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 **Republic of Palau**

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In lieu of an abstract, here is a brief excerpt of the content:

Republic of Palau

Donald R. Shuster

Affairs in the Republic of Palau during the period under review were dominated by two tragic events, one involving a high chief and the second a commoner. It was business as usual for the executive and

legislative branches of government, although the politicians had one eye on campaign 2004. Palau received more loan, grant, and expert assistance. Tourism experienced a huge improvement over 2002-2003. A new, homegrown airline took to the skies. A new bank building was opened in central Koror. While Palau's leadership debated a grand plan to extract oil from the ocean floor, nearly the whole of Palau was busy preparing for the 9th Festival of Pacific Arts, which was held in July 2004.

Palau has two high chiefs, the Ibedul and the Reklai. In January 2003, Ibedul Yut aka M Gibbons, chairman of the Koror State Public Lands Authority, became involved in an argument regarding the presence of Mathew Johnson in the authority's office. Johnson was an expatriate attorney for the Palau Public Land Authority, which, in theory, oversees all state land authorities. Because Johnson repeatedly refused to leave the meeting, which was about to begin, Gibbons became angry and hit Johnson with a baseball bat, fracturing one of Johnson's arms and bruising his back and other arm. Charges were filed and the case went to court. Prior to trial, a plea agreement was worked out with the Palau attorney general, allowing Gibbons to plead guilty to a charge of assault and battery with a dangerous weapon in exchange for dropping the more serious charge of aggravated assault. Justice Ngiraklsong sentenced Gibbons to three years imprisonment, with two years suspended and one to be served in the Koror jail. Gibbons was fined and required to pay all the medical costs incurred by Johnson. The punishment of one year in jail generated a social uproar in Koror as legislators, governors, chiefs, and women's groups called for leniency and pardon. Only one prominent person—Senator Joshua Koshiba—publicly stated that the rule of law should be applied and the high chief should be jailed. However, with support for the high chief pouring in daily, President Remengesau issued a conditional pardon in August 2003 and a full pardon in June 2004.

The interesting dimension of this serious incident is the rationale that was provided for the Gibbons pardon by both President Remengesau and the press. Some 4,000 people signed petitions supporting Gibbons;

this had an impact on Remengesau. It appears such "voting" can weaken a court decision. Remengesau referred to "constitutional clemency" and the "process of clemency" in his August statement of pardon, but the Constitution of the Republic of Palau does not contain these phrases. However, it does grant the President the power "to grant pardons, commutations and reprieves subject to procedures prescribed by law." Remengesau also considered tradition in his pardon decision, appealing to the constitution's preamble and Article V, Traditional Rights. He stated that he took these sections "to heart in the best interests of all our people, both today and tomorrow." For its part, the press labeled Johnson's actions as confrontational, **[End Page 173]** arrogant, and improper, and appealed to Palauan traditional law: "Gibbons could have resorted to traditional law whose underlying principle supersedes written law and disregards application of the assault and battery charge and the authority of the police and the court" (TBN, 18-25 June 2004, 15). This argument is flawed because it mischaracterizes Palauan traditional law, which is administered by a council of chiefs (rube kul ordome l) according to a systematic and fair process of hearings by impartial groups of chiefs. These hearings are conducted after the offense is committed, and serious punishments, including death, can be imposed on a lawbreaker. The Tia Belau News also speculated that the incident could have generated a "direct confrontation between traditional and constitutional systems of governance . . . a national crisis." On the face of it, this is not credible. The rule of law is well established in Palau. Furthermore, chiefly titles confer great prestige and are highly respected, even revered. The title lbedul and Gibbons's sincere remorse are what saved him from going to...

REPUBLIC OF PALAU

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