Submission to Mr. Francisco Calí Tzay, Special Rapporteur on the rights of indigenous peoples, regarding ongoing human rights violations of the indigenous Chamorro people of Guam under U.S. colonization and militarization
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**Executive Summary**

This submission details the ongoing human rights violations suffered by the indigenous Chamorro people of Guam at the hands of the United States government and military. Guam is currently a U.S.-administered non-self-governing territory, whose decolonization process has been stymied for 122 years and counting. Guam has been inhabited for over 3,500 years by the Chamorro people, who have suffered numerous harms since the United States took colonial control over the island in 1898, including racist and discriminatory treatment by naval authorities; negative health outcomes resulting from the storage and usage of nuclear weapons, radioactive vessels and toxic chemical agents; and massive land seizures to make way for U.S. military bases and installations, among other things. The United States has also denied the Chamorro people their fundamental right to self-determination, thwarting their decolonization process in domestic and international fora, and denying them the ability to express their desires regarding their future political relationship with the United States.

Far from being remedied, these harms are aggravated today by a massive military buildup and expansion of the U.S. military footprint in Guam. With insufficient consultation of the entire island population and total disregard for the Chamorro people’s right to free, prior, and informed consent, plans to transfer thousands of military personnel and associated workforce to the island have proceeded, along with the construction of live-fire training ranges and other installations on sites of great significance to Chamorros. Construction has begun around some of the island’s most sacred, sensitive habitats, including in the Litekyan/Ritidian area, home to ancient villages and traditional medicine-gathering and fishing grounds. Moreover, the buildup has unearthed human remains and cultural artifacts at no less than five construction sites. Rather than halt work, as requested on multiple occasions by Guam’s legislature and local activists, the military has continued to excavate, destroying much in its wake.

Meanwhile, the United States has yet to address longstanding environmental contamination in Guam, and continues to create new health risks for local populations as U.S. military servicemen break local ordinances respecting COVID-19. Moreover, the treatment of Guam and its peoples as a sacrificial bargaining chip in the war games of superpowers has been clearly demonstrated by President Trump’s cavalier attitude towards Guam throughout escalated hostilities with North Korea and China.

The Chamorro people, through community-based organizations such as Prutehi Litekyan: Save Ritidian, are fighting the loss of their traditional lands, territories, and resources, and the suppression of their self-determination and their right to transmit their traditional and customary practices to future generations. As this submission will show, the military buildup now underway in Guam violates the rights of Chamorros under international law in several respects. We respectfully petition the Special Rapporteur to investigate these harms and to take action, within his authority, to urge the United States to prevent the further erosion of those rights.
I. Introduction

Blue Ocean Law and the Unrepresented Nations and Peoples Organization make this submission on behalf of the indigenous Chamorro people of Guam, more specifically, Prutehi Litekyan: Save Ritidian (PLSR), a community-based organization dedicated to defending sacred sites and protecting Guam’s natural and cultural resources.

Guam – the southernmost and largest island in the Marianas archipelago – has long been subject to colonial domination. In fact, Guam is one of the longest colonized islands in the Pacific, beginning with Spanish colonization in the 17th century, continuing to U.S. capture in 1898, Japanese occupation during World War II, and postwar U.S. control through to the present. Despite having placed Guam on the UN list of non-self-governing territories in 1946, the United States, as Guam’s administering power, has made little progress to definitively terminate colonial rule.

As the indigenous people of Guam, the Chamorro have a historical continuity with the pre-invasion, pre-colonial societies that developed on their island, and thus they are identified, and identify themselves, by reference to identities that predate historical encroachments by other groups and the ensuing histories that have wrought, and continue to work, oppression against their survival as a distinct people. As a culturally distinctive community whose ancestral roots are embedded in the land in which they live and who possess a continuity of existence and identity that links them to the communities of their ancestral past, they are determined to preserve their culture as well as their lands and resources—and to transmit the same to future generations.

Several recent developments make this submission timely – and, indeed, cry out for critical intervention from the international community. The first concerns the U.S. military’s execution of a massive buildup and expansion of bases and armed forces in Guam. The military first announced its plans in 2006 and has since commenced with them, clearing broad swaths of native limestone forests and demolishing several sites of great historical and cultural significance to the Chamorro people. Construction of a massive firing range complex consisting of five live-fire training ranges and support facilities is now underway, in dangerous proximity to ancient burial grounds and critical habitat for several endangered species. These are mere samplings of the hugely damaging impacts portended by the buildup; the additional transfer of thousands of new U.S. military personnel and associated civilians promises to exact a heavy toll on the limited resources and demographic composition of the island.

This submission also addresses the broader context in which the current military buildup is unfolding, that is, the most recent period of colonial history and the bevy of harms visited upon the Chamorro people by U.S. colonization and militarization. Contrary to prevailing depictions, the story of the United States’ treatment of Guam is not one of benign trusteeship. Rather, massive land theft from the Chamorro people, the contamination and destruction of the terrestrial and marine environment, and ongoing suppression of civil, political, social and cultural rights characterize the colonial relationship. The treatment of the island as a strategic military outpost for U.S. force projection in the Asia-Pacific theater has had real and deleterious impacts on the
Chamorro people, leaving them vulnerable in a region increasingly fraught with geopolitical tension caused in large part by the United States.

Additionally, and most recently, the transfer of hundreds (if not thousands) of U.S. military personnel from the stricken USS Theodore Roosevelt during the COVID-19 pandemic to civilian hotels in Guam has further endangered the health and wellbeing of local populations – particularly as these military personnel violated lockdown orders and local ordinances, subjecting the civilian community of Guam (including but not limited to the Chamorro people) to additional, unnecessary exposure to disease.

Amidst these actions, the United States has made clear that it has no intention to facilitate the exercise of self-determination of the native inhabitants of Guam. In the case of *Davis v. Guam*, U.S. federal courts judicially invalidated longstanding efforts by the government of Guam to hold a purely symbolic (non-binding) plebiscite for the native inhabitants to express their desires regarding their future political relationship with the United States. Review of the case was denied by the U.S. Supreme Court, meaning that the native inhabitants of Guam have exhausted their domestic remedies.

The Chamorro people are emblematic of indigenous Pacific Islanders at large, whose health, environments, and traditional economies have been decimated by the schemes of colonial powers, including decades of catastrophic nuclear testing. Few remedies, if any, have ever been offered to colonized islanders – not least, the power to determine their own futures. Guam is not an “unsinkable aircraft carrier” or “the tip of the spear,” as it is perennially described by the United States government and military, required to self-immolate at the behest of a nation that denies the people of Guam their fundamental rights. Rather, Guam, or Guåhan, as it is known in the Chamorro language, is the ancestral homeland of a people with rich, meaningful traditions, revolving around sustainability, the careful treatment and appreciation of local environments, and a deep sense of reciprocity – traditions presently under threat.

The submission proceeds as follows: we begin with a brief history of Guam’s colonization, including notable recent developments in the colonial relationship. We then provide some details around the history of U.S. military intervention in Guam, focusing on changes to the island’s traditional economy, health, and environmental impacts from weapons testing on Guam and nearby islands, and other human rights violations stemming from colonization and exploitative trusteeship. We proceed with an in-depth examination of the current military buildup and associated rights violations. We conclude with recommendations regarding next steps.

II. **Overview of Guam’s colonization**

The Mariana Islands were settled more than 3,500 years ago, making them one of the earliest inhabited island chains in the Micronesian sub-region of the Pacific. The Chamorro people of Guam were an organized cultural and linguistic society marked by advanced seafaring, horticulture, hunting, and fishing. By 800 A.D., Chamorro villages were characterized by unique latte structures, one-story houses resting on sizable limestone, basalt, or sandstone pillars and capstones. Ancient Chamorro society was
matrilinéal and revolved around the core values of respect and reciprocity, with shared access to communal resources and with family clans at the center of community life. This complex, multifaceted society engaged in trade with other islands and practiced rice cultivation, pottery, weaving, boat-building, navigation, herbal medicine, and other trades far in advance of European arrival.

The 16th century saw the first encounters between Western Europeans and Chamorros, following thousands of years of existence of the latter as a sovereign independent people. This included Magellan’s landing in 1521, followed by the 1565 proclamation by Spanish navigator Miguel Lopez de Legazpi that Guam was a possession of Spain. However, colonization began in earnest in 1668 with the arrival of Spanish missionaries, whose attempts to convert Chamorros to Christianity encountered forceful opposition for the next thirty years during the Spanish-Chamorro Wars. The Spanish responded to indigenous rebellion with vicious campaigns, resulting in the loss of thousands of native lives from both war and introduced disease. Within a short time after Spanish colonization, the population of the Marianas had declined from 50,000 people to less than 4,000 in 1710.

Despite near annihilation, Chamorro survivors of the Spanish colonial period were able to preserve and pass on many of their customary practices, including their central cultural values and many of their traditions relative to births, weddings, funerals, and deaths, among others. After more than two centuries of Spanish control, Guam was ceded to the United States in the 1898 Treaty of Paris as a territorial spoil of the Spanish-American War. The U.S. President then placed the island under the control of the Department of the Navy, where it would remain until 1950, with the exception of a brief period of Japanese occupation during World War II from 1941 through 1944.

The period of naval control entrenched the Chamorro people’s subordinate status, both legally and with respect to the military’s strategic priorities. The U.S. government viewed Guam as an ideal naval base for strategic military purposes, and governed its indigenous inhabitants paternalistically, attempting to assimilate and “Americanize” them. Under Naval rule, English was mandated and the Chamorro language was banned from the education system and other public places. Although a plan to put Chamorro people on reservations and leave two-thirds of the land for military use did not materialize, Chamorros continue to be denied various civil and political rights.

A series of decisions by the U.S. Supreme Court in 1901, commonly referred to as the Insular Cases, gave judicial sanction to the discriminatory treatment of the Chamorro people, reaffirming Congress’s “plenary power” over Guam and excluding it from equal treatment under the U.S. Constitution via the reasoning that “Anglo-Saxon principles” of government and justice would be impracticable to apply to “alien races” differing in “religion, custom, and modes of thought.” The Navy continued to exercise absolute control over the Chamorros, denying them basic rights within the American legal system, including the right to a jury and opportunities to appeal cases to federal courts outside of Guam. Throughout this period, beginning in 1901, delegations of Chamorros petitioned the United States to end the Navy’s rule of Guam, filing petitions throughout the years leading up to (and after) WWII, all of which were ignored.
Guam came under the control of Japanese military forces in December 1941. During a 32-month period of Japanese occupation and martial law, the Chamorros experienced torture, internment, executions, hunger, forced marches, forced labor and additional cultural restrictions, resulting in some 1,170 Chamorro deaths. Although a U.S. bombardment campaign helped end Japanese occupation, it also showed little concern for the local population, many of whom likely survived only because they were in concentration camps situated closer to the island’s interior and not closer to the coasts. During this period, the U.S. military seized Chamorro lands to build bases to launch more attacks on Japanese-controlled areas throughout the Pacific.

On July 21, 1944, U.S. armed forces began to dismantle Japanese rule on Guam, leading to the return of the islands to U.S. control. Despite mass decolonization on most continents across the globe, the aftermath of World War II brought a stronger U.S. military and political presence on Guam. Rather than returning land seized during the war, the military executed an aggressive policy of “land grabbing,” taking some of the best and most valuable real property and water resources that had, for centuries, been in the possession of Chamorros, and denying them access to those ancestral territories. By 1947, an estimated 1,350 families had lost their homes not to destruction by the Japanese occupation, but to the U.S. Navy’s land seizures. Many Chamorro landowners received little or no compensation for land that was taken. The military officially retained – often through controversial eminent domain land condemnation proceedings – about 63% of the island, displacing more than 11,000 Chamorros, or almost half of the indigenous population at the time.

Guam’s self-sufficient pre-war agricultural economy never recovered from these land seizures; instead, residents were forced to import 90 percent of their food, with canned and processed food overtaking traditional staples, leading to the high prevalence of Western lifestyle diseases such as diabetes and cardiovascular disease.

Having been denied a wide range of rights, Chamorro leaders spent the years after the war pushing for greater autonomy, resulting in Congress’s passage of the Organic Act of Guam in 1950. The Organic Act established Guam as an organized, unincorporated territory of the United States, with a civil government, and granted statutory U.S. citizenship to its peoples (who previously were U.S. nationals). However, the Act reserved plenary power to amend or enact legislation for Guam to Congress, without the consent of the local citizenry. Drafted without the input of the Chamorro people, the Act reserved to Congress “the power and authority to annul” all laws passed by the Territory of Guam and provided that the U.S. Constitution – and its rights and freedoms – did not necessarily or automatically apply in Guam as an unincorporated territory. It also provided the Department of Interior with direct control and supervision over the affairs of Guam’s local government, continuing to deny Chamorros the right to participate in national government. Even today Chamorros (and others) in Guam cannot vote for the U.S. President, have no U.S. Senate representation, and can only elect one non-voting member of the U.S. House of Representatives. Moreover, the United States retained more than 42,000 acres of land that it had been using for other purposes, with Congress specifically excluding claims for property located on the island of Guam from the War
Claims Acts of 1948 as amended in 1962. Thus, while the Organic Act did lead to a limited measure of local political governance, it allowed the United States to maintain – to this day – colonial control over Guam.

The decades since the Organic Act’s establishment have seen major development and demographic changes to Guam. Local tourism and other industries have grown considerably, as has migration from Asia, other Pacific Islands, and the continental United States, including a significant percentage of resident military personnel and their dependents. This has resulted in Chamorros comprising just 37% of the population of Guam (while still constituting the largest single ethnic group). Washington’s immigration policy has allowed an unnecessarily high number of permanent immigrants into the island, contravening international self-determination principles regarding immigration to non-self-governing territories.

In 1982, the Commission on Self-Determination organized a status referendum, in which 73% of Guam voters chose the Commonwealth option over Statehood (27%). Guam residents subsequently approved a Guam Commonwealth Act to become a Commonwealth like the Northern Mariana Islands in 1987. The Act was submitted to the U.S. Congress in 1988 and to six subsequent congresses but was never passed. Although previous administrations had been receptive to providing Guam with the same Commonwealth status already afforded to the Northern Mariana Islands, the George H.W. Bush and Clinton administrations consistently opposed the Commonwealth bill, with federal officials arguing that provisions ran counter to U.S. strategic defense interests, territorial policy, and non-discriminatory voting rights.

In addition to the obstruction of Chamorro self-determination, U.S. rule over Guam continues to impact its economy. The Merchant Marine Act of 1920 (P.L. 66-261), more commonly known as the Jones Act, regulates commerce by requiring that all goods or passengers transferred on ships between U.S. ports – like Guam – must be carried on U.S.-flagged ships constructed in the U.S., owned by U.S. citizens, and crewed by U.S. citizens and permanent residents. The Jones Act severely limits the goods that can be brought into Guam, leading to exorbitantly high prices and shipping times for items like food staples (that could be imported much more cheaply, and with less environmental impact and spoilage, directly from Asia), and increasing food insecurity and economic hardship for Guam’s substantial lower-income community.

In a more recent example, in August 2014, the United States executed a maritime boundary delimitation agreement with the Federated States of Micronesia (“FSM”). In it, the United States, without prior consultation with the people of Guam, relinquished Guam’s potential claims over Challenger Deep, the deepest part of the Marianas Trench. The U.S. failure to consult the people of Guam before formally executing a maritime boundary delimitation divested them of inestimable marine resources.

Most recently, U.S. federal courts decided Davis v. Guam—a case that concerned a legal challenge to Guam’s Decolonization Registry Law. This local law provides that a self-determination plebiscite will be held in Guam, at which those persons who qualify as “native inhabitants”— defined by the statute as “those persons who became U.S. Citizens
by virtue of the authority and enactment of the 1950 Organic Act of Guam and descendants of those persons—will be able to express their desires regarding their future political relationship with the United States. They will do so by choosing one of three options, namely independence, free association, or statehood. Once ascertained, those desires will be transmitted to the United States and to the United Nations.

Arnold Davis, a white American and resident of Guam who neither gained his citizenship through operation of the 1950 Organic Act of Guam, nor had an ancestor who did, attempted to enroll onto the decolonization registry. He was denied because he did not meet the definition of “native inhabitant” set out above. Represented by conservative American election attorneys, Davis filed suit against the government of Guam in 2011, claiming alleged violations of the Fourteenth and Fifteenth Amendments to the U.S. Constitution.

In opinions devoid of the historical context of the U.S. colonization of Guam and the latter’s unique status as a non-self-governing territory under international law, the lower and appellate courts ignored the historical injury that the law sought to remedy and ruled that the Guam Decolonization Registry law violated Davis’s voting and equal protection rights. Today, the government of Guam has been forced to consider revising the decolonization law to allow all Guam residents to take part (including, potentially, transient U.S. military personnel), and to pay some $947,717 in attorneys’ fees and costs to Arnold Davis and his attorneys.

III. Brief history of the U.S. military’s intervention in Guam

Despite the appearance of ceding control to Guam’s local government through the Organic Act, the U.S. military has entwined itself in Guam’s economy, environment, and culture to great and damaging effect over the last century. The impacts of the pervasive military presence in Guam has been profound, from economic dependency and the funneling of generations of Chamorro into military service, to high rates of terminal illness due to toxic waste and weapons pollution.

The U.S. military continues to occupy and control significant portions of the island. Two naval bases, one air force base, and a patchwork of ordinance depots, communications facilities, housing developments, and annexes cumulatively occupy around 30% of Guam’s land. Even before the buildup, the military’s footprint in Guam was huge.

The land and coast occupied by the military – access to which is restricted to military personnel and their dependents – contain some of the most prized ecological environments on the island, including its longest and most beautiful beaches, nature reserves, the location where Guam’s second-largest village once stood, and other sites of great significance to Chamorros.

Claims to recover ancestral lands or receive fair compensation for their value have been mostly denied by federal courts, despite provisions in the Organic Act calling for this transfer. In 1986, the federal government agreed to pay $40 million in compensation
to Guam landowners; however, it set payments using land values from 1940, representing only a fraction of the land’s actual value.\textsuperscript{51}

In addition to land violations, U.S. militarism in the Pacific has had other adverse effects on the Chamorro people. This includes the United States’ devastating 16-year nuclear testing program in the Pacific, in which the United States conducted 105 nuclear tests including the detonation of 67 nuclear bombs in the nearby Marshall Islands to catastrophic effect.\textsuperscript{52} Guam received significant radioactive debris from the fallout.\textsuperscript{53} Increased levels of radiation on Guam are suspected to have caused serious health and environmental problems for its residents, including high incidences of cancer, the second leading cause of death locally.\textsuperscript{54} In addition, the U.S. Navy decontaminated 18 radioactive vessels exposed to nuclear tests in Guam, and Chamorros who served in the military were additionally radiated through hazardous clean-up of radioactive debris.\textsuperscript{55}

According to a congressional panel formed to study in-depth radioactive contamination in Guam between 1946 and 1958, the U.S. military “put the population of Guam in harm’s way knowingly and with total disregard for their well-being.”\textsuperscript{56} The impact of nuclear testing in the region, according to the report, “was the largest ecological disaster in human history.”\textsuperscript{57} In 2005, the National Research Council declared Guam’s eligibility for compensation under the Radiation Exposure Compensation Act (RECA) program due to the “measurable fallout” Guam received from atmospheric testing of nuclear weapons in the Pacific; however, as of 2020, no one in Guam has received any compensation under RECA.\textsuperscript{58}

U.S. military control of Guam has resulted in a number of other ecological and health disasters. These include the dumping and burying of hazardous and toxic chemicals around the island after World War II;\textsuperscript{59} the storage and use of Agent Orange as a commercial herbicide in Guam during the Vietnam and Korean Wars;\textsuperscript{60} the introduction of the invasive brown tree snake through U.S. military transports, which decimated Guam’s forests and native bird population (in addition to the general large-scale clearing and conversion for construction of military installations);\textsuperscript{61} and whale beachings and deaths due to the military’s use of sonar.\textsuperscript{62}

Guam has 19 Superfund sites (sites containing substances so hazardous they require a long-term clean-up response), and at least another 70 toxic sites.\textsuperscript{63} In addition to the likely storage of Agent Orange and other toxic herbicides, Guam has also housed nuclear weapons, mustard gas, and countless other carcinogens.\textsuperscript{64} In the late 1980s, the Navy discharged radioactive water into Apra Harbor, failing to inform the government of Guam of the discharge.\textsuperscript{65} The increased exposure to radioactivity in Guam is linked to toxic goiters, a major contributor to thyroid issues that are abundant in the local population.\textsuperscript{66} Multiple production wells accessing the island’s sole-source aquifer have had to be shut down due to chemical contamination from U.S. government land holdings over or adjacent to this aquifer.\textsuperscript{67}

In more recent years, the United States has held large-scale, multi-national training exercises around Guam, as part of the “Marianas Island Range Complex,” which has expanded to become the “Mariana Island Training and Testing Area,” or MITT.\textsuperscript{68} A
2006 exercise entitled “Valiant Shield” included 22,000 military personnel, 280 aircraft, 28 ships, and 3 aircraft carriers from the U.S. Navy alone. The United States has repeated these exercises in subsequent years with even more personnel and hardware. The scale and frequency of training events increase the likelihood of accidents, such as the leakage of radioactive waste from a nuclear submarine in 2008, and seven aircraft crashes in and around Guam between 2007 and 2008.

It is difficult to adequately capture the sociocultural effects of the military’s presence in Guam. The decimation of Guam’s sustainable islander economy through land grabbing and other environmental destruction created optimal conditions for widespread poverty and unemployment – conditions also conducive to high military recruitment. Guam has among the highest recruitment levels in the country, with military service a generations-old tradition and economic bedrock for many Chamorro families. The military actively recruits in Guam’s schools, enticing young people with the promise of secure employment and perks like a military housing allowance (which increases the cost of housing for non-military residents) and discounts for basic household items from base supply stores, as well as voting rights for active-duty soldiers. The high degree of military service in Guam inculcates loyalty to the United States among many Chamorro families, despite the lack of full benefits provided to Guam veterans as a result of the island’s status as an unincorporated territory.

This funneling of human capital and cultural allegiance has obscured much of the colonial relationship from view, while diverting many Chamorros away from other economic and educational opportunities, both modern and traditional. Military service also exacts a high toll in terms of disability and fatalities, with Chamorros suffering more deaths per capita in Vietnam and recent U.S. wars than any other ethnic group.

To be sure, though the relationship between Chamorros and the U.S. military is complex, this does not obviate U.S. obligations to facilitate Chamorro self-determination in line with international law.

IV. Current military buildup

A. Background of the buildup

In 2006, Pentagon officials announced a major multibillion-dollar buildup of new base infrastructure on Guam, including the transfer of 8,000 marines and 9,000 of their dependents from Okinawa to Guam by 2014. The decision followed years of bilateral negotiations between the United States and Japan (at which Guam representatives were never present) amidst ongoing Japanese opposition to U.S. bases. For the U.S. military, the buildup was a pragmatic and strategic decision that would help address public relations issues with Japan while countering China’s growing power in the Asia-Pacific theater. The military has been clear about the advantages posed by Guam, which “is not Okinawa,” but rather a place where the U.S. military “can do what [it] want[s] . . . and make huge investments without fear of being thrown out.”
As initially formulated, the buildup called for an influx of nearly 80,000 people, including almost 20,000 construction workers, arriving in Guam over a four-year period. The buildup was projected to peak in 2014, with an approximately 50% population increase to Guam’s total population of 160,000. In addition to dwarfing the native Chamorro population, the foreign population increases would have placed enormous stress on Guam’s limited civilian infrastructure, including a 20% increase in demand for the island’s sole public hospital (which operates at 100% capacity three weeks out of the month) and a 26% increase in student population.

In February 2010, the U.S. Environmental Protection Agency conducted a mandatory review of the U.S. military’s initial environmental assessment, deeming it unsatisfactory and giving it the lowest possible rating. The EPA cited the lack of a specific water treatment plan, stating that the expected increase in population would impact Guam’s “existing substandard drinking water and wastewater infrastructure;” it also highlighted “unacceptable impacts to 71 acres of high quality coral reef ecosystem,” as well as carcinogenic effects from significant increases in diesel exhaust.

While the U.S. military had budgeted for new military installations and base infrastructure, it had not budgeted to expand Guam’s civilian facilities, despite its own assessment that the buildup would exceed the island’s wastewater treatment capacities and lead to drinking water shortages. Additionally, rather than lodge transfer personnel in already-built, vacant housing, the military had planned to build new housing in undeveloped wilderness on Guam.

In addition to the relocation of U.S. Marines and their dependents, the buildup, as originally formulated, included significant expansions of military infrastructure and capabilities in Guam. This included: an increased Air Force presence, with Guam now named as one of four major global hubs for strike forces; the dredging and expansion of Apra Harbor to accommodate nuclear aircraft carriers and submarines, resulting in the destruction of 71 acres of pristine and endangered coral reef; new construction to accommodate an expanded presence for the Army National Guard; and the development of a ballistic missile defense system. The expansion would also include land “acquisition” of an additional 2,200 acres from private and government land, increasing federal landholding to about 40% of the island.

Of particular concern were plans to control 1,800 additional acres for a live-fire training range over Pågat, a sacred indigenous village and burial ground dating from 2000 BC. Registered at the Department of Historic Preservation as an archaeological site, Pågat features freshwater caves and limestone cliffs, and jungle interspersed with ancient latte stones of cultural significance. It is a sacred place where traditional healers gather rare plants and Chamorros seek to pay respects and reconnect to the past amidst the artifacts and the stone ruins of their ancestors’ homes. The military sought to position the firing range on Pågat’s cliffs and close off public access to the area, despite already having a live-fire range on Guam and the neighboring island of Tinian.

Given the scale of impacts on the people of Guam and native Chamorro ancestral sites, the involvement of local communities in the plans for the buildup – as well as their
consultation and consent – would seem a given. Yet local communities were never consulted when the expansion plans were being developed and were given woefully inadequate opportunities for public meetings and comment. The lack of consultation and sharing of plans around the buildup was glaring, and evidenced the military’s attitude of ownership and consequent disregard towards the whole of the island’s population in general, and the Chamorro people in particular.

The military’s plans engendered a significant amount of local opposition. Many Chamorro activists did not view the purported economic benefits as outweighing the impacts on island residents. When the U.S. Department of Defense (DoD) did finally release its 11,000-page-long draft Environmental Impact Statement (draft EIS) in 2009 – which it had taken some five years to prepare – the people and government of Guam were given only 90 days to respond—and only after requesting an extension from the original deadline of 45 days. Despite the short timeframe, the draft EIS provoked a huge community response, with hundreds of community members showing up at hearings and submitting over 10,000 written comments and testimonies.

In addition to opposition from more longstanding activist groups like I Nasion Chamoru, Guåhan Coalition for Peace and Justice, and Famoksaiyan, Chamorros formed new advocacy organizations including We Are Guåhan, which allied with the National Trust for Historic Preservation and the Guam Preservation Trust to challenge the Pågat shooting range plans in court. During this time, Chamorro activists were subjected to threats and to demeaning, racist comments by U.S. military personnel. They persisted in their efforts, however, and eventually the military agreed to undertake additional environmental assessments for the placement of the live-fire training range complex. Following Congressional criticisms around feasibility and affordability, as well as the (perhaps unexpected) high level of local opposition, the military decided to revise the buildup plans as a whole in 2012.

B. Commencement of the buildup

The military’s main change in the revised buildup was to reduce the Guam-bound force to 5,000 Marines and an additional 1,300 dependents between 2020 and 2025, with 10,000 new or temporary residents planned at the peak of buildup construction. This increase, however, is still a significant influx and burden on resources for an island spanning less than 33 miles long and 12 miles wide (about 212 square miles). Moreover, most of the planned construction projects survived the adjustment, with geostrategic plans stemming from the Obama administration’s “Pacific pivot” and the Trump administration’s escalation of affairs with China further justifying an increased U.S. military presence in the Asia-Pacific region.

Rather than eliminate environmentally damaging activities, the military retained many and shifted others to different areas on Guam. For instance, the final buildup plans still include the construction of a live-fire training range complex, the bulldozing of more than 1,000 acres of native limestone forest, and the destruction of other historically and culturally significant sites.
The military also shifted some of its plans to the Northern Mariana Islands – particularly the islands of Tinian and Pågan – which are less heavily populated and which were expected to offer less resistance. Nonetheless, the military’s plans to develop live-fire military training areas in Tinian and Pågan have continued to be widely opposed by Chamorro islanders throughout the archipelago.

In 2015, DoD announced its plans to begin construction of the U.S. Marine base in Guam, in anticipation of the eventual closure of the Marine base in Okinawa. In 2017, the military awarded the buildup’s first construction contracts, and crews started bulldozing in 2018. The Navy has also implemented new plans around the Mariana Islands Training and Testing (MITT) project, intending to deploy sonar systems, test vessel platforms, detonate underwater explosives and fire weapons, among a host of other activities over the coming years.

C. Environmental, social and cultural impacts

The impacts of the buildup combined with the MITT plans are particularly damaging, causing significant harm to both land and sea environments around Guam and the rest of the Marianas archipelago. The commencement of construction has revealed the stakes of the buildup and validated many of the initial concerns of the Chamorro community, with the near daily discoveries of precolonial Chamorro artifacts and human remains at buildup construction sites throughout the island. In addition, the military’s live-fire training range complex in Ritidian will severely restrict access to the land and arguably threaten nearby natural resources, such as the Northern Guam Lens Aquifer and numerous endangered animal and plant species.

1. Chamorro artifacts and human remains

The cultural costs of the buildup are incalculable. Including the firing range in question, contractors have unearthed Chamorro artifacts in no fewer than five military construction sites. These include Latte-period ceramic, dark soil features, stone tools, possible volcanic stone tool fragments, and lusong (ancient Chamorro mortar and pestles). Another area with Latte-period artifacts was discovered at the live-fire training range’s future site at Northwest Field, according to a Marine Corps Activity Guam and Public Works Department announcement in June 2020. In addition, three sites with more remnants of the ancient village Magua’ – including ceramic scatters, earth ovens, various stone and shell artifacts – were discovered on the future Marine Corps base in Dededo in late May and early June 2020.

These discoveries include ancient human remains recovered on the sites. News of the military clearing the site of ancient village Magua’ – which along with two others, is potentially eligible for a National Register of properties significant in U.S. history, archaeology, architecture and culture – stirred controversy in October 2018. Community members protested the disruption of the cultural sites with a peaceful demonstration. The military has continued to remove artifacts for preservation, rather than responding to requests to leave the sites undisturbed or return the artifacts to their
original resting places.\textsuperscript{116} By July 2020, buildup construction had revealed a total of 15 sites containing human remains, and 28 containing historic artifacts.\textsuperscript{117}

The concentration of millennia-old artifacts and human remains are indicative of entire historic villages and burial sites located in and around land the military seized from indigenous Chamorros. It is difficult to understate the importance of practices of ancestral veneration to the Chamorro people, for whom the skulls of relatives are considered sacred and serve as a conduit between the spirits of the deceased and the living on important spiritual concerns.\textsuperscript{118} Burial practices and the bones of ancestors constitute one piece of ongoing ancestral veneration, which includes asking permission from and paying respect to ancestors before entering many natural and ancient spots on the island (including areas slated for military buildup, such as the limestone forests of Litekyan/Ritidian).\textsuperscript{119}

In other contexts, heritage land, artifacts, and burial sites would remain with their original owners and be protected from interference. Elsewhere in the United States, the Native American Graves Protection and Repatriation Act was enacted as an attempt to address such tribal concerns, at least in part. It requires consultation with tribes and the respectful return of Native human remains and cultural objects, and criminalizes the trafficking of Native human remains or cultural items without right of possession.\textsuperscript{120}

The same protections do not apply on Guam, where the military has continued construction despite opposition from community members, including a resolution from 13 of Guam’s 15 senators asking the governor to pause clearance, construction, and other activities for the buildup.\textsuperscript{121} Instead of leaving artifacts and human remains where they are discovered, they continue to be removed, even amidst calls by Chamorro advocates for a preservation in place agreement.\textsuperscript{122} The bulldozing of Chamorro history and culture is a significant, ongoing violation of Chamorro rights.

According to Guam’s former State Historic Preservation Officer, a total of 269 historic properties stand to be adversely impacted by the current military buildup—63 of which are eligible for listing on the National Registry for Historic Places.\textsuperscript{123}

2. \textit{Litekyan/Ritidian}

The military buildup will also have destructive effect on natural environments and resources vital to Chamorro culture, sovereignty, and wellbeing. Nowhere is this devastation more evident than in the case of the planned live-fire training range at Ritidian Point.

Ritidian Point is a protected wildlife refuge in the northern end of Guam. It is the only designated critical habitat for the fanihi (Mariana fruit bat), sihek (Guam Micronesian kingfisher), and aga (Mariana crow), among other animals.\textsuperscript{124} Its white sand beaches, platform reefs, and 500-foot limestone cliffs are home to numerous species, including threatened green and hawksbill sea turtles, and a wide array of fish, marine invertebrates, and other sea life.\textsuperscript{125} Ritidian Point also contains the archaeological site of a pre-Magellan Chamorro village, a 3,300-year-old fishing camp, and ancient cave
paintings and pictographs, including drawings of humans,\textsuperscript{126} constellations mapping Orion, Cassiopeia, and the Southern Cross, and an ancient star calendar.\textsuperscript{127}

In short, Ritidian is one of the most spectacular and culturally significant sites on the island. As the chief of the National Wildlife Refuge testified, Ritidian hosts “the island’s best public beach, the oldest known and longest-lasting ancient Chamorro settlement site, and the only place to hear the songs of extirpated endemic birds.”\textsuperscript{128}

Throughout the Cold War, Ritidian was under the control of the Navy, which used the area as a high-security communications station. Before that, indigenous Chamorro landowners and families with deep roots to the land lived there. In 1963, the federal government took ownership of eight large tracts of land, notifying the original inhabitants that they had to vacate the space so that the military could use the land for defense purposes.\textsuperscript{129} Families were provided with between $10,000 to $25,000 in compensation for 10 to 30-acre parcels of prized coastal land.\textsuperscript{130} In 1992, the Navy declared 371 acres of land at Ritidian Point and 15,571 acres of submerged land adjacent to the property as “excess” lands, which it then proceeded to transfer to other arms of the federal government.\textsuperscript{131} The Ritidian parcels went to the United States Fish and Wildlife Service for use as part of a wildlife refuge, and the submerged lands went to the General Services Administration for later redistribution—despite objections that these transfers violated Chamorro land rights.\textsuperscript{132}

As ownership of Ritidian continues to be contested, the military’s latest buildup plans further threaten indigenous land and cultural rights, in addition to posing numerous ecological hazards. The military’s revised buildup proposal relocated the proposed Live Fire Training Range Complex (LFTRC) from Pågat to a site within the fence at Andersen Airforce Base; while seemingly an improvement,\textsuperscript{133} the LFTRC calls for some of the adjacent Ritidian wildlife refuge to act as a safety buffer zone for more than half of each year when the training ranges will be in use.\textsuperscript{134}

Entry to portions of the Ritidian trails, caves, and other cultural resources (including cave art) under the supposed protection of the U.S. Department of Fish and Wildlife Services will now be limited or eliminated.\textsuperscript{135} According to Prutehi Litekyan: Save Ritidian, a community advocacy group trying to protect the natural and cultural resources around these sites, the firing range complex will impact four or more ancestral villages and their associated burial places (namely, Urunao, Litekyan, Pahon, and Inapsan).\textsuperscript{136} Approximately 70 ancestral and historical sites in the Litekyan area will be adversely impacted or bulldozed.\textsuperscript{137} The restrictions will also limit access to fishing sites, displacing Chamorro fishermen and impacting cultural fishing practices.\textsuperscript{138} Traditional healers will be unable to access medicinal plants and herbs while the range is in use.\textsuperscript{139} While DoD has characterized many of the Ritidian sites as “recreational,” they are more aptly termed “sacred” or “ancestral” given their rich cultural features and the fact that they also contain Chamorro graves and burial sites.\textsuperscript{140}

In addition to these cultural impacts, the ecological damage is likely to be severe. Ritidian contains some of the most unique limestone environments and the most diverse plant communities of Guam, designated as “critical habitats” for several
Many of Guam’s endemic and unique flora and fauna, including endangered bird species, were destined for resuscitation within the Ritidian National Wildlife Refuge. The LFTRC and cantonment now threaten close to a thousand total acres of recovery habitats for the endangered Mariana fruit bat, Mariana crow, Guam rail, Mariana eight-spot butterfly, and Guam Micronesian kingfisher, among others. Rare and endangered marine species, including turtles and whales, could also suffer acoustic impacts from military activities such as drilling and sonar in the ocean.

The clear cutting of some 1,000 acres of pristine limestone forest (about 8 percent of the remaining limestone forest) will further strip the land of its resilience and undermine biodiversity-rehabilitation efforts. This includes the forest around Guam’s last seeding specimen of an indigenous endangered tree species, the Serianthes nelsonii, or håyn lâgu. Though the military has proposed to establish a buffer zone around the tree for protection, the clear cutting of surrounding forest is likely to leave the tree exposed and susceptible to damage. While the military’s mitigation plans include ‘enhancing’ forests and creating ‘newer’ refuges elsewhere, such efforts are no guarantee that endangered environments and species (many of which, such as sea turtles, are slow to reproduce) will recover from these harms.

The LFTRC may also pose a potential health and environmental concern to Guam’s drinking supply due to its proximity to the Northern Guam Lens Aquifer, Guam’s primary source of drinking water. Advocacy groups and opponents of the plan have argued that lead from bullets and other pollutants associated with the firing range complex could further contaminate the aquifer.

In short, the selection of Ritidian for the LFTRC seems ill-conceived at best, if not a direct violation of a slew of environmental, cultural, health, and land rights of the Chamorro people. To be sure, the U.S. military itself recognized as much, when it conceded that “[t]here would be more adverse effects from construction at [Litekyan/Ritidian] than any of the other LFTRC alternatives.” Unsurprisingly, construction of the LFTRC has been strongly opposed by community members, including protests by thousands of residents and community groups.

3. Other impacts

The U.S. military itself acknowledged myriad harms stemming from the buildup in its 2015 supplemental environmental impact statement, including significant impacts to seven resource areas: water resources, terrestrial biological resources, marine biological resources, cultural resources, utilities, socioeconomics and general services, and environmental justice. In addition to the aforementioned impacts, there will be, as mentioned, other significant socioeconomic and cultural impacts resulting from the influx of new populations into Guam. To hone in on just one example, the price of housing has risen steeply in the years following the buildup’s announcement, with average rents increasing nearly 50% from 2010 to 2019. In addition to this housing crisis, other anticipated impacts include increased noise, traffic congestion, and potential crime and prostitution.
Moreover, the Mariana Island Training and Testing Area (MITT), while assessed separate from the buildup, increasingly threatens marine habitats and conservation areas surrounding Guam. The MITT’s large coverage encompasses portions of the Mariana Trench National Marine Monument, recognized in 2009 by a Presidential Proclamation as a refuge for marine life. While military activities within the Monument are permitted under the Antiquities Act (providing unique exemptions to conservation-oriented goals to activities conducted by the Armed Forces), the use of sonar, explosives, material pollutants, and seafloor devices will harm essential fish habitat and threaten coral, whale, sea turtle and shark species listed under the Endangered Species Act. The damage to the marine environment could affect the food supply and economic livelihoods for many on Guam, including fishermen and those who depend upon the tourist industry for a living.

Moreover, the MITT has proposed an additional surface danger zone at Finegayan, next to the ancient village of Haputo, which covers 252 acres of coral reef and limestone forest designated as an ecological reserve in 1984 by the U.S. Navy. Like Ritidian, the Haputo Ecological Reserve Area will also be at the mercy of potential damage from an adjacent firing range. The proposed surface danger zone goes into effect August 19, 2020, and will restrict public access to the area while the range is in use. The military did not hold public hearings nor draft an environmental impact statement for the danger zone, which will block access to traditional fishing grounds that are still in use by local fishermen and boaters, and will also restrict access to yet another pristine beach and ancient Chamorro village. Despite receiving more than 500 pages of input from local residents, the Navy’s plans for the MITT remain largely unchanged.

The sheer scale of the MITT cannot be overstated. In total, some 833,986,973 acres of open ocean around the Marianas will come within it—or an area larger than the U.S. states of Washington, Oregon, California, Idaho, Nevada, Arizona, Montana and New Mexico combined.

There is not sufficient space in this submission to detail the full extent of cultural, ecological, social, health, and other harms posed by the current military buildup on the Chamorro people of Guam. Nevertheless, this sampling aims to provide a snapshot of the extent of current and future harms projected for the island and its inhabitants as a result of ongoing actions by the U.S. government.

D. Regional aggression

Over the past few years, the world has anxiously observed an escalation of tension and aggressive rhetoric between the United States and China. Significant funding has been allocated to boost U.S. military presence in the region, for instance through the $6 billion Pacific Deterrence Initiative, which seeks to fund resources on key military capability gaps, reassure U.S. allies, and bolster the credibility of American deterrence in the Indo-Pacific. China has developed a DF-26 ballistic missile, known as the “Guam Killer,” for its striking distance range. Similarly, North Korea raised the possibility of a preemptive strike on Guam in response to President Trump’s threats to bring “fire and fury” down on it in 2017. Further rhetoric by Trump led to renewed North Korean
threats to unleash “a salvo of missiles” in Guam’s waters if Trump continued his provocations. Trump’s comments to “see what [North Korean leader Kim Jong Un] does with Guam” are indicative of his attitude that Guam and its peoples are dispensable, defined entirely by their utility, and “can be bargained away or trivialized into meaninglessness” once they no longer prove useful to the colonial power.

Like other Pacific Islanders, Chamorros have continually been asked to sacrifice themselves for the good of “global security” – to serve as the guinea pigs and test subjects of nuclear testing and human experimentation, and as proxy battlegrounds for larger powers. Having already watched military industrialization decimate their health, traditional economies, and environments, Chamorros now face a tidal wave of militarization amidst worsening U.S.-China relations—over which they have no power.

E. COVID-19 risks

To these factors we add one more in the nature of negligence and contagion at the hands of the U.S. military. Although Guam was slated to be hard hit by COVID-19 in the early months of the pandemic, a successful lockdown and community response effectively prevented a surge in deaths (from the projected 3,000 in April, to only six actual deaths by the date of this writing). This was a notable achievement, given Guam’s limited health infrastructure, high-risk population, and heavy tourism from East Asia.

However, Guam’s management of the COVID-19 crisis has been put at risk by the presence and behavior of U.S. servicemen on its soil. After the March 2020 outbreak of the virus could not be contained on board the USS Theodore Roosevelt, the Navy, with acquiescence from the executive branch of the local government, transferred thousands of its sailors to as many as seven civilian hotels on Guam. Although purporting to only house sailors who tested negative for the virus in the hotels, multiple sailors who initially tested negative showed symptoms of COVID-19 several days after being tested (while others who had already had the disease supposedly re-tested positive). Over 1,150 sailors from USS Theodore Roosevelt eventually tested positive, with one death.

In a letter to Guam Governor Lourdes Leon Guerrero, Guam Senator Sabina Perez expressed apprehension regarding the decision to move sailors to Guam’s hotels, noting greater exposure risks for lower-wage employees, many of whom are older with limited to no health benefits for themselves and their families. Indigenous groups such as I Hagan Famalåo’an Guåhan stated that the decision to house these sailors within the community was “playing a game of chance with the health of our people.” Others have asked merely that the sailors be housed on the 49,000 acres of land occupied by U.S. military bases on Guam – requests that fell on deaf ears.

The local pandemic response has been further threatened by the violation of Guam’s local ordinances by U.S. service members. Fifteen airmen from an Andersen Air Force Base (AAFB) unit who arrived on Guam in May 2020, and confirmed their first positive case in June 2020, are reported to have violated movement restrictions during their stay at the Guam Reef Hotel. This unit soon had 35 confirmed positive cases, making up 42 percent of the total active cases in Guam as of July 2020 (excluding other military
Approximately 30 local businesses may have been exposed to the virus as a result of the ordinance violations by the AAFB unit members; many of these establishments suffered additional revenue loss as a result. The military did not respond to requests for information on the airmen’s activities and whereabouts for contact tracing purposes for ten days, risking further spread and outbreak of the virus. According to Guam’s Attorney General, the military has refused to provide information needed by Guam’s Department of Public Health and Social Services to determine whether public protocols were followed in this instance. As the Speaker of Guam’s legislature put it, “Not only have the livelihoods of [Guam’s] residents been jeopardized, and even possibly the reopening date of our economy – but scarce government resources are now being expended to clean up the mess that has been created.”

V. Prutehi Litekyan: Save Ritidian

Prutehi Litekyan: Save Ritidian (PLSR) is a community-based organization dedicated to the protection of the natural and cultural resources of Guam, including those located in sites identified for U.S. military live-fire training.

Among PLSR’s members are original landowners, and/or their descendants, whose ancestral homelands are located in Litekyan/Ritidian, the same area being impacted by the LFTRC—construction of which has begun. Moreover, certain group members have ancestors, including parents and grandparents, who are buried in the project-affected area and thus will suffer harm as a result of the denial of access to said graves.

PLSR members also include many cultural practitioners, including traditional healers and medicine-makers, who will be adversely impacted by the LFTRC. These “yo’ämte” gather plants in the project-affected area, some of which grow exclusively in the native limestone forests of Litekyan/Ritidian. These group members will be directly impacted in terms of the denial of access and the practice and transmission of culture.

PLSR draws support from people across many sectors of the island community, including indigenous land defenders, cultural practitioners, fishermen, farmers, teachers, social workers, environmentalists, college students, and others. In February 2017, PLSR launched an online petition protesting the LFTRC, which has garnered 21,450 signatures to date.

Since its inception, PLSR has organized more than 450 different actions, including letter-writing campaigns, meetings with lawmakers, school visits, rallies, comment drives, protests, tours, press conferences, legislative roundtables, meetings with military officials, public hearings, election surveys, media interviews, podcasts, webinars, and other efforts to raise public awareness. They have even been successful in advocating for local legislation in the form of legislative resolutions calling for the halt of military construction activities concerning the LFTRC.
VI. Recommendations

Guam is suffering under its current situation as a U.S.-administered non-self-governing territory. The United States has shown itself untrustworthy of safeguarding the Chamorro people’s permanent sovereignty over their natural resources, incapable of meaningfully consulting them on matters vital to their collective rights and interests, and unwilling to allow them the free exercise of their self-determination. Past and present U.S. acts and omissions constitute violations of several human and indigenous rights of the Chamorro people, including but not limited to the right of free, prior and informed consent, and the rights to life, health, food, culture, and an effective remedy.

International law imposes upon the United States certain duties emanating from the law on self-determination—duties that have been contravened on multiple occasions detailed in this submission: most notably, in the large-scale land grabbing that occurred in the 1900-1960s period; in the lack of consultation in the U.S. military’s initial plans to transfer marines from Okinawa to Guam and its development of the buildup blueprint; and in the ongoing failures to adequately consult and act upon the communicated views of the island’s civilian population. Failure to provide a mechanism for consultation prior to the execution of the U.S.-FSM maritime treaty also represents a potential violation.

We note that these are basic failures of consultation, but that the standard represented by the norm of free, prior, and informed consent (FPIC), as enshrined in the UN Declaration on the Rights of Indigenous Peoples, is significantly higher and would call for ownership and oversight by Chamorros (e.g., through the ability to veto or consent to such projects), at least with respect to development activity respecting Chamorro lands, territories and resources. FPIC is a core prescription of the international indigenous rights regime that is directly applicable to many of the activities described herein.

Recognizing the immediacy of the harms being inflicted upon the Chamorro people by Guam’s administering power, we request the intervention of the Special Rapporteur on the rights of indigenous peoples. Such intervention is timely, as the harms are immediate and ongoing, and could serve to assist the Chamorro people by delaying destructive activities or effectuating policy change through international pressure. We would also refer the Special Rapporteur to the numerous UNGA resolutions specific to Guam, wherein the United States was warned against further militarizing Guam.184

Specifically, we ask that the following actions, or any combination of them, be taken:

- A site visit by the Special Rapporteur on the rights of indigenous peoples to Guam to assess the military buildup and associated harms to the Chamorro people;
- A report investigating the harms alleged in this submission;
- A communication to the U.S. government or an international body that focuses on or includes coverage of the human rights violations suffered by the Chamorro people of Guam;
- A public statement about the unlawfulness of the military buildup and the situation of the Chamorro people under international human rights law;
Recommendations to international bodies (including the Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence of Colonial Countries and Peoples, also known as the Special Committee on Decolonization, or C-24) regarding actions that could be taken to assist the Chamorro people in their self-determination efforts; and

- Any other actions that the Special Rapporteur on the rights of indigenous peoples may consider appropriate in light of this submission.

The authors of this submission remain at the Special Rapporteur’s disposal to provide further information about the facts discussed in this submission and/or to provide a longer international legal analysis of Chamorro self-determination and other rights under international law, though we are well aware of the expertise of the Special Rapporteur in the field.

We hope this submission will result in greater international awareness of the plight of the Chamorro people of Guam, whose self-determination has been too long denied. That denial is as an affront not only to them, but to the whole of the international community.

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3 ROGERS, supra note 2, at 24.
6 Herman, supra note 2.
10 See Quan, supra note 4, at 65. To be sure, however, “[m]ore than two centuries of Spanish colonization left an ‘indelible imprint on the cultural identity of the Chamorros’.” HATTORI, COLONIAL DIS-EASE, supra note 5, at 15.
12 See Guam v. Guerrero, 290 F.3d 1210, 1214 (9th Cir. 2002); see also Gov’t of Guam ex rel. Guam Econ. Dev. Auth. v. United States, 179 F.3d 630, 632 (9th Cir. 1999).
Christie Nicoson, Westernized diet, high in trans fats, refined sugar, and specialized in fishing; and there was a viable copra industry."

30 For half a century the Chamorro people were subjected to the whims and dictates of a rapidly revolving procession of military officers . . . Despite consistent appeals by Chamorro leaders for a formal expression of the civil and political rights of the people of Guam, few governors acted to implement anything resembling a democratic form of government.

13 See Hattori, COLONIAL DIS-EASE, supra note 5, at 39-60, 193-95; see also Quan, supra note 4, at 66.
15 Catherine Lutz, Bureaucratic Weaponry and the Production of Ignorance in Military Operations on Guam, 60 CURRENT ANTHROPOLOGY 108, 110 (2019).
16 Natividad & Kirk, supra note 1, at 4; see also Hattori, COLONIAL DIS-EASE, supra note 5, at 18-19 ("For half a century the Chamorro people were subjected to the whims and dictates of a rapidly revolving procession of military officers . . . Despite consistent appeals by Chamorro leaders for a formal expression of the civil and political rights of the people of Guam, few governors acted to implement anything resembling a democratic form of government.").
18 Quan, supra note 4, at 68.
22 VINE, supra note 11, at 88; see also Keith L. Camacho, SACRED MEN: LAW, TORTURE, AND RETRIBUTION IN GUAM 60-86 (2019).
23 Lutz, supra note 15, at 110 ("[US] reinvasion scorched the landscape of much of the island, displaced the entire population, and reduced its capital to rubble. That mountain of debris was bulldozed into the sea and now forms an (in)visible peninsula jutting improbably into the sea from the modern capital’s coastline.").
24 VINE, supra note 11, at 88.
25 Some scholars suggest that the U.S. liberation of Guam cultivated the island’s people with a mentality of reciprocity to the United States for a high level of “colonial debt,” leading to feelings of obligation and ongoing desire to serve in the U.S. military. See, e.g., Francis Dalisay, Colonial Debt, Resistance to U.S. Military Presence, Trustworthiness of Pro-U.S. Military Information Sources, and Support for the Military Buildup on Guam, 8 J. OF PAC RIM PSYCH, 11, 12 (2014). Dalisay’s study finds that higher levels of feelings of colonial debt among respondents were associated with greater personal support for the military buildup and more trust in pro-military/buildup news sources. See id. at 15; see also Ronni Alexander, LIVING with the fence: militarization and military spaces on Guahan/Guam, 23 GENDER, PLACE & CULTURE 869 (2015). This particular issue is, of course, quite complex.
26 Natividad & Kirk, supra note 1, at 5 (“[T]he military took a large portion of arable land to build bases and other installations, equivalent to nearly 50 percent of the island’s landmass, including some of the most fertile land near popular fishing grounds.”). See also Crawford v. Antonio B. Won Pat Int’l Airport Auth., 917 F.3d 1081, 1086–88 (9th Cir. 2019).
28 VINE, supra note 11, at 88. Compensation that was provided to many Chamorro landowners over the years has been pitifully insufficient, with compensation for certain landholders in Ritidian ranging, for instance, between $10,000 - $25,000 for 10 to 30-acre parcels of prized coastal land. See John I Borja, Generations of protest: Former Ritidian landowners want their land back, PACIFIC DAILY NEWS (Sept. 4, 2017), https://www.guampdn.com/story/news/2017/09/04/generations-protest-former-ritidian-landowners-want-their-land-back/624063001/.
29 Quimby, supra note 14. It should be noted that there would be some later partial returns of land, bringing down the quoted figure. See Crawford v. Antonio B. Won Pat Int’l Airport Auth., 917 F.3d 1081, 1087 (9th Cir. 2019) (“In 1994, Congress enacted the Guam Excess Lands Act, authorizing the transfer of land in Guam from the United States to the government of Guam, with the requirement that the government of Guam develop a plan to use the land for public benefit.”).
30 See, e.g. Natividad & Kirk, supra note 1, at 5 (“Prior to WWII, Guam was self-sufficient in agriculture, fishing, hunting, and husbandry. Nearly every family grew vegetables and produced meat; some specialized in fishing; and there was a viable copra industry.”).
31 Id. at 9 (“Chamorros living on Guam also have the highest incidence of diabetes compared to other ethnic groups, at about five times the overall U.S. rate.”). The indigenous diet was replaced with a more Westernized diet, high in trans fats, refined sugar, and salt, and low in fiber and micronutrients. See Christie Nicoson, POSITIVE PEACE and FOOD SECURITY, WORLD WITHOUT GENOCIDE 10-13 (Nov. 2016),
38 Id. at § 1423(i).
39 See Dorr v. United States, 195 U.S. 138, 149 (1904) (“[T]he Constitution does not, without legislation, and of its own force, carry such right to territory so situated.”).
40 See, e.g., Att’y Gen. of Guam v. United States, 738 F.2d 1017 (9th Cir. 1984); VINE, supra note 11, at 86.
41 See Gov’t of Guam ex rel. Guam Econ. Dev. Auth. v. United States, 179 F.3d 630, 632 (9th Cir. 1999); War Claims Act of 1948, 50 U.S.C. § 4132(a) as added PL 87-846, title 1, § 103, 76 Stat. 1107 (1962).
42 Lutz, supra note 15, at 110.
43 Id. Today, two-thirds of Guam’s population are immigrants and their descendants, from the Philippines (the second largest ethnic group on Guam comprising 26% of the population), U.S. states, and other Asian and Pacific nations, including a recent wave of more than 35,000 citizens from the Freely Associated States (the Federated States of Micronesia, Palau and the Marshall Islands).
44 Id. That Challenger Deep is in Guam’s EEZ has been the longstanding assumption of Guam residents. Under international law, the United States, as Guam’s Administering Power, was obligated to engage in meaningful consultation with the people of Guam well in advance of the 45th meeting of the Pacific Islands Forum, at which the treaty was signed. While there is some ambiguity as to the exact location of Challenger Deep, a 2005 U.S. Geological Survey publication indicates that it falls on the Guam side of the boundary identified in the U.S.-FSM treaty.
45 Guam Decolonization Registry Law, 3 Guam Code Ann. § 21001(e).
See 48 U.S.C.A. § 1424c; see generally also See Gov’t of Guam ex rel. Guam Econ. Dev. Auth. v. United States, 179 F.3d 630 (9th Cir. 1999) (finding Guam’s various arguments as to its claims over certain real property in the territory unavailing).

Vine, supra note 11, at 88.


Id. at 363. See also Mar-Vic Cagurangan, Radioactive fallout alert, PACIFIC ISLANDS TIMES (Dec. 31 2017), https://www.pacificislandtimes.com/single-post/2018/01/02/Radioactive-fallout-alert; Michael Lujan Bevacqua, Guam: Protests at the Tip of America’s Spear, 116 THE SOUTH ATLANTIC QUARTERLY 174, 178 (2017) (“[S]omeone in Guam is 2,000 percent more likely to get nasopharynx cancer than the average resident of the United States.”) [hereinafter Bevacqua, Tip of Spear].

Radioactivity in Guam, supra note 53, at 363-65.


Id.

Cagurangan, supra note 54. There is currently a bill before Congress that will allow compensation for residents of Guam, however this bill has yet to pass and it is uncertain if it will. Radiation Exposure Compensation Act Amendments of 2019, S. 947, 116th Congress (2019). The Department of Justice has awarded over $2 billion in “compassionate compensation” under RECA. However, residents from Guam have yet to receive any compensation under this program. See Mar-Vic Cagurangan, Guam included in RECA expansion bill, PACIFIC ISLAND TIMES (Mar. 29, 2019), https://www.pacificislandtimes.com/single-post/2019/03/29/Guam-included-in-RECA-expansion-bill.

Bevacqua, Tip of Spear, supra note 54, at 178. See also Natividad & Kirk, supra note 1, at 9 (“Two dumpsites just outside the base at Urnauo were found to contain antimony, arsenic, barium, cadmium, lead, manganese, dioxin, deteriorated ordnance and explosive, and PCBs.”). Other chemicals include the components of petroleum fuels; strong solvents used to wash down military equipment, including trichloroethylene and perchloroethylene; and radioactive materials. See Lutz, supra note 15, at 118.

Jon Mitchell, Poisons in the Pacific: Guam, Okinawa and Agent Orange, JAPAN TIMES (Aug. 7, 2012), www.japantimes.co.jp/community/2012/08/07/issues/poisons-in-the-pacific-guam-okinawa-and-agent-orange/. Direct testimony of service members who have suffered severe physical disabilities and illnesses attests to the spraying, dumping, and storage of significant amounts of Agent Orange, Agent Purple, and other highly toxic “rainbow” military herbicides and pesticides on Guam. The U.S. Government Accountability Office, after investigating Agent Orange use on Guam, acknowledges through various military records that Agent Orange components 2,4-D and 2,4,5-T were used on Guam in commercial herbicides. This is corroborated by recent soil sampling results that found traces of these elements, suggesting that Agent Orange was among the herbicides used on and around military bases on Guam. Despite the evidence, the military continues to deny that Agent Orange was ever stored or used on Guam. See, e.g., Mai Habib, New report shows evidence of Agent Orange in Guam soil, PNC GUAM (Jul. 21, 2020), https://www.pncguam.com/new-report-shows-evidence-of-agent-orange-in-guam-soil/.

A study by NOAA and academic scientists found that three stranding events of Cuvier’s beaked whales in the Mariana Archipelago since 2007 occurred either during or within 6 days after naval anti-submarine sonar operations. See Beaked Whale Strandings in the Mariana Archipelago May Be Associated with Sonar, NOAA Fisheries (Feb. 19, 2020), https://www.fisheries.noaa.gov/feature-story/beaked-whale-strandings-mariana-archipelago-may-be-associated-sonar. See also Anne E. Simonis et al., Co-occurrence of beaked whale strandings and naval sonar in the Mariana Islands, Western Pacific, 287 PROC. R. SOC. BIOL. SCI. (2020); Anumita Kaur, Military proposes continued sonar use as more whales wash up on Guam’s shores, PACIFIC DAILY NEWS (Mar. 3, 2019), https://www.guampdn.com/story/news/2019/03/03/military-proposes-sonar-use-more-whales-wash-up-guams-shores/2865769002/.

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LisaLinda Natividad & Victoria-Lola Leon Guerrero, The Explosive Growth of U.S. Military Power on Guam Confronts People Power: Experience of an Island People Under Spanish, Japanese and American Colonial Rule, 3 ASIA-PACIFIC J. 1, 6 (2010). Prutehi Litekyan has also shed light on the present legacy of the military’s harms on Guam, highlighting over 80 existing dumpsites, unexploded ordnances from WWII, and community exposure to radiation from regional nuclear testing and submarine vessels. Interview with Monaeka Flores, Member, Prutehi Litekyan: Save Ritidian, in Hagåtña, Guam (July 31, 2020) [hereinafter Flores interview].


Id.


Id.


Bevacqua, Tip of Spear, supra note 54, at 178.


Natividad & Kirk, supra note 1, at 5 (“There are three JROTC programs in the island’s public high schools, as well as an ROTC program at the University of Guam.”).

Letman, DIPLOMAT supra note 71.

Michael Lujan Bevacqua, The Exceptional Life and Death of a Chamorro Soldier: Tracing the Militarization of Desire in Guam, USA, in MILITARIZED CURRENTS: TOWARD A DECOLONIZED FUTURE IN ASIA AND THE PACIFIC 43-44 (Setsu Shigematsu & Keith L. Camacho eds., 2010).


Lutz, supra note 15, at 110.


80 As stated by Major General Dennis Larsen to a report at Guam’s Andersen Air Force Base. VINE, supra note 11, at 84.


82 VINE, supra note 11, at 90. Additionally, Guam’s school system struggles to meet payroll, while the island’s water supply is barely adequate to sustain the current population and the only civilian landfill for trash disposal is nearly at full capacity. See Natividad & Kirk, supra note 1, at 6.


84 Id.

85 VINE, supra note 11, at 90-91.


87 Military Buildup, supra note 78, at 6.

88 See VINE, supra note 11, at 89.

89 Id. See also Brian J. Lepore, Defense Infrastructure: Planning Efforts for the Proposed Military Buildup on Guam are in Their Initial Stages, with Many Challenges Yet to be Addressed, U.S. GOVERNMENT ACCOUNTABILITY OFFICE 1 (May 1, 2008), https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=A5ED00D0-E527-0BE6-892E-3C161E77D141.

90 See Natividad & Leon Guerrero, supra note 63, at 9. See also Final Environmental Impact Statement Guam and CNMI Military Relocation, Naval Facilities Engineering Command, Pacific, 3-61 (2010) (“[D]ue to the extent of the proposed land acquisition would mean an increase in federally owned or controlled land on Guam, and a reduction in access to lands of sociocultural and recreational importance, the overall socioeconomic impacts of land acquisition would be significant.”).

91 Natividad & Leon Guerrero, supra note 63, at 9.

92 Id. See also VINE, supra note 11, at 91. Chamorros have compared this proposed construction with building a firing range over historic Arlington Cemetery in Virginia. Lutz, supra note 15, at 119.

93 Bevacqua, Tip of Spear, supra note 54, at 176-77.

94 Two-thirds of Tinian is currently leased by the US military as part of the CNMI commonwealth negotiations. Many community members argue that the military, rather than expanding, should stay within its existing “footprint.” Natividad & Kirk, supra note 1, at 10.

95 Natividad & Kirk, supra note 1, at 2.

96 Natividad & Leon Guerrero, supra note 63, at 15. Chamorro scholar Michael Lujan Bevacqua notes, “When the possibility of moving Marines from Okinawa to Guam was first discussed, representatives of Japan and the United States met, but no one from Guam sat at the negotiation table. Although the people of Guam are occasionally asked to comment on DOD plans for their islands, as a colony, they have no real role in determining their destiny and whether it lies toward peace or war.” Bevacqua, Tip of Spear, supra note 54, at 181.


Gelardi & Perez, supra note 102.

Kaur, Marine base, supra note 110.


Id.

Chloe Babauta, Peaceful demonstration to protest military bulldozing ancient Chamorro village, PACIFIC DAILY NEWS (Oct. 31, 2018), https://www.guampdn.com/story/news/2018/10/31/peaceful-demonstration-protest-military-bulldozing-ancient-village/1829904002/. In 2011, the military agreed to build a repository to house Chamorro artifacts; funds were not actually appropriated until 2017, in the amount of $12 million, a few million more than the amount the military budgeted for building a dog
kennel on Guam as part of the buildup. See, e.g., Jerick Sablan, Repository to be built after funding
awarded, PACIFIC DAILY NEWS (Nov. 12, 2017),
https://www.guampdn.com/story/news/2017/11/12/repository-built-after-funding-
awarded/850773001/, and Stars and Stripes, Contract awarded to relocate military dog kennel on
Guam, STARS AND STRIPES (Sept. 29, 2010), https://www.stripes.com/news/pacific/guam/contract-
awarded-to-relocate-military-dog-kennel-on-guam-1.120118.

117 Anumita Kaur, Marine base, live-fire training range halfway complete; 43 historic sites discovered,
buildup-guam-dededo-marine-base-training-range-near-completion/5422669002/.

118 Scott Russell, TIEMPON I MANMOFO’NA: ANCIENT CHAMORRO CULTURE AND HISTORY OF THE NORTHERN

119 Aguon, supra note 97, at 71.

120 Reclaiming Identity: The Repatriation of Native Remains and Culture, FRIENDS COMMITTEE ON
NATIONAL LEGISLATION (Mar. 7, 2008), https://www.fcnl.org/uploads/reclaiming-identity-the-
repatriation-of-native-remains-and-culture-137#:--text=Legal%20Protections&text=In%201990%2C%20Congress%20passed%20the,university%2C
government%2C%20etc

121 See Guam Legislative Resolution No. 228-34 (2017),
while no case has squarely addressed the issue of whether the Native American Graves Protection
and Repatriation Act, 25 U.S.C. §§ 3001-3015 (1994) (NAGPRA) applies to the Chamorro people of Guam, the
U.S. Department of the Interior has adopted rules stating that NAGPRA protection shall “not [apply] to

122 Anumita Kaur, ‘Sanctioned Destruction’: Preservation office seeks to amend agreement with military,
preservation-office-amend-military-agreement/5425446002/.

123 See Lynda Aguon, State Historic Preservation Officer, Statement before the 34th Guam Legislature
(Sept. 7, 2017), http://senatorterlaje.com/category/historic-

124 Guam National Wildlife Refuge and U.S. Fish and Wildlife Service, GUAM NATIONAL WILDLIFE REFUGE
COMPREHENSIVE CONSERVATION PLAN (Sept. 2009),

125 Id.

126 Id.


128 The Guam Military Training and Readiness Act of 2014, Hearing on H.R. 4402 Before Subcomm. on
Fisheries, Wildlife, Oceans and Insular Affairs on the H. Comm. on Natural Resources, 113th Cong.

129 John I Borja, Generations of protest: Former Ritidian landowners want their land back, PACIFIC
former-ritidian-landowners-want-their-land-back/624063001/.

130 Id; but see infra note 132.

131 See Gov’t of Guam ex rel. Guam Econ. Dev. Auth. v. United States, 179 F.3d 630, 632 (9th Cir. 1999).

132 Id. To be sure, many of the Chamorro families from Litekyan/Ritidian have maintained that both the
original taking of their ancestral lands and the subsequent transfer to U.S. Fish and Wildlife were
wrongful; these families were supported by the 23rd Guam Legislature, which denounced the actions

133 Dep’t of the Navy, SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT GUAM AND COMMONWEALTH
[hereinafter Navy, 2012 Roadmap Adjustments].

134 Gaynor Dumat-ol Danelo, Researchers rediscover ancient Chamorro village at Ritidian, PACIFIC DAILY
NEWS (June 19, 2015), https://www.guampdn.com/story/news/2015/06/19/researchers-rediscover-
ancient-chamorro-village-at-ritidian-0620/28972905/.

135 Navy, 2012 Roadmap Adjustments, supra note 133, at 5-428.

136 Flores interview, supra note 63.

137 Id.

138 Navy, 2012 Roadmap Adjustments, supra note 133, at 3-12-35.
turtles.whale, sperm whale, hammerhead shark, as well as the green, hawksbill, loggerhead, and leatherback sea turtles. See MITT SEIS, supra note 68, at 3.4-133, 3.9-1, 3.8-1, 3.5-1.

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139 Flores interview, supra note 63.
140 Id.
141 See Navy, 2012 Roadmap Adjustments, supra note 133, at ES-36 (acknowledging that the construction of the live-fire training range complex would result in impacts to 215 acres (87 ha) of Mariana fruit bat recovery habitat, Mariana crow recovery habitat, and Guam Micronesia kingfisher recovery habitat); see also GUAM NATIONAL WILDLIFE REFUGE COMPREHENSIVE CONSERVATION PLAN, supra note 124, at 3-17 ("The Ritidian Unit has been designated as Critical Habitat for three listed species: the threatened Mariana fruit bat and endangered Micronesia kingfisher and Mariana crow. Green turtles nest and hawksbill turtles are suspected to nest on the Ritidian Unit.").
142 GUAM NATIONAL WILDLIFE REFUGE COMPREHENSIVE CONSERVATION PLAN, supra note 124, at 1-19 (noting that the purpose of the Ritidian Unit was to conserve ESA-listed species and to restore, protect and maintain the health of its terrestrial and marine environment).
144 Ossola, supra note 49.

145 Gelardi & Perez, supra note 102; GUAM NATIONAL WILDLIFE REFUGE COMPREHENSIVE CONSERVATION PLAN, supra note 124, at 3-11. (One of the refuge’s goals is to “r]estore, protect, and maintain native limestone forest representative of historic Guam and other Mariana Islands.”).
148 Lutz, supra note 15, at 117.
151 Navy, 2012 Roadmap Adjustments, supra note 133, at 5-393.
155 Natividad & Kirk, supra note 1.
157 This includes endangered marine species such as the humpback whale, sei whale, fin whale, blue whale, sperm whale, hammerhead shark, as well as the green, hawksbill, loggerhead, and leatherback sea turtles. See MITT SEIS, supra note 68, at 3.4-133, 3.9-1, 3.8-1, 3.5-1.


176 Welna, supra note 175.

177 Id.


181 O’Connor, supra note 180.

182 Id.

183 Id.