

NAMIBIA 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Namibia is a constitutional multiparty democracy. In local and regional elections held in 2015, the ruling South West African People's Organization (Swapo) party won 112 of 121 regional council seats and gained control of 54 of 57 local authorities. Elections held in November 2014 resulted in the election of Prime Minister Hage Geingob to the presidency and retention by Swapo of its large parliamentary majority. International observers characterized the elections in 2014 and 2015 as generally free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

The government took steps to prosecute or administratively punish officials who committed abuses, whether in the security services or elsewhere in the government.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

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

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit such practices, but the law does not define "torture" or separately classify it as a crime. Torture is prosecuted under criminal provisions such as assault or homicide. Although the Ombudsman's Office stated that it received some reports of police mistreatment of detainees, there were no complaints of torture.

Prison and Detention Center Conditions

Prison conditions improved during the year, although some prison buildings remained dilapidated.

Physical Conditions: Conditions in detention centers and police holding cells remained poor. Conditions were often worse in pretrial holding cells than in prisons. Human rights bodies and government officials reported overcrowding in holding cells. Overcrowding was less of a problem in prisons. Five of the country's 13 prisons were overcrowded, while the remaining eight had excess capacity. As of August prisons built to confine a maximum of 5,147 persons held 3,993 inmates. These included 100 women and eight juveniles.

In pretrial holding cells, sanitation remained insufficient, tuberculosis was prevalent, and on-site medical assistance was inadequate.

Prison and holding cell conditions for women were generally better than for men. Female prisoners were permitted to keep their babies with them until age two and received food and clothing for them from prison staff.

There were limited programs to prevent HIV transmission in prisons.

The law does not permit holding juvenile offenders with adults. Prison authorities reported they generally confined juvenile offenders separately, but police occasionally held juveniles with adults in rural detention facilities because of a lack of pretrial detainee facilities for juveniles.

Administration: The Office of the Ombudsman, an independent authority, investigated credible allegations of inhuman conditions, and reported close cooperation with police in resolving complaints and responding promptly to inquiries.

Independent Monitoring: The government granted local and international nongovernmental organizations (NGOs) access to prisons and prisoners but required them to obtain permission from the commissioner general of prisons. The International Committee of the Red Cross (ICRC) visited detainees of the Caprivi treason trial in both Windhoek Central Prison and Oluno Prison and helped arrange family visits.

Improvements: During the year police continued to improve detention conditions by refurbishing older facilities and by building additional holding cells. At year's end prison holding capacity exceeded the prison population in eight of the country's 13 prisons.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The Namibian Police Force (NamPol) has approximately 16,500 uniformed officers and operates under the Ministry of Safety and Security. The Namibian Defense Force, with an estimated 22,000 active duty members, is part of the Ministry of Defense. NamPol is responsible for internal security, while the defense force provides supplemental assistance in response to some natural disasters.

NamPol reported it had decentralized policing activities to make regional commands responsible for executing directives of the inspector general of police. Civilian authorities maintained effective control over NamPol, and the government had effective mechanisms to investigate and punish abuse and corruption. In contrast to prior years, there were no reports of impunity involving the security forces.

Arrest Procedures and Treatment of Detainees

Arrest warrants are not required in all cases, including when authorities apprehend a suspect in the course of committing a crime. Authorities must inform persons arrested of the reason for their arrest, and police generally informed detainees promptly of the charges against them. Authorities must arraign arrested persons within 48 hours of their detention. The government did not always meet this requirement, especially in rural areas far from courts. The constitution stipulates the accused are entitled to defense by legal counsel of their choice, and authorities respected this right.

The state-funded Legal Aid Directorate (LAD) provided free legal assistance for indigent defendants in criminal cases and, depending on resource availability, in

civil matters. The LAD provided assistance in approximately 70 percent of all criminal cases.

There was a functioning bail system. Officials generally allowed detainees prompt access to family members. The constitution permits detention without trial during a state of emergency but requires publication of the names of detainees in the government's gazette within 14 days of their apprehension. An advisory board appointed by the president on the recommendation of the Judicial Service Commission (the constitutional body that recommends judges to the president for appointment) must review their cases within one month of detention and every three months thereafter. The constitution requires such advisory boards to have no more than five members of which at least three must be "judges of the Supreme Court or the High Court or qualified to be such." The advisory board has the power to order the release of anyone detained without trial during an emergency.

Pretrial Detention: Lengthy pretrial detention remained a significant problem. A shortage of qualified magistrates and other court officials, the inability of many defendants to afford bail, the lack of a plea-bargaining system, slow or incomplete police investigations, the frequency of appeals, and procedural postponements resulted in a large backlog in the prosecution of criminal cases. Delays between arrest and trial could last for years. There were lengthy delays in criminal appeals as well. According to the Office of the Prosecutor General, however, pretrial detention did not exceed the maximum sentence of an alleged crime.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained are entitled to challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the courts acted independently at times, making judgments and rulings critical of the government. Inefficiency and lack of resources, however, hampered the judicial system.

Customary courts hear many civil and petty criminal cases in rural areas. The law delineates the offenses the customary system may handle. Customary courts deal with infractions of local customary law among members of the same ethnic group. The law defines the role, duties, and powers of traditional leaders and states

customary law inconsistent with the constitution is invalid. Cases resolved in customary courts were sometimes tried a second time in government courts.

Trial Procedures

The constitution and law provide for the right to a fair public trial, but long delays in courts hearing cases and the uneven application of constitutional protections in the customary system compromised this right. Defendants are presumed innocent. The law provides for defendants to be informed promptly and in detail of the charges against them, in a language they understand, and of their right to a public trial.

All defendants have the right to be present at trial and to consult with an attorney of their choice in a timely manner. Defendants receive free interpretation as necessary from their first court appearance through all appeals. Although indigent defendants are entitled to a lawyer provided by the state in criminal and civil cases, this sometimes did not occur due to an insufficient number of public defenders, insufficient state funds to pay private lawyers to represent indigent defendants, or because the LAD did not accept the application for representation from an accused.

Defendants may confront witnesses, present witnesses and evidence on their behalf, and have the right of appeal. The law extends these rights to all citizens. The courts provided defendants adequate time and facilities to prepare their defense. Defendants have the right not to testify against themselves or confess guilt.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides for access to a court to file lawsuits seeking damages for or cessation of human rights violations. The constitution provides for administrative procedures to correct, as well as judicial remedies to redress, wrongs. Civil court orders were mostly well enforced.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Press and Media Freedom: Independent media were active and expressed a wide variety of views without restriction.

Violence and Harassment: Unlike in 2016, there were no reports of harassment of journalists.

Censorship or Content Restrictions: There were reports journalists working for state-owned media practiced self-censorship in favor of the government and Swapo.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communication without appropriate legal authority. According to the International Telecommunication Union, 31 percent of individuals used the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated 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, or other persons of concern.

Protection of Refugees

Refoulement: Unlike in 2016, there were no reports of forced repatriation.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees.

Refugees were required to live at the government's Osire refugee settlement. The government cooperated with the NGO Komeho Namibia to provide food, shelter, water, and sanitation at the settlement. The government issued identification cards and exit permits allowing refugees to leave the settlement to travel to a specified place for a limited period. The government maintained strict control over civilian access to the Osire refugee settlement but provided regular unrestricted access to the ICRC, UNHCR, and UNHCR's NGO partners.

Employment: The government maintained restrictive measures on refugees' ability to work, stating it was seeking to protect the jobs of citizens. Refugees wishing to work outside Osire Camp were required to seek government permission and work permits.

Durable Solutions: In 2015 UNHCR brokered a deal (which was never completed) for 600 Angolan refugees to be resettled in Namibia, but there were no known plans to give any other refugees Namibian residency. The majority of refugees in the Osire Camp are waiting for resettlement in foreign countries.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In the 2015 regional and local council elections, the ruling Swapo party won 112 of 121 regional council seats and gained control of 54 of 57 local districts. Voting proceeded in an orderly and effective manner with no reports of politically motivated violence or voter intimidation. In the 2014 presidential and parliamentary elections, voters elected Swapo candidate Hage Geingob president with 87 percent of the vote. Swapo candidates won 77 of the 96 elected seats (there are also eight appointed seats) in the National Assembly, the lower house of parliament. International observers characterized the elections in 2014 and 2015 as generally free and fair.

Participation of Women and Minorities: No laws limit participation of women and members of minorities in the political process, and they did participate. Ruling party policy--the Zebra system--provides for 50 percent of Swapo candidates for parliament to be women. Virtually all of the country's ethnic minorities had representatives in parliament and in senior positions in the cabinet. The president is from the minority Damara ethnic group. Historic economic and educational disadvantages, however, limited the participation in politics of some ethnic groups, such as the San and Himba.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for conviction of corruption by officials; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were reports of corruption by individuals in government. During the year the Anti-Corruption Commission (ACC) conducted awareness campaigns and workshops for government officials, politicians, civil society organizations, church leaders, and schoolchildren on the dangers of corruption. In addition it launched the four-year National Anti-Corruption Strategy and Action Plan, aimed at increasing accountability in all areas of government and preventing corruption.

Corruption: During the year there were cases of publicly owned enterprises being unable to account for large sums of missing funds. A major bank was forced to close after 200 million Namibian dollars (N\$) (\$15.2 million) of its money

disappeared after being transferred out of the country in an investment transaction, and efforts to determine fault have thus far not taken place.

Financial Disclosure: The parliamentary code of conduct requires members to make annual declarations of financial interests. The declaration form includes a confidential portion to which the public does not have access. While the forms are available for public viewing at parliament upon request, authorities sought to extend the November 15 deadline for parliamentarians to file their disclosure forms.

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

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The Ombudsman's Office, local human rights NGOs, and the ACC reported NamPol cooperated and assisted in corruption and human rights investigations.

Government Human Rights Bodies: There is an autonomous ombudsman with whom government agencies cooperated. Observers considered him effective in addressing some corruption and human rights problems.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men and women, including spousal rape. By law rape is defined as the commitment of any sexual act under coercive circumstances. The courts tried numerous cases of rape during the year, and the government generally enforced court sentences providing between five and 45 years' imprisonment for those convicted. Factors hampering rape prosecutions included limited police capacity and the withdrawal of allegations by victims after the filing of charges. Victims often withdrew charges because they received compensation from the accused; succumbed to family pressure, shame, or threats; or became discouraged at the length of time involved in prosecuting a case.

Traditional authorities may adjudicate civil claims for compensation in cases of rape, but criminal trials for rape are held in courts.

The government and media focused national attention on gender-based violence. The president and former presidents spoke publicly against gender-based violence.

The law prohibits domestic violence, but the problem was widespread. Penalties for conviction of domestic violence--including physical abuse, sexual abuse, economic abuse, intimidation, harassment, and serious emotional, verbal, or psychological abuse--range from a fine of N\$300 (\$23) for simple offenses to 10 years' imprisonment, a fine, or both for assault with intent to cause grievous bodily harm.

The law provides for the issuance of protection orders in cases of domestic violence and specifies handling certain crimes of violence--including murder, rape, and assault--differently if the crimes take place within a domestic relationship. When authorities received reports of domestic violence, Gender-based Violence Protection Units staffed with police officers, social workers, legal advisors, and medical personnel trained to assist victims of sexual assault intervened. Some magistrate courts provided special courtrooms with a cubicle constructed of one-way glass and child-friendly waiting rooms to protect vulnerable witnesses from open testimony. The Ministry of Gender Equality and Child Welfare operated shelters; however, due to staffing and funding shortfalls, the shelters operated only on an as-needed basis, with social workers coordinating with volunteers to place and provide victims with food and other services.

Sexual Harassment: The law explicitly prohibits sexual harassment in the workplace. Employees who leave their jobs due to sexual harassment may be entitled to legal "remedies available to an employee who has been unfairly dismissed."

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: Civil law prohibits gender-based discrimination, including employment discrimination. Women nonetheless experienced discrimination in such areas as access to credit, salary level, owning and managing businesses,

education, and housing (see section 7.d.). Some elements of customary family law provide for different treatment of women. Civil law grants maternity leave to mothers but not paternity leave to fathers, bases marital property solely on the domicile of the husband at the time of the marriage, and sets grounds for divorce and divorce procedures differently for men and women. The law protects a widow's right to remain on the land of her deceased husband, even if she remarries. Traditional practices in certain northern regions, however, permitted family members to confiscate the property of deceased men from their widows and children.

Children

Birth Registration: The constitution provides for citizenship by birth within the country to a citizen parent or a foreign parent ordinarily resident in the country, or to those born outside the country to citizen parents.

The Ministry of Home Affairs and Immigration, in partnership with UNICEF, provided birth certificates for newborns at clinics and hospitals throughout the country, including through mobile registration vans and birth registration offices at 11 high-volume hospitals. According to the Ministry of Home Affairs and Immigration, approximately 98 percent of citizens had a birth certificate or other identifying document. For additional information, see Appendix C.

Child Abuse: Child abuse was a serious problem, and authorities prosecuted reported crimes against children, particularly rape and incest. The Ministry of Gender Equality and Child Welfare employed social workers throughout the country to address cases of child abuse and conducted public awareness campaigns aimed at preventing child abuse and publicizing services available to victims.

Early and Forced Marriage: The law prohibits civil marriage before age 18 for both boys and girls. For additional information, see Appendix C.

Sexual Exploitation of Children: The law criminalizes child pornography, child prostitution, and the actions of both the client and the pimp in cases of sexual exploitation of children under age 18. NGOs reported that HIV/AIDS orphans and other vulnerable children engaged in prostitution without third-party involvement due to economic pressures or as a means of survival.

The government enforced the law; perpetrators were routinely charged and prosecuted. The penalties for conviction of soliciting a child under age 16 for sex,

or more generally for commercial sexual exploitation of a child (including through pornography), is a fine of up to N\$40,000 (\$3,030), up to 10 years' imprisonment, or both. Penalties for conviction in cases involving children ages 16 and 17 are the same as for adults. The law makes special provisions to protect vulnerable witnesses, including individuals under age 18 or against whom a sexual offense has been committed.

An adult convicted of engaging in sexual relations with a child in prostitution under age 16 may be imprisoned for up to 15 years for a first offense and up to 45 years for a repeat offense. Any person who aids and abets trafficking in persons--including child prostitution--within the country or across the border is liable to a fine of up to one million Namibian dollars (\$75,600) or imprisonment for up to 50 years. Conviction of solicitation of a prostitute, living off the earnings of prostitution, or keeping a brothel carries penalties of N\$40,000 (\$3,030), 10 years' imprisonment, or both.

The minimum legal age for consensual sex is 16. The penalty for conviction of statutory rape--sex with a child under age 14 when the perpetrator is more than three years older than the victim--is a minimum of 15 years in prison when the victim is under 13 and a minimum of five years when the victim is 13. There is no minimum penalty for conviction of sexual relations with a child between ages 14 and 16. Possession of or trade in child pornography is illegal. The government trained police officers in handling of child sex abuse cases. Centers for abused women and children worked to reduce the trauma suffered by abused children.

Infanticide or Infanticide of Children with Disabilities: Media reported cases in which parents, usually young mothers, abandoned newborns, sometimes leading to the newborn's death. The government enforced prohibitions against this practice by investigating and prosecuting violators.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

There was a Jewish community of approximately 100 individuals, the majority of whose members lived in Windhoek. There were no reports of anti-Semitic acts.

Trafficking in Persons

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

Persons with Disabilities

The constitution protects the rights of “all members of the human family,” which domestic legal experts understand to prohibit discrimination against persons with disabilities. The law prohibits discrimination against persons with physical and mental disabilities. The law prohibits discrimination in any employment decision based on a number of factors, including any “degree of physical or mental disability” (see section 7.d.). It makes an exception in the case of a person with a disability if that person is, because of disability, unable to perform the duties or functions of the job in question. Enforcement in this area was ineffective, and societal discrimination persisted.

The government requires all newly constructed government buildings be accessible and include ramps and other features facilitating access. The government, however, neither mandates access to already constructed public buildings generally nor requires retrofitting of government buildings.

Children with disabilities attended mainstream schools. The law does not restrict the rights of persons with disabilities to vote and otherwise participate in civic affairs, but access to public venues hindered the ability of persons with disabilities to participate in civic life.

A deputy minister of disability affairs in the office of the vice president is responsible for matters related to persons with disabilities, including operation of the National Disability Council of Namibia. The council is responsible for overseeing concerns of persons with disabilities and coordinating implementation of policies on persons with disabilities with government ministries and agencies.

National/Racial/Ethnic Minorities

Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted.

Indigenous People

By law all traditional communities participate without discrimination in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Nevertheless, the San, the country's earliest known inhabitants, were unable to exercise these rights effectively because of minimal access to education, limited economic opportunities, and their relative isolation. Some San had difficulty obtaining a government identification card because they lacked birth certificates or other identification. Without a government-issued identification card, the San could not access government social programs or register to vote. A lack of police presence, prosecutors, and courts prevented San women from reporting and seeking protection from gender-based violence.

Indigenous lands were effectively demarcated but poorly managed. Many San tribes lived on conservancy (communal) lands but were unable to prevent the surrounding larger ethnic groups from using and exploiting those lands. Some San claimed regional officials refused to remove other ethnic groups from San lands.

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

Although Roman-Dutch common law inherited at independence criminalizes sodomy, the ban was not enforced. The law defines sodomy as intentional anal sexual relations between men. This definition excludes anal sexual relations between heterosexual couples and sexual relations between lesbians. Many citizens, however, considered all same-sex sexual activity taboo. The prohibition against sexual discrimination in the constitution does not prohibit discrimination based on sexual orientation.

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced harassment when trying to access public services. Some politicians opposed any legislation that would specifically protect the rights of LGBTI persons. In August 2016 the ombudsman publicly declared his support for the legalization of same-sex marriage and the abolition of the common law offense of sodomy. There was some evidence of attitudes in government relaxing in recent years. For example, in July authorities permitted LGBTI groups to hold a parade that made its way down the main avenue in downtown Windhoek on a Saturday morning. Other than some isolated shouting of insults and head shaking from passing motorists, no harassment or violence took place.

HIV and AIDS Social Stigma

Although the law prohibits discrimination based on HIV status, societal discrimination against and stigmatization remained problems. Civil society organizations reported discriminatory treatment of persons with HIV/AIDS in access to health care services, instances of involuntary HIV testing, and social rejection and isolation. Some jobs in the civilian sector require a pre-employment test for HIV, but there were no reports of employment discrimination specifically based on HIV/AIDS status. According to the Namibian Employers' Federation, however, discrimination based on HIV status was not a major problem in the workplace because most individuals were aware that HIV is not transmissible via casual contact.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right to form and join independent unions, conduct legal strikes, and bargain collectively; however, the law prohibits workers in certain sectors, such as the police, military, and correctional facilities, from joining unions.

Except for workers in services designated as essential services, such as public health and safety, workers may strike once mandatory conciliation procedures are exhausted and 48 hours' notice is given to the employer and labor commissioner. Workers may take strike actions only in disputes involving specific worker interests, such as pay raises.

Worker rights disputes, including dismissals, must first be submitted to the labor commissioner for conciliation, followed by a more formal arbitration process if conciliation is unsuccessful. The parties have the right to appeal the arbitrator's findings in labor court. The law provides for conciliation and arbitration to resolve labor disputes more quickly, although employers and unions publicly questioned the system's effectiveness. The law prohibits unfair dismissal of workers engaged in legal strikes, specifically prohibits employer retaliation against both union organizers and striking workers, and provides for reinstatement for workers dismissed for union activity so long as the workers' actions at the time were not in violation of other laws.

The law provides employees with the right to bargain individually or collectively and provides for recognition of the exclusive collective bargaining power of a union when more than half of workers are members of that union. The law

provides for the protection of all workers, including migrants, nonessential public sector workers, domestic workers, and those in export processing zones.

In general the government and employers respected freedom of association, and workers exercised this right. The government effectively enforced applicable laws on freedom of association. Many trade unions were officially affiliated with the Swapo party, which many workers argued limited their independence in promoting worker rights. Aside from mediation efforts, the government was not directly involved in union activities. Employers also did not appear to interfere in union activities.

The government generally enforced the law on collective bargaining. Approximately 85 percent of cases were settled in conciliation.

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. Employers respected the collective bargaining process.

Workers exercised their right to strike in the education, mining, and fishing sectors. The majority of strikes involved allegations of unfair dismissal, demands for higher pay, more benefits, or improved working conditions.

The law requires employers to provide equal labor rights to all their employees. Employers may apply to the minister of labor and social services for an exemption from these provisions if they can prove workers' rights are protected, but very few employers pursued this option.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by children. Persons convicted of forced or compulsory labor face a maximum fine of N\$20,000 (\$1,515), four years' imprisonment, or both. The government did not report any formal allegations of forced or compulsory labor; it investigated child labor when reported. Resources, inspections, and remediation were inadequate. Penalties for violations were insufficient to deter violations.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 14. Children under age 18 may not engage in hazardous work, including working between the hours of 8 p.m. and 7 a.m., underground work, mining, construction work, or in facilities where goods are manufactured or electricity is generated, transformed, or distributed, or machinery is installed or dismantled. Children ages 16 and 17 may perform hazardous work subject to approval by the Ministry of Labor, Industrial Relations and Employment Creation and restrictions outlined in the Labor Act. Persons convicted of employing children face a maximum fine of N\$20,000 (\$1,515), four years' imprisonment, or both. The Child Care and Protection Act also includes provisions prohibiting child labor.

Gender-based Violence Protection Units enforced child labor laws in cooperation with the Ministry of Labor, Industrial Relations, and Employment Creation. The ministry made special provisions in its labor inspections to look for underage workers and it prioritized such investigations, often targeting border towns. The government trained all inspectors to identify the worst forms of child labor. Targeted labor inspections in areas where child labor was alleged continued on a regular basis.

The ministry conducted programs aimed at encouraging parents and guardians to allow children to attend school. It also operated a program in Windhoek to arrange housing and school enrollment for homeless children. Primary and secondary school education was free, and the government provided free school stationery during the year.

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, through grants and scholarships to keep them in school. In partnership with the International Labor Organization, the government also participated in a four-year program to withdraw children from and prevent them from entering exploitive labor in agriculture and adult-coerced criminal activity. The government distributed a comprehensive guide on labor law that included a section on child labor.

Children worked on communal farms owned by their families herding cattle, goats, and sheep. Children also worked as child minders or domestic servants and in family businesses.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The labor law prohibits discrimination in employment and occupation based on race, sex, religion, political opinion, national origin or citizenship, pregnancy, family responsibility, disability, age, language, social status, and HIV-positive status, and the government in general effectively enforced the law. The law requires equal pay for equal work. The law does not specifically address employment discrimination based on sexual or gender orientation.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens.

The Ministry of Labor, Industrial Relations and Employment Creation and the Employment Equity Commission both report to the minister of labor and are responsible for addressing complaints of discrimination in employment.

Discrimination in employment and occupation occurred with respect to gender (see section 6) and race, most frequently in the mining and construction industries. Men occupied approximately two-thirds of upper management positions in both the private and public sectors.

e. Acceptable Conditions of Work

Although various sectors have a minimum wage, there was no generally applicable minimum wage law. Unions and employers negotiate industry-specific minimum wages under Ministry of Labor mediation.

The standard legal workweek was 45 hours, with at least 36 consecutive hours of rest between workweeks. By law an employer may not require more than 10 hours' overtime work per week and must pay premium pay for overtime work. The law mandates 20 workdays of annual leave per year for those working a five-day workweek and 24 workdays of annual leave per year for those working a six-day workweek. The law also requires employees receive paid time off for government holidays, receive five days of compassionate leave per year, at least 30 workdays of sick leave during a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission.

The Ministry of Labor, Industrial Relations, and Employment Creation mandates occupational safety and health standards, and the law empowers authorities to enforce these standards through inspections and criminal penalties. The law requires employers to provide for the health, safety, and welfare of their employees. The law covers all employers and employees in the country, including individuals placed by a private employment agency (labor hire), except independent contractors and members of the National Defense Force, Namibian Intelligence Service, the Prison Service, and police. By law employees have the right to remove themselves from dangerous work situations, and authorities effectively protected employees in such situations.

The government did not always enforce labor laws effectively because the number of inspectors was insufficient to address violations. Inspections occurred proactively, reactively, and at random. Due to the ministry's resource constraints in vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and commercial farms and private households, labor inspectors sometimes found it difficult to investigate possible violations. The law provides that persons convicted of violating safety regulations face a maximum fine of N\$10,000 (\$757), two years' imprisonment, or both; however, the penalties were insufficient to deter violations, and labor law violations occurred.

The Namibian Employers' Federation reported that the most prominent offenses concerning employee rights and working conditions were in the informal sector, including the common informal bars known as "shebeens." Most offenders were Chinese owners of retail shops, who underpaid and overworked their employees.

Allegations persisted that, apart from failing to adhere to the labor code concerning hiring and firing, Chinese firms failed to pay sector-established minimum wages and benefits in certain industries, failed to respect workhour regulations for public holidays and Sundays, and ignored occupational health and safety measures, for example, by requiring construction workers to sleep on site.

Migrant workers have the same legal rights as citizens.