

NAMIBIA

Namibia is a multiparty democracy with a population of approximately 2.2 million. The presidential and parliamentary elections held in November 2009 resulted in the reelection of President Hifikepunye Pohamba and the retention by the ruling South West Africa People's Organization (SWAPO) of its parliamentary majority. Despite some irregularities, international observers characterized the election as generally free and fair. In March the High Court dismissed a challenge to the election outcome filed by nine opposition parties; however, in September the Supreme Court overturned the decision and sent the case back to the High Court, where the case remained pending at year's end. Security forces reported to civilian authorities.

Human rights problems included police use of excessive force; prison overcrowding and poor conditions in detention centers; arbitrary arrest, prolonged pretrial detention, and long delays in trials; criticism of nongovernmental organizations (NGOs); harassment and political intimidation of opposition members; and official corruption. Societal abuses included violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous people; child trafficking; discrimination and violence based on sexual orientation and gender identity; 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

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

There were no developments in the 2008 case in which a police officer shot and killed a demonstrator who stabbed a police constable during a political rally.

On April 22, seven of the nine police officers accused of killing a suspect during interrogation in 2006 were found guilty of culpable homicide, assault with intent to do grievous bodily harm, and obstructing the course of justice. Five of the officers were fined 10,000 Namibian dollars (\$1,430) each; the other two were each fined 8,000 Namibian dollars (\$1,144).

The government took no action during the year to investigate five of six mass graves discovered in 2008 along the country's border with Angola. In 2008 the government investigated the sixth grave, 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. In 2008 the UN requested the government confirm allegations filed by the National Society for Human Rights--renamed Namibian Rights and Responsibilities, Inc. (NAMRIGHTS) during the year--that the graves could be linked to "enforced disappearances" in the Caprivi and Kavango regions between 1994 and 2003.

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.

During the year NAMRIGHTS accused Windhoek City police of mistreating suspects, some of whom allegedly had been held in a secret cell to allow time for their injuries to heal before they were handed over to the Namibian Police Force (NAMPOL). In 2009 local media reported the same allegation. Police denied the accusations, and no investigation had been conducted by year's end.

On March 21, NAMPOL officers allegedly attacked and arrested Kamati Ndeyanele, a bystander in a vigilante attack. According to NAMRIGHTS, the officers were told they had arrested the wrong suspect but they warned those concerned not to interfere or else risk serious consequences. Kamati was detained and released the next day.

In May David Shidinifa, a captain in the Namibia Defense Force (NDF), filed charges of assault and robbery against Windhoek City police officers, who allegedly kicked and robbed him on May 8 of 3,000 Namibia dollars (\$429) and 900 euros (\$1,252) when they arrested him for driving under the influence of alcohol. The trial had not begun by year's end.

On July 12, two NAMPOL officers shot in the leg Victor Tutangane, whom they mistakenly suspected of illegally crossing the border with Zambia. According to NAMRIGHTS, police waited several hours before taking Tutangane to the Katima Mulilo State Hospital, where he was discharged the next day. Even after realizing that Tutangane was innocent, police retained Tutangane's identity card and border pass, which remained in police possession at year's end.

According to NAMRIGHTS, on the night of September 10, Windhoek City police assaulted and beat John Haufila until he lost consciousness. The attack occurred at the Wanaheda Police Station in view of NAMPOL officers, who did not intervene, according to Haufila. NAMPOL officers subsequently instructed city police to take Haufila to the hospital, where police allegedly told doctors his injuries resulted from a fall, according to Haufila. Police later opened a case against Haufila, claiming he had prevented them from executing their duties. On September 13, police released Haufila on bail, and the case was pending at year's end.

In September the Namibian Press Agency and NAMRIGHTS reported that a woman from the town of Helao Nafidi suffered a miscarriage as a result of a September 4 assault by NAMPOL officers. NAMRIGHTS claimed that three police officers assaulted the woman after accusing her boyfriend of reckless driving. No charges were filed against the officers.

The trial of four police officers accused of assaulting two residents of Kalkrand in 2009 continued at year's end.

Unlike in 2009 there were no reports that police use of force to disperse demonstrators resulted in injuries.

Prison and Detention Center Conditions

Prisons were generally overcrowded, and some were poorly maintained and lacked basic sanitation; however, the government continued to make significant improvements during the year. Unlike in previous years, all prisoners--although not pretrial detainees--had access to water, toiletries, washing facilities, and three daily meals, according to the Ombudsman's Office, which previously criticized prison conditions throughout the country. Conditions in detention centers and police holding cells--sometimes located inside prisons--remained poor, and there were reports that guards at detention centers sometimes abused prisoners.

In December a former inmate at the Ondagwa Prison instituted legal action against the Ministry of Health and Social Services after his health deteriorated as a result of taking expired medicine prescribed by the prison hospital staff. The trial had not begun by year's end.

On December 1, the country had a total prison population of 4,251 inmates in its 13 prisons, according to the *Windhoek Observer* newspaper; the country's prisons were built to hold 4,475 inmates. Nevertheless, overcrowding remained a problem in some of the country's largest prisons. For example, Oluno Prison in the north was designed to accommodate 557 inmates, but in December it held 1,013 prisoners.

Conditions in police holding cells were poor. After a June visit to police holding cells in the south, Margaret Mensah-Williams, the vice chairperson of the National Council, characterized conditions as inhumane. Mensah-Williams cited dirty and cold cells, insufficient blankets, poor food, unhygienic kitchen utensils and pots, poor lighting in cells, and improperly functioning toilets. In September there were 3,152 suspects in holding cells.

The government would not comment on the deaths during the year of three Caprivi detainees; 18 detainees have died since the majority of suspects were arrested in 1999 (see section 1.e.).

Unlike in past years, there were no reports that detainees were held with convicted prisoners, but juveniles in rural facilities were sometimes held with adults.

There were no developments in the investigation of the 2009 sexual assault of a 15-year-old boy imprisoned with adult males; the boy had been arrested for theft.

Prisoners and detainees had reasonable access to visitors and were permitted to participate in religious observances. Victims of prison abuse were able to pursue legal remedies, although lengthy delays were common.

For example, the trial of five Keetmanshoop police officers and their station commander for negligence in connection with the 2007 death of Noel Thompson continued at year's end.

The Ombudsman's Office investigated credible allegations of inhumane conditions, documented results, and made written recommendations; however, it was not

authorized to intervene in individual cases. The government investigated and monitored prison and detention center conditions.

The government continued to grant both local and international NGOs regular access to prisons and prisoners. The International Committee of the Red Cross (ICRC) and the Southern African Development Community (SADC) Lawyers Association visited prisons and detention centers. The government required that media representatives seeking to visit prisons apply in writing to the commissioner for prisons; however, the government rarely acceded to such requests.

Government initiatives to improve prison conditions continued. During the year the Office of the Ombudsman reported improved conditions in several prisons as a result of renovations; a 2008 ombudsman's report cited police cells for poor sanitary conditions, overcrowding, insufficient food, unsafe infrastructure, and lack of access to medical care and potable water. Prisoners in Gobabis, Luderitz, Keetmanshoop, Walvis Bay, Swakopmund, and Hardap were reportedly less crowded, had access to potable water, and were provided toiletries. Prisoners also received three meals a day, although the ombudsman received prisoner complaints about insufficient quantity of food. A nurse at each prison cared for sick inmates and dispensed basic medication. Inmates with serious health problems were referred to state hospitals.

All prisoners, but not pretrial detainees, had the opportunity to take adult literacy classes and coursework leading to a high school diploma. Some inmates took university-level classes through a distance education program during the year and had access to lecturers from the country's universities as well as library privileges on some campuses.

At Windhoek Central Prison and the Elizabeth Nepemba Rehabilitation Center, during the year the government introduced a case management system that classifies inmates according to risk (nature of crime and length of sentence) and assigns housing, training, and counseling based on this model. The pilot project was used an incentive system to encourage good behavior.

At Windhoek Central Prison, the country's second largest penitentiary, inmates were transferred during the year to reduce overcrowding, and additional staff was hired to provide better services. In addition to educational courses, counseling, and cognitive skills classes, the prison conducted skills training workshops in car mechanics, tailoring, upholstery, welding, and wood working to provide inmates with marketable skills and to reduce recidivism. However, pretrial detainees were ineligible to participate in any of the prison's counseling, skills training, or

academic offerings. During the year the prison also instituted a substance abuse program for inmates battling addiction.

A pilot program to place youths in shelters and foster homes as an alternative to incarceration was formalized during the year and became an integral part of the prisons and rehabilitation services. During the year the government's community service program, which provides an alternative to incarceration for adults and juveniles convicted of petty crimes, also became an integral part of the prisons and rehabilitation services. The NGO CHANGE, led by a former deputy minister for prisons, offered counseling, skills training, and job placement to former inmates.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest or detention; however, the government did not always observe these prohibitions.

Role of the Police and Security Apparatus

NAMPOL, which has approximately 12,000 employees, is under the Ministry of Safety and Security. The NDF, which has approximately 16,000 members, is under the Ministry of Defense. Both NAMPOL and the NDF were responsible for internal security. NAMPOL is highly centralized with regional commands responsible to the inspector general of police. Approximately half of NAMPOL's overall complement is assigned to the Special Field Force (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. Police corruption and impunity were problems (see section 4). NAMPOL lacked the resources, training, and personnel to effectively deter or investigate street crime.

Police continued to receive human rights training designed by the Windhoek-based NGO Legal Assistance Center (LAC). Some officers attended training programs with human rights components, including human trafficking, at the International Law Enforcement Academy in Gaborone, Botswana.

According to NAMRIGHTS, police officers continued to threaten prostitutes with arrest if they did not provide free sex.

In August NAMRIGHTS and the media reported that a 17-year-old girl filed criminal and incest charges against her father, a police officer in the Very

Important Persons Protection Unit, who allegedly raped her in June. NAMRIGHTS claimed that the police obstructed investigations into the girl's case. The trial had not begun at year's end.

Arrest Procedures and Treatment While in 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, and detainees generally were allowed prompt access to family members. Under a state of emergency, however, 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.

The government abused and arbitrarily arrested persons during the year (see section 1.c.). NAMRIGHTS recorded 10 cases of arbitrary arrest during the year.

No action was taken against Windhoek City police who in February 2009 allegedly assaulted, arrested, and detained without charge Timoteus Amunyela.

There were no developments in the 2009 incident in which an intoxicated police officer allegedly arbitrarily arrested and assaulted Lukas Nekongo.

Lengthy pretrial detention was a problem. Approximately 8 percent of the general prison population was awaiting trial. The lack of qualified magistrates and other court officials, high cost of legal aid, slow or incomplete police investigations, and continued postponement of cases resulted in a serious backlog of criminal cases and delays of years between arrest and trial. During the year the High Court began to implement some proposals to improve the pace of administering justice, including granting increased case management powers to judges; litigants generally determined the pace of trials.

In August President Pohamba granted amnesty to prisoners convicted of minor criminal offenses who fell into the following categories: those serving sentences of two years or less; those who had served more than half of their sentences; those who were age 60 and older and had a record of good behavior; and those whose conditional release on parole was approved on or before August 26. The government did not release the number of prisoners granted amnesty.

e. Denial of Fair Public Trial

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

Military courts try members of the military only and do not provide the same rights as civil criminal courts. Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the customary system.

Most rural citizens first encountered the legal system through the customary courts, which deal with infractions of local customs among members of the same ethnic group. The law delineates the roles, 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 customary system. The law provides for public trials but not use of juries. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, and, 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 an insufficient number of public defenders. Defendants are presumed innocent, can confront witnesses, can present witnesses and evidence on their behalf, and have the right of appeal. The law extends these rights to all citizens.

More than a decade after Caprivi separatists attacked government facilities in the contested region in 1999, 113 Caprivians accused of treason had yet to have their cases resolved. The enormity of the state's case, resource constraints, and legal

wrangling continued to delay the Caprivi trial, which consisted of five trials or hearings:

- The main trial in which 113 detainees alleged to have participated in the 1999 attacks were being charged with a total of 278 counts related to treasonous activities; 18 of the accused have died in prison, including three during the year; the government did not release the cause of those deaths that occurred during the year. The trial of two ethnic Mafwe witnesses, who were part of the main trial and 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 scheduled to resumed in February 2011; the two were released on bail during the year.
- The trial of 10 secessionists, who were convicted of treason in 2007 and sentenced to more than 30 years. In July 2009 the judge ruled that the 10 could appeal to the Supreme Court against the length of the sentences they received.
- The "Trial Within a Trial," a hearing that began in April 2009 to determine the admissibility of allegedly self-incriminating statements made by 26 of the defendants before various magistrates. In September the Supreme Court turned down a request by the state to appeal part of a judgment in which presiding High Court Judge Elton Hoff ruled that alleged confessions made by 26 of the men being prosecuted in the treason trial could not be used as evidence against them. The Supreme Court justices called for the speedy resolution of the trial, in its seventh year.
- The trial of Albius Moto Liseli, whose 2009 arrest made him the last man arrested in connection with the Caprivi separatist plot. Liseli's High Court trial began in June, was postponed to September, and continued at year's end.
- Civil suits by defendants who claimed to have been tortured at the time of their arrests. During the year the High Court ruled in favor of the ministers of home affairs and defense in three more civil suits. By year's end the High Court had dismissed eight civil claims against the ministers of home affairs and defense, 24 cases had been settled out of court, and 90 cases remained pending. The LAC continued to represent detainees.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There exists an independent judiciary in civil matters, which is widely perceived as impartial. The law provides for access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The constitution provides for administrative justice as well as judicial remedies for alleged wrongs. Civil court orders generally were enforced.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. The Communications Act, popularly known as the "Spy Bill," which was passed in November 2009, was not fully implemented during the year. The act allows the intelligence services to monitor e-mails and Internet usage with authorization from a magistrate. The legislation also permits the interception of telephone calls and cell phone text messages. Opponents of the law considered it an invasion of privacy and a violation of the right to free expression.

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 unlike in the preceding year, the government generally respected this right. Some independent and government journalists practiced self-censorship.

Individuals could criticize the government publicly or privately without reprisal.

The clause of the 2009 Communications Act that provides for interception centers to allow the government to tap telephones, intercept e-mails, and monitor Internet traffic had not been implemented by year's end. Provisions regarding interconnection fees, tariffs and allocation of frequencies, the promotion of competition, and the establishment of the Communications Regulatory Authority of Namibia were implemented during the year.

There were four daily national newspapers, three of which were independent, and four independent weekly newspapers. The government ran one newspaper and a press agency, whose boards were appointed by the minister of information and communication technology. The government shared equal ownership of a regional weekly newspaper with the government of Zimbabwe. The ruling SWAPO party owned one publication.

Unlike in the previous year, there were no reports that the SWAPO Party Elders' Council pressured newspapers to stop publishing cell phone text messages that criticized the government. There also were no reports that prominent politicians publicly criticized media outlets, newspapers, or their staffs.

Unlike in the previous year, the Electoral Commission of Namibia (ECN) provided independent newspaper *The Namibian* with election information; in 2009 the ECN director refused to provide such information, citing a cabinet resolution prohibiting the government and its agencies from advertising or buying copies of *The Namibian*.

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. SWAPO owned 51 percent of the country's sole cable and satellite television provider.

Throughout the year NBC continued to exclude political topics from its popular radio call-in programs. NBC Director Albertus Aochamub required the host of morning radio program *Keetute* to address only themes provided by the NBC central office; the program had previously featured stories that sometimes criticized the government and ruling party.

Unlike in previous years, no foreign journalists were arrested.

No media alerts against the country were issued during the year by the Media Institute of Southern Africa; the institute issued 12 alerts between 2008 and 2009, including three in which the government was cited for banning journalists from covering events; two for passage of the Communications Bill; and one for the 2008 arrest of journalist Bonita Nuttall.

Unlike in previous years, no officials used libel charges to suppress criticism by journalists and civil society activists.

Internet Freedom

There were no government restrictions on access to the Internet; however, the Communications Act provides that the intelligence services can monitor e-mails and Internet usage with authorization from any magistrate.

According to International Telecommunication Union statistics for 2009, approximately 5 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

There were reports during the year of government restrictions on academic freedom. Some academics claimed they were discouraged by their institutions from speaking at events hosted by organizations that criticized the government or the SWAPO party. Others claimed they were discouraged from publishing materials critical of the government or the SWAPO party. All government-owned institutions of higher learning, including the University of Namibia, Polytechnic of Namibia, and the Windhoek College of Education, continued to ban holding of political events on their campuses.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, and with some exceptions the government generally respected this right.

In August police denied permits for protest marches by the opposition Rally for Democracy and Progress (RDP) party and NGOs during the week-long SADC Heads of State Summit. Police claimed insufficient resources to protect marchers "due to a heavy schedule." The local NGO Forum challenged the prohibition, and the High Court overturned the police ban as unconstitutional. However, the summit was near completion when the judgment was handed down, and protesters could not reorganize the marches.

SWAPO supporters continued to prohibit RDP members from campaigning in some towns and villages.

No action was taken against police who forcibly dispersed approximately 500 young members of the "Children of the Liberation Struggle," who in May 2009 had taken control of a bridge and demanded to see the president; six of the demonstrators were hospitalized as a result of their injuries.

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

For a description of religious freedom, please see Department of State's *2010 International Religious Freedom Report* at 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 these rights in practice. The government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in protecting and assisting refugees, returning refugees, asylum seekers, 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 country's laws provide for the granting of asylum or refugee status, and 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 on account

of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, approximately 7,480 refugees and asylum seekers resided in Osire Settlement, formerly called the Osire Refugee Camp, while approximately 1,230 lived outside the settlement. Angolans represented 75 percent of the population, with another 20 percent from the Democratic Republic of Congo, Rwanda, and Burundi. The government continued to issue identification cards to all refugees to facilitate travel outside the settlement. Nevertheless, some refugees complained they still were prevented from working outside the settlement.

The 41 Congolese refugees who in 2009 voluntarily departed Osire Settlement and sought asylum in Botswana were deported to the Democratic Republic of Congo during the year by the Botswana government.

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

The government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 refugee convention or its 1967 protocol.

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.

Elections and Political Participation

In presidential and parliamentary elections held in November 2009, SWAPO candidate Hifikepunye Pohamba was reelected president with 76 percent of the vote, and SWAPO candidates won 54 of 72 elected National Assembly seats. International observers characterized the election as generally free and fair, despite an inefficient vote tabulation system and unequal access to media coverage and campaign financing. Nine opposition parties, however, claimed the election was marred by irregularities and petitioned the High Court either to annul the results and order new elections or to order a recount. In March the High Court dismissed

the case on technical grounds, citing the opposition's failure to submit the court application on time. The opposition appealed the High Court's ruling, and on September 6, the Supreme Court unanimously ruled that the opposition parties' court application was properly filed. The Supreme Court ordered the High Court to hear the merits of the opposition parties' case, and it instructed SWAPO and the ECN to pay the legal costs of the appellants, which were estimated to exceed one million Namibian dollars (\$143,000).

In November the National Assembly passed an amendment to the Special Advisors and Regional Representatives Appointment Act of 1990 allowing the president to appoint regional governors; in the past regional counselors selected governors from among their peers. Critics charged that the amendment would tighten SWAPO control over local leaders.

Individuals and political party nominees could declare their candidacies freely and stand for election in accordance with the law. The government did not officially restrict the right of political opponents to organize, seek votes, or publicize their views, but SWAPO supporters sometimes disrupted rallies and campaigns of opposition parties, particularly the RDP. The majority Ovambo tribe dominated the political system. There continued to be reports that individuals who were not members of the majority SWAPO party had difficulty finding civil service employment or obtaining government tenders.

Clashes between SWAPO and opposition members resulted in injuries during the November regional and local authority elections.

For example, on November 20, a fight between supporters of SWAPO and the Democratic Turnhalle Alliance (DTA) occurred after DTA supporters drove a convoy through a largely SWAPO neighborhood in the town of Opuwo; two SWAPO members were severely injured after the two groups threw stones and bottles at each other. Three persons were arrested, and their trial continued at year's end.

There were no developments in the 2009 incident in which a SWAPO supporter armed with a pistol allegedly attacked RDP member Sam Hamunyela.

Investigations into the 2008 incident in which opposition party leaders were charged with advocating a boycott of a parliamentary by-election were still pending at year's end.

Women held 24 seats in the 78-seat National Assembly, which included six appointed seats and 72 elected ones. There were five female ministers and four female deputy ministers among the 41 ministerial and deputy ministerial incumbents. There were three female judges among the 11 permanent judges of the High Court.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics. Following the 2009 elections, the sole San representative in the National Assembly, a SWAPO member, lost his seat. 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, speaker of the National Assembly, and deputy chairperson of the National Council.

Section 4 Official Corruption and Government Transparency

Although the law prohibits corruption and the government took steps to address the problem, officials continued to engage in corrupt practices. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a problem. During the year the Anti-Corruption Commission (ACC) organized awareness campaigns and held workshops for government officials, politicians, civil society, church leaders, and school children on the dangers of corruption. The ACC also created a telephone line for the public to anonymously report suspected corruption.

During the year the ACC conducted several investigations into corruption.

For example, in March the ACC arrested businessman Antoine Mbok and an unnamed employee of the Ministry of Finance for allegedly intercepting checks worth four million Namibian dollars (\$572,000) and depositing them into Mbok's private bank account. Both the Finance Ministry employee and Mbok were denied bail and remained in police custody. The trial had not begun by year's end.

In June the courts sentenced Sackey Namugongo, a former deputy director of the Ministry of Environment and Tourism, to eight years in prison for accepting 332,500 Namibian dollars (\$47,547) in exchange for promising to issue illegal gambling licenses to prospective business investors in 2006. Namugongo, who was convicted on 19 charges, was the most senior government official to date to have been convicted under the 2003 Anti-Corruption Act.

In June authorities arrested Dawid Boois, the governor of Karas Region, on 24 counts of corruption. Boois was accused of pocketing a monthly housing subsidy of 7,500 Namibian dollars (\$1,072) over a 24-month period while living in a rent-free house owned by the Karas Regional Council. Boois' trial continued at year's end.

In July former NBC director general Gerry Munyama admitted in the High Court that he was not authorized to open a bank account to channel funds from NBC's overdraft account to cover operational expenditures. The state responded that the admission did not constitute a guilty plea and proceeded with the trial, which continued at year's end.

In July media sources reported that former State House deputy director Abisai Shaningwa used his new position as Omusati regional council director of planning to funnel nearly 1.5 million Namibian dollars (\$214,500) to build 27 public toilets in his region. The ACC conducted an investigation into the possible involvement of Omusati public officials in the high-priced toilet scam but had not released the results by year's end.

In December Prime Minister Nahas Angula confirmed that five senior managers of the Government Institutions Pension Fund had been asked to take voluntary leave to facilitate a probe into the Development Capital Portfolio (DCP), which had lent more than 661 million Namibian dollars (\$9.5 million) to 21 Namibian companies through the DCP from the late 1990s to 2002. Many of the loans were never repaid, and a 2006 audit revealed that the loans were fraught with problems.

There were no developments in the following 2009 corruption cases: the investigation of the Bethanie Village Council for alleged mismanagement of funds, tender irregularities, and abuse of power; the court case against Public Service Commissioner Teckla Lameck, businessman Kongo Mokaxwa, and Chinese national Yang Fan, who were alleged to have received kickbacks of 42 million Namibian dollars (\$6,006,000); and the investigation of Immanuel Mulunga, the country's petroleum commissioner, regarding his role in a shareholding dispute over an exclusive exploration license for methane gas.

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

There were no developments in the following 2009 corruption cases involving security force personnel: the bribery case against traffic officer Jacobus Coetzee, who resigned from his position and remained free on bail at year's end; the case against police constables Chris Garoeb and Paul Jarson, who allegedly impersonated immigration officials and defrauded a foreign tourist; and the investigation of Lieutenant General Martin Shalli, who was suspended from the NDF in 2009 on unspecified claims of corruption.

In February Lotti Uusiku, the suspended former commanding officer of the special branch, and Joseph Kamati, the former head of the police finance division, were found guilty of theft in 2006. Uusiku, who was convicted on four counts of theft, was fined 25,800 Namibian dollars (\$3,685), while Kamati was fined \$1,800 Namibian dollars (\$257).

In February Andrew Iyambo, the deputy commissioner of police for Erongo Region, was found guilty of soliciting a personal donation under an official guise in 2006. Iyambo, who was fined 8,000 Namibian dollars (\$1,141), resigned in March. In 2009 Iyambo was acquitted of charges related to his involvement in a car accident.

In March the ACC arrested NDF Lieutenant-Commander Simiran Elia Ndiyaamena for allegedly demanding 10,000 Namibian dollars (\$1,430) from the owner of a lodge at Walvis Bay in exchange for booking accommodations for members of the Chinese army during the year.

In July *The Namibian* newspaper reported that although former assistant commissioner of prisons Nelzin Martin was suspended in 2005 on corruption charges--which were dropped in 2007 for lack of evidence--he remained on the payroll despite not being reinstated due to separate internal corruption charges.

Public officials were subject to financial disclosure laws. However, civil society organizations charged that financial disclosure laws did not preclude government officials from engaging in private business that conflicted with their government duties. Government institutions, including the ACC, the Office of the Ombudsman, and the Office of the Auditor General, were responsible for combating public corruption.

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

Section 5 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. Unlike in previous years, there were no reports that government officials publicly disapproved of NGO criticism directed at government policies or SWAPO.

NAMRIGHTS and the LAC, both independent organizations, 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 NAMRIGHTS reported incidents of police brutality and abuse of power.

The suit filed by NAMRIGHTS Director Phil ya Nangoloh against SWAPO newspaper *Namibia Today* continued at year's end; in August 2009 ya Nangoloh sued the newspaper for 250,000 Namibian dollars (\$35,750) for calling him "a noted twister of facts and pathological liar."

The government generally cooperated with international 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 6 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 provide for sentences of between five and

45 years' imprisonment. According to police statistics for 2009, 11,882 cases of gender-based violence were reported, 1,036 of which involved rape. A number of factors continued to hamper rape prosecutions, including lack of police transport, poor communication between police stations, lack of expertise in dealing with child rape complainants, and the withdrawal of cases by rape complainants after they filed charges.

The law prohibits domestic violence; however, the problem was widespread. Penalties for domestic violence, which includes physical abuse, sexual abuse, economic abuse, intimidation, harassment and serious emotional, verbal or psychological abuse, range from a fine of 300 Namibian dollars (\$43) to 10 years' imprisonment and a fine for assault with intent to cause grievous bodily harm. No information was available on enforcement of the law. When reported, the Woman and Child Protection Unit of the Namibian Police intervened in domestic violence cases.

During the year the LAC produced comic book inserts in major publications that addressed major social issues, including unwanted pregnancies, corporal punishment, rape, and domestic violence.

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 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. During the year the government began renovating and converting houses in all 13 regions into shelters for victims of gender-based violence.

The government does not keep statistics on sex tourism, and there were no reliable estimates of its prevalence.

The law explicitly prohibits sexual harassment in the workplace and requires employers to take reasonable steps to protect employees from such harassment. Employees who leave their jobs due to sexual harassment are entitled to reinstatement or compensation. No sexual harassment cases have ever been filed.

There were no government restrictions on family planning. The government and NGOs provided for equitable access to contraception to all citizens, although those who lived in urban areas had better access to skilled attendance during childbirth

and postpartum care than those who lived in rural areas. According to statistics released during the year by the Ministry of Health and Social Services, the country's maternal mortality ratio in 2006 was 449 per 100,000 live births, a near doubling of the rate in 1992; the high rate was attributed to the general lack of access to effective health care. The government and NGOs continued to make a strong effort to educate men and women equally in the diagnosis and treatment of sexually transmitted infections, including HIV.

The government has no policy to forcibly sterilize HIV-positive women. However, during the year the 2008 forced sterilization case filed by 15 women (now 16) reached the High Court. The case began in 2008, when 15 women filed suit against the government after they were allegedly sterilized against their will by doctors performing their caesarean sections at state hospitals. Each of the 16 plaintiffs was suing the government for 1.2 million Namibian dollars (\$171,000) in damages for breach of duty by the medical staff employed in state-run hospitals and for discrimination due to the women's HIV-positive status. Attorneys for the government claimed the women gave written consent to be sterilized before the procedures were carried out. The plaintiffs, who admit signing consent forms, charged that they were not properly informed of the consequences.

The law prohibits discrimination, including employment discrimination; however, men dominated positions in upper management in both the private and the public sectors. 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 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 continued. The custom by which a widow or widower married the brother or sister of the deceased to ensure that the surviving spouse and children were cared for was still practiced in some areas of the country. A University of Namibia study based on data collected in 2002 found that the practice of widow inheritance (levirate) and widower inheritance (sororate) were still common among the Owambo, Herero, Lozi, and to a lesser extent the Kavango.

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 constitution provides for citizenship by birth within the country's territory or from one's parents. 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 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.

Efforts by the Ministry of Home Affairs and Immigration, in partnership with the UN Children's Fund (UNICEF), to provide birth certificates for newborns at clinics and hospitals throughout the country increased birth registration levels for children under five years old from 67.4 percent in 2007 to 75 percent during the year. During this period the government, in conjunction with UNICEF, also opened 21 hospital-based birth registration facilities at all large hospitals and 22 subregional offices primarily in rural areas. The government also deployed mobile units to towns and villages countrywide to facilitate the issuance of birth certificates and identity documents and registered an additional 39,000 children between 2008 and 2009. The project primarily focused on orphans and vulnerable children; however, the mobile units also targeted San children, and NGOs reported a decrease in San complaints of being unable to obtain proper identification documents.

Although the constitution provides children until the age of 16 with the right to compulsory, free, and universal primary and junior secondary education (grades one through 10), the numerous fees--including for uniforms, books, boarding costs, and school improvement--placed a heavy burden on poor families and precluded some children from attending. For example, in September *The Namibian* reported that school principals in the town of Okahandja refused to enroll first grade students whose parents had not paid their school fees in full. The schools were eventually instructed by the Ministry of Education to register the students. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school, but the

government continued to provide mobile schools for children who lived in semi-permanent settlements.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. According to police records and media reports, at least 800 children and juveniles were killed, raped, or assaulted during the year.

The law protects children less than 18 years of age by criminalizing the actions of the client or pimp in cases of sexual exploitation, child pornography, and child prostitution. The minimum legal age for consensual sex is 16, and the penalty for statutory rape is a minimum of five years in prison. No law specifically prohibits child pornography. 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 to reduce the trauma suffered by abused children.

Some child prostitution occurred without third-party involvement 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.

Female genital mutilation was rarely practiced. The women's rights organizations Sister Namibia and the Women's Leadership Center continued to condemn cultural practices of initiation sex for young girls, dry sex (the practice of applying astringents to the vagina before sexual intercourse to enhance male pleasure), the stretching of the labia minora, widow inheritance, and marital rape.

During the year there were numerous cases in which parents, usually young mothers, abandoned and sometimes killed newborns for whom they believed they were not able to care.

The law prohibits marriage before the age of 18; however, child marriage occurred.

During the year the government continued to take several steps to provide medical care, school fees, social grants, and other assistance to HIV/AIDS orphans and other vulnerable children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at

http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at 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, health care, education, or the provision of any state services. 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. However, during the year the government continued to require that all new government buildings include ramps. In addition, some street corners in the capital were outfitted with special signal crossings for the visually impaired. In September the chief executive officer of the City of Windhoek toured the city in a wheelchair to test the city's accessibility for persons with disabilities. While he found that most establishments catered sufficiently to persons with special needs, he recommended some changes, such as lowering the height of customer counters.

The Office of the Prime Minister's Disability Advisory Unit was responsible for assisting persons with disabilities.

During the year there were reports that two albino persons were killed and that their body parts were missing or mutilated, factors consistent with ritual killings. No arrests had been made by year's end.

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. The media occasionally carried reports of farm workers, mostly black, suffering discrimination in remote areas by mostly white farm owners.

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, such as the Ovambo, have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. Indigenous lands were effectively demarcated but poorly managed. On August 9, the country observed for the first time the International Day of the World's Indigenous People, to promote and protect the rights of indigenous populations. NGOs such as the Working Group of Indigenous Minorities in Southern Africa and the LAC helped San communities assert their basic human rights during the year.

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. There were continued allegations that the government withheld recognition from traditional leaders for political reasons.

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

The law does not prohibit homosexual conduct; however, sodomy between males is illegal, and the practice of homosexual activity was discouraged.

Unlike in previous years, there were no reports that politicians made derogatory public comments about the lesbian, gay, bisexual, and transgender (LGBT) community.

In May the LGBT community held a march to protest the sentencing of a gay couple in Malawi; police provided an escort. However, Out-right Namibia, an organization that advocates for LGBT rights, reported that police generally did not

take complaints of violence against LGBT persons seriously. Out-right Namibia claimed police often ridiculed LGBT persons when they reported cases of abuse.

Societal discrimination against the LBGT community continued. In July the company Cash Crusaders denied employment to Annanias "Tingy" Haufiku, a transvestite. The company manager allegedly told Haufiku the company did not employ "mofies" (gays). The LAC filed a case on Haufiku's behalf, and it continued at year's end.

Other Societal Violence or Discrimination

Societal discrimination against and stigmatization of persons living with HIV/AIDS remained a problem. However, unlike in the previous year, there were no reports of employment discrimination based on HIV/AIDS status. The government supported the work of the Namibia Business Coalition against HIV/AIDS to eliminate discrimination in the work place.

In July the state lifted travel restrictions that barred persons with HIV from entering, staying, or seeking residence in the country; the statute had not been enforced.

The trial of 16 HIV-positive women who claimed they were sterilized against their will by doctors performing their caesarean sections at state hospitals continued at year's end (see section 6, Women).

Section 7 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 the government generally enforced this law; however, workers in essential services were prohibited from joining unions. Approximately 25 percent of employees in the formal sector belonged to some form of union or employers' organization, while almost 4 percent of unemployed persons belonged to such organizations. Workers were not required to join employers' organizations.

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 in attempting to organize these workers unions experienced obstacles,

such as being prohibited from entering commercial farms. As a result, some farm workers reportedly suffered abuse by employers such as 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 hours' 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 first be submitted to conciliation and are then referred to a labor court for arbitration if conciliation is unsuccessful. The law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from retaliation by employers; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

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 continued to cite lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully. The majority of trade unions were officially affiliated with SWAPO, which many argued limited their independence in promoting worker rights.

The law provides for arbitration and conciliation to resolve labor disputes more quickly. In 2009 the Supreme Court declared unconstitutional a provision in the 2007 Labor Act that prohibited employers from hiring third-party temporary or contract workers ("scabs"). During the year the government began to make changes to the law to regulate private employment agencies.

The law prohibits antiunion discrimination, and 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, it occurred. There continued to be media reports that farm workers on communal farms and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers, including physical punishment and prolonged work hours. Given the Ministry of Labor's resource constraints in vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and family-owned commercial farms and private households, labor inspectors sometimes found it difficult to investigate possible labor code violations. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

d. Prohibition of Child Labor and Minimum Age for Employment

The law provides that persons found guilty of employing children can face a maximum fine of 20,000 Namibian dollars (\$2,860) and/or up to four years' imprisonment; however, child labor continued to be a problem. 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 worked mostly on private and commercial farms, herded livestock, worked as child minders or domestic servants, and worked in family businesses. Some children assisted parents working in the charcoal industry. There continued to be media reports that children on communal farms and domestic workers were subject to strict control by employers, including physical punishment, excessive work hours, and not being allowed to attend school.

Sectors in which children were involved in the worst forms of child labor included agriculture and livestock, domestic service, charcoal production, and the commercial sex industry sectors. In 2009 the Ministry of Labor carried out investigations around the country of suspected incidents of child labor in the agricultural sector. The investigations exposed more than 111 child labor cases, and the guilty employers were issued compliance orders. Those employers who failed to comply within 30 days were expected to face criminal charges and prosecution. Smaller-scale labor inspections continued on a regular basis. There were no prosecutions by year's end.

The Ministry of Gender Equality and Child Welfare continued to conduct several programs aimed at encouraging parents and guardians to allow children to attend school.

The government does not have a separate institution to implement and enforce child labor laws, but it generally used regular labor inspections as well as other monitoring mechanisms for orphans and other vulnerable children. Enforcement was limited. There were 36 labor inspectors, and all were trained in identifying the worst forms of child labor; however, no inspector focused exclusively on children's services.

The government had 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. In partnership with the International Labor Organization, the government also participated in a four-year program to withdraw and prevent children from exploitive labor in agriculture and adult-coerced criminal activity. The government continued to distribute a comprehensive guide on the newly implemented labor law, which included a section on child labor. The government also continued to work with NGOs such as Project Hope to assist 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. However, the Ministry of Labor did not always enforce these provisions.

Concerns continued that Chinese firms failed to adhere to the labor code, in part by allegedly hiring and firing workers at will, ignoring occupational health and safety measures, failing to pay established minimum wages and benefits in certain industries, failing to respect work-hour regulations for public holidays and Sundays, and requiring construction workers to sleep on site. Investigations into such allegations continued at year's end.

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. Inspections occurred proactively, reactively, and at random; however, the government did not always enforce labor laws effectively. 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 could not exercise this right in practice. Migrant workers often did not enjoy the same rights as citizens.