

NAMIBIA 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Namibia is a constitutional multiparty democracy. In the presidential and parliamentary elections on November 27, President Hage Geingob won a second five-year term, and the South West African People's Organization (Swapo) retained its large parliamentary majority, winning 63 of 96 National Assembly seats. In local and regional elections in 2015, Swapo won 112 of 121 regional council seats and gained control of 54 of 57 municipal councils. International observers characterized the November and the 2015 elections as generally free and fair.

The national police maintain internal security. The military is responsible for external security but also has some domestic security responsibilities. The Namibian Police Force (NamPol) reports to the Ministry of Safety and Security. The Namibian Defense Force (NDF) reports to the Ministry of Defense. Civilian authorities maintained effective control over the security forces.

Significant human rights issues were limited to acts of official corruption.

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 two reports that the government or its agents committed arbitrary or unlawful killings. In separate cases civilians were shot and killed by NDF soldiers participating in "Operation Kalahari Desert," a joint crime-fighting operation of the police and the NDF. In both instances the accused NDF soldiers were arrested, charged with murder, and released on bail pending trial. In one of the cases, a taxi driver was shot and killed by an NDF soldier while attempting to avoid a police checkpoint. Despite NamPol assurances that NDF soldiers were properly trained prior to participation in joint patrols in the operation, the Office of the Ombudsman and nongovernmental organizations (NGOs) asserted that the training was inadequate.

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 as a crime under legal provisions such as assault or homicide. Unlike in 2018 the Office of the Ombudsman stated it received no reports of police mistreatment of detainees. The police Internal Affairs Division responded allegations of mistreatment seriously.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center 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 and medical assistance were inadequate. Tuberculosis was prevalent.

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

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 separate 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 NGOs access to prisons and prisoners. Representatives from the Office of the Ombudsman 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 that person's arrest or detention in court. The government generally observed these requirements.

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 detained persons 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 to indigent defendants in criminal cases and, depending on resource availability, in civil matters. The income threshold was tripled to Namibian dollars (N\$) 3,500 (\$243) per month to allow anyone having less than that monthly income to qualify as indigent.

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 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 prosecuting 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. Defendants found guilty of a crime and sentenced to imprisonment are credited with time served in pretrial detention.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Authorities respected and enforced court orders.

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 by 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 and 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 fair, timely, and public trial.

All defendants have the right to be present at trial and to consult with an attorney of choice in a timely manner. Defendants receive free interpretation as necessary starting with 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 and present witnesses and evidence on their own behalf. They have the right of appeal. The law extends these rights to all citizens. The courts provided defendants with adequate time and facilities to prepare their defense. Defendants have the right not to testify against themselves or be forced to confess guilt.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides for access to a court for lawsuits seeking damages for or cessation of human rights violations. The constitution provides for administrative procedures and 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 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, Including Online Media: 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 authorities invoking national security concerns to restrict press freedom. In 2018 the Central Intelligence Services (NCIS) filed for an injunction on national security grounds against the publication of an article, but the High Court did not grant the injunction, and the press published the article. In April the NCIS appealed the decision to the Supreme Court, which denied the appeal and affirmed the lower court's ruling.

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.

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 <https://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.

e. Internally Displaced Persons

Not applicable.

f. 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 settlement but provided regular, unrestricted access to the International Committee of the Red Cross, the Office of the UN High Commissioner for Refugees (UNHCR), and UNHCR's NGO partners.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

g. Stateless Persons

Not applicable.

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: Presidential and parliamentary elections take place every five years. On November 27, presidential and parliamentary elections were conducted. Swapo candidate Hage Geingob was re-elected president with 56 percent of the vote. Swapo candidates won 63 of the 96 elected seats--there are also eight appointed seats--in the National Assembly, the lower house of parliament. Nevertheless, opposition parties increased their share from 19 to 33 seats. Voting proceeded in an orderly and effective manner with no reports of politically motivated violence or voter intimidation. In the 2015 regional and local government elections, Swapo won 112 of 121 regional council seats and gained control of 54 of 57 districts. International observers characterized the elections in November and in 2015 as generally free and fair.

Participation of Women and Minorities: No law limits 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 and 50 percent of holders of internal party positions to be women. Virtually all the country's ethnic minorities had representatives in parliament. The president is from the minority Damara ethnic group. Historic economic and educational disadvantages, however, limited participation in politics by the San, Himba, and some other ethnic groups.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for 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 2016-2019*, aimed at increasing accountability in all areas of government and preventing corruption.

Corruption: On November 13, the minister of fisheries and marine resources and the minister of justice resigned their positions within hours of media reports alleging their involvement in a scandal that may have generated as much as N\$150 million (\$10.4 million) from the illicit issuance of fishing licenses. Both former ministers were arrested, charged with bribery, and had their names removed from the list of Swapo party National Assembly representatives. On July 8, in a separate case the minister of education, arts, and culture was found guilty on charges of corrupt abuse of office for actions taken in 2014 when she served as a regional governor. The minister was fined N\$50,000 (\$3,470) and resigned her position, but she continued to serve as a member of the National Assembly.

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

Several 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 NGO reports provided to the United Nations highlighting issues not raised by the government or pointing out misleading government statements. The Office of the Ombudsman, local human rights NGOs, and the ACC reported NamPol cooperated and assisted in human rights investigations.

Government Human Rights Bodies: There is an autonomous ombudsman with whom government agencies cooperated. Observers considered him effective in addressing 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 that ranged 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 by 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, particularly domestic violence, was a widespread problem. The government and media focused national attention on gender-based violence. The president and former presidents spoke publicly against gender-based violence.

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 (\$21) for simple offenses to sentences of 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 victims of gender-based violence. When authorities received reports of domestic violence, gender-based violence protection units intervened. The gender-based violence units were staffed with police officers, social workers, legal advisors, and medical personnel trained to assist victims of sexual assault. Some magistrates' 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 victims and provide them with food and other services. The Office of the First Lady actively promoted gender-based violence awareness and remedies in every region.

Sexual Harassment: The law explicitly prohibits sexual harassment in the workplace. By law employers must formulate a workplace sexual harassment policy, including defined remedies. 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 access to credit, salary level, owning and managing businesses, education, and housing. 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. The law 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 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. It conducted public awareness campaigns aimed at preventing child abuse and publicizing services available to victims.

Early and Forced Marriage: The law prohibits civil marriage for both boys and girls younger than age 18. 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 pimp in cases of sexual exploitation of children younger than age 18. NGOs reported HIV/AIDS orphans and other vulnerable children engaged in prostitution without third-party involvement due to economic pressures.

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 younger than age 16 for sex, or more generally for commercial sexual exploitation of a child (including through pornography), are a fine of up to N\$40,000 (\$2,750), 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 younger than age 18 or against whom a sexual offense has been committed.

An adult convicted of engaging in sexual relations with a child younger than age 16 in prostitution may be sentenced for up to 15 years' imprisonment for a first offense and up to 45 years' imprisonment for a repeat offense. Any person convicted of aiding and abetting trafficking in persons--including child prostitution--within the country or across the border is liable for a fine of up to N\$ one million (\$69,400) or up to 50 years' imprisonment. Conviction of solicitation of a prostitute, living off the earnings of prostitution, or keeping a brothel carries penalties of N\$40,000 (\$2,750), 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 younger than 14 when the perpetrator is more than

three years older than the victim--is a minimum of 15 years' imprisonment if the victim is younger than 13 and a minimum of five years' imprisonment if 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 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 their 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/reported-cases.html>.

Anti-Semitism

There was a small Jewish community of fewer than 100 persons in the country, most of whom 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 <https://www.state.gov/trafficking-in-persons-report>.

Persons with Disabilities

The constitution protects the rights of "all members of the human family," which is interpreted by domestic legal experts 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 several factors, including any "degree of physical or mental disability." It makes an exception in the case of a person with a 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 required to investigate and punish those accused of committing violence or abuse against persons with disabilities; authorities did so effectively.

The government requires the construction of government buildings include ramps and other features facilitating access to persons with physical disabilities. The government, however, does not mandate retrofitting or other measures to provide such access to already constructed public 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.

The deputy minister of disability affairs in the Office of the Vice President is responsible for matters related to persons with disabilities and oversees the National Disability Council of Namibia. The council is responsible for coordinating the 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, due to their nomadic lifestyle, 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 access to police, prosecutors, and courts prevented San women from reporting and seeking protection from gender-based violence.

Indigenous lands were effectively demarcated but poorly managed. Many San community members lived on conservancy (communal) lands but were unable to

prevent members of larger ethnic groups from using and exploiting those lands. Some San claimed regional officials failed to remove members of other ethnic groups from San lands.

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

The constitution does not prohibit discrimination based on sexual orientation. 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 same-sex sexual activity to be taboo.

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 ombudsman favored abolition of the common law offense of sodomy. LGBTI groups conducted annual pride parades recognized by the government as constitutionally protected peaceful assembly.

HIV and AIDS Social Stigma

Although the law prohibits discrimination based on HIV status, societal discrimination and stigmatization against persons with HIV 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 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 trade 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 providing designated 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 the 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 both 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 law.

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 on 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 law 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 except in the mining, construction, agriculture, and public sectors. Almost all collective bargaining was at the workplace and company level. Employers respected the collective bargaining process. Employees of the Namibia Financial Institutions Supervisory Authority and of various mines 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 Ministry of Labor, Industrial Relations, and Employment Creation for an exemption from these provisions if they are able to 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. By law persons convicted of engaging in trafficking in persons, which includes forced labor, face penalties sufficient to deter violations. The government effectively enforced the law. 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 conviction of 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 <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all the worst forms of child labor. The minimum age for employment is 14. Children younger than age 18 may not engage in hazardous work, including work between the hours of 8 p.m. and 7 a.m., underground work, mining, construction work, in facilities where goods are manufactured or electricity is generated, transformed, or distributed, or where machinery is installed or dismantled. Prohibitions on hazardous work by children in agriculture 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 law. Persons convicted of illegally employing children face penalties that were sufficient to deter violations.

The government effectively enforced the law. Gender-based violence protection units enforced child labor law 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. Where child labor was reported, labor inspections were conducted regularly.

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 <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>, and the Department of Labor’s *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination in employment and occupation based on race, sex, religion, political opinion, national origin, citizenship, pregnancy, family responsibility, disability, age, language, social status, and HIV-positive status. 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 are both responsible for addressing complaints of employment discrimination.

Discrimination in employment and occupation occurred with respect to gender, 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 is no national minimum wage law that applies across all sectors. Nevertheless, all sector-specific minimum wage rates are applied nationally and were above the poverty line. Unions and employers negotiated industry-specific minimum wages under Ministry of Labor, Industrial Relations, and Employment Creation mediation. These wages were above the poverty line.

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, 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, the NCIS, the Namibian Correctional 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 law 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 penalties for conviction of violating safety regulations were sufficient to deter violations. 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 serious violations of occupational safety and health standards in the construction sector. There were no reports of fatal industrial accidents.

Allegations persisted that, in addition to not adhering to the law on 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. There were several reports of Chinese nationals submitting labor code complaints against their Chinese employers.