



U.S. DEPARTMENT of STATE

Botswana

Country Reports on Human Rights Practices - [2006](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 6, 2007

Botswana, with a population of 1.76 million, has been a multiparty democracy since its independence in 1966. Its constitution provides for indirect election of a president and popular election of a national assembly. In 2004 the Botswana Democratic Party (BDP), led by President Festus G. Mogae, returned to power in elections generally deemed free and fair. The BDP has held a majority of national assembly seats since independence. Civilian authorities generally maintained effective control of the security forces.

The following human rights problems were reported during the year: poor prison conditions, lengthy delays in the judicial process, restrictions on press freedom, violence against women, child abuse, discrimination against homosexuals and persons with HIV/AIDs, and restrictions on trade unions. In December the High Court ruled broadly in favor of 189 San (an indigenous ethnic minority) who had sued the government over their forced relocation from the Central Kalahari Game Reserve (CKGR), and concluded that the government had acted wrongly in several regards.

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, police shot and killed six individuals in three separate incidents. In July four persons died in an exchange of gunfire with police during an attempted robbery in Gaborone. In August one person died after being shot by police in Gaborone while fleeing a crime scene with burgled goods. In December a fugitive wanted on multiple counts of attempted murder and rape was shot and killed by police in the village of Lotlhakane.

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 explicitly prohibit such practices; however, there were reports that security forces occasionally beat and abused suspects to obtain evidence or elicit confessions. Coerced confessions and evidence gathered through coercion or abuse were inadmissible in court.

Early in the year five soldiers and two police special constables were arrested for allegedly forcing several Zimbabwean detainees to perform sex acts on one another in November 2005. The accused were released on bail pending trial and suspended from duty.

In August two police special constables were charged with beating a Zimbabwean prisoner. They were convicted, fined, and dismissed from the police service.

There were no further developments in the June 2005 case in which five residents of Kaudwane charged that officers of the Department of Wildlife and National Parks had beaten them during questioning about poaching. The government denied the accusations, but had not released details of its investigation by year's end.

Unlike in the previous year, there were no reports that police harassed human rights activists or forcibly dispersed demonstrators.

Prison and Detention Center Conditions

Prison conditions remained poor; however, prison deaths decreased during the year, primarily due to the introduction of anti-retroviral (ARV) drug treatment in prisons. As of early September the prison system, which had an authorized capacity of 3,910, held 5,969 prisoners, a 12 percent reduction in overcrowding since September 2005. Overcrowding was worst in men's prisons and constituted a serious health threat because of the country's high incidence of HIV/AIDS and tuberculosis. Rape between inmates occurred. Conditions in the less-crowded Center for Illegal Immigrants, a detention facility, were adequate (see section 2.d.).

Voluntary and free HIV testing, peer counseling, and anti-retroviral drug treatment were available to prisoners. In September, 434 prisoners were receiving ARV treatment, and three HIV-positive pregnant prisoners began participating in a "prevention of mother-to-child transmission" program. The government did not provide ARV treatment to noncitizens in detention, but those in long-term detention could receive such treatment free from a local nongovernmental organization (NGO). The prison commissioner had the authority to release terminally ill prisoners in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. As of September the government had released 371 prisoners under the extramural labor program.

Mistreatment of prisoners is illegal; however, the Department of Prisons received three complaints that guards mistreated inmates. Four officers were given administrative discipline in one case; the other two complaints were still being investigated at year's end.

By September 1, 33 prisoners had died in custody, primarily from HIV/AIDS-related illnesses, fewer than half the number at the same point in 2005. Although the Department of Prisons routinely investigated deaths in custody, the results of those inquests were not made public.

Because of overcrowding, juveniles occasionally were held with adults. Some parents requested that their incarcerated children be transferred to facilities nearer to their homes, which also resulted in the detention of juveniles with adults. Pretrial detainees and convicts were held together.

Committees appointed by the minister of labor and home affairs visited each prison facility quarterly. Although the committees documented their findings, their reports were not made public. By September no NGOs had requested to visit a prison. The government permitted the International Committee of the Red Cross (ICRC) and the UN High Commissioner for Refugees (UNHCR) to visit facilities and prisoners during the year, and to conduct those visits according to those organizations' standard modalities.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Botswana Police Service (BPS), under the Ministry for Presidential Affairs and Public Administration, has primary responsibility for internal security. Customary or local police under the Ministry of Local Government have law enforcement responsibility in some rural areas. The army is responsible for external security and has some domestic security responsibilities.

There were 6,668 BPS officers and approximately 1,060 special constables; the latter had limited authority and were considerably less highly trained than BPS officers. There were approximately 1,800 local police, with authority limited to specified tribal areas, who also were not as highly trained as BPS officers.

The security forces did not operate with impunity, and the government investigated and took steps to punish abuses committed by police and military personnel. In January charges were brought against two special constables and five soldiers accused of abusing a group of Zimbabwean illegal immigrants in December 2005 (see Section 1.c). In August two special constables were arrested and accused of collaborating with civilian burglars; at year's end their trial was pending.

Corruption was not considered a major problem, but respondents to a 2005 survey listed the police among the government agencies most prone to corruption.

During the year approximately 95 police officers received human rights training at the International Law Enforcement Academy located in the country.

Arrest and Detention

Police officers must produce an arrest warrant except in certain cases, such as when an officer witnesses a crime being committed or discovers that a suspect is in possession of a controlled substance. Suspects must be informed of their rights upon arrest, including the right to remain silent, and must be charged before a magistrate within 48 hours; authorities respected these rights in practice. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. There was a functioning bail system, and detention without bail was unusual except in murder cases, where it is mandatory. Detainees have the right to contact a family member and to hire attorneys of their choice; in practice, most could not afford legal counsel. The government provides counsel for the indigent only in capital cases, although attorneys are required to accept pro bono clients.

Pretrial detainees waited from several weeks to several months between the filing of charges and the start of their trials. Pretrial detention in murder cases sometimes lasted beyond one year. Such delays were largely due to judicial staffing shortages.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and while the judiciary was independent, the civil courts remained unable to provide timely, fair trials due to severe staffing shortages and a backlog of pending cases. A 2005 report by the Office of the Ombudsman characterized the "delays in the finalization of criminal matters in all courts" as a "serious concern," particularly the delays in processing appeals. In a survey conducted during 2005, 31 percent of respondents cited inefficiencies in the justice system as a reason for the

perceived increase in fraud in the country.

The judiciary consists of both a civil court--including magistrates' courts, an industrial court, a court of appeal, and the High Court--, and a customary or traditional court system.

Trial Procedures

Trials in the regular courts were public, although trials under the National Security Act could be held in secret. There was no jury system. Defendants have the right to be present and consult with an attorney in a timely manner, but the state provides an attorney only in capital cases. Those charged with non-capital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants were not informed of their rights in pretrial or trial proceedings. Defendants can question witnesses against them and have access to government-held evidence relevant to their cases. There is a presumption of innocence, and defendants have the right to appeal. The Botswana Center for Human Rights provided free legal services but had limited capacity. The University of Botswana Legal Assistance Center provided free legal services in civil, but not criminal, matters.

Foreigners as well as citizens may be tried in customary courts. In customary courts the defendant does not have legal counsel, and there are no standardized rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the customary courts varied considerably. In some cases tribal judges may issue sentences that include corporal punishment such as lashings on the buttocks.

There is a separate military court system; civilians are not tried in military courts.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, which includes a separate industrial court for most labor-related cases. Administrative remedies are not widely available.

Most civil cases were tried in customary courts under the authority of a traditional leader. These courts handled land, marital, and property disputes.

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

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, in 2002 the government forcibly resettled most of the indigenous San and other minority members living in the CKGR to resettlement sites outside the perimeter of the reserve. Government officials maintained that the resettlement program was voluntary and necessary to facilitate the delivery of public services, to provide socio-economic development opportunities to the San, and to minimize human impact on wildlife. In December the High Court rejected most of these government positions (see section 5).

In September 2005 the government closed the reserve to control a disease outbreak, but reopened it on May 22. Despite the closure and earlier relocations, some San never moved outside the CKGR, and remained in the reserve at year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected freedom of speech in practice; however, the government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The government occasionally censored stories or news sources that it deemed undesirable, and government journalists often practiced self-censorship.

The Botswana Press Agency, owned and operated by the government, provided most of the information found in the media through the *Daily News* newspaper, distributed nationwide at no cost, and two FM radio stations. State-owned media generally featured uncritical reporting on the government and were susceptible to political interference. For example, on September 25, a senior officer of the Ministry of Communications, Science and Technology instructed government journalists to request and use government statements to counter negative reporting on the CKGR issue appearing in other media.

The independent media were active and generally expressed a wide variety of views; however, the government placed strict controls on their access to information.

Radio continued to be the most broadly accessible medium. Government-owned Radio Botswana and Radio Botswana 2 covered most of the country. Privately owned Yarona FM and Gabz FM broadcast in five of the country's 10 largest towns. They produced news and current

affairs programs without government interference.

In 2005 the government stopped renewing radio licenses held by the NGO First People of the Kalahari (FPK), charging that the vehicle-mounted and hand-held radios were being used by poachers to help avoid wildlife patrols in the CKGR (see section 4). The FPK said that the radios were vital for the safety of widely scattered families living in the reserve.

State-owned Botswana Television was the primary source of televised news and current affairs programs. The privately owned Gaborone Broadcasting Corporation broadcast mostly foreign programs. International television channels were available by satellite.

Unlike in the previous year, the government did not deport any foreign journalists who criticized its policies. During 2005 the government deported at least two foreign journalists whose reporting was critical of the government. In each case, the government exercised its right not to specify reasons for the deportations other than to cite national security concerns. Government officials sometimes complained of bias in the private press; however, government officials and other public figures have recourse to the courts if they believe they have been libeled. Libel is a civil matter.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. Internet access was typically limited to urban areas.

Academic Freedom and Cultural Events

Unlike in the previous year, there were no government restrictions on academic freedom or cultural events. Citing national security concerns, the government deported Kenneth Good, an Australian professor at the University of Botswana, in May 2005 after he had written papers critical of the government. During the year Good continued his criticisms of the government from abroad.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice. Unlike in the previous year, there were no reports that police forcibly dispersed demonstrators.

There were no further developments concerning the September 2005 incident in which police forcibly dispersed and shot rubber bullets into a demonstration led by San leaders Roy Sesana and Jumanda Gakelebone, after the demonstrators attempted to force their way into the closed CKGR. One person was injured and 21 were arrested and later released. Trials were pending at year's end. There was a chance that the charges would be dropped in light of the High Court's December ruling that the San had the legal right to enter the CKGR.

c. Freedom of Religion

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

Societal Abuses and Discrimination

Government policy and practice contributed to the generally free practice of religion. There was no known Jewish community in the country, and no reports of anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The constitution and law provide for these rights, and the government generally respected them in practice.

In 2002 the government required the San to relocate from the CKGR to one of three designated settlements outside of the reserve (see section 5). Visitors to the reserve, including relocated former residents, had to register with Department of Wildlife officials to obtain a permit to enter the CKGR. A few San remained in the reserve, and some San moved back to the CKGR during the year. Unlike in the previous year, the government did not deny NGO entry into the CKGR.

The law 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 and its 1967 protocol, and 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 they fear persecution. The government granted refugee status or asylum. The government's system for granting refugee status was accessible but slow. During the year the government also

provided temporary protection to approximately 470 individuals who did not qualify as refugees under the 1951 convention and the 1967 protocol. The government generally cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The government held newly arrived refugees and asylum seekers, primarily from Zimbabwe, in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee (RAC), a governmental body whose chairperson is the district commissioner of Francistown, made a status recommendation; the UNHCR was present at RAC meetings in the status of observer and technical advisor. Once persons were granted refugee status, the government transferred them to the Dukwe Refugee Camp, home to some 3,000 refugees, until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum were nonetheless allowed to remain at Dukwe if they wished, while the government referred their cases to the UNHCR for possible resettlement. The UNHCR criticized the detention of asylum seekers at the Center for Illegal Immigrants on the grounds that asylum seekers should not be held in detention facilities. Conditions at the center were generally adequate, but refugee children in the center did not have adequate access to education or recreation for the duration of their detention, which in some cases lasted for many months.

Unlike in the previous year, there were no reports that prison guards beat refugees at the center or did not allow them to see their families.

Eleven alleged Caprivi secession leaders remained in detention while the UNHCR reviewed their refugee claims. These individuals faced criminal charges in Namibia and thus did not wish to be repatriated, but no other country agreed to accept them for resettlement. The government allowed them to remain in detention while UNHCR attempted to resolve their cases.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The country held parliamentary elections in October 2004. The BDP, led by President Mogae, won 44 of 57 competitive seats; the Botswana National Front won 12; and the Botswana Congress Party won one. The BDP has won a majority of seats in the National Assembly in every election since independence. Domestic and international observers characterized the elections as generally free and fair; however, BDP candidates had preferential access to state-owned television during much of the campaign.

Although women accounted for approximately 57 percent of voters in the October 2004 election, they stood for office much less frequently. There were seven women in the 61-seat parliament, five women in the 20-seat cabinet, three female justices on the 13-seat High Court, and two women in the 15-seat House of Chiefs.

The law recognizes only the eight principal ethnic groups of the Tswana nation; however, members of ethnic groups not recognized by the law participated actively in the government, particularly members of the Kalanga and Bakalagadi ethnic groups. There were 23 members of minorities in the 61-seat parliament, 10 in the 20-seat cabinet, and five on the High Court.

Government Corruption and Transparency

There were isolated reports of government corruption during the year. A corruption perception survey conducted in July 2005 in the business sector found that 74 percent of respondents believed that corruption was increasing in the country, though Transparency International's 2006 surveys and rankings indicated that corruption levels are still perceived as relatively low.

During the year the government took steps to curb corruption. The Directorate on Corruption and Economic Crime (DCEC) investigated allegations of corruption, and in July launched two separate bribery prosecutions, one against a government official and the other against a police officer. In November the DCEC arrested and held an immigration officer on the charge of accepting bribes. The DCEC promoted public awareness and education, and worked to prepare codes of ethical conduct.

The law does not provide public access to government information, and the government generally restricted such access.

Section 4 Governmental Attitude Regarding International and Non-governmental 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. Government officials were generally cooperative and responsive to their views on most subjects, but were far less open to the involvement of some international NGOs on the issue of the CKGR relocations. Unlike in the previous year, government officials did not harass or arrest human rights activists or NGO members.

Independent local human rights groups included the Botswana Centre for Human Rights; Childline, a child welfare NGO; Emang Basadi, a women's rights group; and the Botswana Network on Ethics, Law, and HIV/AIDS. The government interacted with and provided financial support to some of these organizations.

During the year the government continued its refusal to renew licenses for the NGO First People of the Kalahari to operate two-way radios within the CKGR, charging that FPK had used the radios to encourage and facilitate illegal activities; the FPK represented the San in their

legal challenge against the government (see sections 2.a. and 5). In July 2005 the government had denied the FPK entry to the CKGR, charging that the group intended to encourage illegal resettlement in the reserve and to help poachers.

During the year the government organized several visits to the CKGR for foreign diplomats and journalists, as well as for representatives of opposition political parties. The government also permitted visits by the ICRC and UNHCR during the year.

An independent, autonomous ombudsman handled human rights and other issues in the country, and the government generally cooperated with the ombudsman.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the government generally respected these provisions in practice. However, the law does not prohibit discrimination by private persons or entities, and there was societal discrimination against women, persons with disabilities, persons with HIV/AIDS, and minority ethnic groups, particularly the San.

Women

The law does not specifically prohibit domestic violence against women, and it remained a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Greater public awareness and improved legal protection resulted in increased reporting of domestic violence and sexual assault; however, police rarely were called to intervene in such cases.

The law prohibits rape but does not recognize the concept of spousal rape. During the year 1,544 incidents of rape were reported to the police. By law the minimum sentence for rape is 10 years, increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew his HIV-positive status. A person convicted of rape is required to undergo an HIV test before being sentenced. Police lacked basic investigative techniques in rape cases.

Prostitution is illegal but was widespread. Enforcement was sporadic and complicated by vague laws that made it easier to charge violators with offenses such as unruly conduct or loitering than for prostitution. Most police enforcement took the form of periodic sweeps to clean out areas used for solicitation.

The law does not prohibit sexual harassment, although the amended Public Service Act recognizes sexual harassment as misconduct punishable under the terms of that act. Sexual harassment continued to be a problem, particularly with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors.

Women legally have the same civil rights as men, but in practice societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities, particularly in rural areas. Marriages can occur under one of three systems, each with its own implications for women's property rights. A woman married under traditional law or in "common property" was held to be a legal minor and required her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under an intermediate system referred to as "in community of property," married women are permitted to own immovable property in their own names, and the law stipulates that neither spouse can dispose of joint property without the written consent of the other. Women increasingly exercised the right to marriage "out of common property," in which case they retained their full legal rights as adults. Polygyny is legal under traditional law with the consent of the first wife, but it was not common.

Highly skilled urban women had growing access to entry- and mid-level white collar jobs. Although women occupied many senior level positions in government agencies, such as governor of the Bank of Botswana, attorney general, minister of communication, and director of public prosecution, their counterparts in the private sector seldom held such positions.

The Women's Affairs Department in the Ministry of Labor and Home Affairs had responsibility for promoting and protecting women's rights and welfare. During the year it provided approximately \$216,000 (1.3 million pula) to NGOs working on such issues.

Children

The law provides for the rights and welfare of children, and the government continued to allocate the largest portion of its budget to the Ministry of Education and the second largest portion to the Ministry of Local Government, which distributed books, food, and materials for primary education. The country also has a court system and social service apparatus designed solely for juveniles.

Following extensive public debate, the government introduced a system of school fees during the year. The fees were waived for children whose family income fell below a certain amount. The state also provided uniforms, books, and development fees for students whose parents were destitute. Education was not compulsory. According to the most recent government statistics, approximately 88 percent of children attended school, and approximately 30 percent of children completed secondary school. Girls and boys attended school at similar rates. School attendance and completion rates were highest in urban areas, where transportation was readily available, and lowest in rural areas, where children lived far from schools and often assisted their families as cattle tenders, domestic laborers, and child care providers.

The UN Children's Fund (UNICEF) estimated that there were 160,000 orphans in the country, of whom approximately 120,000 had lost their parents due to HIV/AIDS. As of September the government had registered 53,198 children as orphans. Once registered, these children received clothes, shelter, a monthly food basket worth between \$36 (216 pula) and \$92 (550 pula) depending upon location, and counseling

as needed. Some relatives continued to deny inheritance rights to orphans.

Boys and girls had equal access to government healthcare centers for \$0.33 (2 pula) per visit, and students in remote areas received two free meals a day at school. Approximately 28 percent of babies born to HIV-positive mothers were protected from the virus, largely as a result of the government's Prevention of Mother to Child Transmission Program.

Although the law prohibits defilement (sex with a child below the age of 16), no law specifically prohibits child abuse. Sexual abuse of students by teachers was a problem, and there were frequent media reports of rape, sexual assault, incest, and defilement. The increasing number of HIV/AIDS orphans contributed to an increase in incest. The law considers incest a punishable act only if it occurs between blood relatives, leaving children unprotected from incestuous acts performed by step parents, caregivers, and the extended family. The issues of intergenerational sex between girls and older men and the resulting teenage pregnancies generated extensive media coverage and public discussion.

Child marriage occurred infrequently and was largely limited to certain ethnic groups.

Child prostitution and pornography were criminal offenses; the law stipulates a 10-year minimum sentence for defilement. Media and NGO reports indicated that child prostitution catering to truck drivers existed along the main road linking the country with South Africa, and that many of the girls were thought to be orphans.

There were reports of child labor (see section 6.d.).

Trafficking in Persons

The law does not prohibit trafficking in persons, although penal code provisions cover related offenses such as abduction and kidnapping, slave trafficking, and procuring women and girls for the purpose of prostitution. There were unconfirmed reports that women and children from eastern Africa were trafficked through the country to South Africa. Traffickers charged with kidnapping or abduction could be sentenced to seven years' imprisonment. The BPS and the local police shared responsibility for combating trafficking-related crimes.

The government worked with NGOs to assist potential trafficking victims by hosting workshops on trafficking issues and by making grants to shelters that provided short- and long-term care for street children.

Persons with Disabilities

The law does not prohibit discrimination against persons with disabilities in education, employment, access to health care, or the provision of other state services. The government has a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking; however, the government did not mandate access to public buildings or transportation for persons with disabilities. There was some discrimination against persons with disabilities, and employment opportunities remained limited. The government funded NGOs that provided rehabilitation services and supported small-scale work projects for workers with disabilities.

Indigenous People

Although the government officially considers all of the country's ethnic groups to be equally "indigenous," the earliest known inhabitants of the country, the San, were linguistically, culturally, and often by physical appearance distinct from the rest of the population. The San traditionally were hunter-gatherers. They were not, however, a homogeneous group. The estimated 50-60,000 San in the country represented approximately 3 percent of the country's population. The San remained economically and politically marginalized, have generally lost access to their traditional land in fertile regions of the country, and were vulnerable to exploitation by their non-San neighbors. Their isolation, limited access to education, ignorance of civil rights, and lack of political representation stymied their progress. After independence a substantial proportion of San resided in government-created Remote Area Dweller settlements and subsisted on government welfare benefits, supplemented by herding, hunting, and gathering. Most employed San worked as agricultural laborers on cattle ranches owned by individuals of other ethnic groups.

The colonial government established the 20,000 square mile CKGR in 1963 to protect the area's ecosystem and to allow some San groups to continue to pursue a subsistence hunter-gatherer livelihood within the reserve. By 1997 the government had concluded that San settlements within the CKGR were incompatible with wildlife protection and social development, and most San were relocated from the CKGR under an arrangement that included government transportation and a modest, government-set compensation, usually in the form of livestock. More than 700 residents did not accept the government's relocation inducements, and remained in the reserve. In January 2002 the government delivered an ultimatum to the remaining CKGR residents declaring that public services within the reserve, most significantly provision of water, would cease and that all residents would be relocated outside the reserve. In April 2002 the government forcibly resettled most San from the CKGR to the settlement areas of Kaudwane, New Xade, and Xere. Between 20 and 50 San stayed on inside the reserve, despite the closure of the wells and the end of other services.

The sustainability of the new settlements was threatened by poor employment opportunities, rampant alcohol abuse, limited hunting and grazing options, and the high cost of providing public services. The San continued to struggle with the lack of economic opportunities in the relocation areas and with a general yearning to return to their homes within the CKGR.

Until May 22, the CKGR was closed due to an outbreak of a contagious animal disease. Although the few San still residing inside the reserve were allowed to remain, the government removed their domestic livestock as part of the quarantine process. The government also barred the

delivery of drinking water to the remaining residents by donkey cart, but allowed water deliveries by motor vehicle. The death of an elderly San woman inside the CKGR late in 2005 briefly raised tensions when the government initially refused to allow anyone other than her immediate family into the reserve to attend the funeral. The issue dissipated after the government relented and provided transport for the 100 people who attended the funeral. In contrast to 2005, there were no significant further clashes between the authorities and the San, and tensions over the relocation issue were generally more subdued.

On December 13, the High Court announced its rulings in the case that had been brought against the government in 2004 by First People of the Kalahari challenging the legality of the relocations. One hundred eighty-nine San were signed as applicants in the suit against the government. The court ruled that although the government had acted legally in terminating services inside the CKGR, it had acted "forcibly or wrongly and without their consent" in its relocation of the San people. The court declared that the applicants were entitled to return to the reserve without the need for entry permits, and were also entitled to be issued permits to hunt inside the reserve. The government is not obligated to resume the provision of services within the CKGR.

The government announced that it would accept and carry out the court's rulings, but only with respect to the 189 actual applicants and their minor children, rather than for all of the San affected by the relocations. Many of the San and their supporters objected to this interpretation of the scope of the rulings. President Mogae held a "town hall-style" discussion with the San in the largest resettlement village over implementation of the court rulings, but the issue had not been resolved at year's end.

A number of NGOs have made efforts to promote the rights of indigenous people or to help provide economic opportunities. However, the programs have had limited impact. In May all major domestic NGOs working on San-related issues, including the FPK and the Botswana Center for Human Rights, entered into a coalition effort to support the rights and aspirations of the San more effectively. In November, however, the FPK indicated that it intended to pull out of the coalition, though no public announcement was made.

Other Societal Abuses and Discrimination

Discrimination against persons with HIV/AIDS continued to be a problem, including in the workplace. The government funded community organizations that ran programs to reduce the stigma of HIV/AIDS.

The law prohibits homosexuality, but there were no reports of enforcement action by the authorities. There were, however, reports of societal discrimination and harassment of homosexuals.

Section 6 Worker Rights

a. Right of Association

The law allows workers to form and join unions of their choice without excessive requirements, and workers exercised this right in practice. Public sector employees, who were extended the right to organize in 2004, were still in the process of establishing unions. The industrial or wage economy was small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors.

Workers may not be fired for legal union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay. The law severely restricts the right to strike, and virtually all strikes are ruled illegal, leaving striking workers at risk of dismissal. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

As reported in the semi-official *Daily News*, in September the BCL copper mine in Selebi-Phikwe dismissed 178 workers for engaging in an August strike that the High Court declared illegal. The Botswana Mine Workers Union (BMWU) protested the dismissals and announced it would conduct its own investigation into the circumstances and legality of the strike.

Also in September the BMWU appealed an industrial court ruling that a 2004 strike against Debswana, the government-DeBeers joint venture that runs the country's diamond mines, was illegal. That ruling led to Debswana's dismissal in 2005 of 461 workers, including several union leaders who did not participate in the strike. The court had not ruled on the appeal at year's end.

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 for collective bargaining for unions that have enrolled 25 percent of a labor force; however, only the mineworker and diamond sorter unions had the organizational strength to engage in collective bargaining during the year.

The country's export processing zone (EPZ) exists on paper only. No special laws or exemptions from regular labor laws apply to the EPZ.

c. Prohibition of Forced or Compulsory Labor

The constitution and laws prohibit forced and compulsory labor, including by children.

d. Prohibition of Child Labor and Minimum Age for Employment

Although child labor is addressed in the Children's Act, some child labor occurred. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the commissioner of labor. No organization has petitioned the commissioner for such permission. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining.

District and municipal councils have child welfare divisions, which are responsible for enforcing child labor laws; however, no systematic investigation has occurred. The labor commissioner, UNICEF, and officials of the Ministry of Local Government, Lands, and Housing agreed that child labor was generally limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers. Childline, an independent child welfare organization, received two reports of illegal child labor from January to August; 12 reports were filed the previous year.

The law provides that adopted children may not be exploited for labor, and protects orphans from exploitation or coercion into prostitution. HIV/AIDS has resulted in numerous orphans, many of whom left school to care for sick relatives and became vulnerable to such exploitation.

The Ministry of Labor and Home Affairs was responsible for enforcing child labor laws and policies, and it was generally effective, despite limited resources for oversight of remote areas of the country. Other involved government entities included offices with the Ministry of Education and the Ministry of Local Government. Oversight of child labor issues was facilitated through the Advisory Committee on Child Labor, which included representatives of various NGOs, government agencies, workers' federations, and employers' organizations.

e. Acceptable Conditions of Work

The minimum hourly wage for most full-time labor in the private sector was \$0.56 (3.35 pula), which did not provide a decent standard of living for a worker and family. The cabinet determined wage policy based on recommendations from the National Economic, Manpower, and Incomes Committee, which consists of representatives of the government, private sector, and the Botswana Federation of Trade Unions. The Ministry of Labor and Home Affairs was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in one- to two-year backlogs in resolving such disputes.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor and Home Affairs did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, which is payable at time-and-a-half. Most modern private sector jobs had a 40-hour workweek; the public sector, however, had a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired, and authorities in the Ministry of Labor and Home Affairs effectively enforced this right. The government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers in the formal sector generally provided for worker safety.