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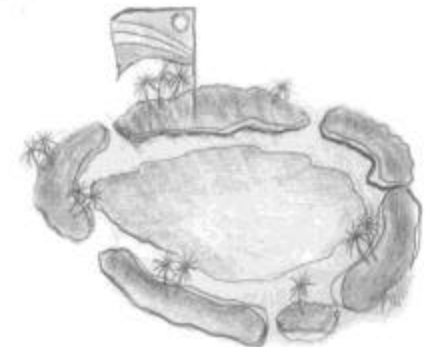
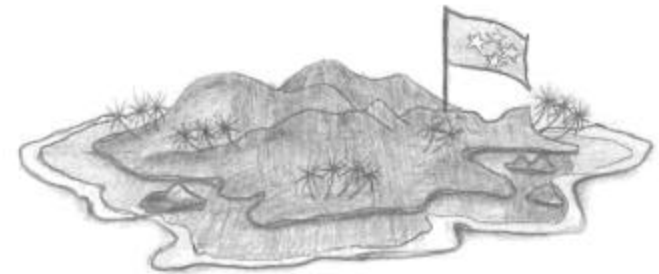
**Micronesian Counselor**

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Issue 55

## Micronesian Governments:

# A View from the Outside



*Wehns Billen*

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## Introduction

Some months ago Transparency International, working through the Australian National University and with funding provided by the AusAID program, produced a series of country reports on good governance in the Pacific. This series, published in 2004, included papers on the Republic of Palau (ROP), the Republic of the Marshall Islands (RMI), and the Federated States of Micronesia (FSM). Each was done by an outside consultant contracted specifically to produce a single country report.

The purpose of the study was to assess the good governance in each nation, albeit from an outsider's point of view. The hope was to be able to produce an objective and balanced view of the progress that each nation is making toward good governance, with emphasis on its strengths as well as its problems. Even though these reports make frequent use of the word "corruption," they point to positive steps taken by the governments to check abuse and ensure fair governance. The reports are produced by individuals who do not have the intimate knowledge of the local situation that a well informed citizen might possess. This, of course, can be both a help and a hindrance.

In this article I have tried to present a summary of the most important points of these reports, drawing on all three while organizing them by common headings. (The numbers in parentheses refer to the page numbers in the original documents.) Even if some of the force of the original may be lost, my hope is that this presentation might make the contents of the original reports more digestible and readable. In keeping with our policy at MicSem to focus on issues rather than individuals, I have edited out some of the details that might betray the identity of persons mentioned by name in the original. At the same time, I have added comments where I felt that these were appropriate.

Overall, the purpose of this article is to offer readers a look at how outsiders might see the three nations at this stage in their development. My sincere hope is that it be read in this spirit.

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## A Woman's Work Never Ends



A video drama comparing how the modern working women of Micronesia today deal with their many responsibilities both at work and at home and how it was in the old days. We're addressing the question of whether the workload of women has increased today as a result of modernization.

*Just around the corner...*

- Photo album online of the history of the Protestant Church in Micronesia
- Video on Government Accountability in our islands
- Issue of the Micronesian Counselor: "Are We in Danger of Losing Our Culture?"

position is also provided for in its Constitution. (FSM report, 38) FSM briefly considered the idea of establishing an independent Special Prosecutor. This was one of the proposed amendments that came out of a recent constitutional convention, but the amendment was not passed in the referendum. (FSM report, 25)

**Postscript**

Such is the view of the new island governments from the outside, at least as presented in the Transparency International reports. Although they do not shrink from highlighting problems, these reports present an overall picture that is by no means bleak. They appear to agree that a solid foundation for the governance system has been built, and there has been progress made in strengthening the system. There is reason to believe that the new governments will continue to advance in this direction. Even the dogged cultural constraints will be worked out in time as the new nations move toward the international standards that have come to define good governance.

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# Videos

## 3 in 1: Family Issues in Micronesia



Three of the MicSem videos on family issues— Can We Talk, Mom? Hitting Hard: Family Violence and Suicide: Finding a Better Way Out—have been translated into Pohnpeian and Chuukese. Subtitles in local languages have been added to the dramas, and a new voiceover in Pohnpeian and Chuukese has been added to the documentary on suicide.

Available now at [www.micsem.org](http://www.micsem.org)

## Should We Speak of "Corruption"?

Corruption, although used frequently in these reports, is a loaded term, one that Pacific Islanders, like the rest of humanity, would be just as happy to avoid having to apply to their own national systems. The term evokes images of wood that is rotten at the core or a fatal cancer that, working from within, destroys the cells of the body. To admit to corruption is tantamount to accepting a death sentence of the physical body or of the body politic.

Posing questions on the extent of corruption is not an ideal way to begin a conversation on the health of the government, but it is the way in which Westerners often frame their inquiries, as is the case in the reports by Transparency International.

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The word corruption has no equivalent in the Marshallese language, we are told in the report on RMI (10). The same can probably be said for the other language areas in Micronesia. Governments understandably prefer to accentuate the positive, as the Marshalls Constitution does in recognizing "the right of the people to responsible and ethical government and the obligation to take every step reasonable and necessary to conduct in accord with a comprehensive code of ethics." The Marshallese version presents the concept of a "government being upright in truth"—or, simply, government integrity (10). A good government, in the minds of Marshallese, would seem to be one that honors the trust that its citizens place in it.

Although persons and governments might prefer to speak of ideals and failures to meet these ideals rather than to use the term "corruption," there is a strong awareness among Micronesians of the different forms that corrupt practice might take in the islands. Although there are some notable examples of corrupt practices by businesses, especially in the Marshalls, and allegations of abuse of foreign workers in Palau, most people seem to associate corruption with elected or appointed officials.

“Palauans do not see corruption in private business or other social organizations like churches,” the ROP report (8) notes. Palauans, like citizens of FSM and RMI, seem to look in the direction of the government when they speak of corruption.

### **Corruption and Culture**

Some obstacles are common to any small communities anywhere in the world. Years ago a high government official on Guam who was charged with bribe taking claimed in his defense that *chenchule* (repayment of one favor with another) was a Chamorro custom. Many of us silently chortled at the *naivete* of this explanation. Surely Guam is by no means unique in its emphasis on reciprocity. Isn't this common everywhere, especially in societies in which there is a great deal of face-to-face interaction? At some point in the growth of a society, shouldn't limits be placed on this perfectly normal human response? Exchange of food gifts for a traditional back massage is one thing, but an allotment of a large government contract in return for several thousand dollars is quite another.

In a small island society every transaction, no matter how public and impartial it is expected to be, has a personal face to it. How can this be otherwise in such societies? Yet, this raises the problem of how to enforce the laws evenhandedly, even towards family and friends. As the FSM report (12) points out, “There is no shortage of relevant laws, especially at the national level. However, the political will is not always present to enforce the laws.” It is as if the nation, unable to solve this cultural dilemma, were to content itself with a public proclamation, through the enactment of a law, that such-and-such an action is wrong in the hope that somehow or other all would freely choose to heed the law. How to enforce the law equitably is a question that remains unresolved.

The report on FSM (5) makes the point that elected leaders are thought of as chiefs and are accorded the same privileges that

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Congress leadership worked out a compromise. The President signed the budget act on the condition that the Congress would remove the objectionable rider regarding the Special Prosecutor. When the President signed the amendment in January 2003 repealing the provision changing the Special Prosecutor provision, he stated: ‘This is a victory for the people of Palau, for good governance and for our democratic process.’” (ROP report, 11)

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The National Congress tried again later in 2003. “Its budget bill contained a rider that would limit the Special Prosecutor’s subpoena power through the requirement that probably cause first be shown in court. The Congress also sought to amend the Constitution so that ‘each house of the Congress shall promulgate its own rules and procedures governing the official expense allowances for its members and shall be the sole judge of the propriety and legal justification therefore.’” (ROP report, 12) This attempt to circumvent the authority of the Special Prosecutor was defeated when the amendment was ruled unconstitutional.

Despite the complaints by government officials under investigation and the schemes of the National Congress to eliminate the position or render it ineffective, one of Palau’s most prominent senators admitted that the Special Prosecutor, like the Public Auditor, is needed.

“The Special Prosecutor is doing a good job,” he said “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.” (ROP report, 12)

Palau is currently the only one of the Micronesian nations to employ a Special Prosecutor. Chuuk State’s Constitution provides for one, but this position has never been filled. Moreover, Chuuk is the only state that does not now have a Public Auditor, although this



constant harassment: “he has received many threatening phone calls, his dog was poisoned, his car tires flattened, and his office vehicle spray painted with foul words.” Clearly this position is not for the weak-kneed or the fainthearted.

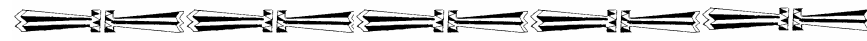
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Assisted by a staff of four, the Special Prosecutor has compiled an impressive record of convictions against government officials for misuse of public funds and other crimes. Over a two-year period he threatened law suits against all but one of the members of the National Congress for illegal use of travel funds. The congressmen agreed to a settlement with the government, returning a quarter of a million dollars to the national treasury. One of the congressmen was additionally charged with embezzlement of funds from the state he represented. Charges were also brought against three state governors, two of them for procurement related offenses and the other for paying excessive boat rental fees to his son. These three cases were settled for a total of \$120,000. Charges were raised against five more state governors for using their positions to secure business privileges. Between 1999, when the office was opened, and mid-2003, the Special Prosecutor has handled about 130 cases although many of them were settled before they came to court. The office has more than paid for itself with the money that it has recovered for the government. Even more importantly, it has sent out a strong warning to officials at every level of government that misuse of funds and authority will not be tolerated. (ROP report, 16-17)

The reaction of Palau’s National Congress was predictably strong, we are told. “In response the Congress attempted to clip the Special Prosecutor’s wings by eliminating his office, and then reconstituting it under the Ethics Commission that could fill the Special Prosecutor’s position or hire legal assistance when needed. The President vetoed the bill, but the Congress overrode his veto. After hours of discussion over several days, the President and the



chiefs would have had. The author of this report feels that public education is needed so that people see their elected leaders as public servants rather than chiefs. But this argument fails to take into account that in Yap, where the power of chiefs remains stronger than in most other places, there is little evidence of corruption. It also raises the question as to whether people did in fact have ways of registering their displeasure when chiefly abuse occurred in the past. Were subjects obliged to swallow hard when chiefs took advantage of them and simply soldier on? Or were there ways, even then, in which they could make their voices heard and their power felt? “In tradition, it is very improper to question or openly criticize others or cause someone to lose face,” the FSM report (11-12) notes. The same, of course, may be said for other places. “In a small-scale society like Palau, 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,” the ROP report (9) states. “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 behavior that is highly valued in Palau.” But these reflections raise further questions: Are these expressions of disapproval sufficient in our day, or are much stronger sanctions needed?

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What exactly is corruption? The definition used by Transparency International is offered in the report on the Marshalls (10): “Giving or receiving undue advantage in the course of business activities leading to acts in breach of a person’s duty.” But this definition, too, raises a host of questions. In what exactly does a person’s duty consist? Does it include allotting family members, close friends, and traditional authorities the same kind of recognition they might have expected before the rise of the modern government? Even if this should mean allowing them exemptions not granted to others? What traditional obligations may be carried over into a modern government system? The definition offered by Transparency International only confirms the suspicion that corruption is a culturally loaded term.



New Pacific Island nations all face the problem of redefining boundaries between what is acceptable and what is not. Favors repaid by grateful families are the stuff of which small communities is built, but in modern societies where government resources are huge and everyone is supposed to have a fair chance at access to them, off-the-record favors repaid by money or goods are considered corruption. This means a difficult transition for the new governments, which are now expected to shift from the type of

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behavior that is characteristic of a small society to the operational mode required by a modern government. Still, governments have to start somewhere. This report is a measure of what has been done and what issues still need to be addressed.

**Examples of Corruption**

Corruption may be hard to define, but there is a general understanding of what it is in practice. One Marshallese defined it as “the use of public funds by public officials for private gain.” Others would prefer to broaden the definition to include misuse of other funds or even of influence for personal gain. A perceptive Palauan businessman writing for a local paper (*Tia Belau*) offered a long list of instances of petty corruption:

*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; using government vehicles for personal activities, especially during non-working hours; using office government workers to do personal work*



The consortium recently lobbied successfully with the House of Delegates of the National Congress to sustain the president’s veto of the Congress legislation establishing casino gambling on Angaur.”

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Even our own MicSem, “the highly regarded Jesuit-run NGO located in Pohnpei but with pan-micronesia coverage,” as it is described in the FSM report (24), does not specifically target issues of transparency and corruption. As the author correctly points out, we try to focus on principles rather than individuals. In the absence of others to carry on this nasty but necessary task, reporting on malfeasance in the government will remain an important function of the media for many years to come.

**Checks from Within**

The Republic of Palau has set up an exemplary system for control of government abuse from within that bears closer examination. “Its strategy for achieving integrity and transparency in government rests on the Special Prosecutor, the Public Auditor, and the Code of Ethics Act,” the Palau report (19) remarks, “even though officials do not talk about it in terms of a conscious strategy.” The Code of Ethics Act spells out what is illegal for government officials, and the Public Auditor and the Special Prosecutor hold them accountable for failure to observe the law. All three of the nations have a Public Auditor who is, in theory at least, free from government interference in conducting the audits. The difference is that in Palau there is a Special Prosecutor who can and will bring cases to court.

As the report on Palau (16) makes clear, “The position of Special Prosecutor is a high-profile position, and the individual holding the job needs a thick skin and a strong backbone.” The American who holds the position now admitted that he has been the victim of

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## Watchdog Agencies

In each of the Micronesian nations there are a number of civil organizations, or NGOs, as well as churches that operate outside the government. In the report on ROP (18), the author writes: "Palau has a Chamber of Commerce, a Bar Association, and a number of women's clubs, but these groups do not normally take up causes related to corruption. Protest groups therefore tend to emerge in an ad hoc manner only when very serious issues erupt." This happened in the mid-1970s when the super port issue was being considered, and during the mid-1980s as the nation was close to removing from its Constitution a clause banning nuclear and chemical substances from Palau. The Marshall Islands, too, has similar organizations, although "NGOs are not as prevalent there as other parts of Micronesia." (RMI report,18) Women's groups, especially Women United Throughout the Marshall Islands, are concerned with social issues, while others focus on environmental issues. The same is true of FSM.

As the report on FSM (25) states, "There is no NGO that concerns itself solely with issues of transparency or corruption. Several NGOs in FSM deal with environmental and conservation issues. There are also several women's groups dealing with gender issues." As for churches, they are plentiful and potent everywhere, "but they do not address the present day issues of transparency and official corruption." (FSM report, 25) Even so, churches have taken on a greater advocacy role on behalf of their parishioners in recent times.

"While churches [in RMI] wish to stay beyond the bounds of politics, they have inevitably been drawn into issues on which they have a strong position. The anti-gambling segment of both the Protestant and Catholic churches formulated a strong lobby group to prevent Nitijela allowing the establishment of casinos." (RMI report,16) Something similar happened in Palau, as the report on Palau (18) mentions. "Recently a group of ten churches and women's organizations combined forces to oppose gambling on Angaur Island....

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*for the chief or director; disregarding penalties or 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. (quoted in ROP report, 8)*

These are the major forms that corruption takes, according to the country reports.

- **Embezzlement.** *Mentioned in the report on RMI (11) was embezzlement from one of the embassies, and recently embezzlement of over \$500,000 by the chief financial officer of the College of the Marshall Islands. Other instances can be found in RMI and the two other countries.*
- **Improper business licensing.** *Foreign Investment Business Licensing "has been specifically targeted as an issue that needs urgent attention," according to the report on RMI (16). "Some businesses fail to obtain a license before commencing operation, or to pay the required taxes."*
- **Failure to collect taxes.** *Of RMI the report (11) notes: "The financial costs of lost revenue from failure to collect taxes and from failures to honor terms of business licenses can be measured in millions of dollars over some 20 years." The result is, as the report states (31), that "honest taxpayers are penalized by those who fail to pay their due." This is attributed in the report to poor record keeping and inadequate enforcement rather than criminal intent, however.*
- **Bribes.** *The bribes of officials in the 1980s, totaling \$750,000, when IPSECO was contracted to set up the new power plant was noted in the Palau report (6). But the author of this report failed to mention the alleged collusion of police and customs officials, who presumably were taking bribes in return for allowing the entry of heroin, cocaine and ice from abroad.*



- **Misuse of government funds.** *In the Marshalls the gross mismanagement of Social Security funds was noted, as was the failure of “the two largest local government councils, KADA for Ebeye and MALGOV for Majuro, to file annual financial reports” and to account for missing funds (RMI report, 20).*

The problems in FSM have received public attention recently with the indictment of several congressmen and some state officials for

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misuse of public funds. For years congressmen in some states authorized funds to development authorities, while retaining control of the disbursement of funds in these authorities. This gave rise to the popular saying that these congressmen “were both pitchers and catchers” (22). The FSM report (14) alleges that some of this money makes its way back into the pockets of elected officials, thanks to “collusion with suppliers, contractors, lower level politicians or public officials.”

- **Misuse of travel and representation funds.** *Two years ago 16 members of the Palau National Congress were charged with misuse of travel funds totaling \$250,000. (ROP report, 9) Similar accusations have been made against high officials in FSM. According to the FSM report (14), “Time for purchasing less expensive tickets from travel agencies is deliberately allowed to lapse in favor of later purchase of more expensive tickets.” The author seems to imply that kickbacks from the travel agencies are expected.*
- **Conflict of interest.** *A high local government official in Palau leased to a metal recycling company on behalf of his state a piece of land that he himself owned. He was brought to court for this and convicted. (ROP report, 19) The governor of a state in*



Political parties are seen as rivals, with the opposition party ready to pounce on the ruling party at the first hint of any impropriety. Palau and the Marshalls have had a history of political parties, while Chuuk alone in the FSM has had informal groups with some resemblance to political parties vying for power.

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According to the report on Palau (12-13), Palau had political parties as far back as the 1960s and 1970s. “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, but faded away with the loss and withdrawal of its candidates. Since that time, no political parties have been organized.”

The Marshalls, too, has a sporadic history of organized political parties beginning with the start of full self-government. In the late 1970s, when the Marshalls was deciding whether to pursue a separate political status, an opposition group was formed to espouse the cause of Micronesian unity. Years later, another opposition group was formed under the leadership of a prominent businessman and a former high government official, but this group soon faded away. Political parties are very much part of the landscape today. As the report on RMI (13) notes, “Two parties are now recognized, though they remain ‘the Government party’ and ‘the Opposition,’ with the latter being a collection of viewpoints rather than a formal party.”

Because of the makeup of FSM, with its different language and culture groups, there has never been anything at the national level resembling a political party. Only in Chuuk, during the late 1980s continuing up to the present, have there been informally organized voting blocs for competing candidates for the governorship.





At times, therefore, atoll people might have a representative who does not truly represent them.

Conflict of interests inevitably arise when major Kwajalein landowners are elected to the Nitijela, for the terms of the lease agreement with the US and the division of rental fees for Kwajalein remains a divisive issue between the national government and many Kwajalein landowners. The financial mismanagement that has repeatedly occurred in RMI over the years is a “serious failure in the transparency of government decision making.” The report on RMI (32) goes on to say: “The absence of reliable, timely and comprehensive statistics on government finances has led to inadequate financial reporting. The poor financial accounting system is seen to be at the base of much of what has been labeled ‘corruption.’”

Palau, a nation with a population of only 20,000, has set up 14 full state governments, some over areas with no more than a couple hundred people. The full state government apparatus seems to strain the capacity of those elected state officials to plan projects and manage funds in a responsible fashion.

Accordingly, several of the governors and other state officials have been charged with mismanagement of funds. National congressmen in Palau, like congressmen elsewhere, “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.” (ROP report, 11) Conflict of interest remains a potential problem, although there have not been any conflict-of-interest charges filed against congressmen.

**Political Parties**

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*FSM was recently charged with conflict of interest in awarding a large contract to a company that he owned. Some FSM congressmen have purportedly been involved in lease of their own land to public institutions.*

- **Sale of passports.** *Although this was not mentioned in the report on RMI, the sale of Marshallese passports to Asians has been a cause celebre. Individuals responsible for the sales were allowed to retain a certain percentage of the total sum, with the remainder to be remitted to the government.*

The authors of the reports suggest that a much longer list could be compiled if they had the time to look under every rock. Yet, for all these examples, they would admit that corruption is not endemic in these small Pacific island nations the way it is in, say, some countries of Southeast Asia or Africa. Bribes are not an accepted part of doing business. The “culture of corruption” that exists in some other places has not developed here. For this we can be thankful, but the authors urge vigilance to ensure that this does not change.

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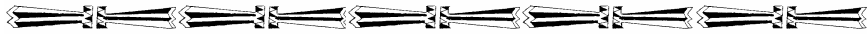
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**The New Governments Have Their Strengths...**

While listing the problems encountered by these new governments, the authors also point out the strengths of these same governments. Below is a partial listing of some of the strong points they see.

- The judicial systems in these governments are well organized and the personnel is highly respected, notwithstanding the charges brought against two American justices formerly serving on the High Court in the Marshalls. The Marshalls bench is now very well regarded, and the national justice systems in Palau and FSM are looked upon as incorruptible.



- Public access to information is guaranteed in Palau. “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.” (ROP report, 11)
- Although the RMI Constitution does not contain a similar provision, steps have been taken toward greater accountability. “The current president, who won reelection in 1999 on a ticket of openness, made it his policy to present the public with summations of his government’s actions. His speeches are not only broadcast on the radio, but also printed in the *Marshall Islands Journal*.” (RMI report, 13)
- The Palau community is well informed on government happenings. “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.” (ROP report, 19)
- The FSM Constitution mandates disclosure of purpose of all legislation. “The Constitution provides that any statute passed by Congress must embrace only one subject which is denoted by its title. In other words, an omnibus bill may not be passed. This prevents a law from including unrelated provisions which might otherwise be able to slip past attention of critics or the media.” (FSM report, 17)
- Palau has, through a provision of its constitution, a Public Auditor who is appointed by the President and confirmed by the National Congress. The auditor, who is to be “free from any control or influence by any person or organization, has authority to audit accounts and inspect audits of every office or agency in the government.” (ROP report, 13) Even more distinctive is the Special Prosecutor, a position that Palau alone has filled. The Special Prosecutor works closely with the Public Auditor. Indeed, “for nearly all the cases of reported misuse of funds, larceny, or embezzlement, the Special Prosecutor has initiated investigations based on information provided by the Public Auditor.”



### **...And their Systemic Weaknesses**

The weaknesses of FSM, which is made up of four very different islands groups with their own cultures and languages, are rooted in the nature of its federalism.

The national government has limited powers over the states, which do their own management and financial accounting. As the report on FSM (7) notes, “The states have a broad jurisdiction which includes all residual powers not granted to the national government.” Because states enjoy considerable financial autonomy, it is difficult for the national government to intervene, even in cases where a state system is not functioning well. Hence, as the report (8) notes, “Transparency and degrees of corruption vary from state to state.”

Other structural impediments to good governance flow from this federalist system. According to the FSM Constitution, the president and vice president are elected by the 14 members of Congress, not directly by the people. This makes sense in a country where a candidate for office from one island group might not be well known by the citizens of the other states. The downside, as the FSM reports (12) mentions, is that “the president is dependent on Congress for election and is therefore dependent on the continuing good will of the Congress.” A weak president can be a creature of the Congress in a way that is not conceivable in Palau or RMI.

Finally, FSM Congress operates at a distance from the people in all the states. Citizens might be able to follow the proceedings of their state legislature inasmuch as they are broadcast or otherwise relayed to the public in its language. Since FSM Congress conducts its business in English and is at another remove from the local scene, public oversight is often minimal.

The structural shortcomings of the Marshall Islands are of a different sort. Candidates for the Nitijela, the national congress, are usually eligible to run from more than one atoll. Under such conditions, a person faced with strong opposition on his own island can simply choose to run from another atoll.