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NAMIBIA

Namibia is a multiparty, multiracial democracy. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), was reelected in November 30-December 1 general elections, which international and domestic observers agreed were free, but included some instances of government harassment of the opposition and unequal access to media coverage and campaign financing. Although the Constitution formerly limited the President to two terms in office, in November 1998, the National Assembly passed a bill to amend the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won three-quarters of the seats in the National Assembly. In the wake of an August attack by the Caprivi Liberation Army (CLA), President Nujoma invoked Article 26 of the Constitution to declare a state of emergency, which for more than 3 weeks suspended certain fundamental constitutional freedoms. The judiciary is independent.

The police, including the paramilitary Special Field Force, 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 Congo (DROC) in 1998 and remained there throughout the year. The civilian authorities generally maintain effective control over the security forces; however, members of the police force committed numerous, serious 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--still are controlled largely by white citizens 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 citizens 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 black citizens and white citizens. White citizens have an average per capita income of \$14,000 a year, while many of the poorest black citizens earn just \$165 a year. Unemployment was nearly 40 percent and affected primarily the black majority.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Members of the security forces committed several extrajudicial killings. The Government did not account for the whereabouts of some persons detained by the security forces. Security forces beat suspects during arrest and while in custody during operations in the Caprivi region. Security forces beat citizens and Angolan refugees during security operations in both Kavango and Caprivi that were the result of fighting between Angola government troops and National Union for the Total Independence of Angola (UNITA) forces along the border with Angola. There were other reports of police mistreatment of suspects in detention. Prison conditions remain harsh, but the Government took some steps to improve conditions. The Government arbitrarily arrested and detained citizens under the state of emergency. Lengthy pretrial detention is a problem. A large court backlog continues to lead to lengthy delays of trials.

In the wake of the August attack by the CLA, President Nujoma declared a state of emergency pursuant to Article 26 of the Constitution, and granted security forces wide-ranging powers. Many of the fundamental freedoms contained in the Constitution were suspended, including freedom from detention without trial, search and seizure without a warrant, and confiscation of property. The decree also limited freedom of assembly, freedom of movement, and other political rights. In practice, these measures generally were confined to the Caprivi region, although several suspects were detained outside the region. The Government announced the termination of the state of emergency at midnight on August 25.

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. High-level government officials continued to use abusive language in responding to criticism of ruling party and government policies. The Prime Minister singled out for criticism a human rights lawyer who provided to the media photographic evidence that security forces seriously beat his client. The President and other high-level government and ruling party officials made a number of verbal attacks on the press, nongovernmental organizations (NGO's), and opposition parties. There continued to be pressure on journalists who worked for government-owned media outlets not to report critically on the Government. There continued to be a ban on all public demonstrations that did not have prior police approval. The authorities continued to deport military-age Angolan illegal immigrants and Angolan refugees without judicial review, as required by the law. This led the National Society for Human Rights (NSHR) to charge the police with assisting the Angolan Government in its conscription efforts. More than 1,000 refugees, of the 2,500 persons who fled heavy-handed security force operations in the Caprivi region in 1998, remained in Dukwe refugee camp in Botswana. Attempts by the United Nations High Commissioner for Refugees (UNHCR) to repatriate some of the refugees were suspended after the CLA attack on August 2. The refugees told the UNHCR that they feared ongoing security operations and possible retribution by security forces should they return to Caprivi.

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 1998 speech to traditional chiefs, President Nujoma called on the leaders to protect the rights of women in rural areas. However, 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. Discrimination against indigenous persons persists, especially in remote rural areas where indigenous persons often are unaware of their rights.

Members of the Caprivi Liberation Army (CLA) committed serious abuses, including several extrajudicial killings. UNITA rebels from Angola reportedly were responsible for a number of civilian deaths in the country. Elements of the Armed Forces of Angola (FAA) beat Namibian citizens and Angolan refugees, and committed at least one rape.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Members of the security forces committed several extrajudicial killings. In November a police officer in Okahandja beat to death while in custody a student arrested for disorderly conduct. The police officer responsible was placed on administrative leave and the criminal case against him was pending at year's end.

During security operations undertaken in response to a CLA attack in August, government forces killed eight CLA rebels, and members of the security forces--particularly the paramilitary police Special Field Force (SFF)--shot civilians and beat suspects during arrest and while in custody. Several civilians were killed or injured during fighting in neighborhoods of the Caprivi regional capital of Katima Mulilo and in subsequent security operations throughout the region. On August 8, security forces shot and killed Gilbert Tubaze Simasiku, a mentally-impaired man who was walking along a street in Katima Mulilo and apparently failed to heed a security officer's request to stop. Simasiku died on August 9. On August 16, security forces shot and killed Dr. Lucas Ilonga on the compound of the Katima Mulilo state hospital. Ilonga apparently was running to respond to an emergency medical case and was mistaken for a CLA rebel by police. Despite promises by high-level officials, the Government took no action--either to enforce internal disciplinary measures or to press criminal charges--against perpetrators in the security forces by year's end.

Several weeks before the August CLA attack, an officer of the SFF shot and killed a civilian named James Chilunda in the Caprivi village of Singalamwe on July 18, after an altercation between two SFF officers and villagers. The SFF officer was arrested on murder charges and is out on bail awaiting trial.

In September two soldiers deployed with the NDF contingent in the DROC were convicted and sentenced by a Namibian court martial for killing two Congolese civilians in separate incidents in late 1998 and early during the year.

In 1997 the Government admitted that since 1994 security forces along the northern border with Angola had killed seven civilians. One NDF officer was charged with murder and another was found guilty of culpable homicide; however, investigations into the other killings reportedly were dropped.

On August 2, CLA rebels attacked military, police, and other government installations around Katima Mulilo. The attack resulted in the deaths of three soldiers, three police officers, and several civilians. Security forces responded by killing or capturing many of the rebels.

UNITA rebels from Angola reportedly were responsible for a number of civilian deaths in the country.

b. Disappearance

During the Caprivi state of emergency, security forces detained hundreds of persons without giving public notice for 2 weeks, but did publish a list of detainees 1 day after the 2-week constitutional deadline. Immediately before publishing its list of detainees, the Government deported 99 noncitizens to their countries of origin and released from detention 105 citizens. Those 204 persons were not enumerated on the final list. The NSHR charged that security forces failed to account for all those who were detained, and cited four specific individuals who were not accounted for: Louis Ndilwa Mbanga, who was detained on August 4; Kester Silemu Kabunga and Martin Sabo Chainda, who were detained on August 23; and Fidelis Sinvula, who was detained on August 25 (also see Section 1.d.).

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, which 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 declared that the listing was 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 on disappearances of persons that occurred on both sides during the liberation struggle.

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;" however, in practice, prisoners sometimes were beaten or otherwise mistreated by police, especially by members of the SFF. In November a police officer in Okahandja beat to death while in custody a student arrested for disorderly conduct (see Section 1.a.). In October 1998, security forces moved into the

Caprivi region to break up an armed secessionist movement. There were reports that the 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. In December during security operations in Kavango and Caprivi due to an outbreak of fighting between Angolan government troops and UNITA in the Kavango region on the border with Angola, Namibian security forces beat and otherwise abused citizens and Angolan refugees.

Security operations during the year in the Caprivi region included widespread abuse of civilians and detainees. Beatings with rubber whips, called sjamboks, and with rifle butts were inflicted during some arrests and while some detainees were incarcerated. Former parliamentarian Geoffrey Mwilima was arrested on August 4 on suspicion of supporting the CLA. During his arrest, security forces beat him severely with rifle butts and sjamboks, resulting in a broken jaw and extensive whip lacerations on his back. A diabetic, Mwilima also initially was denied medical care and food. The Legal Assistance Center (LAC) is to represent Mwilima and others in a suit against the Government. Human rights groups reported other cases as well. Security forces arrested NSHR activists Gabriel Mwilima and Joseph Muchali on August 2 and 6, respectively. Mwilima reportedly was beaten severely during his arrest. On August 19, Chrispin Sinfua was arrested on suspicion of supporting the CLA. According to press accounts, members of the security forces tied Sinfua's hands and feet and whipped him with sjamboks. Security forces apparently determined that Sinfua had no connection to the rebel attack and released him on August 23. Sinfua plans to bring a civil suit against the Government. As detainees were brought to court for bail hearings in late September, many exhibited evidence of extensive injuries inflicted by police during their detention, including detainees Oscar Lupalezwi, Stephan Ntelamo, and Allen Sameja. All three identified their abusers as police sergeant Patrick Liswani and two constables named "Haipa" and "Oupa." Neither the executive or judicial branches of government had taken action against the police officers by year's end.

During an August fact-finding mission to the region, Defense Minister Erkki Nghimtina admitted that the security forces had committed abuses and promised that they would not continue. On August 17, after criticism from human rights groups, the Government announced that it had granted the Namibian chapter of the Red Cross access to the detainees. The Red Cross released its findings concerning detainee welfare only to the Government. A Defense Ministry spokesman confirmed that several incidents were being investigated internally and stated that if abuse was found to have been committed, internal military disciplinary action would be taken. A police spokesperson separately confirmed that the Police Complaints and Discipline Unit had initiated investigations into abuse of detainees, although no further action was taken against those responsible by year's end.

In response to a case brought by a human rights NGO, the Supreme Court found in July that the use of leg irons at any time was unconstitutional and ordered security forces to discontinue their use.

In several instances, supporters of the ruling party broke up opposition rallies, which at times led to injuries (see Section 3). For example, on November 25, SWAPO supporters in the town of Swakopmund threw rocks at a COD meeting site, injuring several persons. In some instances, police took no action to prevent the attacks or restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore

order. SWAPO officials were unable or unwilling to restrain such attacks.

In December during fighting between Angolan government troops and UNITA in the Kavango and Caprivi regions along the border with Angola, elements of the FAA beat Namibian citizens and Angolan refugees, and abused women. In December Namibian police discovered FAA soldiers raping an Angolan refugee woman near Rundu. No action was taken against the officers responsible.

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 made efforts to separate youthful offenders from adult criminals, although in many rural areas juveniles continued 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 regular access to prisons and prisoners.

d. Arbitrary Arrest, Detention, or Exile

The Constitution forbids arbitrary arrest or detention except in situations of national emergency, 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 by counsel, primarily due to resource constraints. A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations have criticized the length of time that pretrial detainees were held, which have stretched up to 1 year in some cases. Under a state of emergency, the Constitution permits detention without trial, although the names of detainees must be published in the government gazette within 14 days, and their cases must be reviewed within 1 month by an advisory board appointed by the President.

In the wake of the August 2 CLA attack in Katima Mulilo, security forces detained hundreds of persons suspected of involvement with the CLA, or thought to be supportive of Caprivi independence. Security forces detained some persons merely for questioning. At an August 31 press conference, the NSHR released a detailed list with the name, ethnic group, and date of detention of each of the 278 detainees, but expressed concern that its list was incomplete. Detainees were overwhelmingly from the Mafwe ethnic group of CLA leader Mishake Muyongo. While most detentions under the state of emergency occurred in the Caprivi region, on August 7-8, Albert Sibeya and Martin Sichimwa Mutumba were arrested in Ongwediva in north-central Namibia. The NSHR protested the use of emergency measures to detain suspects outside of the Caprivi region, and a lawyer for the two detainees announced that he would bring a constitutional case to have the arrests thrown out. While detainees theoretically are allowed access to legal counsel even under emergency rules, the Government initially denied Caprivi detainees this right. This right was limited further in practice because, for the first 2 weeks of detention, the Government is not obliged to reveal where detainees are being held. On August 17, the

day after the constitutionally prescribed deadline, a list of 103 detainees was published in the government gazette. The Government also declared that 99 noncitizen state of emergency detainees had been deported to their countries of origin. Just prior to publishing its list, the Government released a large number of detainees. The names of those detainees, some held as long as 2 weeks, were not published.

The NSHR charged that NAMPOL was assisting Angolan authorities in rounding up and extrajudicially deporting 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.).

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 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 the 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, except in situations of national emergency. Apart from searches conducted under the state of emergency in the Caprivi region, government authorities generally 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 in 1998 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. The 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, subject to "reasonable restrictions" in situations such as a state of emergency, and the Government generally respected these rights; however, there continued to be instances of abusive responses by the nation's political leaders to 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, high-level government officials publicly attacked journalists, human rights groups, and opposition politicians in response to perceived criticism of the Government or ruling party. The NSHR issued a report citing 20 such incidents. While such verbal attacks may have been calculated to quiet criticism, they do not appear to have had a major impact on the aggressive style of the independent media or the work of human rights groups or opposition political parties. NGO's involved in media issues maintained that reporters working for the government-owned newspaper were subjected to indirect and direct pressure not to report on certain controversial topics. In August the Government forbade the newspaper *The Namibian* to cover the situation in DROC. This blackout was lifted after several days in response to public criticism. The government-run *New Era* newspaper gave some coverage to opposition parties and views critical of the government, although it sometimes avoided controversial issues. A libel suit brought by a senior government official against the *New Era* in September 1998 was being watched closely by human rights groups. During the Caprivi state of emergency, the NDF and police gave daily press briefings, but were criticized for providing some incorrect information.

The government-owned NBC operates most radio and television services. The NBC provided some coverage to opposition points of view. Media observers believe that NBC reporters exercise considerable self-censorship on certain controversial issues, such as human rights abuses in Caprivi, allegations of corruption, the question of missing SWAPO detainees, and the amendment of the Constitution to allow President Nujoma to run for a third term. Despite these complaints, the NBC gave some 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 the Cable News Network, the 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 the country 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 1998, but there have been no reports of complaints from journalists. Several major conferences in the country attracted large numbers of international journalists. In November 1998, 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 temporarily seized their videotapes. In December security forces near Rundu seized the camera of a foreign national citing security concerns due to fighting in Angola.

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, except in situations of national emergency; 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. 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. Organizers of public meetings still are required to obtain prior police approval; however, in practice many public gatherings took place without such approval and without interference. Under the Caprivi state of emergency, the Government had the authority to restrict public gatherings, although there were no cases in which the police denied a meeting request. 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 several instances, supporters of the ruling party broke up opposition rallies (see Section 3). In some instances, police took no action to prevent the attacks or restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore order. SWAPO officials were unable or unwilling to restrain such attacks.

The Constitution provides for freedom of association, even in times of national emergency, and the Government generally respected 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, except in situations of national emergency, and in the past the Government has respected them in practice; however, the forced return in May 1998 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 authorities continued to deport military-age Angolan illegal immigrants without judicial review, as required by the law. The NSHR 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. There also were reports of extrajudicial deportations from the Caprivi region of illegal Zambian and Angolan immigrants following the secessionist crisis in that region. In December authorities forcibly returned to Angola fifty Angolan refugees who were fleeing the fighting in southern Angola; there was no judicial review of this action.

The Government cooperates with the UNHCR on the granting of refugee status to asylum seekers. A law containing provisions for dealing with refugees in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol was passed in 1998 and signed into law by the President in March. 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 1998 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. According to the UNHCR, there are more than 8,000 refugees and asylum seekers at the 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. Those granted refugee status generally are not permitted to work, live outside the Osire refugee camp, or attend schools, including the University of Namibia. Schools have been established at the Osire refugee camp. Residents of the camp are not supposed to leave the unfenced facility, but many travel to Windhoek and other towns on personal business and to sell handicrafts. More than 3000 Angolan refugees entered the country in the latter part of the year, and initially took refuge in and around a police station in the town of Kahenge. Attempts to bus these refugees to the Osire camp were hampered initially due to resource constraints.

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

Citizens exercised their right to change their government by electing a President and National Assembly for the second time since independence during the November 30-December 1 general election, which international and domestic observers agreed was generally free and well-administered despite some irregularities. Observers noted instances of harassment of opposition members during the campaign, and unequal access

to media coverage and campaign financing were problems. Nevertheless, voter turnout was over 60 percent and the election proceeded peacefully. Sam Nujoma, leader of the ruling party SWAPO, was reelected; although the Constitution formerly limited the President to two terms in office, in November 1998, the National Assembly passed a bill to amend the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won 55 of 72 elected National Assembly seats. Four opposition parties won a total of 17 seats in the National Assembly, including the Congress of Democrats (COD) party, which won the largest number of opposition votes, the Democratic Turnhalle Alliance (DTA), the United Democratic Front, and the Monitor Action Group.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years.

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. In the period prior to the election, all parties were afforded broadcast advertising time on the government-run national television and radio stations to promote their platforms. Debates between candidates also were broadcast on television and radio. Election observers noted that the allocation of free broadcast time, while in accordance with parliamentary rules, provided substantially more time for SWAPO. The parliamentary rules governing public campaign financing provided a similar advantage for SWAPO.

Opposition parties generally are able to undertake political activity such as holding party conferences and public rallies, and advertising; however, in several instances, supporters of the ruling party broke up opposition rallies. For example, on November 25, SWAPO supporters in the town of Swakopmund threw rocks at a COD meeting site, injuring several persons. COD recruiters complained that they were chased away from schools by members of the SWAPO youth wing. In some instances, police took no action to prevent the attacks or restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore order. SWAPO officials were unable or unwilling to restrain such attacks.

The Government took further steps in July 1998 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.

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, the High Commissioner to Great Britain and also a high-level ruling party official, resigned in 1998 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. In March Ulenga formed the COD opposition party, and in the general election the COD won approximately 10 percent of the vote and seven seats in the National Assembly. While opposition parties were allowed to hold meetings and campaign freely, the COD periodically was attacked in public statements by both government and SWAPO officials who accused members of the COD of being "traitors," "hooligans," and "puppets of a racist plot by white citizens". At a SWAPO public rally on

May 6, Minister of Home Affairs Jerry Ekandjo referred to a "war" against the COD. In April the COD complained publicly that Namibian Central Intelligence Service (NICS) officials were following party leaders and discouraging persons from attending COD rallies. Shortly after the COD's March inaugural meeting, Director General of the Namibia Central Intelligence Service, Peter Tsheehama, was quoted as admitting that intelligence agents were following the party closely. Tsheehama subsequently denied that he said this, although the newspaper stood by the quote.

Prior to the general election, the ruling SWAPO party held 53 of the 72 elected National Assembly seats, and opposition parties held 19 seats. When former DTA chief (and leader of the Caprivi secessionist movement) Mishake Muyongo fled to Botswana in 1998, he forfeited his seat under parliamentary rules. In addition, another DTA politician from Caprivi resigned his seat. Both seats were filled by the DTA with other party members, in accordance with the Constitution.

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 1998, capturing 19 of 45 municipalities. There also were major gains for women, as they won 131 seats, roughly 40 percent of all local council elected positions. In February 1998, 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, women remain seriously underrepresented in government and politics 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, high-level government officials continued to use abusive language in responding to criticisms of the ruling party and government policies by nongovernmental organizations. Following the publication in newspapers of graphic photos that showed abuse of Caprivi detainees, Prime Minister Hage Geingob issued a public statement criticizing lawyers from the Legal Assistance Center (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 also has drawn criticism from government officials for providing legal counsel to the Himba people, a traditional semi-nomadic group that opposes construction of the Epupa dam. Government officials also have attacked verbally the NSHR and the Breaking of Walls of Silence (BWS) movement, which acts as an advocate for former detainees imprisoned by SWAPO prior to independence. Some observers believe that government attacks on BWS head Reverend Ngeno Nakamhela resulted in Nakamhela's removal from his position as secretary general of the Council of Churches of Namibia (CCN). Despite abusive remarks by government officials, no action was taken to suppress NGO's.

The deportation of Angolan human rights activist Dr. Manuel Neto in May 1998 also came shortly after Dr. Neto had announced the formation of the Angolan League for Human Rights (LADH), an NGO closely aligned with the NSHR. The NSHR is a frequent critic of the Government, and in 1997 the Government briefly opposed the granting of consultative status at the U.N. Economic and Social Council to the NSHR. Nevertheless, the NGO was granted consultative status.

Despite the verbal attacks on the LAC, local NGO's such as the LAC, the NSHR, the BWS 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 1998, the Namibian Nongovernmental Organization Forum (NANGOF) publicly criticized "growing sentiments and practices of political intolerance" by the nation's political leadership. In the period prior to the general election, the CCN and the NANGOF organized a domestic observer effort in cooperation with the directorate of elections.

Representatives of international human rights organizations traveled to the country and discussed human rights issues with governmental and nongovernmental representatives on several occasions; however, in 1998 President Nujoma accused "foreigners" of interfering in Namibia's affairs on several occasions, and in June of that year threatened to "deport" or "get rid of" foreign nationals who "disturb the peace in Namibia."

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. After extensive consultations with NGO's and prominent women, in March the government introduced a bill in Parliament to combat rape. The Combating of Rape Bill was debated extensively on the floor of the National Assembly and then sent to a parliamentary committee, which is to allow private citizens to comment on aspects of the bill. Observers anticipate passage of the bill in 2000. A Ministry of Justice official announced in June 1998 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. In 1998 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 1998, 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. In previous years, the Government devoted 31 percent of the national budget to education and an additional 15 to 20 percent towards health. However, in practice, 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 Child Maintenance Bill was sent to the Cabinet for discussion, and the Cabinet referred the bill back to the Ministry of Justice for further comment. The bill would enable women to break out of the cycle of marital dependence and escape domestic violence by requiring divorced spouses to provide maintenance allowances for their children. However, the bill is still far from being tabled in Parliament.

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 legally does not require 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 1998, 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 Hei//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 Hei//om maintained that their previous requests to discuss the case with government officials had been ignored. The protesters were released on bail, and the case was dropped later in the year.

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."

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 is invalid if it is inconsistent with provisions of the Constitution. 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. Mafwe chief Boniface Mamili fled the country with other Caprivi separatists in late 1998. Despite opposition from the Mafwe community itself, Minister of Local Government Nicky Iyambo ruled that Mamili had forfeited his position, and in March the Government installed a rival chief. In June 1998, 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 1998, 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. In two instances, black farm workers were not allowed to vote in the general election after white farm owners barred mobile election teams from their property. Increasing references in 1998 to white citizens 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 citizens complained that the SWAPO-led government provided more development assistance to the numerically dominant Ovambo ethnic group of the far north 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, and the Government respects this right in practice. 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. The Ministry of Labor expressed concern in their annual report released in September over the growing number of trade unions. The Labor Commissioner reported in the Ministry's annual report that it would apply to the Labor Court for deregistration of organizations that have not complied with the statutory requirements in the Labor Act. The announcement caused concern among some observers, who worried that the Government would use the process to target independent unions not affiliated with the ruling party. No union has been dissolved by government action. In 1997 government employees 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). Prior to independence, the NUNW formerly was affiliated with SWAPO, but claims that its affiliation had ended at independence; however, the NUNW was invited to nominate candidates for SWAPO's National Assembly slate, and the NUNW was nominated by SWAPO and elected to the National Assembly. In 1997 the mine workers union established the Mine Workers Union Investment Company to supplement union dues. The NFTU, launched in October 1998 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 Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

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 Government expects to redraft the 1992 Labor Act to close existing loopholes that allow employers to exploit workers.

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 codified in the Export Processing Zone Act of April 1995 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 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 night work and for certain sectors such as mining and construction. 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, estimated 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; however, 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 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; however, some workers do not have this right in practice.

f. Trafficking in Persons

Although the law does not specifically prohibit trafficking in persons, it does prohibit slavery, kidnapping, forced labor, including forced prostitution, child labor, and alien smuggling, and there were no reports that persons were trafficked in, to, or from the country.

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