



National Integrity Systems

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Abbreviations

GAO	General Accounting Office
IPSECO	International Power Systems Company, Ltd.
NEMO	National Emergency Management Organization
NIS	National Integrity System
OEK	<i>Olbiil Era Kelulau</i>
PA	Public Auditor
PALAU	Publication And Law Access Unit
PNC	Palau National Code
PNCA	Palau National Code Annotated
ROP	Republic of Palau
SP	Special Prosecutor
TTPI	Trust Territory of the Pacific Islands

Executive Summary

The Republic of Palau has several anti-corruption mechanisms in place. The anti-corruption pillars that both the United States, in the days prior to independence, and Palau itself after independence have established include the position of Public Auditor, the position of Special Prosecutor, the Code of Ethics Act, an annual performance-based national budget, a procurement law, a qualified judiciary that demonstrates integrity, and a good Voting Rights Act. However, in spite of both the existence of these mechanisms and the high level of public support for increasing accountability in government, some corrupt practices have continued in Palau within various governmental sectors from local to national levels.

The people of Palau have experienced enormous political and social change since the Kennedy administration of the early 1960s. One of the most important developments emerging from this change emerged after Palau ratified its Constitution in 1980. At that time the US Department of Interior greatly decreased its oversight of Palau's governmental operations. This allowed for an increasing number of corrupt activities to arise throughout the mid to late 1980s, including the IPESCO power plant scandal and the assassination of President Remeliik. However, after the US Department of Interior reintroduced its oversight function, and subsequently when the nation obtained freely associated state status and its sovereignty in 1994, there have been improvements in terms of the prevention, management, and punishment of corrupt practice within government and the public service. The position of Special Prosecutor has been particularly important in investigating and eventually punishing corrupt practices—so much so that Congress attempted to do away with the position after the SP accused almost every Congressman of misuse of travel funds in 2002/3. The effort to render the SP impotent failed. However, this case highlights the fact that there are both ongoing successes and failures in attempts to improve transparency and accountability measures in Palau. Ongoing issues include a culture which values indirectness, making confrontation difficult, and possible cases of nepotism or favouritism, which can be difficult to avoid in this small-state, familial-based context. But it must also be said that such a context has meant that whistle blowers, such as radio talk show host Alfonso Diaz, have received strong public support. Good anti-corruption mechanisms are therefore in place, but they do not appear to necessarily or consistently have strong deterrent capacities.

In terms of recommendations, nepotism, cronyism and favouritism, especially as regards the lease of public lands, should be further examined; while Palau's private sector is generally free of corruption and could be considered a case of best practice and examined for further lessons. Petty corruption, particularly in the public sector, and Koror's traditional men's clubs should be examined and reported on, as misbehaviour in these commonly overlooked sectors has a significant impact on public morale.

Country Overview

The Palau archipelago of one atoll, four major islands, and about 20,000 people makes up a small island state located in the western corner of the north Pacific. Having been a Spanish, German, and Japanese colony, Palau became part of the first and only strategic United Nations Trust Territory of the Pacific Islands (TTPI) in 1947 under the administering authority of the United States. With the overwhelming ratification of a constitution by the island people in July 1980, the Republic of Palau came into being as a semi self-governing territory (still a trust territory) subject to the authority of the High Commissioner of the TTPI. Since November 1980, separate legislative and executive offices have been popularly elected every four years, making up a presidential form of government. After the ratification of the Compact of Free Association agreement with the United States in 1993, the Republic of Palau declared its independence and regained its sovereignty in 1994.

Since the 1980 Constitution, Palau has had 17 national voting exercises, elections, or referendums. There have been six national elections for the presidency, vice-presidency and the National Congress locally known as the *Olbiil Era Kelulau* (25 seats as of 2000), one special election for President and Vice President, eight referendums on the compact of free association, and two referendums on constitutional amendments. The Constitution of Palau established a presidential and federal form of government with a bicameral legislature and thus—among all former US trust territories—comes closest to the US model. The most significant departure from the US system of government is the direct and popular election of the President and Vice President on separate tickets. The National Congress may impeach and remove the President, Vice President or Justices of the Supreme Court for treason, bribery, or other serious crimes by a vote of not less than two-thirds of the members of each house. Further, the President, Vice President, and Members of Congress may be removed from office by recall.

Some 6,425 Palauans went to the polls in November 1980 and elected Haruo I. Remeliik and Alfonso R. Oiterong as the first President and Vice President of the new Republic. Also in 1980, thirty-four Congressmen were elected, 16 to the House of Delegates and 18 to the Senate (since reduced to nine). These two houses make up the *Olbiil Era Kelulau* (OEK), Palau's law-making body. The seats in the National Congress are contested every four years during the same election as the Presidential and Vice Presidential races.

Palau's most celebrated case of corruption occurred in 1983–84. The International Power Systems Company, Ltd. (IPSECO) of London, England paid five high Palauan officials a total of \$750,000 in what was alleged to be bribery. IPSECO was granted a special contract without competitive bidding or a feasibility study to construct a 16-megawatt power plant and various locals were needed to 'smooth the way' for the project. At the time Palau had no criminal conflict-of-interest statutory provisions or strong and comprehensive civil conflict-of-interest laws governing the conduct of public employees or non-employee citizens. Further, the civil conflict-of-interest laws did not contain specific penalties for violations. The United States General Accounting Office (GAO) in an in-depth study determined that the large payments to the high officials raised questions of conflict of interest, bribery, and misconduct in office. However, no civil or criminal suits were filed in the Palau court. In hindsight, the policy decision by the Department of Interior in 1979 to allow the government of Palau greater autonomy was perhaps mistaken or at least premature. The immediate results included financial problems, political unrest; crime, including politically motivated violence; illegal drug activity, and the entry into some ill-advised contracts such as that for the IPSECO power plant itself.

From here, in 1984, Remeliik and Oiterong were re-elected, but just six months after the beginning of their second term, on 30 June 1985, Remeliik was brutally assassinated by gunmen hired by a political opponent, John O. Ngiraked, who was eventually caught, tried and sentenced to a life term in prison, dying in jail in 2003. With a vacancy in the presidency, a special election was held in August 1985 and Lazarus Salii, a Presidential candidate in 1980 and former member of the Congress of Micronesia, defeated interim President Oiterong by nearly 600 votes out of 7,561 cast. Salii and Vice President Thomas Remengesau Sr. were elected to complete the terms begun by Remeliik and Oiterong. However, this was not to be. In August 1988, President Salii committed suicide in his home, one day before he was scheduled to announce his candidacy for the 1988 regular

election. In a span of just three years, the small republic had lost two Presidents in violent episodes—the first caused by intense political ambition, and the second probably the result of a heavy conscience burden.

In the national Presidential contest of November 1988, Ngiratkel Etpison, a successful Palau businessman, gained an unexpected victory over Roman Tmetuchl, a seasoned politician and favourite in the contest, by just two dozen votes in a crowded field. Interim President Remengesau finished third. In the two-candidate race for the vice presidency, national Congressman Kuniwo Nakamura won easily, taking 62 per cent of the vote. In contrast, Etpison was elected President by just 26 per cent of the electorate, due to the seven-candidate field and the plurality rule (first past the post) then in effect.

For the 1992 elections, the electoral formula was changed from plurality to absolute majority rule. Nakamura defeated Johnson Toribiong, a lawyer, former Congressman and brother of Tmetuchl, in an extremely narrow contest. Tommy Remengesau Jr., former National Congressman, won the vice presidency, defeating Sandra Pierantozzi, a cabinet minister in the Etpison administration (also the first woman to hold a ministerial portfolio) by some 320 votes out of 9,092 cast. In 1996, both incumbents, Nakamura and Remengesau Jr., were re-elected, though Nakamura was embroiled in an alleged corruption scandal in 1999. In the most recent election of 2000, Remengesau Jr. and Pierantozzi won on separate tickets, giving Palau its first female Vice President. What is interesting to note is that throughout the period from 1963 to about 1978 Palau had political parties dominating such political processes, but since the 1980s the idea of political parties has faded into obscurity. This does not include the brief rise and fall in 1996 of the Palau Nationalist Party, formed to support two unsuccessful Presidential candidates.

A dominant issue throughout most of the period of constitutional government has been Palau's future political status. Palau's Constitution was written on the premise that Palau's status would change within a few years. Status change finally took place in 1993 when the voters of Palau accepted the compact of free association agreement (hereafter compact) with the United States. The compact was the subject of an unprecedented series of eight referendums: 1983, 1984, 1986 (twice), 1987 (twice), 1990, and 1993. Since Palau was the last trust territory and a responsibility of the United Nations Trusteeship Council, all the referendums were held under the strict observation of the council and no irregularities were committed.

Palau's compact agreement with the United States establishes government-to-government free association, a political status recognised by the United Nations. The compact provides Palau long-term economic assistance in exchange for options on land for US military use and a 50-year denial right whereby the United States has unrestricted authority to exclude any foreign military forces from entering Palau's territorial waters or air space. As a result of the compact agreement, Palau declared its independence in 1994 and in that same year gained admission to the United Nations as its 185th member. Palau's constitution-writing experience, its regular elections to high offices, its numerous referendums on the compact, and its new political status of free association have been keen expressions of self-determination and nation building. A number of corrupt activities took place during this period such as the IPSECO pay-offs, but, generally this period has been free of major corruption or corrupt practices were well hidden and escaped detection. Be that as it may, the Republic's new challenge has been establishment of good governance, transparency, and greater economic viability. These goals have on occasion been troubled by instances of corruption at local and national levels, as well as by corrupt practices within the police force and minor corruption within the civil service.

Corruption Profile

Definitions and Scope

The IPSECO power plant scandal and tragic deaths of two Presidents in the 1980s brought to the forefront for Palauans the meaning of corruption, conflict of interest, procurement violation, bribery and crime. Palauans generally have a clear understanding of right and wrong from unwritten traditional principles and teachings, church teachings, and imported law. To the extent that Palauan traditions and customs are set down in writing, they can be appealed to in court cases, including cases of alleged corrupt practice. However, it is sometimes unclear as to what constitutes nepotism or favouritism. Also, in such court cases attorneys may rely on oral testimony of elders to elicit commentary on Palauan traditions and practices not set down in writing. The justices and judges normally pay careful attention to such material when it is entered at trial. This strong traditional awareness of right and wrong brings its own pressures, as some suicides of middle-aged men may have resulted from the heavy conscience burden resulting from involvement in corrupt activities that generated quiet, but powerful scorn.

This also highlights the fact that, in terms of attitudes towards dealing with corruption, dishonest people in Palau receive a quiet and subtle scorn that is normally more effective than most overt expressions of rebuke—as indirectness is a behaviour that is highly valued in Palau. However, people (especially those in the urban centre of Koror) are not afraid to lodge complaints about corruption. They can and do call talkback radio host Alfonso Diaz, call or write the Special Prosecutor, and talk to the press. In one example, one whistleblower, a young man in private business, has complained in the press of petty corruption. He has written

Corruption is hiring relatives and friends who are not qualified; paying people who actually do not show up at work; using office supplies, equipment, and even funds for things that are not related to your office; leaving early and returning late from lunch and taking off before 4:30 pm [the end of the work day]; using government vehicles for personal activities, especially during non-working hours; using office government workers to do personal work for the chief or director; disregarding penalties and fines because the violators are your friends or relatives; accepting gifts or going to lunch or dinner with people who are applying for their permit or license from your office; members of regulating bodies like the state legislature, council of chiefs, Foreign Investment Board, Environmental Quality Protection Board, and state public land authorities becoming business partners of foreign investors; and the list can still go on.

This column first appeared in the *Tia Belau* newspaper in December 2001 and was republished in July 2003.

The Special Prosecutor's 'Case Status Report' for the second quarter of fiscal year 2003 lists 98 open cases covering fiscal years 1999–2003. The description section of the report does not refer to individual laws but uses more generic terms, viz., violation of law, misuse of public funds, misconduct in office, violation of procurement law, misuse of government property, theft of public funds, theft of government property, firearms violation, ethics violation, violation of Environmental Quality Protection Board laws, assault and battery, violation of foreign investment laws, grand larceny, embezzlement and forgery.

The laws in question include the Code of Ethics Act (contains a conflict-of-interest provision), the Government Procurement Act (contains an employee conflict-of-interest provision and a provision regarding recovery of value transferred or received in breach of ethical standards), the Public Auditor Act (contains a provision protecting whistleblowers), the Special Prosecutor Act, and the Public Service System Rules and Regulations, 1996 (contains a 'Prohibition of Nepotism' section).

There is, as suggested above, a strong awareness of the many different forms that corrupt practice might take, though many people in Palau associate corruption with elected or appointed officials. Many Palauans do not see corruption in private business or other social organisations like churches. The private sector tends to have good management and the

work force is generally well disciplined. Private sector employees know they can be replaced at any time for misconduct. However, some small businesses and families have been rumoured to mistreat guest workers from the Philippines. Data on abuse of guest workers is not available. However, Palau's churches, especially the main Koror Catholic church has often intervened in abuse cases. Prior to his death in 2002, Father Felix Yaoch, S.J., spoke out against such abuse and often assisted abused female guest workers, particularly when they needed to return to the Philippines.

Causes

Social change and the shift to a money economy, especially since the 1970s, have opened the door to corruption. As in the case of the recent misuse of public funds by elected officials, the prestige and influence that comes with high office presents opportunities for corrupt activity.

With regards to loopholes that allow for corrupt activity, one significant aspect of corruption in Palau's public service is an allowance for exemptions to the existing rules and regulations. As one commentator has remarked

Although the government is bound by the rules and regulations of the Civil Service, this is only evident in the Executive Branch, as many government agencies practice their own set of exemptions and rules. It is beyond me, how a unified and centralised government is not subject to a uniform standard of personnel rules. Most of these offices have various reasons or excuses as to why they should be exempt. Interestingly, there are even agencies that feel that they should reserve the right to hire and fire their own employees based on their own internal policies. The problem with this is that it provides room for those in administrative positions to abuse or harass workers and not be subject to violation of any laws. How do we as a nation provide the necessary employee protection to our local work force when such is absent from our National Government? What assurances do those who work in the private sector even have?' (Public Forum in the *Tia Belau News*, 36, 5–12 September 2003:9).

Another problem, especially with regards to the issue of petty corruption in a small-scale society like Palau, is that people find it difficult to correct or discipline or even to report that a friend, relative or co-worker is behaving in a corrupt manner.

Levels

Corruption in Palau has occurred in traditional settings, at local and National Governmental levels and has also included wider elements of public governance such as within the police force. Elaboration of corruption at these levels makes up the bulk of the following report

Costs

The settlement of many of the suits begun by Palau's Special Prosecutor against 20 or so National Congressmen provide a crude measure of the cost of corruption in the National Congress. The total paid in settlement exceeded a quarter of a million US dollars (*Tia Belau News*, 13, March 28–April 4, 2003:2). Another more persistent and higher cost is the loss of confidence by Palauans in their elected officials. The cost of corruption regarding the IPSECO electrical power plant of the 1980s documented by the US General Accounting Office (GAO) was national embarrassment. The cost of corruption in the civil service or by traditional leaders—alleged or established by court decision—is, again, loss of confidence by the people in their institutions, modern and traditional, and an erosion of national ethos.

Types

Petty corruption (misuse of work equipment, anomalies in working hours and so on) is a major problem in Palau. Misuse of funds (such as the misuse of travel funds by the majority of Congressmen in 2002/3) is also a major problem within governmental circles. Rarer are cases of bribery or clear embezzlement, though there has also been a case of political assassination connected with criminality. This concerned the frame-up of Roman

Tmetuchl's son, nephew, and their associate for the 1985 murder of President Remeliik. Because it took seven years to find the actual mastermind behind the murder, Roman Tmetuchl's political career was badly tainted, and he was unable to win the Palau presidency in 1988.

The Impact of Change

The people of Palau have experienced enormous political and social change since the Kennedy administration of the early 1960s. Budgets for the Trust Territory were doubled, tripled and quadrupled in order to meet the Trusteeship Agreement mandates of social, educational, economic and political development. Today people in urban areas (about 65 per cent of the population) depend on wage income for their living, a major shift from a few decades ago. Income is now largely derived from compact payments, tourism, services, trade, and subsistence fishing and agriculture. Palau is therefore now a consumer society where people are striving to retain and expand their incomes. Substantial amounts of people's biweekly pay checks are paid out as contributions to custom, for example a woman's first birth, death, house building, and marriage customs. This situation has been summarised by Palau's Dr. Ueki, who says, 'We're so busy making money that we've lost sight of important things (Ueki interview, 14 September 2003).' In short, much of Palau's social change has been propelled by the arrival and persistence of the money economy.

The National Integrity System

Executive

The Constitution of the Republic of Palau guarantees 13 fundamental rights, including freedom of conscience, freedom of speech and of the press, freedom to peacefully assemble and petition the government for redress of grievances, and the right to organise and bargain collectively. The Constitution requires that every person shall be equal under the law and shall be entitled to equal protection. Further, a citizen of Palau has the right under the Constitution to examine any government document and to observe the official deliberations of any agency of government (Article IV of the Constitution of the Republic of Palau).

Presidents in Palau are voted in for a term of four years. With regards to how previous Presidents discharged themselves, Presidents Remeliik, Oiterong, Remengesau Sr., Etpison, Nakamura, and Remengesau, Jr., were and are generally respected, although they have been criticised from time to time in regards to nepotism, that is, the hiring of relatives. In terms of the latest President and his staff, when President Remengesau took office in 2001, he appointed Reverend Billy Kuartei as his chief of staff. Rev. Kuartei is highly respected in the community for his honesty and integrity.

With respect to the President's expenditure of public funds, he must spend according to the Congressionally approved budget. The National Congress and Public Auditor provide oversight of executive branch spending. The Congress in the past has successfully filed suit against the President's overspending.

In terms of the working of Cabinet, the President's eight cabinet ministers are normally changed with each new chief executive and are not able to build personal empires within the government bureaucracy. During the Nakamura administration (1993–2000), allegations were made against a former minister of resources and development but no legal action was taken. In 1999, a cabinet minister was fined \$US1,000 for his involvement in the unlicensed activities of a fishing company. This same incident reflected poorly on President Nakamura because his family member owned the fishing company responsible for the illegal activities.

Legislature

Palau's legislature, the *Olbiil Era Kelulau* (OEK) or National Congress, consists of a nine-seat senate (population-based) and a 16-seat House of Delegates based on state representation. Terms of office are for four years and competition for seats is keen because winning election confers considerable prestige. Many of Palau's Congressmen have side businesses, such as a bank, a retail outlet, or a rental business, and there have been complaints over the years that Congressmen spend more time on their private affairs than on their public responsibilities. To date, there have not been any conflict-of-interest charges filed against Congressmen.

Regarding the use of travel funds by a large number of Congressmen and some former Congressman, Palau's Special Prosecutor (SP) threatened suits in 2002 and 2003 against nearly all the Congressmen for illegal use of those funds (see Office of the Special Prosecutor 2003). In response, the Congress attempted to clip the SP's wings by eliminating his office, and then reconstituting it under the Ethics Commission that could fill the SP position or hire legal assistance when needed. President Remengesau vetoed the bill, but the OEK overrode his veto. After hours of discussion over several days, Remengesau and the OEK leadership worked out a compromise. The President would sign the budget act containing the SP provisions and the Congress in early 2003 would remove the objectionable rider regarding the SP. This agreement was put in writing and Remengesau signed an amendment in January 2003 repealing the provision changing the SP position. At a press conference following this act, the President stated, 'I am very pleased to sign this bill into law after the long struggle to gain reinstatement of the Office of the Special Prosecutor. This is a victory for the people of Palau, for good governance and for our democratic process.' (*Tia Belau*, 5, 31 January–7 February 2003:15).

Later in 2003, the Congressmen, under a barrage of public complaint, began signing settlement agreements with the SP. It was viewed as a win-win arrangement: in exchange of full payment owed on illegal travel expenditures, charges of wrongdoing and intent to prosecute would be dropped. The public coffers received nearly a quarter of a million dollars from the Congressmen. A legal counsel to the Congress defined comprehensive travel policies that were reviewed and approved by the Public Auditor (PA). Congressmen have agreed to abide by the new policies.

However, a senate committee offered a controversial provision to a May 2003 supplemental budget bill that attempted to justify the abuse of travel funds by all levels of leaders by means of a presumption that such spending was done in good faith and in accordance with official duties dating back to 1981 when the Palau Constitution came into force and effect. Fortunately, a majority of senate leaders recognised the provision as self-serving and omitted it from the bill. (*Palau Horizon*, 56, 10–12 June 2003:10)

In another recent example of issues of corruption and members of the Legislature, in May 2003 one senator failed to abide by the settlement agreement he had signed with the SP. This resulted in a five-count suit filed by the SP charging fraud, Code of Ethics violations, and failure to pay restitution, and requesting \$100,000 in punitive damages. Then, in June 2003, two Congressmen faced serious charges. Delegate F. Carlos was charged with embezzlement and grand larceny for unlawfully spending funds belonging to Sonsorol state, the state he represented. The suit was based on information supplied by Palau's PA to the SP. The second delegate pleaded guilty to assault and battery with a dangerous weapon and agreed to pay restitution to the victim, a foreign worker, remain on probation for six months, pay a \$100 fine and complete 60 hours of community service (controversy arose over the avoidance of a jail term following heavy lobbying from the delegate's supporters).

For a second consecutive year, the OEK's budget bill became a mechanism that attempted to reduce transparency and integrity in government. The bill contained a rider that would set a limitation on the SP's subpoena power through the requirement that probable cause first be shown in court. Second, the OEK sought to amend 3 PNC 202 whereby 'each house of the Olbiil Era Kelulau shall promulgate its own rules and procedures governing the use, disbursement, and expenditure of the official expense allowances for its members and shall be the sole judge of the propriety and legal justification therefore.' In response, on 30 September 2003, the SP sued 24 of the 25 Congressmen for misuse of government funds, specifically the unlawful receipt of \$1,000 per month as 'official expense allowances' in addition to their salary. The SP argued that the defendants had used the allowances received not for official purposes but for private use and that this constituted unlawful compensation. The SP asked the court to require payment of restitution and a civil penalty of \$10,000 for each violation of section 603 of the Code of Ethics law. He also argued that the court should declare as unconstitutional and invalid the OEK's attempt to promulgate its own rules and regulations and be the sole judge of its expenditures of expense allowances.

Regarding the efforts of the OEK to reduce the power of the SP, Senator S. Whipp admitted

The public has said we need the SP and Public Auditor. It's good; yes, people can complain. The SP is doing a good job. We were wrong in the use of travel funds; receipts and reports were not filed. We can't be dishonest because it scares the ordinary people. Of course, the Congressmen didn't like their names mentioned on the radio as abusers of public funds. We've come a long way in establishing transparency in government.

As long as the SP's position is retained and as long as he is able to carry out his duties then this is a 'win' for transparency, but the challenges mounted by the OEK demonstrate the need for vigilance regarding the position.

Political Parties

Palau had political parties during the period 1963–79. The Liberal Party and Progressive Party served as rallying points for candidates for the Congress of Micronesia elections, but

the groups were more personality-oriented than issue-focused. For a brief time in 1996, the Palau Nationalist Party emerged to support the Presidential candidates that year, viz., Johnson Toribiong and Kyoni Isechal. The party applied for and was granted a charter. It held several conferences but faded away with the loss and withdrawal of its candidates in late 1996. Since that time, no political parties have been organised.

Electoral Commission

The people of Palau have had the right to vote since 1947, and they have gained considerable sophistication in holding elections for seats in the Palau Congress, 1947–63, the Congress of Micronesia, 1965–78, the Palau Legislature, 1963–80, and the National Congress, 1980–present. During the period 1983–93, Palau also conducted eight compact referendums under United Nations observation and without any reported irregularities.

Palau's 'Voting Right Act', 23 PNCA (Palau National Code Annotated), was passed in 1981, soon after the promulgation of the Constitution of Palau. This law establishes an entire election system including penalties for intimidating or bribing voters and a complaint mechanism for dealing with allegations of election irregularities. The act also establishes a five-member Election Commission appointed by the President of the Republic with the advice and consent of the Senate. Members serve four-year terms and the commission retains an executive director and staff. With a good election law, a commission of honest people, and a staff with considerable experience, Palau's election system is characterised by transparency and integrity. Since 1980, there has been only one serious irregularity related to overseas balloting 'services stations' where Palauans living overseas could vote without the normal protections of an absentee ballot or polling station procedures. A suit was filed and the issue was resolved through quick court action prior to the voting. All in all, elections in Palau have been free of any corrupt practices

Supreme Audit Institution

The Constitution of the Republic of Palau calls for a Public Auditor (PA) who is appointed by the President and confirmed by the OEK. The PA can be removed by a vote of not less than two-thirds of the members of each house of the OEK. The auditor's term of office is six years and he or she 'shall be free from any control or influence by any person or organisation' (Constitution of the Republic of Palau, Article XII, section 2(a)). The Constitution sets the PA's charge as follows.

The Public Auditor shall inspect and audit accounts in every branch, department, agency, or statutory authority of the National Government and in all other public legal entities or nonprofit organisations receiving public funds from the National Government. The Public Auditor shall report the results of his inspections and audits to the Olbiil Era Kelulau, at least once a year, and shall have such additional functions and duties as may be prescribed by law. (Constitution of the Republic of Palau, Article XII, section 2(b))

Palau Public Law 40 PNCA, Chapter 2, elaborates the duties of the PA office. At the time of this field study, the PA office had a schedule of audits posted on its office wall and the PA stated that his office was up to date on its reporting. The PA also stated that he works closely with the SP, particularly when his audits turn up serious irregularities. The PA has wide-ranging authority, has access to confidential information and propriety records, to tax data, has the power to summon persons to testify, is required to protect the identity of whistleblowers, and may make referrals for both civil and criminal action. In one recent case, the PA provided information regarding embezzlement of state funds to the SP who filed criminal charges against the elected official involved. For nearly all the cases of reported misuse of funds, larceny, or embezzlement, the SP has initiated investigations based on information provided by the PA.

The Palau Office of Public Auditor consists of the PA, Mr. Satrunino Tewid, who has been working in the office for 16 years, and six auditors, at least one of whom is a certified public accountant. Every three years, the Office of the PA undergoes a peer review as required by US accounting practices. The auditors from Guam, the Commonwealth of the Northern Marianas Islands, American Samoa, and Palau cooperate in this effort, forming the Association of Pacific Islands Public Auditors. With the one exception of an audit report

being modified prior to submission to the OEK some years ago, the Office of the Public Auditor enjoys a reputation for honesty and doing its job well.

Judiciary

Palau's judicial system under the Trust Territory of the Pacific Islands (TTPI) was the Anglo-American system of law. The Constitution of Palau created a unified and independent judiciary made up of the Supreme Court, the National Court, the Court of Common Pleas, and the Land Court (formerly the Land Claims Hearing Office). The President of Palau appoints the Supreme Court chief justice with the advice and consent of the Senate. The Court has had two Palauan chief justices, Mamoru Nakamura (1981–92) and Arthur Ngiraklsong (1992–present).

Although the Constitution calls for a National Court, it was active for just about a year before its case load was absorbed by the Supreme Court and Land Court. The Court of Common Pleas handles small claims, traffic citations, and other minor cases. Proceedings in this court are normally carried out in the Palauan language rather than in English. This lower court is administered by the Supreme Court, which issued new rules for small claims in 1995. The Land Court limits its jurisdiction to land issues and its decisions may be appealed to the Supreme Court.

After Palau became a constitutional government on 1 January 1981, a special commission compiled a Palau national code, which the OEK adopted in August 1985. The code was signed into law by Interim President Alfonso R. Oiterong. In September 2003, the Publication And Law Access Unit (PALAU) of the National Government released a compact disc (PALAU Law Search CD) containing the National Code, TTPI court cases, Palau court rules, executive orders, international agreements, and other important legal documents. With its search engine, this electronic compilation is an enormously valuable tool for all members of Palau's judicial system.

Palauans tend to be competitive and gregarious, and most major disputes are brought to court. Here the judiciary has a reputation for fairness and impartiality. All employees of the judiciary have undergone training over the years and all justices of the Supreme Court hold doctorate in law (J.D.) degrees. Palau is well served by 16 private practicing attorneys, about half of whom are Palauan. As mentioned earlier, to the extent that Palauan traditions and customs are set down in writing, they are appealed to in court cases, and attorneys may and do rely on oral testimony of elders.

Government officials and private attorneys have a high regard for Palau's judiciary. While independent and strong, judges at any level may be removed for treason, bribery, other high crimes, improper practices, or inability to discharge assigned duties by a vote of two-thirds of the members of each house of the National Congress (Constitution of the Republic of Palau, Article X). Since 1981, two judges have resigned. Daniel Cadra, a US citizen, resigned in early 2003 because of legislation passed by the OEK regarding the Land Court where he was assigned. He concluded that the legislation transferring the functions of the Land Court from the judiciary to the executive branch's Bureau of Lands and Surveys of the Ministry of Resources and Development raised serious constitutional and technical problems (*Tia Belau News*, 8, 21–28 February 2003:1,15). This transfer in functions might become a future governance issue if land matters become even more entangled than they are at present. The second judge that resigned (also from the United States) was former Associate Justice of Palau's Supreme Court, Jeffrey Beattie. He left for personal reasons in 2000, but returned to Palau to take the position of Attorney General effective 1 August 2003. With Beattie's return, the Office of the Attorney General has six expatriate attorneys, one Palauan attorney, a Palauan trial counselor, two Palauan investigators, and two office staff.

As noted above, 15 of 16 members of the House of Delegates of the National Congress have been investigated by the SP in regards to misuse of public funds. Also, over the years about 30 police officers have been sued, tried, and found guilty of misconduct in office. The Palau judiciary takes its responsibilities seriously and is held in high regard by the general public for its integrity. Moreover, in 1999 after a long period of consideration and debate, the National Congress passed Palau's Code of Ethics Act, intended to serve as a deterrent to corruption. Also, the government procurement law contains a conflict of

interest provision that was used recently to fine a local government official. According to the SP, however, this law needs strengthening, since it is vague and ambiguous in certain areas and does not spell out penalties. The SP is now working to amend the law.

Civil (Public) Service

The Palau government has a large civil service of about 2,200 employees. They make up the staff in the eight ministries, the judiciary, the National Congress and some positions at the local government level that are funded by block grants from the National Government. Examination, selection, training, evaluation, discipline, compensation, types of leave, records and other aspects of employment are governed by the *Public Service System Rules and Regulations, 1996* (National Civil Service Board 1996). There is some complaint that these rules and regulations are not enforced impartially. Petty corruption—for example, consistently coming to work late and leaving early, the hiring and promoting of persons without justifiable performance or testing, and using government property for private purposes—is a major problem that could be addressed through better supervision on job sites and by appealing to employees' sense of ethical behaviour and dedication to serving the country, and punishment.

A number of the citizens interviewed for this report expressed concern that Palau's public service system had problems with poor administration, bias, abuse, and poor accountability. As an example, in September 2003, an employee of the Palau National Hospital pleaded guilty to charges of embezzlement. The individual was dismissed and sentenced to 30 days in jail, \$1,000 fine and required to pay \$5,112 in restitution. The embezzlement of the funds took place over a two-year period beginning June 2000 (*Tia Belau News*, 37, 12–19 September 2003:2). Within the Palau National Communication Commission, the chief executive financial officer agreed to a settlement with Palau's Special Prosecutor to pay restitution of \$15,000 in connection with unauthorised personal long-distance telephone calls she had. She also agreed to pay a civil penalty of \$5,000 (*Tia Belau News*, 20, 16–23 May 2003:15).

Another aspect of corruption in Palau's public service appears to be the common allowance for exemptions to the existing rules and regulations, which allows for much petty corruption. The only mechanism for a civil service employee to complain about corrupt practice is to address his/her grievance to the PA under protection of the whistleblowers provision in the Public Auditor law, 40 PNCA, Chapter 2, or to the SP by citing a violation of the Code of Ethics law or the *Public Service System Rules and Regulations*. Also, a person could call Alfonso Diaz, Palau's radio talk show host, who takes corrupt practices seriously and makes them public.

Police and Prosecutors

Palau's experience with policing goes back to the Japanese period of colonial rule in Palau when a few Palauan young men were hired and trained to work as police patrolmen. Men such as Joseph Tellei, Bismark, and Ngoriakl served as policemen under the Japanese. After the war, some of these men were hired by the US Naval authorities to work as Palau's first generation of policemen under American rule.

Since about 1984, police training had been a priority of the TTPI administration as well as the Palau government. Police training academies have been conducted on the Palau Community College campus about once a year to train new cohorts of policemen. Specialised training is held off-island.

Just recently, the Director of Public Safety retired and was replaced by a younger and better trained man, Hazime Telei. Telei earned an associate degree in Police Science and studied Criminal Justice at Westmar College, Iowa, in 1980–81. He worked for the Bureau of Public Safety from 1982 to 1997, when he took over leadership of the National Emergency Management Organization (NEMO). Reportedly, Telei enjoys the respect and confidence of the rank and file policemen.

The Minister of Justice, currently Michael R. Rosenthal, oversees the Bureau of Public Safety, the Office of the Attorney General and the Division of Immigration. He is very much concerned with integrity and good governance. Irregular or illegal acts by policemen

are not tolerated. In the past five years, at least 15 police officers have been terminated; some 30 to 40 suspended, and two are now in jail for various infractions of the law.

The Police Practices Committee, consisting of three police officers, the attorney general and three civilians, is empowered to examine any complaint about police activities both from within the Bureau or in response to complaints from the public. Also, serious cases of police misconduct can be brought directly to the Attorney General or SP. The Minister of Justice Rosenthal, formerly Palau's SP, stated to the TI researcher that in 2003 there were no cases of corruption within the Ministry of Justice. In terms of the kinds of issues that police were dealing with, crime statistics for 1999 show grand larceny with 298 cases, assault & battery with 225 cases, burglary with 173, and drunk and disorderly conduct with 164 cases.

Although the Constitution of Palau calls for a Public Auditor, the establishment of the Office of Special Prosecutor was defined in US Public Law 101-219 of 1989 and appears to have been a condition for the future release of funding to support the office. The position of Special Prosecutor is a high-profile position, and the individual holding the job needs a thick skin and a strong backbone. In 1991, David Webster was appointed Palau's first Special Interim Prosecutor but was fired two months later because of an undisclosed previous bar suspension in the state of Florida. Webster was replaced by US Assistant Attorney Jerry D. Massie, who successfully prosecuted the accused assassin of President Haruo I. Remeliik. After the position remained vacant for a while because of difficulties in hiring, the senate approved William Whisenhunt, who served three of his five years as SP, resigning early because of the illness of a family member in California. He was followed by Michael Rosenthal, who was hired as Palau's SP in about mid 1998. After Rosenthal was appointed as Palau's Minister of Justice, he recommended the hire of Mr. Everett Walton to the SP position. With the approval of the Senate, Walton began his five-year tenure in 2001 and has become locally popular for his 'no nonsense' approach to investigating and prosecuting corruption. His April-June 2003 'Case Status Report' covers active cases from 1999, 2000, 2001, 2002, and 2003. A summary of cases, both open and closed, is given below.

1999—12 cases pending: theft of government property, 1; violations of law, 4; misuse of public funds, 1; misconduct in office, 2; violations of the National Constitution, 2; violations of the procurement law, 1; and misuse of government property, 1.

2000—11 cases pending: violations of law, 3; theft of government property, 1; misconduct in office and firearms violation, 1; child abuse, 1; misuse of public funds, 2; misconduct in office & ethics violation, 1; misconduct in office, 2.

2001—16 cases pending: violations of law, 8; misuse of public funds, 2; misconduct in office and firearms violation, 1; misconduct in office, 1; ethics violation, 1; violations of the Environmental Quality Protection Board law, 2; assault and battery, 1.

2002—63 cases, many of which have been settled: theft of government property, 5; violations of law, 13; misuse of public funds, 27; misconduct in office and firearms violation, 1; misconduct in office and ethics violation, 3; ethics violation, 1; violation of the Environmental Quality Protection Board law, 1; assault and battery, 5; violation of the Foreign Investment law, 2; bribery and theft of public property, 1; theft of public funds 1; land dispute 2; attempted murder, assault and battery with dangerous weapon, 1.

2003—25 cases only 2 of which had been settled: violations of law, 5; misuse of public funds, 19; theft of funds, 1.

Mr. Walton, SP, has a staff of four, consisting of two investigators and two secretaries. He believes that more staff are needed. He stated that his job was 'to slow down corruption and hopefully change attitudes.' He also mentioned that the illegal drug situation is a major problem in Palau because people and baggage coming through the Palau airport are not carefully checked. He mentioned that he had been the victim of harassment that included his dog being poisoned, threatening phone calls being made, his car tires being flattened and his office vehicle being spray painted with foul words.

Public Procurement

Palau has a comprehensive government procurement process defined in law. Bids are announced in the local press and can take an entire page. Bid packages are available from the ministry letting the bid. The US Government Accounting Office (GAO) study of 1989 cited a number of serious irregularities in procurement. These included the letting of contracts for major construction projects without (1) conducting independent feasibility studies, (2) obtaining required legislative authorisation and appropriation of funds, and (3) making reasonable efforts to obtain competition. This experience served as a wake-up call for government bureaucrats who are generally careful in following the procurement law, which is now being revised by the SP. The law contains sections on employee conflict of interest, disclosure, prohibition of kickbacks, and collusion by bidders. Both the Attorney General's office and the Office of the Public Auditor watch the bidding process. During Mr. Rosenthal's tenure as SP, he prosecuted two State Governors for procurement-related offences. Both cases were settled via settlement payments of \$120,000 in one case and a much smaller amount in the other. Mr. Walton, the current SP, filed a civil suit against the Governor of Ngarrard state and recovered \$16,350 paid by the Governor to his son for boat rentals. The SP relied on the conflict-of-interest clause in Palau's procurement law, 40 PNCA. Currently, the SP has one pending case filed against a state government for obtaining legal services in a manner contrary to the procurement law. One responsible citizen noted that bias had crept into the bidding process of late.

Ombudsman

The Republic of Palau does not have an Office of the Ombudsman.

Investigative/Watchdog Agencies

The major investigative agency in the Republic of Palau is the Office of the Special Prosecutor (OSP). Current Minister of Justice Michael Rosenthal served as SP for two years and four months. He was followed by the current SP, Mr. Everett Walton. Mr. Walton's work is described above, in the 'Police and Prosecutors' section. The ordinary Palauan citizen is generally very supportive of the SP's efforts. One important Palauan businesswoman remarked, 'I'm for the SP. It's about time people are held accountable. Many people now are afraid to engage in corruption. People need to come forward and admit their mistakes. Things can't be hidden under the table now.'

Secondly, talkback radio personality Alfonso Diaz serves as a watchdog regarding corrupt practices such as the recent travel funds violations committed by nearly all of Palau's Congressmen. Although Diaz is sometimes too blunt in a society that values indirectness, he has awakened public consciousness of what constitutes corrupt activities. Because of the 'big toes' Mr. Diaz has stepped on over the years, he has had three of his cars fire bombed! After each of these violent episodes, a different wealthy individual—Eusevio Rechucher, Isidoro Rudimch, and Surangal Whipps—stepped forward and presented a new vehicle to Diaz as public validation of his efforts to raise public awareness of good governance and the importance of following the law. In a September 2003 radio show, the issue of the need for the SP was the topic of a long call-in discussion. This discussion eventually led to a poll, the results of which were 17 for retaining the SP and 3 against.

Media

Palau has two excellent newspapers, *Tia Belau News* (since 1991) and the *Palau Horizon* (since 1998). The former comes out weekly and the latter is published biweekly. Both papers report on cases of corruption as they move through Palau's justice system. The press enjoys great freedom, and occasionally a government official leaks a story to the press concerning some important issue or corrupt activity. *Tia Belau News*, in particular, has taken the issue of corruption seriously. Danny Ongelungel wrote an 'Ethics in Government' series for about two years and Santy Asanuma has often focussed on corruption in his 'Whata Now' column. Beginning with the visit of the Transparency International researcher to Palau in early September 2003, *Tia Belau* began a column on transparency in government. The second story concerned Transparency International's efforts, and those of the current government of Peru, to persuade Japan to extradite former Peru President Alberto Fujimori to face charges of corruption and human rights

abuses. The third, fourth and fifth articles were explanations of the Pacific Forum's principles of good government and good leadership (*Tia Belau News*, October 2003, 40, 41, 42).

Besides Alfonso Diaz' s radio station, the Palau government operates an FM station and there are two church stations. Nearly every Wednesday, President Remengesau talks with the press on Eco-Paradise FM, the government's station. These discussions cover most any issue and serve to inform the public about executive branch activities. Both President Remengesau and Vice President Pierantozzi are very familiar with the Pacific Forum's principles of good governance and transparency in government.

The government's television station broadcasts sessions of the National Congress. After watching these sessions, a fair number of people have concluded that the Congressmen sometimes talk about trivial matters.

Civil Society

With about 20,000 people, Palau has not developed a tradition of permanently active civil society groups such as lobby groups, political parties and trade unions that would address issues such as corruption directly. Palau does have a Chamber of Commerce, a Bar Association, and a number of women's clubs, but these groups normally do not take up causes related to corruption. Protest groups therefore tend to emerge in an ad hoc manner only when very serious issues erupt. For example, the superport issue of the mid 1970s generated several opposition groups such as the Save Palau Organization. In 1985-88, women from various villages residing in Koror organised to oppose the compact of free association agreement and fought for preserving the Palau Constitution, specifically, the clause banning dangerous substances. Recently, a group of ten churches and women's organisations combined forces to oppose gambling on Angaur Island, Palau's southern-most large island. The consortium opposes gambling because they believe it is immoral and will lead to terrorism, money laundering, prostitution, stealing and lying (*Tia Belau News*, 'Angaur casino economy', 3-9 November 2002, 45:8). The consortium recently lobbied successfully with the House of Delegates of the National Congress to sustain President Remengesau's veto of the Congress legislation establishing casino gambling on Angaur (*Tia Belau News*, 'OEK "kills" casino,' 28 November-5 December 2003, 48:1).

Traditional Organisations

Each of Palau's 16 village complexes, now called states, has a number of men's and women's clubs that are normally organised by age cohorts. Some of the most active groups are located in Koror, Palau's urban area. Generally, these clubs do not have funds sufficiently large enough to be a subject of theft or misuse. Koror's Ngarametal, a traditional men's organisation, appears to be an exception. In 2003, the group became the subject of a media debate concerning its honesty and transparency. Informants indicate that Ngarametal and a traditional chief may be engaged in corrupt activities that are being ignored or covered up.

Private Sector and NGOs

Palau has only two or three formal NGOs, and these tend to concern themselves with environmental issues. The Palau Conservation Society (PCS), with a budget of about \$200,000, is supported by an external NGO. These groups do not concern themselves with corruption unless it has some direct connection to their environmental efforts. The PCS has its books audited annually.

Regional and Local Government

Each of Palau's traditional village complexes had a local government run by the council of chiefs, *klobak*. This traditional system has been gradually marginalised, especially with the enactment of the Constitution of Palau. The Constitution called for the creation of state governments via local constitutions that, in turn, would create local-level legislatures and executives headed by a Governor. The National Government makes annual block grants available to each state government. These vary in size from \$180,600 for the smallest state to \$870,600 for the largest state, Koror. The purpose of these funds is to support

state operations and capital improvement projects. These monies have been at the centre of a number of corruption cases. For example, former Ngardmau State Governor Albert Ngirmekur was found guilty in December 2002 of 16 counts of misconduct in public office, 14 counts of forgery, nine counts of false pretences, seven counts of grand larceny, and five counts of embezzlement. Ngirmekur was sentenced to six months in prison and five and a half years of probation, and ordered to pay \$13,036 in restitution. In May 2003, the SP filed suit against five State Governors for violating the Code of Ethics Act for using their positions to secure business privileges and for owning financial interest in a business that could be affected by their official actions as governors. Several of the governors are shareholders in a construction company that would build homes in the states paid for by state block grant funds. In June 2003, the Governor of Kayangel state, who had been sued by the SP, agreed to settle out of court. The Governor used state funds to purchase a campaign advertisement in violation of law. The Governor paid a civil penalty of \$500 and also paid restitution to the state treasury for the cost of the advertisement.

Progress with Government Strategy

The government of Palau has a strategy for achieving integrity and transparency in government (the Special Prosecutor, Public Auditor, Code of Ethics Act), but officials normally do not talk about it in terms of a conscious strategy. Most everyone in Palau knows about corrupt practices, especially since the suits against nearly all Palau's Congressmen and some of its governors. These cases make for sensational news on radio, television and in the local newspapers. People seem now to understand the notion of conflict of interest, as this was made concrete when the Governor of Koror, brother of a high chief, was found guilty of conflict of interest regarding a piece of land he agreed to lease out to a metal recycling company. The SP learned that the Governor owned the land, filed suit and won in court. The Governor was found guilty of violating Palau's Code of Ethics Act, by using his public office for personal gain (*Tia Belau News*, 'Court: gov violates ethics', 7-14 February 2003, 6:1).

Donor Anti-Corruption Strategies

Palau does not currently have any NGOs or donors that have or are now providing funding for anti-corruption initiatives. Also, aid from the United States and Australia to date has not been directed toward anti-corruption efforts.

Future Research and Donor Support

Because Palau is a small society where everyone knows everyone else and where indirect approaches are valued and interpersonal conflicts are avoided at all costs, research regarding corrupt practices must be done very carefully, particularly when it comes to traditional leaders. The activities of several of Koror's traditional leaders and their followers with respect to the Bai Ra Mtal (men's meeting house) are of such a nature that careful research would be warranted.

According to SP Mr. Everett Walton, while there are rules against nepotism, cronyism and favouritism, especially as regards the lease of public lands, the rules are loosely or rarely enforced. This could be an area for future research.

The private sector in Palau is generally free of corruption, that is, of officials misusing their authority for personal gain. The dynamics of Palau's robust private sector could be studied to see what factors are involved. Are there best practices from the private sector that could be effectively transplanted into the public sector?

Petty corruption does not attract headline attention, but it has a long-term and steady cost. It also has a demoralising impact. Palau's Santy Asanuma brought attention to the issue of petty corruption in the December 2001 *Tia Belau* and again in a reprint of his column in July 2003. As examples of petty corruption, Asanuma listed the hiring of relatives and friends who are not qualified, being paid for not working, coming late to work and leaving early, using government property for private purposes, and disregarding penalties and fines because the violators are friends, and so on.

There is in Palau a general cultural reluctance to report on the petty corruption of a workmate, relative or friend. Remedies are not generally sought until after a situation has become intolerable. A study of the dynamics of petty corruption by Palau's government employees would be useful and could help the young nation improve its work force.

Anti-Corruption Activities

As noted above, Palauans recognise and sometimes report corrupt practices. The SP enjoys wide public support, as does the Public Auditor. *Tia Belau News* and Alfonso Diaz's weekday radio program expose and question corrupt activities. President Remengesau stated that the 1996 budget act that makes public officials personally accountable for misuse of government funds, and the government's performance budgeting system are additional ways in which Palau is achieving good governance.

Discussion of Key Issues

The National Integrity System (the NIS)

Both President Remengesau and Vice President Pierantozzi mentioned to the TI researcher that they were familiar with the Pacific Islands Forum principles of good governance and transparency. Remengesau stated that people are demanding good governance and that Palau has been cited as being in good standing. He also mentioned that Palau has a foundation for good governance: the Office of the Special Prosecutor, the Public Auditor, the Code of Ethics, and a performance-based budgeting system that has been on-going for three years. Using this system, individuals can be held accountable for their actions.

Effectiveness of Government and Donor-Supported Activities

Palau has never had an NGO provide funding to improve integrity and transparency in government. Generally speaking, the pillars of integrity that Palau now has in place generally provide sufficient mechanisms for dealing with major acts of corruption. Petty corruption in the public service can be addressed through better supervision, training seminars on employees' rights, and morale building. The Office of Special Prosecutor especially is a unique pillar of good governance in the Pacific. The fact that Mr. Walton, SP, and the Public Auditor enjoy wide public support bodes well for good governance and transparency in the Republic of Palau.

Priorities and Recommendations

Priorities and recommendations for future research and donor support could include the following.

- The alleged corruption of a few of Palau's traditional chiefs and Ngarametal club members regarding the Bai Ra Mtal (Koror men's meeting house), members' activities, and the lease of land in Koror should be carefully and delicately examined. This is a sensitive (and possibly dangerous) subject such that it is unlikely local funding or research expertise would take a leading role. Therefore, external funding and personnel would be needed and a local contact/advisor would be required.
- Nepotism, cronyism and favouritism, especially as regards the lease of public lands and construction contracts, should be further examined. This would best be done by an external consultant with an in-country counterpart such as the Palau Resources Institute (PRI). The US Department of Interior might be persuaded to fund this effort via its technical assistance program.
- Palau's private sector is generally free of corruption; this could be studied as an example for glean important principles and practices. The Palau Chamber of Commerce could be encouraged to fund such a study. A local researcher with a small advisory team could carry out this work.
- Petty corruption in the public sector should be examined and reported on. Reform of the Public Service System using citizen input should be considered. This could be funded by a US Department of Interior technical assistance grant or support from AusAid. A local advisor or advisory team must be involved to recommend if the researcher should be external or local.

Appendix 1 – Questionnaire

Executive

Can citizens sue government for infringement of their civil rights?

Formal or legal position

This is a right guaranteed by the Constitution of the Republic of Palau.

What actually happens

Palauans tend to be litigious people and have sued high Government officials on numerous occasions

Are there procedures for the monitoring of assets, including disclosure provisions?

For Cabinet and other Government Ministers?

Formal or legal position

Yes, disclosure provisions for all public officials are required by Palau's Code of Ethics, 33 Palau National Code Annotated (PCNA), Chapter 6.

What actually happens

Both the President and the Vice President, Congressmen and board and commission members of Palau annually disclose their assets as required by law.

For high-level officials?

Formal or legal position

Yes, the Code of Ethics requires disclosure.

What actually happens

Cabinet Ministers and members of boards and commissions do report their assets annually.

Are there any differences in procedures and disclosure provisions between elected ministers, appointed ministers and high-level officials?

Formal or legal position

There are no significant differences in procedures for disclosure.

Are there conflict of interest rules?

For ministers?

Formal or legal position

Yes, the Code of Ethics and The Government Procurement Act, 40 PNCA.

What actually happens

The Special Prosecutor has filed numerous cases using the conflict of interest clause of the Code of Ethics Act.

For high-level officials?

Formal or legal position

Yes

What actually happens

Congressmen and local government officials have been prosecuted.

**Are there rules and registers concerning gifts and hospitality?
For ministers?**

Formal or legal position

Yes the 'Conflict of Interest' clause in the Code of Ethics, 33 PNCA, section 604.

What actually happens

This is a difficult area because the President and Vice President are expected to reciprocate hospitality and gift giving when attending government to government functions, especially state visits. If gifts exchanged are not substantially disproportionate in value, it is understood to be acceptable according to the law.

**If so, are these registers kept up to date?
By whom?**

Palau law does not require the keeping of registers for gifts or hospitality.

Are members of the executive obliged by law to give reasons for their decisions?

Formal or legal position

Yes, especially with regards to budget making.

What actually happens

Sessions of the National Congress are televised. The President has a weekly press conference and Palau's two newspapers report regularly on Government activities. Also, talkback radio host Alfonso Diaz frequently discusses Government doings.

Do Ministers or equivalent high-level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases?

Formal or legal position

Yes

What actually happens

Ministers and Bureau Chiefs normally work closely together on the letting of contracts, especially multimillion dollar ones.

Is this power limited to special circumstances?

Formal or legal position

No. See Government Procurement Act, 40 PNCA.

What actually happens

Ordinary contract awards and licensing cases are generally open and free of any favouritism.

Are there administrative checks and balances on decisions of individual members of the executive?

Formal or legal position

Yes, the Constitution of the Republic of Palau, the Code of Ethics Act, and the Government Procurement Act provide such checks and balances.

What actually happens

The Palau National Government bureaucracy is relatively small and areas of responsibility are clearly delineated. Serious irregularities or corruption cannot be hidden for very long. The National Congress and the President's office normally watch each other fairly closely. They are highly competitive.

Legislature

Is the legislature required to approve the budget?

Formal or legal position

Yes

What actually happens

The Executive and Congress work separately on the budget. In both 2003 and 2004 the Congress added unacceptable riders to the Budget Act such as the effort in 2003 to render the Special Prosecutor impotent, and in 2004 to not fund the Minister of Justice position. These kinds of disputes take long hours of negotiations to solve. The President has even resorted to filing court suits against Congress for encroaching on his executive powers.

Are there significant categories of public expenditure that do not require legislative approval? (Which departments does this involve, what is their expenditure and what per cent does this represent of the government's annual expenditure?)

Formal or legal position

No

What actually happens

All categories of public expenditure must, by law, be included in the national budget that is proposed by the President and approved by the National Congress (25 members in two houses). Government officials can be held responsible for expending funds without authorisation.

Are there conflict of interest rules for parliamentarians?

Formal or legal position

Yes

What actually happens

The Code of Ethics has been used numerous times by the Special Prosecutor to file charges against Congressmen and local government officials regarding violations.

Are there rules and registers concerning gifts and hospitality for parliamentarians?

Formal or legal position

Yes, there are rules

What actually happens

There are only rules contained in the Code of Ethics regarding gifts or other items of monetary value.

If so, are these registers kept up to date? By whom?

Formal or legal position

Palau law does not require the keeping of registers.

Have they legal powers to enforce disclosure?

Formal or legal position

Yes

What actually happens

When a rule violation is reported to the Special Prosecutor, he can begin an investigation?

Have they staff to investigate allegations?

Formal or legal position

Yes

What actually happens

The Special Prosecutor has a trained and experienced two-person investigative staff.

What powers of sanction are in place against parliamentarians?

Formal or legal position

The sanctions are the Code of Ethics Act, and the Government Procurement law.

What actually happens

The Special Prosecutor has sued all Palau's Congressmen for misuse of public funds. He has also sued several local government officials and a high-level member of the President's staff.

Have they ever been invoked?

Formal or legal position

Yes

What actually happens

Congressmen and local government officers have been successfully prosecuted, fined and spent time in jail. Others have settled out of court.

Are there restrictions on post-legislature employment?

Formal or legal position

Yes

What actually happens

Informants were sceptical about whether or not the two-year restriction was or has been enforced. The rule states that Congressmen are prohibited for two years from being employed by any commission, board or agency created when they were in office.

Elections

Is there an independent Electoral Commission (if not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)?

Formal or legal position

Yes

What actually happens

Palau's Election Commission is not independent but its members have consistently been non-partisan.

Who appoints the Head of the Commission?

Formal or legal position

The President of Palau appoints five members of the Election Commission with the advice and consent of the Senate. Members may be removed from office with cause. If any member chooses to run for any elective office, he/she must resign immediately. The term of office is four years (23 PNCA, section 1201).

What actually happens

What is stated above actually happens.

Political Party Funding

The Republic of Palau does not have political parties at the present time.

Supreme Audit Institution

**Is the national Auditor General independent?
That is, is the appointment of the general auditor required to be based on professional criteria/merit?**

Formal or legal position

Yes

What actually happens

Palau's Public Auditor (PA) is independent and must, by law, be a certified public accountant or have served as acting Public Auditor for three years or more and have a minimum of ten years experience in accounting or governmental finance, 40 PNCA, sections 221, 222. The term of office is six years.

Is the appointee protected from removal without relevant justification?

Formal or legal position

Yes

What actually happens

By law, the Public Auditor may be removed only for cause and by the affirmative vote of two-thirds of the members of each house of the National Congress. The National Congress attempted to remove Mr. Kinchen, Palau's Public Auditor 1990-96, on three occasions. Each time they failed.

Is the office of Auditor General adequately resourced?

Formal or legal position

Yes

What actually happens

Generally speaking, the PA's office is sufficiently staffed. In September 2003, the Public Auditor had a staff of six auditors. He stated that he needed a few more auditors. His office space appeared adequate.

Are all public expenditures audited annually?

Formal or legal position

Yes

What actually happens

Palau's PA has a rigorous schedule of audits.

Is reporting up to date?

Formal or legal position

Yes

What actually happens

The PA reported that he was up to date in his work.

Are reports submitted to a Public Accounts Committee and/or debated by the legislature?

Formal or legal position

Yes

What actually happens

The National Congress receives copies of all the audits. They normally do not debate them unless there are some major irregularities.

Are they acted on by the government?

Formal or legal position

Yes

What actually happens

Copies of all audits are regularly forwarded to the President of Palau, the presiding officers of the National Congress, the Special Prosecutor, the chairmen of the appropriate Ways and Means Committees in the National Congress and other relevant Congressional committees.

Are all public expenditures declared in the official budget?

Formal or legal position

Yes

What actually happens

The Government of Palau uses a centralised computerised accounting system. The Public Auditor has total authority to subpoena any records he may need if he suspects any impropriety.

Judiciary

Have the courts the jurisdiction to review the actions of the executive (that is, Presidency, the Prime Minister or other ministers and their officials)?

Formal or legal position

Yes

What actually happens

Palau's courts have very broad authority and can issue advisory opinions as well as definitive decisions in both civil and criminal cases. The Palau court system consists of a Supreme Court, National Court and Court of Common Pleas (see Palau Constitution and 4 PNCA, Title 4, Judiciary). Court review occurs when a court suit is filed.

Are judges/investigative magistrates independent? That is, are appointments required to be based on merit?

Formal or legal position

Yes

Are the appointees protected from removal without relevant justification?

Formal or legal position

Yes. See the Constitution of the Republic of Palau, Article X, Judiciary, sections 9 and 10.

What actually happens

Palau's judiciary is strong and enjoys a very positive reputation. The Judicial Nominating Commission reviews candidates and presents them to the President for action. This system has worked well and Palau has a good mix of Palauan and US mainland judges

Are recruitment and career development based on merit?

Formal or legal position

Yes

What actually happens

New judges receive good training on the job and periodically attend enrichment conferences and meetings. Also, their older colleagues mentor them.

Have there been instances of successful prosecutions of corrupt senior officials in the past three years?

Formal or legal position

Yes

What actually happens

All of the National Congress, a high official in the executive, and numerous police officers have faced corruption charges and have either settled out of court or have been prosecuted and faced fines or gone to jail.

Civil Service

Are there laws establishing criminal and administrative sanctions for bribery?

Formal or legal position

Yes

What actually happens

There have not been any recent cases of bribery.

Are there rules requiring political independence of the civil service?

Formal or legal position

Yes

What actually happens

Palauans take their politics very seriously and do not engage in campaigning or fund raising during work hours.

Are recruitment / career development rules based on merit?

Formal or legal position

Yes

What actually happens

Generally, college graduates get hired first. For the most part, career development is based on merit, although there have been cases of favouritism based on social rank (high clan/low clan).

Are there specific rules to prevent nepotism? Cronyism? (Note: rules discriminating positively in favour of marginalised or minority groups are not included in this description).

Formal or legal position

Yes

What actually happens

There appears to be one rule prohibiting cronyism/favouritism in the Code of Ethics (33 PNCA, section 604). Regarding nepotism, The Public Service System Rules and Regulations, 1996, states, 'First degree sanguinity is hereby prohibited in cases of direct supervisor/subordinate relationship.' However, in a small-scale society such as Palau, complaints of favouritism based on family and clan connections seem inevitable.

Are there rules and registers concerning acceptance of gifts and hospitality?

Formal or legal position

The Code of Ethics Act contains a rule regarding gifts.

What actually happens

The Palau Code of Ethics has weak rules regarding gifts and other items of monetary value. There is no requirement for the keeping of registers. This is an apparent weakness.

Are there restrictions on post-public service employment?

Formal or legal position

Yes

What actually happens

There is a restriction of two years, which is normally observed.

Are procedures and criteria for administrative decisions published (for example for granting permits, licences, bank loans, building plots, tax assessments, and so on)?

Formal or legal position

Yes

What actually happens

Palau is a small-scale society of about 20,000 people. Many ordinary administrative matters are common knowledge. In 1996, the Government published rules and regulations for the Public Service System, however, people still rely on word-of-mouth regarding these types of administrative matters.

Are there complaint mechanisms for public servants and whistleblower protection measures?

Formal or legal position

Yes

What actually happens

Citizens can complain to the Special Prosecutor, the Public Auditor, their Congressman, the press, or to radio personality Alfonso Diaz or newspaper columnist Santy Asanuma. Both Diaz and Asanuma function as 'whistleblowers' in Palauan society.

Are there means for complaints by members of the public?

Formal or legal position

Yes

What actually happens

Members of the public are generally not inhibited from complaining to the Special Prosecutor, the Public Auditor, their Congressman, the press, or radio personality Alfonso Diaz or newspaper columnist Santy Asanuma. Asanuma and Diaz function as social critics in Palauan society.

Are there administrative checks and balances on decisions of individual public officials?

Formal or legal position

Yes

What actually happens

Decisions of individual public officials can be and are checked to the extent of sanction by court suits filed by the Special Prosecutor or Public Auditor or an individual. Palauans are normally not afraid to write letters, send faxes or call radio personality Alfonso Diaz.

Police And Prosecutors

Is the commissioner of police independent? That is, are appointments required to be based on merit?

Formal or legal position

Yes

What actually happens

The Director of Public Safety who retired in September 2003 was minimally qualified.

Is the appointee protected from removal without relevant justification?

Formal or legal position

Yes

What actually happens

The Public Service System Rules and Regulations contain a disciplinary action section and a system to appeal or challenge the disciplinary action of a supervisor.

Are public prosecutors independent?

Formal or legal position

Yes

What actually happens

Palau's Special Prosecutor is totally independent. His position is a high-profile one and he often receives undeserved criticism from officials he has begun actions against.

Are there special units for investigating and prosecuting corruption crimes?

Formal or legal position

Yes

What actually happens

The Special Prosecutor and his staff of two police officers and two secretaries is such a unit. Also, the Attorney General's Office has seven attorneys/prosecutors and two police officer/investigators. Neither the AG's office nor the President's office can interfere into the work of the Special Prosecutor.

Is there an independent mechanism to handle complaints of corruption against the police?

Formal or legal position

Yes

What actually happens

The Special Prosecutor maintains an open door and receives information by phone, in writing, or sometimes in person. Also, the seven-person Police Practices Committee was established by the Bureau of Public Safety to examine any in-house allegations of wrongdoing. Further, the Minister of Justice functions in a watchdog role with respect to policemen.

Does civil society have a role in such a mechanism?

Formal or legal position

No

What actually happens

With a small population of 20,000, Palau has no civil society to speak of. The Palau Rotary Club, Ekai Club and Chamber of Commerce do not actively concern themselves with allegations of corruption.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Formal or legal position

Yes

What actually happens

At least 15 officers have been terminated, two are in jail, and 30–40 have been suspended for various lengths of time.

Are there any cases of corruption within the prosecuting agencies?

Formal or legal position

No

What actually happens

At the present time, there are no cases of corruption within the Ministry of Justice or Office of the Special Prosecutor

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery?

Formal or legal position

There are various statutes.

What actually happens

The bribery and misconduct in office statute, the witness tampering statute, the conspiracy and forgery statute, and the Code of Ethics Act have all been used in the last three–four years to carry out prosecutions that have led to convictions or out of court settlements.

Is private-to-private corruption punishable by law?

Formal or legal position

Yes

What actually happens

Title 17 of the PNCA has been used for actions such as larceny, larceny after the fact, cheating and embezzlement.

Is the law applied?

Formal or legal position

Yes, absolutely.

**How many cases of prosecution have been undertaken? How many have been successful?
If the number is low, are there other effective measures or other good reasons why the number is low?**

Formal or legal position

The Special Prosecutor investigates all allegations of corruption in the public sector.

What actually happens

At least 30 cases of corruption have been processed and completed with convictions. This has involved misconduct in office for police officers, abuse of travel funds by Congressmen, and, in 2003, assault and battery by one of Palau's two traditional high chiefs.

Public Procurement

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Formal or legal position

Yes

What actually happens

According to the Government's procurement rules and regulations and the Government procurement law, bidding is required for all major procurements.

Are the rules laid down in documents publicly accessible?

Formal or legal position

Yes

What actually happens

Government officers generally follow the procurement rules.

Are there strict formal requirements that limit the extent of sole sourcing?

Yes

What actually happens?

These requirements are generally followed.

Are all major public procurements widely advertised to the private sector?

Formal or legal position

Yes

What actually happens

Both of Palau's newspapers advertise requests for proposals and bids.

Are procurement decisions made public?

Formal or legal position

Yes

What actually happens

Again, the newspapers in Palau make procurement decisions public. Large procurements are announced on the radio and television.

Is there a procedure to request review of procurement decisions?

Formal or legal position

Yes

What actually happens

Violations of the procurement rules have been reported to the Special Prosecutor who is obligated to investigate.

Can an unfavourable decision be reviewed in a court of law?

Formal or legal position

Yes. A vendor who has lost a bid can file suit for an alleged violation of the Procurement Law, 40 PNCA, Chapter 6.

What actually happens

There have been no recent cases of this type.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

Formal or legal position

No

What actually happens

The Ministry of Finance is now working on provisions for the blacklisting of companies that have demonstrated dishonesty.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Formal or legal position

Yes

What actually happens

The Code of Ethics covers all Government employees and contains a conflict of interest provision. Also, the Republic of Palau Procurement Law contains sections on conflict of

interest, disclosure requirements, kickbacks and gratuities prohibitions, and collusion by bidders prohibition.

Are assets, incomes and life styles of public procurement officers monitored?

Formal or legal position

Yes

What actually happens

The Public Auditor has the authority to carry out such monitoring if there is an allegation or reason to do so. Also, the public procurement officers are high public officials who must disclose their assets annually. There have been no flagrant violations at the National Government level for many years. However, the SP successfully prosecuted a State Governor and has a case pending against another state government for obtaining legal services contrary to Palau’s procurement law.

Ombudsman

Is there an ombudsman or its equivalent (that is, an independent body to which citizens can make complaints about maladministration)?

Formal or legal position

Palau has never had nor does it now have an Ombudsman.

Investigative/Watchdog Agencies

Are there special investigative or watchdog agencies?

Formal or legal position

Yes

What actually happens

The Public Auditor (PA) and the Special Prosecutor (SP) are the Government’s watchdogs. The private sector has talkback radio personality Alfonso Diaz, who sometimes functions as a watchdog, in the sense that he exposes wrongdoing.

What are their main responsibilities?

What actually happens

Generally, both the PA and SP carry out investigations. The SP carries out prosecution. Prevention, education and awareness are normally not on the agenda of these two offices, although the SP has said that he hopes his work will raise people’s awareness of what constitutes corruption.

Are they independent? That is, are appointments required to be based on merit? Are appointments generally based on merit?

Formal or legal position

Yes

What actually happens

Both the PA and SP are totally independent and that status is respected. However, the Congressmen do not hesitate to criticise both offices and have attempted to render the SP powerless. That first effort failed, but the Congress has mounted another effort that is on going at the present time. In response, the SP has filed a suit against the Congress.

Are the appointees protected from removal without relevant justification?

Formal or legal position

Yes

What actually happens

The PA has a term of six years and the SP has a term of five years. The PA from 1990–96 survived three attempts at impeachment by the Congress. Although some Congressmen have criticised the present SP, Mr. Walton, he enjoys wide public support.

Are they adequately resourced?

Formal or legal position

Almost

What actually happens

The SP stated that he needs a larger budget for an additional attorney and a third investigator/policeman. The PA, in the main, is adequately resourced, but he said he could use one more auditor.

Are their reports published (other than when criminal charges are pending)?

Formal or legal position

Yes

What actually happens

Both the PA and SP are very good at completing and distributing their reports.

Are they acted on by the government?

Formal or legal position

Yes

What actually happens

Action by the Government on the reports of the PA and SP take place when there are major cases of wrongdoing or questionable activity.

Do they report publicly to the legislature on the general scope of their work?

Formal or legal position

Yes

What actually happens

Both the PA and SP will publicly report on the activities of their offices if invited to do so by the National Congress.

Can people complain to the agency without fear of recrimination?

Formal or legal position

Yes, absolutely.

What actually happens

That's the way the SP does his business. People can maintain their anonymity. The SP receives tips via fax, email, letters and sometimes phone calls. He enjoys wide public support. The PA is required by law to protect the identity of whistleblowers.

Media

Is there a law guaranteeing freedom of speech and of the press?

Formal or legal position

Yes

What actually happens

This is a right guaranteed by the Constitution of the Republic of Palau and it is well respected by the National Government. Palauans are not afraid to file suit against any Government official who they believe is violating their constitutional rights.

Is there censorship of the media?

Formal or legal position

No

What actually happens

Interestingly, some Government leaders from time to time seek out the press in order to get stories of petty corruption or other forms of irregularity out to the public. There has never been any form of censorship of the press.

Is there a spread of media ownership?

Formal or legal position

Yes

What actually happens

Palau has one Government radio station; one private music station; local whistleblower Alfonso Diaz and his radio station (private); and two church radio stations.

Does any publicly owned media regularly cover the views of government critics?

Formal or legal position

Yes

What actually happens

The Government radio station Eco-Paradise regularly reports Government news and every Wednesday at 9AM President Remengesau meets with the press for questions and answers. Criticism on Eco-Paradise is generally indirect.

Have journalists investigating cases of corruption been physically harmed in the last five years?

Formal or legal position

No

What actually happens

Although not physically harmed, outspoken radio personality Alfonso Diaz had, over the years of his broadcasting, three of his cars burned, one after another. In each case, a wealthy individual came forward to present a new vehicle to Diaz.

Does the media carry articles on corruption?

Formal or legal position

Yes

What actually happens

Tia Belau News, the *Palau Horizon* and radio talk show host Alfonso Diaz regularly report on allegations and convictions of corruption.

Do media licensing authorities use transparent, independent and competitive criteria and procedures?

Formal or legal position

Yes

What actually happens

Any attempt to restrict the media would be stopped dead in its tracks. Palauans protect media freedom with a passion. For licensing, all that is necessary is for a business to apply for a license costing \$50. The process is transparent and simple.

Are libel laws or other sanctions (for example withdrawing of state advertising) used to restrict reporting of corruption?

Formal or legal position

No

What actually happens

Palau's media is open and free and has never experienced any type of restriction or sanction.

Civil Society

Does the public have access to information and documents from public authorities?

Formal or legal position

Information access is a constitutional right: 'A citizen has the right to examine any government document and to observe the official deliberations of any agency of government.'

What actually happens

Access is not all that easy. Unless you go after certain information you need, Government officials will not make it available as a normal course of business.

Do the public authorities generally co-operate with civil society groups?

Formal or legal position

According to the constitutional right noted above, authorities are required to cooperate.

What actually happens

Sometimes authorities assist, and sometimes they do not. Often bureaucratic roadblocks are put up and it is sometimes difficult to get documents. This researcher attempted to get a list of 'front businesses' from an executive branch office, and delays served as a roadblock.

Are there citizen's groups or business groups campaigning against corruption?

Formal or legal position

The Constitution of Palau allows people to peacefully assemble and petition the Government.

What actually happens

Generally speaking, citizens and business groups are not lobbying against corruption. Palau does not yet have civil society groups.

Are there citizen's groups monitoring the government's performance in areas of service delivery, and so on?

Formal or legal position

No

What actually happens

Nothing is being done in this area.

Do citizen's groups regularly make submissions to the legislature on proposed legislation?

Formal or legal position

The Constitution provides the right for a person to petition the Government for redress of grievances.

What actually happens

Some Congressmen complain that few, if any, citizens turn out for public hearings on proposed legislation. On the other hand, citizens living in the rural areas complain that their Congressmen rarely, if ever, visit these areas. Some citizens charge that Congressmen are so busy doing their private business in Koror that they do not make time for the people who put them into office. The Congressmen are labelled as irresponsible and as not behaving as public servants.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

What actually happens

Generally, Palau’s public and private schools are not expected to consider integrity issues as a normal part of the curriculum.

Traditional Organisations

To what extent are traditional organisations, such as councils of chiefs, subject to the National Integrity System? And to what extent are they part of the National Integrity System?

What actually happens

In most cases, traditional leaders in Palau are subject to all laws. If they are members of Government or their state legislature and have authority to approve budgets and spend money, they are fully responsible to obey the laws of Palau, particularly the Code Of Ethics and the Procurement Law.

Is their funding and staffing subject to external review and audit?

Formal or legal position

Yes, if the funding comes from the National Government.

What actually happens

However, some chiefs are not part of the Government. Therefore, audits and reviews would not be applied to their affairs.

To what extent are they part of the part of the NIS controlling corruption in other bodies?

Formal or legal position

According to the Constitution of Palau, the Council of Chiefs ‘shall advise the President on matters concerning traditional laws, customs and their relationship to the Constitution and the laws of Palau.’

What actually happens

Traditional chiefs in Palau are not part of the NIS controlling corruption in government bodies. However, Palau’s traditional system has inherent, unwritten mechanisms for paying debts, making up for financial shortages and solving problems—personal or financial. These mechanisms operate at the village (state) level rather than at the national level and are effective.

What anti corruption measures, formal or informal, do they apply to their own members?

Formal or legal position

Chiefs by tradition are exemplars of important community values. Prior to extensive Western contact, bad chiefs were deposed and sometimes assassinated.

What actually happens

The Palauan traditional system has informal, unwritten but understood means for dealing with wrongdoing. These are understood mores and values. However, some chiefs today do not live up to or pay attention to unwritten standards. There is no external enforcement agency and lower chiefs cannot question the doings of higher chiefs. However, bad chiefs can be subjected to the court of public opinion. Recently, a chief found guilty of assault and battery was saved from going to jail by a letter writing and lobbying campaign mounted by his friends. In this case, the silent majority remained silent. Only one lawmaker spoke out against the perceived favouritism shown to the chief. The Minister of Justice maintained, however, that all laws were followed in the commutation of the chief's sentence.

To what extent are their deliberations and decisions open to the public, and the media?

Formal or legal position

Traditionally, Chiefs meetings were closed, however, they would inform their people of all important village decisions.

What actually happens

The national meetings of Palauan women's groups are open and public. For the official Council of Chiefs, each chief is expected to take the responsibility to inform his people as needed. Important decisions of the chiefs are normally published in the *Tia Belau News*.

Private Sector and NGOs

What measures have private companies adopted to reduce corruption within their own activities?

What actually happens

Private companies in Palau have not publicly announced any measures to reduce corruption in their activities. All private companies in Palau have mechanisms to deal with petty corruption.

What measures have private companies, or Chambers of Commerce, adopted to discourage their members from corrupting public officials?

Formal or legal position

Palau's Code of Ethics Act and the Procurement Law prohibit such activities.

What actually happens

There have not been any obvious efforts in this area by private firms or the Palau Chamber of Commerce. In cases of suspected corruption, quiet sanctions are generally effective in Palau. In the 1980s, a Congressman allegedly took a bribe from a foreign company. His colleagues expelled him after the facts became known. However the expelled person

appealed the action in a court suit, which he won, based on the denial of due process. The issue became moot when the Congressman lost in the next election. However, he kept the bribe.

What has the impact of privatisation and outsourcing and increased use of NGOs in service delivery been on opportunities for corruption, and the control of corruption?

To date, privatisation, outsourcing, and use of NGOs in service delivery have not taken place in the Republic of Palau.

What measures have NGOs or peak bodies adopted to reduce opportunities for corruption in their own activities?

What actually happens

Palau has only two or three NGOs that are mainly concerned with environmental issues. The major mechanism used to reduce chances of corruption is the financial audit.

What measures have churches adopted to reduce opportunities for corruption in their own activities?

Formal or legal position

Currently, opportunities for corruption in Palau's churches appear to be minimal.

What actually happens

The Catholic Church is the largest church in Palau and the bishop has recently created a Finance Committee to serve as a steward of the church's resources. The committee consists of five lay people who have the reputation as upstanding and honest church members. With the exception of the Palau Evangelical Church and the Seventh day Adventist Church, the other churches in Palau are rather poor and do not present opportunities for corruption.

Regional And Local Government

Are there, at regional and local level, rules and disclosure provisions similar to those operating at national level on nepotism, conflict of interest, gifts and hospitality, and post-public office employment?

Formal or legal position

No

What actually happens

If local officials, whether elected or traditional, handle money or make decisions regarding funding from the National Government, they are subject to the laws of Palau and the Code of Ethics. In the past few years, State Governors and legislators have been prosecuted for misconduct in office.

What public offices at regional and local level are appointed by the national government?

What actually happens

The National Government does not appoint any of the local level officials. The people of state elect such officials.

Is there a legal requirement that meetings of city/town councils be open to the press and public?

Formal or legal position

A fundamental freedom established in the Republic of Palau Constitution, Article IV states, 'The government shall take no action to deny or impair the freedom of expression or press. No bona fide reporter may be required by the government to divulge or be jailed for refusal to divulge information obtained in the course of a professional investigation.'

What actually happens

This right is widely respected in Palau. The press and public have not experienced any restriction in access.

Are there clear criteria restricting the circumstances in which city/town councils can exclude the press and public?

Formal or legal position

No criteria of this type exist in Palau.

What actually happens

There are no such criteria for restrictions. Palau's strong media would not tolerate such criteria being put in place.

Do national agencies with a remit to deal with corruption (anti-corruption agencies, ombudsmen, supreme audit institutions, and so on) work at regional or local levels and are there specific agencies with regional and local responsibilities?

Formal or legal position

Yes

What actually happens

Because local legislatures receive block grants of monies from the National Government, the Public Auditor and Special Prosecutor can investigate allegations of corruption and take legal action when warranted. Palau is not large enough to have specific anti-corruption agencies at the local (state) level.

Progress With Government Anti-Corruption Strategy

Has the government announced an anti-corruption strategy and a timetable for implementation?

Formal or legal position

No

What actually happens

The Office of Special Prosecutor is unique in the Pacific and is not seen even in many parts of the United States. The Constitution of Palau requires the office of Public Auditor. The United States supported the creation of both offices during the final stages of compact of free association negotiations.

How much of the strategy has been implemented?

What actually happens

The Special Prosecutor by law has broad powers of investigation as does the Public Auditor. Both offices enjoy wide public support. Moreover, Palau has a strong judiciary. Further, the Code of Ethics Act, the Procurement law, the performance-based budget system, and the law requiring agency heads to be personally responsible for any funding beyond what was specifically certified are all measures Palau has put into effect.

Is the strategy at the national level or regional/local level?

What actually happens

Palau's Special Prosecutor and Public Auditor operate at both the national and local levels. Laws apply to local level officials when those officials are expending public funds

Is the government meeting its own timetable?

Yes

Donor Anti-Corruption Initiatives

Which bilateral and multilateral donor agencies are based in the country?

There are no such agencies in Palau at the present time.

What types of anti-corruption initiatives have they supported?

There are none.

Are there any examples of donors cooperating or coordinating their programmes?

No

Future Research And Donor Support

Can key areas or issues be identified in terms of corrupt activity that the research for the report has demonstrated as requiring immediate attention, and which are they?

For the Republic of Palau, there are no corrupt activities that need immediate attention.

Is there a particular aspect of corrupt activity either particular to the country concerned, or significant in terms of effect or impact, that would require more in-depth research?

Yes, the issue of petty corruption within the civil service could be researched and recommendations made to President Remengesau. Also, the sensitive issue of corruption within Koror's traditional elite clan men's clubs could be further examined through careful research.

Is there a particular approach or initiative to combating corruption that may be considered for further research or study as an example of best practice?

Yes, Palau's Office of Special Prosecutor (OSP) has been very effective. Generally speaking, the person holding the prosecutor position is most effective if he/she is from off-island. Off-island prosecutors are not subject to subtle pressures from old friends, relatives, parents, or spouses and are able to do their work with a good degree of impartiality. Palau's OSP ought to be considered an example of best practice.

Can key areas or issues relating to possible anti-corruption initiatives be identified as requiring donor support?

The offices of the Special Prosecutor and Public Auditor are critical to Palau's anti-corruption strategy. Both offices operate on tight resource budgets. Donor support could strengthen these anti-corruption initiatives. However, under no circumstances should donor funds supplant country funds.

Can key areas or issues relating to anti-corruption initiatives be identified in terms of forming the basis for potential donor prioritisation, sequencing, cooperation and coordination?

N/A

Appendix 2 – References

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Republic of Palau. Voting Rights Act, 23 PNCA, section 101.

Republic of Palau. Code of Ethics Act, 33 PNCA, section 601.

Republic of Palau. Public Auditor, 40 PNCA, section 203.

Republic of Palau. Government Procurement, 40 PNCA, section 601.

Tia Belau News. Weekly, Koror.

Appendix 3 – Interviewees

Anastacio, Ignacio. Former Speaker and Member, House of Delegates, OEK, Republic of Palau (ROP), private businessman

Asanuma, Santy S. CEO, Masami Asanuma Enterprise

Decherong, Gunagand Semidu. Executive Commissioner, Financial Institution Commission, ROP

Koshiba, Jonathan. Former Senior Land Claims Hearing Officer, ROP

Ngirmang, Raphael Bao. High Chief Reklai

Pedro, Lorenza. Retired teacher

Pierantozzi, Sandra S. Vice President, ROP

Remengesau, Jr., Tommy E. President, ROP

Rosenthal, Michael J. Minister of Justice, ROP

Sadang, Elebuchel. Minister of Finance, ROP

Tellei, Patrick Ubal. President, Palau Community College, ROP

Tewid, Satrunino. Public Auditor, ROP

Tmetuchl, Perpetua. Businesswoman

Toribiong, Johnson. Attorney in private practice

Ueki, Minoru F. Retired medical doctor

Uludong, Moses. Publisher, *Tia Belau News*

Walton, Everett. Special Prosecutor, ROP

Whipps, Surangel S. Senator, OEK, ROP