

PALAU 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Palau is a constitutional republic. Voters elect the president, vice president, and members of the legislature (the Olbiil Era Kelulau) for four-year terms. On November 6, voters elected Senator Tommy E. Remengasau Jr. president in generally free and fair elections. Security forces reported to civilian authorities.

The most significant human rights problems in the country occurred in the areas of government corruption and discrimination against and abuse of foreign workers.

Other human rights problems that occurred during the year were domestic violence and trafficking in persons.

The government took steps to prosecute officials who committed abuses. Impunity was not a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

In separate incidents, two detainees were attacked by other prisoners. One was severely injured and hospitalized. The detainees alleged that the police purposely left a door open so that other prisoners could beat the detainees. A lawyer for one of the detainees continued to investigate, but there was no government investigation into the incident.

Prison and Detention Center Conditions

Conditions in the country's sole prison, although Spartan, generally met international standards. The government permitted visits by independent human rights observers; however, no visits were requested or made during the year.

Physical Conditions: There were 62 prisoners, including two women and one juvenile. The female prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours. Prison conditions for female inmates were the same as for male prisoners.

There were no deaths in prison. Prisoners had access to potable water. Overcrowding remained a problem.

Administration: Officials took measures to alleviate overcrowding through a work-release program and other programs allowing prisoners to take academic courses at a local community college; provided separate confinement for juveniles; and had established procedures for recordkeeping. The government has an ombudsman. Prisoners and detainees could raise problems through the Office of the Ombudsman, private attorneys, or court-appointed attorneys. Prisoners had access to visitors and could observe their religious practices. They could file complaints, and authorities investigated allegations of mistreatment.

Monitoring: Authorities monitored prison conditions. No independent nongovernmental observers requested access to prisons during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The civilian authorities maintained effective control over the national police and marine police in Koror and Peleliu states, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

The law requires warrants for arrests. Warrants are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, a requirement that authorities observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

A person arrested has the right to remain silent and to speak to and be visited by counsel, a family member, or his employer. Those arrested must be released or charged within 24 hours and must be informed of the preceding rights.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The government has an independent public defender system.

Trials are public and are conducted by judges; certain crimes warrant jury trial. Defendants enjoy a presumption of innocence. Defendants also enjoy the right to be informed promptly and in detail of charges, to a fair and public trial without delay, to consult with an attorney of choice, and to adequate time and facilities to prepare a defense. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases. They cannot be compelled to testify or confess guilt, and they have the right to appeal. The law extends these rights to all defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters for lawsuits involving allegations of human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:**a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and press.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Internet access was available around Palau through the Palau National Communications Corporation and at many Internet cafes. Although home service could be expensive, the price for service at Internet cafes allowed most citizens to have access.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: On November 6, in generally free and fair elections, Senator Tommy E. Remengasau Jr. was elected president, and former congressperson Antonio Bells was elected vice president. Although there were no political parties in the country, a bloc in the Senate that included and supported Remengasau and called itself "the minority" gained majority status. Only seven of the 16 members of the House of Delegates won reelection.

Participation of Women and Minorities: There are no legal impediments to women's participation in government and politics. There are two women senators. Women constituted 16 percent of state legislators. Five women served as state governors during the year. Two female associate justices served on the Supreme Court, and four of the country's nine judges were women. One woman serves as the attorney general and one as minister (cabinet member).

There were two members of minorities in the House of Delegates.

Section 4. Corruption and Lack of Transparency in Government

Government corruption was a problem, which the government took some steps to address. The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity.

Elected and some appointed public officials and public office candidates were required to file annual financial disclosure statements and applicable campaign statements with the ethics commission. There are administrative and criminal sanctions for noncompliance.

The Office of the Special Prosecutor and the Office of the Public Auditor are responsible for combating government corruption. The special prosecutor position has been vacant since 2010.

The law provides for the right of citizens and noncitizens, including foreign media, to examine government documents and observe official deliberations of any government agency. However, aside from the national level, government workers were hesitant to release information. In general the national government responded in a timely manner to requests, and fees were imposed only for copying information. Although there was no set list of information proscribed from release, in some cases government workers declined to release information without explanation. There were no criminal or administrative penalties for noncompliance.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international groups concerned with human rights generally operated without government restriction, investigating and publishing their findings on human rights cases.

There were no visits by UN representatives or other international governmental organizations. There were no reports by international groups on human rights violations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally observed these provisions.

Women

Rape and Domestic Violence: Rape, including spousal rape, is a crime punishable by a maximum of 25 years' imprisonment. During the year there was no reported case of rape. There are no laws on domestic violence. Cases that would be characterized as domestic violence are prosecuted as assault and battery. Alcohol and drug abuse contributed to violence and crime against women and children. According to the Office of the Attorney General, the Ministry of Health, and women's groups, reported cases of women and children as victims of crimes represented a relatively small percentage of cases of actual abuse. Assault is a criminal offense, punishable by up to six months in jail or a fine of up to \$100 (the U.S. dollar is the official currency), and the police responded when such cases were reported; women, however, were reluctant to press charges against their spouses. There were no shelters for victims. The government conducted public education efforts to combat abuse against women and children.

Sexual Harassment: Sexual harassment is illegal. In June Senator Hokkons Baules began serving a 90-day jail sentence for charges of criminal assault and battery, and verbal and sexual assault. Three years of his jail sentence were suspended. He was ordered to pay fines and restitutions and complete two years' probation after being released from jail. He was convicted for assaulting Filipina waitresses working at his restaurant.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care, were widely available at the government's Belau National Hospital. Belau National Hospital, private clinics, and department stores provided contraceptive products. According to the government, the maternal mortality rate was reported to be at zero in 2011.

Discrimination: Women have the same legal rights as men. The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or gender-related job discrimination. There are laws protecting women from job discrimination and providing for equal pay for equal

work. The Bureau of Aging and Gender, under the Ministry of Community and Cultural Affairs, promotes gender workplace equality.

A local women's group held an annual conference on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the president, vice president, ministers, and traditional chiefs, participated.

Children

Birth Registration: Citizenship is derived from one's parents. A child born to foreign national parents is registered as a citizen of those countries. Births are registered immediately, and there were no reports of failure to register.

Child Abuse: Children's rights generally were respected, although there were isolated reports of child neglect. Law enforcement officers including the Office of Victims of Crime aggressively investigated and prosecuted cases of violence against children.

The Office of Victims of Crimes, under the Ministry of Health's Office on Social Health, deals with women, children, and men who are victims of crimes. The Office of Victims of Crimes reported that most violence or abuse against children happened in the home and generally involved members of the family. The Office of Victims of Crimes worked closely with the law enforcement officers and the Office of the Attorney General on cases involving children.

Child Marriage: Citizens may marry after age 16, but they must obtain their parents' permission until the age of 18. Although there are no statistics available on under-18 marriages, the attorney general and a senator who leads the nongovernmental organization NGO Women's Group both reported that underage marriage is not an issue in the country.

Sexual Exploitation of Children: There are no laws on commercial sexual exploitation of children. There were no reports of children under age 18 engaging in prostitution. Commercial sexual exploitation of children is not a problem, and there were no reported cases.

The age of consensual sex is 16, and the penalty for statutory rape is not more than five years' jail term. The law does not specifically address child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were no reports of anti-Semitic acts. There were reportedly less than a dozen members of the Jewish community.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical or mental disabilities. The Disabled Persons' Antidiscrimination Act and the Programs and Services for Handicapped Children Act cover persons with mental disabilities and persons with physical disabilities, and the government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The government provides a monthly stipend of \$50 for persons with disabilities. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. Public schools had special education programs to address problems encountered by persons with disabilities.

National/Racial/Ethnic Minorities

The law prohibits noncitizens from purchasing land or obtaining citizenship. The only legal mechanism to obtain citizenship is by blood, meaning that one of the parents must be Palauan. Children born to noncitizens inherit their parents' citizenship. There were approximately 20 children considered to be stateless either by abandonment or by choice. There were efforts within the government to address this issue.

Foreign workers constituted approximately 55 percent of the workforce. A majority of citizens viewed the recent rapid increase in foreign workers negatively. Foreign workers and their dependents, both documented and undocumented, accounted for nearly a third of the population. Foreign residents were subject to

discrimination and were targets of petty and sometimes violent crimes, as well as other harmful acts against persons and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes committed against noncitizens with the same vigor as crimes against citizens.

In addition some foreign nationals experienced discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination.

The Bureau of Labor and Human Resources handles cases of workplace discrimination against foreign workers.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were no laws addressing sexual orientation and gender identity. There were no reports of violence or discrimination based on sexual orientation or gender identity, nor does stigma or intimidation prevent incidents of abuse from being reported. A gay pride event occurred during the year.

Other Societal Violence or Discrimination

There were no reports of cases of violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

The law does not provide for or prohibit the right to strike, and the government has not addressed this issue. Early in the year nurses demonstrated against low wages and long work hours.

There is no law concerning trade union organization, collective bargaining, or antiunion discrimination. Market forces determined wages in the cash economy.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor; however, there were reports that such practices occurred. There were also reports of foreign workers, particularly domestic helpers and unskilled laborers, forced to accept jobs different from those for which they were recruited and reports of fraudulent recruitment onto fishing boats. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations. The Bureau of Labor and Human Resources worked with employers and employees to address these problems.

There were no reports of forced or compulsory labor by children. Regulations require foreign workers to be at least age 21 to obtain a work permit.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law states that the government shall protect children from exploitation. The Bureau of Labor and Human Resources is responsible for enforcing laws and regulations relating to child labor. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and small-scale family enterprises.

By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the government generally enforced this regulation.

d. Acceptable Conditions of Work

The law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. There is no legislation concerning maximum hours of work. The Bureau of Labor and Human Resources has established some regulations regarding conditions of employment for nonresident workers. The bureau may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but enforcement was sporadic. Working conditions varied in practice.

Although there are occupational and safety standards, no law protects workers who file complaints about hazardous conditions. Anecdotal evidence suggested that noncitizens would likely lose their employment if they removed themselves from situations that endangered health or safety. Since foreign workers generally were not permitted to change employers and must depart the country if their contract ends for any reason, such workers were reticent about reporting abuses. There were no reports to the government of violations of occupational health or safety standards during the year. The Bureau of Labor and Human Resources, which had four labor inspectors, enforces safety standards and laws.

It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that legislators often controlled. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers (usually foreigners) for commercial firms were paid only \$1.50 to \$2.00 per hour; wages for domestic helpers employed in private households were lower still.

In addition to their wages, foreign workers usually were provided basic accommodations and food gratis or at nominal cost. The country continued to attract foreign workers from the Philippines, China, and Bangladesh. During the year there were more than 6,000 foreign nationals with work permits in the country; of these, approximately 60 percent were from the Philippines, 15 percent from China, and 10 percent from Bangladesh.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, China, and Bangladesh. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and substandard food and housing. There were also complaints of physical abuse. In a number of instances local authorities took corrective action when alerted by social service and religious organizations. The Bureau of Labor and Human Resources helped to resolve disputes or complaints between employers and foreign workers.