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USDOS – US Department of State

Country Report on Human Rights Practices 2018 - Namibia

EXECUTIVE SUMMARY

Namibia is a constitutional multiparty democracy. In local and regional elections held in 2015, the ruling South West African People’s Organization (Swapo) party won 112 of 121 regional council seats and gained control of 54 of 57 local authorities. Elections held in 2014 resulted in the election of Prime Minister Hage Geingob to the presidency and retention by Swapo of its large parliamentary majority. International observers characterized the elections in 2014 and 2015 as generally free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

The government took steps to prosecute or administratively punish officials who committed abuses, whether in the security services or elsewhere in the government.

SECTION 1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit such practices, but the law does not define “torture” or separately classify it as a crime. Torture is prosecuted under criminal legal provisions such as assault or homicide. Although the Ombudsman’s Office stated it received some reports of police mistreatment of detainees, there were no reports of torture. The police Internal Affairs Division took allegations of mistreatment seriously. For example, in four cases reported by the press in October, including an allegation a police officer raped a teenager with mental disabilities, the alleged perpetrators had already been arrested and charged or were under investigation at the time of the reports.

Prison and Detention Center Conditions

Although detention center conditions were poor, there were no significant reports regarding prison conditions that raised human rights concerns.

Physical Conditions: Conditions in detention centers and police holding cells remained poor. Conditions were often worse in pretrial holding cells than in prisons. Human rights bodies and government officials reported overcrowding in holding cells. Most prisons, however, were not overcrowded.

In pretrial holding cells, sanitation remained insufficient, tuberculosis was prevalent, and on-site medical assistance was inadequate.

Prison and holding cell conditions for women were generally better than for men. Authorities permitted female prisoners keep their infants with them until age two and provided them with food and clothing.

There were limited programs to prevent HIV transmission in prisons.

The law does not permit holding juvenile offenders with adults. Prison authorities reported they generally confined juvenile offenders separately, but police occasionally held juveniles with adults in rural detention facilities due to a lack of pretrial detention facilities for juveniles.

Administration: The Office of the Ombudsman, an independent authority, investigated credible allegations of inhuman conditions, and the office reported close cooperation with police in resolving complaints and responding promptly to inquiries.

Independent Monitoring: The government granted local and international nongovernmental organizations (NGOs) and members of family and the clergy access to prisons and prisoners, but the commissioner general of prisons required them first to obtain permission. Representatives from the Ombudsman’s Office visited prisons and pretrial detention facilities.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of arrest or detention in court, and the government generally observed these requirements.

ROLE OF THE POLICE AND SECURITY APPARATUS

The Namibian Police Force (NamPol) operates under the Ministry of Safety and Security. The Namibian Defense Force is part of the Ministry of Defense. NamPol is responsible for internal security, while the defense force provides supplemental assistance in response to some natural disasters.

Civilian authorities maintained effective control over NamPol, and the government had effective mechanisms to investigate and punish abuse and corruption.

ARREST PROCEDURES AND TREATMENT OF DETAINEES

Arrest warrants are not required in all cases, including when authorities apprehend a suspect in the course of committing a crime. Authorities must inform persons detained of the reason for their arrest, and police generally informed detainees promptly of the charges against them. Authorities must arraign arrested persons within 48 hours of their detention. The government did not always meet this requirement, especially in rural areas far from courts. The constitution stipulates the accused are entitled to defense by legal counsel of their choice, and authorities respected this right.

The state-funded Legal Aid Directorate (LAD) provided free legal assistance for indigent defendants in criminal cases and, depending on resource availability, in civil matters.

There was a functioning bail system. Officials generally allowed detainees prompt access to family members. The constitution permits detention without trial during a state of emergency but requires publication of the names of detainees in the government’s gazette within 14 days of their apprehension. An advisory board appointed by the president on the recommendation of the Judicial Service Commission (the constitutional body that recommends judges to the president for appointment) must review their cases within one month of detention and every three months thereafter. The constitution requires such advisory boards to have no more than five members, at least three of whom must be “judges of the Supreme Court or the High Court or qualified to be such.” The advisory board has the power to order the release of anyone detained without trial during an emergency.

Pretrial Detention: Lengthy pretrial detention remained a significant problem. A shortage of qualified magistrates and other court officials, the inability of many defendants to afford bail, the lack of a plea-bargaining system, slow or incomplete police investigations, the frequency of appeals, and procedural postponements resulted in a large backlog in the prosecution of criminal cases. Delays between arrest and trial could last for years. There were lengthy delays in criminal appeals as well. According to the Office of the Prosecutor General, however, pretrial detention did not exceed the maximum sentence for conviction of an alleged crime.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the courts acted independently at times, making judgments and rulings critical of the government. Inefficiency and lack of resources, however, hampered the judicial system.

Customary courts hear many civil and petty criminal cases in rural areas. The law delineates the offenses the customary system may handle. Customary courts deal with infractions of local customary law among members of the same ethnic group. The law defines the role, duties, and powers of traditional leaders and states customary law inconsistent with the constitution is invalid. Cases resolved in customary courts were sometimes tried a second time in civil courts.

TRIAL PROCEDURES

The constitution and law provide for the right to a fair public trial, but long delays in courts hearing cases and the uneven application of constitutional protections in the customary system compromised this right. Defendants are presumed innocent. The law provides for defendants to be informed promptly and in detail of the charges against them, in a language they understand, and of their right to a public trial.

All defendants have the right to be present at trial and to consult with an attorney of their choice in a timely manner. Defendants receive free interpretation as necessary from their first court appearance through all appeals. Although indigent defendants are entitled to a lawyer provided by the state in criminal and civil cases, this sometimes did not occur due to an insufficient number of public defenders, insufficient state funds to pay private lawyers to represent indigent defendants, or because the LAD did not accept the application for representation from an accused.

Defendants may confront witnesses, present witnesses and evidence on their behalf, and have the right of appeal. The law extends these rights to all citizens. The courts provided defendants adequate time and facilities to prepare their defense. Defendants have the right not to testify against themselves or confess guilt.

TRIAL PROCEDURES

There were no reports of political prisoners or detainees.

CIVIL JUDICIAL PROCEDURES AND REMEDIES

The law provides for access to a court to file lawsuits seeking damages for or cessation of human rights violations. The constitution provides for administrative procedures to correct, as well as judicial remedies to redress, wrongs. Civil court orders were mostly well enforced.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

SECTION 2. RESPECT FOR CIVIL LIBERTIES, INCLUDING:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Press and Media Freedom: Independent media were active and expressed a wide variety of views without restriction.

Censorship or Content Restrictions: There were reports journalists working for state-owned media practiced self-censorship in favor of the government and Swapo.

National Security: There was one instance of national security concerns invoked to restrict press freedom. Namibia’s Central Intelligence Services filed for an injunction on national security grounds against the publication of an article, but the Windhoek High Court did not grant the injunction, and the press published the article.

INTERNET FREEDOM

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communication without appropriate legal authority.

According to the International Telecommunication Union, 36.8 percent of individuals used the internet in 2017.

ACADEMIC FREEDOM AND CULTURAL EVENTS

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/ (<http://www.state.gov/religiousfreedomreport/>).

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

PROTECTION OF REFUGEES

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees.

Refugees were required to live at the government’s Osire refugee settlement. The government cooperated with the NGO Komeho Namibia to provide food, shelter, water, and sanitation at the settlement. The government issued identification cards and exit permits allowing refugees to leave the

settlement to travel to a specified place for a limited period. The government maintained strict control over civilian access to the Osire refugee settlement but provided regular unrestricted access to the ICRC, UNHCR, and UNHCR's NGO partners.

SECTION 3. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In the 2015 regional and local council elections, the ruling Swapo party won 112 of 121 regional council seats and gained control of 54 of 57 local districts. Voting proceeded in an orderly and effective manner with no reports of politically motivated violence or voter intimidation. In the 2014 presidential and parliamentary elections, voters elected Swapo candidate Hage Geingob president with 87 percent of the vote. Swapo candidates won 77 of the 96 elected seats (there are also eight appointed seats) in the national assembly, the lower house of parliament. International observers characterized the elections in 2014 and 2015 as generally free and fair. Presidential elections take place every five years.

Participation of Women and Minorities: No laws limit participation of women and members of minorities in the political process, and they did participate. Ruling party policy--the Zebra system--provides for 50 percent of Swapo candidates for parliament to be women. Virtually all of the country's ethnic minorities had representatives in parliament and in senior positions in the cabinet. The president is from the minority Damara ethnic group. Historic economic and educational disadvantages, however, limited participation in politics of some ethnic groups, including the San and Himba.

SECTION 4. CORRUPTION AND LACK OF TRANSPARENCY IN GOVERNMENT

The law provides criminal penalties for conviction of corruption by officials; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were reports of corruption by individuals in government. The Anti-Corruption Commission (ACC) continued implementation of the four-year *National Anticorruption Strategy and Action Plan*, aimed at increasing accountability in all areas of government and preventing corruption.

Corruption: Unlike in prior years, there were no cases reported of publicly owned enterprises being unable to account for large sums of missing funds attributable to corruption. In 2017 a major government bank was forced to close after 200 million Namibian dollars (N\$) (\$15.5 million) of its funds disappeared after being transferred out of the country in an investment transaction. NamPol had yet to conclude its investigation of the matter at year's end.

Financial Disclosure: The parliamentary code of conduct requires members to make annual declarations of financial interests. The declaration form includes a confidential portion to which the public does not have access. Compliance was inconsistent and not strictly enforced.

SECTION 5. GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED ABUSES OF HUMAN RIGHTS

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, and were tolerant of civil society shadow reports (NGO reports provided to the United Nations highlighting issues not raised by the government or pointing out misleading government statements). The Ombudsman's Office, local human rights NGOs, and the ACC reported NamPol cooperated and assisted in corruption and human rights investigations.

Government Human Rights Bodies: There is an autonomous ombudsman with whom government agencies cooperated. Observers considered him effective in addressing some corruption and human rights problems.

SECTION 6. DISCRIMINATION, SOCIETAL ABUSES, AND TRAFFICKING IN PERSONS

Women

Rape and Domestic Violence: The law criminalizes rape of men and women, including spousal rape. The law defines rape as the commission of any sexual act under coercive circumstances. The courts tried numerous cases of rape during the year, and the government generally enforced court sentences of those convicted ranging between five and 45 years' imprisonment. Factors hampering rape prosecutions included limited police capacity and the withdrawal of allegations by victims after filing charges. Victims often withdrew charges because they received compensation from the accused; succumbed to family pressure, shame, or threats; or became discouraged at the length of time involved in prosecuting a case.

Traditional authorities may adjudicate civil claims for compensation in cases of rape, but criminal trials for rape are held in courts.

Gender-based violence (GBV), in particular domestic violence, was a widespread problem. The government and media focused national attention on GBV. The president and former presidents spoke publicly against GBV.

The law prohibits domestic violence, but the problem was widespread. Penalties for conviction of domestic violence--including physical abuse, sexual abuse, economic abuse, intimidation, harassment, and serious emotional, verbal, or psychological abuse--range from a fine of N\$300 (\$23) for simple offenses to 10 years' imprisonment, a fine, or both for assault with intent to cause grievous bodily harm.

The law provides for procedural safeguards such as protection orders to protect GBV victims. When authorities received reports of domestic violence, GBV Protection Units staffed with police officers, social workers, legal advisors, and medical personnel trained to assist victims of sexual assault intervened. Some magistrate courts provided special courtrooms with a cubicle constructed of one-way glass and child-friendly waiting rooms to protect vulnerable witnesses from open testimony. The Ministry of Gender Equality and Child Welfare operated shelters; however, due to staffing and funding shortfalls,

the shelters operated only on an as-needed basis with social workers coordinating with volunteers to place and provide victims with food and other services. The Office of the First Lady actively promoted GBV awareness and remedies in every region of the country.

Sexual Harassment: The law explicitly prohibits sexual harassment in the workplace. Employees who leave their jobs due to sexual harassment may be entitled to legal “remedies available to an employee who has been unfairly dismissed.”

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization. For additional information, see Appendix C.

Discrimination: Civil law prohibits gender-based discrimination, including employment discrimination. The government generally enforced the law effectively. Nevertheless, women experienced persistent discrimination in such areas as access to credit, salary level, owning and managing businesses, education, and housing (see section 7.d.). Some elements of customary family law provide for different treatment of women. Civil law grants maternity leave to mothers but not paternity leave to fathers, bases marital property solely on the domicile of the husband at the time of the marriage, and sets grounds for divorce and divorce procedures differently for men and women. The law protects a widow’s right to remain on the land of her deceased husband, even if she remarries. Traditional practices in certain northern regions, however, permitted family members to confiscate the property of deceased men from their widows and children.

Children

Birth Registration: The constitution provides for citizenship by birth within the country to a citizen parent or a foreign parent ordinarily resident in the country, or to those born outside the country to citizen parents.

Child Abuse: Child abuse was a serious problem, and authorities prosecuted reported crimes against children, particularly rape and incest. The Ministry of Gender Equality and Child Welfare employed social workers throughout the country to address cases of child abuse and conducted public awareness campaigns aimed at preventing child abuse and publicizing services available to victims.

Early and Forced Marriage: The law prohibits civil marriage before age 18 for both boys and girls. For additional information, see Appendix C.

Sexual Exploitation of Children: The law criminalizes child pornography, child prostitution, and the actions of both the client and the pimp in cases of sexual exploitation of children under age 18. NGOs reported that HIV/AIDS orphans and other vulnerable children engaged in prostitution without third-party involvement due to economic pressures or to survive.

The government enforced the law; perpetrators accused of sexual exploitation of children were routinely charged and prosecuted. The penalties for conviction of soliciting a child under age 16 for sex, or more generally for commercial sexual exploitation of a child (including through pornography), is a fine of up to N\$40,000 (\$3,100), up to 10 years’ imprisonment, or both. Penalties for conviction in cases

involving children ages 16 and 17 are the same as for adults. The law makes special provisions to protect vulnerable witnesses, including individuals under age 18 or against whom a sexual offense has been committed.

An adult convicted of engaging in sexual relations with a child in prostitution under age 16 may be imprisoned for up to 15 years for a first offense and up to 45 years for a repeat offense. Any person who aids and abets trafficking in persons—including child prostitution—within the country or across the border is liable to a fine of up to one million Namibian dollars (\$75,600) or imprisonment for up to 50 years. Conviction of solicitation of a prostitute, living off the earnings of prostitution, or keeping a brothel carries penalties of N\$40,000 (\$3,100), 10 years’ imprisonment, or both.

The minimum legal age for consensual sex is 16. The penalty for conviction of statutory rape—sex with a child under age 14 when the perpetrator is more than three years older than the victim—is a minimum of 15 years in prison when the victim is under 13 and a minimum of five years when the victim is 13. There is no minimum penalty for conviction of sexual relations with a child between ages 14 and 16. Possession of or trade in child pornography is illegal. The government trained police officers in handling of child sex abuse cases. Centers for abused women and children worked to reduce the trauma suffered by abused children.

Infanticide or Infanticide of Children with Disabilities: Media reported cases in which parents, usually young mothers, abandoned newborns, sometimes leading to the newborn’s death. The government enforced prohibitions against this practice by investigating and prosecuting suspects.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>

(<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>).

Anti-Semitism

There was a small Jewish community in the country of fewer than 100 persons, the majority of whose members lived in Windhoek. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (<http://www.state.gov/j/tip/rls/tiprpt/>).

Persons with Disabilities

The constitution protects the rights of “all members of the human family” that domestic legal experts understand to prohibit discrimination against persons with disabilities. The law prohibits discrimination against persons with physical and mental disabilities. The law prohibits discrimination in any

employment decision based on a number of factors, including any “degree of physical or mental disability” (see section 7.d.). It makes an exception in the case of a person with a disability if that person is, because of disability, unable to perform the duties or functions of the job in question. Enforcement in this area was ineffective, and societal discrimination persisted.

By law official action is taken to investigate and punish those accused of committing violence or abuse against persons with disabilities; authorities did so effectively.

The government requires all newly constructed government buildings be accessible and include ramps and other features facilitating access. The government, however, neither mandates access to already constructed public buildings generally nor requires retrofitting of government buildings.

Children with disabilities attended mainstream schools. The law does not restrict the rights of persons with disabilities to vote and otherwise participate in civic affairs, but lack of access to public venues hindered the ability of persons with disabilities to participate in civic life.

A deputy minister of disability affairs in the Office of the Vice President is responsible for matters related to persons with disabilities, including operation of the National Disability Council of Namibia. The council is responsible for overseeing concerns of persons with disabilities and coordinating implementation of policies concerning persons with disabilities with government ministries and agencies.

National/Racial/Ethnic Minorities

Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted.

Indigenous People

By law all traditional communities participate without discrimination in decisions affecting their lands, cultures, traditions, and allocation of natural resources. Nevertheless, the San, the country's earliest known inhabitants, were unable to exercise these rights effectively because of minimal access to education, limited economic opportunities, and their relative isolation. Some San had difficulty obtaining a government identification card because they lacked birth certificates or other identification. Without a government-issued identification card, the San could not access government social programs or register to vote. A lack of police presence, prosecutors, and courts prevented San women from reporting and seeking protection from GBV.

Indigenous lands were effectively demarcated but poorly managed. Many San tribes lived on conservancy (communal) lands but were unable to prevent the surrounding larger ethnic groups from using and exploiting those lands. Some San claimed regional officials refused to remove other ethnic groups from San lands.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Although Roman-Dutch common law inherited at independence criminalizes sodomy, the ban was not enforced. The law defines sodomy as intentional anal sexual relations between men. This definition excludes anal sexual relations between heterosexual persons and sexual relations between lesbians. Many citizens considered all same-sex sexual activity taboo. The prohibition against sexual discrimination in the constitution does not prohibit discrimination based on sexual orientation.

Gender discrimination law does not address discrimination based on sexual orientation or gender identity. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced harassment when trying to access public services. There were isolated reports of transgender persons being harassed or assaulted. Some politicians opposed any legislation that would specifically protect the rights of LGBTI persons. The minister of health and the ombudsman both favored abolition of the common law offense of sodomy. LGBTI groups conducted annual pride parades recognized by the government as constitutionally protected peaceful assembly; the parades have not met with violence.

HIV and AIDS Social Stigma

Although the law prohibits discrimination based on HIV status, societal discrimination against persons with HIV and stigmatization remained problems. Some jobs in the civilian sector require a pre-employment test for HIV, but there were no reports of employment discrimination specifically based on HIV/AIDS status. According to the Namibian Employers' Federation discrimination based on HIV status was not a major problem in the workplace because most individuals were aware that HIV is not transmissible via casual contact.

SECTION 7. WORKER RIGHTS

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right to form and join independent unions, conduct legal strikes, and bargain collectively; however, the law prohibits workers in certain sectors, such as police, military, and corrections, from joining unions.

Except for workers in services designated as essential services, such as public health and safety, workers may strike once mandatory conciliation procedures lasting 30 days are exhausted and 48 hours' notice is given to the employer and labor commissioner. Workers may take strike actions only in disputes involving specific worker interests, such as pay raises.

Worker rights disputes, including dismissals, must first be submitted to the labor commissioner for conciliation, followed by a more formal arbitration process if conciliation is unsuccessful. The parties have the right to appeal the arbitrator's findings in labor court. The law provides for conciliation and arbitration to resolve labor disputes more quickly, although employers and unions publicly questioned the system's effectiveness. The law prohibits unfair dismissal of workers engaged in legal strikes, specifically prohibits employer retaliation against both union organizers and striking workers, and provides for reinstatement for workers dismissed for union activity so long as the workers' actions at the time were not in violation of other laws.

The law provides employees with the right to bargain individually or collectively and provides for recognition of the exclusive collective bargaining power of a union when more than half of workers are members of that union. The law provides for the protection of all workers, including migrants, nonessential public sector workers, domestic workers, and those in export processing zones. The law supporting collective bargaining does not cover the informal sector.

The government and employers generally respected freedom of association, and workers exercised this right. The government effectively enforced applicable laws on freedom of association, and penalties were sufficient to deter violations. Aside from mediation efforts, the government was not directly involved in union activities. Employers also did not appear to interfere in union activities.

The government generally enforced the law on collective bargaining.

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. Employers respected the collective bargaining process. Employees of parastatals Namibian Broadcasting Corporation and University of Namibia engaged in orderly strikes during the year.

The law requires employers to provide equal labor rights to all their employees. Employers may apply to the minister of labor and social services for an exemption from these provisions if they can prove workers' rights are protected, but very few employers pursued this option.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by children. Under the Combating Trafficking in Persons Act of 2018, persons convicted of engaging in trafficking in persons, which includes forced labor, face a maximum fine of N\$ one million (\$77,600), 30 years' imprisonment, or both. The government did not report any allegations of forced or compulsory labor; it investigated child labor when reported. Resources, inspections, and remediation were inadequate. Penalties for violations had yet to be applied under the trafficking act by year's end.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (<http://www.state.gov/j/tip/rls/tiprpt/>).

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 14. Children under age 18 may not engage in hazardous work, including working between the hours of 8 p.m. and 7 a.m., underground work, mining, construction work, or in facilities where goods are manufactured or electricity is generated, transformed, or distributed, or machinery is installed or dismantled. Hazardous work prohibitions for children in the agriculture sector are not comprehensive. Children ages 16 and 17 may perform hazardous work subject to approval by the Ministry of Labor, Industrial Relations, and Employment Creation and restrictions outlined in the Labor Act. Persons convicted of employing children face a maximum fine of N\$20,000 (\$1,550), four years' imprisonment, or both. The Child Care and Protection Act also includes provisions prohibiting child labor.

GBV protection units enforced child labor laws in cooperation with the Ministry of Labor, Industrial Relations, and Employment Creation. By law labor inspectors are not authorized to issue penalties for labor violations, including child labor violations. The ministry, however, made special provisions in its labor inspections to look for underage workers, although budget constraints limited the number of inspectors. The government trained all inspectors to identify the worst forms of child labor. Targeted labor inspections in areas where child labor was reported continued on a regular basis.

Children worked on communal farms owned by their families herding cattle, goats, and sheep. Children also worked as child minders or domestic servants and in family businesses, including informal “businesses” such as begging.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/ (<http://www.dol.gov/ilab/reports/child-labor/findings/>).

d. Discrimination with Respect to Employment and Occupation

The labor law prohibits discrimination in employment and occupation based on race, sex, religion, political opinion, national origin or citizenship, pregnancy, family responsibility, disability, age, language, social status, and HIV-positive status, and the government in general effectively enforced the law. The law requires equal pay for equal work. The law does not specifically address employment discrimination based on sexual or gender orientation.

Refugees and legal immigrants with work permits enjoy the same legal protections, wages, and working conditions as citizens.

The Ministry of Labor, Industrial Relations, and Employment Creation and the Employment Equity Commission both report to the minister of labor and are responsible for addressing complaints of discrimination in employment.

Discrimination in employment and occupation occurred with respect to gender (see section 6), most frequently in the mining and construction industries. Men occupied approximately two-thirds of upper management positions in both the private and public sectors. Indigenous and marginalized groups sometimes faced discrimination in employment involving unskilled labor.

e. Acceptable Conditions of Work

Although various sectors have a minimum wage, there was no generally applicable minimum wage law. Unions and employers negotiated industry-specific minimum wages, under Ministry of Labor, Industrial Relations, and Employment Creation mediation, greater than the poverty rate.

The standard legal workweek was 45 hours, with at least 36 consecutive hours of rest between workweeks. By law an employer may not require more than 10 hours’ overtime work per week and must pay premium pay for overtime work. The law mandates 20 workdays of annual leave per year for those working a five-day workweek and 24 workdays of annual leave per year for those working a six-day

workweek. The law also requires employees receive paid time off for government holidays, receive five days of compassionate leave per year, at least 30 workdays of sick leave during a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission.

The Ministry of Labor, Industrial Relations, and Employment Creation mandates occupational safety and health standards, and the law empowers authorities to enforce these standards through inspections and criminal prosecution. The law requires employers to provide for the health, safety, and welfare of their employees. The law covers all employers and employees in the country, including the informal sector and individuals placed by a private employment agency (labor hire), except independent contractors and members of the National Defense Force, Namibian Intelligence Service, the Prison Service, and police. By law employees have the right to remove themselves from dangerous work situations, and authorities effectively protected employees in such situations.

The government did not always enforce labor laws effectively. Resources to enforce the law were limited, and the number of inspectors was insufficient to address violations. Inspections occurred proactively, reactively, and at random. Due to the ministry’s resource constraints in vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and commercial farms and private households, labor inspectors sometimes found it difficult to investigate possible violations. The law provides that persons convicted of violating safety regulations face a maximum fine of N\$10,000 (\$775), two years’ imprisonment, or both; however, the penalties were insufficient to deter violations, and labor law violations occurred. The Namibian Employers’ Federation reported that the most prominent offenses concerning employee rights and working conditions were in the informal sector, including the common informal bars known as “shebeens.”

There were several reports of incidents of serious violations of construction sector occupational safety and health standards.

Allegations persisted that, apart from failing to adhere to the labor code concerning hiring and firing, Chinese firms failed to pay sector-established minimum wages and benefits in certain industries, failed to respect workhour regulations for public holidays and Sundays, and ignored occupational health and safety measures, for example, by requiring construction workers to sleep on site.

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