

# **Botswana 2023 Human Rights Report**

## **Executive Summary**

There were no significant changes in the human rights situation in Botswana during the year.

Significant human rights issues included credible reports of arbitrary or unlawful interference with privacy; serious restrictions on freedom of expression and media freedom, including an unjustified detention of journalists; serious government corruption; extensive gender-based violence, including sexual violence; and trafficking in persons, including forced labor.

The government took steps to identify and punish officials who may have committed human rights abuses.

## **Section 1. Respect for the Integrity of the Person**

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

There were no reports the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings, during the year.

## **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, and Other Related Abuses**

The constitution and law prohibited such practices, and there were no credible reports government officials employed them. Some laws prescribed corporal punishment for convicted offenders in both criminal and customary courts. Human rights groups viewed these provisions as cruel and degrading; the Court of Appeals ruled these provisions did not violate the constitution's provisions on torture or inhuman treatment.

### **Prison and Detention Center Conditions**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

**Administration:** Authorities investigated credible allegations of inhuman conditions brought against prison officials.

**Independent Monitoring:** The government generally allowed international and local nongovernmental organizations (NGOs) to meet with prisoners, and it permitted independent human rights observers to visit prisons. The

International Committee of the Red Cross visited prisons.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibited arbitrary arrest and detention and provided for the right of any person to challenge their detention in court. While the government generally observed these prohibitions, compliance was not universal.

#### **Arrest Procedures and Treatment of Detainees**

The law also required authorities to inform suspects of their rights upon arrest, including the right to remain silent, and required authorities to file charges before a magistrate within 48 hours.

Upon arrest, the law required police to produce an arrest warrant issued by a duly authorized magistrate upon the presentation of compelling evidence, except in certain cases, such as when an officer witnessed a crime being committed or discovered a suspect was in possession of a controlled substance. Directorate of Intelligence and Security Services (DISS) personnel were empowered to enter premises and make arrests without warrants if the agency suspected a person had committed or was about to commit a crime (see also section 2.a.).

Those arrested or detained had the right to an attorney during the first 48 hours after arrest and the right to arraignment before a magistrate. A

magistrate could order a suspect held for 14 days through a writ of detention that could be further renewed every 14 days.

The law provided for a prompt judicial determination of the legality of a person's detention. Heavy court caseloads occasionally delayed this determination.

The country had a functioning bail system, and detention without bail was unusual except in murder cases, where it was mandatory. Detainees had the right to contact a family member and hire attorneys of their choice, but most could not afford legal counsel.

**Arbitrary Arrest:** The constitution and law prohibited arbitrary arrest and detention and provided for the right of any person to challenge their detention in court. Overall, authorities generally respected these rights and legal requirements, although some complaints of violated rights arose related to DISS's exercise of its arrest powers. (See section 2.a., Violence and Harassment.)

## **e. Denial of Fair Public Trial**

The constitution and law provided for an independent judiciary, and the government generally respected judicial independence and impartiality, but there were a few reports of executive overreach in a few high-profile cases. A tribal chief claimed that the presidency warned her that it would intervene in a case involving a dispute between the Balete tribe and the government.

The government, however, lost the case.

## **Trial Procedures**

The constitution and law provided for the right to a fair and public trial, and an independent judiciary generally enforced this right. Trials in civilian courts were public, although trials under the National Security Act could be held in secret. Defendants had the right to be present and to consult with an attorney in a timely manner. In capital cases, the government provided legal counsel or private attorneys to work pro bono for indigent clients. Courts tried those charged with noncapital crimes without legal representation if the defendant could not afford an attorney. As a result, many defendants were not aware of their procedural rights in pretrial or trial proceedings. Some NGOs provided free but limited legal assistance.

A customary or traditional court system existed in addition to the formal court system. According to traditional practice, a tribal chief presided over most small villages. While customary (traditional) courts enjoyed widespread citizen support and respect, they often did not afford the same due process protections as the formal court system. Defendants did not have legal counsel, and there were no standardized rules of evidence. The quality of decisions reached in the customary courts varied considerably, and defendants often lacked a presumption of innocence. Tribal judges applied corporal punishment, such as lashings on the buttocks, more often than did formal courts.

A separate military court system did not try civilians. Military courts had separate procedures from civilian courts. Defendants in military courts could have their cases transferred to the civilian judicial system.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **f. Transnational Repression**

Not applicable.

### **g. Property Seizure and Restitution**

Not applicable.

### **h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibited interference with privacy, family, home, or correspondence, but there were reports that DISS had developed capabilities for online surveillance.

A law enacted in February 2022 gave security forces broad wiretapping powers and the ability to carry out unchecked undercover law enforcement operations. It faced widespread condemnation from civil society as an encroachment on civil liberties. The law was amended later in 2022 to

remove warrantless wiretaps and instead established an oversight committee for surveillance.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution and law provided for freedom of expression, including for the press and other media. With some exceptions, the government generally respected the rights of freedom of speech and press.

**Freedom of Expression:** The law restricted the speech of some government officials and set fines for persons found guilty of insulting public officials or national symbols. The law stated, “Any person in a public place or at a public gathering (who) uses abusive, obscene, or insulting language in relation to the President, any other member of the National Assembly, or any public officer” was guilty of an offense and could receive a substantial monetary fine. The law also stated that any person who insulted the country’s coat of arms, flag, presidential standard, or national anthem was guilty of an offense and could receive a substantial monetary fine under the sedition clause. The Constitutional Court had not considered the constitutionality of the sedition clause.

**Violence and Harassment:** In July, DISS detained two journalists from the

newspaper *Mmegi*, editor Ryder Gabathuse and senior reporter Innocent Selathwa, and held them for some hours without warrant or charges. They were later released without any charges, but authorities confiscated their cell phones, tablet, and laptop computers.

**Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media:** Some members of civil society organizations stated the government occasionally censored news stories it deemed undesirable in government-run media. Government and private journalists sometimes practiced self-censorship.

**Libel/Slander Laws:** There were no arrests or convictions under these laws (see the above subsection on Freedom of Expression) during the year. The law criminalized insults to religion, as well as comments or writings intended to wound others' religious feelings. There were no reports of prosecutions or convictions under these religious provisions during the year.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provided for the freedoms of assembly and association, and the government generally respected these rights, although



there were restrictions on the ability of labor unions to organize and strike (see section 7.a.).

### **Freedom of Peaceful Assembly**

In April, students at the Botswana University of Agriculture and Natural Resources were beaten by police for refusing to vacate the university premises after the school was closed following a strike. The students engaged in a peaceful strike after complaining about late payment of subvention funds by the university, dilapidated hostels, and unaccredited courses.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

## e. Protection of Refugees

The government generally cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

**Access to Asylum:** The law provided for the granting of asylum or refugee status, and the government established a system for providing protection to refugees. The system for granting refugee status was accessible but slow. The government generally provided protection against the expulsion or return of persons 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.

The government held asylum seekers in the Francistown Centre for Illegal Immigrants (FCII) detention facility until the Refugee Advisory Committee, a governmental body, made a refugee status determination. The committee met quarterly. UNHCR representatives participated in advisory committee meetings as observers and technical advisors.

**Freedom of Movement:** As a general policy, the government required all registered refugees to reside in the Dukwi Refugee Camp under a strict encampment policy. The government could issue a residence permit to remain outside the camp in exceptional cases, such as for refugees enrolled

at a university, in need of specialized medical care, or with unique skills. It was difficult for representatives of the diplomatic community to gain access to the camp.

**Employment:** In August 2022, UNHCR reported that most of the country's 841 registered refugees were living in the Dukwi Refugee Camp and did not have the right to work outside the camp.

**Access to Basic Services:** Refugees at the Dukwi Refugee Camp had access to education and basic health care services that were not equal to services provided to citizens. UNHCR facilitated refugee and asylum seekers' exit permit applications for medical referrals, as necessary. Officials typically granted exit permits for three days; refugees found outside the camp without a permit were subject to arrest.

The government considered the FCII to be a less than ideal transit center for asylum seekers; however, the government did not establish a protocol to prevent new arrivals from spending long periods in FCII while their cases were processed. International refugee groups reported that an average of 50 to 60 persons were held in the FCII at any given time while awaiting refugee processing. International observers stated there was no access to education for asylum seeker children in the FCII. The center hosted a clinic, and a specialized nurse provided basic health care, while critical cases were referred to the Francistown city public hospital.

**Temporary Protection:** The government provided temporary protection at the Dukwi Refugee Camp to approximately 68 individuals of concern while 152 remained at the camp whose applications were rejected by the government. Both groups were open to UNHCR's review to determine if they qualified for UNHCR mandate protection status.

## **Section 3. Freedom to Participate in the Political Process**

The law provided 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**

**Abuses or Irregularities in Recent Elections:** National elections were widely reported to be fair and free of abuses and irregularities.

**Participation of Women and Members of Marginalized or Vulnerable Groups:** Observers suggested the lack of support from political parties, fundraising challenges, and cultural constraints, including the sexual exploitation of women in politics, limited the number of women in government.

While the constitution formally recognized eight principal tribes of the

Tswana nation, amendments to the constitution also allowed minority tribes to be represented in the House of Chiefs. The law provided that members from all tribes enjoyed equal rights. Outside observers noted many tribes were unrecognized or unrepresented, and women were underrepresented in the traditional chieftaincy system. The government did not recognize any group or tribe as indigenous.

## Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally sought to implement these laws effectively. Officials tasked with enforcement lacked adequate training and resources. During the year there were isolated media reports of government corruption.

**Corruption:** A 2019 poll by Transparency International found that 7 percent of those polled had paid bribes to government officials, an increase from the 1 percent who reported paying bribes in a 2015 poll.

A court case involving President Masisi's sister and nephew and a 550 million pula (\$41.6 million) government tender award continued to draw widespread, public scrutiny and concerns of high-level government corruption. Media raised concerns that this Water Utilities Commission tender awarded to Masisi's sister showed potential collusion between her and a Chinese businessman to provide financial kickbacks through the local company G&M Building Services to the ruling Botswana Democratic Party.

Concerns about corruption in other tender awards that exceeded the initial award amount, given to Chinese companies involved in water utility and development tenders, continued to generate coverage in the press.

In August, press reports surfaced that alleged the Botswana Police Service (BPS) was involved in a fraudulent 17 million pula (\$1.3 million) motor bike tender involving a shell company. BPS leadership publicly denied this accusation but admitted to mistakes during the tender process.

For additional information concerning corruption in the country, please see the Department of State's *Investment Climate Statement* for the country and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

## **Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights**

The small number of domestic and international human rights groups generally operated without government restriction, investigating, and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to domestic NGO views on most subjects. The government interacted with and provided financial support to some domestic organizations.

**Government Human Rights Bodies:** An ombudsperson within the Office of the President handled complaints of maladministration, including some human rights abuses in the public sector, and the government generally cooperated with the ombudsperson. The Office of the Ombudsman, however, lacked sufficient staff.

## Section 6. Discrimination and Societal Abuses

### Women

**Rape and Domestic Violence:** The law criminalized rape without specifying gender but did not recognize spousal rape as a crime. By law, formal courts tried all rape cases and the minimum sentence for rape was 10 years' imprisonment; the sentence increased to 15 years with corporal punishment if the offender was unaware of being HIV-positive; and increased to 20 years with corporal punishment if the offender was aware of being HIV-positive. A person convicted of rape was required to undergo an HIV test before sentencing. According to the World Population Review, the incidence of rape was extremely high, at 92.93 per 100,000 persons (2010 data). According to a 2022 report by the Women's Affairs Department in the Ministry of Labour and Home Affairs, 67 percent of women experienced some form of gender-based violence in their lifetime including partner and nonpartner violence. A smaller, but still high, proportion of men (44 percent) admitted to perpetrating violence against women.

Authorities effectively enforced laws against rape when victims pressed charges, although police noted victims often declined to press charges against perpetrators.

The law prohibited domestic and other violence against women, girls, or men, but domestic violence remained a serious problem during the year. The government regularly referred women survivors of gender-based violence to a local NGO that ran shelters for women. Although statistics were unavailable, media widely reported on cases of violence against women, including several high-profile murder cases.

**Other Forms of Gender-based Violence or Harassment:** Sexual harassment, particularly by men in positions of authority, including teachers, was widespread.

**Discrimination:** Under the constitution women and men had the same civil rights and legal status. Under customary law based on tribal practice, however, several traditional laws restricted women's property rights and economic opportunities, particularly in rural areas. Women increasingly exercised the right to marriage "out of common property," in which they retained their full legal rights as adults. Although labor law prohibited discrimination based on gender and the government generally enforced the law effectively, there was no legal requirement for women to receive equal pay for equal work. According to the World Economic Forum, women earned 32 percent less than men employed in equal work.



**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

While awareness of family planning methods was generally high, factors hindering contraceptive access included a shortage of supplies, provider biases, inadequately skilled health-care workers, HIV status, culture, religion, and popularly accepted myths and misconceptions. Access to health care during pregnancy and childbirth was widespread, with 95 percent of the population living within an average of five miles from the nearest health facility.

The government provided access to sexual and reproductive health services for survivors of sexual violence, including postexposure prophylaxis, emergency contraceptives, counseling, treatment of injuries, and rapid HIV testing.

According to 2019 data, the most recent data set, the country's maternal mortality ratio was 166 deaths per 100,000 live births. The leading causes of maternal mortality included postpartum hemorrhage, genital tract and pelvic infections following unsafe abortion, and ectopic pregnancy.

## **Systemic Racial or Ethnic Violence and Discrimination**

The eight tribes of the Tswana group, who spoke mutually intelligible dialects of Setswana, were politically dominant since independence, were officially recognized by law, and were granted permanent membership in

the House of Chiefs. Constitutional amendments subsequently enabled the recognition of tribes from other groups.

Labor law prohibited discrimination based on race, color, tribe, place of origin, including national origin, social origin, sex, disability, language, sexual orientation or gender identity, HIV status, marital status, religion, creed, or social status. Penalties were less than penalties related to other civil rights. The government generally enforced these regulations in the public and formal sectors. Penalties were regularly applied against violators.

## **Indigenous Peoples**

The government did not recognize any group or tribe as Indigenous.

An estimated 50,000 to 60,000 persons belonged to one of the many scattered, diverse tribal groups known collectively as Basarwa or San. The Basarwa constituted approximately 3 percent of the population and were culturally and linguistically distinct from most other residents. The law prohibited discrimination against the Basarwa in employment, housing, health services, or because of cultural practices. The Basarwa, however, remained marginalized economically and politically and generally did not have access to their traditional land. The Basarwa continued to be geographically isolated, had limited access to education, and lacked adequate political representation. Some members were not fully aware of their civil rights. During the year there were no reported threats to the

Basarwa from business or commercial interests.

The government interpreted a 2006 High Court ruling against the exclusion of Basarwa from traditional lands in the Central Kalahari Game Reserve (CKGR) to apply only to the 189 plaintiffs, their spouses, and their minor children. Many of the Basarwa and their supporters continued to object to the government's interpretation of the court's ruling.

In February 2022, Lesiame Pitseng, a member of the Basarwa, took the government to court after it refused him the right to bury his deceased father within the CKRG. The government argued that the 2006 High Court ruling did not apply to the deceased because he had voluntarily resettled outside of the CKGR. The court ordered Pitseng to bury his father outside the CKGR or face 30 days in custody. He appealed the case and was granted a stay on the execution of the arrest. The body of the deceased remained in a morgue at year's end even though Pitseng lost the case.

Government officials maintained that resettlement programs for Basarwa were voluntary but necessary to facilitate the delivery of public services, provide socioeconomic development opportunities to the Basarwa, and minimize human impact on wildlife.

No government programs directly addressed discrimination against the Basarwa. Except for CKGR lands designated in the 2006 court ruling, there were no demarcated cultural lands.

## Children

**Birth Registration:** The government generally registered births promptly and birth registration policies and procedures were the same for boys and girls. Unregistered children could be denied some government services, including enrollment in secondary schools and national exams.

**Education:** Human rights organizations and minority tribes criticized the policy that designated English and Setswana as the only officially recognized languages, thereby forcing some children to learn in a non-native language.

In 2018, the UN special rapporteur on minority issues noted that the lack of mother tongue education or failure to incorporate minority languages into the school curriculum might constitute discrimination.

In July 2022, the government announced the final draft of an education language policy to provide guidance on implementation of mother tongue teaching in schools. The government continued to roll out the policy during the year.

**Child Abuse:** The law penalized neglect and mistreatment of children. There was reportedly widespread abuse of children. Child abuse was reported to police in cases of physical harm to a child. Police referred children and, depending on the level of abuse, their alleged abuser(s) to counseling in the Department of Social Services within the Ministry of Local Government and Rural Development as well as to local NGOs. Police

referred some cases to the Attorney General's Office for prosecution.

In August 2022, First Lady Neo Masisi launched the second phase of the "*Eseng mo Ngwaneng*" campaign under the theme, "Ending Violence Against Children." The campaign promoted reporting violence against children and advocated for cases that involve violence against children to be expedited at all levels.

**Child, Early, and Forced Marriage:** Child marriage occurred infrequently and was largely limited to certain tribes. The government did not recognize marriages that occurred when either party was younger than the minimum legal age of 18.

**Sexual Exploitation of Children:** The law prohibited child sex trafficking and sexual abuse of children. Sex with a child younger than 18 constituted defilement (statutory rape) and was punishable by a minimum of 10 years' incarceration. The penalty for not reporting incidents of child sexual exploitation ranged from a substantial monetary fine to imprisonment for no less than two years but no greater than three years, or both. If convicted, perpetrators who engaged in sexual exploitation of children were punished with a substantial monetary fine, imprisonment for no less than five years but no longer than 15 years, or both. Child pornography was a criminal offense punishable by five to 15 years of imprisonment. The government generally enforced the law.

## Antisemitism

There was a very small Jewish population, and there were no reports of antisemitic incidents.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

**Criminalization:** There were no laws that criminalized consensual same-sex sexual conduct between adults, so-called cross-dressing, or other sexual or gender characteristic-related behavior. No seemingly neutral laws (such as immorality or loitering) were disproportionately applied to lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons.

**Violence and Harassment:** Civil society reported incidents of violence, societal harassment, and discrimination based on sexual orientation or gender identity or expression; however, there were few reports of authorities investigating abuses against LGBTQI+ persons. The victims of such incidents seldom filed police reports, primarily due to stigma but

occasionally because of intimidation. LeGaBiBo, a local LGBTQI+ human rights organization, reported no harassment by state actors during the year. In September, a well-known member of the LGBTQI+ community was attacked and repeatedly stabbed with a broken bottle in Maun due to his LGBTQI+ status. Police charged the assailant with assault but were unable to locate him.

**Discrimination:** The law prohibited discrimination by state and nonstate actors based on sexual orientation in employment (see Systemic Racial and Ethnic Violence and Discrimination for specific information on labor laws.). Authorities did not enforce the law. The law did not explicitly recognize LGBTQI+ couples and their families nor grant them rights equal to other persons.

**Availability of Legal Gender Recognition:** Legal gender recognition in specific cases had been provided in court by litigation, but systematic legislative or administrative measures had not been adopted that would ensure that government-issued identity documents reflected self-defined gender identity. Civil society lobbied the government to allow individuals to change gender identity marker on legal and identifying documents to bring them into alignment with their gender identity.

**Involuntary or Coercive Medical or Psychological Practices:** Civil society reported no specific instances of “conversion therapy” in the country.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:**

There were no laws or other restrictions on individuals speaking or media reporting on LGBTQI+ matters, on the ability of LGBTQI+ individuals to assemble in public or private or to form associations, or on the ability of LGBTQI+ organizations to legally register or convene events.

**Persons with Disabilities**

Persons with disabilities could not always access education, health services, and public buildings on an equal basis with others. Persons with disabilities were not able to transit many urban areas as sidewalks were not all equipped to accommodate persons with disabilities. The government's policy provided for integrating the needs of persons with disabilities into all aspects of policymaking. It mandated access to public buildings and transportation, but access for persons with disabilities was limited.

Although newer government buildings were constructed to provide access for persons with disabilities, older government office buildings remained largely inaccessible. Most new privately owned commercial and apartment buildings provided access for persons with disabilities. The government at times provided official information to persons with disabilities in accessible formats. During the year, the government hosted national addresses with President Masisi and cabinet ministers that departed from standard procedures by not including a sign language interpreter provided by Botswana Television.



Violence against persons with disabilities was not common, and authorities punished those who committed violence or abuses against persons with disabilities.

The law prohibited discrimination against persons with disabilities, but there was no specific disability act. Children with disabilities attended school, although human rights NGOs raised concerns the law did not stipulate inclusive education for children with disabilities. Children with disabilities attended both public schools and segregated schools, depending on resource availability and the wishes of parents.

In 2018, the UN special rapporteur on minority issues observed that most teachers were not trained in sign language or in teaching methods adapted to the educational needs of deaf persons. The special rapporteur also noted that the absence of sign language interpreters in the health-care sector inhibited the dissemination of information.

The Independent Electoral Commission made some accommodations during elections to enable persons with disabilities to vote, including providing ballots in braille and installing temporary ramps at polling places that were not accessible to persons with disabilities.

There was a Department of Disability Coordination in the Office of the President to assist persons with disabilities. The Department of Labour in the Ministry of Labour and Home Affairs was responsible for protecting the

rights of persons with disabilities in the labor force and investigating claims of discrimination. Individuals could also submit cases directly to the Industrial Court. The government funded NGOs that provided rehabilitation services and supported small-scale projects for workers with disabilities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provided for the rights of workers, except police, military, and prison personnel, to form and join registered unions and to bargain collectively. The law allowed some workers to conduct legal strikes. The law allowed registered unions to conduct their activities without interference. The law placed legal restrictions limiting the right to form and join independent unions, collective bargaining, and the right to strike, as further outlined below. Because the law did not protect members of unregistered trade unions, those trying to establish, join, or register a trade union had no legal protection from antiunion discrimination.

The law imposed restrictions limiting workers' right to form and join independent trade unions. An association needed more than 30 worker members to be a union, and the law gave the registrar authority to refuse registration upon determining that an existing trade union was sufficiently

representative of employee interests. The law also authorized the registrar to inspect accounts, books, and documents of a trade union at “any reasonable time” and provided the labor minister with the authority to inspect a trade union “whenever he considers it necessary in the public interest.” It also allowed the registrar or attorney general to apply for an order to restrain any unauthorized or unlawful expenditure of funds or use of any trade union property. Employers and employer associations had the legal right to ask the registrar to withdraw recognition of a union, and the Ministry of Labour and Home Affairs had the right to suspend a union if it was “in the public interest,” although the former practice was uncommon, and the latter had never been employed. Any person acting or purporting to act as an officer of a trade union or federation that failed to apply for registration within 28 days of its formation was subject to sanctions.

Trade unions failing to meet formal registration requirements were automatically dissolved and banned from carrying out union activities.

The law provided for collective bargaining only for unions that enrolled at least one-third of an employer or industry’s workforce. The law did not allow employers or employers’ organizations to interfere in the establishment, functioning, or administration of trade unions. The law provided a framework for either employers or unions to nullify collective bargaining agreements and provided a mechanism for the other party to dispute the nullification. The law also permitted an employer or employers’

organization to apply to the government to withdraw the recognition granted a trade union if it established that the trade union refused to negotiate in good faith with the employer.

The law prohibited employees who provided “essential services” from striking. The law limited its definition of essential services to aviation, health, electrical, water and sanitation, fire, and air traffic control services. Police, military, and prison personnel were not permitted to form or join unions, but they were allowed employee associations that communicated collective needs and concerns to their government employer. Union representatives reported employee associations were generally not as effective as unions in resolving labor disputes.

The law empowered two officials within the Ministry of Labour and Home Affairs, the minister and the commissioner of labor, to refer a dispute in essential services to arbitration or to the Industrial Court for determination.

Civil service disputes were referred to an ombudsperson for resolution, and the ombudsperson generally made decisions without government interference. Labor commissioners mediated private labor disputes, which, if not resolved within 30 days, could be referred to the Industrial Court.

Workers who were members of registered unions could not be terminated for legal union-related activities. Dismissals could be appealed to civil courts or labor officers, which rarely ordered payment of more than two months’

severance pay. The law did not provide for reinstatement of workers, but a judge could order reinstatement if the termination was deemed to be related to union activities. The law did not provide protection to public employees' organizations from acts of interference by public authorities in their establishment or administration.

The government enforced some labor laws but did not protect the freedom of association for workers. In addition, the government placed significant barriers to union organizing and operations, and there were some restrictions on the right to collective bargaining. The government did not act to revive the Public Sector Bargaining Council. Workers exercised the right to form and join unions, and employers generally did not use hiring practices to avoid hiring workers with bargaining rights. Legal penalties for violations of laws governing freedom of association were commensurate with those for other laws involving denials of civil rights. Penalties were rarely applied against violators.

The law severely restricted the right to strike, and strikes were rare. When unions followed legal requirements, exhausted arbitration, and notified the government in advance of a planned strike, the government permitted strikes and did not use force on strikers. Due to strike requirements, however, many strikes were ruled illegal, and striking workers often risked dismissal. The law prohibited sympathy strikes. Trade unions reported systematic violations of worker rights related to unlawful dismissals,

freedom of association, and trade unions' right to organize their administration.

## **b. Prohibition of Forced or Compulsory Labor**

See the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

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/>.

## **d. Discrimination (see section 6)**

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The law provided for minimum hourly wages for full time work by sector, with these minimum wages set by the Ministry of Labour and Home Affairs. The minimum wage for all sectors was higher than the official estimate of the poverty income level. Formal-sector jobs generally paid well above minimum wage.

In January 2022, the government revised the minimum wage increasing it slightly from 6.70 pula (\$0.51) per hour to 7.34 pula (\$0.55) per hour. For

the domestic as well as the agriculture sector, the minimum wage increased from 1,000 pula per month (\$76) to 1,084 pula per month (\$81.93). The law permitted a maximum 48-hour workweek, exclusive of overtime, which was payable at one-and-a-half times the base hourly rate.

According to union representatives, the minimum wage increases did not keep pace with inflation, and some workers were required to perform overtime duties without compensation. Alleged violations of wage, hour, or overtime laws were common in the automotive manufacturing sector. According to the World Economic Forum, women earned 32 percent less than men employed in equal work.

**Occupational Safety and Health:** There were limited occupational safety and health (OSH) requirements. The government's ability to enforce OSH legislation remained limited due to inadequate staffing and lack of clear ministerial jurisdictions.

The law provided protection against termination for workers who verbally complained regarding hazardous conditions, but no specific provisions in the law allowed workers to remove themselves from situations that endangered their health or safety without jeopardizing their employment.

**Wage, Hour, and OSH Enforcement:** The Ministry of Labour and Home Affairs was responsible for enforcing wage, hour, and OSH standards, but did not effectively enforce the law. Penalties for violations were

commensurate with those for similar crimes, such as fraud or negligence. Penalties were regularly applied against violators. The number of inspectors was not sufficient to enforce compliance. Inspectors did have authority to conduct unannounced inspections and could demand that an employer suspend the use of hazardous materials or equipment. Inspectors could not initiate sanctions on their own but could require employers to meet in a public office to discuss matters.

Researchers and labor academics estimated that more than 191,000 persons, approximately 40 percent of working persons, worked in the informal sector and contributed approximately 5.3 percent of all economic activity. Informal work sectors included wholesale and retail trade (45 percent), manufacturing (15 percent), and construction of buildings (12 percent). A higher percentage of women and young persons worked in the informal sector. Some workers in the informal sector received only housing and food, particularly in the agricultural and domestic service areas. Wages in the informal sector were frequently below the minimum wage. Informal-sector workers and part-time workers generally were covered by wage, hour, OSH, and other labor laws available to formal-sector workers, but enforcement in the informal sector was rare. The Department of Social and Community Development provided social protection for informal economy workers.