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U.S. Department of State

Namibia Country Report on Human Rights Practices for 1998

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NAMIBIA

Namibia is a multiparty, multiracial democracy. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), won the country'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, generally were regarded as free and fair. While November 30-December 1 regional elections were fairly administered and free of violence, voter turn out was only a little over 30 percent compared to 80 percent in the 1992 regional elections. Although the Constitution limits the president to two terms in office, on November 4, the National Assembly passed a bill to amend the Constitution to permit President Nujoma to run for a third term in 1999 and the President signed the amendment on December 7. The judiciary is independent.

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. Approximately 2,000 NDF soldiers were sent to the Democratic Republic of the Congo (DROC). The civilian authorities maintain effective control over the security forces, although members of the police force committed some human rights abuses. In late October, the Government sent NDF troops and police into the Caprivi region to counter a purported secession plot. There were reports that Government forces, particularly the paramilitary police Special Field Force (SFF) troops, beat civilians, and looted property, and shot and wounded civilians fleeing arrest. Over 2,000 Caprivians sought refuge in Botswana by year's end. These refugees claimed that Government security forces also committed extrajudicial killings and rapes. Independent observers did not corroborate these claims.

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--still are controlled largely by white Namibians and foreign interests. However, government policy has been to "Namibianize" the fishing sector, so that an increasing number of indigenous entrepreneurs are able to participate, and to provide opportunities for black Namibians in the potentially lucrative and labor-intensive tourism industry. Per capita annual gross domestic product is \$1,860. However, there remains a wide disparity between income levels of blacks and whites. Whites have an average per capita income of \$14,000 a year and many of the poorest blacks earn just \$65 a year. Unemployment is nearly 40 percent and affected primarily the black majority.

The Government generally respected the human rights of its citizens, although there were serious problems in several areas. In 1997 the Government admitted that since 1994 security forces had committed seven extrajudicial killings along the northern border with Angola. However, during the year, there were no credible reports of extrajudicial killings or disappearances. Nevertheless, the Government still refuses to provide a full accounting of missing detainees who were in SWAPO camps before independence. In 1997 the Government rejected a request by the South African Truth and Reconciliation Commission to hold hearings in Namibia. Except for the Caprivi region, there were fewer reports of police beatings or other abuse of suspects in detention. In the wake of an armed secession attempt in the Caprivi region, there were reports that security forces shot, beat and detained civilians. By year's end, over 2,000 refugees fled to Botswana. Prison conditions remain harsh, but the Government took some steps to improve conditions. Lengthy pretrial detention is a problem. A large court backlog continues to lead to lengthy delays of trials. There was an increased number of verbal attacks by government and ruling party officials against foreign and domestic nongovernment organizations critical of government policies and against Namibians of European descent. There was also evidence of growing official intolerance of criticism of ruling party policies. In addition, the President and other high government and ruling party officials made repeated, well-publicized verbal attacks on the independent press. There was also increasing pressure on journalists who worked for government-owned media outlets not to report critically on the Government. The Government issued new restrictions on foreign journalists and two journalists who entered the country to cover the secession story without a proper work permit were arrested and held overnight. In May the Government forcibly deported a recognized refugee, Dr. Manuel Neto, back to Angola. The deportation was carried out in violation of a court order that expressly prohibited Dr. Neto's removal from the country. The Government was criticized strongly by international human rights organizations. Late in the year, Namibian authorities deported military-age Angolan illegal immigrants without judicial review, as required by Namibian law. This led the National Society for Human Rights (NSHR) to charge that the Namibian Police with assisting Angolan Government in its conscription efforts.

Although violence against women and children, including rape and child abuse, continued to be serious problems, the President, members of his Cabinet, and parliamentarians have spoken out forcefully on these problems, which received significant attention at all levels of government. Courts are handing down much more severe sentences to convicted rapists and child abusers. However, problems remain with court testimony by vulnerable witnesses. Women married under customary law continued to experience serious legal and cultural discrimination. In a June speech to traditional chiefs, President Nujoma called on the leaders to protect the rights of women in rural areas. Relatively little has been done to elevate women to high-level positions in government and the ruling party, despite promises by the President to nominate more women. Racial and ethnic discrimination and glaring disparities in education, health, employment, and working conditions continued, despite sustained efforts by the Government to reduce them. Amendments to the Racial Discrimination Prohibition Act, passed in July, increasing penalties for racial discrimination while protecting free speech. Discrimination against indigenous people persists, especially in remote rural areas where people often are unaware of their

rights.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

While there were no substantiated reports of political or other extrajudicial killings by government security forces, refugees from the Caprivi region claimed that security forces killed persons while suppressing a secessionist plot.

After repeated prodding by a local NGO, in 1997 the Government admitted that since 1994 security forces along the northern border had killed seven civilians with Angola. The admission came after the Namibian Defense Force and the Ministry of Defense conducted an investigation into charges that over a thousand civilians had disappeared along the Angolan border (see Section 1.b.). One NDF officer was charged with murder and another was found guilty of culpable homicide. Investigations into the other killings were ongoing at year's end. In October two persons tried to leave the armed secessionist movement led by Mishake Muyongo in the Caprivi region. One was shot and killed by Muyongo's forces.

b. Disappearance

There were no reports of politically motivated disappearances during the year. However, a local NGO charged in 1997 that more than a thousand persons had disappeared along the northern border with Angola after being deported by security forces. This charge has not been substantiated; however, a 1997 investigation by the Ministry of Defense found that Namibian security forces had killed seven civilians (see Section 1.a.). The Ministry of Defense invited representatives of the NGO that make the claims about disappearances to participate in a field investigation of the charges. The NGO declined to participate. In December the NSHR charged that NAMPOL forces in northern border towns were assisting Angolan authorities to round up military age Angolans fleeing military conscription. While denying this allegation, NAMPOL did admit that border security forces do deport illegal Angolan immigrants, apparently without legally required judicial reviews. In the wake of the Caprivi crisis, there were also reports that Zambians in that region also were being deported without judicial review.

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 1996 President Nujoma released the long-promised, official SWAPO memorial book, known as the Heroes Book, lists the names of nearly 8,000 persons who died during the liberation struggle. Local human rights organizations harshly criticized the book, characterizing it as an unconvincing cover-up and declaring that the listing is fraught with inaccuracies and omissions regarding those who died or disappeared in SWAPO detention camps.

In 1997 the Government formally rejected a request by the South African Truth and Reconciliation Commission to hold hearings in Namibia. Such a hearing might have shed light on disappearances that occurred on both sides during the liberation struggle. 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;" although police continued to beat or otherwise abuse suspects, there were fewer reports of such incidents outside of the Caprivi region. A local human rights NGO confirmed that the number of abuse cases declined, although it noted that abuse still may occur in remote rural areas where citizens are less aware of their rights. While there were 25 official complaints reported in 1997 that members of the police beat or otherwise abused civilians, either during arrest or in police station houses in the north, there were no press reports of brutality during the year. Human rights advocates have noted that the increase in reported cases of brutality in 1997 may have been due in part to growing public awareness of citizens' rights and a willingness to report such cases. The Attorney General has ordered full investigations of complaints of brutality and an NGO official noted that at least one police officer has been prosecuted and convicted of abusing prisoners.

In October security forces moved into the Caprivi region to break up an armed secessionist movement. There were reports that the paramilitary police Special Field Force (SFF) beat and detained civilians, and looted property, and that the regular police shot and wounded civilians fleeing arrest. Caprivian refugees in Botswana claimed that security forces engaged in extrajudicial killings and rape. Independent observers did not corroborate these claims.

The Government failed to protect the leader of an NGO critical of government policy on the former detainee issue who had received numerous death threats, and the individual departed the country.

Prison conditions are harsh, although the Government focused greater attention on rehabilitation programs and vocational training for inmates. Human rights organizations continued to complain about prison overcrowding. In 1995 the Government created a Ministry of Prisons and Correctional Services, charged with administering the country's prisons and jails. The Government also is making efforts to separate youthful offenders from adult criminals, although in many rural areas juveniles continue to be held with adults. There are several pilot programs that provide alternatives to incarceration for juvenile offenders.

The Government continued to grant 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. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. However, in practice many accused persons in remote and rural areas are not represented counsel 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 one year in some cases, but stated that the situation improved during the year.

An unknown number of citizens from the Caprivi region were detained in the wake of a secessionist movement. Most were questioned for a short time and released.

The NSHR charged that NAMPOL was assisting Angolan authorities in rounding up military age Angolans in northern border towns. There were also reports that Zambians in the Caprivi region were suffering extrajudicial deportation (see Section 1.b.).

Authorities arrested and detained two journalists in November (see Section 2.a.).

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

The Government generally 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 citizens 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. 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 generally is afforded by the judiciary. However, this right is somewhat limited in practice by long delays in hearing cases in the regular courts and uneven application of constitutional protections in the traditional system.

The lack of qualified magistrates, other court officials, and private attorneys has resulted in a serious backlog of criminal cases, which often translated into delays of up to a year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Many of those awaiting trial are treated as convicted criminals.

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 before conducting a search. Government authorities respected these rights in practice, and violations were subject to legal action.

Under the Namibian Central Intelligence Service (NCIS) bill passed by the National Assembly in 1997, the NCIS is authorized to conduct wiretaps, intercept mail, and engage in other covert activities, both inside and outside the country, to protect national security. However, wiretaps and covert surveillance require the consent of a judge. There were reports that the NCIS requested footage from the Namibian Broadcasting Corporation (NBC) of a demonstration in the northern town of Katima Mulilo. It was reported that the intelligence service was seeking to identify demonstrators from the tapes. NBC denied that the government-run station provided videotapes to the intelligence service.

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; however, there were growing signs of intolerance by the nation's political leaders of editorial criticism and increased reports of government pressure on reporters who worked for the government-owned media.

Reporters for independent newspapers continue to criticize the Government openly and do not engage in self-censorship. During the year, the President, the Prime Minister, and other members of the Government attacked the independent press with greater frequency. These attacks included charges that the independent press was "foreign owned" and "an enemy press." While such charges may have been calculated to quiet criticism, they do not appear to have had any major impact on the aggressive style of the independent media. However, NGO's involved in media issues maintained that reporters working for the government-owned media outlets were subjected to indirect and direct pressure not to report on certain controversial topics. In February the government-run radio cancelled a popular morning press review that publicized articles featured in the independent newspapers. After protests were lodged, the press review was reinstated in June before being cancelled permanently. In June a reporter for the government-run Namibia Press Agency (NAMPA) was called in to the office of the Minister of Information and Broadcasting and told that since NAMPA was funded by the Government, the reporter had to be more sensitive in reporting on the Government. The government-run newspaper the New Era gave frequent coverage to opposition parties and views critical of the Government. Human rights NGO's noted significant improvements in balanced reporting by the New Era, but a libel suit brought by a senior government official against the New Era in September was being watched closely by human rights groups. In December Defense Minister Erkki Nghimitima ordered Ministry officials not to discuss the military's involvement in DROC fighting with the press. This gag order was lifted after several days.

The government-owned NBC operates most radio and television services. NBC provided coverage to opposition points of view. Media observers believe that NBC reporters exercise considerable self-censorship on certain controversial issues, such as the question of missing detainees, allegations of corruption, and the issue of a third term for President Nujoma. Despite these complaints, NBC gave coverage to viewpoints critical of government policies.

There are five private radio stations, one private television station in the town of Rehoboth, and a private cable and satellite television service that broadcasts Cable News Network, British Broadcasting Corporation, and a range of South African and international news and entertainment programs. The ruling SWAPO party owns 51 percent of this cable service. There are no restrictions on the private ownership of satellite dishes and the use of satellite dishes and cable television is growing. There are no restrictions on Internet access or use. There are growing numbers of Namibian web pages and one of the independent newspapers has a popular web site.

In October 1997, the Ministry of Information and Broadcasting (MOIB) issued new regulations that require foreign journalists who seek to visit Namibia to provide 1 month's advance notice to the MOIB, stating the purpose of their proposed visit. Journalists are required to schedule appointments with government officials through the MOIB and request permission to visit areas under the control of the Ministry of Environment and Tourism. Additionally, journalists must obtain a temporary work permit from the Ministry of Home Affairs. The MOIB reaffirmed the regulations in May, but there have been no reports of complaints from journalists. Several major conferences in the country attracted large numbers of international journalists. In November two foreign journalists were arrested and held overnight for entering the country to cover the secession story without a work permit. The Ministry of Home Affairs also seized temporarily their videotapes.

The Government respects academic freedom. During the year, there were numerous seminars held at universities and other venues in Windhoek on controversial issues. There were no reports of interference

with, or harassment of, these activities.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; while in the past the Government generally has respected this right in practice, in 1997 the President announced a ban on all public demonstrations that did not have prior police approval. This ban was based on an apartheid-era law. The ban was enforced selectively in late July 1997 when police in the northern town of Okanguati broke up private meetings between a public interest law firm and its clients, Himba tribesmen, who were opposed to the construction of the Epupa Dam, which the Government supports (see Section 5). In August 1997 the High Court struck down the 1989 law used by the President to justify the ban. In November paramilitary police broke up a meeting in Caprivi between a local environmental NGO and representatives of the San community. However, various organizations, including political parties, civic and religious groups, women's organizations, students, the unemployed, and former combatants held large meetings and public gatherings without Government interference.

In February Emma Kambangula, the leader of a small NGO representing the interests of former detainees (the Namibia Foundation for Torture and Trauma Survivors) was forced to leave the country after receiving anonymous death threats. She had just returned from an Amnesty International conference where she had criticized the Government for failing to deal forthrightly with the former detainee issue. Her attorneys wrote to the Ministry of Home Affairs requesting police protection and provided copies of the death threats, but the Ministry never replied and protection was not provided.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

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

The Constitution provides for these rights, and in the past the Government has respected them in practice. However, the forced return in May of a recognized refugee and human rights activist, Dr. Manuel Neto, to Angola, seriously damaged the Government's record on refugee issues. According to local human rights groups, the Ministry of Home Affairs violated a court decision that barred Neto's deportation. The refoulement resulted in strong criticism of the Government by international human rights groups. The Namibian Society for Human Rights charged the police with assisting Angolan authorities in rounding up illegal immigrants who had come to Namibia to avoid being conscripted into the Angolan army (see Section 1.b.). Another NGO charged that the Government deported several Nigerian asylum seekers, although it is not clear whether these persons had made formal requests for asylum. There were also reports of extrajudicial deportations from the Caprivi region of illegal Zambian immigrants following the secessionist crisis in that region.

The Government cooperates with the United Nations High Commission for Refugees (UNHCR) on the granting of refugee status to asylum seekers. A bill containing provisions for dealing with refugees in accordance with the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol was passed in 1998 but as of year's end, it had not been signed into law. The Government's eligibility committee continued to meet on a regular basis to consider asylum requests. The Government also assisted in the voluntary return of Angolan asylum seekers in late 1997. Illegal immigrants continued to

be detained. There was a report in June that children were imprisoned temporarily during a raid on homes of illegal immigrants.

Namibia is a first asylum country and continues to permit asylum seekers to enter the country. There are more than 2,000 refugees and asylum seekers at Osire camp, 90 percent of whom are from Angola. The rest are from the Democratic Republic of the Congo, Burundi, Rwanda, Tanzania, and other African countries. Government officials interview asylum seekers, and those granted refugee status are permitted to work and attend schools, including the University of Namibia. Schools have been established at the Osire refugee camp. Residents of the camp are free to leave the unfenced facility, and many travel to Windhoek and other towns on personal business and to sell handicrafts. In late 1997, 129 Angolan refugees were repatriated voluntarily to Angola.

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

Citizens have this right and exercised it for the second time in December 1994 in what observers generally agreed, despite some irregularities, was a free and fair for presidential and parliamentary elections. Elections for regional councilors held November 30-December 1 were judged to be fairly administered. However, voter turnout fell to slightly over 30 percent from 80 percent in the 1992 regional council elections. SWAPO candidates ran unopposed in 28 of 102 constituencies and now controls ten of the country's 13 regional councils. Regional councilors select the members of the National Council, the upper legislative body. Some observers blame the low voter turnout on voter disillusionment and the lack of competitive opposition parties.

The Directorate of Elections makes special efforts to keep voters informed by printing posters and distributing useful and informative voter guides with lists of government and opposition candidates. Opposition parties were afforded television time during the year on the government-run national television network to promote their platforms for the February local elections. In the 1994 national elections, there were televised debates. Opposition parties are able to campaign freely and many new local parties, also known as "ratepayer associations," were formed in 1998 to contest local council seats.

The Government took further steps in July to ensure free and fair elections by creating an independent electoral commission and naming a broad-based group of respected individuals to the commission. The Government also named a well-respected former journalist as the new Director of Elections.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years. Incumbent President Sam Nujoma was reelected to a second 5-year term of office during the country's first post independence elections for the National Assembly and presidency in December 1994. Although the Constitution limits the president to two terms, in 1997 the ruling SWAPO's National Congress recommended that the Constitution be amended to permit President Nujoma to run for a third term. In November the National Assembly passed and the National Council approved a bill to amend the Constitution. The President signed the amendment in December.

Leaders of the opposition have criticized the ruling party for its decision to amend the Constitution to permit the President to seek a third term. Ambassador Ben Ulenga, Namibia's High Commissioner to Great Britain and also a high-level ruling party official, resigned from his diplomatic post after he was unsuccessful in getting the ruling party to debate the third term issue. With his resignation, he lost his pension and other work-related benefits.

During most of the year, the ruling SWAPO party held 53 of the 72 elected National Assembly seats, the Democratic Turnhalle Alliance (DTA, the major opposition party) had 15 seats, and three smaller parties

occupied a total of 4 seats. However, because of his involvement in the Caprivi secessionist attempt, DTA leader Mishake Muyongo forfeited his seat, which will be filled in a by-election. At year's end, other DTA National Assembly members from Caprivi continued to hold their seats.

Members of the National Assembly are elected on a party list system on a proportional basis.

In 1997 the ruling SWAPO party voted to change the voting procedure under the Local Authorities Act to require that local elections be held on a party list instead of a ward system. While it was believed that this change would favor the ruling SWAPO party, opposition parties competed fully in local elections held in February, capturing 19 of 45 municipalities. There were also major gains for women, as they won 131 seats, roughly 40 percent of all local council elected positions. In February a national conference in Windhoek brought together locally elected female officials from all over the country.

Women increasingly are involved in the political process. However, at the national level, women remain seriously underrepresented despite promises by SWAPO to increase the number of women on the party's appointed central committee. There are 2 female ministers and 3 female deputy ministers out of a total of 42 ministerial and deputy ministerial positions. In addition, two women hold cabinet-level positions, as Director of the Department of Women Affairs in the Office of the President and Director of the National Planning Commission. Another woman serves as Ombudswoman. Women hold 15 of 98 parliamentary seats in the National Assembly. In 1996 female legislators formed a Women's Caucus in Parliament to review legislation for gender sensitivity.

Historic economic and educational disadvantages have served to limit the participation of the indigenous San ethnic group in politics, although virtually all of the country's other ethnic minorities are represented in Parliament and in senior positions in the Cabinet. Members of smaller ethnic groups hold the offices of Prime Minister, Deputy Prime Minister, Minister of Foreign Affairs, and Speaker of the National Assembly.

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

During the year, there was a growing intolerance on the part of the nation's political leaders of criticism by nongovernmental organizations. In June the President threatened to "deport" or "get rid off" foreign nationals who "disturb the peace in Namibia." The President specifically criticized the Legal Assistance Centre (LAC), a well-respected indigenous NGO with a long record of opposing apartheid and fighting for the rights of the most underprivileged elements in society. The LAC has provided counsel to the Himba people, a traditional semi-nomadic group that opposes construction of the Epupa Dam. While no actions were taken against the NGO, the President's remarks had a chilling effect on those working with indigenous groups.

The deportation of Angolan human rights activist Dr. Manuel Neto also came shortly after the Angolan refugee had announced the formation of the Angolan League for Human Rights (LADH), an NGO closely aligned with the National Society for Human Rights (NSHR). The NSHR is a frequent critic of the Government, and in 1997 the Government briefly opposed the granting of consultative status at the United Nations Economic and Social Council to the NSHR. The NGO subsequently was granted consultative status.

Despite the verbal attacks on the LAC, local NGO's such as the LAC, the NSHR, the Breaking the Walls of Silence Movement, and those working with indigenous groups, continue to criticize government

policies freely. In addition, human rights organizations such as the Media Institute for Southern Africa, the Center for Applied Social Sciences, and the Human Rights Documentation Center worked openly on a variety of human rights issues affecting the press, women, ethnic minorities, and other groups. In June the Namibian Nongovernmental Organization Forum (NANGOF) publicly criticized "growing sentiments and practices of political intolerance" by the nation's political leadership

Representatives of international human rights organizations traveled to Namibia and discussed human rights issues with governmental and nongovernmental representatives on several occasions; however, President Nujoma accused "foreigners" of interfering in Namibia's affairs on several occasions.

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

The Constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid." During the year, there was a significant improvement in the attention paid to women's issues and the rights of the disabled.

Women

Violence against women, including beating and rape, is widespread. Traditional attitudes regarding the subordination of women exacerbate problems of sexual and domestic violence. However, there continued to be an improvement in the attention paid to the problems of rape and domestic violence. Government ministers joined in public protests against violence. The President, members of his Cabinet, and parliamentarians continued to speak out against violence. Longer prison sentences have been handed down to convicted rapists and abusers, although a problem remained with respect to vulnerable witnesses in rape and abuse cases. Police stated that more women came forward to report cases of rape and domestic violence. A Ministry of Justice official announced in June that a special course in gender sensitivity would be introduced at the newly inaugurated police training center. Centers for abused women and children in Oshakati, Windhoek, Keetmanshoop, Walvis Bay, and Rehoboth are staffed with specially trained female police officers to assist victims of sexual assaults. Safe houses are opening in Mariental, Swakopmund, and Tsumeb.

In 1996 the President elevated the head of the Department of Women Affairs to cabinet rank. The passage in that year of the Married Persons Equality Act also prohibited discriminatory practices against women married under civil law. Women married in customary (traditional) marriages continue to face legal and cultural discrimination. During the year, Oshiwambo chiefs denounced traditional practices that permit family members to confiscate the property of deceased men from their widows and children. Efforts are underway to address this problem and it has been reduced considerably.

In June President Nujoma addressed traditional leaders and made a forceful case for better treatment of women in traditional communities.

Children

The Constitution enumerates children's rights, including those in the area of education and health. The Government devotes 31 percent of the national budget to education and an additional 15 to 20 percent towards health. In practice, however, outmoded policies and laws and an untrained work force lead to inadequate attention to child welfare. Many San children do not attend school, and it is difficult for the Government to afford basic protections to children living on remote commercial farms.

Child abuse is a serious and increasingly acknowledged problem. The authorities vigorously prosecuted

cases involving crimes against children, particularly rape and incest. Courts handed down stiffer sentences against child rapists and the Government provided training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children are working actively to reduce the trauma suffered by abused children. The LAC has launched a national campaign to revise legislation on child maintenance.

The Government expanded programs to separate juvenile offenders from adults in the criminal justice system. Separate facilities for child offenders have been established in Windhoek and Mariental.

People With Disabilities

While discrimination on the basis of disability is not addressed in the Constitution, the Labor Act of 1992 prohibits discrimination against disabled persons in employment. However, enforcement in this area is weak.

The Government does not require legally special access to public buildings for the disabled, and many ministries remain inaccessible to the disabled. However, some municipal governments have installed ramps and special curbing for the disabled at street crossings. Disability issues received greater attention during the year, with wider press coverage of the human rights problems that confront persons with disabilities. In December the Government launched a campaign to expand economic opportunities for and change attitudes about persons with disabilities.

Indigenous People

The Bushmen, also known as the San people, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. The Government has taken a number of measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to primary education. However, little has been done to bring San representatives into the Government, and many San children do not attend school. Reports from the NSHR and in the press claim that civilians from the Mafwe and Khoe San ethnic groups were targeted for harassment during the police campaign against Caprivi separatists.

By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources. However, Bushmen and other indigenous citizens have been unable to exercise fully these rights as a result of minimal access to education and economic opportunities under colonial rule, and their relative isolation.

In 1997 authorities arrested 73 members of the Hai//om Bushmen community for blocking the gates to a national game park. The Bushmen were protesting in support of the return of their ancestral lands, which had been seized in order to create the park. The Hai//om maintained that their previous requests to discuss the case with government officials had been ignored. The protesters were released on bail, and later in the year the case was dropped.

In 1997 the Government unilaterally announced plans to expand a prison in the West Caprivi Game Park on land claimed by the Kxoe ethnic group. The expansion would deny access by members of the Kxoe ethnic group to revenues from community-based tourism projects on their lands. The projects are an important mechanism for empowering the Kxoe to benefit from tourism activities in their community. However, there is some question regarding the Kxoe's right to occupy that land. As of year's end, no final decision on the prison expansion had been announced.

The Government plans to build a hydroelectric dam on the Kunene River that would flood ancestral graves and grazing areas of the semi-nomadic Himba people. The project is highly controversial. The Government has made repeated efforts to consult with Himba leaders regarding the project, but many of the Himba chiefs remain adamantly opposed to the project. Government leaders have criticized harshly those opposed to the project, terming them "enemies of development." In 1997 police in Okanguati broke up a private meeting between Himba chiefs and their lawyers (see Section 2.b.).

The Traditional Authorities Act, which came into effect in 1995, defined the role, duties, and powers of traditional leaders. The act provided that customary law that is inconsistent with provisions of the Constitution is invalid. It enumerated the types of crimes that may be dealt with in traditional courts. The act assigned to traditional leaders the role of guardians of culture and tradition, and also mandated that traditional leaders elected to Parliament choose between their traditional and elected offices before the end of 1996. This provision has not been enforced, and several traditional leaders remain in Parliament.

The Government's power to confer recognition or withhold it from traditional leaders, even in opposition to local preference, is especially controversial because of the leaders influence on local events including local police powers. In some cases, the Government has withheld recognition from genuine traditional leaders who have sympathy for the political opposition. This has been especially true in the Khoe San and Mafwe communities in the Caprivi and in the Herero community. In June a number of traditional leaders boycotted the inauguration of the Traditional Leaders' Council, claiming that the installation was illegal, as some of the leaders chosen by the Government did not represent their communities.

National/Racial/Ethnic Minorities

The Constitution prohibits discrimination based on race and other factors and specifically prohibits "the practice and ideology of apartheid." In July Parliament passed amendments to the 1991 Racial Discrimination Prohibition Act that strengthened the act and the penalties for discriminatory practices. The act codified certain protections for those who cite racial discrimination in the course of research or in trying to reduce racial disharmony. Nevertheless, as a result of more than 70 years of South African administration, societal, racial, and ethnic discrimination persists. There were several reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners. Increasing references in 1998 to white Namibians as "foreigners" by senior government officials were contrary to professed government efforts to promote national reconciliation. Many non-whites continued to complain that the Government was not moving quickly enough in education, health, housing, employment, and access to land.

Some opposition parties, including members of the Herero and Nama ethnic groups, also complained that the SWAPO-led government provided more development assistance to the numerically dominant Ovambo ethnic group of far northern Namibia than to other groups or regions of the country. In 1997 leaders of the "Baster" community in Rehoboth reached an understanding with the Government and dropped their demand that the Government return the community's "traditional lands" that had reverted to the central Government upon independence.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for freedom of association, including freedom to form and join trade unions. The 1992 Labor Act extended that right to public servants, farm workers, and domestic employees.

However, farm workers and domestic servants working on rural and remote farms often are ignorant of their rights and as a result, suffer abuse. Trade unions have no difficulty registering, and there are no government restrictions on who may serve as a union official. No union has been dissolved by government action. In 1997 members of the Namibian public service held vigorously contested union elections.

Unions are independent of the Government and may form federations. The two principal trade union organizations are the National Union of Namibian Workers (NUNW) and the Namibia Federation of Trade Unions (NFTU). The NUNW formerly was affiliated with the ruling SWAPO party but became nominally independent. The NFTU, launched in October and made up of several large public service, teachers, mining, and maritime unions, is more critical of the Government. Less than 20 percent of full-time wage earners are organized.

Except for workers providing essential services such as, jobs related to public health and safety, and workers in the export processing zones (EPZ's), workers enjoy the right to strike once conciliation procedures have been exhausted. There are EPZ's at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZ's outside of these parks. Under the Labor Act, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The Labor Act protects workers engaged in legal strikes from unfair dismissal.

Unemployment, which is nearly 40 percent, remained a significant problem and affected primarily the black majority. Apartheid-era attitudes among some employers contributed to a divisive, 10-week strike at a major mining firm in 1997. The atmosphere at the three mine sites was tense and occasionally violent. Although the confrontation was defused temporarily by high-level government intervention, the mine filed for bankruptcy.

Trade unions are free to exchange visits with foreign trade unions and to affiliate with international trade union organizations. Unions have exercised this right without interference.

b. The Right to Organize and Bargain Collectively

The 1992 Labor Act provides employees with the right to bargain individually or collectively. Collective bargaining is not practiced widely outside the mining and construction industries. However, as unions become more active, informal collective bargaining is becoming more common.

The Labor Act provides a process for employer recognition of trade unions and protection for members and organizers. The law also empowers the Labor Court to remedy unfair labor practices and explicitly forbids unfair dismissals, which may be appealed to the Labor Court.

The Labor Act applies to the EPZ in Walvis Bay with certain exceptions. Some trade unionists continued to challenge the constitutionality of the agreement reached by government and NUNW representatives in because it precludes strikes and lockouts. Under the agreement, labor-related issues in the EPZ are referred to a special EPZ dispute settlement panel composed of employers and workers for expeditious resolution. With only a few businesses operating in the Walvis Bay EPZ, the effectiveness of this agreement in securing the rights of workers in the EPZ could not yet be determined.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and bonded labor by adults and children. However, during the year, there were

ongoing reports in the media that farm workers (including some children on commercial farms) and domestic workers often receive inadequate compensation for their labor and are subject to strict control by employers. Ministry of Labor inspectors sometimes encountered problems in gaining access to the country's large, privately-owned commercial farms in order to investigate possible labor code violations.

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

Under the 1992 Labor Act, the minimum age for employment is 14 years, with higher age requirements for certain sectors such as mining, construction, and for night work. Ministry of Labor inspectors generally enforce minimum age regulations, but children below the age of 14 often work on family and commercial farms, and in the informal sector. The 1991 census, which reported on the status of children, estimates that 13,800 children under 15 years of age were in the labor force. Of this total, 41 percent were working as unpaid laborers on family and commercial farms. Boys in rural areas traditionally start herding livestock at the age of 7. According to 1991 figures, approximately 2 percent of farm workers were children (mainly from the San ethnic group). There were also reports that Angolan and Zambian children, who are not protected by the Labor Act, worked on communal and cattle farms in border areas. The Government prohibits forced and bonded labor by children, but some children worked without compensation on commercial farms (see Section 6.c.).

e. Acceptable Conditions of Work

There is no statutory minimum wage law. In Windhoek's non-white urban area townships, many workers and their families have difficulty maintaining a minimal standard of living. White citizens earn significantly more on average than do black citizens, in large part because whites own most of the country's productive resources and have had access to education that enables them to take advantage of the skilled labor shortage.

After independence, the standard legal workweek was reduced from 46 to 45 hours, and requires at least one 24-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 consecutive days of annual leave, at least 30 workdays of sick leave per year, and 3 months of unpaid maternity leave. However, in practice these provisions are not yet observed or enforced rigorously by the Ministry of Labor. In 1996 two important NGO studies--one of farm workers and the other of domestic employees--highlighted the extremely poor conditions that some employees encounter while working in these occupations.

The Government mandates occupational health and safety standards. The Labor Act empowers the President to enforce these standards through inspections and criminal penalties. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations.

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