan law. These sites are part of fragile and sacred ecosystems, where all plants and animals are considered relatives in Palauan cosmology. As such, damage to these species and their habitats would constitute not only a biological threat, but also negatively impact Indigenous communities' way of life and cultural identity, disrupting the interdependent ecological systems upon which both the environmental integrity and cultural continuity of the archipelago depend.

Indigenous Peoples of these islands have expressed concern over the disposal of toxic waste generated by the sites, for which disposal plans remain insufficiently disclosed.

Peleliu

In Peleliu there is an ongoing construction of a large-scale international airport for military aircraft, clearing significant tracts of land without conducting an EIA or obtaining the required permits. This has also been reported by local residents and publicly available sources. Community members report a complete lack of access to information, consultation, transparency, or opportunity to give informed consent in relation with such infrastructure.

The project has already resulted in the destruction of agroforestry areas, including critical mesei (taro) patches, and the seizure of private lands without compensation, undermining both subsistence practices and property rights. The local economy, which depends heavily on eco-tourism, is being jeopardized by deforestation, environmental degradation, and noise pollution, with low-flying military aircraft disturbing daily life, sacred sites, and wildlife behavior. Peleliu is designated as an Important Bird Area and is a critical habitat for endangered migratory shorebirds, including the far eastern curlew, bar-tailed godwit, and great knot, as well as the Palauan megapode. The alleged absence of any environmental analysis raises serious concerns regarding the impacts on these fragile species and ecosystems, and its correspondent potential harms to human rights and to the climate system.

Without wishing to prejudge the accuracy of the information received, we express deep concern at the reported breaches of Palau's environmental protection laws and erosion of both national and state-level governance, particularly through the alleged absence of participatory consultations processes and lack of free, prior, and informed consent from affected Indigenous communities.

Considering the allegations, we recall that under the Environmental Quality Protection Act (EQPA) and according with obligations under international law, the United States military is required to prepare a comprehensive Environmental Impact Statement (EIS) for any project it seeks to undertake in Palau. This process must include at minimum: (i) mandatory public consultations conducted in accessible formats and in the Palauan language; (ii) meaningful integration of feedback from affected communities, resource owners, and traditional leaders; and (iii) formal submission of the EIS to the Palau Environmental Quality Protection Board (EQPB) for review and approval prior to the commencement of any works. We are deeply concerned by information indicating that these procedural safeguards have not been observed in several cases, with projects reportedly moving forward in the absence of an approved EIS, adequate consultation, or compliance with permitting requirements.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain what oversight mechanisms are in place to monitor compliance by the United States military with Environmental Quality Protection Act (EQPA) requirements, including Environmental Impact Statements (EIS), public consultations, and Environmental Quality Protection Board (EQPB) approvals, and how these mechanisms have been applied in the cases referenced.
3. Please explain in detail which mechanisms have been put in place to guarantee effective consultation rights to the affected communities and to uphold free, prior, and informed consent in site selection and construction, including regarding potential human rights, environmental and climate impacts.
4. Please provide information on the measures adopted to restore damages that might have occurred, and repair and compensate those affected, including Indigenous communities in the impacted areas.
5. Please provide information on the measures adopted by the government of your Excellency to address risks associated with sea level rise, including long-term human rights implications for affected communities, negative consequences on ecosystems including as a key element for climate change adaptation and mitigation.
6. Please provide information on the measures taken to ensure transparency regarding the use or deployment of potentially hazardous substances in the projects, including requirements for disclosure, monitoring, and

safeguards to prevent harm to people and the environment.

7. Please provide information on the steps taken by your Excellency's Government to ensure that the ongoing military projects do not violate Indigenous Peoples' right to development (including self-determination over their natural wealth and resources) in line with the Declaration on the Right to Development.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a letter on this subject matter has also been sent to the Government of the United States of America.

Please accept, Excellency, the assurances of our highest consideration.

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Elisa Morgera
Special Rapporteur on the promotion and protection of human rights in the context of climate change

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Surya Deva
Special Rapporteur on the right to development

Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

In 2021, the Human Rights Council recognized this right to a clean, healthy and sustainable environment through resolution 48/13, and in 2022, the United Nations General Assembly reaffirmed it by adopting resolution 76/300. These resolutions underscore that all States have a duty to respect, protect, and fulfill this right for present and future generations. As such, environmental protection is not only a matter of policy, but a binding human rights obligation, central to the enjoyment of related rights to life, health, water, food, housing, culture, and development. In addition, it should be highlighted that the right to a clean, healthy and sustainable environment includes six substantive elements including a safe climate. The Republic of Palau recognizes this right as legally binding; therefore, all activities undertaken by domestic or external entities must respect it.

Complementary to the above, we would like to highlight, the Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. In particular, principle 7 of the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment (A/HRC/37/59, annex) emphasizes that States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request. Principle reaffirms that, to avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights. The assessment requires meaningful participation of the public, done in a manner that does not discriminate anyone. Principle 14 requires States to ensure that they take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks, and capacities. Furthermore, principle 15 clarifies that States should ensure that they comply with their obligations to Indigenous Peoples and members of traditional communities, by recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used; consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; and ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories or resources.

As elaborated in the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment A/80/187 presented before the General

Assembly, States have binding obligations under international law to protect the environment and the climate system, including the duty to prevent foreseeable harms to people and ecosystems. To comply with this duty, States must carry out Environmental, Social, and Human Rights Impact Assessments (ESHRIAs). The International Court of Justice has clarified that such assessments are required under customary international law. Importantly, these assessments must not be treated as a formality; they must be carried out prior to project authorization, be comprehensive in scope, and address cumulative, transboundary, and long-term impacts.

For such processes to be effective, public participation is essential at every stage. Communities must be involved from the very beginning, including during the screening phase, to help identify potential risks and priorities. Participation should not be symbolic but must shape the design and outcomes of assessments. In contexts where Indigenous lands, resources, or rights are at stake, this obligation rises to the level of requiring free, prior, and informed consent (FPIC).

In particular, States must ensure that assessment processes fully respect Indigenous Peoples' individual and collective rights. These include the rights to life, self-determination, FPIC, property, development, cultural heritage, and traditional knowledge. Consultations must therefore be culturally appropriate, accessible, and free of coercion, and must allow sufficient time for Indigenous Peoples to understand the scope, nature, and likely impacts of a proposed project. The objective of such consultations should not be to extract minimal compliance, but rather to build trust, mutual respect, and consensus between Indigenous Peoples, States, and project proponents. Furthermore, assessment frameworks themselves should be developed in cooperation with Indigenous Peoples, drawing on their methodologies and knowledge systems, which are essential for safeguarding ecosystems and cultural continuity.

States must guarantee the broader rights of all affected communities to access information, participate meaningfully in decision-making, and access justice in relation to environmental matters. These safeguards are necessary to ensure transparency, accountability, and remedy for harms. In addition, special measures must be adopted to ensure the full inclusion of marginalized and vulnerable groups, who often face disproportionate environmental risks and barriers to participation.

In addition, we would like to respectfully refer Your Excellency's Government to article 15, paragraph 1(a), of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes the right of everyone to take part in cultural life. Under this provision, States Parties undertake to respect and ensure the enjoyment and development of cultural practices, as well as to safeguard the freedom indispensable for creative activity.

The Committee on Economic, Social and Cultural Rights, in its 2009 general comment 21 on the right to take part in cultural life (E/C.12/GC/21) stressed that States must refrain from interfering with the exercise of and the access to cultural practices, goods and services. It further recalled the right of everyone to seek, receive and impart information and ideas of all kinds and forms including art forms; to enjoy the freedom to create, individually, in association with others, or within a community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression (para. 49(c)). It also recalled the right of everyone to

access to their own cultural and linguistic heritage and that of others (E/C.12/GC/21, paragraph 44, 48, 49).

Also, we wish to refer to the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003), which recognizes the vital role of communities, particularly indigenous communities, in the production, safeguarding, and transmission of intangible cultural heritage. Article 11, in particular, highlights that “Each State Party shall: (a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory; (b) among the safeguarding measures referred to in article 2, paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.” This provision underscores the importance of inclusive and community-led approaches to preserving cultural practices, expressions, and knowledge systems that are central to the identity and continuity of the Marshallese people.

The mandate holders in the field of cultural rights have further recommended that “States parties obtain the free and informed prior consent when the preservation of the cultural resources of concerned individuals or communities, especially those associated with their way of life and cultural expression, are at risk (E/C.12/GC/21, paragraphs 49(a), 52(f) and 55(e))...Concerned communities and relevant individuals should be consulted and invited to actively participate in the whole process of identification, selection, classification, interpretation, preservation/safeguard, stewardship and development of cultural heritage (A/HRC/17/38, para. 80(c)).” The Special Rapporteurs have also underscored that States should make available effective remedies, including judicial remedies, to concerned individuals and communities who feel that their cultural heritage is either not fully respected and protected, or that their right of access to and enjoyment of cultural heritage is being infringed upon (para. 80(l)). States should also develop cultural heritage mapping processes within their territory and utilize cultural impact assessments in the planning and implementation of development projects, in full cooperation with concerned communities (para. 80(e)).”

States must guarantee the broader rights of all affected communities to access information, participate meaningfully in decision-making, and access justice in relation to environmental matters. These safeguards are necessary to ensure transparency, accountability, and remedy for harms. In addition, special measures must be adopted to ensure the full inclusion of marginalized and vulnerable groups, who often face disproportionate environmental risks and barriers to participation.

In this regard, the Special Rapporteur on human rights and climate change highlighted in her report entitled *Access to information on human rights and climate change* (A/79/176) that: “(t)imely access to high-quality, trustworthy, evidence-based and accessible information on climate change and human rights is essential to ensure that public authorities understand the foreseeability and preventability of negative human rights impacts of climate change and response measures and make holistic, effective and inclusive decisions to mitigate and adapt to climate change. The public must be informed about the magnitude of actual and potential negative human rights risks and impacts of climate change and response measures, and about the adequacy of States’ and businesses’ responses to effectively protect and respect human rights in the

context of climate change. This is necessary to support the resilience and adaptive capacities of people in vulnerable situations to respond to the adverse impacts of climate change”.

Moreover, we wish to recall the relevance of the Declaration on the Right to Development (GA resolution 41/128). Article 1 of the Declaration provides that the “right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” This right “implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.” (article 1(2)). Article 2(3) of the Declaration further provides that “States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.” The Declaration further requires that States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights (article 8.2). In this vein, the ILO Convention 169 prescribes that indigenous peoples of the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy.

We also refer to the Guidelines and recommendations on the practical implementation of the right to development developed by the Special Rapporteur on the right to development (A/HRC/42/38). The Guidelines urge States to design and implement development projects after holding meaningful consultations to identify the development priorities of the communities in a project area and benefits-sharing arrangements that would be suitable for those affected. They further recommend (para. 37) that States should respect the right of Indigenous Peoples to self-determination to fulfil the right to development. The Guidelines also recommend (para. 45) that all actors, including institutions, businesses and investors, who produce information about development projects, should provide that information transparently. Specifically: (a) Information about development projects should be shared with the affected communities as a matter of priority, in the language of those communities and in accessible formats. The information might need to be translated into local and Indigenous languages; and (b) Information should be shared in a format that is accessible to target populations.