

## U.S. DEPARTMENT OF STATE HUMAN RIGHTS REPORT 2007

### NAMIBIA

Namibia is a multiparty democracy with a population of approximately two million. President Hifikepunye Pohamba was elected in 2004, succeeding Sam Nujoma, the country's first president and former leader of the ruling South West Africa People's Organization (SWAPO). International and domestic observers generally considered the 2004 presidential and parliamentary elections free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in several areas. Human rights problems included: one unlawful killing, torture, beatings, and abuse of criminal suspects and detainees by security forces; overcrowded prisons; prolonged pretrial detention and long delays in trials; government attempts to curb media and nongovernmental criticism; official corruption; forcible dispersion of demonstrators; violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous peoples; and child labor.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, one person died of apparent abuse.

On April 1, William Cloete died after suffocating in a shipping container police routinely used as a detention center for persons awaiting trial. Cloete's body was discovered the next morning with burns on his back and bruises. Police alleged that the burns were sustained when Cloete ignited his mattress with a cigarette.

There were no developments in the January 2006 police shooting and killing of Collen Goliath.

The January 2006 case of seven police officers accused of beating five men, one of whom died from his injuries, was still pending before the courts.

The investigation was ongoing in the case of Linus Muhimba, who died while in police custody in May 2006.

Three deaths resulted from unexploded ordnance.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices; however, police sometimes used excessive force when apprehending, interrogating, and detaining criminal suspects. Unlike in previous years, there were no reports of police using "sjamboks" (heavy leather whips). Incidents of police brutality decreased during the year. The government took action against some perpetrators.

The 2005 case against three police officers who allegedly tortured Ralph Cloete was still pending before the courts.

Police used force, including beatings, to disperse demonstrators, which resulted in injuries.

On April 3, Hafeni Joseph Amalwa filed charges against an arresting officer who he claimed assaulted him when being questioned about his alleged possession of stolen property.

The following assaults involving security forces in 2006 were pending before the courts at year's end: the February mob assault, led by two members of the Special Field Force (SFF), against two women accused of witchcraft; and the May kidnapping and assault of Hofenie Angomo Ikolola by a police sergeant and three civilians who allegedly chained and beat him to force a confession.

An investigation into the alleged March 2006 assault of residents of Mariental by members of the SFF police unit and the Namibian Defense Force (NDF) continued at year's end.

Human rights groups continued to report on ongoing civil court cases filed by individuals against the government as a result of alleged security force abuses during the 1999 secessionist attacks; 115 of the civil cases were still pending before the courts at year's end.

Suspects in the Caprivi treason trial continued to complain of poor medical services and intimidation of their visitors by prison officials.

Unlike in the previous year, there were no reports of mob violence.

During the year unexploded ordnance killed three children and injured four.

#### Prison and Detention Center Conditions

Prisons and detention centers were overcrowded, often lacked basic sanitary and nutritional provisions, and were poorly maintained. In 2006 the ombudsman conducted a review of police holding cells and noted poor sanitary conditions, overcrowding, insufficient food supplies, unsafe infrastructure, stagnant water, lack of access to medical care facilities and potable water, and insufficient bathroom and shower facilities. The ombudsman also noted that police stations were understaffed and that officers could not tend to detainees in addition to their regular police duties. Some detainees reportedly suffered abuse while in detention. Victims of prison abuse were able to pursue legal remedies.

Some detainees were held with convicted prisoners. In many rural areas juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders, such as placing youths in homes. The nongovernmental organization (NGO) Criminals Return into Society also offered a number of rehabilitation programs to build vocational skills.

The government continued to grant NGOs regular access to prisons and prisoners. The International Committee for the Red Cross (ICRC) continued to visit prisons and detention centers from its regional delegation headquarters in Zimbabwe.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest or detention; however, security forces did not always observe these prohibitions.

#### Role of the Police and Security Apparatus

The police, including the paramilitary SFF, are under the Ministry of Safety and Security, and the NDF is under the Ministry of Defense. All are responsible for internal security. The Namibian Police Force (NAMPOL) has 10,000 members and is highly centralized, with regional commands responsible to the inspector general of police, who reports to the minister of safety and security. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit composed primarily of combatants from the former People's Liberation Army of Namibia. SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to deter or investigate street crime consistently.

During the year the police received human rights training designed by the Windhoek-based Legal Assistance Center (LAC), and some officers attended training programs with human rights components at the International Law Enforcement Academy in Gaborone, Botswana.

Although some security force members accused of abuse and corruption were arrested and tried in military courts or the civilian criminal justice system, the government took no action against others.

During the year the government took action against corrupt police officials. The police's commander for the Erongo region, Deputy Commissioner Andrew Iyambo, was charged with theft for misappropriating funds donated to the regional police by a fishing company. The investigation of the matter was still pending at year's end.

The 2006 corruption case against police commanders Lottinelomba Uusiku and Joseph Kamati was still pending before the courts.

#### Arrest and Detention

Persons arrested must be informed of the reason for their arrest and brought before a magistrate within 48 hours of their detention, but the government did not always respect these provisions in practice. Arrest warrants were not required in all

cases, such as if a suspect was apprehended during the commission of a crime. Those accused are entitled to defense by the legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. In practice many accused persons in remote and rural areas were not represented by counsel, primarily due to lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There is a functioning bail system, which was generally observed. Under a state of emergency, the constitution permits detention without trial, although the names of detainees must be published in the government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

There were reports of arbitrary arrest and detention.

For example, on January 3, Philippus Petrus Fourie was held in detention without charge for 34 days on suspicion of being an illegal immigrant. An immigration official identified as "Quatro" arrested Fourie in the town of Tsumeb after he sought to apply for copies of his identity documents stolen from his car in 2006. Quatro ignored a court order by the local magistrate to release Fourie and instead ordered him to leave the country within 48 hours. Fourie successfully contested his deportation in Windhoek and received a copy of his birth certificate. No actions were taken against the immigration official.

On occasion authorities held detainees incommunicado.

For example, on August 11, Frieda Kishii, legal representative for kidnapping suspect Reverend Gerhard Kgobetsi, was refused access; Kishii sought the intervention of senior police officials and eventually gained access to her client. Kgobetsi's family also was denied access until his court appearance and subsequent release on bail.

The government remunerated persons who were arbitrarily arrested in the past. On July 23, the Keetmanshoop Magistrate Court awarded \$3,700 (N\$26,640) in damages to Aron Mumbashu, who was arrested in 2000 and held in detention for 41 days.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. Approximately 10 percent of the general prison population was awaiting trial, and there were approximately

50,000 unresolved cases on the court dockets. The lack of qualified magistrates and other court officials, the high cost of legal aid, and slow or incomplete police investigations resulted in a serious backlog of criminal cases, which often translated into delays of up to one year or more between arrest and trial.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the government, the judicial system was hampered by inefficiency and a lack of resources.

The formal court system has three levels: 30 magistrate courts; the High Court; and the Supreme Court. The latter served as a court of appeals and constitutional review court. Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the traditional system.

Most rural citizens first encountered the legal system through the traditional courts, which deal with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with the constitution.

Trial Procedures

The constitution and law provide for the right to a fair trial, but this right was limited by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system. The law provides for public trials, but not juries. Defendants are presumed innocent, can confront witnesses, and have the right of appeal. Indigent defendants are entitled government counsel.

During the year procedural problems continued to dominate the high treason trials of detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo. Two of the 12 suspected secessionists accused in the second treason trial, Vincent Siliye and Vincent Sinasi, were acquitted on a technicality after the state failed to present evidence tying them to the attempted secession of the Caprivi region from

Namibia in 1999. On July 31, acting High Court Judge John Manyarara convicted the 10 others accused in the second Caprivi secession trial of high treason. Human rights organizations generally criticized the trial as unfair because government lawyers for the accused were unable or unwilling to argue, per the defendants' wishes, that the court did not have jurisdiction over the accused because the Caprivi region is not part of Namibia.

There were no developments in the case of two ethnic Mafwe witnesses who appeared in court in July 2006 on charges of perjury and obstruction of justice for denying statements they had made to investigators in the Caprivi treason trial. The two claimed their statements were obtained under duress inflicted by security forces.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

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

The constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search; government authorities generally respected these rights in practice. Violators were subject to legal action.

#### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and while the government generally respected these rights, high-level government officials sometimes verbally abused journalists who criticized the government, former president Nujoma, or the ruling party, and threatened to close down elements of the independent media. Journalists working for government-affiliated media practiced self-censorship, although reporters for independent newspapers continued to criticize the government openly.

There were four daily national newspapers, three of which were independent, and three independent weekly newspapers. The government contributed financially to the *New Era* newspaper and

the Namibia Press Agency, both parastatals. The ruling SWAPO party owned one publication, *Namibia Today*.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. The most widely heard and influential media in the country were NBC television and nine radio services, which broadcast in English and indigenous languages. During the year there were reports of government influence on NBC operations and editorial content as well as self-censorship by the staff. There were 11 private radio stations and two private television networks, One Africa TV and MultiChoice Direct Satellite TV, and a private cable and satellite television service that broadcast international news and entertainment programs. The ruling SWAPO party owned 51 percent of this direct satellite television service.

On April 25, the minister of information and broadcasting announced that NBC would cancel all its radio call-in talk shows and implement new call-in radio formats with predetermined topics; several of the call-in comments had criticized former president Nujoma. NBC followed the restrictions for approximately one week before responding to public pressure to reinstate the shows in their original formats.

In the wake of an energetic public debate triggered by an NGO's request that the International Criminal Court (ICC) investigate abuses by former president Nujoma, the National Council accepted a motion to review the role of NGOs and media outlets and possibly to regulate them. The debate continued in the National Council at year's end. Senior government officials also publicly called for the responsible use of free speech, which many interpreted as a call for limitations on press freedom.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail and Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. While Internet access was unrestricted, usage was limited in rural areas due to poverty.

#### Academic Freedom and Cultural Events

On August 22, the University of Namibia cancelled at the last minute a lecture addressing the situation in Zimbabwe by Zimbabwean Professor John Makumbe, a vocal critic of Zimbabwean



President Robert Mugabe. The university did not provide justification for the cancellation, but there were indications that the university was responding to pressure from senior government officials in the office of Sam Nujoma, who did not want to offer Makumbe a venue to criticize either President Mugabe or former president Nujoma.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, but police sometimes used excessive force to disperse demonstrators.

On June 4, police used force to disperse a group of former People's Liberation Army of Namibia combatants who had marched to the Ministry of Veteran's Affairs to submit a petition. Four demonstrators--Ndeshipewa Nghishimune, Selma Kalimbo, Ottilie Ndemuula and Erika Munashimwe--were treated at the hospital for nosebleeds and sore eyes after reportedly being doused with pepper spray. Ten more demonstrators allegedly were assaulted by police.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right in practice. In November the Electoral Commission registered a new political party, rejecting calls from SWAPO party officials to deregister the new group, which many viewed as a competitor to the ruling party.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There was a very small Jewish community; there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2007 International Religious Freedom Report*.

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

The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the government generally enforced these rights in practice; however, the government continued to limit the freedom of travel of Cuban doctors working in the country through Cuban bilateral assistance. These doctors were generally not allowed to travel within or from the country without consent from the Cuban embassy, which held their passports.

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

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees; although the country is not a signatory to its 1967 protocol, the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution, and granted refugee status or asylum. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

According to the UNHCR, approximately 6,300 refugees resided in Osire Refugee Camp and another 1,400 lived outside the camp among the general population. Approximately 5,600 of the refugees were from Angola; the others were primarily from the Democratic Republic of the Congo, Burundi, and Rwanda. During the year the government registered all refugees and asylum seekers and began issuing identification cards to make it more convenient to travel outside the camp. Education through grade 10 was available to all refugees, and the government facilitated further secondary education for students with financial sponsorship at schools outside the camp. The government provided antiretroviral therapy to refugees infected with HIV/AIDS.

Unlike in the previous year, there were no reports of tension between refugees and local farmers.

The government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### Elections and Political Participation

Presidential and parliamentary elections were held in November 2004. SWAPO candidate Pohamba was elected president with 76.4 percent of the vote; SWAPO won 55 of 72 elected National Assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, six opposition parties won a total of 17 seats.

Women held 20 seats in the 78-seat National Assembly. There were six female ministers, including the deputy prime minister, and five female deputy ministers among the 45 ministerial and deputy ministerial positions.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community represented the SWAPO party in the National Assembly. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister and speaker of the National Assembly.

#### Government Corruption and Transparency

The law prohibits corruption; however, it was a problem. Government institutions, including the Anticorruption Commission, the Office of the Ombudsman, and the Office of the Auditor General were responsible for combating public corruption.

During the year the government took action against corrupt officials. Karas Region Chief Executive Salman Jacobs was arrested and charged with theft and fraud for claiming expenses he did not incur during a trip to Germany. Jacobs was out on bail, and the case was pending before the courts at year's end.

There were no developments in the September 2006 case against the Deputy Director of Wildlife Management Sackey Namugongo, who was arrested by the Anticorruption Commission on charges of issuing fraudulent gambling licenses.

There were notable cases of malfeasance in several of the country's parastatals. Reports of corruption in the Ministry of Works, Transport, and Communication, the Henties Bay Town Council, and the Ministry of Lands and Resettlement received widespread media coverage and were being investigated by government agencies at year's end.

Gerry Munyama, the former director general of NBC who was charged with embezzlement in 2005, was released on bail during the year. The case was pending before the courts at year's end.

No laws provided for public access to government information, and media outlets generally found the government unwilling to provide information, including salary scales for public officials.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to disapprove publicly of NGO criticism of the ruling party and government policies. For example, President Pohamba and other senior officials publicly castigated the National Society for Human Rights for filing a petition with the ICC in a bid to have former president Nujoma and other ruling party officials investigated for past human rights abuses.

Visits by the ICRC and other international NGOs occurred during the year.

There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights problems.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, creed, gender, or religion, and specifically prohibit "the practice and ideology of apartheid"; however, the government did not effectively enforce these prohibitions.

##### Women

The law defines rape in broad terms and allows for the prosecution of spousal rape. The government generally enforced the penalties of five to 45 years' imprisonment. Numerous rapists were prosecuted during the year. The media continued to report on rape and domestic violence.

Domestic violence is against the law; however, domestic violence, including beatings and rape, was widespread. There were 15 women's and children's shelters staffed with police officers trained to assist victims of sexual assault. During the year the People's Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. The Ministry of Gender Equality and Child Welfare hosted a national conference on gender-based violence which developed a comprehensive strategy to address the issue. In some magistrates' courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

The law does not prohibit prostitution, and it was widespread.

The law prohibits sexual harassment; however, it was a problem.

The law prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of Labor and Social Welfare and the Employment Equity Commission, which report to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases. The law prohibits discriminatory practices against women married under civil law, but women who married under customary (traditional) law continued to face legal and cultural

discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation.

### Children

The law enumerates children's rights, including those in the area of education and health, and the government dedicated approximately 21 percent of its budget to education and 9 percent to health care. However, resource constraints and untrained support staff resulted in inadequate attention to child welfare.

A significant number of San did not have birth certificates or other forms of state identification. As a result, orphans often could not receive government grants. This also impacted the Sans' ability to receive state pension payments. NGOs reported a decrease in complaints during the year that the San were unable to obtain proper identification documents; however, problems continued due to lack of birth records and lack of government officials with the necessary language skills.

Civil society opposed a provision in the 2006 Children Status Act that denies parents legal custody or guardianship of children born outside of wedlock. If the parents cannot agree on the primary custodian of the child, he or she becomes a ward of the state. The act otherwise provided for equal treatment of children born outside of marriage. The matter was pending before the courts at year's end.

Although the constitution provides children with the right to primary and junior secondary education (grades one to 10), the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students' families and precluded some children from attending school. Education was compulsory until the age of 16. The country had a net school enrollment rate of 94 percent for grades one through seven, and 93 percent for grades one through 10. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school.

During the year the government took several steps to provide medical care and other assistance to the approximately 128,000 HIV/AIDS orphans and vulnerable children. For example, the government reduced or eliminated school fees and provided social grants for such children.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing the actions of the client or pimp in cases of sexual exploitation, child pornography, and child prostitution. The age of sexual consent is 16 years. The government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

Child prostitution occurred, generally without third-party involvement and primarily as a means of survival among HIV/AIDS orphans and other vulnerable children. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Child labor was a problem.

#### Trafficking in Persons

The law specifically prohibits trafficking in persons, and there were no confirmed reports of persons being trafficked to, from, or within the country. The law also prohibits slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling. Traffickers were subject to fines of up to \$166,000 (N\$ one million) or up to 50-years' imprisonment.

#### Persons with Disabilities

While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with disabilities in employment. Enforcement in this area was ineffective, and societal discrimination persisted. The government does not require special access to public buildings, and some ministries remained inaccessible. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability concerns received greater public attention than in

previous years, with wider press coverage of the human rights problems that faced persons with disabilities. The office of the prime minister employed an advisor on disability.

#### National/Racial/Ethnic Minorities

Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Some citizens continued to accuse the government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There were reports of farm workers, mostly black, suffering discrimination in remote areas by farm owners, both black and white.

#### Indigenous People

The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education. During the year the deputy prime minister continued promoting special projects for the advancement of the San community. Despite these measures, many San children did not attend school.

The government has authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference. This authority was controversial because of local leaders' influence on local events, including local police powers. In some cases the government withheld recognition from traditional leaders for political reasons. For example, the government recognized traditional leaders from the Mafwe community, reportedly because their leaders were close to SWAPO; however, the government had not recognized leaders of the Khwe in West Caprivi or the Herero in several other regions throughout the country.

#### Other Societal Abuses and Discrimination

There were no reported cases of discrimination against homosexuals. Unlike in previous years, there were no reports of



senior government officials making disparaging public remarks about homosexuals.

There were no reports of discrimination against workers because of their HIV/AIDS status. The government supported the work of the Namibia Business Coalition against HIV/AIDS.

## Section 6 Worker Rights

### a. The Right of Association

The constitution provides for the freedom to form and join trade unions without previous authorization or excessive requirements, and most workers exercised this right in practice; however, workers in essential services are prohibited from doing so. The law provides a process for employer recognition of trade unions and protection for members and organizers.

Farm workers and domestic servants working on rural and remote farms often did not know their rights, and unions experienced obstacles in attempting to organize these workers. As a result, farm workers reportedly suffered abuse by employers. They also had poor access to health care. During the year the government continued efforts to train labor inspectors and educate workers on their rights.

The law prohibits antiunion discrimination. There were no instances of companies failing to reinstate workers who were fired for union activities.

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

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers were members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining, construction, agriculture, and public service sectors. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully. The majority of trade unions officially were affiliated with SWAPO, which many argued limited their independence in promoting worker rights.

Except for workers providing essential services, such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner. Legal strikes were conducted during the year. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers, including some children on communal farms, and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large communal and family-owned commercial farms to investigate possible labor code violations.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace; however, child labor continued to be a problem. Criminal penalties and court orders were available to the government to enforce child labor laws, but such action involved a complicated legal procedure. Under the law, the minimum age for employment is 14, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements. Children below the age of 14 often worked on family-owned commercial farms and in the informal

sector, and some also worked in communal areas or assisted parents working in the charcoal industry.

The Ministry of Labor is responsible for enforcing child labor laws and investigated child labor as part of its regular labor inspections. Approximately five complaints of child labor were lodged with the ministry during the year.

The Ministry of Labor's National Initiative to Eliminate the Worst Forms of Child Labor continued its baseline study of the extent of child labor in the country. The Ministry of Gender Equality and Child Welfare conducted several programs aimed at encouraging parents and guardians to allow children to attend school.

The government has introduced several programs aimed at supporting children to stay in school and away from the labor market. The Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services coordinated welfare programs for orphans, including those affected by HIV/AIDS, by providing grants and scholarships to keep them in school. Additionally, the government collaborated with the Namibia Agricultural Union and the Namibia Farm Workers Union in efforts to eliminate child labor through awareness campaigns. The government also continued to work with NGOs such as Project Hope to assist the victims of child labor.

e. Acceptable Conditions of Work

There was no statutory minimum wage law, but the mining, construction, security, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported an extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours with at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 workdays of annual leave per year, at least 30 workdays of sick leave over a three-year period, and three months of maternity leave paid in part by the Social Security Commission. The Ministry of Labor did not always enforce these provisions.

There continued to be concerns that Chinese firms failed to adhere to the country's labor code, in part by allegedly hiring

and firing workers at will, failing to pay established minimum wages and benefits in certain industries, and failing to respect work-hour regulations for public holidays and Sundays.

The Ministry of Labor and Social Welfare mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, but the Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice. The government had not fully implemented the 2004 Labor Act but had tabled a new labor bill in parliament that would eventually replace the previous labor act.

####