

11 April 2010

Office of the High Commissioner for Human Rights
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

**Re: Universal Periodic Review of the Republic of the Marshall Islands (RMI),
2010 Submission of Earthjustice, Pohnpei Women Advisory Council (Federated States of
Micronesia), Many Strong Voices, Human Rights Advocates and Greenpeace International**

SUMMARY

1. Recalling the UN General Assembly Resolution 60/251, adopted on 15 March 2006, the UN Human Rights Council Resolution 5/1 adopted on 18 June 2007, and the Decision 6/102, adopted on 27 September 2007, and in accordance with the Information Note for NGOs regarding the Universal Periodic Review mechanism (October 8, 2007), Earthjustice, Pohnpei Women Advisory Council (Federated States of Micronesia), Many Strong Voices, Human Rights Advocates and Greenpeace International respectfully submit to the Human Rights Council the following information regarding human rights in the **Republic of the Marshall Islands** (hereafter the RMI) as a result of anthropogenic climate change for its universal review.
2. Via this submission, we seek to contribute to the protection of human rights in the RMI, where acute environmental problems related to the extreme vulnerability of these islands to climate change threaten the realization of a standard of living adequate for the health and well-being of all persons. The changes in the physical environment causing these threats have been increasing in frequency and severity over the past several decades and are predicted to increase significantly by the end of the century.¹ This will undermine many human rights recognized under international law.
3. In January 2009, the UN Office of the High Commission for Human Rights published a report on climate change and human rights concluding that 1) climate change threatens the enjoyment of a broad array of human rights 2); human rights obligations provide important protections to individuals who are affected by climate change, and; 3) states have legal obligations to those whose rights are affected by climate change, and that those obligations extend extraterritorially.² We seek to inform the Human Rights Council of the acute impacts that climate change is having and will have on the human rights of all citizens of the RMI. We urge the Human Rights Council to adopt an outcome recognizing that the RMI can not be considered as bearing the main responsibility for human rights threats suffered by citizens of the RMI due to climate change. Significantly increased international cooperation will be fundamental to help protect the human rights of the citizens of the RMI. The responsibility for adaptation to and mitigation of climate change in the RMI should be shared by major greenhouse gas emitting states, relative to their share of historic and current emissions.

¹ IPCC Working Group I Report: *The Physical Science Basis: Summary for Policymakers* (2007), <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-spm.pdf>.

² OHCHR, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009), <http://www2.ohchr.org/english/issues/climatechange/index.htm>.

4. In its Fourth Assessment Report, the Intergovernmental Panel on Climate Change (IPCC) projects that anthropogenic climate change will have significant adverse effects not only on the natural environment, but also on the human populations that inhabit that environment and rely on its processes and services.³ In the RMI, climate change will:

- Threaten rights to **be free from hunger, to health, means of subsistence and ability to maintain an adequate standard of living** by damaging agriculture through increased heat stress, salinification of groundwater, worsened typhoons, sea level rise resulting in flooding and overwash during tide surges, erosion of coastlines, low-lying areas, and steep slopes, and increasing reliance on expensive imported foods subject to global food price shocks;
- Jeopardize rights to **be free from hunger, to health, and subsistence livelihoods** by damaging fisheries, coral reefs and mangrove forests through sea level rise, increased sea temperature, increased ocean acidification, and exacerbated typhoons; and
- Endanger rights to **life, property, housing, self-determination, security of person, access to freshwater, sanitation and a healthy environment** due to increased tropical storms, droughts, flooding, and spread of disease vectors.

5. Increasing changes in the physical environment causing these threats will result in direct threats to many of the human rights guaranteed by the RMI under international law, including: the rights to **life; security of person; water; freedom from hunger; means of subsistence; sanitation; health; property; housing; self-determination; culture and traditional knowledge; an adequate standard of living; and a healthy environment.**

BACKGROUND

6. The RMI is an island nation in the North Pacific Ocean with 1225 islets in 29 atolls scattered over 3/4 million square miles. The average height above sea level is just 2 meters, so the entire population of 67,000 is vulnerable to sea level rise and storms.⁴ The RMI's economy relies on foreign aid, agriculture, and fisheries.⁵ Per capita GDP was just \$2500 per year in 2008, and 36% of the population is unemployed.⁶ However, the RMI enjoys "subsistence affluence" due to the abundance of coastal fish available to most households.⁷

7. The RMI is a party to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.⁸ Human rights referred to in this document that are not based on those conventions find their source in the 1948 Universal Declaration of Human Rights (UDHR).

THE IMPACTS OF CLIMATE CHANGE ON HUMAN RIGHTS IN THE REPUBLIC OF THE MARSHALL ISLANDS

³ IPCC Working Group II Report: *Impacts, Adaptations, and Vulnerability* (2007), <http://www.ipcc.ch/ipccreports/ar4-wg2.htm>.

⁴ Government of the Republic of the Marshall Islands, *Environment*, (2010) <http://www.rmiembassyus.org/Environment.htm>.

⁵ Food and Agriculture Organization of the United Nations, *Fisheries and Aquaculture Country Profiles, Marshall Islands*, http://www.fao.org/fishery/countrysector/FI-CP_MH/en.

⁶ CIA—The World Factbook, *Marshall Islands*, <https://www.cia.gov/library/publications/the-world-factbook/geos/rm.html>.

⁷ Johann Bell *et al.*, *Planning the Use of Fish for Food Security in the Pacific*, 33 *Marine Policy* 64, 73 (2009).

⁸ United Nations Office of the High Commission on Human Rights, *Report Status by Country*, <http://www.unhchr.ch/tbs/doc.nsf/NewhvVAIISPRByCountry?OpenView&Start=1&Count=250&Expand=109#109>.

8. The RMI's **agricultural** sector is threatened by climate change that causes rising sea-levels, extended droughts, flooding during rainy seasons, storm surges, and unusually high tides.⁹ Only 11% of the land area in RMI is arable and soils are poor.¹⁰ Agriculture provides much of the nation's food and employs over 20% of the labor force.¹¹ There is strong evidence that rainfall variations directly affect crop yields and production in the Marshall Islands.¹² During storm surges, when waves over ten meters can wash across entire islets, saltwater intrudes into the freshwater lens of low-lying atolls.¹³ Droughts caused by the El Niño-Southern Oscillation (ENSO) periodically reduce groundwater and water catchment supplies to emergency levels.¹⁴ Droughts are predicted to increase in severity on small islands with the rising temperatures associated with climate change.¹⁵ This will adversely affect agricultural production and increase reliance on imported foodstuffs which are subject to increasing frequent supply and price volatility.¹⁶ **As climate change threatens RMI agriculture, it undermines RMI citizens' right to life, health, an adequate standard of living, right to be free from hunger, right to culture and traditional knowledge, and right to a means of subsistence.**

9. Subsistence and artisanal **fisheries** and aquaculture are of high importance in the RMI, providing the primary source of animal protein and roughly four percent of the country's GDP.¹⁷ These fisheries are predicted to be harmed by the effects of climate change, including sea temperature rise, increasing acidity, changing currents, and typhoon damage to coral reefs and coastal ecosystems, including mangroves.¹⁸ As these effects cause fish to become less abundant and harder to catch around the RMI, citizens will be forced to reduce the amount of fish (and thus protein) in their diets.¹⁹ **Climate change threatens reefs, pelagic and mangrove-based fisheries, jeopardizing rights of RMI citizens to be free from hunger, to means of subsistence, an adequate standard of living, and right to culture and traditional knowledge.**

10. The Marshall Islands have suffered acute water shortages in recent years.²⁰ Rainwater collected from roofs needs regular replenishment, as there is little storage capacity.²¹ Citizens also rely

⁹ Nobuo Mimura *et al.*, *Small islands. Climate Change 2007: Impacts, Adaptation and Vulnerability*. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, M.L. *et al.* eds., Cambridge University Press, Cambridge, UK, 687, 698 (2007); Government of the Republic of the Marshall Islands, *Initial Communication Under the United Nations Framework on Climate Change* (2000) [hereafter Government of the RMI 2000] at 50, <http://unfccc.int/resource/docs/natc/marncl.pdf>.

¹⁰ CIA World Factbook, *supra* note 5.

¹¹ *Id.*

¹² Government of the RMI 2000 *supra* note 9.

¹³ Dirk Spennemann, *Freshwater Lens, Settlement Patterns, Resource Use and Connectivity in the Marshall Islands*, 1 *Transforming Cultures eJournal* (2006).

¹⁴ U.S. Global Change Resource Program, *Climate Change Impacts US National Assessment of the Potential Consequences of Climate Variability and Change Educational Resources Regional Paper: US-Affiliated Islands of the Pacific and Caribbean*, <http://www.usgcrp.gov/usgcrp/nacc/education/islands/islands-edu-3.htm>; Aenet Rowa, *Severe Drought State of Emergency Declared in the Marshall Islands*, Yokwe Online (2007), <http://www.yokwe.net/index.php?name=News&file=article&sid=1706>.

¹⁵ Mimura *et al.* 2007 *supra* note 9 at 689.

¹⁶ *Id.*

¹⁷ Food and Agriculture Organization of the United Nations, *Fisheries and Aquaculture Country Profiles, Marshall Islands*, http://www.fao.org/fishery/countrysector/FI-CP_MH/en.

¹⁸ Mimura 2007 *supra* note 9 at 700; Food and Agriculture Organization of the United Nations, *Climate Change and Food Security in the Pacific* (2009), <ftp://ftp.fao.org/docrep/fao/012/i1262e/i1262e00.pdf>.

¹⁹ Bell 2009 *supra* note 7.

²⁰ Aenet Rowa, *Severe Drought State of Emergency Declared in the Marshall Islands*, Yokwe Online (2007), <http://www.yokwe.net/index.php?name=News&file=article&sid=1706>.

on groundwater, which is vulnerable to salt contamination during droughts and storm surges.²²

Climate change threatens RMI citizens' rights to water.

11. Climate-related health issues of concern to the government of the RMI include diarrhoeal and other water-borne diseases, dengue fever, disaster-related fatalities, injuries and illnesses, heat stress and conjunctivitis.²³ **Climate change threatens RMI citizens' rights to sanitation, health, and a healthy environment.**

12. **Typhoons** and tropical storms threaten the lives of citizens of RMI.²⁴ Climate science indicates that higher surface water temperatures intensify the force of tropical storms.²⁵ In December 2008, the government declared a state of emergency due to storm surges flooding the urban centers of Majuro and Ebeye, each less than one meter above sea level.²⁶ **Climate change threatens rights of RMI citizens to life, housing, property, and security of person.**

13. In the traditional societies that still dominate much of the RMI, **land** is deeply linked to personal, family, and cultural identity.²⁷ Loss of lands due to sea level rise²⁸, storm surges and coastal erosion may force thousands of RMI citizens to become climate migrants, evacuating their island homes long before inundation is total.²⁹ **The loss of land due to the effects of climate change threatens citizens of the RMI's rights to security, culture, traditional knowledge, property, housing, and self-determination.**

CONCLUSION AND RECOMMENDATIONS

14. One of the most serious threats to the human rights of the people of RMI is the vulnerability of their environment to the impacts of climate change. The threats confronting the RMI show how the right to an ecologically healthy environment is fundamental to guaranteeing other rights, such as the rights to life, food, water, health, security and a means of subsistence.³⁰

The RMI is neither a significant user of the fossil fuels that are the primary source of greenhouse gas emissions, nor a great emitter of greenhouse gasses.³¹ The responsibility for human rights protection lies in the hands of the state of RMI. However, the primary responsibility for the impacts of climate

²¹ U.S. Global Change Resource Program, *Climate Change Impacts US National Assessment of the Potential Consequences of Climate Variability and Change Educational Resources Regional Paper: US-Affiliated Islands of the Pacific and Caribbean*, <http://www.usgcrp.gov/usgcrp/nacc/education/islands/islands-edu-3.htm>.

²² Francis Hezel, *High Water in the Low Atolls*, Micronesian Counselor (2009), <http://www.micsem.org/pubs/counselor/frames/highwaterfr.htm>.

²³ Government of the Republic of the Marshall Islands 2000 *supra* note 9.

²⁴ *Id.*

²⁵ Pew Center on Global Climate Change, *Hurricanes and Global Warming*, <http://www.pewclimate.org/hurricanes.cfm#change> (last visited February 5, 2010).

²⁶ BBC News, *Marshall Atolls Declare Emergency*, <http://news.bbc.co.uk/2/hi/asia-pacific/7799566.stm>.

²⁷ Spennemann 2006 *supra* note 13.

²⁸ United Nations Environment Program, *Climate Change Science Compendium*, UNEP, (2009), http://www.unep.org/pdf/ccScienceCompendium2009/cc_ScienceCompendium2009_full_en.pdf. UNEP's 2009 review of new climate science warned that sea levels could plausibly rise by up to two meters by 2100, and five to ten times that over the following centuries. This estimate is almost four times higher than what the IPCC predicted in 2007, as it did not include an estimate of large-scale changes in ice-melt rates and mass loss from the Greenland Ice Sheet.

²⁹ Government of the Republic of the Marshall Islands 2010 *supra* note 4.

³⁰ See, e.g., *Human rights and the Environment: Final Report by Mrs. Fatma Zohra Ksentini, Special Rapporteur, U.N. ESCOR*, Hum. Rts. Comm., U.N. doc. E/CN.4/Sub.2/1994/9 (1994).

³¹ Government of the RMI 2000 *supra* note 9.

change on the human rights of RMI citizens lies with states that are major emitters of greenhouse gases. The international community—and particularly those nations historically and currently responsible for the greatest portion of greenhouse gas emissions—has a responsibility to prevent climate change from undermining the human rights of citizens of the RMI and, where that is not possible, to mitigate the harms and assist the victims. As stated in the 2008 submission of the RMI to the Human Rights Council: “While every possible effort is being made on a national level, RMI cannot assure fundamental rights and freedoms in the face of climate change, unless such action is taken with meaningful and urgent commitment by the international community.”³²

15. We commend the government of the RMI for its active role in the negotiations of United Nations Framework Convention on Climate Change, and for supporting analysis of the complexities of climate change threats, mitigation and adaptation in the country. According to the Government of the RMI:

“The Marshallese would become among the first of many environmental refugees. This would be a devastating disruption not only for the culture and the people of the island countries, but also for the countries that would need to accommodate the refugees.... It is important to realize that once the potentially catastrophic effects begin to appear there, it is likely already too late to prevent further warming that will threaten virtually all of the world’s coastal regions. For these reasons, the RMI has participated actively in negotiations for the United Nations Framework Convention on Climate Change and its protocols, and continues to do so.”³³

16. Article 22 of the Universal Declaration of Human Rights underscores that protection of human rights requires “national effort and international co-operation.” Every state has the obligation to do no harm either to its own citizens or to the citizens of another state. We therefore respectfully recommend that the Human Rights Council 1) welcome the efforts of the Marshall Islands to include the protection of human rights in its national policies to combat climate change; 2) recognize the responsibility of major greenhouse gas-emitting states for the human rights threats suffered by the people of the Marshall Islands, and for supporting them in the protection of human rights violations caused by climate change; and 3) encourage the international community to take immediate action to decrease global greenhouse gas emissions and to assist the government of the Marshall Islands in its commendable efforts to mitigate and adapt to the effects of climate change.

Respectfully Submitted,
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³² Republic of the Marshall Islands, *National Communication Regarding the Relationship Between Human Rights & The Impacts of Climate Change*, UN Human Rights Council Resolution 7/23 (2008).

³³ Government of the RMI 2010 *supra* note 4.