



2008 Human Rights Report: Botswana

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Botswana, with a population of 1.84 million, has been a multiparty democracy since independence in 1966. Its constitution provides for indirect election of a president and popular election of a National Assembly. On April 1, President Festus Mogae, who was elected during elections generally deemed to be free and fair in 2004, resigned from office and handed over power to Vice President Ian Khama. The Botswana Democratic Party (BDP) has held a majority of National Assembly seats since independence. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, some problems remained, including abuse of detainees by security forces, poor prison conditions, lengthy delays in the judicial process, restrictions on press freedom, violence against women, and child abuse. Societal discrimination against women, persons with disabilities, homosexuals, persons with HIV/AIDS, persons with albinism, and members of the San ethnic group was a problem. The government restricted the right to strike, and child labor occurred. The government's continued narrow interpretation of a 2006 high court ruling resulted in the majority of San originally relocated from the Central Kalahari Game Reserve (CKGR) being prohibited from returning to or hunting in the CKGR.

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. Five persons were killed during apprehension by police in three separate incidents during the year. The Director of Public Prosecution launched investigations into the deaths; no charges had been made by year's end.

There were no further developments in the June 2007 killing by police of a man in Ramotswa or the 2006 killing of a man in Gaborone.

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, there were reports that security forces occasionally beat and abused suspects to obtain evidence or elicit confessions. During the year the Botswana Police Service (BPS) investigated three abuse complaints. For example, in October the Directorate of Intelligence and Security Services (DISS) allegedly tortured, by beating and suffocation during an extended interrogation, four men, including two

police officers and two soldiers, after a weapon in their possession went missing. An investigation was ongoing at year's end.

There were no developments in the March 2007 case in which two men facing robbery and murder charges stated that threats and beatings were used to obtain their confessions.

In October a magistrate ruled in the trial of five soldiers and two police special constables accused of forcing several Zimbabwean detainees to perform sex acts on each other in 2005. The five Botswana Defense Force (BDF) members were convicted of indecent assault, and they awaited sentencing at year's end. The two special constables were acquitted of the charge.

Prison and Detention Center Conditions

Prison conditions remained poor due to overcrowding. In September the prison system held approximately 6,300 prisoners, which exceeded the authorized capacity of 4,900. Overcrowding, which was worse in men's prisons, constituted a serious health threat due to the high incidence of HIV/AIDS and tuberculosis. Rape of inmates by inmates occurred.

Voluntary and free HIV testing, peer counseling, and antiretroviral (ARV) drug treatment were available to prisoners. As of September 2007, 314 prisoners were receiving ARV treatment, and two HIV-positive pregnant prisoners were 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 for free from a local nongovernmental organization (NGO). Some children, typically under age six and occasionally older, were held with their mothers. 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 complete their sentences outside the prison by completing an "extramural" work release program at government facilities. Eligible prisoners must have served short-term sentences with at least half of their sentence complete and must not have been previously incarcerated. Prisoners convicted of serious and violent felonies were ineligible. By September, in order to ease overcrowding, 1,031 prisoners had been released to complete their sentences in the program.

Mistreatment of prisoners is illegal. The Department of Prisons did not provide information on the number of complaints received regarding mistreated inmates or deaths in custody.

Juveniles occasionally were held with adults. Some parents requested that their incarcerated children be transferred to facilities nearer to home, 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 twice in 2007. Committee reports were not made public. In previous years the government permitted the International Committee of the Red Cross (ICRC) to visit prison facilities; however, there were no prisoners with whom the ICRC sought access during the year. Representatives of the Office of the UN High Commissioner for Refugees (UNHCR) were able to regularly visit the Center for Illegal Immigrants during the year, as well as prisons.

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 BPS, under the Ministry for Presidential Affairs and Public Administration, has primary responsibility for internal security. In March the cabinet disbanded the Local Police Service and merged it with the BPS; previously customary or local police, under the Ministry of Local Government, had law enforcement responsibility in specified tribal areas. The army is responsible for external security and has some domestic security responsibilities.

Police officials acknowledged that corruption was a problem in the lower ranks; some officers took advantage of illegal immigrants and traffic violators. From January 1 through September, there were 31 police officers arrested for criminal offenses, 19 of whom were brought before the criminal courts.

The trial of two special constables arrested in 2006 for collaborating with civilian burglars concluded when both constables were found guilty and dismissed from the BPS.

Civilian authorities maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption, including investigation by police and referral into the criminal court system.

During the year 21 BPS 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 issued by a duly authorized magistrate upon the presentation of compelling evidence, 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. In April the government established the DISS, a new intelligence agency with the power to enter premises and make arrests without warrants if the agency suspects a person has committed or is about to commit a crime. Elements of civil society criticized the DISS, claiming that it lacked provisions for independent oversight and posed a potential threat to civil liberties.

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 generally respected these rights in practice; however, there were some allegations in the media and by defense attorneys that the right to an attorney was often denied during the first 48 hours after arrest, prior to the suspect being brought before a magistrate. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. There is a functioning bail system, and detention without bail is 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; however, 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.

During the year police arrested numerous San for illegally hunting in the CKGR (see section 5).

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 the government generally respected judicial

independence in practice. The civil courts remained unable to provide timely 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.

The civil court system includes magistrates' courts, an industrial court, a court of appeal, and the High Court. A customary or traditional court system also exists.

Trial Procedures

Trials in the civil courts are public, although trials under the National Security Act may be held in secret. There is 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 noncapital crimes are tried without legal representation if they cannot 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. Defendants can present witnesses and evidence on their own behalf. There is a presumption of innocence, and defendants have the right to appeal. Several organizations such as The Botswana Center for Human Rights (DITSHWANELO); Botswana Law Society; and The Botswana Network on Ethics, Law, and HIV/AIDS provided free legal services but had limited capacity. The University of Botswana Legal Assistance Center provided free legal services for some civil, but not criminal, matters.

Customary courts often did not afford due process. Defendants do not have legal counsel, and there are no standardized rules of evidence. Defendants can confront, question, and present witnesses in customary court proceedings. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. Many judges were poorly trained and ill-equipped to make legal decisions. The quality of decisions reached in the customary courts varied considerably and often lacked a presumption of innocence. 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; military courts do not try civilians.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

In the formal judicial system, there is an independent and impartial judiciary in civil matters, which includes a separate industrial court for most labor-related cases. Administrative remedies were not widely available.

Most civil cases were tried in customary courts. These courts handled land, marital, and property disputes, and often did not afford due process.

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, the government's continued narrow interpretation of a 2006 High Court ruling resulted in the majority of San being prohibited from living or hunting in the CKGR. In 2002 the government forcibly resettled the remaining indigenous San and other minority members living in the CKGR who had not voluntarily left 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 socioeconomic development opportunities to the San, and to minimize human impact on wildlife (see section 5).

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 at times attempted to limit freedom of the press and continued to dominate domestic broadcasting.

Individuals could generally criticize the government publicly or privately without reprisal.

The government occasionally censored stories that it deemed undesirable, and government journalists sometimes practiced self-censorship. President Khama's inaugural speech on April 1 referred to the need for "discipline" in the media. Some independent groups interpreted the statement to indicate a range of warnings, from not sensationalizing stories to not being overly critical of the government and its policies.

In December parliament passed the Media Practitioners' Act, establishing a new Media Council to register and accredit journalists, promote ethical standards amongst the media, and receive public complaints. Some NGOs, including the Media Institute for Southern Africa, the independent media, and opposition members criticized the law, stating that it restricted press freedom and was passed without debate after consultations between the government and stakeholders collapsed.

The government owned and operated the Botswana Press Agency, which dominated the media through its free, nationally distributed Daily News newspaper, and through two FM radio stations. State-owned media generally featured uncritical reporting on the government and were susceptible to political interference. Opposition political parties claimed that state media coverage heavily favored the ruling party.

The independent media were active and generally expressed a wide variety of views; however, they were sometimes subject to government pressure to portray the government and the country in a positive light. It was sometimes more difficult for private media organizations to obtain access to government-held information. In July 2007 the minister of communications, science, and technology stated that the licenses of journalists who did not report correctly would be withdrawn. Reporters claimed that this statement was meant as a threat. According to media companies, government-owned enterprises reduced their advertising in reaction to reporting critical of those enterprises. At year's end no licenses had been withdrawn.

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, Gabz FM, and Duma FM expanded their broadcasts from Gaborone to cover most of the major towns. They produced news and current affairs programs without government interference.

In 2007 the NGO First People of the Kalahari (FPK) reported that the government would allow the FPK to have two-way radios in the CKGR provided licensing requirements were followed. However, as of November the FPK had not completed the licensing requirements due to inability to afford the annual 1,500 pula (approximately \$200) licensing fee.

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 through cable subscription and satellite.

In March 2007 the government required 17 foreigners, including seven journalists who had written articles critical of the government, to apply for visas prior to entry even though they were from countries generally exempt from this requirement. The requirements continued during the year.

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 e-mail. Internet access was typically limited to urban areas.

Academic Freedom and Cultural Events

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

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.

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 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government restricted the ability of indigenous San who had been relocated from the CKGR to designated settlement camps in 2002 to return to the reserve. Only the 189 San named in a 2006 high court case, their spouses, and their minor children were permitted to live in the CKGR. A few San had never left the reserve, and some San moved back to the CKGR after the High Court's decision. Many of the 189 did not return to live in the CKGR, as lack of water made the CKGR an extremely inhospitable living environment, and some who initially returned left again. The government was not required to provide water in the CKGR per the 2006 ruling (see sections 1.f. and 5). Visitors to the reserve, including relocated former residents not named in the 2006 case, must obtain a permit to enter 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. The government granted refugee status or asylum. The government's system for granting refugee status was accessible but slow. In practice the government provided protection against the expulsion or return of persons to countries where their lives or freedom would be threatened. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol. As of November an estimated 200 persons were waiting for a decision as to whether they qualified as refugees. During the year 1,305 persons were granted refugee status. The government cooperated with 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 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. Refugees in Dukwe were provided access to education and health care. They were also permitted to leave Dukwe to work outside the camp. 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, although asylum seekers were housed separately from illegal immigrants. Conditions at the center were generally adequate, but children in the center did not have sufficient access to education for the duration of their detention, which in a few cases lasted many months.

In December 2007 the government transferred 16 Namibian nationals who were alleged Caprivi secession leaders from a detention center to the Dukwe Refugee Camp, where they were granted refugee status. These individuals faced criminal charges in Namibia and thus did not wish to be repatriated. In 2002 the High Court ruled out extradition for the 16 Namibians as it deemed an extradition request for the individuals from the government of Namibia to be of a political nature.

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

On April 1, President Festus Mogae resigned and former Vice President Ian Khama assumed office. President Mogae had been elected during the most recent general election in 2004, which was generally deemed free and fair. However, the incumbent BDP received preferential access to state-owned television during much of the campaign. During the 2004 general election, the BDP won 44 of 57 competitive National Assembly 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.

In March BDP officials had access to a presidential helicopter for campaign activities during parliamentary by-elections in Kgalagdi North and Palapye constituencies. Opposition parties criticized this use of state equipment by the ruling party as inappropriate. The BDP won both by-elections. The two constituencies were more than 620 miles apart, and the presidential helicopter allowed President Khama, who was then the vice president, to campaign in

both locations the day before the elections.

The House of Chiefs acts as an advisory upper chamber to the National Assembly on any legislation affecting tribal organization and property, customary law, and the administration of customary courts. It consists of eight paramount chiefs, five chiefs chosen by the president, and 22 elected chiefs from designated regions. The paramount chiefs are members of the House of Chiefs for life, while the chosen and elected chiefs serve five-year terms. The first election based on amendments made to the constitution in 2006 to expand the House of Chiefs was held in December 2006.

Political parties operated without restriction or outside interference.

There were seven women in the 61-seat National Assembly, four women in the 24-member cabinet, three female justices on the 13-seat High Court, and four women in the expanded 35 seat House of Chiefs.

The law recognizes only the eight principal ethnic groups of the Tswana nation; however, amendments to the constitution now allow minority tribes to be represented in the expanded House of Chiefs. There were 23 members of minority tribes in the assembly, 10 in the cabinet, and five on the High Court.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively.

During the year the Directorate on Corruption and Economic Crime initiated investigations into 28 suspicious transactions and investigated 40 money laundering cases; one court case was ongoing at year's end. Through September police initiated 16 investigations of alleged corruption involving police officers. Twelve cases completed the court process; eight accused officers were convicted and dismissed from the police department. Four cases were pending at year's end.

There are no financial disclosure laws for public officials.

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

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, beginning in 2007 the government placed visa requirements on certain foreign NGO workers, a practice which continued during the year. Government officials were generally cooperative and responsive to NGO views on most subjects but were far less open to the involvement of some international NGOs on the issue of the CKGR relocations.

The government worked cooperatively with international organizations, including the ICRC and UN, during the year.

Independent local human rights groups included DITSHWANELO; 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.

An independent, autonomous ombudsman handled complaints of administrative wrongdoing in the public sector, and the government generally cooperated with the ombudsman. The office suffered from a shortage of staff, and public awareness of the office and its services was low.

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. So long as an applicant is able to perform the duties of the position, he or she may not be discriminated against due to disability or language. However, the law does not prohibit discrimination by private persons or entities, and there was societal discrimination against women; persons with disabilities; minority ethnic groups, particularly the San; persons with HIV/AIDS; persons with albinism; and homosexuals.

Women

The law prohibits rape but does not recognize the concept of spousal rape. The number of reported rape cases increased during the year to 1,360; however, it was unclear whether this was a result of increased reporting due to NGO efforts to improve awareness of the crime or an actual increase in the number of rapes committed. By law the minimum sentence for rape is 10 years in prison, increasing to 15 years with corporal punishment if the offender is HIV-positive, and 20 years' imprisonment with corporal punishment if the offender was aware of having HIV-positive status. Corporal punishment was used more often in the customary courts and typically consisted of strokes to the buttocks with a stick. A person convicted of rape is required to undergo an HIV test before being sentenced. However, police lacked basic investigative techniques in rape cases. Spousal rape is not recognized as a crime.

The law does not specifically prohibit domestic violence against women, and it remained a serious problem. The police did not keep statistics for the specific category of domestic violence, as it is not considered a crime under the penal code. Customary law allows husbands to treat their wives in the same manner as minor children. Under customary law husbands may use corporal punishment to discipline their wives, which was common in rural areas. Greater public awareness resulted in increased reporting of domestic violence and sexual assault.

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 of areas used for solicitation.

The law prohibits sexual harassment in both the private and the public sectors. Sexual harassment committed by a public officer is considered misconduct and punishable by termination with or without forfeiture of all retirement benefits, suspension with loss of pay and benefits for up to three months, reduction in rank or pay, deferment or stoppage of a pay raise, or a reprimand. However, sexual harassment continued to be a problem, particularly by men in positions of authority, including teachers, supervisors, and older male relatives.

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" is held to be a legal minor and required to have 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 real estate 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.

Skilled urban women had increasing access to entry- and mid-level white collar jobs. According to a 2007 Grant Thornton International Business Report, 74 percent of businesses employed women in senior management positions, and women occupied 31 percent of such positions. Women occupied many senior-level positions in government agencies, such as governor of the Bank of Botswana, attorney general, minister of communication, minister of health, and director of public prosecution; however, a 2007 UN report found that women's political participation was not equal to that of men. In March the BDF began to allow women to serve in the military. In November 22 of 30 female officer candidates who were sent by the BDF for training in Tanzania in 2007 graduated from the course. Eight of the officers were unable to finish, mostly due to illness or injury, but were expected to complete their military training in Botswana and graduate.

The Women's Affairs Department in the Ministry of Labor and Home Affairs has responsibility for promoting and protecting women's rights and welfare. The department provided grants to NGOs working on women's issues. During the year a local NGO reported that women were increasingly able to access credit markets and be paid as much as their male counterparts for similar work.

Children

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

Education was not compulsory. The government reintroduced school fees in 2006. The fees could be waived for children whose family income fell below a certain amount. The government also provided uniforms, books, and other fees for students whose parents were destitute. Students in remote areas received two free meals a day at school. According to 2004 government statistics, approximately 88 percent of children attended school, and an estimated 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 often lived far from schools and often assisted their families as cattle tenders, domestic laborers, and child care providers.

Boys and girls younger than 15 received free and equal access to government healthcare centers.

In 2005 the UN Children's Fund estimated that there were 150,000 orphans in the country, of whom approximately 120,000 had lost one or both parents due to HIV/AIDS. As of October the government had registered 49,852 children as orphans. Once registered, the children received clothes, shelter, a monthly food basket worth between 216 pula (approximately \$29) and 350 pula (\$44) depending upon location, and counseling as needed. Some relatives continued to deny inheritance rights to orphans.

No law specifically prohibits child abuse. Sex with a child younger than 16 is known as defilement and is prohibited and punishable by a minimum of 10 years of incarceration. By September 322 defilement cases were reported to the police. There were defilement investigations and convictions during the year. Sexual abuse of students by teachers was a problem, and there were frequent media reports of rape, sexual assault, incest, and defilement. Deaths from HIV/AIDS orphaned an increasing number of children. These children were sometimes sexually abused by the extended family members with whom they lived. The law considers incest a punishable act only if it occurs between blood relatives.

Child marriage occurred infrequently and was largely limited to certain ethnic groups. Marriages that occur when either party is under the legal age are not recognized by the government.

Child prostitution and pornography are criminal offenses. Media and NGO reports indicated that prostituted children had been made available to truck drivers along the main road linking the country with South Africa and that many of the girls and boys were thought to be orphans. There were reports of child labor. Of the children employed, approximately half were below the legal working age of 14. Two-thirds of employed children were working in rural villages, and more than 60 percent worked in the agricultural sector, mostly on a subsistence level on family cattle posts or farms.

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. One suspected trafficking case was prosecuted during the year on false documentation charges, although anecdotal evidence suggested that additional trafficking cases may have occurred and gone undetected. 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 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 children who lived on the streets. Individuals in the religious and NGO community formed a task force to compile anecdotal evidence of human trafficking.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

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. The government did not restrict persons with disabilities from voting or participating in civil affairs, and some accommodations were made during elections to allow for persons with disabilities to vote. However, although new government buildings were being built to ensure access of persons with disabilities under the supervision of the Ministry of Works, most older government office buildings remained inaccessible. The Department of Labor is responsible for ensuring that the rights of persons with disabilities are protected and investigating claims of discrimination. Individuals can also bring cases directly to the Industrial Court.

Indigenous People

The estimated 50,000-60,000 San in the country represented approximately 3 percent of the country's population. The San are culturally and linguistically distinct from most of the population. Under the law discrimination against the San with respect to employment, housing, health services, and cultural practices is illegal. However, they remained economically and politically marginalized and generally did not have access to their traditional land. The San continued to be isolated, had limited access to education, lacked adequate political representation, and were not fully aware of their civil rights. In 2002 the government forcibly resettled San who were living in the CKGR to

the settlement areas of Kaudwane, New Xade, and Xere.

While the government respected the December 2006 high court ruling on a suit filed by 189 San regarding their forced relocation, it continued to interpret the ruling to allow only the 189 actual applicants and their spouses and minor children, rather than all San affected by the relocations, to return to the CKGR. The court ruled that the applicants were entitled to return to the CKGR without entry permits and to be issued permits to hunt in designated wildlife management areas, which are not located in the CKGR. The court also ruled that the government was not obligated to resume providing services within the CKGR, and the government did not reopen water wells in the CKGR during the year. Many of the San and their supporters continued to object to the government's narrow interpretation of this ruling.

During the year the government made numerous arrests of San for illegally hunting in the CKGR. Although the law allows for a sentence of a fine or prison term for those found guilty of illegal hunting, none of the San arrested during the year were sanctioned.

During the year there were no government programs directly addressing discrimination against the San. With the exception of the 2006 court ruling, there were no demarcated cultural lands.

A number of NGOs made efforts to promote the rights of the San or to help provide economic opportunities. However, the programs had limited impact. In October the NGO Survival International, along with other independent organizations, criticized the decision by the diamond company De Beers to restart mining exploration in the CKGR. The NGOs argued that diamond exploration in the CKGR had a devastating impact on the life and the environment of the San.

Other Societal Abuses and Discrimination

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.

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 Botswana Network on Ethics, Law, and HIV/AIDS continued to advocate for an HIV employment law to curb discrimination in the workplace.

While persons with albinism were subject to some social discrimination, individuals were generally able to exercise their rights in practice. During the year an industrial court heard a case brought by a man with albinism who was refused employment based on his skin color. Although the ruling noted that the complainant had been mistreated, the court found in favor of the company, based on a misconception by the company's secretary who blocked the man's application, that the company did not employ persons with albinism. The court found that the secretary's supervisor, as custodian of company policy, should have better informed the secretary about antidiscrimination policies.

Section 6 Worker Rights

a. The Right of Association

The law allows workers, except for police officers, the BDF, and the prison service, to form and join unions of their choice without excessive requirements, and workers exercised this right in practice. Most public sector associations have converted to unions. The industrial or wage economy was small, and unions were concentrated largely in the public sector, mineral extraction, and to a lesser extent in the railway and banking sectors. The law requires that an

organization have more than 30 employees in order to form a trade union.

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.

The 2006 case regarding the copper mine's dismissal of 178 workers for striking had not been heard by the Industrial Court by year's end.

In February the Industrial Court dismissed a 2005 case in which 461 workers were fired in 2004 after a strike against their employer, Debswana, the joint government-DeBeers diamond mine venture. The court found that the case was not tried in a timely fashion. The 461 former employees appealed the dismissal; the case was pending 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 an organization's labor force.

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.

Workers may not be fired for legal union-related activities; however, unregistered trade unions are not protected against antiunion discrimination. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay.

The country's export processing zone (EPZ) exists on paper only. There are no special laws or exemptions from regular labor laws in the EPZ.

c. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced and compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age for basic employment at 14 years. 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. Children 14 years old who are not attending school may be employed by family members in light work that is not considered hazardous or as approved by the labor commissioner, but for no more than six hours per day or 30 hours per week. In industrial settings those under age 15 may only work up to three consecutive hours without the labor commissioner's approval, and those between ages 15 and 18 may work only up to four consecutive hours without such approval. Those under 18 may not be employed in work underground, at night, in work that is harmful to health and development, or that is dangerous or immoral. The law provides that adopted children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution.

According to the 2005-06 labor survey, slightly fewer than 38,000 children between the ages of seven and 17 were

employed in the formal sector in 2006. Approximately half of those employed were younger than 14. More than 60 percent of employed children worked in agriculture, 20 percent in retail trade, and 4 percent in private homes. Children also worked as domestic laborers, prostitutes, and in informal bars. Outside of supermarkets they sometimes assisted truck drivers with unloading goods and carried bags for customers. Many orphans also left school to work as caregivers for sick relatives. Most employed children worked up to 28 hours per week.

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. District and municipal councils have child welfare divisions, which are also responsible for enforcing child labor laws. 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. There were no prosecutions, convictions, or fines for illegal child labor during the year.

The government supported and worked with partners to conduct workshops to raise awareness on child labor. The Department of Labor partnered with the Department of Social Services to advocate against and raise awareness of exploitative child labor.

e. Acceptable Conditions of Work

The minimum hourly wage for most full-time labor in the private sector was 3.80 pula (approximately \$0.50), 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.

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 provided, frequently paid below the minimum wage. In March the Ministry of Labor and Home Affairs introduced new minimum wages for workers in the agricultural and domestic sectors; the wages took effect on April 1. The minimum wage for domestic workers was 2 pula (approximately \$0.26) per hour. Workers in the agricultural sector were required to be paid 408 pula (\$52) per month; however, the cost of feeding a worker who lived on the employer's premises could be deducted from the wage.

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 labor law applies to farm and migrant workers. The Department of Labor had inspectors to oversee and enforce labor regulations; however, the number was insufficient to allow for inspection of all relevant workplaces.

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.