



## 2008 Human Rights Report: Namibia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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

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Namibia is a multiparty democracy with a population of approximately two million. President Hifikepunye Pohamba was elected in 2004, succeeding Sam Nujoma, the country's first president and former leader of the ruling South West Africa People's Organization (SWAPO). International and domestic observers generally considered the 2004 presidential and parliamentary elections free and fair. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the human rights of its citizens, human rights problems included: police use of excessive force; poor conditions in prisons and detention centers; arbitrary arrest, prolonged pretrial detention and long delays in trials; government criticism of the media and nongovernmental organizations (NGOs); attacks, harassment, and intimidation of opposition members by some SWAPO supporters; and official corruption. Societal abuses included violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous peoples; and child labor.

### RESPECT FOR HUMAN RIGHTS

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

##### a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, on February 3, an unidentified police officer shot and killed Ndishishi Ya Nambinga, a demonstrator who was reportedly disrupting a SWAPO party political rally. According to the police and the local NGO National Society for Human Rights (NSHR), Ya Nambinga stabbed Constable Hilma Nakumbwata, who was attempting to arrest him for disorderly conduct. The unidentified police officer fired a warning shot in the air before shooting Ya Nambinga several times in the stomach.

An investigation into the April 2007 suffocation death of William Cloete, who died in a shipping container which police in the town of Rosh Pinah used as a detention center, was ongoing at year's end.

The January 2006 police shooting and killing of Collen Goliath remained under investigation at year's end.

There were no developments, and none were expected, in the case of Linus Muhimba, who died while in police custody in May 2006.

Two of the 16 police officers accused of beating five men, one of whom died from his injuries in May 2005, were acquitted of all charges. The trial for the remaining 14 was moved to the High Court and was ongoing at year's end.

Unlike in the previous year, no deaths resulted from unexploded ordnance.

On August 30, the NSHR announced the discovery of possible mass graves along the country's border with Angola. The NSHR alleged the graves could be linked to "enforced disappearances" in Caprivi and Kavongo regions between 1994 and 2003. The government subsequently investigated one of the grave sites, which contained the remains of five political activists who were killed without trial by South African security forces in 1972. Government officials claimed the site was well known and did not represent a new finding. The NSHR contested the government's claim that the gravesite was publicly known and argued that the government should reveal all information it had on mass graves. None of the other mass graves had been investigated by year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices; however, police sometimes used excessive force when apprehending, interrogating, and detaining criminal suspects. Press reports and human rights advocates noted a continuing decline in incidents of police brutality during the year. For example, the Legal Assistance Center (LAC) and the NSHR noted considerably fewer claims of police abuse from detainees than in previous years. The government took action against some perpetrators of abuse.

Unlike in the previous year, there were no reports that police used force, including beatings, to disperse demonstrators, although SWAPO supporters assaulted demonstrators and attacked opposition members (see section 2.b.).

There were no developments in the case of Hafeni Joseph Amalwa, who filed charges against an arresting officer for allegedly assaulting him in April 2007.

There were no developments, and none were expected, in the following 2006 security force assault cases still pending before the courts: the mob assault, led by two members of the Special Field Force (SFF), against two women accused of witchcraft; the alleged assault on Mariental residents by members of the SFF police unit and the Namibian Defense Force (NDF); and the kidnapping and assault of Hofenie Angomo Ikolola.

Numerous individuals continued to pursue civil court cases against the government as a result of alleged security force abuses during the 1999 Caprivi secessionist attacks. Three of the civil claims were settled out of court in September, almost eight years after the claims were initially filed with the High Court. The remaining 112 civil cases remained pending before the courts at year's end.

Suspects in the Caprivi treason trial continued to complain of poor medical services and intimidation of their visitors by prison officials.

On July 11, two supporters of the new opposition Rally for Democracy and Progress (RDP) party, Sylvanus Reinhold and Sackey Amenya, sustained serious wounds after being attacked by a mob of ruling SWAPO party supporters in the Windhoek township of Katutura. Three SWAPO supporters were subsequently arrested, and their case was under investigation at year's end.

Unlike in the previous year, there were no reports of injuries from unexploded ordnance.

Prison and Detention Center Conditions

Prisons and detention centers were overcrowded, poorly maintained, and lacked basic sanitation and adequate food. Guards sometimes abused prisoners, although there were no such reports during the year. In April the newspaper *The Namibian* reported that Windhoek Central Prison held 1,172 prisoners, almost 30 percent over its official capacity of 912 prisoners. The government-owned *New Era* newspaper reported during the year that one police holding facility designed to accommodate 105 persons held 224.

Conditions of police holding cells showed little change since a 2006 ombudsman's report cited the cells for poor sanitary conditions, overcrowding, insufficient food, unsafe infrastructure, and lack of access to medical care and potable water. Minister of Safety and Security Nickey Iyambo, who visited a number of police holding facilities throughout the year, criticized their poor conditions.

Victims of prison abuse were able to pursue legal remedies, although lengthy delays were common. For example, in June a court ordered the Ministry of Prison Services to pay Paul Kennedy, an inmate at the Windhoek Central Prison, 15,000 Namibian dollars (approximately \$1,482) in damages for an assault by a prison officer in 2002.

Some detainees were held with convicted prisoners, and juveniles continued to be held with adults in many rural areas. There were pilot programs that provided alternatives to incarceration for juvenile offenders, such as placing youths in shelters and foster homes. The NGO *Criminals Return into Society* also offered a number of rehabilitation programs to build vocational skills. In 2007 the government launched a community service pilot project as an alternative to incarceration in four of the 13 regions for adult and juvenile persons convicted of petty crimes.

The government continued to grant NGOs regular access to prisons and prisoners. The International Committee of the Red Cross (ICRC) continued to visit prisons and detention centers from its regional delegation headquarters in Zimbabwe.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest or detention; however, there were reports that security forces sometimes assaulted or otherwise mistreated citizens during arrest or in detention.

#### Role of the Police and Security Apparatus

The police, including the paramilitary SFF, are under the Ministry of Safety and Security. The NDF, which has approximately 16,000 members, is under the Ministry of Defense. All are responsible for internal security. The Namibian Police Force (NAMPOL) has approximately 12,000 members and is highly centralized, with regional commands responsible to the inspector general of police, who reports to the minister of safety and security. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit composed primarily of combatants from the former People's Liberation Army of Namibia. SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to effectively deter or investigate street crime.

Police corruption and impunity were problems.

In July *The Namibian* newspaper reported that police officers sometimes threatened to arrest prostitutes if they did not agree to perform sex.

Although some security force members accused of abuse and corruption were arrested and tried in military courts or the civilian criminal justice system, the government took no action against others.

The case was still pending against Andrew Iyambo, the deputy commissioner of police for Erongo Region, who was suspended in 2007 for misappropriating funds donated to the regional police by a fishing company.

No action was taken, and none was expected, in the 2006 corruption case against police commanders Lottinelomba Uusiku and Joseph Kamati.

Police continued to receive human rights training designed by the Windhoek-based LAC. Some officers attended training programs with human rights components at the International Law Enforcement Academy in Gaborone, Botswana.

#### Arrest and Detention

Arrest warrants are not required in all cases, such as when a suspect is apprehended during the commission of a crime. Persons arrested must be informed of the reason for their arrest and brought before a magistrate within 48 hours of their detention, but the government did not always respect these provisions in practice. Detainees generally were promptly informed of the charges against them. Those accused are entitled to defense by the legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel; however, many prisoners could not afford counsel, and indigent persons were not always provided counsel, primarily due to an insufficient number of public defenders. There is a functioning bail system. Under a state of emergency, the constitution permits detention without trial, although the names of detainees must be published in the government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

There were reports of arbitrary arrest and detention.

Security forces arrested opposition members (see section 3).

City police arrested homeless children and detained them in police stations. In February police rounded up and detained 16 homeless children on suspicion of theft. The children, none of whom was formally charged, were detained in the same holding cells as adults.

Unlike in the previous year, there were no reports of incommunicado detention.

The government sometimes remunerated persons who were arbitrarily arrested and did so in 2007; however, there were no such cases during the year.

A trial must take place within "a reasonable time," or the accused must be released; however, lengthy pretrial detention was a problem. Approximately 8 percent of the general prison population was awaiting trial, and there were approximately 50,000 unresolved cases on the court dockets. The lack of qualified magistrates and other court officials, the high cost of legal aid, and slow or incomplete police investigations resulted in a serious backlog of criminal cases and delays of years between arrest and trial.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and while the courts continued to act independently and at times made judgments and rulings critical of the government, the judicial system was hampered by inefficiency and a lack of resources.

The formal court system has three levels: 30 magistrate courts; the High Court; and the Supreme Court. The latter served as a court of appeals and constitutional review court. Military courts try members of the military only.

Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the traditional system.

Most rural citizens first encountered the legal system through the traditional courts, which deal with infractions of local customs among members of the same ethnic group. The law delineates the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with the constitution.

#### Trial Procedures

The constitution and law provide for the right to a fair trial, but this right was limited by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system. The 131 Caprivi treason detainees imprisoned in Windhoek, for example, have been waiting for the completion of their trials for seven years. The law provides for public trials, but not juries. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, and along with their attorneys to have access to government-held evidence. Indigent defendants are entitled to a lawyer provided by the state; however, this often did not occur due to insufficient public defenders. Defendants are presumed innocent, can confront witnesses, and have the right of appeal.

During the year procedural problems continued to dominate the high treason trials of detainees arrested in connection with the 1999 attacks on government institutions at Katima Mulilo. The prosecution sought to have some of their witnesses declared hostile, and a pay dispute involving the state-provided lawyers for the defense delayed proceedings for a week. There were no convictions or acquittals by year's end. The ten Caprivi detainees who were convicted in 2007 filed a motion to appeal their conviction during the year.

The case of two ethnic Mafwe witnesses who appeared in court in 2006 on charges of perjury and obstruction of justice for denying statements they had made to investigators in the Caprivi treason trial was postponed to June 2009. The two claimed their statements were obtained under duress inflicted by security forces.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

#### 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. High-level government officials sometimes chided journalists who criticized the government, former president Nujoma, or the ruling party, and threatened unspecified consequences against some media outlets, although no threats were carried out during the year. Journalists working for government-affiliated media practiced self-censorship, although such outlets also criticized the government, as did reporters for independent newspapers.

There were four daily national newspapers, three of which were independent, and four independent weekly newspapers. The New Era newspaper and the Namibian Press Agency were both parastatals, whose boards were appointed by the minister of information and broadcasting. The government shared equal ownership of the regional

weekly newspaper Southern Times with the government of Zimbabwe. The ruling SWAPO party owned one publication, Namibia Today.

The government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television, which were the most widely broadcast and influential media in the country. NBC's television and nine radio services broadcast in English and indigenous languages.

There were 12 private radio stations and one private television network, One Africa TV. There were two cable and satellite TV providers, which offered numerous channels of programming; SWAPO owned 51 percent of one of the providers.

On November 28, security forces arrested South African television journalist Bonita Nuttall for working after entering the country on a tourist visa; the law requires foreign journalists to obtain temporary residence and work permits before entering the country. Nuttall, who spent the night in an airport holding cell, was released the next day and ordered to pay 2,000 Namibian dollars (approximately \$198) bail pending an initial court appearance. On December 3, a Windhoek court ordered Nuttall to pay additional bail of 8,000 Namibian dollars (\$790) pending a trial scheduled for February 2009. In a December 5 letter to the minister of communications technology, the international NGO Reporters Without Borders called Nuttall's detention "an abuse of authority out of proportion to the offence."

In November newspaper editors called for the withdrawal of a clause from a proposed communication bill that would allow the intelligence services to tap phones and monitor e-mail without referring to a court. The Media Institute of Southern Africa called the proposed bill a setback for free expression.

Some senior SWAPO officials have criticized media outlets at campaign events and suggested that they need to tell "the truth" or face the consequences. On February 19, the Media Institute for Southern Africa expressed concern that statements by SWAPO Vice President and Trade Minister Hage Geingob could be perceived as threatening to the press; Geingob had praised the government for standing firm and "not arresting or touching" Windhoek Observer editor Hannes Smith for "nonsense" published in the Observer and other media outlets about the government.

Despite a February 7 announcement by the minister of information that the government would form a media council to regulate the media and provide a mechanism for the public to file complaints, no action had been taken by year's end; SWAPO passed a resolution in November 2007 instructing the minister of information to establish a media council to regulate media ethics.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail and Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. While Internet access was unrestricted, usage was limited in rural areas due to poverty.

#### Academic Freedom and Cultural Events

On September 9, the NSHR claimed that the government-owned PolyTechnic Hotel and Tourism School canceled its booking on the day of the NSHR's planned presentation of a report on alleged mass graves (see section 1.a.). The school provided no prior notice or explanation.

During the year the University of Namibia (UNAM) filed disciplinary charges against two senior lecturers, Patrick

Iijambo and Usuatuije Maamberua, for holding office in the SWANU political party while being employed at the institution; UNAM forbids its employees from holding political office. The professors, who claimed that UNAM took no action against university staff who held office in SWAPO and that UNAM's policy violated their constitutional right to freedom of expression, filed an appeal to an internal UNAM council. In December the council ruled in favor of Iijambo and Maamberua.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution and law provide for freedom of assembly, and unlike in the previous year, the government generally respected this right; however, SWAPO supporters attempted to block opposition RDP rallies on several occasions.

On November 22, SWAPO supporters prevented RDP supporters from holding a rally in Outapi and subsequently assaulted RDP supporters and police. Senior government officials, including President Pohamba, defended the perpetrators, alleging that the RDP had provoked the SWAPO supporters by planning the rally in SWAPO's stronghold. The president then called on political parties and the citizenry to respect the authority of the police and the sanctity of the constitution. SWAPO supporters also attempted to block an opposition RDP rally in the Tobias-Hainyeko constituency of Windhoek on October 18 and in the northern town of Omuthiya on September 26.

On February 3, an unidentified police officer shot and killed a demonstrator who had stabbed a police constable (see section 1.a.).

##### Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right in practice.

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

##### Societal Abuses and Discrimination

There was a very small Jewish community and no reports of anti-Semitic acts.

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

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

The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the government generally respected this right in practice. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in protecting and assisting internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The government continued to limit the freedom of travel of Cuban doctors working in the country under a Cuban bilateral assistance program. These doctors were generally not allowed to travel within or from the country without consent from the Cuban embassy, which held their passports.

The constitution prohibits forced exile, and the government did not use it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees; and although the country is not a signatory to its 1967 protocol, the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 convention or the 1967 protocol.

According to the UNHCR, approximately 6,400 refugees resided in Osire Refugee Camp, and another 1,300 lived outside the camp among the general population. Approximately 5,600 of the refugees were from Angola; the others were primarily from the Democratic Republic of the Congo, Burundi, and Rwanda. During the year the government issued identification cards to all refugees to facilitate travel outside the camp. Nevertheless, some refugees complained that they were still prevented from working outside the refugee camp. Education through grade 10 was available to all refugees, and the government facilitated further secondary education for students with financial sponsorship at schools outside the camp. The government provided antiretroviral therapy to refugees infected with HIV/AIDS.

The government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC, the UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

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

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and free elections held on the basis of universal suffrage. In the lead up to local elections held during the year, SWAPO supporters used violence and intimidation against opposition party members and leaders.

#### Elections and Political Participation

On September 26, after two postponements due to voter list and registration discrepancies, the town of Omuthiya held a local council election in which SWAPO won six of seven seats. While SWAPO and the new opposition party RDP acknowledged the voting to have been generally free and fair, RDP officials accused SWAPO of using intimidation and violence before the voting. Irregularities in registering voters resulted in the Electoral Commission's March 7 decision to suspend Director of Elections Philemon Kanime.

Presidential and parliamentary elections were held in 2004. SWAPO candidate Hifikepunye Pohamba was elected president with 76.4 percent of the vote, and SWAPO candidates won 55 of 72 elected National Assembly seats. International and domestic observers characterized both elections as free and reflecting the will of the electorate despite some irregularities. Observers criticized the inefficient vote tabulation system and the unequal access to media coverage and campaign financing. In the National Assembly, six opposition parties won a total of 17 seats.

During the year opposition members were subjected to political violence. In separate incidents in the same northern village of Okongo, alleged SWAPO supporters on February 23 stabbed two RDP supporters, one of whom was admitted to a hospital in critical condition; one person, an alleged SWAPO supporter, was arrested. Following the incidents, SWAPO Secretary General and Minister of Justice Pendukeni Iivula-Ithana claimed that the media exaggerated the two incidents and that neither was politically motivated.

On October 28, citing registration problems and Electoral Commission bias, three opposition political parties decided to boycott the October 31 Tobias Hainyeko constituency by-election. On the eve of the election, security forces arrested and briefly detained four opposition party leaders, who had circulated a document urging residents not to vote; the four were charged with violating section 104 of the Electoral Act, which prohibits the use of threats or violence to prevent people from voting. Both the LAC and the Institute for Public Policy Research questioned the use of Article 104 as justification for the detentions. By year's end the prosecutor general had not decided whether to prosecute the opposition leaders.

Two days prior to the Tobias Hainyeko constituency by-election, unknown assailants threw tear gas at the house of RDP candidate Erasmus Hendjala.

Women held 24 seats in the 78-seat National Assembly, which included six appointed seats and 72 elected ones. There were six female ministers, including the deputy prime minister, and five female deputy ministers among the 45 ministerial and deputy ministerial incumbents.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a SWAPO member of the San community represented the community in the National Assembly. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister and speaker of the National Assembly.

#### Government Corruption and Transparency

The law prohibits corruption, but the government did not implement the law effectively, and officials engaged in corrupt practices. The World Bank's Worldwide Governance Indicators reflected that corruption was a problem.

During the year the government took action against corrupt officials. On November 27, the Anti-Corruption Commission (ACC) arrested Vincent Hailulu, the chief executive officer of the National Housing Enterprise. Hailulu was charged with "enriching himself" with public funds--overcharging on travel and using a government credit card for private reasons--as well as not following proper hiring procedures. Hailulu was released on bail and awaited a trial scheduled for February 2009.

On August 7, a court sentenced former employee Jacqueline Snewe of the government-owned Namibia Wildlife Resorts to six years' imprisonment for diverting 500,000 Namibian dollars (\$49,442) in tourism fees from the Ministry of Environment and Tourism, according to press reports.

On August 18, the Karas Regional Council decided not to renew the contract of its chief regional officer, Salman Jacobs, who was charged with filing fraudulent travel vouchers and defrauding the council on a gardening project.

Investigations into 2007 corruption cases involving the Ministry of Works, Transport, and Communication; the Henties Bay Town Council; and the Ministry of Lands and Resettlement were ongoing at year's end.

The 2005 embezzlement case against Gerry Munyama, the former director general of NBC, was still pending before the courts at year's end.

Critics of the anticorruption campaign charged that the ACC narrowly interpreted its mandate and focused on minor cases, few of which were prosecuted. Observers cited the 2007 case against Namibia Liquid Fuel (NLF) as an example of the ACC overlooking or not vigorously pursuing cases in which more senior officials were implicated. NLF was a privately held company founded by senior government officials shortly before the company won a lucrative

contract to import petroleum products on behalf of a parastatal. In the 2007 case, the ACC found that government officials had appropriately disclosed their interests in NLF but failed to comment on the adequacy of existing government regulations on conflict of interest or of the propriety of government employees using their positions for personal gain.

Public officials were subject to financial disclosure laws. Government institutions, the ACC, the Office of the Ombudsman, and the Office of the Auditor General were responsible for combating public corruption.

No laws provided for public access to government information, and media outlets generally found the government unwilling to provide information, including salary scales for public officials.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials continued to disapprove publicly of NGO criticism of the ruling party and government policies.

The NSHR and the LAC were the primary human rights NGOs in the country, and the police regularly met with both. The LAC often assisted police with human rights training, while the NSHR reported incidents of police brutality and abuse of power.

On March 11, SWAPO Secretary General and Minister of Justice Pendukeni Iivula-Ithana called NSHR Director Phil ya Nangoloh "an agent provocateur who wants to instigate violence" after ya Nangoloh's group filmed what it claimed was evidence of SWAPO violence against RDP supporters. The film showed SWAPO party supporters trying to disrupt a procession of RDP supporters on their way to an RDP rally at Omuthiya.

The government generally cooperated with international NGO human rights organizations, and the ICRC and other international bodies made visits during the year.

There was an autonomous ombudsman, with whom the government cooperated; he was considered effective in addressing some corruption and human rights problems.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, creed, gender, language, disability, social status, or religion, and specifically prohibit "the practice and ideology of apartheid"; however, the government did not effectively enforce these prohibitions.

##### Women

The law defines rape in broad terms and allows for the prosecution of spousal rape. Numerous cases of rape were prosecuted during the year, and the government generally enforced rape penalties, which provided for sentences of between five and 45 years' imprisonment for convicted rapists. According to police statistics for 2007, more than 12,563 cases of gender-based violence were reported, 1,111 of which involved rape. A 2006 LAC report cited a number of factors that hampered rape prosecutions, including lack of police transport, poor communication between police stations, and lack of expertise in dealing with child rape complainants. The report also noted that approximately one-third of all rape complainants withdrew their cases, usually within one or two months of filing charges, and that almost two-thirds of rape cases involved partners, family members, or acquaintances.

Domestic violence is against the law; however, domestic violence, including beatings and rape, was widespread. There were 15 women's and children's shelters staffed with police officers trained to assist victims of sexual assault. During the year the People's Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. In 2007 the Ministry of Gender Equality and Child Welfare hosted a national conference on gender-based violence which developed a comprehensive strategy to address the issue. As part of that strategy, the government, together with its civil society partners, concluded a study during the year on social conditions that resulted in violence against women and children. In some magistrates' courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms.

The law does not prohibit prostitution, and it was widespread.

The law prohibits sexual harassment. Statistics were unavailable, but the problem was believed to be widespread. In late 2007 the LAC filed the first court case of workplace sexual harassment, which was settled in February for an undisclosed sum.

The law prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of Labor and Social Welfare and the Employment Equity Commission, which report to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases. The law prohibits discriminatory practices against women married under civil law, but women who married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation.

#### Children

The law enumerates children's rights; however, resource constraints and untrained support staff resulted in inadequate attention to child welfare. The government dedicated approximately 21 percent of its budget to education and 9 percent to health care.

According to a 2006 survey conducted by the government, approximately 40 percent of children--many of whom were born at home in rural areas--did not possess birth certificates, which are necessary to apply for social grants. Although prohibited by law, teachers in regions of the country bordering Angola, Zambia, Zimbabwe, and Botswana reportedly often refused to teach children who could not prove their citizenship. Mothers who delayed registration often faced a difficult process and long delays, particularly if parents had died and death certificates or other needed documents had never been obtained.

During the year officials from the Department of Home Affairs and Immigration deployed to Katutura State Hospital in Windhoek in a pilot project to facilitate applications for birth certificates; previously, new mothers waited in long lines at the department's office.

The birth registration pilot project at Katutura was open to all children, including the San, a significant number of whom did not have birth certificates or other forms of state identification. San often lived in remote areas, however, and the government conducted mobile registration projects to those regions to register births. NGOs reported a decrease in San complaints of being unable to obtain proper identification documents; however, problems continued due to lack of birth records and lack of government officials with the necessary language skills. As with

other undocumented citizens, orphaned San often could not receive government grants, and undocumented adult San could not receive state pension payments.

During the year the court found unconstitutional a law that barred a child born out of wedlock from inheriting from the biological father. The ruling was made retroactive until 1990, the year when the constitution came into force. The ruling was considered particularly important given the number of children born outside marriage and the relatively low percentage of persons with wills.

Although the constitution provides children with the right to primary and junior secondary education (grades one to 10), the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on poor families and precluded some children from attending school. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing the actions of the client or pimp in cases of sexual exploitation, child pornography, and child prostitution. The government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

Child prostitution occurred, generally without third-party involvement, and primarily as a means of survival among HIV/AIDS orphans and other vulnerable children. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

City police arrested homeless children and detained them in police stations (see section 1.d.).

During the year the government took several steps to provide medical care and other assistance to approximately 250,000 HIV/AIDS orphans and vulnerable children. For example, the government reduced or eliminated school fees and provided social grants for such children.

#### Trafficking in Persons

The law specifically prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The law also prohibits slavery, kidnapping, and forced labor, including forced prostitution, child labor, and alien smuggling.

During the year there were reports that Zambian and Angolan children were trafficked to Namibia for domestic servitude, agricultural labor, and livestock herding.

On December 3, the Irish Times newspaper reported that Irish authorities had "disrupted and dismantled" a trafficking ring and that one of the seven trafficking victims was a Namibian woman. On December 5, The Namibian newspaper reported that immigration officials had detained a Somali woman with an Irish passport and her children at Hosea Kutako International Airport for being suspected victims of trafficking. No further information was available, and it was unclear whether the newspapers were referring to the same or different cases.

The police Serious Crime Unit is responsible for monitoring and investigating possible cases of trafficking.

Traffickers were subject to fines of up to one million Namibian dollars (approximately \$98,907) or up to 50-years' imprisonment.

The UN Children's Fund and several NGOs assisted trafficking victims by providing support to counseling programs and shelters.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with physical and mental disabilities in employment. Enforcement in this area was ineffective, and societal discrimination persisted. The government does not require special access to public buildings, and some ministries remained inaccessible. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability concerns received greater public attention than in previous years, with wider press coverage of the human rights problems that faced persons with disabilities. The Office of the Prime Minister employed an advisor on disability.

On September 22, Air Namibia, the state-owned airline, barred a wheelchair-bound customer, David Mukwasa, from boarding a flight. Air Namibia stated that its Beechcraft 1900 D aircraft, used for all domestic flights, could not accommodate passengers with limited mobility. Air Namibia subsequently transported Mukwasa to his destination by car.

#### National/Racial/Ethnic Minorities

Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Some citizens continued to accuse the government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. There were reports of farm workers, mostly black, suffering discrimination in remote areas by farm owners, both black and white.

#### Indigenous People

The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. The government took measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communal lands and increasing their access to education. Indigenous lands were effectively demarcated, but poorly managed. During the year the deputy prime minister continued promoting special projects for the advancement of the San community. Despite these measures, many San children did not attend school.

The government has authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference. This authority was controversial because of local leaders' influence on local issues, including local police powers. In some cases the government allegedly withheld recognition from traditional leaders for political reasons.

For example, Katjamba Tjambiru, a female chief of the Ovahimba community, in February alleged that the government rejected her application for official recognition as a traditional authority because she did not support the ruling party. The government subsequently recognized her nephew Vemuui Tjambiru, a SWAPO supporter.

#### Other Societal Abuses and Discrimination

The law does not prohibit homosexuality; however, sodomy between males is illegal, and the practice of homosexuality was frowned upon, according to The Rainbow Project, a group that lobbies for the rights of sexual minorities. There were no reported cases of discrimination against homosexuals during the year.

There were no reports of discrimination against workers because of their HIV/AIDS status, although high-level officials conceded that societal discrimination against and stigmatization of persons living with HIV/AIDS was a problem. The government supported the work of the Namibia Business Coalition against HIV/AIDS.

## Section 6 Worker Rights

### a. The Right of Association

The constitution provides for the right to form and join trade unions without previous authorization or excessive requirements, and most workers exercised this right in practice; however, workers in essential services are prohibited from doing so. Approximately 25 percent of employed persons belonged to some form of union or employers organization, while almost 4 percent of unemployed persons belonged to such an organization, according to the 2004 Labor Force Survey.

The labor code provides for the protection of all workers, but farm workers and domestic servants working on rural and remote farms often did not know their rights, and unions experienced obstacles in attempting to organize these workers. As a result, some farm workers reportedly suffered abuse by employers. Some also had poor access to health care. During the year the government continued efforts to train labor inspectors and educate workers on their rights.

Except for workers in public health, safety, and other essential services, workers have the right to strike once conciliation procedures are exhausted and 48-hour notice has been given to the employer and labor commissioner. 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 law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from employer retaliation; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

In May a private security firm at the Skorpion Zinc mine used rubber bullets to disperse 50 workers, who were protesting a lockout at the mine. The manager of the security firm, who was charged with assault and released on bail, had not been brought to trial by year's end.

### b. The Right to Organize and Bargain Collectively

The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers are members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining, construction, agriculture, and public service sectors. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully. The majority of trade unions officially were affiliated with SWAPO, which many argued limited their independence in promoting worker rights.

In 2007 the government passed a new Labor Act, which entered into force November 1. Among other provisions, the act provides for arbitration and conciliation to resolve labor disputes more quickly.

The law prohibits antiunion discrimination. There were no instances of companies failing to reinstate workers who were fired for legal union activities.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

#### c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers, including some children on communal farms, and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large communal and family-owned commercial farms to investigate possible labor code violations.

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace; however, child labor continued to be a problem. The 2007 Labor Act provides that persons found guilty of employing children can face a maximum fine of 20,000 Namibian dollars (\$2,056) and/or up to four years' imprisonment. Criminal penalties and court orders were available to the government to enforce child labor laws, but such action involved a complicated legal procedure. Under the law, the minimum age for employment is 14, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements. Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas or assisted parents working in the charcoal industry.

During the year the Ministry of Labor and Social Welfare, which is responsible for enforcing child labor laws, investigated three child labor cases and sentenced the offending employers under the more lenient legislation in effect prior to the 2007 Labor Act. In the first case, the employer of a 10-year-old boy who was paralyzed and ultimately died as a result of an injury incurred performing farm work was given a "compliance order," a directive from the minister to comply with the law or face sanctions. In the second case, the employers of several Angolan cattle herders between 10 and 13 years of age also were given compliance orders; however, the case was scheduled to be reopened under the 2007 Act. In the third case, in the Caprivi region, the organizer of a child labor ring was given a compliance order; the three Zambian children involved in the ring were repatriated.

The Ministry of Labor's National Initiative to Eliminate the Worst Forms of Child Labor concluded its baseline study of the extent of child labor in the country, and made recommendations to eliminate the practice. In April the government and other interested parties developed an action plan to eliminate child labor, which was most prevalent in agriculture, charcoal production, and domestic service. The Ministry of Gender Equality and Child Welfare conducted several programs aimed at encouraging parents and guardians to allow children to attend school.

According to an ILO report which cites a 1999 child labor survey, 16 percent (or roughly 72,500) of Namibian children between six and 18 years of age worked for profit, pay, or family gain; children in rural areas were ten times more likely to be employed than urban children. The report also noted that girls often were forced into domestic work and prostitution, while boys engaged in child labor usually worked on farms or in construction, charcoal production, or prostitution.

The government has introduced several programs aimed at supporting children to stay in school and away from the

labor market. The Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services coordinated welfare programs for orphans, including those affected by HIV/AIDS, by providing grants and scholarships to keep them in school. Additionally, the government collaborated with the Namibia Agricultural Union and the Namibia Farm Workers Union to eliminate child labor through awareness campaigns. The government also continued to work with NGOs such as Project Hope to assist the victims of child labor.

e. Acceptable Conditions of Work

There was no statutory minimum wage law, but the mining, construction, security, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported an extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours with at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime, and the law requires premium pay for overtime work. The law mandates 24 workdays of annual leave per year, at least 36 workdays of sick leave over a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission. The Ministry of Labor did not always enforce these provisions.

There continued to be concerns that Chinese firms failed to adhere to the labor code, in part by allegedly hiring and firing workers at will, failing to pay established minimum wages and benefits in certain industries, and failing to respect work-hour regulations for public holidays and Sundays.

The Ministry of Labor and Social Welfare mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, but the Ministry of Labor lacked an adequate number of trained inspectors to monitor adherence, especially in small, family-owned operations. 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 did not have this right in practice.