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## 2010 Human Rights Report: Palau

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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Palau is a constitutional republic with a population of approximately 20,800. The president, vice president, and members of the legislature (the Olbil Era Kelulau) are elected for four-year terms. There are no political parties. In the generally free and fair elections held in November 2008, Johnson Toribiong was elected president. Security forces reported to civilian authorities.

Problems were reported in the following areas: government corruption, domestic violence, trafficking in persons, and discrimination and abuse of foreign workers.

#### RESPECT FOR HUMAN RIGHTS

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.

#### Prison and Detention Center Conditions

Conditions in the country's sole prison, although primitive, generally met international standards. Overcrowding remained a problem. There were 79 prisoners, including four women.

The few female prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours.

Prisoners had access to visitors and held religious observance. They were permitted to file complaints, and authorities investigated allegations of mistreatment. Authorities also monitored prison conditions.

No visits by independent human rights observers were requested or made during the year. The government does not have an ombudsman; however, 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. Prisoners and detainees could raise problems through private attorneys or court appointed attorneys.

#### 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. The government has effective mechanisms to investigate and punish abuse and corruption. Corruption and impunity were not major problems.

#### 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, and this was 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.

#### 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; there are no juries. A 2008 amendment to the constitution changed the law to provide for trial by jury, but the amendment had not been instituted due to lack of funding. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases. The law extends these rights to all citizens.

#### 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 of the 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 of the press.

## Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Over 60 percent of the population had access to the Internet. Costs of personal computers limited Internet access in homes. Internet infrastructure is in place for general public access. Internet access was available at schools, government offices, private businesses, Internet cafes, and hotels.

## 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government was willing to cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) 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.

The law prohibits forced exile, and the government did not use it.

## Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its 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. The government did not grant refugee

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status or asylum; however, the government provided temporary protection to individuals who may not qualify as refugees to 17 persons during the year.

In 2008, 11 Burmese refugees arrived from the Philippines seeking asylum, and the government permitted them to remain temporarily. A UNHCR official interviewed the Burmese and granted them refugee status. They received financial assistance from UNHCR while waiting for a third country to accept them as refugees. Nine refugees had been resettled in third countries by the end of the year.

In November 2009, six Uighurs arrived for temporary resettlement.

### 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

In November 2008 voters elected a new congress, Johnson Toribiong as president, and Kerai Mariur as vice president. The president, vice president, and congress serve four-year terms. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs. Although there have been political parties in the past, there were none during the year.

There are no legal impediments to women's participation in government and politics. Two women were elected to the Senate in the November 2008 general elections. Women constituted 16 percent of state legislators. Three women served as state governors during the year. Three female associate justices served in the Supreme Court, and five of the country's nine judges were women. A woman was appointed to serve as the attorney general.

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

### Section 4 Official Corruption and Government Transparency

Government corruption was a problem, which the government took some steps to address. The law provides criminal penalties for official corruption, and public officials are required to file annual financial disclosure statements with the Ethics Commission. The Office of the Special Prosecutor and the Office of the Public Auditor are responsible for combating government corruption. The Office of the Special Prosecutor has been vacant since March.

In July 2009 Senator and former president Tommy Remengesau, Jr. was charged with 19 counts of violation of the code of ethics. Elected officials are required annually to submit a list of assets and sources of income to the Ethics Commission. Senator Remengesau did not disclose all properties he owned in his 2000-03 annual ethics disclosure statements. On November 9, the court found him guilty on 12 counts, acquitted him on two counts, and dismissed five counts at the request of the prosecution. In December he was ordered to pay \$156,000 (the U.S. dollar is the national currency) in fines, an equivalent to the value of properties he did not disclose.

In February a state governor entered a plea agreement for one count of misuse of public funds and one of misconduct in public office in exchange for dismissal of money laundering charges. The governor was charged previously in 2008 with 302 counts of embezzling state funds, but the court dismissed the case without prejudice when the former special prosecutor resigned. In March the governor was sentenced to five years in jail and fined \$10,000. The jail sentence was suspended for six months. A state employee also was charged with embezzlement in the same case. The governor and the state employee reportedly withdrew more than \$190,000 from the state bank account between 2002 and 2005 for their personal use.

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, and the government generally respected this provision in practice.

#### 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. Government officials were cooperative and responsive to their views.

There were no visits by UN representatives or other international governmental organization. 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, including spousal rape, is a crime punishable by a maximum of 25 years of 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, 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 is illegal and did not appear to be a major problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and 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. People have access to contraceptive products available from Belau National Hospital, private clinics, and department stores. According to the government, the maternal mortality rate was reported to be at zero in 2007. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men and enjoy those rights. There is no special government office to promote the legal rights of women. 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 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

Citizenship of a child is derived from the parents. A child born to foreign national parents is registered as a citizen of those countries.

There were no reports of child marriage.

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

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

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 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.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/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 both 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. The public schools had special education programs to address problems encountered by persons with disabilities.

The government agency Ngak Mak Tang (Everyone Matters) is responsible for protecting the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

The law prohibits noncitizens from purchasing land or obtaining citizenship. 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 the 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 Division of Labor handles cases of workplace discrimination against foreign workers.

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

There is no law criminalizing sexual orientation. There were no reports of cases of violence or discrimination based on sexual orientation.

#### Other Societal Violence or Discrimination

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

### Section 7 Worker Rights

#### a. The Right of Association

The law provides for 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 the right to strike, and the government has not addressed this issue. There were no workers' strikes or protests during the year.

#### b. The Right to Organize and Bargain Collectively

There is no law concerning trade union organization or collective bargaining. Market forces determine wages in the cash economy.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits 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. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations. The Division of Labor works with employers and employees to address these problems.

There were no reports of forced or compulsory labor by children.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law states that the government shall protect children from exploitation. The Division of Labor 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 effectively.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### e. Acceptable Conditions of Work

A 1999 law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. 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 the 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, roughly 60 percent were from the Philippines, 15 percent from China, and 10 percent from Bangladesh.

There is no legislation concerning maximum hours of work. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The division 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, the law does not specifically provide workers the right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment, and no law protects workers who file complaints about such 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 are 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 Division of Labor enforces safety standards and laws.

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 Division of Labor helped to resolve disputes or complaints between employers and foreign workers.

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