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U.S. Department of State

Namibia Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

NAMIBIA

Namibia is a multiparty, multiracial democracy with an independent judiciary. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), won Namibia's first free elections in November 1989. President Nujoma and the SWAPO party received just over 70 percent of the vote in the December 1994 Presidential and National Assembly elections, which, despite some irregularities, were generally regarded as free and fair.

The police, supervised by the Ministry of Home Affairs, and the Namibian Defense Force (NDF), supervised by the Ministry of Defense, share responsibility for internal security. The civilian authorities maintain effective control of the security forces, although individual members of the police forces occasionally committed human rights abuses.

Namibia's modern market sector produces most of its wealth while a traditional subsistence agricultural sector (mainly in the north) supports most of its labor force. The principal exports are diamonds and other minerals, cattle, and fish. Mining, ranching, and fishing--the mainstays of the market sector--are still largely controlled by white Namibians and foreign interests. Government policy, however, is to "Namibianize" the increasingly important fishing sector, so that more indigenous entrepreneurs are able to participate, and to provide opportunities for black Namibians in the potentially lucrative and labor-intensive tourism industry. The gross domestic product is \$1,663 per capita. However, there remains a wide disparity between income levels of blacks and whites.

The Government generally respected the human rights of its citizens; although problems remained in several areas. There continued to be credible reports that police abused criminal suspects. Despite the release of the "Heroes Book," SWAPO continued to fail to provide a complete accounting for missing detainees held during the preindependence period. Prison conditions remain harsh, but the Government took several steps during the year to improve them and to increase the emphasis on rehabilitation. A large court backlog leads to lengthy delays of trials.

The Married Persons Equality Act, signed into law in May, eliminated discriminatory practices against women in civil marriages. Women married under customary law, however, continued to experience serious legal and cultural discrimination. Although violence against women and children, including rape and child abuse, continues to be a serious problem, the issue received increased attention from government officials and human rights activists. In September the President elevated the head of the Department of Women's Affairs to cabinet-level rank. Inherited problems of racial and ethnic discrimination and glaring disparities--especially in education, health, employment, and working conditions--continued, despite sustained efforts by the Government to reduce them. Societal discrimination against indigenous peoples persists.

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. There were no developments concerning the reported shooting of civilians in border areas in 1995 and no reports of such instances in 1996.

According to press reports, the Namibian and South African Governments held discussions regarding the extradition from South Africa of those implicated in the murder of SWAPO activist Anton Lubowski. In 1994 the Namibian High Court determined that Lubowski had been killed at the behest of the former South African Civil Cooperation Bureau (CCB). While the Attorney General later ruled that there was insufficient evidence to prosecute the assassins, the Prosecutor General decided to reopen the 1989 inquest in 1995.

b. Disappearance

There were no reports of politically motivated disappearances.

Human rights organizations, political parties, and the public continued to call for a full accounting of unexplained disappearances of persons detained by SWAPO prior to independence. In August President Nujoma released the long-promised, official SWAPO memorial book, known as the Heroes Book, lists the names of nearly 8,000 people who died during the liberation struggle. Local human rights organizations harshly criticized the book, characterizing it as an unconvincing coverup and declaring that the listing is fraught with inaccuracies and omissions regarding those who died or disappeared in SWAPO detention camps. SWAPO was viewed widely as having failed, once again, to deal forthrightly with the missing detainee issue. While some of the Government's critics would be satisfied with an official apology for SWAPO abuses against these detainees, others are pressing for full accountability through a truth commission, prosecutions, and convictions.

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

The Constitution provides that "no persons shall be subject to torture or to cruel, inhuman, or degrading treatment or punishment." There were credible reports, however, that members of the police beat or otherwise abused civilians, either during arrest or in police station houses. According to human rights organizations, the overall number of such instances appears to be decreasing, although the problem remains particularly acute in northern areas. In November a policeman accused of abusing a criminal suspect was charged with attempted murder, assault, and kidnaping. The police launched internal investigations of alleged abuse of prisoners but there were no public reports that abusers were punished.

Prison conditions are harsh, but do not pose a serious threat to life or health. Human rights organizations continued to complain about prison overcrowding. In March 1995 the Government created a Ministry of Prisons and Correctional Services, charged with administering the country's prisons and jails. The Ministry emphasizes correctional and rehabilitation functions, including vocational training, and has made some concrete progress. For example in 1996 the Government opened two new rehabilitation facilities where inmates are taught skills for use upon their release. The Government also expanded its model program to separate youthful offenders from adult criminals, although in many remote and rural areas juveniles continue to be held with adults.

The Government continued to grant nongovernmental organizations (NGO's) and diplomatic officials regular access to prisons and prisoners.

d. Arbitrary Arrest, Detention, or Exile

The Constitution forbids arbitrary arrest or detention, and the Government generally respected these provisions in practice. According to the Constitution, persons who are arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention. The accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. In practice, however, many accused persons in remote and rural areas are not legally represented, primarily due to resource constraints. A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations criticized the length of time that pretrial detainees were held, which stretched up to 1 year in many cases while investigations were pending.

Some traditional leaders reportedly continued to detain and imprison persons accused of minor offenses without recourse to police or judicial review. The Government continued training traditional leaders on the legal limits of their authority.

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 formal court system has three levels: 30 magistrates' courts, the High Court, and the Supreme Court. The latter also serves as the court of appeals and as a constitutional review court.

Most rural Namibians first encounter the legal system through the traditional courts, which deal with minor criminal offenses, such as petty theft and infractions of local customs, among members of the same ethnic group. A special commission, created to make recommendations on the prospective jurisdiction of traditional courts, concluded that traditional cultural practices and structures should be

maintained, provided that they were consistent with constitutional protections and existing laws. The Traditional Authorities Act delineates which offenses may be dealt with under the traditional system.

The constitutional right to a fair trial, with a presumption of innocence until proven guilty, is generally afforded by the judiciary. However, long delays in hearing cases in the regular courts and problems associated with the traditional system limit this right in practice.

The lack of qualified magistrates, other court officials, and private attorneys has resulted in a serious backlog of criminal cases, which often translated into long delays--sometimes 6 months or more--between arrest and trial. To address these problems, the Government, together with the University of Namibia, provided in-service legal training to magistrates and other court officials at the University's training center.

There were no reports of political prisoners.

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

The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant for certain listed offenses before conducting a search. Government authorities respected these rights in practice, and violations are subject to legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights.

The government-owned Namibian Broadcasting Corporation (NBC) operates most radio and television services. Although the NBC provides significant coverage of the opposition, there were growing complaints that the NBC, in particular the television service, became even less balanced in its c