

Letter dated 22 June 1995 from the Permanent Representative of the  
Marshall Islands to the United Nations, together with Written Statement  
of the Government of the Marshall Islands

*Republic of the  
Marshall Islands*



*Permanent Mission  
to the United Nations*

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22 June, 1995

Excellency,

I have the honor to submit the following statement for consideration in the advisory opinion requested in the United Nations General Assembly resolution 49-75 K on the question:

"Is the threat or use of nuclear weapons in an circumstance permitted under international law?"

It is with great regrets that this statement is submitted late and though this in no way indicates a lack of concern from the Marshall Islands on this very important and critical topic, I wish to convey my profuse apology, indeed, for this late submission and hope that Your Excellency will see fit in the consideration of the question confronting not only the Court but the international community as a whole as well.

I extend, Excellency, my personal and warmest regards.

  
Laurence N. Edwards  
Permanent Representative

Mr. Mohammed Bedjaoui  
President of the International Court of Justice  
Peace Palace  
2517 KJ, The Hague  
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# International Court of Justice Advisory Opinion on the Threat or Use of Nuclear Weapons

## 1. Introduction

The Republic of the Marshall Islands is the easternmost group of islands in Micronesia, located approximately 1500 miles south southwest of the Hawaiian Islands in the Central Pacific between 4° and 14° N. latitude and 160° E. longitude. Though the 34 low-lying atolls and 1225 islands and islets totaled 70 sq. miles of land area; its ocean area spans some two (2) million square kilometers.

The history of the Marshall Islands is one that is marred by foreign domination. The first contact with European occurred between 1529 and 1568 when Spanish navigator Alvaro Saavedra sighted them. In 1878 Germany signed a commercial treaty with the Chiefs and in 1885 Marshall Islands were declared a German protectorate and remained so until 1914. In 1914 the Marshall Islands were seized by the Japanese and, in 1919, along with other islands in the region, the group became a League of Nations Mandate administered by Japan. The post World War II era ushered in a new "administration" when the Marshall Islands became a part of the United Nations Trust Territory of the Pacific Islands administered by the United States of America.

It was during the last administration that the two of the northwest most atolls in the Marshall Islands were used as a testing ground for at least sixty six nuclear bombs. The residents of these atolls were informed of this decision three months after it was made by the Joint Chiefs of Staff in Washington, DC. When objection was raised later on the decision by the American public and media, one of the US Presidential Advisors quipped: "There are only 90,000 people out there...Who gives a damn?"

Some of these explosions were up to a thousand times greater than the nuclear bombs detonated in Hiroshima and Nagasaki. In fact, one of the biggest hydrogen bomb ever tested in the world, code name Bravo, was detonated on March 1954. This testing had significant effects on the health and environment of the islands. As such, not only did this very issue catapult the islands into the international arena, but it gives the Marshallese people a special interest in the question of the legality of the threat or use of nuclear weapons.

## 2. The threat of nuclear weapons

The Republic of the Marshall Islands, as one having first hand experience of the devastating impacts of nuclear weapons, believes that the threat of use of nuclear weapons continues. Despite the end of the Cold War nuclear weapon States have yet to relinquish their policies of first use, use and threat of use of nuclear weapons. These issues are very central to not only the basis of Marshall Islands foreign policy, but are the very cornerstone by which the United Nations objective for World Peace can be achieved.

The Marshall Islands believes the international community must address this issue now.

### 3. Nuclear Testing

The devastating impact of nuclear testing in the Pacific from 1946 to 1992 has contaminated numerous islands and large areas of ocean with radiation. In the Marshall Islands alone, several islands were vaporized and others have been declared uninhabitable for thousands of years. The United States Atomic Energy Commission has called the Marshall Islands "by far one of the most contaminated areas in the world." Health related problems, such as miscarriages, still births, cancers, birth deformities and other radiogenic diseases have increased by up to 10 times pre-testing levels in areas closest to the testing."

A description of some of these effects is given by Ms. Lijon Eknurang from Rongelap Atoll:

"I was seven years old at the time of the Bravo test on Bikini. I remember that it was early in the morning that I woke up with a bright light in my eyes. I thought someone was burning the house. Soon after we heard a big loud noise, just like thunder and the earth started to move...Then came the fallout. It was while and to us kids we thought it was white soap powder. The kids were playing in the powder and having fun, but later on everyone was sick and we couldn't do anything...My cousin died of tumor cancer in 1960. In 1972 I had another cousin die of leukemia. Two of my sisters have had thyroid surgery. I have had seven miscarriages and still births. There are eight other women on the island who have given birth to babies that look like blobs of jelly. Some of these things we carry for eight months, nine months. There are no legs, no arms, no head, no nothing. Other children are born who will never recognize this world or their own parents. They just lie there with crooked arms and legs and never speak. Already we have seven such children..."

When such problems were substantiated, the residents of the atolls believed to have been affected were relocated; these include Bikini, Enewetak, Rongelap and Utirik. The people of Bikini remain nomads to this very day residing several hundreds miles on a much smaller island than Bikini Atoll

itself. Land is considered security in the Marshall Islands customs and mores; in fact, a common saying: "Without land a Marshallese is nobody--it is land that makes a person Marshallese" suggests the Bikinians and Ronglapese are nobody as long as their lands are un-inhabitable. The severity of this assertion can only be understood by the Bikinians particularly as several of their islands were vaporized during the tests.

With a total of only 170 square kilometers of land, Marshall Islands views this loss of lands as a severe renting of their cultural fabric. This will never be compensated for by those responsible for their destruction. Mindful of this land constraint of land for settlement, Ronglapese and Bikinians have been forced to reside in the two urban centers as well. This in turn has cause a major concern as Ebeye, on of these urban centers, a 66 acre island, housed a population of 9500. This is a major increase from its original population of 16 persons.

Other social problems associated with the overcrowding in the urban centers are major hurdles to overcome today.

#### 4. Marshall Islands interest in nuclear disarmament

Given its extensive first hand experience with adverse impacts of nuclear weapons, Marshall Islands decision to ratify the Nuclear Non-Proliferation Treaty this year is understandable. This objective of the treaty of "the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons" is wholly consistent with Marshall Islands' foreign policy of peaceful co-existence as well as with the overarching goal of the international community to achieve global peace.

#### 5. The need for a Court Opinion

Given the legal and moral implications attached to the use or threat of use of nuclear weapons, and owing to the international community's goal for achieving global peace, this issue presses on the need to consider it in legal terms to achieve total consistency with other legally binding agreements which call on the international community to a common undertaking.

On this very issue, Marshall Islands is of the view that the use or threat of use of nuclear weapons is not permitted under international law. It has been clearly documented in the Marshall Islands and elsewhere where nuclear testing has been conducted that the severity such tests have on health and the environment are enormous.

Additionally, any use of nuclear weapons violate laws of war including the Geneva and Hague Conventions and the United Nations Charter. Such laws

prohibit the use of poisonous substances, the use of indiscriminate weapons, the causing of unnecessary or aggravated suffering, the causing of long-term damage to the environment and the violation of neutral territory.

The threat to use nuclear weapons is also prohibited under the United Nations Charter (Article 2 (4)) which prohibits the threat or use of force, and the Nuremberg Principles, which prohibit the planning and preparation of a war crime. Furthermore, there is a general principle of law that the threat to use unlawful force is itself unlawful. Any acts committed in contravention to these internationally legally binding conventions require equal legal corrective measures.

## 6. Conclusion

As a victim of nuclear weapons that Marshall Islands has witnessed first hand the unprecedented and awesome destructiveness of such weapons. The Marshall Islands kindly requests the Court to confirm the commonly held view that the threat and use of nuclear weapons is both inhumane and illegal.