



Botswana

Country Reports on Human Rights Practices - [2000](#)

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Botswana is a longstanding, multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. The House of Chiefs, representing all of the country's major tribes and some smaller ones, has no legislative power but may offer its views to both the President and National Assembly on legislation. Festus Mogae, who, as Vice President, became President upon former president Sir Katumile Masire's retirement in 1998, continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. In October 1999 elections generally regarded as largely free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties, the BDP increased its majority in the National Assembly and elected President Mogae to a second term. The Government respects the constitutional provisions for an independent judiciary.

The civilian Government exercises effective control over the security forces. The military, the Botswana Defense Force (BDF), is responsible for external security only, unlike in past years when the BDF at times performed internal security functions. The Botswana National Police (BNP) are responsible for internal security. Members of the security forces, in particular, the police, occasionally committed human rights abuses.

The economy is market oriented with strong encouragement for private enterprise, and has achieved rapid sustained real per capita economic growth since independence. Per capita gross domestic product (GDP) is slightly more than \$2,681 (14,495 pula). Diamond exportation provided over two-thirds of the country's export income and much of the revenue of the Government, which owned half of a company engaged in the production of diamonds from existing mines. Nearly 50 percent of the population is employed in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remains a serious problem, as does a widely skewed income distribution.

The Government generally respected the human rights of its citizens; however, problems continued in several areas. There were credible reports that the police sometimes beat or otherwise mistreated criminal suspects in order to obtain evidence or coerce confessions. The authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor; however, unlike in the previous year, there were no reports of torture and deaths under suspicious circumstances in prisons. In many instances, the judicial system did not provide timely fair trials due to a serious backlog of cases. The Government continued to dominate domestic radio broadcasting, although to a lesser extent than in the previous year. At times the Government held newly arrived refugees from neighboring countries in local jails or special areas in prisons until they could be interviewed by refugee officials. Violence against women remained a serious problem, and women continued to face legal and societal discrimination. Some citizens, including groups not numbered among the eight "principal tribes" of the Tswana nation, the majority ethnic group, still did not enjoy full access to social services and, in practice, remained marginalized in the political process. Trade unions continued to face some legal restrictions, and the Government did not always ensure that labor laws were observed in practice.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

Unlike in previous years, there were no instances of suspicious deaths in prisons.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution explicitly forbids torture, inhuman, and degrading treatment or punishment, and the authorities generally respect this prohibition in practice; however, instances of abuse occur. In some cases, the authorities have taken disciplinary or judicial action against persons responsible for abuses. While coerced confessions are inadmissible in court, evidence gathered through coercion or abuse may be used in prosecution. There were credible reports that police sometimes beat persons and used intimidation techniques in order to obtain evidence or elicit confessions. In general, however, beatings and other forms of extreme physical abuse remained rare.

There were reports that BDF soldiers at the Dukwe refugee camp beat and abused Dukwe residents. One refugee applicant claimed that BDF soldiers beat him on December 1 for allegedly stealing a bag of sugar. The refugee applicant received medical treatment for his injuries. The Acting Station Commander at Dukwe has stated that his office is investigating the case (see Section 2.d.).

Some international NGO's reported that government game wardens abused the Basarwa (Bushmen) in the Central Kalahari Game Reserve (CKGR) (see Section 4).

Customary courts continued to impose corporal punishment sentences in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and hooliganism. The Government in 1999 refused to adopt a motion submitted by the House of Chiefs to reinstate flogging across the back rather than the buttocks.

Prison conditions were poor; however, unlike the previous year, there were no reports of torture and deaths under suspicious circumstances. A December 1999 report by the Gaborone Prison Visiting Committee cited "apalling" conditions in prisons, and these conditions did not change during the year. With the country's high incidence of HIV/AIDS and tuberculosis, prison overcrowding constitutes a serious health threat. The 21 prisons across the country have a capacity of 3,198 but held 7,000 at year's end. To alleviate overcrowding, the Government began constructing 2 new prisons that are scheduled to be completed in 2001; these would bring prison capacity to over 4,000. Construction of a third prison for male juvenile offenders was delayed due to lack of funds, but is scheduled to begin in 2001. In July Parliament passed a bill that would give the Prison Commissioner authority to release terminally ill prisoners and prisoners in the last 12 months of their sentences (under current law, the Commissioner only can grant an early release to prisoners in the last 6 months of their sentences). The bill also would grant the Commissioner authority to allow prisoners with sentences of 12 months or less to perform "extramural" labor. The President signed the bill into law during the year. The Government estimated that as many as 1,492 prisoners could be released under the program.

The Commissioner of Prisons ordered full investigations into the management and conditions of prisons covered in the GPVC report. A report was completed and submitted to the Commissioner during the year which reportedly cleared the Government of responsibility for the conditions; however, the report was not publicly released by year's end. The December 1999 report by the Gaborone Prison Visiting Committee cited the suspicious deaths in prison of two inmates during 1999. The Commissioner of Prisons stated that a post-mortem examination conducted by medical authorities in 1999 supported prison officials' statements that Boitumelo Nthoiwa died of pneumonia and Andrew Molefe died after taking an illegal substance smuggled in by another inmate. Human rights organizations in the country have not challenged either case.

The Prisons Act, which covers both prison officials and prisoners, makes it illegal for prison officials to mistreat prisoners. In September the Minister of Presidential Affairs and Public Administration stated that stiff penalties would be imposed upon prison officials who treat inmates improperly. When there is an allegation or suspicion of mishandling of prisoners by prison officials, the Department of Prisons is required to forward the case to the police for investigation. Three prison officials appeared before a magistrate in early December for alleged abuse of prisoners in previous years. In December the magistrate discharged one of the officials, and the other two officials were scheduled to appear before the magistrate again in March 2001.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are

appointed by the Minister of Labor and Home Affairs. Members of these committees serve 1-year terms and must visit their prison four times within their first term and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports normally are not released to the public. During the year, the committees visited each prison every 3 months and last issued their last report in December.

While the Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for "rehabilitative purposes," the Commissioner of Prisons has the authority to decide whether domestic and international human rights organizations may visit. In practice the Commissioner does not generally allow such visitations; however, some local human rights organizations have been granted access to visit specific prisoners. In 1999 the Botswana Center for Human Rights was permitted to make prison visitations. There were no visitation requests from human rights organizations during the year.

d. Arbitrary Arrest, Detention, or Exile

Under the Constitution, "every person in Botswana" is entitled to due process, the presumption of innocence, and freedom from arbitrary arrest; and the authorities respected these provisions in practice. Suspects must be informed of their legal rights upon arrest, including the right to remain silent, to be allowed to contact a person of their choice, and generally to be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Most citizens charged with noncapital offenses are released on their own recognizance; some are released with minimal bail. Detention without bail is highly unusual, except in murder cases, where it is mandated.

Detainees have the right to hire attorneys of their choice, but in practice most are unable to afford legal counsel. However, poor police training and poor communications in rural villages make it difficult for detainees to obtain legal assistance, and authorities do not always follow judicial safeguards. The Government does not provide counsel for the indigent, except in capital cases. One NGO, the Botswana Center for Human Rights, provides free legal services, but its capacity is limited. Another NGO, the University of Botswana Legal Assistance Center, provides free legal services in civil, but not criminal, matters. Constitutional protections are not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention has been prolonged in a large number of cases. In Gaborone Central Prison, the average wait in prison before trial was 1 year. The Government is attempting to alleviate the backlog of cases by temporarily hiring more judges.

The Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by the Botswana Council for Refugees (BCR) or the U.N. High Commissioner for Refugees (UNHCR). Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp. An illegal immigrant internment center, which is to house foreigners awaiting repatriation, is currently under construction and is scheduled to open by February 2001. However, even with this new facility, refugees would continue to be housed first in local jails and then in Dukwe. Approximately 60 refugees from Namibia's Caprivi Strip who had left the Dukwe Camp or were involved in disturbances and were being held in Mahalapye Prison were released back to Dukwe. At year's end, six detainees were being held in protective custody at Mahalapye Prison; they were transferred from Dukwe after they committed criminal offenses while at the camp. Five of the detainees were released by year's end, and one detainee continued to serve a sentence for a narcotics conviction. A Namibian asylum seeker in extradition proceedings has accused the Government of unfair detention and violations of human rights. He successfully challenged his detention in court and was released in June (see Section 2.d.).

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial. However, the civil courts remained unable to provide for timely, fair trials in many cases due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts are public, although trials under the National Security Act (NSA) may be held in secret. Those charged with noncapital crimes are tried without legal representation if they cannot afford an attorney. As a result, many defendants may not be informed of their rights in pretrial or trial proceedings. In October 1999, a

High Court judge declared a mistrial in the case of two Basarwa (Bushmen) men who had been convicted in 1995 of a murder that occurred the same year, and were awaiting execution. A human rights group claimed that the two did not understand the language used at the trial and that translations were poor. It also questioned whether the accused understood their rights or the charges against them, and noted that attempts by the men to change their court-appointed lawyers had been disregarded. Ruling that the two had been deprived of their constitutional rights, the judge ordered a new trial. A date had not yet been set for the new trial by year's end (see Section 5).

Most citizens encounter the legal system through the customary courts, under the authority of a traditional leader. These courts handle minor offenses involving land, marital, and property disputes. In customary courts, the defendant does not have legal counsel and there are no precise 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 traditional courts varies considerably. In communities where chiefs and their decisions are respected, plaintiffs tend to take their cases to the customary court; otherwise, persons seek justice in the civil courts.

There were no reports of political prisoners.

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

The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice; however, the State continues to dominate domestic radio broadcasting, although to a lesser extent than in the previous year.

The independent press is small but growing, and has a long tradition of vigorous, candid, and unimpeded discourse. It actively covers the political arena and is frequently critical of the Government and the President. The circulation of privately owned print media continues to be limited mostly to the main cities and towns. At year's end, six privately owned weekly newspapers were published in Gaborone and distributed to the country's main cities and towns. One privately-owned weekly newspaper was published in Francistown, the country's second-largest city. Nine privately-owned magazines were published monthly. These publications reported and editorialized without fear of closure or censorship.

Government officials sometimes complain of bias in the private press. However, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel is a civil law matter; there are no criminal libel laws.

The Government's Botswana Press Agency (BOPA) provides most of the information found in the media owned and operated by the Government - the free Daily News newspaper, Radio Botswana, which broadcasts nationally to almost all of the country, and the new Botswana Television. News coverage in the state-owned media focuses on the activities of government officials and supports government policies and actions. The Daily News also publishes general coverage of current events and issues, and includes a second front page in Setswana, the most commonly spoken tribal language.

Radio remained the most important medium of public communication; the circulation of privately owned print media continued to be limited mostly to the main cities and towns. In past years, the state monopolized domestic radio broadcasting; however, in 1999 the Government granted licenses to two private radio stations, Yarona FM and Gabz FM, and they began broadcasting in June and November 1999, respectively. Both broadcast in a 56-mile radius of Gaborone, an area that includes 5 of the country's 10 largest cities; state-owned radio continued to be the only domestic radio service broadcasting to the rest of the country. Both private radio stations have a news component to their programming, with no discernible policy of supporting a particular political party. A 1998 broadcast law provides for issuance of broadcast licenses to private companies and provides copyright protection of broadcast material. The law also mandates the establishment of a National Broadcast Board, which grants broadcast licenses. On November 30, the Board held its first meeting at BTA offices in Gaborone.

On July 31, the Government opened its new national television station, Botswana Television (BTV), amid

skepticism from the public and some parliamentarians over delays and overspending. BTV began broadcasting with technical and programming assistance from the British Broadcasting Corporation (BBC), and an emphasis on the Setswana language service. Transmission extends south from Gaborone to Lobatse, north to Serowe and Francistown, and is scheduled to be available across the country within the next few years.

The debut of BTV generated considerable discussion among members of the public, parliamentarians, and government officials about whether its status as a government-owned station would interfere with its ability to function independently, especially with respect to reporting the news. During the opening ceremony, the Acting Minister for Presidential Affairs and Public Administration stated that editorial policies of the station would not be subject to government influence; however, according to newspaper reports in August, BTV management was criticized by the Government for reporting on the eviction of squatters by the Ministry of Lands and Housing. A Permanent Secretary in the Office of the President responded by convening a press conference on August 30 on the private Yarona FM radio station and stating that it was important for BTV to broadcast news that promoted government policies and not reports that "encourage trouble and criticize the government."

Responding to calls for the privatization of BTV after it began operations on July 31, the Government announced that it was considering turning the Department of Information and Broadcasting into a parastatal. However, on December 1, the Minister of Presidential Affairs and Public Administration, Thebe Mogami, stated that BTV would remain under government control. This proposal would affect BTV, Radio Botswana, the Daily News and BOPA. The opposition Botswana Congress Party has criticized government control over media and has urged that they be privatized or turned into parastatals.

The privately-owned Gaborone Broadcasting Company (GBC), which has operated since 1987, broadcasts mostly foreign-made programming and is the only other television station operating in the country. GBC broadcasts reach viewers only in the capital area.

Independent radio and television from neighboring South Africa are received easily. An analogue television service from South Africa, which had been available free to viewers, was discontinued on October 1, when the signal was scrambled and viewers were required to pay to receive the service. Satellite television from a South African-based company is readily available, although its cost prevents many persons from subscribing to the service.

Internet access is spreading quickly. The Government does not restrict e-mail or Internet usage. Four Internet service providers are available to the domestic market: three of them are private companies, and one, Botsnet, is the commercial arm of the parastatal Botswana Telecommunications Corporation.

During the 1999 election campaign, opposition candidates initially had limited access to state-owned media, including state-owned radio, which was the only domestic radio service and the sole domestic source of news for most of the rural population. During the first part of the campaign season, the state-owned media gave opposition candidates less news coverage than ruling party candidates. When opposition politicians complained about this, the Government initially countered that the activities of ministers and other government figures were inherently more newsworthy and therefore deserving of more coverage. However, the Government subsequently changed its policy, and during the latter part of the election campaign season the state-owned media gave balanced news coverage to the main opposition parties and included stories about the smaller political parties as well. Opposition leaders expressed the view that government media practices seriously disadvantaged opposition parties relative to the ruling party during the election campaign.

On occasion the Government has taken steps, under loosely defined provisions of the National Security Act, to limit publication of information that in its view impinged on national security; however, there were no such incidents during the year.

Academic freedom is not restricted.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution provides for the suspension of religious freedom in the interests of national defense, public

safety, public order, public morality, or public health. However, any suspension of religious freedom by the Government must be deemed "reasonably justifiable in a democratic society."

All religious organizations must register with the Government. To register a group submits its constitution to the Ministry of Home Affairs. After a generally simple bureaucratic process, the organization is registered. There are no legal benefits for registered organizations. Unregistered groups are potentially liable to penalties including fines up to \$192 (1,000 Pula), up to 7 years in jail, or both. Except for the case of the Unification Church, there is no indication that any religious organization has ever been denied registration.

The Unification Church was denied registration (but not suspended) in 1984 by the Ministry of Home Affairs on the public order grounds stipulated in the Constitution. The Government also perceived the Unification Church as anti-Semitic and denied registration because of another constitutional provision, which protects the rights and freedoms of individuals to practice their religion without intervention. In the intervening 16 years, although it has petitioned unsuccessfully the offices of the President and Vice President, the Unification Church has made no move to challenge the Ministry's decision in the courts.

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

The Constitution provides for these rights, and the Government respects them in practice. There are no formal barriers to domestic and international travel or emigration.

Some human rights organizations continued to assert that the Government has pressured several Basarwa (Bushmen) communities within the Central Kalahari Game Reserve (CKGR) into relocating to partially built settlements outside of the Reserve. Government officials maintained that the "voluntary" resettlement was necessary in order to provide the Basarwa with better public services and to avoid conflicts between wildlife and humans within the CKGR. When the Basarwa arrived at the new settlements, beginning in 1995, services and facilities were substandard or nonexistent. Although conditions later improved, they remain very basic. The Government permits relocated Basarwa to return to the CKGR, but does not provide services within the reserve. Some international NGO's reported that government game wardens abused the Basarwa in the CKGR; however, no further information was available by year's end.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government has maintained a policy of considering asylum requests only from refugees from bordering countries; although in practice, the Government often considers refugee applications from Angolans. Although the Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by BCR or UNHCR officials, it transferred persons granted refugee status to the Dukwe Refugee Camp, pending resettlement or voluntary repatriation (see Section 1.d.). There were 3,409 refugees at Dukwe by year's end; they were primarily from Namibia, Angola, and Somalia. A small number of refugees were being held in "protective custody" in Mahalapye Prison. At year's end, there were six refugees from Uganda, Kenya, Nigeria, Somalia, and Burundi being held in Mahalapye Prison. The Government strictly applies a policy of first asylum. Refugee applicants who are unsuccessful in obtaining asylum are allowed to remain at Dukwe until the Government refers their cases to the UNHCR for resettlement.

There were reports that BDF soldiers at Dukwe beat and abused Dukwe residents. One refugee applicant claimed that BDF soldiers beat him on December 1 for allegedly stealing a bag of sugar. The refugee applicant received medical treatment for his injuries. The Acting Station Commander at Dukwe has stated that his office is investigating the case (see Section 1.c.).

There were no reports of the forced return of persons to a country where they feared persecution.

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since late 1998. Many were armed and linked to the ethnically based opposition groups based in the Caprivi Strip of Namibia. Male refugees linked to such groups requested asylum based on their claim that they were being forced into the Namibian army to fight in the Democratic Republic of the Congo. The Government provided first asylum to all such persons. In consultation with the UNHCR in 1999, the Government began negotiations with the Government of Namibia to facilitate the voluntary return of Namibian refugees. During the year, five persons were returned voluntarily to Namibia. UNHCR experienced problems obtaining permission from Namibia to return other such persons. In August 1999, the Government detained members of a Caprivi separatist group who had fled into the country after a military offensive in Katima Mulilo in Namibia. The group's leader, Meshake Muyongo, was resettled in a third country. Eight of Muyongo's group of 15 Democratic Turnhalle Alliance (DTA) leaders and their families who feared for their safety in Namibia were awaiting adjudication of their resettlement applications by year's end.

During the year, the Government's Refugee Advisory Committee, which includes a UNHCR representative, found that 19 Namibian asylum seekers failed to qualify for asylum. In September the Government filed for the extradition of 15 of these individuals, 13 of whom appeared in court (one was ill, and another fled). One of the 15 accused the Government of unfair detention and violations of human rights and successfully challenged his detention in court (see Section 1.d.). The extradition process was continuing at year's end; three of the cases were returned to Namibia for further documentation, and one other application was dismissed. The 19 failed asylum seekers were being detained in various local jails at year's end. Their trial began in December and was ongoing at year's end.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, generally free and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. Members of the BDP have held a majority of seats in the National Assembly, and as a result also the presidency, continuously since independence.

Elections for the National Assembly were held in October 1999 and generally were regarded as largely free and fair by domestic and international observers, despite preferential access for BDP candidates during much of the campaign to state-owned media including state-owned radio, the sole domestic source of news for most of the rural population, and despite press reports of large anonymous campaign contributions to the ruling party, purportedly by international diamond interests (see Section 2.a.). The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its presidential candidate, incumbent President Mogae. In 1998 Mogae, then Vice President, had succeeded Sir Ketumile Masire as President upon the latter's retirement. Of the 7 seats won by opposition parties in October, the Botswana National Front (BNF) won 6 and the Botswana Congress Party (BCP) won 1 seat.

The House of Chiefs, an advisory body with limited powers, is restricted constitutionally to the eight "principal tribes" of the majority Tswana ethnic group and four elected chiefs representing smaller tribes, including the Bakalanga, Lozi, Humbukush, and Bakgalagadi. Consequently, other groups, for example, the Basarwa, Herero, Baloi, or Bayei are not represented there. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens is largely symbolic, but some non-Tswana view it as important in principle (see Section 5). Members of the National Assembly are required to speak English.

The State is highly centralized. There are 406 district governments with elected councilors, but they have no fiscal autonomy and must rely on the central Government for revenue.

In practice women are underrepresented in the political process. However, the 1999 elections doubled the number of women serving in the National Assembly, from 4 to 8 of 44 members. The number of women serving in the cabinet also increased from 3 to 4 of 15 members. Of the 13 High Court justices, 1 was a woman.

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

Domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Ditshwanelo, the Botswana Center for Human Rights, actively promotes human rights and investigated alleged abuses. The Metlhaetsile Women's Information Center, Emang Basadi, and Women Against Rape are active on issues concerning women's rights, particularly rape and domestic violence. Government officials are generally cooperative and responsive to these groups. The Government does not have a human rights office.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution forbids State discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and these provisions are implemented in practice by government authorities. However, neither the Constitution nor any known law prohibits discrimination by private persons or entities.

Women

Violence against women remains a serious problem. Domestic abuse is one area of concern. Under customary law and in common rural practice, men have the right to "chastise" their wives. Police rarely are called to intervene in cases of domestic violence. Reports of sexual exploitation, abuse, and criminal sexual

assault are increasing, and public awareness of the problem generally is growing. The national police force has begun training officers in handling domestic violence problems to make them more responsive in such cases. Rape is another grave national problem, and the Government acknowledged in 1999 that, given the high incidence of HIV/AIDS, sexual assault has become an even more serious offense. In 1998 Parliament enacted legislation that increased all penalties for rape, incest, and other forms of sexual assault by imposing minimum sentencing requirements where none existed previously. The minimum sentence for rape is now 10 years, with the minimum increasing to 15 years with corporal punishment if the offender is HIV positive and to 20 years with corporal punishment if the offender knew of his or her HIV status. In 1999 a High Court ruled unconstitutional a provision in the new law that allowed the detention of rape suspects without bail. The law does not address the issue of marital rape. A recent study of rape by the police service urges police to develop improved methods of rape investigation, including the use of DNA tests in all rape cases. The police force purchased new equipment and an officer was trained to use it during the year.

Although the Government has become far tougher in dealing with criminal sexual assault, societal attitudes toward other forms of domestic violence remain lax. Half the murders of women were linked to histories of domestic violence. Human rights activists estimate that 6 women in 10 are victims of domestic violence at some time in their lives.

Sexual exploitation and harassment continue to be problems as well, with men in positions of authority, including teachers, supervisors, and older male relatives, pressuring women to provide sexual favors. Greater public awareness and improved legal protection have led more victims of domestic violence and sexual assault to report incidents to the authorities. In March 1999, the Women's Affairs Department submitted the Report on the Study of Socio-Economic Implications of Violence Against Women in Botswana to the Attorney General's office, which is working with all of the ministries to further investigate these problems.

Women legally enjoy the same civil rights as men; however, in practice discrimination persists. A number of traditional laws enforced by tribal structures and customary courts restrict women's property rights and economic opportunities. A woman married under traditional law or in "common property" is held to be a legal minor, requiring her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under a law enacted in 1996, women married under an intermediate system, referred to as "in community of property," are permitted to own immovable property in their own names; however, their husbands still retain considerable control over jointly-held assets of the marriage. The law was a step toward equalizing a husband's and a wife's legal control over property held in community of property. Moreover, the 1998 Deeds Registry Act stipulates that neither spouse can dispose of joint property without the written consent of the other party.

Women have, and increasingly are exercising, the right to marriage "out of common property," in which case they retain their full legal rights as adults. Polygyny is still legal under traditional law with the consent of the first wife, but it rarely is practiced. In September 1998, consultants submitted to the Labor Ministry a report identifying provisions of existing law that potentially discriminate against women.

Well-trained urban women enjoy growing entry level access to the white-collar job market, but the number of opportunities decreases sharply as they rise in seniority. Discrimination against women is most acute in rural areas where women engaged primarily in subsistence agriculture have weak property rights.

Young women do not have access to military or national service training. Military service is voluntary for men only, and available to very few young women who serve as clerical workers. The Government abolished its national service program in April, a program that previously allowed male and female high school graduates to serve in government departments, mostly in rural areas. Government officials recently announced that there are no plans to recruit women into the Botswana Defense Force, due to infrastructure concerns such as lack of adequate living quarters and training facilities that made integration impracticable; the statement prompted women's rights activists to claim a denial of equal opportunity.

The Government and interested NGO's meet regularly to implement the long-term plan of action described in the National Policy on Women adopted in 1996. The plan identifies six critical areas of concern, prioritized as follows: (1) women and poverty, (2) women and powersharing and decisionmaking, (3) education and training of women, (4) women and health, (5) the girl child, and (6) violence against women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the United Nations Development Program, developed the Program Support Document (PSD) in 1997, which provides a framework for implementation of the national policy on women through 2002. Its five target areas include: (1) institutional strengthening at the national level, (2) advocacy and social mobilization, (3) institutional strengthening of NGO's, (4) research and information sharing, and (5) economic empowerment.

A number of women's organizations have emerged to promote the status of women. The Government has entered into a dialog with many of these groups. While some women's rights groups reportedly felt that the

Government has been slow to respond concretely to their concerns, women's NGO's state that they are encouraged by the direction of change and by the increasingly collaborative relationship with government authorities. Major women's NGO's include the Emang Basadi Women's Association, which promotes the social, economic and legal status of women; the Metlhaetsile Women's Information Centre, which provides legal assistance to poor women; and the Botswana Council of Women.

Children

The Government provides 7 years of free primary education for children, although attendance is not compulsory. Government estimates of the proportion of children who never attend school have ranged from 10 to 17 percent, and fewer than 20 percent of children complete secondary school; school attendance and completion rates are highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa (San or Bushmen). The national literacy rate is 69 percent: 70 percent for females and 67 percent for males. However, in some cases, girls are denied schooling because of religious or customary beliefs. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second-largest portion to the Ministry of Local Government, Lands, and Housing, which administered primary education. It also continued to allocate a large part of its investment expenditures to construct primary and secondary schools, so that children have ready access to education.

It was estimated during the year that 35.8 percent of adults are infected with HIV/AIDS, and due largely to deaths from HIV/AIDS, 60,000 orphans were registered by the Ministry of Health countrywide. Increasing numbers of children, mostly believed to be orphans, were observed begging or engaging in prostitution in urban areas. Orphans infected with HIV/AIDS also were denied inheritance rights by their relatives.

The rights of children are addressed in the Constitution and the 1981 Children's Act. Under the act, The country has a court system and social service apparatus designed solely for juveniles. The Government launched a 10-year program of action for children in 1997, incorporating the seven major global goals identified at the 1990 U.N. World Summit for Children. In 1996 the Ministry of Labor and Home Affairs transferred responsibility for children to the Social Welfare Department in the Ministry of Local Government, Lands, and Housing. Laws pertaining to children continued to be under review to align them with the UN Convention on the Rights of the Child. The Adoption Act also continued to be reviewed to ensure that adopted children are provided for and not exploited as cheap labor.

There is no societal pattern of abuse against children, although incest and other forms of child abuse have received increased attention from the media and from local human rights groups.

The problem of sexual harassment of students by teachers is a national concern. Reports of rape and sexual assault of young women, and cases of incest and "defilement" of young girls appear with greater frequency in the news. The age of sexual consent is 16. Child prostitution and pornography are criminal offenses, and 1998 amendments increased penalties for "defilement" of persons under 16.

People with Disabilities

The Government does not discriminate on the basis of physical or mental disability, although employment opportunities for the disabled remain limited. The Government does not require accessibility to public buildings and public conveyances for persons with disabilities, and the NGO community only recently has begun to address the needs of the disabled. In 1997 Parliament adopted a national policy that provides for integrating the needs of disabled persons into all aspects of government policymaking. The Government funded NGO's that provide rehabilitation services and supported small-scale work projects by disabled workers.

Indigenous People

The Basarwa (also known as San), who now inhabit chiefly the Kalihari Desert, are the earliest known inhabitants of the country, and were the only inhabitants until Bantu groups arrived during the 16th century. They are physically, linguistically, and culturally distinct from the rest of the population. They remain economically and politically marginalized; they have lost access to their traditional land in fertile regions of the country and are vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52-55,000 Basarwa persons represent about 3 percent of the country's total population. Although the Basarwa traditionally were hunter-gatherers, most Basarwa now are employed as agricultural workers on farms or at cattle posts belonging to other ethnic groups. The formation of the 20,000 square mile Central Kalahari Game Reserve (CKGR) by the colonial government in 1961 on traditional Basarwa lands set the stage for conflict between the Basarwa's pursuit of their traditional way of life and wildlife conservation. The Government in the past followed

a policy of prohibiting human habitation in the CKGR with the goal of wildlife preservation, but has made accommodation for the estimated 1,000 to 3,000 Basarwa who still pursue hunting and gathering there. The Government has provided very limited social services within the CKGR, and has encouraged those living there to leave the reserve for permanent settlements; there were some reports that the Government sometimes forced Baswara to leave the reserve. However, the Government has made little real progress since international attention in 1996 focused on the intractable problem of resettling Basarwa living in the CKGR. Both the Basarwa and the Government are seeking out concerned NGO's to assist with the resettlement process and to address the larger issue of improving the Basarwa's standard of living without sacrificing what remains of their traditional way of life.

National/Racial/Ethnic Minorities

Well over half of the country's 1.5 million inhabitants belong to the Tswana ethnic group, of which the Constitution recognizes eight principal tribes, and which has a tradition of peacefully coexisting with non-Tswana groups. Some non-Tswana ethnic groups are more numerous than the Tswana in some rural areas of the country: the Kalanga and Lozi in areas of the north; the Bayei and Herero in the Okavango Delta region; and the Baswara in the arid west. There are also communities of persons of Asian and European descent.

Apart from the lack of schooling in their own languages and their present lack of representation in the House of Chiefs (see Section 3), the country's non-Tswana communities are not subject to discrimination by the State. Societal discrimination also is limited. Intermarriage between Tswana and non-Tswana ethnic groups is common. Urban neighborhoods are not ethnically segregated. There generally is little correlation between income and ethnicity among persons of African descent, although many persons of Asian and European descent are prominent in the commercial sector.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association. In practice all workers are free to join or organize unions of their own choosing. The country ratified ILO Convention 151 during the year, which permits government employees to organize their own unions. The industrial or wage economy is small, and unions are concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There is only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there are no obstacles to the formation of other labor federations.

Unions are independent of the Government and are not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full time in the industry that the union represents. This rule severely limits union leaders' professionalism and effectiveness, and has been criticized by the International Confederation of Free Trade Unions (ICFTU).

The law also severely restricts the right to strike. Legal strikes are theoretically possible after an exhaustive arbitration process, but in practice none of the country's strikes has been legal. Sympathy strikes are prohibited.

Unions may join international organizations, and the BFTU is affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may appeal to the courts if an application for affiliation is refused.

b. The Right to Organize and Bargain Collectively

The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force. In reality only the mineworker unions have the organizational strength to engage in collective bargaining. Elected labor union officials are required by law to work full time in whatever industry they represent; consequently, there are no full-time elected labor leaders in the country. However, unions may employ full-time staff.

Workers may not be fired for union-related activities. Dismissals may be appealed to labor officers or civil courts, but labor offices rarely do more than order 2 months' severance pay.

The country has only one export processing zone, located in the town of Selebi-Phikwe, and it is subject to the same labor laws as the rest of the country.

c. Prohibition of Forced or Compulsory Labor

The constitutional provision prohibiting forced or bonded labor applies to all citizens, although there are no laws that specifically prohibit forced or bonded labor by children; there were no reports of forced or bonded labor.

d. Status of Child Labor Practices and Minimum Age for Employment of Children

Although education is not compulsory, the Government provides 7 years of free primary education to every child, and most children take advantage of this opportunity. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry. 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. Two laws focus on the protection of orphans and adopted children from exploitative labor. The Adoption Act ensures that adopted children are not exploited as cheap labor, and the Employment Act protects orphans from exploitation as cheap labor or coercion into prostitution. Because research on the issue of child labor is limited, it is difficult to state whether child labor laws are enforced effectively. However, there is general agreement among the Labor Commissioner, officials of the Ministry of Local Government, Lands, and Housing, and UNICEF that the child labor problem is limited to young children in remote areas who work as cattle tenders, maids, or babysitters.

The Government ratified ILO Convention No. 182 on the worst forms of child labor on January 3, and is in the process of bringing its national laws into compliance with international treaty obligations. The Government launched a 10-year program of action for children in 1997; however, implementation has proceeded slowly.

The constitutional provision prohibiting forced or bonded labor applies to all citizens, although there are no laws that specifically prohibit forced or bonded labor by children (see Section 6.c.); there were no reports of forced or bonded labor by children.

e. Acceptable Conditions of Work

The minimum daily wage for most full time labor in the private sector was \$3.15 (17 Botswana pula), which remained less than 50 percent of what the Government calculates is necessary to meet the basic needs of a family of five. Wage policy is determined by the Cabinet, which decides on recommendations made by the National Economic, Manpower and Incomes Committee (NEMIC), which consists of government, BFTU, and private sector representatives. The Ministry of Labor is responsible for enforcing the minimum wage, and each of the country's districts has at least one labor inspector. Civil service disputes are referred to an ombudsman for resolution. Private labor disputes are mediated by labor commissioners, but insufficient numbers have resulted in 1 to 2 year backlogs. In 1999 the Ministry of Labor received over 9,000 labor disputes and referred a small but undisclosed number of them to the Industrial Court for its review, which currently has a 9-18 month backlog.

Formal sector jobs almost always pay well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food are included, frequently pay below the minimum wage. There is no mandatory minimum wage for domestic workers, and the Ministry of Labor no longer recommends a minimum wage for them. Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, are exploited easily in labor matters, as they would be subject to deportation if they filed grievances against their employers.

The law permits a maximum 48-hour workweek, exclusive of overtime, which is payable at time and a half for each additional hour. Most modern private and public sector jobs are on the 40-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired. However, the Government's institutional ability to enforce its workplace safety legislation remains limited by inadequate staffing and unclear jurisdictions between different ministries. Nevertheless, employers generally provide for worker safety, with the occasionally notable exception of the construction industry.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnaping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution. There were no reports that persons were trafficked to, from, within, or through the country.

[End.]