



UNITED NATIONS  
GENERAL  
ASSEMBLY



Distr.  
GENERAL

A/8770 and Add 1.  
26 September 1972

ORIGINAL: ENGLISH

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Twenty-seventh session  
Agenda item 38

THE POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Maltreatment and torture of prisoners in South Africa

Report of the Special Committee on Apartheid

Rapporteur: Mr. Barakat AHMAD (India)

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LETTER OF TRANSMITTAL

New York, 23 August 1972

Sir:

... I have the honour to transmit to you herewith a special report on all known cases of maltreatment and torture of prisoners in South Africa, adopted by the Special Committee on Apartheid on 23 August 1972.

This report is submitted to the General Assembly in accordance with paragraph 5 of resolution 2764 (XXVI) of 9 November 1971.

Accept, Sir, the assurances of my highest consideration.

(Signed) Abdulrahim A. FARAH  
Chairman of the  
Special Committee on Apartheid

His Excellency  
Mr. Kurt Waldheim  
Secretary-General of the United Nations,  
New York.

/...

I. ACTION BY UNITED NATIONS ORGANS

1. The Special Committee on Apartheid has been concerned since its inception in 1963 with the ill-treatment and torture of opponents of apartheid in South African prisons.
2. As early as its second interim report of 16 July 1963, it expressed concern at the evidence in the South African courts that prisoners were frequently tortured by the police to obtain confessions or to extract information implicating others. 1/ As increasing evidence became available from a number of sources, it devoted a section of its report of 23 March 1964 to allegations of torture of prisoners. 2/
3. In subsequent weeks, the Special Committee obtained numerous reports and documents concerning this matter, including a large number of affidavits by South Africans released after imprisonment for political offences or detention under section 17 of the General Law Amendment Act of 1963. These documents showed that this section - known as the 90-day law - was being used as an instrument of terror and punishment against persons opposed to apartheid.
4. In view of this mounting evidence the Special Committee, in its report of November 1964 to the nineteenth session of the General Assembly, called for an international inquiry. It stated:

"The Special Committee notes that the charges concern many prisons and police stations in South Africa and have led to inferences that torture and third degree methods have become a common practice or are condoned by the Executive. It feels that the volume of evidence and the gravity of charges are such that an impartial international investigation is called for in order to establish the truth and ensure the punishment of the guilty.

"The Special Committee, therefore, recommends that:

- (a) An international commission composed of eminent jurists and prison officials be set up to investigate charges of torture and ill-treatment of prisoners in South Africa;
- (b) This commission be authorized to investigate the affidavits by former prisoners, interview present and former prisoners and look into the conditions in prisons, and report as soon as possible;

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1/ Official Records of the General Assembly, Eighteenth Session, Annexes, agenda item 30, document A/5497/Add.1, annex IV, appendix 1, para. 27.

2/ Ibid., Nineteenth Session, Annexes, annex No. 12, document A/5692, section III.

(c) The Government of the Republic of South Africa be invited to provide facilities for such an impartial investigation." 3/

5. On 3 February 1967, the Special Committee drew the urgent attention of the Commission on Human Rights to the continuing ill-treatment of prisoners, detainees and persons in police custody in the Republic of South Africa, particularly the numerous opponents of apartheid who had been imprisoned under arbitrary laws. Transmitting a number of documents on this matter, it stated that "the ruthless measures of the South African Government seem to be increasingly designed to wreak vengeance against the opponents of apartheid," and that "such measures contravene international standards of behaviour and the Universal Declaration of Human Rights". It expressed the hope that the Commission on Human Rights would "take steps to secure an international investigation with a view to ameliorating the conditions of these victims".

6. The Commission on Human Rights considered the matter at its session in February-March 1967 and adopted resolution 2 (XXIII), inter alia, establishing an Ad Hoc Working Group of Experts to investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa and report to the Commission.

7. Though denied facilities to visit the South African prisons, the Ad Hoc Working Group was able to gather extensive evidence. It declared in its first report in October 1967:

"The testimony given indicates that persons detained at police stations particularly under the '90-day law' and the '180-day law' are systematically ill-treated and tortured during interrogation. In prisons, non-whites and particularly Africans, held under laws designed to establish or strengthen the policy of apartheid are systematically ill-treated... In addition, there is discrimination between ordinary prisoners and political prisoners, who are accorded worse treatment than the former. Prisoners are classified in a number of categories, but political prisoners are generally placed in category 'D'... It should also be noted that political prisoners cannot obtain any reduction of their sentence, even if entitled to claim it on grounds of good conduct... A special interrogation service has systematically used inhuman treatment and torture to obtain information and confessions regarding the activities of political personages. Such ill-treatment and torture includes:

- (a) Electric shocks;
- (b) Requiring prisoners to remain standing for periods as long as twenty-eight hours and longer;
- (c) Compelling prisoners to remain standing during interrogation;

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3/ Ibid., document A/5825, paras. 624 and 625.

(d) Beating prisoners and the use of various methods to prevent them from sleeping;

(e) Brainwashing." (E/CN.4/950, para. 1017.)

"... the legislation of the Republic of South Africa, or the practice of the South African authorities, or both, in the matter of the treatment of prisoners and detainees, violates many of the Standard Minimum Rules for the Treatment of Prisoners. In some respects the practice of the authorities violates not only the Rules but the Prisons Act of 1959 and the regulations made thereunder. In particular, the '90-day law' was and the '180-day law' is contrary to the general principles of law and to the concept of the rule of law, which is part of the heritage of civilized nations." (Ibid., para. 1127.)

The report further concluded:

"Article 5 of the Universal Declaration of Human Rights provides that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.' There has, however, been evidence of gross violations of this article in that detainees have been submitted to physical and psychological torture and that prisoners have had cruel, inhuman and degrading physical treatment inflicted on them on a massive scale. A system of torture and of cruel, inhuman and degrading treatment of prisoners and detainees does not exist in South African police stations and prisons.

"Political prisoners and opponents of apartheid are accorded especially cruel, inhuman and degrading treatment and are tortured by the South African prison authorities.

"...

"As a general rule this system of torture, and cruel, inhuman and degrading treatment continues beyond interrogation, into prison life, especially in respect of non-white prisoners and detainees, and is tolerated by the authorities.

"Many conceivable methods of torture, cruel, inhuman and degrading treatment are used, ranging from the psychological to the most inhuman, like the use of electrodes or the infamous 'tausa dance'.

"The procedures and methods utilized by the Special Branch and police for interrogation of detainees and arrested persons are very similar to, if not identical with, those reported to have been used by the Gestapo under Hitler's Nazi régime of Germany." (Ibid., paras. 1138-1139, 1141 and 1143.)

8. The Working Group has continued its investigations and documented numerous cases of ill-treatment and torture of prisoners and detainees.

9. Meanwhile, the Special Committee has continued to draw public attention to current information on the ill-treatment of prisoners and deaths of detainees, and related developments.

10. Acting on the reports of the Working Group and the Special Committee, the General Assembly has repeatedly called on the South African Government to put an end to such inhuman practices.

11. In resolution 2440 (XXIII) of 19 December 1968, the General Assembly condemned any and every practice of torture, inhuman and degrading treatment of detainees and prisoners in South African prisons and in South African police custody during interrogation and detention, as indicated in the report of the Ad Hoc Working Group, and called upon the Government of South Africa, inter alia:

"(a) To initiate investigations into the violations mentioned in the report of the Ad Hoc Working Group of Experts with a view to establishing the degree of responsibility of the persons listed in appendix II to chapter VII of the report, for the purpose of punishing them accordingly;

"(b) To afford the opportunity to all persons who have suffered damage to receive indemnification;

"(c) To abolish the 180-day law and the Terrorism Act, under which opponents of the policies of apartheid are detained without charge or trial, as well as the Suppression of Communism Act, the Sabotage Act, and similar laws, and also to refrain from incorporating the principles contained in these laws into other laws."

12. In resolution 2547 A (XXIV) of 11 December 1969, the General Assembly again condemned the Government of South Africa for the inhuman and degrading treatment and torture meted out to political prisoners and detainees and to captured freedom fighters and for its refusal to permit an impartial inquiry into the deaths of political prisoners and detainees.

13. It again condemned the Government of South Africa in resolution 2714 (XXV) of 15 December 1970 and called upon it, inter alia, to permit a full and impartial investigation into the deaths of political prisoners and detainees in its gaols as well as to indemnify fully the families of the deceased.

14. The General Assembly was again gravely concerned in October-November 1971 when a large number of people were detained under the Terrorism Act and news of the death of Mr. Ahmed Timol in detention and alarming reports of brutal torture of other detainees were received.

15. In resolution 2764 (XXVI) of 9 November 1971, the General Assembly expressed grave concern at continuing reports of ill-treatment and torture of opponents of apartheid in detention in South Africa and at the deaths of several detainees during interrogation. It expressed its grave indignation and concern over any and every act of maltreatment and torture of opponents of apartheid in South Africa. It requested the Special Committee on Apartheid to prepare a special report on all known cases of maltreatment and torture of prisoners in South Africa, together with any other information pertinent to those cases. The Assembly invited all organizations and individuals that may have knowledge of such cases to provide all available information to the Special Committee on Apartheid.

/...



16. This report has been prepared in pursuance of the above resolution. It is based on the documents of the Special Committee and other organs of the United Nations; South African official statements and court records; affidavits by former prisoners and detainees and other available material, including information received from a number of organizations and individuals.

17. In order to keep the report to a reasonable length, its scope has been strictly limited. Only cases of persons imprisoned or detained for political activities since the beginning of 1963 are covered. The cases are reported very briefly, especially when information is available in documents of the Special Committee on Apartheid and the Ad Hoc Working Group of Experts of the Commission on Human Rights, or in the publications of the United Nations Unit on Apartheid. The treatment in prisons of persons convicted under repressive laws is dealt with summarily as relevant information is readily available in the reports of the Ad Hoc Working Group of Experts and as the most cruel treatment has been inflicted on detainees under recent laws designed to entreat information or confessions or evidence.

18. The report is divided into the following sections: Chapter I outlines the activities of the United Nations over the past years with respect to the torture and maltreatment of political prisoners and detainees. Chapter II contains an analysis of the political background in South Africa and shows the repressive measures that have been taken by the South African régime in the past decade to enforce the implementation of its apartheid policy. Chapter III deals with the repressive legislation that has been enacted by the Government, with special attention to the detention laws, under which political prisoners and detainees are held, and during which maltreatment and torture are systematically administered. Chapter IV deals with the actual operation of the detention laws, under which detainees are held at the mercy of the police, and the techniques of interrogation that are used during detention. Chapter V deals with the treatment of prisoners already convicted of offences under South Africa's repressive legislation. Chapter VI outlines the passive role of the judiciary in maintaining the delicate balance of the rights of the individual against the power of the régime. Chapter VII contains a review of specific cases of maltreatment and torture of prisoners and detainees. Chapter VIII contains the conclusion emerging from this study and establishes the need for decisive international action.

The report also includes two annexes: annex I contains an alphabetical list of prisoners and detainees cited in the report and annex II contains a list of affidavits by former prisoners and detainees; United Nations documents and publications; and other publications.

## II. MALTREATMENT AND TORTURE - A SYSTEMATIC POLICY

19. Maltreatment and torture of opponents of apartheid, in prisons and police cells, has become an essential feature in the implementation of the policy of apartheid in South Africa in the past decade. Thousands of opponents of apartheid - the leaders and participants in the struggle of the oppressed people for freedom and human dignity, as well as whites who have supported and joined this struggle - have been detained and imprisoned for no offence but their participation in the legitimate struggle. They have been subjected to prolonged solitary confinement, threats, abuse and ill-treatment. The Special Branch of the Police has subjected many of them to special cruelty - assaults, electric shocks, "statue torture", deprivation of sleep and sophisticated psychological torture - in order to extract confession or information on the struggle against apartheid. More than a score of detainees have died in prison. 4/

20. The incidents of specially cruel and brutal treatment of the prisoners and detainees, reviewed in chapter III, represent but a fraction of the actual cases. They have occurred in prisons and police cells scattered all over the country. The Government has consistently shielded the officers of the Security Branch and other policemen accused of assaults and torture from punishment or impartial investigation. 5/ The conclusion is inescapable that cruelty against opponents of apartheid is the application of a deliberate and centrally directed policy, and that torture by the Security Police is condoned, if not actually encouraged, by the Government.

21. The South African régime has continued to perpetrate such brutality in flagrant defiance of United Nations resolutions and world opinion. The South African régime hopes to intimidate the oppressed people of the country to acquiesce in apartheid. But in fact, by its policies and actions the Government is only creating a graver crisis in South Africa and beyond.

22. The political prisoners and detainees in South Africa are the participants in a long and arduous struggle for the principles of the United Nations Charter and the Universal Declaration of Human Rights. Leaders like Nelson Mandela, Walter Sisulu and Abram Fischer have won the respect and admiration of Governments and peoples all over the world for their heroism and humanism. They and their fellow-prisoners are, indeed, the genuine leaders and representatives of the great majority of the people of South Africa.

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4/ Nineteen persons held under the general detention laws since 1963 have died in detention. The Government has claimed that eleven of these had committed suicide. Hilda Bernstein, The Terrorism of Torture, p. 54. In addition, at least two persons died during detention under Proclamation R. 400 in the Transkei. Republic of South Africa House of Assembly Debates (Hansard), 11 February 1972, col. 164. All these 21 were non-whites.

5/ The Government has not charged any members of the Security Branch for assaults and torture against detainees, though there has been evidence in numerous cases of assaults, including the death of several detainees. Large numbers of policemen are annually convicted of assaults and other offences against prisoners but the Government has retained many of them in employment.

23. The very barbarity of the measures used against these prisoners, as Mr. Jeremy Thorpe, M.P., leader of the British Liberal Party, said recently in an address at the University of Witwatersrand, is "a measure of the fear and uncertainty of his oppressors". 6/ Unless the United Nations and the international community take energetic and decisive measures to stop these criminal actions of the South African régime, all possibilities of a peaceful solution in South Africa may well be closed and an immense tragedy may be precipitated. Mr. Albie Sachs told the Ad Hoc Working Group of Experts of the Commission of Human Rights that if the Government can get away with torturing individuals now, it may feel safe in massacring whole populations later.

24. An effort is made in this chapter to outline the evolution of this grave situation and to analyse the methods used by the South African régime, in order to facilitate consideration of meaningful international action.

#### A. Commitment to repression

25. The policy of apartheid of the South African Government, involving as it does the perpetuation and consolidation of racial discrimination, the dispossession of the great majority of the people of the country and a flagrant violation of the commitment under the United Nations Charter to promote human rights and fundamental freedoms, has inevitably required resorting to repressive measures against the black people who are striving for freedom and human dignity and a rightful role in the administration of the country. In that sense, as The Times of London remarked in an editorial on 2 November 1970, "South Africa is a state with a commitment to repression".

26. The National Party Government, which came to power in 1948 with the promise of ending the "Black danger" by the imposition of apartheid, recognized from the outset that racism and repression are inseparably linked to one another. The legislative programme of the party included measures for racial discrimination and separation, as well as laws to suppress the struggle of the oppressed people. Along with the Race Classification Act, the Group Areas Act and the Immorality Act, the so-called Suppression of Communism Act was regarded as one of the pillars of apartheid. 7/ This last mentioned Act declared, in effect, that the striving for any "political, industrial, social or economic change" in the country is an offence, defined as the furtherance of the "objects of communism". It empowered the Minister of Justice to impose stringent restrictions on any person whom he considers is promoting the objects of communism. Such orders, however arbitrary, are not subject to review by the courts. The Government then proceeded under this law to silence and restrict hundreds of leaders of the people, some of them communists and many others who were widely known to be non-communists, such as the late Chief Lutuli and Mr. Robert Mangaliso Sebukwe. As Lord Gardener commented: "Whether you are a Communist or not, you are a Communist if the State says so".

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6/ Rand Daily Mail, Johannesburg, 31 May 1972.

7/ All these laws were enacted by 1950, in the first two years of the National Party Government and led to nationwide protests under the leadership of the African National Congress, on 26 June 1950.

27. Characteristic of this régime was the ruthless suppression of the non-violent "Campaign of defiance against unjust laws", launched by the African National Congress and the South African Indian Congress in 1952. A new law - the Criminal Law Amendment Act - was enacted in 1953, to lay down savage penalties for contravention of any law, however minor, "by way of protest". The discretion of the courts was restricted by a provision that, for a second offence, imprisonment or whipping must be imposed.

28. As a South African professor of law was to observe later: "As long as discriminatory laws exist in South Africa, the rule of law will be non-existent here." 8/

#### B. Sharpeville massacre and its aftermath

29. The massacre of peaceful African demonstrators at Sharpeville in 1960 against the humiliating pass laws shocked the world and led to the call by the United Nations Security Council for the abandonment of apartheid. It was hoped that international pressure and the "winds of change in Africa", coupled with the growing resistance of the oppressed people inside the country, would induce the South African régime to follow a new course. But the Verwoerd régime chose to embark, instead, on a massive military and police build-up and even more ruthless repression to meet the grave crisis.

30. It enacted the Unlawful Organizations Act, banned the African National Congress and the Pan-Africanist Congress, and detained thousands of persons under the State of Emergency regulations. 9/ The police broke the nation-wide "stay-at-home" protests by the most brutal attacks against Africans in the location. In the Transkei, while the armed forces moved to suppress a peasant revolt, Proclamation R.400 was promulgated to empower the Government to subject any African to arbitrary banishment or indefinite detention without trial.

31. Political prisoners began to be subjected to special ill-treatment and cruelty. 10/ Even Chief Albert J. Luthuli, the well-known African leader, was twice hit by a prison warder in 1960. He was knocked down and left lying on the floor for a long time before he was given any medical attention. Over sixty-years-old at the time and with high blood pressure, he spent several weeks in a gaol hospital. (A/AC.115/L.94; E/CN.4/950, para. 136.)

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8/ Mr. Donald Molteno, Q.C., Professor of Public Law at the University of Cape Town, at a public meeting on 13 August 1967. Cape Times, 14 August 1967.

9/ Nearly 20,000 persons were detained under the regulation in 1960, including over 2,000 politically active persons.

10/ While African prisoners have always been subjected to assaults and ill-treatment by the police and prison warders, special cruelty against political prisoners appears to be a new development since 1960.

/...

32. These repressive measures obliged the freedom movements to organize underground groups and abandon their long tradition of strict adherence to exclusively non-violent means. The declaration of the Republic on 31 May 1961 after a referendum limited to white voters, and the suppression of protests by a massive show of force, was a turning-point in the confrontation between the oppressed majority and the racist régime in the country. The period since 1961 has been characterized by a constant escalation of resistance and repression.

C. Passage of the "Sabotage Act" 11/

33. The appointment of Mr. B. J. Vorster as Minister of Justice in August 1961 was to become a signal for the speedy elimination of the remaining vestiges of the rule of law, and the institution of a reign of terror.

34. Already, since December 1961, the Umkonto We Sizwe ("Spear of the Nation"), the military wing of the African National Congress, had organized scores of acts of sabotage in many cities while taking all precautions to avoid a loss of life. The underground Pogo, associated with the Pan-Africanist Congress, recruited thousands of adherents in African locations and began a series of attacks in 1962 against police stations, whites and African chiefs.

35. The Government countered by enacting the Sabotage Act of 1962 which, though ostensibly concerned with the suppression of sabotage, represented an end to the rule of law in South Africa and the beginning of a virtually permanent state of emergency.

36. It defined sabotage so widely as to cover the commission or the intent to commit damage to any property with a political aim. It provided for summary trials without jury, with the possibility of the death penalty even for juveniles. Restricting the discretion of the courts, it laid down a minimum compulsory penalty of five years' imprisonment. The burden of proof that the offence was not committed with a political intent was placed on the accused rather than the police.

37. The International Commission of Jurists was obliged to declare that this law "reduces the liberty of the citizen to a degree not surpassed by the most extreme dictatorship". "This measure", it added, "is a culmination of a determined and ruthless attempt to enforce the doctrine of apartheid and is not worthy of a civilized jurisprudence." 12/

38. Soon afterwards, in November 1962, disturbances took place in the town of Paarl, when African workers demonstrated against oppressive measures and marched toward the police station. Several persons were killed in the ensuing incidents. The Government appointed a one-man commission of inquiry, consisting of Mr. Justice J.H. Snyman. After extensive hearings, he reported the existence of

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11/ Section 21 of the General Law Amendment Act, No. 76 of 1962.

12/ International Commission of Jurists, Press Release, Geneva, 21 June 1962.

genuine grievances, as well as the emergence of the Pogo as a major threat to law and order. He recommended drastic measures to deal with the Pogo, but warned:

"There must be a change in our attitude to the Bantu, and, unless there is a change, this country is doomed...

"We must not only change our attitude but we must also find a policy that is acceptable to the Black man or find a way to make our policies acceptable to him." 13/

He went on to say that the attitudes which had been built up over 300 years must be broken down in less than 300 days.

#### D. More repressive measures

39. Unwilling to consult with the genuine leaders of the African people, the Government resorted to massive repression.

40. Prime Minister Verwoerd declared that in combatting subversive activities and communism, he would not hesitate to "put the safety of the State and of its citizens above mere technicalities" or ordinary court procedure. The Government could not sit back, he said, because it did not have enough evidence to deal with the violent activities of the Pogo in a normal way through the courts. 14/

41. In May 1963, the Government enacted the so-called 90-day law, 15/ which provided for the detention, incommunicado, of any person under special regulations. The International Commission of Jurists declared of this and other provisions of the Act:

"A police state could hardly go further... Justice is blinded and maimed despite the efforts of the Bench and the Bar to save such remnants as still remain in that unfortunate country." 16/

42. The Government encouraged a state of panic in the white community. Mass arrests and third-degree methods against the detainees became the normal practice of the Security Branch, the political section of the Police Force whose strength had been increased sixfold since 1960. It was enabled to follow the techniques of the Nazi Gestapo with impunity.

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13/ Southern Africa (London) 19 July 1963.

14/ Republic of South Africa, House of Assembly Debates (Hansard), 25 March 1963, col. 3434.

15/ Section 17 of the General Law Amendment Act, No. 37 of 1963.

16/ International Commission of Jurists, Press Release, Geneva, 15 May 1963.

43. Nearly 3,000 Africans were arrested on suspicion of associating with Pogo. <sup>17/</sup> Several hundred were detained on suspicion of continuing the activities of the African National Congress or involvement in the acts of sabotage by the Umkonto We Sizwe.

44. A series of mass trials was held under the Sabotage Act and earlier legislation. The courts, implementing the spirit and the letter of the draconian legislation and themselves under the influence of the state of white opinion, imposed extremely severe sentences on those convicted, even juveniles. Even after conviction, the victims were subjected to deliberate cruelty in prisons. Assaults and torture during interrogation in detention in order to extract confessions, the court proceedings which often assumed the nature of inquisitions, the cruelty in prisons after conviction, and banishment and restriction even after release all became links in a single chain of vengeful persecution of opponents of apartheid in the hope of suppressing all resistance.

45. Trial by a court became in political cases a privilege rather than a right. The Government made sure that there could be no repetition of the Treason Trial of 1956-1961 when 156 leaders of the people charged with treason were acquitted by the court. Now, the accused were required to prove their innocence under laws which made defence very difficult. The Security Branch secured uncontrolled powers of interrogation of suspected offenders as well as witnesses. Unless the accused were able to obtain adequate legal defence at prohibitive cost, and the trial attracted public attention, it became virtually impossible to refute the parade of State witnesses. Even if the courts were to acquit the accused, the latter could be re-detained and, if necessary, retried. The trials were necessary perhaps mainly to silence white opposition and to deceive world opinion.

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<sup>17/</sup> Dr. Oscar Wollheim, chairman of the Civil Rights League, wrote in 1969:

"About six years ago, an estimated 3,000 people were rounded up in the Cape Peninsular, and the subsequent interrogation and investigation took up to eight months to complete...

"Eventually about 500 people appeared on charges under various acts, and the trial lasted a long time...

"Finally when judgement was given, fewer than 200 of the accused were found guilty.

"The point which arises here is that 3,000 men with their wives and children had to be subjected to considerable suffering so that eventually fewer than 200 men could be convicted." Sunday Times, Johannesburg, 5 October 1969.

46. Thus began in 1962 a decade of inhumanity in which over a score of detainees have died during interrogation and thousands have been subjected to physical and mental torture.

47. The Minister of Justice, Mr. B. J. Vorster, said in January 1964 that the 90-day law had helped the Government in 1963 to meet the most serious threat that had ever confronted it. <sup>18/</sup> But resistance persisted despite these measures, the Security Police have been granted more and more powers under later laws such as the Criminal Law Amendment Act of 1965 and the Terrorism Act of 1967.

48. In addition, the Security Branch of the Police was greatly expanded. Its strength was trebled between 1963 and 1966. The Star, Johannesburg, reported on 17 June 1964:

"Within 18 months of taking over command of the Security Branch, Lt. Col. Hendrik van den Bergh has been promoted to brigadier - an unprecedented step.

"Other promotions have raised the status of the Security Branch to the point where - particularly in the larger centres - it has almost as many high-ranking officers as the C.I.D. (Criminal Investigation Division).

"The branch has also been expanded unobtrusively since Brigadier van den Bergh took over.

"Now the stage has been reached where the Security Branch takes over exclusively from the C.I.D. on security investigation...

"Since the reorganization of the Security Branch last year, no security officer has been allowed to make a statement to the Press.

"Occasionally the Press has been referred not to Security Headquarters in Pretoria, but to the Minister of Justice - an indication that the branch is directly responsible to the Minister."

49. While a cloak of legality was maintained and the courts were allowed to continue some of the judicial formalities, the arbitrary powers of the Government and the Security Police and the restrictions on the power of the Courts, virtually ended the substance of legality and judicial safeguards, and thereby deprived the opponents of apartheid of any protection from intimidation and terror. The New York Times referred on 23 February 1970 to South Africa's "appalling record for 'legal' cruelty and hypocrisy" and the "bestial methods that have become a hallmark of South African 'justice'".

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<sup>18/</sup> Republic of South Africa, House of Assembly Debates (Hansard), 22 January 1964, cols. 101-105. Later, as Prime Minister, Mr. Vorster said in 1970:

"If there ever was a time... when South Africa was faced with the most serious internal threat with which it has ever been faced, then it was in the years 1960 to 1964... Those were the years when if we had not stopped it in time, sabotage could have brought us to our knees in South Africa."  
Ibid., 19 February 1970, col. 1452.



### III. NETWORK OF REPRESSIVE LEGISLATION

50. As noted above, the National Party Government has enacted a mass of repressive legislation providing for the restriction, detention, imprisonment and execution of persons struggling against apartheid and for freedom. As these laws are reviewed in a number of United Nations documents and publications, 19/ only a brief reference is made here to some of the main provisions.

51. For the purposes of this report, these provisions may be divided into three categories.

#### A. Banning and banishment orders

52. In the first category are legal provisions authorizing the State President or the Minister of Justice or the Minister of Bantu Administration to administratively restrict or ban or banish organizations or individuals, without recourse. 20/ The victims of these arbitrary orders are, however, liable to imprisonment or fine for contravention of the provisions of the orders.

53. Though the laws lay down certain criteria for such orders, the power of the Government is, in practice, unlimited, as there can be no appeal to courts. For instance, the Minister can and does ban persons on the grounds that they further the objectives of communism, even if they are not adherents of communist ideology and are not engaged in any political activity. Several churchmen have been banned under this law and an African leader was banned soon after his death in detention.

54. Hundreds of persons have been sentenced to long terms of imprisonment on the charge of belonging to or furthering the aims of the African National Congress or the Pan-Africanist Congress. Scores have been gaoled or fined for contravening stringent orders prohibiting them from "gatherings" of even three persons or requiring them to report to police stations.

55. The court proceedings in these cases were a mockery of due process of law as the courts were not authorized to question the Minister's arbitrary orders and could only decide whether the orders had in fact been contravened.

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19/ See, for instance: "Repressive Legislation of the Republic of South Africa" (ST/PSCA/SER.A/7), "Legal Provisions of the Republic of South Africa governing prisoners, detainees and persons in police custody" (E/CN.4/AC.22/6 and Add. 1).

20/ The Government can, for instance, outlaw any organization or banish any African to any remote area. It can issue banning orders prohibiting any person from attending a gathering, and restricting him to any area, even his flat; persons so restricted cannot be quoted in South Africa and are effectively silenced.

B. Laws curtailing political protest

56. In the second category are those provisions which lay down heavy sentences for normal political activities undertaken in the struggle for freedom. These provisions in effect make it a grave offence to commit acts, even if peaceful, which are aimed at realizing the principles enumerated in the United Nations Charter and the Universal Declaration of Human Rights. For instance, under the Criminal Law Amendment Act of 1953, it is a serious offence to contravene any law "with a political intent". An African convicted of occupying a park bench reserved for whites or of failing to carry a pass in an urban area may normally be liable to a few days' imprisonment or a fine under the traditional racist laws. But these acts, when committed because of a campaign of protest against racial segregation or discrimination, would make him liable, under the Criminal Law Amendment Act of 1953, to imprisonment for several years or whipping or both.

57. The most notorious acts in this category are the Sabotage Act of 1962 and the Terrorism Act of 1967 which provide for a minimum penalty of five years' imprisonment and a maximum penalty of death. Under these laws, the definition of the offences is so broad that normal trade union activities or minor damage to property are made grave offences if a political intent is presumed to be involved. Further, the accused, rather than the prosecution, is required to prove that the acts had not been committed with a political intent.

58. The Terrorism Act of 1967 was made retroactive to acts committed in 1962. Thus one could be made liable to the death penalty for committing an act that was fully lawful at the time it was committed. Further, under the terms of the Act, one does not have to be suspected of engaging in terrorist activities to be detained or charged. As Professor John Dugard noted:

"If a student protests against a particular law -- such as the law which closed the former open universities -- he is committing an act.

"If it is thought that this act might embarrass or endanger the State, (one of the forbidden objects of the Act), that student can find himself accused of terrorism." 21/

C. Detention laws

59. In the third category are those laws enacted since 1960 which authorize the Minister or the Commissioner of Police to detain any persons suspected of a political offence or even of knowledge of an offence, and hold him indefinitely incommunicado -- that is, without access to family, counsel or court. These detention laws are dealt with in some detail as the most brutal cases of torture have occurred during detention under these laws.

1. Proclamation R.400

60. Proclamation R.400, made applicable to the Transkei, authorized a Bantu Commissioner, a commissioned or non-commissioned officer of the South African Defence Force or a Peace Officer to arrest, with or without warrant, "any person who has committed an offence... or is suspected of having committed an offence". The person may be detained until the Native Commissioner or police officer is satisfied that he has answered all questions relating to the offence or intended offence. The detainee may not consult with a legal adviser except by consent of the Minister of Bantu Administration and Development.

61. Over a thousand Africans have been detained under this Act.

2. 90-day law

62. Section 17 of the General Law Amendment Act, No. 37, 1963, known as the 90-day law, authorizes any commissioned police officer to arrest without warrant "any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit" a political offence, or "who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence," and detain such person for interrogation at any place he may think fit, "until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation". This clause provided that "no such person shall be so detained for more than 90 days on any particular occasion when he is so arrested," but it enabled the Government in fact to hold detainees indefinitely by redetaining them for successive 90-day periods under the clause. 22/

63. The clause provided that no person shall, except with the consent of the Minister of Justice or a commissioned officer, have access to the detainee, and "no court shall have jurisdiction to order the release from custody of any person so detained". In order to obtain the support of the opposition United Party, the Government made a "concession" that the detainee would be visited once a week by the local magistrate.

64. Over a thousand persons were subjected to detention under this law and allegations of torture were made in numerous cases. The operation of this clause was suspended in January 1965 after widespread protests.

65. But four months later, the Government enacted another law which was, in some respects, even more obnoxious.

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22/ A number of persons were, in fact, redetained after 90 days. Mr. Alfred Nzo, a leader of the African National Congress, was detained for 247 days before being released without any charges. Mr. Tommy Ntoyakhe Charlieman, a trade union leader of Uitenhage, was detained for 19 months, from 14 May 1963 to 9 December 1964.

3. 180-day law

66. Section 215 bis of the Criminal Procedure Act 23/ - known as the 180-day law -- authorizes the Attorney-General to detain any person whenever in his opinion "there is any danger of tampering with or intimidation of any person likely to give material evidence for the State in any criminal proceedings" in respect of various offences, including political offences, "or that any such person may abscond, or whenever he deems it to be in the interest of such person or of the administration of justice". The person would be detained in accordance with regulations made by the Minister of Justice until the criminal proceedings concerned are concluded or for a period of six months after his arrest.

67. No person, other than an officer in the service of the State acting in the performance of his official duties, would have access to the detainee except with the consent of and subject to the conditions determined by the Attorney-General or an officer in the service of the State delegated by him. The only exception was the provision for a weekly visit by the local magistrate.

68. Courts were specifically excluded from having jurisdiction to order the release from custody of any detainee or to pronounce upon the validity of any regulation made by the Minister.

69. Though ostensibly aimed at protecting witnesses or preventing them from absconding, this clause was in fact used by the Police for entirely different purposes. A number of detainees again were subjected to ill-treatment and torture. Some were charged on the basis of evidence extracted and many were released without even being called as witnesses.

70. As Mrs. Caroline de Crespigny, one of the detainees held under this clause wrote in the New Statesman, London, on 8 July 1966:

"First, it has given the security police unchecked opportunity to obtain information through brutal and illegal techniques of interrogation. Secondly, it has been used to coerce detainees into giving state evidence by means of psychological pressure exerted through solitary confinement and threats of prolonged imprisonment. (In 1964 the Criminal Procedure Act was amended to extend the penalty for refusing to give evidence from eight days to one year...) Thirdly, information obtained by interrogation has been used to lay charges against detainees who are never brought to court as witnesses at all."

4. 14-day law

71. The General Law Amendment Act, No. 62, 1966, provides for the detention of suspected "terrorists and certain other persons for interrogation". Section 22

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23/ Act. No. 56 of 1955, as amended by the Criminal Procedure Amendment Act, No. 96 of 1965.

of this Act authorized any commissioned police officer to detain a suspect without warrant for 14 days and for such further periods as a judge of the Supreme Court may, on an application in writing signed by the Commissioner, from time to time determine. The detention may continue unless the application is rejected.

72. This clause was apparently meant for detention of persons in Namibia where the 90-day and 180-day clauses were not applicable. But it has been little used as the Terrorism Act was enacted the next year.

#### 5. Indefinite detention under the Terrorism Act

73. the Terrorism Act, No. 83, 1967 provides for indefinite detention. Section 6 of this Act provides that any commissioned police officer of or above the rank of Lieutenant-Colonel may, "if he has reason to believe that any person who happens to be at any place in the Republic is a terrorist or is withholding from the South African Police any information relating to terrorists or to offences under this Act, arrest such person, or cause him to be arrested, without warrant and detain or cause such person to be detained for interrogation at such place in the Republic and subject to such conditions as the Commissioner may, subject to the directions of the Minister, from time to time determine, until the Commissioner orders his release when satisfied that he has satisfactorily replied to all questions at the said interrogation or that no useful purpose will be served by his further detention", or until his release is ordered by the Minister.

74. It provides that no court of law may pronounce upon the validity of any action taken under this section, or order the release of any detainee.

75. No person, other than the Minister or an officer in the service of the State acting in the performance of his official duties, has access to any detainee, or is entitled to any official information relating to or obtained from any detainee. "If circumstances so permit," a detainee would be visited in private by a magistrate at least once a fortnight.

76. When the implications of the Act became clear, there was widespread alarm, but the Government ignored the protests.

77. Four members of the law faculty of the University of Witwatersrand said in a statement:

"It is meaningless to speak of the rule of law as being part of the fabric of our legal system as long as Section 6 of the Terrorism Act of 1967 remains on the South African Statute Book.

"The rule of law primarily means that no one shall be deprived of his freedom without access to a court of law...

"By this Act, the Security Police have emerged as higher authorities than the courts of law in our legal system." 24/

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24/ Sunday Times, Johannesburg, 10 May 1970.

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78. Dr. Barend van Niekerk, professor of law, declared that this "vicious law" represented "the institutionalization of cruelty". Throwing overboard every principle which is basic to a civilized legal system, he said, the law allows a police officer to impose life imprisonment without recourse to courts even if he was assaulted, abused and degraded. It represented "the antipathy of justice, in fact the abdication of justice". 25/

79. Mr. Justice Blackwell, a former South African judge, said of the Terrorism Act:

"... to be enabled by law to keep persons locked up indefinitely without even accusation, let alone trial, in a time of peace, is barbarous." 26/

80. Helen Suzman said in a speech at the University of Witwatersrand on 4 November 1971:

"The Terrorism Act is a rotten Act and it should never have been put on the Statute Book. It is not an Act against terrorists - it is an Act in terrorism - an Act to intimidate." 27/

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25/ Rand Daily Mail, Johannesburg, 27 May 1970.

26/ Sunday Times, Johannesburg, 31 May 1970.

27/ Rand Daily Mail, Johannesburg, 5 November 1971.

#### IV. OPERATION OF DETENTION LAWS

##### A. Detainees at mercy of police

81. A common feature of all these laws is the authority granted for the detention of persons at the mercy of the police. The detainees have no access to family, counsel or courts. Under the 90-day law and the 180-day law, they may be held indefinitely for they have been redetained for successive 90- and 180-day periods. Under Proclamation R.400 and the Terrorism Act, there is no limitation on the periods of detention.

82. Persons have been known to have been held in detention under these laws for up to two years. The Government has refused to disclose even the names or number of persons detained under the Terrorism Act. Those detained may not even be suspected of any offences but only of knowledge of actual or intended offences. The release of persons who are not accused of any offences - and such have been the case with almost half of the number of detainees - depends entirely on the police who permit it when they are satisfied that the detainee has answered all questions fully.

83. The only apparent safeguard is the provision in the 90-day law and the 180-day law that the detainee would be visited by a magistrate once a week, and in the Terrorism Act that he would be visited once a fortnight "if circumstances so permit". Proclamation R.400 of 1960 contains no provision for such visits.

84. In practice, there have not been regular visits by the magistrates <sup>28/</sup> and the provision has provided little protection to the detainees. Detainees have been reluctant to complain to magistrates about ill-treatment as such complaints might only lead to reprisals by the police. Evidence from former detainees indicates that magistrates admitted that they had no power and could only pass on complaints to the Special Branch (E/CN.4/950, paras. 803-805). Only in rare cases have intercessions by magistrates ameliorated the conditions of detention, and this only after the intensive interrogation had concluded.

85. These laws providing for indefinite detention at the mercy of the police have been so formulated as to enable the Security Branch to extract confessions or information by duress and to intimidate and force persons to become State witnesses. Protected by legislation from any judicial interference in the treatment of detainees, and by the Government from the demands for public investigations, the Security Police have been placed in a position above the law itself. Thus they are enabled and encouraged to resort to any means whatsoever. Therefore, assaults

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<sup>28/</sup> A Prisons Department spokesman was reported to have said in Pretoria in October 1966 that magistrates were no longer required to visit prisons since the separation of the Department of Prisons from the Department of Justice though they were free to do so.

and psychological and physical torture have become the primary mode of operation, not only against those suspected of committing offences, but also against those only suspected of possessing information of such offences.

86. As the Guardian commented on 13 May 1970:

"All the suppressed violence of a racially segregated society is likely to emerge when white gaolers have total physical control over black prisoners, detained incommunicado and with no term set for their release."

87. And even within the arbitrary and repressive laws of South Africa, most of those who were subjected to violence while in detention were not found to be guilty of any crime. Many of them were not even charged with any offence.

#### B. Methods of the inquisitors

88. The treatment of persons detained under the detention laws is governed by special regulations promulgated by the Minister of Justice. They are denied even the minimum protection of the regulations under which prisoners convicted of common law crimes are normally kept. The conditions of imprisonment are laid down by the Security Branch, and not by the prison authorities.

89. What may be considered unlawful treatment for condemned murderers may be lawful in the case of these detainees. For example, almost all the detainees have been subjected to prolonged periods of solitary confinement, most of them far beyond the 30 days laid down by the Geneva Convention relative to the Treatment of Prisoners of War as the maximum for prisoners of war in exceptional cases. Detainees are often denied even one hour of exercise a day or access to open air. They are not allowed to have reading matter (except perhaps the Bible) or writing instruments to relieve what the courts called "the tedium of their confinement". Such solitary confinement is itself, according to experts, cruel and inhuman treatment.

90. In addition, available evidence indicates that the Security Police have frequently resorted not only to brutal assaults but to electric shock torture, statue torture, refused to permit sleep for long periods and various other and more sophisticated methods of torture.

91. The growing impunity of the Special Branch is reflected in the fact that while only Africans and other non-whites were subjected to physical assaults in 1963, white men have also been assaulted since July 1964, when Mr. Alan Brooks, Mr. John Harris and Mr. Hugh Lewin were assaulted. In addition, many others were subjected to statue torture. There remained still some restraint with regard to white women: the assault on Miss Stephanie Kemp and the prolonged interrogation of Miss Ann Nicholson in 1964 may have been isolated cases, as suggested to the Ad Hoc Working Group; 29/ but the many cases of statute torture in 1965-1966

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29/ Communication of Miss Sylvia Neame to the Ad Hoc Working Group of Experts, E/CN.4/AC.22/19, annex II.



could only be a deliberate policy. African women have been subjected to deliberate brutality, especially in the case of Mrs. Winnie Mandela and others in 1970.

92. Allegations of similar torture have been made from so many centres and have involved so many local officers - in addition to certain interrogators who travel from Pretoria to other areas - that there is reason to believe that Security Branch officers have been trained in these methods. Moreover, it appears from the evidence that they have been experimenting with various refinements.

#### 1. Solitary confinement

93. Prolonged solitary confinement is recognized by psychologists as a cruel and inhuman punishment, which can cause permanent damage to the individual. Several persons who have undergone solitary confinement have had to be transferred to mental hospitals, or have required psychiatric treatment. 30/ But the South African Government has refused to restrain the Security Police who appear to regard the barbarism of excessive solitary confinement as "legal torture".

94. In 1963, when the hundreds of people detained under the 90-day law were subjected to solitary confinement, Professor Kurt Danziger, Head of the Department of Psychology of the University of Cape Town, wrote:

"It appears that persons under detention, who have not been charged with, let alone convicted of, any offence may well envy the rights and privileges of awaiting trial or even convicted prisoners." 31/

95. Apart from the psychological effects of prolonged detention, he said, there was the question of whether the conditions of detention were not such as to defeat the supposed object of detention, which was presumably the gathering of truthful information about certain matters of interest to the State by the Police. He said that, in addition to the obvious danger that a person facing indefinite solitary incarceration might become so desperate as to invent stories which he feels might gain him a reprieve, there was the more subtle and more serious possibility that his mental functions might, in the course of time, become impaired to the point where his ability to distinguish between reality and fiction begins to become defective. Referring to numerous scientific studies of the effects of solitary confinement, including his own experiments since 1957, Professor Danziger wrote:

"The ability to concentrate is frequently impaired and in some cases the power of logical thought suffers. Disturbances in the individual's sense of reality are particularly widespread and take many forms. He commonly becomes

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30/ The Minister of Justice, Mr. B. J. Vorster, told Parliament in January 1964 that five detainees under the 90-day law had been committed to mental institutions. Republic of South Africa, House of Assembly Debates (Hansard), 21 January 1964, col. 22.

31/ "How Solitary Confinement Affects Prisoners" in Cape Times, 12 November 1963.

more suggestible.... It also happens that individual subjects become unable to distinguish which of their thoughts and images correspond to reality and which do not. Some of them may even develop delusions and hallucinations....

"Between the extremes of the rare individual who is quite unaffected and the equally rare individual who goes to pieces completely, a multitude of effects can be observed. In any individual case it may be extremely difficult to assess the precise extent of psychological impairment. Under these circumstances the reliability of any information imparted as a result of prolonged solitary imprisonment must always be suspect.

"There are, of course, many unsolved questions in this field.... But we do know enough about some of the psychological effects of isolation to be able to point to the exceptional dangers that arise when this technique becomes a regular and legalized part of the administration of justice.

"Certainly, in the eyes of the civilized world such techniques are now firmly linked with the image of the police state." 32/

96. Giving evidence in the trial of Mr. Neville Alexander and others in Cape Town on 10 February 1964, Professor Danziger said that the effects of isolation would be greater in prison than under laboratory situations where the subjects were free to leave. "I would thus say that a statement obtained from people under these conditions would be tantamount to one obtained under duress." 33/

97. Giving evidence at the same trial, Dr. Jane Elizabeth Bain of the Department of Psychiatry, Groote Schuur Hospital, said that she had met five persons who had been detained under the 90-day law. One had been under her care for about two months. All had had difficulty in recounting events and experiences in gaol. Three had psychiatric treatment after their release. 34/

98. Professor Albino of the University of Natal, quoting authoritative sources, endorsed Professor Danziger's findings: He wrote:

"Ninety-day detention... can thus affect the reliability of evidence in several ways: (i) It can, through its punitive effects, induce a person to give evidence which he knows to be false. (ii) It can, through its effects, result in a person telling a story which in fact is false, but which he believes to be true." 35/

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32/ Ibid.

33/ Cape Times, 11 February 1964.

34/ Ibid., 8 February 1964.

35/ Quoted by Suzanne Gronje in Witness in the Dark, p. 19.

99. The practice of solitary confinement under the 90-day law created such widespread concern that, on 20 December 1963, 60 medical specialists, psychiatrists, and psychologists sent an appeal to the Minister of Justice for the abolition of solitary confinement. The appeal described detention in solitary confinement as inhuman and unjustifiable and declared:

"The psychiatric study of political prisoners subjected to periods of solitary confinement in various countries indicates that this experience is associated with intense distress and impairment of certain mental functions. Numerous experimental studies support this evidence.

"We submit that the exposure of individuals to acute suffering and mental impairment for indefinite periods of time is no less abhorrent than physical torture. Whatever view may be held about the need for preventive detention in certain circles, no cause can justify the injury, whether physical or mental, of persons who have not been found guilty of an offence by the Courts.

"We feel, therefore, that the present system of detention in solitary confinement is inhuman and unjustifiable and we appeal for its abolition." 36/

100. The Minister of Justice, however, described statements that 90-day solitary confinement amounted to physical torture as "all nonsense". 37/

101. Prime Minister Verwoerd also rejected the statement of the medical experts, and stated:

"They are simply a group of people who are willing to allow themselves to be used to achieve a political object.... I say it is a political act.... Here is an attempt to attack the Government. It is therefore not a purely professional diagnosis which we shall allow to influence our judgement." 38/

102. Strangely, the claims of the Government had been belied by even a Security Branch officer. At the inquest on the death of Mr. Looksmart Solwandle Ngudle on 27 November 1963, Major Fred van Niekerk of the Pretoria Criminal Investigation Department had admitted the serious effects of solitary confinement. He said that after one to three days in solitary confinement, prisoners showed signs of bewilderment, discouragement and attempts to fraternize. After three to ten days they showed signs of gradual compliance and between ten days and three weeks a tendency to automatic behaviour. Later, he said, detainees experienced hallucinations and had difficulty in distinguishing between truth and fiction. After months of detention, they were depressed, frequently to the point of suicide. 39/

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36/ The Star, weekly airmail edition, Johannesburg, 21 December 1963.

37/ Ibid., 4 January 1964.

38/ Republic of South Africa, House of Assembly Debates (Hansard), 21 January 1964, col. 89.

39/ Cape Times, 28 November 1963.

103. The experience of a number of former detainees corroborates the statements of psychologists. A few cases are illustrative.

104. Miss Sylvia Neame, 23, a student, was detained under the 90-day law in October 1963. She told the court during a subsequent trial on 1 March 1965:

"In October 1963 I was myself detained under the 90-day law and suffered the most gruelling experience in my life.... I was held incommunicado with only the Bible to read. Without warning after 45 days I was released. Nobody who has not gone through it can realize what a ghastly experience 90 days is. I was held in a cell 6 paces by 4 paces with an hour out a day.... Except for weekly interrogations, which lasted from 1 to 2 hours, I had no other contact whatever during my period in detention. Food was brought by wardresses who refused to converse at all. During these periods of prolonged solitude, I was completely battered emotionally. I developed an intense feeling of being cut off. I no longer belonged. I couldn't recognize any continuity between my past, my present and my future. I felt I didn't exist. Repeatedly I planned suicide. I lost 24 pounds in 6 weeks. When I was suddenly released 45 days later into a strange world with which I had severed all connexion, the reaction was even more severe. I could not adjust myself to a strange environment of people and places and faces. I developed complete panic.

"I could not conduct ordinary relationships with people. I mistrusted everybody - recoiled from all human contact. I looked upon everybody as an enemy. I suffered bouts of amnesia, when I suddenly could not find my car or my way back to my house. Eventually I consulted Dr. Perk, a psychiatrist, who diagnosed my condition as an acute anxiety state. I obtained psychiatric treatment once a week for six months and slowly began to re-orientate myself. I was still undergoing medical treatment when I was again detained on 3 July last year."

105. Mr. Sidney Kitching said on 13 May 1964 that after the first week in solitary confinement he had felt "like hanging myself". 40/

106. Mr. John Sholto Cross, 27, a student, was detained under the 90-day law on 10 July 1964 and released on 9 December, after 154 days in gaol, with no charge except that of attempting to escape from the Pretoria North station during detention. He told the court that he had been kept in solitary confinement in a 10 foot by 10 foot cell.

"My moods fluctuated. I was depressed. I developed a rash and had headaches. I was not able to think rationally and had nightmares. I felt a desire to escape." 41/

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40/ Cape Times, 14 May 1964.

41/ He was sentenced to 60 days' imprisonment, conditionally suspended for three years. The Star, Johannesburg, 18 December 1964.

107. Mrs. Norma Kitson, who had been detained under the 90-day law for 28 days in 1964, told the press in January 1965 that it was "28 days in hell". She had been held in solitary confinement, with no news of her husband who was in detention or of her two children. She had fainted every day while in gaol and had lost 20 pounds in weight. She had been released after examination by two psychiatrists and spent ten days in a mental home. She could not adjust to normal life for several weeks. 42/

108. Mr. Paulus Matshaba was admitted to a mental hospital for several days in 1970 after release from prolonged detention. A psychiatrist reported:

"Mr. Matshaba at present seems to me to be in need of help.... He feels depersonalized. He lacks assurance and confidence. He has to be helped to rediscover himself.

"He responded to me as if I were interrogating him - remaining quiet, defensive and expressionless in demeanour. Withdrawal and passivity seem to be important defences against the undoubted destructive effects of solitary confinement and Mr. Matshaba still shows these features.

"Perhaps psychotherapy and renewed contact with the world will mitigate some of the ravaging effects on the personality of solitary confinement." 43/

## 2. Electric shock torture

109. Numerous persons detained under the 90-day law in 1963 alleged that they had been subjected to electric shock torture. The allegations, made by detainees in various cities, especially Johannesburg, Pretoria and Cape Town, have almost been identical. They were handcuffed, told to sit in a squatting position and a stick was pushed between their knees and elbows. A plastic bag was pushed over their heads covering their eyes. Clips were then put over their thumbs, toes, temples or genitals, and electric shocks were administered. Many of the victims fainted as a result.

110. The use of electric shocks appears to have been widespread even before the 90-day law. Police are believed to have resorted to this method as it leaves no marks for the medically untrained eye to see.

111. On 13 March 1964, a police officer, accused of murdering an African prisoner and assaulting another at the Bultfontein police station, testified at his trial: "I don't think there is a police station in the country that does not use violence during questioning." Another accused police officer stated that the purpose of trussing a prisoner so that he was helpless, blindfolding him and giving him

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42/ She said she had been detained "merely because I created too much fuss about the detention of my husband, demonstrated and even wrote to the United Nations for his release". The Star, Johannesburg, 11 January 1965.

43/ Rand Daily Mail, Johannesburg, 20 June 1970.

electric shocks was that he might believe he was being attacked by a Tikoloshe, an evil spirit. He stated that tying a plastic bag around a prisoner's head "is common in investigations". He added that the methods used at the Bultfontein police station were all used elsewhere. 44/

112. Prime Minister Verwoerd rejected the demand of the United Party for a judicial investigation of the matter, on the grounds that it would be an expression of lack of confidence in the senior police officers. He claimed that a departmental investigation by police officers indicated that only a few individual policemen had the machines.

113. After the publicity following the death in detention of Mr. Ngudle in 1963, and the publicity of the Bultfontein case, the Security Branch appears to have avoided this method for some time and resorted to "statue torture".

114. However, the use of electric torture was resumed at a later date. The Namibians detained in 1966-1967 submitted affidavits to the courts in 1967 alleging such torture. Mr. Dasingee Francis also charged in court that he had been subjected to shocks in 1968. The inquest on the death of Mr. James Lenkoe in 1969 produced evidence of electric shock torture, as it became possible to have the body examined by a world-renowned specialist.

115. In some of these cases, the Special Branch may have felt secure as they had custody of prisoners for long periods. The Namibians and Mr. Francis were in fact in detention for over a year without any publicity. The Security Branch had perhaps also been emboldened by the fact that it had become increasingly immune to public scrutiny.

### 3. Statue torture

116. From 1964, the police have resorted extensively to statue torture. Detainees are forced to stand for inordinately long periods of time of up to 60 or more hours, often within a narrow square. Several elderly and sick persons have been subjected to this treatment. While electric torture has been used only against Africans and Indians, white men and women have also been subjected to statue torture since 1964.

117. One police official was reported to have said that no rules had been laid down as to the time, place or duration of interrogation. A two-foot square chalked on the floor was apparently regarded as a "place". 45/ The statue torture is accompanied by threats and even acts of violence. While prolonged treatment is itself painful and leads to swollen ankles, fainting, and the like, the deprivation of sleep has very serious effects, as noted in the Sunday Times of London:

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44/ The Observer, London, 15 March 1964.

45/ A leaflet issued by the Anti-Apartheid Movement, London, in 1964.

"General research into sleep deprivation has shown that periods of rest and the process of dreaming are an absolute necessity. Prolonged sleep deprivation can lead to acute depression, delusions and even, in extreme cases, to death. As a man moves towards the hallucinatory phase his physique, will-power and reasoning ability deteriorate. A victim becomes unable to differentiate between internal and external reality." 46/

118. A further refinement of this type of torture was that reported in the case of Mr. Mkhali and others in 1965 and the case of Mrs. Mandela and others in 1969 when the accused and witnesses alleged that they had been forced to stand on bricks for long hours. In the former case in Cape Town, while the detainees were standing on bricks, a paraffin tin was placed on their heads and beaten.

#### 4. Psychological torture

119. Various types of psychological torture have been alleged in several cases. These have included alternative interrogation by teams of seemingly "hostile" and "friendly" interrogators; vile abuse and insult; threats to detain wives and other members of the family, and so on. Even more sophisticated methods of psychological torture were used in the case of Miss Gillian Jewell who required prolonged psychiatric treatment after release. 47/

#### 5. Gestapo methods

120. Again and again, a parallel has been drawn between torture of political prisoners in South Africa and the practice of the Nazi Gestapo in Germany. The Ad Hoc Working Group of Experts reported to the Commission on Human Rights in 1967:

"The procedures and methods utilized by the Special Branch and police for for interrogation of detainees and arrested persons are very similar to, if not identical with, those reported to have been used by the Gestapo under Hitler's Nazi régime in Germany." (E/CN.4/950, para. 1143.)

121. In this connexion, it may be noted that the torture of detainees became frequent in South Africa after Mr. B. J. Vorster was appointed Minister of Justice in 1962. During the Second World War, Mr. Vorster had been a General in the Ossewa Brandwag, a paramilitary organization which engaged in acts of sabotage against the war effort, in sympathy with Nazi Germany. He had been interned from September 1942 to January 1944 and then placed under house arrest. Soon after becoming Minister, he promoted Mr. H. J. van den Bergh, a junior police officer who had been detained in the interment camp with him, to the post of head of the

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46/ Sunday Times, London, 15 June 1969.

47/ See paras. 367-370 below.

Security Branch. 48/ He obtained arbitrary powers of house arrest and provided the Security Branch with the detention laws. He has protected the Security Branch by consistently refusing to hold a public inquiry despite numerous complaints of torture and repeated and widespread demands in Parliament and by the public.

122. It has been suggested that the specific methods of torture, especially by electrodes, seem to have been adapted from the colonial police and military officers in Algeria a few years earlier. South African military officers are known to have visited Algeria to study the colonial war. 49/

123. It may be noted, however, that electric shocks had been used extensively against African prisoners in South Africa, not merely against political prisoners.

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48/ Suzanne Cronje, Witness in the Dark, pp. 3-4; E/CN.4/950, para. 600 (testimony of Mr. A. Sachs). In 1969, Gen. van den Bergh was made head of the newly created Bureau for State Security, with a budget of over 4 million rand. The Security Police budget was increased that year by 200,000 rand to 1.2 million rand. Cape Times, 11 August 1969.

49/ Suzanne Cronje, Witness in the Dark, pp. 6-7, 25 and 26.



## V. ROLE OF THE JUDICIARY

124. In denying charges of ill-treatment of prisoners, the South African Government has often claimed that the charges had not been proved in Courts and has thereby sought to utilize the reputation of the judiciary for its adherence to proper procedures in trials and for the independence it has shown from the executive in many cases for propaganda purposes. It is therefore desirable to note the limits of independence or objectivity of the judiciary in political trials and the limitations on judicial remedies for the victims of assault and torture in detention.

125. The Government has deliberately and effectively shielded the Security Branch from interference by the Courts, as regards the treatment of detainees and methods of interrogation. The courts have been obliged, by law and by the police practices, to acquiesce in Government policies rather than protect the rights of the victims of unlawful interrogation or inhumane treatment.

126. The role of the courts is limited essentially to the trials themselves. Their task is to apply laws which flagrantly violate the rule of law. Some of the procedural safeguards maintained by the Courts have been undermined by recent security legislation providing for summary trials, withholding of names of witnesses, denial of bail, retroactive offences, transfer of onus of proof to the accused, minimum sentences and the like. The police have been enabled by their uncontrolled powers over detainees to obtain confessions and statements under duress. State witnesses have often been held in detention and obliged to give evidence in Court in the presence of their torturers. By terror and intimidation, the police have managed to induce certain persons to become professional witnesses in the political cases. They are transported from case to case in remote areas. The accused can hardly counter the State case, except in the few highly publicized cases when the accused are able to obtain adequate counsel at enormous cost.

127. The Bar has been subjected to pressures and intimidation. Several advocates and attorneys who have defended political cases have themselves been detained or banned or debarred or forced into exile.

128. The Government has also tried to hinder legal assistance by the banning of the Defence and Aid Fund in 1966.

129. Moreover, it may be noted that the judges are all white, sworn to defend a constitution which enshrines racial discrimination. They are susceptible to the influence of the climate of opinion in the white community as evidenced by the severe sentences they imposed on opponents of apartheid, and the statements they delivered in imposing such sentences.

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130. Judges have generally tended to interpret the security laws in favour of the police rather than the rights of the victim (see, for instance, E/CN.4/950, paras. 595, 626-632) and to ignore allegations of torture by the accused and the witnesses as designed to discredit the police. At best, they have merely left the matter to the prosecutor to investigate, avoiding opportunities for investigating allegations of ill-treatment and torture.

131. The performance of the courts has been disappointing to those who have been impressed by their procedures and their independence, though diminishing, of the ruling party. But the leaders of the African organizations had few illusions. The leaders of the Pan-Africanist Congress challenged the competence of the courts in 1960. At his trial in 1962, Mr. Nelson Mandela, leader of the African National Congress, asked the judge to recuse himself and said:

"In a political trial such as this one, which involves a clash of the aspirations of the African people and those of the whites, the country's courts as presently constituted cannot be impartial or fair. In such cases whites are interested parties...

"The white man makes all the laws, he drags us before his courts and accuses us, and he sits in judgement over us."

132. A year later, Mr. Oliver Tambo referred to political trials in South Africa as "genocide masquerading under the guise of a civilised dispensation of justice". 50/

133. As early as 1966, the Special Committee on Apartheid felt obliged to deal with this matter. It reported:

"The power of the Courts has been made largely, if not wholly, ineffective, by reason of a mass of repressive legislation which denied them any jurisdiction, whereas the Government has not hesitated to use it to implement other legislation to its liking, but which patently violates the fundamental principles of the rule of law. Effective use of the Courts, where it is convenient, has helped the Government to deceive public opinion. But the judiciary notorious as an institution serving the cause of apartheid - the judges and magistrates are all white - has by slow erosion lost even the independence maintained by it in the past, especially at the higher levels, and has perforce become the hand-aid of a racially inspired Government.

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"... Whether they (the Courts) have given up in despair any attempt to uphold the law in view of the prevalent practice of the Government to meet judicial restraints with fresh legislation or whether they are

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50/ South Africa on Trial, p. 4.

themselves the victims of the dominant opinion in the white community, the result has been the inevitable and increasing loss of confidence in the judiciary." 51/

134. The report of the Committee quoted Mr. A. S. Matthews, Professor of Law in the University of Natal, and Mr. R. C. Albine, Professor of Psychology at the University, who wrote:

"We have to face the fact that some South Africans may have lost faith in the courts. The line of cases already discussed in this article does not present a picture of judges fired by ideas of individual liberty or personal sanctity. There is no assertion here that the judges are partial or that they lack integrity. What does seem to have been lacking in the cases analysed above is an imaginative grasp of the implications of solitary confinement and of Western ideals of individual freedom..."

"There is another reason why faith in the courts may have been dangerously weakened. Men over the years looked to the courts for protection of basic rights. In South Africa the courts have had to enforce and apply a heavy programme of laws which deny basic rights. We are not concerned now with the reasons for the laws but merely with the fact that the courts have become an instrument for what many people regard as oppressive legislation. This is not the fault of the courts, but it is hard to deny that our courts have not shown themselves to be the reluctant, or even faintly troubled, instruments of the enforcement..." 52/

135. Some specific cases where allegations of the unlawful interrogation of detainees have come before the courts is illustrative. It must be noted that it is only in rare instances that an application can be made to a court concerning unlawful interrogation in detention, as the detainee is held incommunicado. In some cases, however, the families were able to apply to courts when they had obtained information smuggled from prisons or when they had been able to see the detainees. In one case, an application was made by a prisoner who had heard of the torture of a detainee.

136. Most of the cases concern allegations during trials or suits for damages. In these cases, the victims face great risks as the Security Police may take vengeance on them. Moreover, it is difficult to prove the allegations as there are no witnesses to the alleged torture except the police themselves. Also the police often use methods such as statue torture which leave no physical trace of torture. Detainees may also be held until the injuries heal.

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51/ Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 34, document A/6486, paras. 101 and 103. Also issued as S/7565

52/ Ibid., quoting A. S. Matthews and R. C. Albine, "The Permanence of the Temporary" in the South African Law Journal, February 1966.

A. Restrictive interpretation of laws

137. The Courts, as stated earlier, have tended to interpret laws in favour of the régime rather than the rights of the individual.

138. In a case brought on behalf of Mr. Albert Louis Sachs, a barrister detained under the 90-day law, the Cape Supreme Court ruled on 13 November 1963 that detainees were entitled to rights not specifically taken away by Parliament. The application concerned mainly the right of the detainee to a reasonable period of exercise and to reading matter and writing materials, which was denied him during detention. The judge in the lower court had held:

"There can be no doubt that the effect of solitary confinement for all but one hour for exercise a day, and the deprivation of reading matter and writing material, constitutes a punishment." 53/

The Appeal Court, however, reversed the judgement on 24 March 1964. While conceding that detainees may not be ill-treated and that the denial of reading material could amount to "psychological compulsion", the Court said it was obliged to take account of the purpose of the law in combatting subversion. It found that "it was not the intention of Parliament that detainees should as a right be permitted to relieve the tedium of their detention with reading matter or writing materials". 54/

139. In 1964, Mrs. Leslie Erica Schermbrucker brought an urgent application before the court that her husband, a detainee under the 90-day law, was being subjected to torture and asked that he be produced before the Court. She produced a note, smuggled from prison in which her husband alleged that he had been tortured.

140. Mr. Justice Snyman rejected the application. He declared that the interruption of detention, by giving detainees access to the Courts, would frustrate the purpose of detention and that the Act specifically excluded access by the detainees to the Courts and transferred the power of protecting citizens - normally the province of the Courts - to the Minister of Justice, Commissioner of Police and his commissioned officers. 55/

B. Failure to protect rights of accused in political trials

1. Confessions made under duress

141. In the Rivonia trial, on 3 May 1964, the counsel for defence sought to call two expert witnesses, professors from Cape Town and Durban, to try to establish

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53/ Cape Times, 14 November 1963.

54/ Ibid., 25 March 1964.

55/ The Star, Johannesburg, 14 August 1964.

that evidence by detainees kept in solitary confinement under the 90-day law was not reliable. A number of detainees had appeared as State witnesses in that trial.

142. Mr. Justice de Wet rejected the application. He ruled:

"I regard this evidence as inadmissible. It is the function of the court to assess the evidence of witnesses and to decide to what extent their evidence may be relied upon." 56/

143. In a trial of Mr. Paul Trewhela and nine others under the Suppression of Communism Act, the defence counsel applied on 9 September 1964 to hand in affidavits by three of the accused, Mr. Paul Trewhela, Mr. Norman Levy and Dr. Constantinos Gazides, that they had made statements to the police during detention after being forced to stand from 40 to 43 hours in a small square. The judge refused the application. 57/

144. In the Pietermaritzburg terrorism case in 1969, when a State witness, Mr. Dasingee Francis, alleged brutal torture, the Court held that it was not its duty to inquire into allegations of ill-treatment of State witnesses by the Security Police.

145. During a trial of members of the Unity Movement under the Terrorism Act in Pietermaritzburg, counsel for one of the 13 accused submitted an application on 6 February 1972 to call witnesses to establish that people who were taken into detention for interrogation were subjected to a concerted investigational system which included assault or other forms of pressure. The over-all purpose of the system, he said, was to produce a pattern of dependency, debility and dread in order to make the detainee to give "satisfactory" statements. He submitted 16 affidavits and statements, including those from exiles in the United Kingdom and Zambia. 58/

146. Mr. Justice James refused the application, on the grounds that the evidence sought to be led would not afford the court any real assistance in deciding whether certain State witnesses falsely implicated the accused. 59/

## 2. Evidence of alleged assaults during detention

147. In a number of trials, the Courts have prevented or ignored allegations of assaults and torture of prisoners and witnesses, or related evidence.

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56/ The Star, Johannesburg, 4 May 1964.

57/ Cape Times, 10 September 1964.

58/ The Star, Johannesburg, 7 February 1972.

59/ Ibid., 8 February 1972.

148. In 1963, in the trial of Mr. Vendeyar and other members of the Transvaal Indian Congress under the Sabotage Act, the defence counsel alleged brutal torture against the accused. Mr. Justice Bekker, however, said: "It is unnecessary for me to return a verdict on the alleged assaults as it is not relevant to the issue..."

149. Even in cases where courts have issued interim orders restraining the police from unlawful methods of interrogation, there is no assurance of compliance with the terms of the orders as the detainees remain incommunicado.

(a) Damage suits for assaults during detention

150. A detainee or prisoner subjected to assault, torture or other unlawful treatment can make a claim against the policeman or the Minister concerned under the Police Act, No. 76, Section 7, of 1958, but the claim is limited to a written period of six months. The plaintiff, moreover, is required to give a month's written notice before any claim can be made in court.

151. As the Terrorism Act provides for indefinite detention, without access to a lawyer or family or court, and as many detainees have been held for more than five months after the assault, this clause affords no recourse in many cases. As a lawyer wrote in the Johannesburg Star of 16 September 1969, "an unjust law remains in force, and further erodes the rule of law".

152. Even when legal assistance was available, convicted prisoners have found it almost impossible to lay and pursue claims. In several cases, prisoners were reported to have been severely punished or threatened by prison authorities for contemplating complaints, and "persuaded" to desist.

153. Several detainees reported to have been subjected to torture have been deported immediately after their release. Others have been banished or placed under house arrest.

154. It is worth recording, however, that a number of suits have been lodged for damages against the Ministers of Police and Justice and members of the Police. In reply to questions by Mrs. Helen Suzman, M.P., the Minister of Police told Parliament on 4 August 1970, that 24 persons had sued the Minister and/or a member of the Police for damages in connexion with detention under the three main laws. Of these, 20 had been detained under the 90-day law and two under the 180-day law; two other suits were by next of kin of detainees. Three cases were settled out of court. <sup>60/</sup> Twenty suits were still pending but in 18 of these actions, which were brought as long ago as 1964 and 1965, the plaintiffs did not proceed with the actions.

155. The pending suits were by the following: Mr. I. Schermbrucker, Mr. B. Hirson, Mr. I. Kitson, Mr. J. Laredo, Mr. R. Eisenstein, Dr. G. Gazides, Mr. N. Levy,

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<sup>60/</sup> Miss Stephanie Kemp, Mr. A. S. de Oliveira and Mr. F. S. Cordinho.

Mr. P. Trewhela, Mr. H. Lewin, Mr. N. Waidoo, Mr. J. Matthews, Miss A. Nicholson, Mr. Z. Mothopeng, Mr. Wilton Mkwai, Mrs. Mary Moodley, Mrs. Joyce Mohamed, Miss Christina Thibela, Mrs. Julia Lenkoe, Mr. S. R. Maharaz and Mrs. Galiena Haron. 61/

156. The replies of the Minister are misleading. Most of these plaintiffs had, in fact, left South Africa to escape persecution, or were serving long sentences in prison.

157. In other cases, the Government has tried to avoid adjudication into allegations of assault or torture. Out of court settlements were reported to have been reached in two other cases - the suits of Mr. Alan Brooks and Mr. Gabriel Mbindi - and a settlement was reached on the application of Mrs. Haron after the Minister's statement.

158. The absence of court judgements in favour of the rights of detainees must, therefore, be seen in the context, first, of the impotence of the judiciary and, secondly, of its reluctance to protect the basic rights of an accused against the power of the State.

(b) Inquest proceedings

159. Allegations of torture have also come up at inquest proceedings on the deaths of detainees. The inquest magistrates have been concerned mainly with the immediate cause of death and have depended on evidence placed before them by the Government prosecutor. Moreover, they have proved hardly independent of the Government and invariably returned verdicts that no one was to blame for the deaths. They have generally not inquired into the question of earlier unlawful methods of interrogation.

160. In the inquest on the death of Mr. Looksmart Solwandle Ngudle in 1963, another detainee in the same prison testified that he had himself been assaulted and twice subjected to electric shocks to force him to make a statement. The counsel for the family sought to call other witnesses to prove a systematic torture of detainees in that prison. He told the court:

"I have here witness after witness who is prepared, in terms of their statements, to state that at the Pretoria Central Police Station, in a certain room there, they were assaulted whilst endeavours were made to take statements from them; each and every one of them gives evidence in exactly the same way of the type of assaults to which they were subjected, namely, the handcuffing, the placing of the hand below the knees, a stick being placed through, a hood being pulled over their head, and electrical shocks being applied to them through their hands; all of them in the meantime being questioned; this treatment being repeated.

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61/ Republic of South Africa, House of Assembly Debates (Hansard) 4 August 1970, cols. 973-974.

"In my submission, if this evidence be true, I will have established a system which is being adopted by certain members of the Security Branch for the purpose of extracting information from 90-day detainees... the system is based upon the fact that it is the same place, the same type of treatment." 62/

161. The magistrate disallowed the request.

162. In the inquests on the deaths of Mr. Lenkoe and Imam Haron, the magistrates have exonerated the police despite the evidence of assaults and torture. In the former, Dr. Alan Moritz, a world-renowned authority, had testified that the probability was that Mr. Lenkoe had been subjected to electric burns. In the latter, the post-mortem had disclosed 28 bruises: medical experts had agreed that these injuries could not have been caused by a fall down stairs as claimed by the Security Police.

163. It has been pointed out by Professor Bernard van Niekerk that the courts can demonstrate their independence, and perhaps exercise some restraint on the police, by rejecting the evidence of witnesses who had been detained for long periods in solitary confinement. The courts have not followed this course and numerous persons have been convicted on the testimony of State witnesses who had been subjected to prolonged solitary confinement and even torture. Instead, Mr. van Niekerk was convicted on a charge of contempt of court. 63/

164. In some recent cases, however, judges have rejected evidence by State witnesses who had been detained.

165. In the trial of Mr. Quentin Jacobsen in 1972 under the Terrorism Act, Mr. Justice Marais rejected the evidence of Mr. Seadom Tilotsane and said he had shown himself to be "a completely unreliable witness, given to parrot-like repetition... of what he thought might please the authorities". 64/ He also rejected the evidence of Mr. Ian Hill who, he said, had been under fear of indefinite detention or prosecution.

166. In another trial on charges of murder and robbery, in March-April 1972, Mr. Justice Margo rejected the evidence of Mr. Ephraim Legodi who had been held in detention for 129 days. He found that a detained person might be vulnerable to the pressure of custody and might testify in a way he thought would please his captors.

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62/ Quoted by Mrs. Helen Suzman, Progressive Party Member of Parliament, in the Republic of South Africa, House of Assembly Debates (Hansard), 22 January 1964, col. 143.

63/ Rand Daily Mail, Johannesburg, 18 January 1972.

64/ Sunday Times, Johannesburg, 23 April 1972.



C. The Rand Daily Mail Press Case

Efforts to prevent public disclosure of prison conditions

167. The Government has tried to prevent public disclosure of prison conditions and thereby to inhibit the development of public sentiment for ending abuses. To this end it has made use of the Prisons Amendment Act, No. 75, 1965. <sup>65/</sup> According to a provision in the Act, a newspaper which publishes an article on prison conditions is guilty of an offence even if only one statement in the article is in error and had not been verified with the prison authorities. The Department of Foreign Affairs, in a propaganda book published in 1969 under the title, Prison Administration in South Africa, claimed that the purpose of this clause was to protect the prisoners and "to ensure that no stigma attaches persons who have served prison sentences". <sup>66/</sup> In fact, however, this Act has been used to shield the prison administration and police interrogators and to intimidate the press.

168. In June and July 1965, the Rand Daily Mail published a series of articles on conditions in South African prisons, based on the sworn testimony of Mr. Robert H. Strachan, an art lecturer who had just been released after serving a sentence for a political offence. He said that prisoners in the gaols in which he had served were subjected to systematic humiliations, beatings and unsanitary surroundings. The African prisoners and all those convicted of political offences received the worst treatment. The Sunday Times published testimony of other former prisoners and prison warders which corroborated Mr. Strachan's statements.

169. Instead of arranging a judicial inquiry as proposed by the newspapers, the Government proceeded to prosecute the newspapers and their informants under the Prisons Act. Mr. Strachan was immediately placed under banning orders in order to prevent publication of any future statements by him, <sup>67/</sup> and charged under the Prisons Act, and with perjury. The prosecution produced a parade of witnesses - prison officials, as well as convicts who were subject to intimidation - to prove that some of the statements in Mr. Strachan's affidavit to the newspaper were false. The magistrate dismissed the testimony of several defence witnesses on the grounds that the witnesses were hostile to the Government. Though he

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<sup>65/</sup> Section 44 (f) of the Act stipulates that any person who:

"publishes or causes to be published in any manner whatsoever any false information concerning the behaviour or experience in prison of any prisoner or ex-prisoner or concerning the administration of any prison, knowing the same to be false, or without taking reasonable steps to verify such information..." (emphasis added)

shall be guilty of an offence and liable to a fine of up to 200 rand or to imprisonment of up to one year. The onus of proving that reasonable steps were taken is placed on the accused.

<sup>66/</sup> Quoted in Rand Daily Mail, Johannesburg, 12 July 1969.

<sup>67/</sup> It is illegal for banned persons to be quoted anywhere in the Republic.

conceded that the State witnesses might be painting "too rosy and perfect a picture", he found that assaults in prison were not routine as stated by Mr. Strachan. Mr. Strachan was sentenced to two and a half years' imprisonment. The sentence was later reduced on appeal to one and a half years'.

170. The editors of the two newspapers, their attorney and Mr. Benjamin Pogrund, reporter of the Rand Daily Mail, were also charged under the Prisons Act. They were brought to court from time to time and ultimately the charges were maintained only against Mr. Laurence Gandar, editor-in-chief of the Rand Daily Mail, and Mr. Pogrund. The State did not have to disprove the articles in their entirety or even the main points; it had only to prove that some details were wrong.

171. Mr. Pogrund explained on 20 March the steps he had taken to satisfy himself that the information was correct. He said he had not checked the information with the Prisons Department because he had felt, based on previous experience, that the Department would not co-operate. 68/ Under cross-examination, he said he was convinced of the essential truth of the articles, though there were some inaccurate statements. 69/

172. On 11 July 1969, Mr. Justice Cillie, the presiding judge, found Messrs. Gandar and Pogrund guilty of publishing false information about prisons without taking adequate steps to verify the information, but he found that they were not guilty of having published false material knowing it to be false. 70/

173. The judge noted, however, that electro-therapy treatment had been used in one of the prisons to deter malingerers upon the advice of the prison doctors. This, he said, possibly opened the door for using the machines for "irresponsible, irregular and illegal purposes - purposes which may have nothing to do with the health of the prisoners". 71/

174. Mr. Gandar was fined 200 rand (\$280) or six months' imprisonment. Mr. Pogrund was sentenced to six months without the option of a fine, the sentence suspended conditionally for three years. The trial was reported to have cost the two newspapers 200,000 rand (\$280,000).

175. Some improvements in prison conditions were reported to have been implemented as a result of the publicity generated by these trials, but the proceedings against the newspapers had the desired effect of silencing the press. The only publicity allowed is that which emerges as a result of court proceedings or that which is approved by the prison authorities themselves.

176. The Prisons Act, it may be noted, also inhibits prisoners, ex-prisoners and their families and friends. Indeed, initially, there was great hesitation by

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68/ Cape Times, 21 March 1969.

69/ Rand Daily Mail, Johannesburg, 22 March 1969.

70/ Cape Times, 12 July 1969.

71/ Ibid.

opponents of apartheid, inside South Africa and in exile, against publicizing the available evidence on the ill-treatment of prisoners, for fear that the Government and the Security Police may take vengeance against those concerned or that the persons may be prosecuted under the Prisons Act. Thus it was that the names were omitted from the affidavits of prisoners and detainees published by the Special Committee in 1964.

177. The situation became so alarming, however, that the prisoners welcomed publicity as the only means of protection. Since the above trials, it has become clear that the situation can only be publicized outside South Africa, except when allegations of torture are made in courts.

## VI. REVIEW OF CASES OF MALTREATMENT AND TORTURE

178. In order to keep this document to a reasonable length, the cases in this section are limited to those of persons known to have been detained or convicted for political reasons (i.e. for offences or the suspicion of offences arising from opposition to apartheid). In addition, a few cases are noted of the death in detention of persons detained under the 180-day law or the Terrorism Act.

179. Almost all political prisoners and detainees have suffered ill-treatment such as solitary confinement, deprivation even of privileges provided in prison regulations, inadequate food and medical attention, and so forth. Only specific cases involving assaults, torture and other acts of brutality are noted here. Accounts of ill-treatment are set out very briefly, especially when the information is available in other United Nations documents. The cases are arranged in chronological order. An alphabetical index of the victims of ill-treatment is found in annex I.

### Mr. Washington Bongco

180. Mr. Washington Bongco, a leader of the African National Congress in East London, sued the Minister of Justice and three detectives, Detective Sergeant Donald Card, Warrant Officer C. E. Bowen and an African detective, T. Tahikila, for damages totalling 4,000 rand (\$5,600). He alleged that he had been handcuffed and hung behind a door, beaten and kicked during questioning on 16 February 1963. The detectives had brutally assaulted him, he said, until he had collapsed and then they trampled on his face and kicked him with their boots. They knew that he was a tuberculosis patient and threatened: "We will kill you with your T.B."

181. He was then charged with being illegally in East London and acquitted. On release, he laid a charge of assault against Sergeant Card. He was again arrested and assaulted for making the charge. Released once again, he was hospitalized for a long time and was only able to return to work in April.

182. In July, he was again detained under the 90-day law. After repeated threats, he was obliged to sign a statement withdrawing the charge against Sergeant Card.

183. He was subsequently charged under the "Sabotage Act" and sentenced to death in the Queenstown Circuit Court on 23 March 1964 in connexion with a petrol bomb attack on the home of Mr. Domboti Inkie Hovi. At this trial, two prosecution witnesses admitted assaults.

184. Sergeant Card visited Mr. Bongco in the death cell and offered to save his life if he gave evidence against others. Mr. Bongco refused and instead proceeded with the assault charge.

185. The suit was dismissed by the Supreme Court in East London on 17 November 1964 and Mr. Bongco was executed in February 1965. 72/

#### The "M.E. Stores" Case

186. On 10-11 April 1963, 37 Africans were arrested in Johannesburg during investigation of an attempt to burn the "M.E. Stores" and were charged under the Sabotage Act. Many of the accused alleged that they had been assaulted and threatened.

187. Mr. Windsor Ndlovu said that he and his colleagues had been interrogated and slapped, and threatened, almost daily for 12 days.

188. Mr. Paulus Tshabalala, a secondary school pupil, said he had been repeatedly slapped, knocked with fists and kicked. 73/

#### Johannesburg Sabotage Case

189. In April 1963, five Indian youths, Mr. Reggie Vandeyar, Mr. Indris Naidoo, Mr. Shiriah Nanabhad, Mr. Laloo Chiba and Mr. Abdulhia Jassat, were charged in a Johannesburg court under the Sabotage Act in connexion with an explosion at a tool shed in a Johannesburg railroad station. According to the Cape Argus of 19 April 1963:

"Vandeyar limped into court. He bore scars on his head. Naidoo had his right arm in a sling. Chiba had a bruised eye and Nanabhai's face was swollen."

190. Counsel for the Defence charged that the police had tortured the prisoners. They said two of the accused had been given electric shocks, suspended upside down, knocked to the ground and pulled up by the hair. A wet sack had been tied round the head of one defendant and twisted until he was choking.

191. The State did not proceed against Mr. Laloo Chiba and Mr. Abdulhia Jassat. They were acquitted and immediately detained under the newly-enacted 90-day law.

192. During the trial of the three others, Major W. H. Brits, a Railway Police official, testified that the Police had advance knowledge of the sabotage attempt: he had been warned by Lieutenant Swanepoel. Lieutenant Swanepoel, Lieutenant van Wyk and he were waiting in the area along with a dozen other policemen. Lieutenant Swanepole had shot at Mr. Naidoo, he said, when the latter had run at him with something in his hand.

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72/ A/AC.115/L.123 (text of statement by Mr. Bongco); Cape Times, 11, 12 and 18 November 1964.

73/ Brute Force, pp. 18-21.

193. The accused admitted that they had caused the explosion as an act of protest. They said that they had been persuaded to engage in this particular act by an agent provocateur, Mr. Gamat Jardine.

194. They were sentenced to 10 years' imprisonment each. Mr. Justice Bekker stated:

"It is unnecessary for me to return a verdict on the alleged assault as it is not relevant to the issue and it is impossible that the accused were assaulted by the police after their arrest." 74/

Abdulhia Jassat

195. Mr. Jassat, 28, a leader of the Transvaal Indian Congress, was arrested on 17 April 1963 on suspicion of participation in an act of sabotage. 75/ He was brutally tortured in prison. The charges against him were withdrawn on 21 May, but he was immediately detained under the newly-enacted 90-day law. He escaped from prison on 12 August 1963 and subsequently fled from the country.

196. He appeared before the Ad Hoc Working Group in Dar es Salaam on 22 June 1967 and testified as follows:

"I was arrested on 17 April 1963, at 4 a.m., at home...

"Upon arrival at the police station I met one other colleague of mine who had similarly been arrested at home an hour before I was. He told me that three young Indian youths had been arrested that morning on a charge of sabotage. He also informed me that all three of them had been very, very badly beaten up. One of them had been shot through the left shoulder; the other was beaten to such an extent that he was beyond recognition, and the third person was beaten up and his right arm broken.

"I was then locked up in a cell alone until 4 p.m. At 4 p.m., we were taken out of our respective cells, put into a car, and taken to the Johannesburg railway station. We were put in a little room about 10 feet by 10 feet, which appeared to be a changing room for the Special Branch, and were warned not to converse with one another.

"At approximately 6.45, the person I mentioned (with the broken arm) by the name of Reggie Vandeyer, who incidentally had not been given any treatment up to that time, was called and taken away. He returned again after 10 minutes. I was then called and taken into a large hall or room with three tables. Approximately 25 policemen were seated around. I was asked to sit in front of one of the tables, facing the policemen, and they told me

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74/ The Star, Johannesburg, weekly edition, 4, 11 and 18 May 1963; Suzanne Cronje, Witness in the Dark, p. 11.

75/ See paras. 189-194 above.

to give them whatever information I had on the political movement in South Africa. I refused, telling them that I had no information whatsoever to give to them. They then told me to stand up and, as soon as I got up, a Hessian bag was pulled over my head, and it was tied at my knees. I was then lifted by my feet and swung in the air like a pendulum, with my head knocking the ground every time, with every swing. While they were doing this, they removed my shoes and socks. I was then laid flat on the ground, and the policemen lit a match and threatened to burn me if I refused to give information.

"I then felt them tying some string or something to my toes. I was told that they were going to pass electric shocks through my body. I was told that they were going to start with a 25-volt current. While they were torturing me, they kept my body flat so that I couldn't move my knees up and they continuously asked me to give them whatever information I had regarding the political movement and also the military wing of the political movement in South Africa - namely, Wakonto We Sizwe, that is, the "Spear of the Nation".

"This they did for intervals of from three to five minutes. The shock treatment they continued on 25 volts for between three to five minutes. And then they stopped, and they increased the voltage to 50. This went on until they had got the maximum voltage of 220 volts. I had no conception of time, but it must have taken at least an hour and a half. I was then lifted up and the Hessian bag was removed from my body. I could not stand on my two feet, and when I leaned against a table I was beaten up.

"When I fell to the floor, I was lifted up again and told to stand without any assistance. I forced myself to do this. They then took various instruments, like pencils and sealing wax and other items, and put them between my fingers and held my arms outstretched while two people pressed my fingers down. Thereafter they made me do various exercises, like standing on one foot, jumping, kneeling, and also a tall policeman stood in front of me with his arm outstretched and he forced me to run on the spot, forcing my knees to touch his palm.

"When I was exhausted, they again asked me if I was prepared to tell them what they wanted to know. By this stage I couldn't talk, because my mouth was completely dry. When I asked for water, they refused to give me any. I was then taken by two policemen and pushed through a window with my body hanging outside and they held me by my two feet. Every now and again they would release one foot. We were on the third floor of the building. After some time they pulled me back into the room.

"They again asked me to give them the information they wanted, and when I refused again they beat me up and threw me onto the floor, kicking me and using their fists every so often. Thereafter they again made me do various funny things like running on the spot, and then the policemen threw down a six-penny piece, which is a five-cent piece, and they told me to put my thumb on to the coin and run around the coin without removing my thumb from the coin.

I had to do this for about 25 to 30 minutes until I was grovelling on the floor and I fell flat, unable to move any further. They then lifted me up and carried me into an adjoining room, where I was allowed to sit down.

"While I was sitting there, the policeman ran into the room and he grabbed a Hessian bag with some weight in it, which I presume must have been a dynamo, or something with which they could control the current. Then he went out again. Ten minutes later, I heard the screams of another person, and I realized that it was another colleague of mine by the name of Chiba, who is now serving a 20-year term of imprisonment in Robben Island.

"I had been in the torture room for at least 3-1/4 hours. And likewise with my friend, who was eventually taken out of the room at about 1.30 a.m."

197. He named Lieutenant van Wyk as the Special Branch officer in charge of the torture. (E/CN.4/950).

Mr. Reggie Vandeyar

198. Mr. Vandeyar was arrested in April 1963 in connexion with a sabotage attempt in Johannesburg. 76/

199. His counsel told the court that he had been hit and kicked by the police, and that "there appears to be a considerable possibility that some of his ribs are broken".

200. He had been forced to lift his hands above his head while an officer proceeded to push the butt of his rifle into his ribs, shouting, "I will show you how to force a 'coolie' to talk." Another policeman twisted his hands backwards and upwards so violently that he appeared in court with his fractured arms in a sling. His eyebrows were severely cut. 77/

Mr. Shiriah Nanabhai

201. Mr. Nanabhai was arrested in April 1963 in connexion with a sabotage attempt in Johannesburg. 78/

202. At the police station, a wet sack was tied around Mr. Nanabhai's head and twisted until he was choking. When he was taken home for a search of his residence, his family noticed that he was limping as his thigh had been injured by the police batons. He could barely see through his injured eyes and his lips were swollen. 79/

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76/ See paras. 189-196 and 196 above.

77/ Brute Force, pp. 15-18.

78/ See paras. 189-196 above.

79/ Brute Force, pp. 15-17.



Mr. Indres Naidoo

203. Mr. Naidoo, a member of a family prominent in the movement against apartheid, 80/ was arrested in April 1963 in connexion with a sabotage attempt in Johannesburg. 81/ He was shot during the attempt by Captain Swanepoel who had advance knowledge of the sabotage attempt from an informer. The police refused to allow Mr. Naidoo to stay in hospital until recovery.

204. He was sentenced to 10 years' imprisonment and sent to Robben Island prison.

205. When his mother visited him for the first time in April 1965, it became known that he had attempted in 1964 to lay a charge of assault against a warder. For this, he had been punished with solitary confinement for 14 days and "persuaded" to drop the case. According to Mr. Dennis Brutus who was then in Robben Island prison, Mr. Naidoo had been sentenced to lashes. He had seen the scars when the flesh was still cut open and raw.

206. Mr. Naidoo was reported to have been charged in 1965 with failing to comply with prison regulations when he refused to work in knee-deep mud. 82/

Mr. Laloo Chiba

207. Mr. Chiba, a truck driver, was arrested on 17 April 1963, together with other members of the Transvaal Indian Congress, and charged with sabotage. 83/

208. His counsel told the court that, prior to appearance in court, he had been beaten on the soles of his bare feet and could hardly walk. He had been suspended by the toes, given electric shocks to his bare feet and temples and carried back to his cell semi-conscious. He had been so savagely beaten over the head that he had been rendered permanently deaf in one ear.

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80/ His grandfather was a close friend of Mahatma Gandhi. His father and uncles lived for many years in India as adopted sons of Gandhi. His mother was jailed in the passive resistance campaign in 1946. His brother was detained under the 90-day clause in 1964. One sister, Ramnie, is now in exile. Another sister, Shanti, was banned and spent several months in prison, including a term for refusing to give evidence against Mrs. Winnie Mandela. She was refused permission to leave the country.

81/ See paras. 189-196 above.

82/ Brute Force, pp. 15-17; Southern Africa News Features, London, 21 May 1965; Statement by Mr. Dennis Brutus before the Special Committee on Apartheid on 27 February 1967 (A/AC.115/L.194).

83/ See paras. 189-194 above.

209. He was acquitted by the court, but immediately detained for a long time under the newly-enacted 90-day law.

210. He was again detained under the 90-day law in 1964 for several months. Subsequently, he was tried with Mr. Mkwai and others, and sentenced in December to 18 years' imprisonment.

211. On 22 December 1964, he filed a suit against the Minister of Justice, Mr. B. J. Vorster, for damages and claimed that he had been forced to stand for 37 hours during interrogation. When he had tried to sit down, he had been lifted by the lapels of his jacket.

212. The suit has apparently not been pursued as Mr. Chiba was in prison with little access to family or counsel. 84/

#### Bashee Bridge Trial

213. In 1963, 30 Africans, allegedly adherents of the Pan-Africanist Congress or Pogo, were charged with participation in the murder of five whites near the Bashee River in the Transkei. Several of them were sentenced to death.

214. At the trial 13 Africans made allegations of electric shock and torture in prison. Mr. Justice van der Riet, in giving judgement on 3 August, declared: "The Native, in giving evidence, is often prone to exaggerate!" But he excluded six of the ten alleged confessions as having been made under some form of duress. 85/

#### Mr. Johannes Notwaye

215. Mr. Notwaye, 48, was tried in the Cape Town Supreme Court, with another accused, in 1962 on the charge of murdering two Africans suspected to be informers in the Pogo. He told the court on 6 June 1963 that his statement implicating himself in the murders had been made after three hours of assault by the police. He claimed he knew nothing of the murders. 86/

#### Mr. Ebrahim Sinyanvala

216. Mr. Ebrahim Sinyanvala, a young Indian, was detained under the 90-day law in June 1963. On his way home from prison after release, he was detained again

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84/ Brute Force, pp. 15-17; Cape Times, 23 December 1964; International Defence and Aid Fund circular, 19 January 1965.

85/ Brute Force, pp. 21-22; Suzanne Cronje, Witness in the Dark, pp. 11-12.

86/ Cape Times, 7 June 1963.

for a traffic offence and taken to a police station. He ran away from the police station, and two days later his body was found in a nearby river. No information on his treatment in detention is available, but it appeared that he preferred suicide rather than face a return to the police cells. 87/

Mr. John Simon

217. In a statement on 31 July 1963 (A/AC.115/L.25), a number of organizations affiliated to the Pan African Movement for East, Central and South Africa, stated:

"One political prisoner, John Simon, recently met his death in jail and his family was only informed of this fact after the burial had taken place."

Mr. David Sibeko

218. Mr. Sibeko, 24, a leader of the Pan-Africanist Congress, was arrested on 11 April 1963, subsequently charged under the Sabotage Act and acquitted on 1 November after spending nearly seven months in prison.

219. He stated that during imprisonment, he had been subjected to threats, insults and light beatings, and was obliged to do the humiliating tausa dance (jumping while stripped naked) (E/CN.4/950, paras. 961-983).

Mr. Narainsamy Padayachee

220. Mr. Padayachee, 21, a clerk and member of the Natal Indian Congress, was detained under the 90-day law in 1963 and called as a State witness in a sabotage trial on 4 December 1963. In his evidence he denied two statements he had made to the police in August. He claimed that the police had threatened and bullied him to make the earlier statements.

221. He was then charged with perjury and convicted in the Regional Court, Durban, on 3 May 1964 to 12 months' imprisonment, nine months suspended. The magistrate, Mr. R. G. Beamish, rejected the allegations against the police. 88/

Mr. Looksmart Solwandle Ngudle

222. Mr. Ngudle, 35, a leading member of the African National Congress was detained under the 90-day law on 19 August 1963 and died in a police cell in

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87/ The Observer, London, 13 October 1963.

88/ Cape Times, 4 May 1964.

Pretoria on 5 September. His widow in Cape Town received a letter notifying her of his death 10 days after the event. The body was buried without any members of the family being present. The Commissioner of Police, Lieutenant-General J. M. Keevy, told the press on 25 September that the detainee had been found dead hanging by the neck from his belt.

223. At the inquest, Mr. Isaac Tlale, a Johannesburg businessman, who had undergone detention with Ngudle, testified on 28 November that he (Tlale) "went off his head" after being subjected to electric shocks and "had to be put into a straitjacket". He described how he had been handcuffed and subjected to electric shocks while a bag had been tied over his head until he had lost consciousness twice. He said that he had seen Mr. Ngudle in severe pain.

224. Counsel for Mrs. Ngudle, Mr. Vernon Berrange, applied to call other witnesses for evidence of a pattern of torture. He said that 20 witnesses had told him of being subjected to "gross brutalities" to make them talk. They were told to undress, made to jump up and down and, when exhausted, manacled in a squatting position with a stick under their knees, blindfolded and given electric shocks until they were, in some cases, unconscious. He walked out of the inquest when the evidence was disallowed by the magistrate.

225. A Pretoria magistrate, Mr. J. J. Marais, testified that he had visited Mr. Ngudle on the day before his death and that during that visit Mr. Ngudle had complained that he had been assaulted in order to get him to make a statement and that he had coughed up blood. He had reported the complaint to the police.

226. The inquest magistrate, however, found that Mr. Ngudle had committed suicide and that his death was not due to any act or omission involving an offence on the part of any person.

227. Information subsequently received abroad indicated that Mr. Ngudle had been subjected to brutal torture. His fingernails, toenails and hair had been pulled out and he had been given electric shocks. 89/

Mr. Zephania Mothopeng

228. Mr. Mothopeng, a mathematics teacher and leader of the Pan-Africanist Congress in Johannesburg, was arrested on 6 April 1963 on charges of participation in the activities of the Pan-Africanist Congress. When he was brought to trial on 7 August, the charges were withdrawn. But he was immediately detained under the 90-day law until May 1964 when he was again charged and sentenced to three years for furthering the aims of the Pan-Africanist Congress.

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89/ Cape Times, 25 September, 26 September, 27 November, and 29 November 1963 and 12 February 1964; Contact, Cape Town, 13 December 1963; The Star, Johannesburg, 11 February 1964; E/CN.4/950 (testimony by Mr. A. Jassat).

229. On 4 August 1964, Mr. Mothopeng instituted a suit for damages against the Minister of Justice in the Pretoria Supreme Court, alleging assault and electric shock treatment on 3 October 1963 in order to force him to make a statement. He charged that the police had beaten and kicked him, struck him on the head with a stick, given him repeated electric shocks, lifted him up bodily and dropped him to the floor. As a result of this treatment, he had been bruised, knocked unconscious and suffered burns and great pain. He had dizzy spells until February 1964 and occasional lapses of memory for a long time.

230. The Government denied any assault.

231. The case came before the Pretoria Supreme Court for trial in August 1966. Mr. Mothopeng's counsel subjected him to an electric shock in order to demonstrate the effect of the electric shock machine. Under this treatment Mr. Mothopeng broke down. The State Attorney asked for examination by State psychiatrists to ascertain whether the breakdown was simulated. The trial was then adjourned.

231. Meanwhile, Mr. Mothopeng was released on 13 May 1967 and confined to the Witsieshoek reserve. 90/

Mr. Cyril Gwija

233. Mr. Gwija, a member of the African Youth League in Cape Town, was detained in August 1963 under the 90-day law and kept in detention for three months.

234. In a statement made subsequently, he said that he had been hit on the face and kicked with a boot on his stomach and warned to make a statement about the African National Congress. When he denied connexion with the ANC, he was handcuffed, forced to sit in a squatting position with a stick pushed between his knees and elbows and given electric shocks. The assaults and electric torture continued on several occasions during the detention.

235. Mr. Frederick Dube, who was with him in prison, told the Ad Hoc Working Group of Experts that he had seen evidence of torture. Mr. Gwija was deaf in one ear and had rings on his thumbs where the electrodes had been fixed.

236. After release, Mr. Gwija was removed to a "resettlement camp" called Welcome Valley, away from his family, where there was little opportunity to support himself (E/CN.4/AC.22/RT.95).

Mr. Brian Mjo

237. Mr. Mjo, 18, was detained under the 90-day law in 1963.

238. It was alleged that he had been subjected to assaults and torture. A wet towel was wrapped around his neck and he was strangled with it. He was beaten

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90/ The Star, Johannesburg, 9 June 1964; Cape Times, 5 August 1964; ,  
E/CN.4/950 (testimony of Mr. Cotton).

on the soles of his feet with a cane. Finally, he was dumped into a river and came up unconscious.

239. He was subsequently sentenced to 22 years' imprisonment (E/CN.4/AC.22/RT.95 - testimony by Mr. Frederick Dube).

Mr. Thandakile Manyube

240. Mr. Manyube, detained under the 90-day law in 1963, was reported to have been subjected to electric torture. He was forced to stand for several hours and a policeman kept hitting him on the head with a baton. Once, at night, the police tied his ankles with a rope and hung him from the fourth floor, warning that they could snap the rope and say that he was trying to escape (ibid.).

Mr. Lombart Mbata

241. Mr. Mbata was detained under the 90-day law in 1963.

242. It was reported that he was subjected to electric torture. His front tooth was pulled out with a pair of pliers (ibid.).

Mr. Marcus Solomons

243. At his trial under the Sabotage Act in Cape Town, with Mr. Neville Alexander and others, Mr. Marcus Solomons, an accused primary schoolteacher, testified on 10 December 1963 that he had been hit in the face five times, kned in the stomach about seven times and then painfully sat on by a detective-sergeant while under 90-days detention. 91/

Mr. Elias Motsoaledi

244. Mr. Motsoaledi, 39, a clerk and a leader of the African National Congress, was one of the accused in the Rivonia trial of 1963-1964. In his statement to the court on 15 May 1964, he said:

"But in addition, my lord, I want to say that I am one of those who were assaulted by the Security Branch in an attempt to make me make a statement. Though I did not, I was given shock treatment. I informed the magistrate about this, and I am prepared to give evidence under oath if there is any enquiry into this. But I want to make it clear, my lord, that this assault took place not at the gaol, but at Wittsburg Police Station where I was detained.

"But even then the police were not satisfied. More than three months ago they arrested my wife and detained her under 90 days. When she finished her 90 days she was re-arrested again. As it is, she is still in gaol. I consider this disgraceful on the part of the police, my lord, that a woman with seven children should be punished because of offences committed by me."

Mrs. Ruth First (Slovo)

245. Mrs. Ruth First, author and journalist, was detained under the 90-day law for 117 days between August to December 1963. 92/

Mr. Colben Vuyani Mngaza

246. Mr. Mngaza, an African businessman of East London, was arrested on 8 April 1963 on charges under the Unlawful Organizations Act and the Sabotage Act. The charges were withdrawn on 11 October 1963, but he was immediately re-arrested and detained under the 90-day law in Cambridge police cells in East London. He was released on 4 January 1964. Re-arrested in January 1967, he was charged under the Unlawful Organizations Act, but acquitted early in July after another six months in prison. He then left South Africa on an exit permit.

247. In a letter to the Special Committee in January 1968, from Bathurst, the Gambia, he wrote of the period of detention under the 90-day law:

"During this time I was kept in solitary confinement and assaulted by the security police, to mention a few who executed the assault - Sgt. Donald Card, Sgt. Schoppers and Constable Tshikila.

"I was sent to a mental hospital in Queenstown for mental observation by the District Surgeon, Dr. Koch, who examined me after the assault and made a medical report about my assault. I was also charged for assault by Sgt. Card who alleged that I assaulted them first which was a deliberate lie. The charge against me was later withdrawn after investigation. In fact, Sgt. Donald Card has admitted assaulting me but says he did for self-defence in their pleading.

"Dr. Robertson of the Queenstown Mental Hospital examined me and asked why my face was swollen, bleeding through the mouth and nose. I told him I was assaulted by the police. He conducted a thorough examination and found no mental defect. I was then discharged after three days.

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92/ Ruth First, 117 Days: An account of Confinement and Interrogation under The South African Ninety-Day Detention Law (Penguin, London, 1960)..

"I completed my 90 days' detention spell on the 4th January 1964 and was discharged. I immediately instituted a civil action and claiming damages against the Minister of Justice and others. The case was never heard due to delaying tactics displayed by the Attorney General and the security police in question. In fact, they did it deliberately because they had already known that I was to leave the country." (A/AC.115/L.212.)

Mr. Bernard Huna

248. Mr. Huna was detained in Cape Town under the 90-day law in September 1963, and taken to Pretoria for interrogation. He said after his release:

"On arrival at the Central Police Station I was called alone into an office where I found Lt. Sauerman with others whom I do not know well, asked me some questions which I was unable to answer, then Sauerman said he had no time to waste. I should be taken away and my brains should be shocked into remembering since I was unable to remember many of the questions put to me. They immediately took me to another office by Sgt. Greef and another who ordered me to undress myself. I was only left with my underpants. They started to hit me while undressing with clenched fists for some days I could not open my left jaw. They handcuffed me and ordered me to squat with my knees protruding and canvas bag was pulled over my head to the neck which made breathing very difficult. While my face was covered with this canvas bag, I could feel something tied round my two thumbs and my left little finger from there I felt the electric shock as if it was being switched on and off time and again at the same time they kept on asking me questions as they switch off and when I refuse to answer the questions they switched on.

"At one stage I felt a blow on the right side under my armpit as if it was a kick. They did this to me until I promised I would answer questions and then they removed the handcuffs and the canvas bag. I was ordered to dress up. As I was dressing up they kept on hitting with fists."

Mr. Albert Louis Sachs

249. Mr. Sachs, 23, an advocate, was detained under the 90-day law in October 1963 and held in solitary confinement for five and a half months. He was released without any charge being brought against him.

250. He was again detained in January 1966 under the 180-day law and held for another three months in solitary confinement. During this second period, he was subjected to far more intensive interrogation. He was again released without being charged or called as a witness.

251. He left for the United Kingdom and gave evidence before the Ad Hoc Working Group of Experts on 16 June 1967. He said that he had been interrogated by Captain Swanepoel and other detectives for over 36 hours. He had collapsed several times and the police threw cold water on him and continued interrogation.



252. He had subsequently complained to the police and the visiting magistrate, but no action was taken. 93/

Cape Prisoners, November 1963

253. On 28 November 1963 in Bellville, complaints of assault by the police were made by six African prisoners in court as they were charged with sabotage. 94/

Pretoria Detainees, November 1963

254. Eleven detainees released from Pretoria Central Prison in November 1963 made affidavits alleging torture and assault by police while in detention under the 90-day law. The Commissioner of Police described the affidavits as "utter nonsense... spread deliberately by neo-communists". 95/

Rivonia Trial in 1963-1964

255. In the Rivonia trial of Mr. Nelson Mandela and other leaders in 1963-1964, there was considerable evidence of police intimidation of witnesses who had been detained. Mr. Elias Matsoaledi 96/ and Mr. Andrew Mlangeni were alleged to have been severely beaten and tortured.

256. Mr. Thomas Mashifane, a former employee on the Rivonia farm, said that he had been assaulted and beaten by the police during the interrogation, while being held in "protective custody". "They told me to run around a table. Each one that I passed kicked me or hit me with his fist. I am still suffering the effect in my right ear. My top front tooth is still loose." 97/

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93/ E/CN.4/950; Albie Sachs, The Jail Diary of Albie Sachs, 1967.

94/ Cape Times, 29 November 1963.

95/ Cape Times, 4 November 1963. Cited in the Official Records of the General Assembly, Nineteenth Session, Annexes, annex no. 12, document A/8525. Also issued as S/6073.

96/ See para. 244 above.

97/ On 5 December the judge asked the prosecutor, who was also Deputy Attorney-General, to investigate the allegation. Later in the day, however, the prosecutor reported that Mashifane had requested that the allegation be dropped. Mashifane told the Judge that his treatment did not alter his evidence, though "when a person is being 'killed', then he can't speak as he would have wanted to speak if he had not been suffering pain". The matter was dropped. The Star, Johannesburg, weekly edition, 7 December 1963.

257. Mr. English Mashiloane, a cousin of Mr. Elias Matsoaledi, an accused, said he had already been locked up for six months and had no idea when he would be released. The judge informed the witness that if he gave satisfactory evidence he would be released. Mr. Mashiloane was asked: "At first you denied you knew anything about soldiers and dynamite and that sort of thing. What made you change your mind?" "Gaol", he replied. 98/

258. Mr. Assop Ahmed Suliman, said that he had been detained for 65 days before police had taken a preliminary statement from him, then been kept in custody a further 55 days before police agreed to take the final portion of his statement which took only a few minutes to give. He stated that he had not been threatened with assault by police on his arrest on 10 June 1963, but that when he did not tell the truth to the policeman who had arrested him, the latter had said: "Do you know that with one punch I can knock you down?" 99/

259. Mr. Hepple, a Johannesburg lawyer and originally one of the accused in the Rivonia trial, fled South Africa in 1963. He said in Dar es Salaam in November 1963 that during the period of his detention the police had threatened that if he did not make a statement, he would be detained indefinitely and that his wife would also be detained. He added:

"I saw a witness in the Rivonia trial, who is being held in custody, still limping three months after he had been assaulted in order to force a statement from him. One of the Rivonia accused still bears deep bruise marks from an assault on him by the police during August. Electric shock treatment was also applied to the sensitive parts of his body." 100/

Mrs. Lettie Sibeko

260. Mrs. Sibeko was detained in solitary confinement under the 90-day law for 160 days from 25 June 1963 to 15 November 1963, when she was charged with membership in the African National Congress. Though she was pregnant, bail was repeatedly refused. She was without proper clothing or nourishment and her family was not informed despite her repeated requests. She was in gaol until 19 February 1964, 10 days before her child was born, when the Supreme Court granted her bail on condition that she report to a police station twice a week. 101/

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98/ The Star, Johannesburg, weekly edition, 21 December 1963.

99/ See Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 12, document A/8525. Also issued as S/6073.

100/ Tanganyika Standard, Dar es Salaam, 29 November 1963, quoted in Spotlight on South Africa, Dar es Salaam, 29 November 1963.

101/ Report by the Defence and Aid Fund, Cape, 29 March 1965.

"The Goodwood Case" - Mbolombo and others

261. In January 1964, 45 persons were charged in Cape Town with belonging to the African Youth League which, the State claimed, was a cover for the banned African National Congress. They had spent long periods in detention, one for eight months. The trial began in Goodwood on 4 May. Three men were discharged on the first day. Eight others were discharged on 16 June when the State closed its case. Ten more were acquitted on 24 August when the judgement was delivered and 23 were sentenced to terms ranging from three to six years. On appeal to the Cape Supreme Court, 17 were acquitted. The sentences on three were confirmed and those on three others were reduced. Those acquitted had spent long terms of up to 21 months in gaol.

262. Twenty-two of the 45 accused in this case complained of assault or torture to their defending counsel and 15 of them alleged in open court that they had suffered assault. In the case of one of these, Mr. Jackson Toyo, his allegations were corroborated by a State witness, Mr. David Singqomo, who said that they had both been tortured by the police after arrest.

263. Another accused, Mr. Welcome Zihlangu, became gravely ill in prison. He was examined by the prison doctor who diagnosed peptic ulcers and ordered that he be sent to hospital for x-rays. But the patient was not removed for several days allegedly because of a "shortage of police vans", though he was screaming with agony. When he was finally taken to hospital, his complaint was diagnosed as incurable cancer. After representations by defence counsel, the charge against him was dropped in January 1964, and he died in February 1965.

264. Mrs. Sibeko was one of the accused in this case. 102/

Mr. Sipho James Titya

265. Mr. Titya was found hanging in a Port Elizabeth cell in January 1964. 103/

Mr. Andrew Mashaba

266. Mr. Mashaba was detained in January 1964 and convicted later in the year to 15 years' imprisonment under the Sabotage Act.

267. From prison he brought an action for damages for the sum of 1,500 rand (\$2,100) against the Minister of Justice and Detective-Sergeant Ferreira. He alleged that Sergeant Ferreira had assaulted him on four occasions on or after 30 January 1964 while he was in police custody. The officer had punched him, kicked him, pulled on his beard and made him stand handcuffed arms in front of him balancing a piece of wood "until I cried out".

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102/ Ibid. For information on Mrs. Sibeko, see para. 277.

103/ See foot-note 118 above.

268. The case came up in the Pretoria Supreme Court on 2 March 1965 and was postponed. Mr. Justice Steyn ordered Mr. Mashaba to pay the costs. Mr. Mashaba was unable to be present as he was in prison. The case was dismissed on 6 July 1965 on the grounds that the costs of the hearing on 2 March had not been paid. 104/

Mr. Dennis Brutus

269. Mr. Brutus, a poet, teacher and leader of campaign against racialism in sport, was convicted on 9 January 1964 to 18 months' imprisonment on the charge of breaking banning orders and leaving the country illegally. Prior to his trial, he had been shot while allegedly trying to escape.

270. At Leeukop prison, he and his colleagues were forced to run in circles when they complained that they had not been given facilities for exercise. Though he had not recovered from the effects of the bullet injury, he had been forced to run until at the point of collapse.

271. In the Robben Island prison in March 1964, he and his colleagues were repeatedly assaulted by warders while working at a quarry. He was also kicked in the stomach by one of the criminals. He was then sent to the prison hospital for treatment.

272. After release, Mr. Brutus was subjected to stringent banning orders. He left the country in June 1966 and gave evidence before the Special Committee on Apartheid, the Ad Hoc Working Group and a Sub-Committee of the United States Congress (A/AC.115/L.194; E/CN.4/950).

Mr. Andrew Masondo

273. In 1964, Mr. Masondo, former mathematics lecturer at Fort Hare University College and about 60 other prisoners working in the quarry on Robben Island prison were reported to have been viciously assaulted by the warders. Mr. Masondo sued the Minister of Justice for assault. The case was settled out of court and compensation was paid to Mr. Masondo. 105/

Mr. Jacob Lebone

274. In a trial on charges of sabotage in Johannesburg in April 1964, Mr. Lebone, an accused, testified that after his arrest he had been repeatedly assaulted by white and non-white policemen at the Marabastad police station, near Pretoria, because he had refused to make a statement that he had been on his way to Tanganyika. After he had been flogged with a sjambok (rawhide whip), he finally

104/ The Star, Johannesburg, 2 March 1965; Rand Daily Mail, Johannesburg, 7 July 1965.

105/ South African Prisons and the Red Cross Investigation. (International Defence and Aid Fund, London), 1967.

made a statement that he had already been to Tanganyika and implicated a man called Thlale as the organizer of the group. While at Marabastad, he had been visited by a magistrate only twice in three months. When he complained about the food, the magistrate told him it was better than the food in Ghana. 106/

Mr. Nicholaas Mapipa and others, trial of

275. At a trial in Cape Town on charges of membership in Poqo, Mr. Nicholass Mapipa, 35, an accused, told the court on 11 June 1964 that he had been held in gaol since 25 January 1964. He was ill when in prison and when he asked for medicine, "they told me to cut off my head and put on another one". Detective-Sergeant P. J. Raal had told him that if he did not give the right answers he would die the same way as Looksmart Solwandle Ngudle. While on the way to the magistrate's office to make a statement, the policeman with him threatened to shoot him if he did not speak the truth.

276. Mr. Mapipa testified again on 8 July 1964 that Detective-Sergeant Raal had repeatedly threatened to kill him. He had not told the visiting magistrate about this, because he had been told that magistrates and police worked together. No one had warned him that what he said under interrogation would be used as evidence against him.

277. Another accused in the same trial, Mr. Lukas Sulelo, 34, said on 11 June 1964 that he had been assaulted by an African policeman several times because he "had not been telling the truth". He was told that if he did not tell the truth he would be detained longer than 90 days, and he heard that he might be gaoled for 16 years. The reason why he had finally made the statement was that he expected clemency.

278. A witness in the case, Janet Nake, an African school-teacher, denied in court that she had received a letter from Mr. Mapipa, although the State claimed that she had admitted this in a statement to the police. She was charged with perjury, and sentenced to six months' imprisonment on 29 October. 107/

Miss Stephanie Kemp

279. Miss Stephanie Kemp, 22, a physiotherapist and part-time student, was detained under the 90-day law on 12 July 1964 and held in solitary confinement for 86 days. She was subsequently tried and sentenced on 11 November to five years' imprisonment, three years suspended, on the charge of membership in an unlawful organization (the African Resistance Movement).

280. During the period under detention, Miss Kemp was told by the Security Branch officers that she would be released if she agreed to become a State witness. When she refused, she was assaulted.

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106/ The Star, Johannesburg, 20 April 1964.

107/ Cape Times, 12 and 13 June, 9 July and 30 October 1964.

281. In December 1964, Miss Kemp sued the Minister of Justice, Mr. B. J. Vorster, and two Security Branch officers for damages of 4,000 rand (\$5,600). She alleged that she had been interrogated for long periods, once continuously for almost 15 hours while being forced to stand, denied food for an unreasonable length of time, and subjected to "undue, harsh, physical and mental stress and strain". She also alleged that at the end of the long interrogation, an officer of the Security Police slapped her on either side of her face, then knocked her down and holding her by the hair, hammered her head against the floor of her cell until she was semi-conscious. As a result, Miss Kemp suffered shock, injuries, exhaustion, hunger and bodily injuries, including bruising of the face and head, hair pulled out of her head, extreme tenderness of the bridge of the nose and stiffness of the neck and body.

282. The defendants denied the allegations, and said that the detective had "lawfully inflicted a single blow in the face to pacify her as she had become hysterical during interrogation". They admitted bruising her left eye as a result of the blow.

283. Before the case came up for hearing in the Cape Supreme Court in 1966, the State settled her claims by agreeing to pay 1,000 rand (\$1,400) and all court costs "without admitting the liability, and to put an end to the litigation".

284. Miss Kemp was released in December 1965 and left South Africa on an exit permit in September 1966.

285. She gave evidence before the Ad Hoc Working Group of Experts in London on 15 June 1967. She said that while serving her sentence, she had been held in solitary confinement for a further eight weeks in the death cell in Pretoria. 108/

Mr. Alan Keith Brooks

286. Mr. Brooks, 24, a British citizen and lecturer at the University of Cape Town, was detained under the 90-day law in July 1964. He was tried in October-November and sentenced on 11 November to four years' imprisonment, two years suspended, on the charge of membership in an unlawful organization (the African Resistance Movement).

287. In December 1964, Mr. Brooks sued the Minister of Justice, Mr. Vorster, and two members of the Security Branch, Sergeant "Spyker" Van Wyk and Constable Zandberg for damages of 2,000 rand. He alleged that he had been assaulted on 2 August, while two police officers sat on his chest, others twisted his ankles until his right ankle had been broken and the left sprained. His right foot and ankle had to be set in plaster.

288. The Government denied the allegation but settled the claims out of court. Mr. Brooks was released from prison on 21 June 1966 and ordered to leave the country within three days.

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108/ Cape Times, 10 October and 15 December 1964; Republic of South Africa, House of Assembly Debates, (Hansard), 9 August 1966, cols. 393-394; E/CN.4/950, paras. 488-520.

289. Mr. Brooks gave evidence before the Ad Hoc Working Group of Experts in London on 16 June 1967. He said that he had been kept in solitary confinement for several months after his conviction, so that he had spent a total of approximately 10 months in solitary confinement. He had been interrogated a second time in January 1966, while serving the sentence, for a continuous period of 36 hours without sleep. He had contemplated suicide but had not attempted it. 109/

Mr. Steve Naidoo

290. Mr. Naidoo was detained in the middle of 1964. He was reported to have been subjected to statue torture for 36 hours. When the interrogation came to an end, he had been virtually without sleep for six days. 110/

Mr. Paul Joseph

291. Mr. Joseph, 34, a factory storeman and a leading member of the Transvaal Indian Congress, was detained under the 90-day law on 6 June 1964. In August, he was charged with nine others with membership in the Communist Party.

292. On 20 October 1964, his wife, Adelaide, brought an application before the Supreme Court in Pretoria on behalf of her husband. She alleged in an affidavit that her husband had been interrogated during detention in such a way and for such lengths of time as "are calculated to impair his physical and mental health". She asked the court to declare the methods of interrogation by the Security Police illegal and to restrain the Commissioner of Police and his subordinates from interrogating him in such a way and for such continuous length of time as is calculated to impair his physical or mental health. In support of this application, she lodged affidavits by nine detainees alleging ill-treatment. 111/

293. The State submitted an affidavit by the Chief of Security Police in Johannesburg that a person being interrogated could sit if he wished when undergoing interrogation in a room in which there were sufficient chairs. He said the police were under strict instructions not to assault prisoners but that it was not in the public interest to reveal the ways in which detainees were questioned.

294. The State also submitted affidavits from two doctors that Mr. Paul Joseph was in normal health.

295. However, in December 1964, the State agreed to pay the full cost of the application to save the "time, trouble and expense" of the dispute. It stated, however, that this should not be construed as an admission of the truth of the allegations.

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109/ Cape Times, 20 August, 10 October and 15 December 1964; E/CN.4/950.

110/ Adam Hopkins, "The methods of a master-inquisitor" Sunday Times, Johannesburg, 15 June 1969.

111/ The affidavits were by Mr. Ivan Frederick Schermbrucker, Dr. Constantinos Gazider, Mr. Norman Levy, Mr. Paul Henry Trewhola, Miss Ann Mc Nicholson, Mr. Hugh Lewin, and Mrs. Mary Josephine Moodley. The texts of affidavits were reproduced in document A/AC.115/L.106.

296. The charges against Mr. Joseph under the Suppression of Communism Act were withdrawn and he was acquitted on 5 January 1965. But he was immediately placed under house arrest. Later in the year he fled from South Africa. 112/

Mr. Paul Henry Trewhela

297. Mr. Trewhela, 22, a journalist, was detained under the 90-day law on 3 July 1964, and held in detention for 54 days. He was subsequently charged under the Suppression of Communism Act and sentenced to two years' imprisonment.

298. On 26 August 1964, his attorney told the Johannesburg Regional Court, in justification of an application for bail by his client, that the latter had been interrogated continuously for 69 hours and made to stand virtually all the time. The magistrate refused bail and ruled that statements on treatment and interrogation during detention were not relevant to the application.

299. On 20 October 1964, an affidavit by Mr. Trewhela was filed in the Supreme Court, Pretoria, in support of an application by Mrs. Paul Joseph to restrain the police from maltreating her husband in prison. In this affidavit, Mr. Trewhela said he had been questioned for 69 hours with only four hours sleep in between. He had been allowed to sit down for only 12 hours during that time, and even forced to eat a meal standing. He had been warned that the Security Police would make a physical and mental wreck of him if he persisted in refusing to make a statement. After return to prison he wrote an urgent application to the Supreme Court: he was then again interrogated for 40 hours until he had collapsed with pain and exhaustion. He named the interrogators as follows: N. van Rensburg, R. van Rensburg, Smith, Geyser, Deysel, Crosswell, van Zyl, van der Merwe, van Deventer, van der Merwe and Piet Ferreira.

300. After serving a term of imprisonment, Mr. Trewhela was released in April 1967 and banned. He left for the United Kingdom early in June 1967 and gave evidence before the Ad Hoc Working Group of Experts on 14 June. 113/

Dr. Constantinos Gazides

301. Dr. Gazides, 28, a medical practitioner, was detained under the 90-day law on 3 July 1964 and subsequently charged under the Suppression of Communism Act.

302. In an affidavit filed in the Supreme Court, Pretoria, on 20 October 1964, in support of an application by Mrs. Paul Joseph, he said that he had been questioned at the Compol Building, the Pretoria headquarters of the Security Police and had been forced to stand inside an 18-inch square drawn on the floor with chalk. He had not been allowed to move from the square during 40 hours of

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112/ Sunday Times, Johannesburg, 20 December 1964; Cape Times, 23 August 1965; The Post, Johannesburg, 22 August 1965; A/AC.115/L.106.

113/ Cape Times, 27 August 1964; A/AC.115/L.106; E/CN.4/950, paras. 285-316.



interrogation by the police in shifts. A detective had told him that he should have been standing on a steel square and given electric shocks. Another quoted with approval the Gestapo motto of "Get your man. It is not important if he is guilty or innocent. Get him to confess."

303. He named the following as the officers who interrogated him: van Rensburg, Smith, Geyser, Piet Ferreira, Deyssel, Grobler, Piet van Rensburg, Crossman and van Zyl (A/AC.115/L.106).

Miss Ann Drummond Nicholson

304. Miss Nicholson, 24, a clerk-saleswoman, was detained under the 90-day law on 3 July 1964, kept in solitary confinement for about 50 days and subsequently charged under the Suppression of Communism Act.

305. In an affidavit filed in the Supreme Court, Pretoria, on 20 October 1964, in support of an application by Mrs. Paul Joseph, she said that, while being interrogated during detention, she had been kept standing through the day on 17 August after being forcibly dragged from her chair. She had been pushed around by the police and abused. She named the following among the interrogators: Sergeant van Zyl, van Rensburg, and Erasmus (A/AC.115/L.106).

Mrs. Mary Josephine Moodley

306. Mrs. Moodley, 50, a Coloured housewife, mother of seven children and a leading trade unionist, was detained under the 90-day law from 7 July to October 1964, and subsequently charged with assisting people to leave the country. She was sentenced to a fine and a four-month imprisonment, suspended.

307. In an affidavit filed in the Supreme Court, Pretoria, on 20 October 1964, in support of an application by Mrs. Paul Joseph, she said that she had been kept standing for 13 hours during a night-long interrogation. She was in bad health and had just recovered from pneumonia. The strain had made her very sick. The police told her that they did not care if they made her mad, and that they had made many people mad already (*ibid.*).

Mrs. Joyce Kathleen Mohamed

308. Mrs. Mohamed, 25, daughter of Mrs. Moodley, and mother of four children, was detained under the 90-day law for three months in 1964.

309. In an affidavit filed in the Supreme Court, Pretoria, she said she had been made to stand continuously for 12 hours during interrogation. 114/

Mrs. Christina Deborah Thimbela

310. Mrs. Thimbela was detained under the 90-day law for three months in 1964.

311. In an affidavit filed in the Supreme Court, Pretoria, she said she had been forced to stand for twenty and one-half hours during three sessions of interrogation. 115/

Mr. Norman Levy

312. Mr. Levy, vice-principal of a school, was detained under the 90-day law in 1964, held in solitary confinement for 54 days and subsequently charged under the Suppression of Communism Act.

313. In an affidavit in the Supreme Court, Pretoria, on 20 October 1964, in support of an application by Mrs. Paul Joseph, he said that he had been interrogated during detention for 42 consecutive hours. He had been made to stand in a square and abused and struck on the head with a newspaper. When he told the detectives that he suffered from cardiac trouble and did not feel well, they answered that he was punishing himself by being so obstinate and refusing to make a statement. He was interrogated in a similar manner four times. He named the following as the interrogators: N. van Rensburg, Geyser, Deysel, Smith, R. van Rensburg, van Heerden and Crossman (A/AC.115/L.106).

Mr. Ian David Kitson

314. Mr. Kitson, an engineer, was detained under the 90-day law in 1964, kept in solitary confinement for four months and subsequently sentenced to 20 years' imprisonment on charges of sabotage and furthering the interests of communism. He filed a suit from prison against the Minister of Justice, Mr. B. J. Vorster, for damages of 1,250 rand (\$1,750), alleging ill-treatment during detention. He said he had been compelled by the police to stand for "inordinately" long periods both in the day and the night while teams of policemen questioned him. On at least two occasions, he was forced to stand on one spot for over 20 hours. When he lost consciousness he was revived by having cold water thrown over him and the interrogation continued. During the interrogation "much foul and abusive language was levelled at him by certain of the police officials" and threats were made against him. 116/

315. His wife was also detained for four weeks while he was under detention.

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115/ Cape Times, 21 October 1964.

116/ Cape Times, 23 December 1964; International Defence and Aid Fund circular of 19 January 1965.

Mr. Satyendranath Ragunnan Maharaj

316. Mr. Maharaj, 30, was detained under the 90-day law in 1964 and subsequently tried with Mr. Wilton Mkwayi and three others in the Rand Supreme Court for participation in the activities of the underground Umkonto We Sizwe, associated with the African National Congress.

317. Mr. Maharaj alledged in Court on 18 November 1964 that during detention on 8 July he had been "beaten intermittently" from 10 a.m. to 6 p.m. "At times my hair was pulled and I was beaten on the head with a baton." On another occasion he had been hit on the body with a sword and on the head with a pistol.

318. Mr. Justice Boshoff said the matter could be referred to the Attorney General.

319. On 22 December 1964, Mr. Maharaj sued the Minister of Justice, Mr. B. J. Vorster, for damages of 5,000 rand (\$7,000), alleging that he had been assaulted on "numerous occasions" during detention in July and August. In addition to being made to stand for long periods when he had been interrogated, it was alleged "he was slapped, kicked in the groin; his hair - both on his head and beard - was pulled out; he was punched on his body and solar plexus; he was whipped on the head with a baton; the baton was thrown at him from time to time...". His trousers were removed and he was kicked in the groin and a part of his body was hit with a baton and pressure was applied with the point of a nail protruding from a plank. He was also "whipped on his head with a pistol, and a dagger was held at his throat and pointed at his one good eye".

320. The case was not pursued, apparently as Mr. Maharaj was in prison serving a 12-year sentence. 117/

Mr. Hugh Francis Lewin

321. Mr. Lewin, 24, a journalist, was detained under the 90-day law on 9 July 1964, held in solitary confinement for over two months and subsequently sentenced to seven years' imprisonment under the Sabotage Act.

322. He brought assault charges against a Security Branch officer, W. J. van der Merwe. He alleged that he had been interrogated from 5.30 p.m. on 23 July to 8 a.m. the next day by a team of policemen including Lieutenant van der Merwe, Lieutenant Vikter and Captain Swanepoel. He had been interrogated again on the evening of 24 July when he had been beaten until he was crawling on his hands and knees and screaming. When he was removed from the interrogation room at 3 a.m. the next day, his face was swollen and the left eye was completely closed with the eyeball covered in blood.

323. Police denied that physical force had been used against Mr. Lewin. Dr. R. Rabinowitz, a Pretoria doctor, told the court that he had examined Mr. Lewin

at Pretoria prison on 30 July 1964. He had bruising round both eyes consistent with being struck by a fist, but the injuries could also have been caused, the doctor said, by Mr. Lewin striking his head against a car door.

324. The Johannesburg court, which heard the case, dismissed Mr. Lewin's charges.

325. On 22 December 1964, Mr. Lewin filed a suit against the Minister of Justice, Mr. B. J. Vorster, for damages of 2,500 rand (\$3,500). The case was not pursued as Mr. Lewin was in prison. 118/

Mr. Frederick John Harris

326. Mr. Harris, a teacher and chairman of South African Non-Racial Olympic Committee, was arrested on 24 July 1964 and detained under the 90-day law. He was subsequently charged on 14 September with planting a bomb in the concourse of the Johannesburg railroad station. Sentenced to death under the Sabotage Act, he was executed on 1 April 1965.

327. During the trial Mr. Harris told the court that he had planted the bomb as a spectacular demonstration against the policies of the Government. He had telephoned the police and newspapers to warn them so that the concourse could be cleared.

328. In an affidavit before the court, his attorney said that he had complained that he had been assaulted during detention. His jaw had been broken and his faculty of balance had been impaired because the inner ear had been damaged. 119/

Mr. Ivan Frederick Schermbrucker

329. On 8 August 1964, Mrs. Lesley Erica Schermbrucker brought an urgent application to the Rand Supreme Court seeking an order interdicting the police from continuing maltreatment of her husband, Mr. Ivan Frederick Schermbrucker, a businessman and former newspaper manager, detained under the 90-day law. She alleged that her husband, who had been detained on 23 July, had told her about the maltreatment in a message, smuggled from his place of detention on 4 August. The text of the message, annexed to the petition to the court, read:

"I was taken for questioning to the Grays yesterday at lunch time. When I refused to make any statement I was told to stand in one place and then the questioning started...

"I stood for 28 hours without moving an inch from 12 noon yesterday till 4 p.m. this afternoon...

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118/ A/AC.115/L.106; The Star, Johannesburg, 18 December 1964; Cape Times, 19 and 23 December 1964; Southern Africa, London, 25 December 1964.

119/ The Star, Johannesburg, 21 September 1964.

"I fell twice, had cold water thrown over me and was pulled to my feet.

"It seems that most of the men detainees here have been kept standing on their feet continuously for anything from between 12 hours to 36 hours and that most have broken at one stage.

"I nearly committed bloody suicide by jumping out of the window, but instead I have made a short statement...

"The language, curses, threats are too horrible...

"This is torture good and solid. They laugh and almost bump you about when you complain...

"They threatened to keep me standing for 4 days and nights or even longer...

"I can hardly move I am so stiff and sore. By Christ, it's just about the end of the road.

"My fondest love to all of you, my darlings, and don't judge people too quickly or harshly. This is real terror - I am convinced that shortly even whites will be assaulted by the Special Branch and the officers are the worst."

330. Mrs. Schermbrucker said that the day after receiving the message she had been allowed to see her husband in the presence of two policemen. She noticed that he "appeared pale, depressed and exhausted". His hand was trembling and his eyes were bloodshot. She sought an order declaring the method of interrogation by the police unlawful and an interdict restraining the police from continuing this form of interrogation and from maltreating her husband, and more particularly an interdict that they refrain from interrogating him in such a way and for such continuous length of time as is calculated to impair his physical or mental health.

331. Mr. Justice Synman adjourned the proceedings after the State undertook to suspend all interrogation pending the outcome of the application. Counsel for Mrs. Schermbrucker asked that the detainee be produced in court and that the legal adviser be given access to him. The judge did not act on these requests, which were opposed by the State.

332. Mr. Justice Synman ruled on 14 August 1964 that the Court cannot order that a detainee be brought before it for any purpose. The interruption of the detention, he said, would "frustrate" the purpose of the 90-day provision which had apparently been conceived by the legislature to protect the safety of the State and isolate possible informants on offences concerning the safety of the State.

333. The judgement was upheld on appeal to the Supreme Court and the Appellate Division.

334. In an affidavit filed in the Pretoria Supreme Court on 20 October 1964 in support of an application against ill-treatment another detainee, Mr. Paul Joseph, Mr. Schermbrucker, who was now a prisoner awaiting trial, said that he had been interrogated by several Security Branch men for about 28 hours. They had sworn at him and shaken him by his jacket. An officer had told him that he would like to hit him between the eyes and knock him senseless. He had been constantly abused and threatened that he would be urinated on if he fell down. He had collapsed during interrogation. The police threw water over him to revive him and continued interrogation. He named the following interrogators: Erasmus, Captain Swanepoel, Lieutenant Muller. 120/

Mr. William Mofotleng

335. Mr. Mofotleng, 74, appeared as a State witness at the trial of Mr. Andrew Mashaba and others in Pretoria under the Sabotage Act on 25 August 1964. 121/ He had been under detention under the 90-day law for eight months and admitted that he had been assaulted on two occasions. He said that assaults by the police were normal and that he did not wish to disclose the names of his assailants. Asked by the Defence Counsel if he was afraid of getting into trouble, he answered: "What greater trouble can I get in than I am in now?" 122/

Mr. Suliman "Babla" Saloojee

336. Mr. Saloojee, 32, an attorney's clerk and a leading member of the Transvaal Indian Congress who had suffered imprisonment in the Defiance Campaign of 1952 and the State of Emergency in 1960, was detained under the 90-day law on 6 July 1964. He jumped to his death on 9 September 1964 from the seventh floor of the Security Police headquarters in Johannesburg while being interrogated by Special Branch detectives.

337. At the inquest, Captain Theunis Jacobus Swanepoel, a senior officer of the Security Police interrogation section, said that he had questioned Mr. Saloojee on 9 September but that he had been out of the room at the time of the fall. He denied that any violence had been used in the interrogation.

338. Detective-Sergeant Johannes van Zyl, another policeman who had interrogated Mr. Saloojee, also said that no unlawful methods had been used.

339. The magistrate, Mr. A. J. Kotze, found that no one was to blame for Mr. Saloojee's death.

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120/ Cape Times, 8 and 15 August and 21 October 1964; A/AC.115/L.106.

121/ See paras. 266-268 above.

122/ The Star, Johannesburg, 25 August 1964.

Mr. Raymond Eisenstein

340. Mr. Eisenstein was detained under the 90-day law in 1964.

341. It was reported that he was punched steadily on one spot on his arm for three hours until it was swollen. He was forced to stand for 28 hours. He then sat down and was kicked and beaten. He was seized by his testicles, lifted up bodily, taken to the window and threatened with dropping. He then made a statement which was false (E/CN.4/950, para, 917).

Mr. John Matthews

362. Mr. Matthews, an elderly man over 50, was detained under the 90-day law in 1964. It was reported that he was made to stand for a long time (ibid.).

Mr. John Laredo

343. Mr. Laredo was detained under the 90-day law in 1964. He was reported to have been forced to stand for hours holding a chair above his head. He threw down the chair and attempted to jump out of the window, but was restrained (ibid.).

Witnesses in the trial of Mr. Kwedi Mkhali and others

344. In the trial of Mr. Kwedi Mkhali and three others in 1965 in the Supreme Court, Cape Town, on the charge of recruiting persons for military training on behalf of Pogo or Pan-Africanist Congress, seven defence witnesses and a State witness alleged torture.

345. State witness "W" alleged that on 7 or 8 December 1964, he had been assaulted by two detectives. He was forced to stand on bricks. A paraffin tin was placed over his head and was beaten upon. Smoke was introduced into the tin and he had choked.

346. Defence witness "E" alleged similar interrogation.

347. Defence witness "A" testified that his brother, who had appeared as State witness "X", had been hit on the face, kicked with boots, given an electric shock and had a paraffin tin inverted over his head. He himself had been assaulted numerous times.

348. State witness "D" said:

"A tin was put over my head and someone started beating it. Cigarette smoke was blown in underneath the tin. Every time I felt dizzy, the tin would be taken off for a while."

Other defence witnesses also alleged violent assaults, and testified that State witnesses "N", "Y" and "Z" had also been assaulted. 123/

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123/ Cape Times, 2 June 1965; Sunday Times, Johannesburg, 13 June 1965; Southern Africa News Features, London, 5 April 1965.

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Other cases under the 90-day law

349. A number of detainees under the 90-day law were examined by psychiatrists or sent to mental institutions.

350. The Minister of Justice stated on 21 January 1964 that of the five detainees who had been examined by psychiatrists, two were found to be normal, two were subsequently discharged from a mental institution, and one had escaped during observation. 124/

351. The press has, however, reported a number of cases of persons who required treatment during or after detention.

352. Spotlight on South Africa, published by the African National Congress in Dar es Salaam, stated on 10 April 1964:

"We know of William Tsotso, kept in solitary confinement in the Cape for months, until something snapped and he howled like a beast for days and nights on end. The warders ignored him until finally he was brought from his cell, emaciated and in an animal-like condition, to be taken to a mental institution. We know of Jaftha Mabulelong, arrested last April, charged, and released. While still in court he was re-arrested under 90-days. In November he was released without being charged; a little later he suffered a severe mental breakdown and was sent to Sterkfontein.

"We know of Ebrahim Sayanvala, who drowned himself when he thought he was going to be re-arrested; of a man in Valkenberg, described by the priest, who visited him, as a complete mental and physical wreck."

Miss Sylvia Neame

353. Miss Neame, 23, a student, was detained under the 90-day law in October 1963, released after 45 days in solitary confinement, detained again on 3 July 1964, sentenced to two years' imprisonment in April 1965, on charge of membership in the Communist Party and again charged on 18 May 1965 with contributing to the African National Congress.

354. Before the second trial and during a week's adjournment of that trial in the middle of June 1965, Miss Neame was again held in solitary confinement. The senior defence counsel, Mr. D. Soggot, told the court on 21 June, that the solitary confinement was calculated to break down the prisoner. She had become hysterical, frantic and dizzy, and had had to have psychological treatment. He appealed to the court to pass a ruling that she be held in a humane fashion. The magistrate said

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124/ Republic of South Africa, House of Assembly Debates. (Hansard)  
21 January 1964, cols. 21 and 22.



the Regional Court could not pass a ruling and that Miss Neame should speak to the prison authorities or make an application to the Supreme Court. 125/

355. After release in 1967, she left for the United Kingdom. In an article in The Guardian, she described the miserable conditions in the Barberton Female Prison in which she served her sentence. She also gave evidence before the Ad Hoc Working Group of Experts on 14 June 1967. 126/

#### Bavianspoort prison case

356. Thirteen prisoners in Bavianspoort prison were tried in 1965-1966 on charges of membership in the Pan-Africanist Congress. Several alleged ill-treatment.

357. Mr. Matthews Mthembu said he had gone to a doctor and told him that he suffered from rheumatism. Instead of treatment he had been subjected to 72 hours' isolation. Two of the accused said that all the accused had been threatened by prison authorities during the trial for talking too much in Court. Several alleged that they had been subjected to torture by "electric massage" and placed in straitjackets. 127/

#### Mr. Isaiah Stein

358. Mr. Stein, 33, was detained under the 180-day law on 12 August 1965 and placed in solitary confinement during two months of interrogation. He was charged on 10 October, but the charges were subsequently withdrawn. After his release, he was served banning orders, placing him under a 24-hour house arrest. He was again arrested on 7 May 1966 on the charge of contravening the banning orders and served a sentence of three months in prison. He left for the United Kingdom in February 1968.

359. In evidence before the Ad Hoc Working Group, he stated that he had been subjected to prolonged interrogation and threats of violence and torture during detention in 1965. His wife had also been detained in order to force him to co-operate with the police but she had been released after he went on hunger strike for eight days.

360. He said he had been assaulted by a warder in prison on 18 October 1966 and suffered facial injuries. He had complained about the assault but no action had been taken (E/CN.4/AC.22/RT.14).

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125/ Cape Times, 22 June 1965.

126/ Sylvia Neame, "Prisoner in South Africa" in The Guardian, Manchester, 10 July 1967; E/CN.4/950, paras. 317-325.

127/ Pan-Africanist Congress, Maseru, Circular dated 7 January 1966.

Mrs. Caroline de Crespigny

361. Mrs. de Crespigny, a British citizen and writer, was detained on 8 December 1965 under the 180-day law, kept in solitary confinement for 144 days and released without any charges. She was interrogated for 48 hours without sleep and subjected to threats. A diary based on the notes she kept in prison was published by the New Statesman (London) on 8 July 1966. She wrote:

"December 21: I have been interrogated continuously since lunchtime yesterday. And now it is morning and no one has used the truncheon that the Lieutenant brought in and placed against the cell wall in the middle of the night...

"To all the questions so far I have replied: 'I have nothing to say.' They have 384 tape recordings of conversations in my house in Cape Town. Personal and political discussions with friends - nothing they could use in a court case. But a basis for interrogation.

"There are eight of them. They work in shifts. Two of them seem to have special roles to play. The Lieutenant is the 'bully' who shouts and swears at me. The other Lieutenant (the quiet one) tells me he wants to be my friend.

"Lunchtime. The Lieutenant comes in alone. He looks at the truncheon, says that as I 'won't talk' they are now going to use 'other methods' of interrogation. Exit. Replaced by the quiet one, who tells me he is afraid of what they are going to do to me... And when he says 'If you take up that attitude, there is nothing I can do to help you,' I begin to cry.

"Mid-afternoon. They have told me C has made a statement. I don't believe them. I say: 'Well, show it to me.' They do.

"December 22: Lunchtime. I have signed the statement written by the Captain. It is in such bad English that I console myself by thinking that I can always prove I didn't write it. The Captain says: 'Well, you've confirmed the things we've told you. But you've told us nothing. Now you're going to start.' He goes out. The Lieutenant comes in. He picks up the truncheon. He pulls a chair round until it is almost touching mine. He sits down. I can smell his sweat. He starts tapping on the floor with the truncheon. 'Talk', he says. 'But there's nothing I can say.' He goes on tapping. I sit with my hands clasped in my lap to stop them shaking. I look down at my feet. They are filthy. I have been sitting for so long on this hard chair in this cramped position, jammed between the table and the wall, that my ankles are swollen and my calves are veined and mottled. The Lieutenant rises, puts down the truncheon. He starts swinging at the wall with his fists. I tell myself: 'Wait till he hits you. See how you can manage. Take it minute by minute.' 'Start talking,' he says. I repeat: 'But there's nothing I can say.' He goes out. I wait for him to come back. After a few minutes the Captain comes in. He says: 'We're taking you back to the prison now. We'll be fetching you again in a few days.'"

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362. Subsequently, the British Consul saw her and she described the interrogation to him. She was never questioned in the same way again.

363. After her release, she went to the United Kingdom and gave evidence before the Ad Hoc Working Group (E/CN.4/950).

Mr. Fred Carneson

364. Mr. Fred Carneson, a former member of the Cape Provincial Council, was detained under the 180-day law on 8 December 1965 and charged in January 1966 with participation in communist activities and sabotage. He told the Cape Town Criminal Sessions on 25 May 1966:

"While held incommunicado in the custody of the Security Police, I was on three different occasions subjected to well-practised, expertly applied methods of refined physical and psychological torture... My interrogation began a few hours after my detention. I was kept awake all Wednesday night. On Thursday I was flown to Pretoria and on arrival there immediately subjected to further interrogation, which continued until the early hours of Saturday morning. I was deliberately kept awake during this whole period and frequently made to stand for long periods."

During one of the interrogations, he said he was made to stand for most of the time. "I collapsed and water was thrown over me. I collapsed again on two further occasions." 128/

365. He was found guilty of communist activities, not guilty of sabotage, and sentenced to five years and nine months.

366. Mr. Carneson had made certain admissions of guilt. Mrs. Caroline de Crespigny wrote:

"He made these admissions to prevent 180-day detainees, including myself, being called as witnesses - because he knew that we could be sentenced for refusing to give evidence against him. We owe our liberty to him, and not to the South African Government." 129/

Miss Gillian Jewell

367. Miss Jewell, 34, a lecturer in French, was arrested on 27 January 1966 under the 180-day law, held in solitary confinement for three months and subjected to cruel interrogation. She was released without being charged or called as a witness and left for the United Kingdom on medical advice.

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128/ Cape Times, 26 May 1966.

129/ Caroline de Crespigny, "Prisoner of Verwoerd", in New Statesman and Nation, London, 8 July 1966.

368. She gave evidence before the Ad Hoc Working Group in London on 19 June 1967.

369. She said that she had been subjected to repeated interrogations, insults, and psychological pressures, while she was on a hunger strike in protest against conditions of detention. She said:

"My interrogation consisted of insults and questions, alternating with periods of relaxation in order to keep me in a state of emotional tension. These methods of interrogation went on without any respite. In addition, I was subjected to various forms of psychological torture. I was threatened with the arrest of a friend who had young children to look after. Veiled threats were made about my fiancé serving a twelve-year prison sentence in Pretoria local prison for sabotage, and I was told that I had killed my twin sister who had committed suicide not long before. Towards evening, I attempted to break my leg in order to avoid any further interrogation, but only managed to bruise myself rather badly and I became hysterical. At about 10 o'clock that evening, I decided to make a short statement before I lost complete control. After my statement, I was taken back to my cell in Maitland police station.

"The following morning, my books and writing materials were returned to me, and I was taken to see the district surgeon at Bellville for a medical examination. I was told that it was because of my hunger strike. I ended this hunger strike on the tenth day of my detention. My repeated and detailed protest to the visiting magistrate about the illegal methods used during my interrogation were without any effect...

"However short a statement a detainee makes to the Special Branch under these conditions, he is left to face the psychological shock of having been forced, against his will and his deepest convictions, into some form of betrayal. For days I was a prey to the traumatic effects of this betrayal, analysing, justifying, turning over and over the possible consequences in my mind. I suffered from constant headaches, and they grew progressively worse. Six weeks after my arrest, I went completely insane, and remained so until after my release when I had to receive psychiatric treatment. I do not wish to dwell on what was a personal nightmare, except in so far as it illustrates the techniques of mental torture now widely used by the Special Branch in South Africa, and the cruel effects of solitary confinement on the individual.

"As is well-known, the relationship between twin sisters is especially close and deep. I was a frequent visitor to and then lived in, a house in Cape Town where the Special Branch had made 383 tape recordings of conversations. They were aware not only that I had guilt feelings about my sister's suicide, but also that I was receiving medical treatment for a depressive reaction following on her suicide. They used this information deliberately to create feelings of guilt in me, and my period of insanity during my detention was the direct outcome of their methods of interrogation.

"I started to imagine that my food was poisoned and I ate and drank very little. I suffered from paranoia and thought that my cell was 'bugged', that a two-way mirror had been placed in the ceiling, and that I was being constantly spied upon and watched. The anti-Jewish statements made during my interrogation by the Special Branch - who, on arresting me, told me: 'We wish we had another Adolf Eichmann here; he would shoot you dead' - preyed on my mind and led me into thinking that I was being gassed and that I was in some kind of gas chamber. I started to live like a hunted animal, constantly hiding objects, sleeping on the floor next to the door, drinking my lavatory water for fear of poison. I refused to leave my prison cell even for exercise, imagining that objects were being stolen. I had constant hallucinations, both visual and aural, and lost all sense of time. I also suffered from complete dissociation of act and thought, and the psychiatrist I saw after my release was unable to determine whether I had actually written statements on my cell walls or whether they had been hallucinations on my part.

"So strong were my hallucinations and my belief that I was being poisoned and gassed that I finally decided to do anything in order to be moved either into hospital or into another cell. I swallowed various objects, safety-pins, both open and closed, buttons, hairpins, etc., and informed the policeman on duty that I had done so. A doctor came, asked me whether I felt any pain, and then left without prescribing any treatment. The following day I swallowed a pin two inches long. I was told by the Lieutenant in charge of the police station that I could be an ostrich if I wanted to be one, and I was left without any medical attention. In the morning, instead of opening my cell to give me my food, the policeman on duty kept the door locked for some time and I was told that the key had been lost. This was to punish me for wanting to leave my cell. Finally, that afternoon, I was taken for an x-ray. I was not told the results of the x-ray, and the matron in charge of me informed the nurses that I was lying. Desperate, the next day I smashed a bottle and cut my wrists. I also swallowed a number of pieces of broken glass. The next day I was released, fortunately before I hanged myself, which was the next step I had planned. A week after my release, I was sent a message from the Special Branch at Caledon Square telling me to go for a further x-ray. This was the only acknowledgement of my illness that I received from them.

"For some weeks after my release, I was still subject to delusions and had to seek psychiatric help. The psychiatrist told me that any further strain could involve permanent insanity. Acting on medical and legal advice, I left South Africa. As an after-effect of my prison experiences, I had a nervous breakdown six months ago and am still receiving medical treatment. Hallucinations and nightmares have been frequent, and I have suffered from difficulties relating to memory and ability to concentrate."

370. She named Lieutenant Nel, Lieutenant Erasmus, Captain Vikter and Captain Swanepoel as among the officers who had interrogated her (E/CN.4/950).

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Mr. Bernard Louis Gosschalk

371. Mr. Bernard Louis Gosschalk, a Cape Town architect and father of four young children, was detained on 27 January 1966 under the 180-day law. After a visit to the prison, Mrs. Gosschalk brought an urgent application before the Cape Supreme Court on 2 February, on behalf of her husband, to restrain the Special Branch from "wrongful and unlawful" interrogation of her husband. Mrs. Gosschalk stated in an affidavit that since 31 January her husband had been subjected to continuous questioning by a team of interrogators for lengthy periods, without affording him the opportunity of sleeping. She stated:

"He was dirty and unshaven and was wearing the same clothes as he had been wearing early on Thursday when he was arrested. The clothing was dishevelled and soiled. He looked fatigued and exhausted. He smelt dirty and insanitary. In appearance he looked bewildered, did not know what day of the week it was.

"When he saw me the applicant broke down and began sobbing; this is something I have not seen in the eleven years that I have been married. When he had managed to compose himself the applicant informed me that he had been incessantly interrogated ever since he had got to the police station...

"He indicated that he had not slept since he had been there because of interrogation. He indicated that the interrogation had taken place in a small sound-proof room and that he had not been permitted to leave this room, even to relieve himself.

"He indicated that while he had been in a cell, there had been no sanitary conveniences provided for him...

"He said that he had not been permitted to wash at all since he had been at Caledon Square...

"When I asked him whether or not he had exercise he said he had not been given any opportunity to have exercise since his detention.

"I respectfully submit that from the above it was quite clear that the Security Police are endeavouring to obtain information from the applicant, and in order to do so are depriving him of facilities to which he is entitled in terms of the regulations governing his detention and also by preventing him from sleeping." 130/

372. Mr. Justice van Zyl issued an order calling on the head of the Security Branch in the Western Cape, Major D. J. Rossouw, to show cause why he should not be "restrained from exerting any unlawful pressures on Bernard Gosschalk in the attempts to influence him to answer questions or make a statement". The case was

twice adjourned. Meanwhile, an application by counsel for Mrs. Gosschalk to be permitted to see Mr. Gosschalk was refused by the Attorney-General.

373. On 16 February, Mrs. Gosschalk filed an affidavit requesting that the case be tried. She stated:

"... the interrogation and treatment of my husband while under detention, as deposed to me, was part of a system and technique of unlawful interrogation and treatment which has been and is being applied by a specially deputed team of interrogators from the Transvaal, headed by Captain Theunis Jacobus Swanepoel, to a number of persons who have recently been detained in terms of section 215 bis of Act 56 of 1955, as amended.

"I submit that this system and technique is characterized by the following illegal practices:

"(a) The interrogation of detainees under the section without their consent and against their will, and this with such persistence and for such lengthy periods as to bring them to the point of exhaustion.

"(b) As a further means of coercion, the withholding of the ordinary privileges to which such detainees are in law entitled.

"(c) The abuse of the section to detain persons against whom it is intended to bring criminal charges and the failure to warn in terms of the Judges' Rules detainees who are themselves suspected of having committed offences." 131/

374. Giving judgement on 24 March 1966, Mr. Justice Corbett granted an order that oral evidence be heard on the manner of detention of Mr. Gosschalk, and added that the Security Branch was not entitled to use third-degree methods or subject a detainee to any form of assault or cause his health or resistance to be impaired by inadequate food, lack of sleep or the like.

375. Faced with the prospect of a trial, the Government released Mr. Gosschalk on 30 April 1966, but immediately placed him under a 12-hour house arrest and served him with banning orders which prohibit publication of any statement by him. 132/

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131/ Cape Times, 17 February 1966.

132/ Ibid., 4 and 17 February, 25 March and 1 May 1966.

Mrs. Violet May Weinberg

376. Mrs. Weinberg was detained under the 180-day law on 8 November 1965. She was called as a State witness in the trial of Mr. Isaac Heymann and Mr. Michael Dingake in April 1966, but refused to give evidence. She told the Pretoria Supreme Court on 18 May 1966 that she had made a statement to the police only after relays of Security Branch officers had questioned her continuously for three days. According to a bulletin of the World Campaign for the Release of South African Political Prisoners, London, in May 1966:

"Mrs. Weinberg described her nightmare seventy hours of third-degree interrogation by a team of six Security Branch men who had worked on her in relays. When she refused to talk, they were insistent that she should do so and ordered her to remain standing. During the interrogation which lasted from the Monday to the Thursday night without interruption, she had sometimes sat on the floor and sometimes on the radiator for short intervals. She was allowed to leave the interrogation room only to go to the toilet, when she was accompanied by a policewoman who went with her into the toilet.

"She had not been allowed to sleep and when she had shown signs of dropping off, they banged on the table until she wakened. On one occasion, when sleep had overcome her, they had wakened her, filled a glass with water and told her if she slept again they would 'douse' her with it. They kept saying, 'You are going to land in Weskoppies Mental Asylum,' and repeating 'we will crack you'.

"She was further threatened by three things. First, that the 90-day law would be reintroduced and every one of the people with whom she had been in contact could be detained. Secondly, that her son, Mark, who is completely deaf, would be detained, and thirdly, that their daughter, Sheila, on bail awaiting her appeal in a slogan painting case, would have her bail withdrawn.

"By Wednesday of her interrogation her legs were grossly swollen. 'My ankles,' she said, 'were literally hanging over my shoes and my eyes were swollen until they were mere slits'.

377. Mrs. Weinberg refused to repeat the statement she made to the police as evidence in court and was sentenced in May 1966 to three months' imprisonment. 133/

Mr. Victor Finkelstein

378. Mr. Finkelstein, a paraplegic confined to a wheelchair, was detained in March 1966.

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133/ New York Times, 19 May 1966. The Minister of Justice, Mr. B. J. Vorster, in a statement on 20 May 1966, denied the allegation by Mrs. Weinberg. He said she had been visited by members of her family during detention and had not made any complaint of ill-treatment or improper treatment. Ibid., 21 May 1966.



379. After release, he went to the United Kingdom. He stated that he had been interrogated continuously from a Friday evening to a Monday morning. By then he agreed to make a statement. He was permitted only brief periods of sleep until Thursday when the statement was completed. 134/

Mr. Steven Tobias

380. Mr. Tobias, 43, a bricklayer, was charged in January 1966 of contravening banning orders by attending a gathering and sentenced on 23 March 1966 to six months' imprisonment. He left South Africa after release and gave evidence before the Ad Hoc Working Group. He said he had been ill-treated and assaulted in prison (E/CN.4/AC.22/RT.20).

Mr. James Hamakwayo

381. Mr. Hamakwayo was detained on 26 August 1966 and died on an unspecified date. According to evidence at a trial under the Terrorism Act, his death was due to suicide by hanging.

Mr. Jetro Ndhlevu

382. Mr. Ndhlevu, an accomplice witness in the trial of Mr. M. D. Naidoo, a leader of the South African Indian Congress, in the Supreme Court in Pietermaritzburg testified in October 1966 that while under detention under the 180-day law, he had been told by the Security Police that he would be assaulted if he did not make a statement. He had been struck hard twice with the fist on his jaw, in the presence of Lieutenant Stadler.

383. Lieutenant H. D. Stadler denied that any threats or assaults had been made on Mr. Ndhlevu. 135/

Mr. Leong Yum Pin

384. Mr. Leong was detained under the 180-day law on 16 November 1966 and died on 19 November 1966. Police claimed that the cause of death was suicide by hanging.

Mr. Ah Yan

385. Mr. Ah Yan, 63, a Chinese general dealer, was detained under the 180-day law in November or December 1966 (the exact date is unknown) and died on 5 January 1967, in a Silverton police cell. Police claimed that the cause of death was suicide by hanging.

134/ Sunday Times, London, 15 June 1969.

135/ The Post, Johannesburg, 2 and 9 October 1966.

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386. At the inquest, counsel for the family asked that evidence be heard from three other Chinese detainees in the cell. The request was rejected.

387. The magistrate found that the detainee had died as a result of hanging and that nobody was to blame.

Namibians trial of 37, in June 1967

388. In June 1967, 37 Namibians, adherents of the South West Africa People's Organization (SWAPO), were charged, retroactively, in Pretoria under the newly-enacted Terrorism Act, after being held for periods up to 18 months in prison. (The indictment listed offences dating back to 1962.) The detention and the trial were condemned by the United Nations as illegal.

389. In February 1968, 19 were sentenced to life imprisonment, 9 to 20 years and 2 to 5 years. Three were sentenced under the Suppression of Communism Act to five years' imprisonment, all but one month suspended. Two were acquitted. One of the accused, Mr. Ephraim Kaporo had died in prison in September 1967.

390. At the trial, it was alleged that many of the accused had been tortured in prison. Scores of prosecution witnesses had also been held in solitary confinement and had given evidence while in detention. First-hand witnesses gave evidence that several had been tortured.

391. Among the accused was Mr. Toivo Herman Ja Toivo, 41, a leader of SWAPO. According to an account published in London, Mr. Toivo was arrested in Namibia on 9 September 1966 and three days later taken by air to Pretoria. He was transferred to Compol Buildings, the Special Branch headquarters, where he was immediately assaulted by all seven men who were with him. He fell to the floor, was ordered up, handcuffed to a pipe, blindfolded and given electric shocks, while abuse and threats were shouted at him. He was able to touch the floor only with his toes and he was suspended in this way for four continuous days without a break, except for a few minutes at a time when he was allowed to visit the toilet or given some food.

392. While he was suspended in this way, one of the team of police interrogating him felt his ankles from time to time to see whether they were swollen. On the fourth day he could hardly stand because his legs were so swollen and sore. That evening his interrogation began and continued until the following evening. By that time he was giving any answer because he could no longer endure the pain and was not in control of himself.

393. He was asked to write his statement and given a week in which to do it. When it proved to be not exactly what was required, he was ordered to make another statement to a Special Branch man, who continued assaulting him until he said exactly what was required.

394. This statement took about three months to complete, as by this time he had lost his memory. He was finally ordered to make a statement incriminating himself. When he refused to do this he was threatened with further suspension from the pipe and assaulted once more. Eventually he agreed to make such a statement, although he did not sign it.

395. During the whole period of his detention in Pretoria, from 16 September 1966 to 27 June 1967, when he was finally brought to trial, he and the others with him were locked up in their cells continuously, except for a few minutes each day when they were able to walk in a passage. The detainees were refused medical attention. 136/ The magistrate, who visited them once a week, said he was interested only in complaints that dealt with the prison, and not with what happened in Compol Buildings. 137/

Mr. Gabriel Mbindi

396. Mr. Mbindi, 68, a Namibian, was detained under the Terrorism Act in June 1967. His case became known as he was in the same prison as 37 Namibians charged under this Act. An urgent application was brought before the Supreme Court, Pretoria, by a fellow Ovambo prisoner, Mr. Joseph Helao Shityuwete, on 19 December 1967, for an order to protect Mr. Mbindi from cruel and brutal assaults by the Security Police, including electric shock torture. The Commissioner of Police, the Officer commanding the Pretoria Local Prison and the Minister of Justice were cited as respondents.

397. It was alleged that Mr. Mbindi had been assaulted on 19 June and 28 November 1967. On the second occasion he was handcuffed to an iron water pipe so that his feet barely touched the ground. Then he was blindfolded, kicked and beaten. His face and one arm were swollen and he excreted blood for three days.

398. Sworn affidavits in support of this application were filed in court alleging that the Security Police, under the command of Major Theunis Jacobus Swanepoel, were conducting a systematic course of torture against the detainees.

399. The respondents denied the allegations. It was disclosed in their affidavits that Mr. Mbindi had been interrogated by Captain Roclof van Rensburg and Lieutenant Johnathan du Preez on 28 November.

400. Mr. Mbindi was released on 16 February 1968, before the court was to hear oral evidence. He was paid witness fees of 92 rand though he had not been called as a witness in the trial of the 37.

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136/ The detainees were reported to have been examined by doctors, after being charged, following intercession by a representative of the International Committee of the Red Cross. For further information on the treatment of the detainees, see paras. 404-417 below.

137/ From the circular of the International Defence and Aid Fund, World Campaign for the Release of South African Political Prisoners, London, April 1968.

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401. Subsequently, Mr. Mbindi sued the Commissioner of Police, the Officer commanding Pretoria Local Prison and the Minister of Justice for damages.

402. In October 1968, a month before oral evidence was to have been heard, the State settled the case out of court, paying 3,000 rand (\$4,200) toward the costs of the application, though without admitting the truth of the allegations. 138/

403. The Rand Daily Mail said in an editorial on 4 November:

"This is not the first time there have been such open allegations of ill-treatment by Security Branch interrogators. Nor is it the first time the State has settled cases arising from them out of court.... In none of these cases has the truth been tested. It has been left suspended between allegation and denial, before a confused and troubled public."

Mr. Joseph Helao Shityuwete

404. Mr. Shityuwete, 27, a Namibian, was arrested on 27 March 1966, held in detention for 15 months, and then charged with 36 other Namibians under the Terrorism Act.

405. In the Mbindi case, he submitted an affidavit to the Pretoria Supreme Court that, during interrogation at Compol Buildings, he had been handcuffed to an iron water pipe so that he had been suspended for a long time. He had been beaten in this position.

406. He said that Major Swanepoel was in charge of the interrogation.

Mr. Eino Kamati Ekandjo

407. Mr. Ekandjo, 27, a Namibian, was one of the 37 accused under the Terrorism Act in 1967-1968.

408. In an affidavit submitted to the Pretoria Supreme Court in the Mbindi case, he said that during interrogation at Compol Buildings in Pretoria, "Major Swanepoel handcuffed me to a water pipe in such a manner that I was suspended and whilst I was in this position, electric shocks were administered."

Mr. Festus Nehale

409. Mr. Nehale, a Namibian, was one of the 37 accused under the Terrorism Act in 1967-1968. He said in an affidavit submitted to the Pretoria Supreme Court in the Mbindi case that during interrogation at Compol Buildings in April 1966, "Major Swanepoel instructed police officers who were present to handcuff me to the waterpipe. This was done in such a manner that I was suspended. While I was in this position, electric shocks were administered."

138/ "The Strange Case of Gabriel Mbindi" in Rand Daily Mail, Johannesburg, 1 November 1968.

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Mr. Kaleb Tjipahura

410. Mr. Tjipahura, a Namibian, was one of the 37 accused in the trial under the Terrorism Act in 1967-1968.

411. In an affidavit submitted to the Pretoria Supreme Court in the Mbindi case, he said he had been assaulted in Compol Buildings by Major Swanepoel and other police officers on 22 December 1966. He said:

"Major Swanepoel asked me for my name and when I told him he punched me several times with his fist.

"Assisted by several police officers, this punching continued until I fell down.

"Major Swanepoel then instructed a Bantu police officer to handcuff me to an iron waterpipe. This was done in such a manner that I was suspended.

"While I was in this position Major Swanepoel and others struck me many blows.

"At one stage I was blindfolded with a wet cloth and electric shocks were administered."

Mr. Simeon Shihungeleni

412. Mr. Shihungeleni, a Namibian, was one of the 37 accused in the trial under the Terrorism Act in 1967-1968.

413. In an affidavit submitted to the Pretoria Supreme Court in the Mbindi case, he said that he had been handcuffed to a window frame at the Oshakati police station by Major Swanepoel while he had been in leg irons. In that position, he had been administered electric shocks.

Mr. Jason Daniel Mutumbulua

414. Mr. Mutumbulua, 28, a Namibian school teacher and a leader of SWAPO, was one of the 37 accused under the Terrorism Act in 1967-1968.

415. He had been detained in December 1966 and taken to Pretoria. He had been interrogated on 8-9 December at Compol Buildings by Captain van Rensburg, Lieutenant Ferreira, Lieutenant Erasmus, Sergeant Stryver and others. He had been repeatedly kicked and punched, and his beard was pulled. He had been tied to an iron pole so that he could touch the floor only with the tips of his shoes. In that position, he had been repeatedly beaten for three hours. Interrogation continued for five days while a statement was taken by repeated threats and assaults.

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Mr. Immanuel Augustus Shifidi

416. Mr. Shifidi, a Namibian, was one of the 37 accused under the Terrorism Act in 1967-1968.

417. He said in an affidavit submitted to the Pretoria Supreme Court in the Mbindi case that he had been assaulted by Major Swanepoel at Oshakati, Ovamboland, in February 1967:

"He asked me certain questions and told me if I didn't talk he would kill me.

"He told the non-white detective, Samuel Paulus, to blindfold me and Samuel Paulus did so. After I was blindfolded I received electric shocks on my head. I was then asked further questions. Subsequently, Major Swanepoel questioned me further in the presence of Constable Phineas Andreas and when he was not satisfied with my answers he had me suspended with my arms handcuffed above my head so that my feet did not touch the floor. I was suspended in this manner for a considerable time."

Mr. Alpheus Maliba

418. Mr. Maliba, a peasant leader, was arrested in the Northern Transvaal at the end of August 1967 and detained under the Terrorism Act. He died in prison on 9 September. Colonel F. van Niekerk told the press on 18 September 1967, that he had died "from asphyxia due to hanging" in the Pretoria Central Prison. 139/

Mr. T. B. Tubakwe

419. Mr. Tubakwe was detained under the Terrorism Act on 10 September 1968 and died the next day in Pretoria Prison. Police claimed that the cause of death was suicide by hanging. 140/

Mr. Marks Monakgotla

420. Mr. Monakgotla, 50, a farmer and shopkeeper, was arrested on 17 April 1968, along with a number of members of the Bakubung tribe in the Rustenburg district on suspicion of involvement in an assault and attempt to murder the chieftainess. There had been a tribal dispute concerning the appointment of a new chief and the Government's plan to remove the tribe from its land which was declared a "black spot" in a white area. Some of the tribesmen had refused to move out of their farms when the chieftainess and her followers moved out.

139/ Rand Daily Mail, 19 September 1967. Quoted in document A/AC.115/L.208.

140/ Republic of South Africa, House of Assembly Debates (Hansard), 18 April 1969, col. 4277.

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421. On 21 January 1969, he made an application before a Rustenburg magistrate for bail. He told the court that he had been shocked unconscious by an electric machine and beaten by policemen in an attempt to get him to make a statement. He opened his shirt and showed a red mark of about five inches in diameter on the right side of his chest. He said that he had been taken out of the cell blindfolded. His hands were tied behind his back and his legs were also tied. Two clamps were then placed in his ears. There was a lot of pain and he fell unconscious. When he regained consciousness a policeman began hitting him on the chest with his open hand. After several beatings, he had been taken to the charge office. Two days later, Mr. Justice Theron of the Pretoria Supreme Court granted an interim order, restraining any member of the police from interviewing and/or assaulting him.

422. The next day, the State withdrew the charge of attempted murder against Mr. Monakgotla and eight other prisoners so that his bail application could not be considered. However, before the Africans could leave the court, they were arrested under the Terrorism Act and transferred to Pretoria. On 29 January 1969, the Court refused to extend the interim order against the police, on the State's submission that the courts had no jurisdiction over the prisoner now that he had been detained under the Terrorism Act. Mr. Justice Boshoff declared:

"If your man is a terrorist then the police have every right to arrest him.... Don't expect me to make an order on baseless allegations. The allegations made by him are denied by several policemen. Why must I cast this terrible slur on the police?" 141/

Mr. Solomon Modipane

423. Mr. Modipane, 50, was detained under the Terrorism Act on 25 February 1969, along with several other members of the Bakwena tribe, in connexion with a protest against the appointment of a new headman. He died in detention three days later. Police claimed that he had slipped on a piece of soap and fatally injured himself. 142/

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141/ International Defence and Aid Fund. World Campaign for the Release of South African Political Prisoners, London, newsletter dated 7 February 1969. The Star, Johannesburg, 24 and 29 January 1969; Rand Daily Mail, Johannesburg, 22, 24 and 29 January 1969.

Ultimately, when 10 tribesmen were tried, the Government dropped charges under the Terrorism Act. Several were acquitted and others given light sentences on the charge of attempted murder. Several other prisoners in this case alleged that they had been threatened, beaten while hanging, and tortured by a white security policeman at Compol Buildings, Pretoria. The allegations were not publicized or tested in court, as the main charge under the Terrorism Act was dropped. The chief of the Security Branch, Swanepoel, pleaded in mitigation.

142/ Rand Daily Mail, Johannesburg, 11 April 1969.

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424. The Minister of Police, Mr. S. L. Muller, in reply to a question in Parliament, stated that the magistrate had endorsed the post-mortem report that Mr. Modipane's death was due to natural causes, and that no inquest was necessary. No criminal proceedings or departmental inquiries had been instituted. 143/

425. The Minister of Justice added in 1970:

"In the case of Solomon Modipane the district surgeon could not determine the cause of death. The documents were placed before a Magistrate who endorsed them as follows: 'Natural death - inquest not necessary'". 144/

Mr. Nichodimus Kgoathe

426. Mr. Kgoathe, 57, a furniture factory worker, was detained under the Terrorism Act in November 1968, along with 16 other members of the Bakwena tribe, in connexion with a protest against the appointment of a new headman. He was taken to hospital on 21 January 1969 and died on 2 February 1969. The hospital report stated that death was due to excessive lung infection and kidney failure. The post-mortem report gave the cause of death as bronchial pneumonia, possibly as a complication of a minor head injury.

427. At the inquest the district surgeon, Dr. P. J. E. Joubert, testified that he had examined Mr. Kgoathe two weeks before his death and had arranged for him to be admitted to hospital after finding that he moved with utmost difficulty. Dr. Joubert stated: "It is my opinion that he was suffering from the after-effects of a concussion and needed to be treated by a specialist." He went on to testify that Mr. Kgoathe had told him that he had fallen in a shower room, but after the surgeon refused to accept this explanation, Mr. Kgoathe had admitted that he had been assaulted. "It is my opinion that Kgoathe's injuries were the result of an assault", the surgeon told the court. He said further that linear marks on both the shoulders of the deceased could have been caused by a sjambok and the three U-shaped wounds behind the right thigh, by the buckle of a belt.

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143/ Republic of South Africa, House of Assembly Debates (Hansard), 20 June 1969, col. 8667. Mr. Modipane was arrested with Mr. Kgoathe (see paras. 426-429 below) and other Bakwena Ba Makgopa tribesmen. After the deaths of Mr. Modipane and Mr. Kgoathe, only six others were charged in June 1969.

The trial opened in August 1969, in Pretoria, the State alleging that the accused had planned to burn down tribal offices and a headman's residence in protest against the appointment of a headman. On 18 August, Mr. Justice Bekker acquitted the six Africans. He said that the evidence of the three witnesses for the State, on which the prosecution based its case, was so conflicting as to be unacceptable. (The Star, Johannesburg, 19 August 1969).

144/ Republic of South Africa, House of Assembly Debates (Hansard), 13 February 1970, cols. 957-959.

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428. Police witnesses, including Warrant-Officer F. A. Smith, Warrant-Officer J. M. Venter and Detective-Sergeant A. de Meyer of the Security Police who interrogated him on 16 and 17 January, insisted that he had slipped and fallen during a shower on that day.

429. The magistrate, Mr. C. G. Jordan, found that in the light of the evidence, he was not in a position to conclude that any person was to blame for Mr. Kgoathe's death. 145/

Mr. Dasingee (Desmond) Francis

430. Mr. Francis, 30, a teacher, who had lived in Zambia for three years, was arrested during a visit to Rhodesia on 2 January 1968 and handed over to South Africa on 18 January. He had been kept in solitary confinement and repeatedly tortured. The physical torture included leg irons, electric shock, beatings and burning of his person. He suffered severe injuries as a result of the assaults. He was forced to make a statement and produced in a trial of 12 persons in Pietermaritzburg as an "accomplice witness".

431. He said in the Natal Supreme Court, on 26 February 1969, that he had been held in solitary confinement for 421 days, and subjected to merciless torture by the Security Police. He declined to give evidence and said: "I put my entire life and faith in this court."

432. Mr. Justice J. S. Henning said that the complaint of torture was no reason not to give evidence. It was not, he added, the purpose of the court to inquire into the witness's complaint. The court, he went on to say, was concerned only with the trial of the accused.

433. The court then adjourned to allow the witness to consider his position. After the adjournment, Mr. Francis gave evidence which, the defence counsel said, was entirely irrelevant.

434. Because of the intercession of his wife, a British national, the United Kingdom Government, and the publicity the case obtained, Mr. Francis was released and deported to Zambia.

435. He gave evidence before the Ad Hoc Working Group in Lusaka.

436. He named the following as the interrogators: Major Swanepoel, Lieutenant Ferreira, Lieutenant Dupreez, Sergeant Sturwig, Captain van Rensburg.

437. The following is a small part of his testimony:

"We arrived in Pretoria at Compol Buildings and were taken inside to a back room, where our handcuffs were removed. About four men were firing

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145/ Rand Daily Mail, Johannesburg, 11 April and 7 June 1969; The Star, Johannesburg, 7 June 1969; Republic of South Africa, House of Assembly Debates (Hansard), 13 February 1970, cols. 957-959.

questions at me. I was beaten all over with fists and an inch thick cane. Major Swanepoel sat at the table and I faced him while I was answering questions. I was constantly struck from behind while answering questions. A blow from the cane broke my right cheekbone.

"I was then handcuffed and blindfolded with a wet cloth. I had to sit with a stick under my knees and over my arms. Electric terminals were applied to my ears, and the current was turned on. This was a terrible experience. My whole body shook and my head seemed full of vibrations. My teeth chattered so that my tongue was cut to ribbons. The speed and strength of the current were constantly varied and the intervals between the bouts were of different lengths. All the time questions were fired at me. It seemed to go on forever.

"At last the handcuffs were removed and the stick was taken from my knees. A brick was thrown at my bare foot and I lost a toe nail in consequence. I was made to hold a stick over my head and run the length of the room with my knees touching my chest. I was constantly beaten with sticks and feather dusters and fists.

"There was a slight break at 8.00 a.m. More Security Police came to the office. One of the newcomers gave me a powerful blow on the left temple. He knocked me over backwards and my eyes were bloodshot and my head throbbed with pain. The policeman who had given me the blow expressed the hope that he had damaged my optic nerve.

"Major Swanepoel supervised throughout but took no active part. He allowed me to wash my mouth out because it was full of blood from the electric shock treatment. Lieutenant Ferreira arranged for fish and chips and bread at about 12.30. Just before being removed to Pretoria Central Gaol I was told by Lieutenant Dupreez that they would be coming for me at any time, day or night. Luckily this was the weekend, so I was left alone, but I lived through the weekend in a state of fear and panic.

"From about 22 January to 6 February the Security Police occupied themselves with taking a statement from me under torture. There was constant inference that they knew a lot about me. Dupreez took my statement while beating me with his fists and emphasizing his personal involvement in my torture. The statement was taken over a period of a fortnight. Throughout this period I was beaten by Dupreez. I was beaten with fists all over my body and kicked in the testicles and penis. Dupreez was a powerfully built man and could inflict very painful blows. A tool bag was pulled over my head while my statement was being taken. Fire crackers were thrown to reduce me to a nervous wreck. This had a great effect as my head was smothered in the canvas tool bag all the time. A piece of paper was also set alight in my pocket. I struggled in a panic, and was then chased to a back room and handcuffed to a table. The bag was removed and Dupreez hit me over the head with it, which caused pains in my eyes and a burning watering sensation.

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"During this period I suffered constant pain but was afraid to seek medical attention. I held out for a week but I suffered such severe internal bleeding due to the electric shock treatment that I had to seek advice. The prison doctor diagnosed bleeding piles. I am prepared to undergo medical examination to prove that I have never suffered from piles. The ointment to treat piles was useless against bleeding caused by electric shock treatment. After I had vomited blood, I again sought treatment, and was thoroughly examined by the doctor, who prescribed a shot of penicillin. This was not administered because the medical orderly didn't make rounds so there was no treatment....

"On Tuesday, 21 May, I was taken out just before supper at about 2.30. Sergeant Sturwig and an African detective took me to a deserted office near Compol Building. Dupreez handed a typed statement to Sturwig to scrutinize and they pretended to discuss it. They asked me about the activities of the Indian Congress, beating me meanwhile. They kicked me between them, one at the back and one at the front. Then I was taken to a back room, handcuffed and suspended from a water pipe, blindfolded with a wet cloth and terminals attached to my ears. Current was passed through my brain, and my head vibrated violently. Irrelevant questions were asked about my family background. I was asked if I wanted to be a martyr like Gandhi. I was told in crude terms that I'd land up on the Island and spend the rest of my life practising sodomy. Dupreez and Sturwig both boasted of their profession and gave their names very freely. I was returned to my cell at 4.30 and promised that I would be picked up next day. Dupreez picked me up alone and took me to a deserted office, where he tried to fix a leg iron round my neck. I was taken to the back, chained to a water pipe and left. I was given a few blows." 146/

Mr. James Lenkoe

438. Mr. James Lenkoe, 35, a Lesotho national, was arrested on 5 March 1969 at his home in Soweto, Johannesburg, and detained under the Terrorism Act. He was apparently arrested by mistake. The police had been looking for a "Mofokeng" who was suspected to have been involved in an attack by members of the Bakubeng tribe against their chieftainess.

439. Mr. Lenkoe died in prison on 10 March 1969. The police claimed that he had hanged himself by a belt in a cell in Pretoria prison. The district surgeon made a finding of death by suicide.

440. Mrs. Lenkoe subsequently obtained permission for a second post mortem examination of her husband's body.

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146/ A/AC.115/L.255; Unit on Apartheid "Notes and Documents" No. 8/69; Cape Times, 27 February 1969.

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441. Dr. Johathan Gluckman, a prominent pathologist and forensic-medical scientist, testified at the inquest that he had found copper particles in a wound on the toe, an evidence of possible electric shock treatment. Dr. A. R. Moritz, a renowned United States authority on burns, who had been consulted, testified that he was satisfied beyond a reasonable doubt that the body had electric burn marks.

442. Mrs. Lenkce gave evidence that he husband had not been wearing a belt when arrested. Police had clubbed and beaten him before taking him away.

443. Major T. J. Swanepoel testified that he had arrested Mr. Lenkoe 147/ and had interrogated him from about 8.00 a.m. to 3.00 p.m. on the day of his death.

444. However, the presiding magistrate found that Mr. Lenkoe had committed suicide and that the death was not brought about by any act or omission involving or amounting to an offence on the part of any person. 148/

445. Dr. Moritz confirmed his testimony in evidence before the Ad Hoc Working Group.

Mr. Masango Caleb Mayekiso

446. Mr. Mayekiso, 56, a prominent trade union leader and a leader of the African National Congress, was arrested on 13 May 1969, and detained on 14 May under the Terrorism Act. He died in detention on 1 June 1969. The Government claimed that he had died of "natural causes". 149/ He had recently been released from four years' imprisonment for belonging to the African National Congress.

Mr. Michael Shivute

447. Mr. Shivute was detained on 16 June 1969 and died during the night of 16-17 June. The Government claimed he had committed suicide.

Mr. Fondi Leslie Botha

448. At a trial of 24 Africans before the Grahamstown Supreme Court on charges of membership in the underground Pogo, Mr. C. Cubbitt, defence counsel, said on 24 June 1969, that police had used third-degree methods when questioning the accused and witnesses.

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147/ He had been accompanied by Lieutenant Richter, Lieutenant Ferreira and African policemen.

148/ Transcript of inquest proceedings transmitted to the Special Committee on Apartheid by the International Commission of Jurists.

149/ Republic of South Africa, House of Assembly Debates (Hansard), 13 June 1969, col. 7945.

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449. On 30 June, Mr. Fondi Leslie Botha, accused no. 14, gave evidence that after his arrest, he had been taken to a room in Oudtshoorn and made to stand against a wall. A blanket had been thrown over his head. He had then been made to put one hand on the ground and walk around and around it. The police had kept him there all night. Subsequently, he had been told by a State witness to call Warrant Officer Vosloo and tell him that accused no. 1, Mr. Jim Jonathan Hermanus, had made them do what they did. 150/

Mr. Jacob Monnakgotla

450. Mr. Jacob Monnakgotla, 56, a driver of Pimville, was detained along with 37 members of the Bakubung tribe in the Rustenberg district on suspicion of involvement in an attempted murder of the chieftainess of the tribe, following their opposition to the removal of the tribe from its land. The prisoners were subsequently detained under the Terrorism Act so that the police could hold them incommunicado. Mr. Monnakgotla died in detention on 9 September 1969, the night before the trial opened. The district surgeon found that he had died of thrombosis and no inquest was held. 151/

Imam Hadj Abdullah Haron

451. Imam Abdullah Haron, 45, a prominent Moslem leader of Cape Town, was detained under the Terrorism Act on 28 May 1969 and died in detention on 27 September. An opponent of racism, he had assisted families of political prisoners, irrespective of their religious beliefs. During the entire period of his detention, he had been denied access to his family and to legal counsel. He was never formally charged. The news of his death in prison caused great public concern.

452. A public inquest into the death was held in February 1970, following allegations of torture. It was reported that the inquest had been delayed to await conclusion of police investigations.

453. At the inquest, a State pathologist, Dr. T. G. Schwar, testified that a post mortem examination had shown, inter alia, a broken rib, a haematoma, and 26 bruises on the Imam's body, including one large bruise of 20 x 8 cm. Major Dirk K. Genis and Detective Sergeant J. F. P. van Wyk of the Special Branch stated that the Imam had been taken out of prison from 17 to 19 September for questioning

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150/ Cape Times, 1 July 1969. On 2 July, Mr. Justice Jennett sentenced 13 of the accused to periods of imprisonment ranging from one to seven years. The 11 others, including Mr. Botha, were acquitted.

151/ Cape Times, 11 September 1969; Republic of South Africa, House of Assembly Debates (Hansard), 13 February 1970, cols. 959-960. At the trial, the Government dropped charges under the Terrorism Act. Several of the accused were released and the others given light sentences.

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by the Branch. He had slipped and fallen on a flight of stairs, after a period of interrogation by them on 19 September. Dr. Percy Helman, a specialist surgeon, testified that all the injuries could not have been caused by a fall and, further, that some of the bruises were more recent than others. Even the Government pathologist, Dr. T. G. Schwar, admitted that the police version could not explain all the injuries.

454. The inquest further revealed that Sergeant "Spyker" van Wyk, one of the Special Branch officers who was interrogating the Imam before his death, was the same officer who had assaulted Miss Stephanie Kemp and Mr. Alan Brooks. 152/

455. The presiding magistrate at the inquest, Mr. J. S. P. Kuhn, found on 10 March 1970 that death was due to a decreased flow of blood to the heart, a likely contributing cause being injury. "A substantial part of the said (injury) was caused by an accidental fall down a flight of stone stairs. On the available evidence, I am unable to determine how the balance, thereof, was caused." 153/

456. In response to a public outcry at the circumstances regarding the Imam's death, the revelation of the deaths of at least 14 other detainees in recent years and the inconclusive findings of the above inquest, it was announced on 19 March that an additional police investigation had been ordered. 154/

457. Mrs. Catherine Taylor, Member of Parliament, called for a judicial investigation and in a statement in Parliament on 18 September 1970 alleged that the Imam had died as a result of assault by the police. Stating that she had received information from confidential sources, she charged that Sergeant Andries van Wyk, brother of Detective Sergeant J. F. C. "Spyker" van Wyk, was responsible for the assault. Major Dirk Genis and Sergeant J. F. C. van Wyk were aware of the assault and were directly responsible for covering up the facts. Major Genis was transferred to Bloemfontein almost immediately after the Imam's death.

458. The Imam, she said, had been interrogated from 28 May to 11 August at short intervals for seven and a half hours every day. He had become a nervous wreck. After the assault between 18 and 19 September, Security Police had on three occasions visited him in the cells. They had prescribed pills which one officer fetched from his own home. They did not take him to a district surgeon. The family had been allowed regularly to collect his linen for washing until 18 September, but was then refused permission.

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152/ Cape Times, 10 March 1970. In both of these cases, the Government settled out of court and allowed the victims to leave the country. See paras. 279-285 and 286-289 above.

153/ Rand Daily Mail, Johannesburg, 11 March 1970.

154/ Ibid., 20 March 1970.

459. The Attorney-General of the Cape announced on 29 September 1970 that the police investigation had revealed no evidence which could serve as a basis for prosecution of any person. 155/

460. Meanwhile, the widow of the Imam brought a civil suit against the Ministers of Police and Justice in April 1970 for compensation for the loss of her husband, alleging that the death had been caused by violence. On 28 April 1971, the suit was withdrawn. The Minister of Police, Mr. S. L. Muller, confirmed in Parliament on 18 May 1971 that the Government had paid compensation of R5,000 (\$7,000) on an ex gratia basis to the widow of the deceased. 156/ During the debate on the Police Vote, he gave Parliament the reasons for the Government's action:

"... there are... certain circumstances which introduce a degree of risk. The man was detained by the Police and there were certain bruises on his body. There is the possibility of negligence which might have had to be taken into consideration. Taking everything into account, with the risks attached to the matter, we felt for the sake of the widow and children as well, that it would be better to reach a settlement in regard to the case."

461. He denied, however, that the payment was an admission of responsibility or of guilt on the part of the police. 157/

462. Mrs. Catherine Taylor attacked the Government for evading court cases by making ex gratia payments. On 19 May 1971, she stated:

"It is quite clear that the case was withdrawn in order to prevent the whole story of the Imam's incarceration, interrogation and death from being brought to the attention of the public....

"This type of so-called ex gratia payment to the people held and interrogated for indefinite periods by the Security Police with subsequent disclosures that they were injured is becoming far too frequent: it is an ugly aspect of the administration of justice in South Africa." 158/

463. In a statement to the press on 9 June 1971, Mrs. Taylor again called for a commission of inquiry to publicly investigate the death of the Imam, as there was "universal disquiet over this and similar cases". 159/ Thousands of persons attended demonstrations and prayers on the anniversary of the death of the Imam in September 1971. A 40-day fast by a Christian priest, Reverend Barnard Wrangmore,

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155/ Rand Daily Mail, 30 September 1970.

156/ Republic of South Africa, House of Assembly Debates (Hansard), 18 May 1971, col. 894.

157/ Ibid., 2 June 1971, cols. 7996-7997.

158/ The Star, Johannesburg, 19 May 1971.

159/ Rand Daily Mail, Johannesburg, 10 June 1971.

demanding a judicial inquiry into the death of the Imam and the treatment of other detainees, attracted nation-wide attention, but the Government refused to consider an inquiry.

464. In reply to questions by Mrs. Taylor in Parliament, the Minister of Police said on 15 February 1972 that it was not in the "public interest" to disclose the names of Security Branch officers involved in the interrogation of Imam Haron. The members concerned were all still serving in the Security Branch. 160/ Earlier, he had indicated, in reply to a question by Mrs. Taylor, on 24 July 1970, that two Security Branch officers who were involved in the interrogation of the late Imam Haron had not been called to give evidence at the inquest. He had named Major H. W. Kotze and Sergeant A. J. van Wyk.

465. Mrs. Taylor, in a statement in Parliament on 12 May 1972, drew attention to the strange case of Sergeant A. J. van Wyk. Soon after the inquest he had been admitted to hospital and after discharge from hospital began to behave peculiarly. He was then committed to Stikland Mental Hospital. 161/

466. The Minister of Justice said in reply that Sergeant van Wyk had not at any time had anything to do with the detention of the late Imam Haron. 162/

467. On 15 May 1972, Lieutenant-General Danie Bester, Chief Deputy Commissioner of the Criminal Investigation Division, corrected the statement and said that Sergeant van Wyk had "virtually nothing" to do with the interrogation of the late Imam. 163/

468. These statements, in contradiction with the testimony at the inquest, were questioned by Mrs. Taylor.

Mr. John Robin Schlapobersky

469. Mr. Schlapobersky, 21, a student at the Witwatersrand University, was detained under the Terrorism Act on 13 June 1969.

470. He told the Ad Hoc Working Group that he had been taken to the Compol Buildings, Pretoria, soon after arrest. Major Swanepoel and other Security Branch officers had abused, taunted and threatened him. They pulled his hair and beard and threw him against the wall. He was forced to stand on bricks and interrogated by teams

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160/ Republic of South Africa, House of Assembly Debates (Hansard), 15 February 1972, Questions and Answers, col. 202.

161/ Rand Daily Mail, Johannesburg, 13 May 1972.

162/ Ibid.

163/ Ibid., 16 May 1972. The Minister of Police said on 19 May that he had only put a few questions of a routine nature to the Imam at the beginning of his period of detention. Republic of South Africa, House of Assembly Debates (Hansard), 19 May 1972, col. 1053.



of policemen almost continuously for 48 hours. After having been allowed six hours' sleep, he was again interrogated for a long period and then put into solitary confinement.

471. Meanwhile, the United Kingdom embassy informed the police that the detainee had a British passport, that he had only recently recovered from infectious hepatitis and was not to be manhandled. Major Swanepoel then took him to a district surgeon, Dr. Venter. When the detainee told him that he was ill after standing on bricks, the doctor said that it was not his business. The doctor then told Major Swanepoel: "There is nothing wrong with him: ride him."

472. The detainee developed symptoms of mental illness as a result of the interrogation and solitary confinement.

473. Following intercessions by his family and the United Kingdom embassy, as well as wide protests by students and others, Mr. Schlapobersky was released after 55 days and put on a plane to Israel, though his parents were resident in Swaziland (E/CN.4/AC.22/RT.98).

Mrs. Winnie Mandela and others, trial of

474. Following detentions of a large number of persons in May-June 1969 under the Terrorism Act, Mrs. Winnie Mandela and 20 other detainees were kept in solitary confinement until 28 October when they were charged with offences under the Suppression of Communism Act. At the trial which began in December, the Government produced a number of other detainees as State witnesses. They had been under solitary confinement until they finally appeared in Court.

475. Five State witnesses told the court that they had been assaulted or subjected to other ill-treatment during detention. 164/

476. The charges against the accused were withdrawn on 16 February 1970 and they were acquitted by the Court. The police, however, immediately detained them and two witnesses under the Terrorism Act.

477. An urgent application was filed on 20 February by Miss Iris Madikizela, sister of Mrs. Mandela, and 14 other relatives of detainees, alleging that the detainees had been subjected to assaults and torture. Statements by 17 of the detainees were submitted in support of the application.

478. Miss Madikizela said in her affidavit that the trial had brought to light evidence by several witnesses that they had been made to stand for long periods without sleep. This had also happened to the accused. As a result of redetention,

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164/ For information on Mr. Golding, Miss Madikizela, Miss Klaas, Miss Nkala and Miss Naidoo, see paras. 512-525 below.

her sister and other detainees were again at the mercy of the interrogators and she feared that they would again be interrogated in the same manner.

479. She said her apprehensions were strengthened by her belief that the cruelty meted out to detainees was part of an interrogation method adopted by certain members of the Security Police under Major T. J. Swanepoel. It was common knowledge that a number of people had died while detained under the terms of the Terrorism Act. There were strong grounds to believe that her sister and other detainees were now in peril of renewed subjection to harassment and suffering. With the aftermath of the mental cruelty of solitary confinement and the trial, this could cause her sister to have a mental breakdown.

480. The applicants asked for an order instructing the Ministers of Justice and Police to take adequate steps to protect the detainees and to produce them in court in order to give evidence of ill-treatment. They also asked that affidavits in the possession of the detainees at the time of their detention, which related to their treatment while in custody, be taken from them by an attorney of the Supreme Court and that evidence be taken by a commission.

481. Mr. Justice C. D. J. Theron dismissed the application of the relatives for court protection.

482. The 24 persons were held in detention until June when 19 of them were charged under the Terrorism Act. Five of them were released. The 19 were acquitted by the Court in September but the Government immediately served them with stringent banning orders. 165/

Mrs. Winnie Mandela

483. Mrs. Mandela, wife of Mr. Nelson Mandela, prominent leader of the African National Congress, and herself active in the struggle against apartheid, was not forced, like other detainees, to stand on bricks, perhaps because she suffered from a heart condition.

484. She said she had been allowed to remain seated during five days and nights of continuous interrogation by teams of policemen. Her hands, feet and legs were swollen and she had dizzy spells. When palpitations got worse, she was given some tablets.

485. On the afternoon of the fifth day, she had acute pain and difficulty in breathing.

"I told (Major Swanepoel) that if this is what my people were going through, those involved and those innocent ones, then I request that I be

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165/ International Defence and Aid Fund, London, Trial by Torture, May 1970; United Nations Unit on Apartheid "Notes and Documents" No. 18/70, South Africa's Terrorism Act, May 1970.

allowed to accept the responsibility of each and every one of their actions and that I be charged, that they be used as State witnesses, those who were prepared to give evidence....

"I told him I confirmed everything that those detained had said, and I was entirely responsible for all they did. I was then flooded with so many questions at a time I could not cope without resting in between. I said yes to everything they said.... The history they wanted from me dated from my primary school days, high school, how I came to Johannesburg, who my chief is - I said, he is on Robben Island; they wanted the name, and I said they have many names and they are Sisulu, Mbeki, Kathrada, etc. At times my mind became totally blank, I could not remember things I had known quite well before. I would take long to register questions. The oedema was at its worst, I confirmed everything they told, all was written down. The interrogation by Swanepoel's team continued into Friday night. Another team took over, then later, about midnight, Swanepoel returned. The interrogation room was full, everyone fired questions, and I said yes to everything."

486. Interrogation continued in the prison cell for several days after, while the statement was prepared by Major Coetzee. To quote from Trial by Torture:

"On July 18, Winnie Mandela was taken to Compol Buildings again, and Major Swanepoel asked abruptly who was Thembi Mandela? She replied, 'He is my eldest stepson', and the Major then said, 'He is dead.' He had been killed in a car accident. She was too shocked for control, and she broke down and wept."

Mrs. Rita Ndzanga

487. Mrs. Ndzanga, wife of Mr. Lawrence Ndzanga and a prominent trade unionist, was detained under the Terrorism Act in May 1969 and subsequently charged with Mrs. Mandela and others. 166/

488. In a statement filed in Court, Mrs. Ndzanga said that she had been interrogated day and night at Compol Buildings, Pretoria, by Major Swanepoel and other policemen working in shifts.

"Day and night became the same, because the windows were covered with thick planks."

During the initial interrogation on 16 May 1969, she was hit by a policeman.

"I fell on the floor. He then said 'staan op' (get up) and attempted to kick me while I lay on the floor."

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166/ See paras. 474-482 above.

489. He then instructed another policeman to pour water on her face. After almost 24 hours of interrogation, she began to make a statement.

490. In June 1969, she was again interrogated and asked to take off her shoes and stand on three bricks.

"I refused to stand on the bricks. One of the white Security Police climbed on top of a chair and pulled me by the hair. He dropped me on the bricks. I fell down and hit a gas pipe.

"The same man pulled my hair again, jerked me and I again fell on the metal gas pipe.

"The man who pulled my hair had his hands full of my hair."

491. She was hit as she stood on the bricks, and she fell. Water was poured on her.

Mr. Lawrence Ndzanga

492. Mr. Ndzanga, a prominent trade unionist, was detained under the Terrorism Act in May 1969 and subsequently tried with Mrs. Mandela and others. 166/

493. He said he had been forced to stand on three bricks for two days. Major Swanepoel had refused to let him go to the toilet.

494. He had been told that Mrs. Mandela had betrayed all the detainees, that his wife had confessed and that his children would suffer.

Mr. Joseph Sikalala

495. Mr. Sikalala, 19, a matriculation student, was detained under the Terrorism Act and was subsequently tried with Mrs. Mandela and others. 166/

496. He said he had been forced to stand on bricks for several days. He had been made to catch and kill cockroaches with his bare hands when they ran all over the interrogation room. He was kicked and beaten by a sjambok (rawhide whip) on his knees, feet and genitals.

Mr. Douglas Mtshetshe Mvembe

497. Mr. Mvembe, 73, a pensioner, was detained under the Terrorism Act and subsequently tried with Mrs. Mandela and others. 166/

498. He said that he was forced to stand on bricks. As he was unable to balance on the bricks, he was handcuffed and tied to a grating above his head, his feet

touching the bricks. "It looked as if I was on the cross. I would thirst and ask for water.... After many pleas for water they would give me a drop and then withdraw the mug from my mouth." He was tortured for three days and nights.

Mr. David Motau

499. Mr. Motau, a truck driver, was detained under the Terrorism Act in May 1969 and subsequently charged with Mrs. Mandela and others. 166/

500. He said he had been forced, during interrogation, to stand on two bricks, and to hold another brick with his hands high up. He was beaten on his elbows and on the feet with a rubber stick. Later, he was hung up by the neck, his toes just touching three bricks. He was punched and kicked.

501. The torture continued for three days and three nights, the police working in shifts, until he made a statement.

Mr. Elliot Goldberg Tshabangu

502. Mr. Tshabangu, 42, a clerk and former trade union leader, was detained under the Terrorism Act in May 1969 and subsequently charged with Mrs. Mandela and others. 166/

503. He said that he had been forced to stand on bricks from 19 to 22 May.

"The pain of my feet caused by these bricks, endless questions from the police, punches, claps, insults, my moustache plucked out... all these sufferings did drive me to a point where I could not distinguish between night and day....

"Now during these four days and three nights on these bricks my feet and legs were swollen, the whole body was paining and numb; I could not walk when I came down from the bricks."

Mr. George Makwebo

504. Mr. Makwebo, 22, a student, was detained under the Terrorism Act in 1969 and was subsequently tried with Mrs. Mandela and others. 166/

505. He stated that an elderly white policeman had practised karate tactics on him during interrogation.

"I was kicked in the back, stomach and cheeks; I was also punched in the stomach for a considerable time, leaving me gasping for breath. The tea boy fastened my hands above my head to railings. One of the bricks under my feet was removed hourly."

506. When the bricks were removed, he was able to touch the ground only with the tip of his shoe.

"They kept punching and hitting me, saying that they were massaging my shoulders."

Mr. Nanko Paulus Matshaba

507. Mr. Matshaba, 30, a postal clerk, was detained under the Terrorism Act in May 1969 and tried with Mrs. Mandela and others. 166/ Detained again after his acquittal in February 1970, he was admitted to the Weskoppies Mental Hospital in May, and finally released on 23 June 1970.

508. In a statement after the first period of detention, he said that he had been forced to stand on three bricks and beaten with a sjambok (rawhide whip).

"I was punched several times. A karate blow sent me spinning in the air and I fell hard on the floor. They warned me they would assault me until I died."

509. A psychiatrist, reporting on Mr. Matshaba's mental condition after his release, stated:

"He is hesitant and uncertain in manner and speech. He admits to memory disturbance, especially for recent events (which is consistent with the possibility of his recently having received electro-convulsive treatments in hospital).

"For instance, he cannot remember the circumstances of his admission to hospital, nor the abnormal behaviour he was supposed to have shown at that time. People at the hospital told him that he behaved in a mad way when first admitted and that he refused food and medication....

"Mr. Matshaba at present seems to me to be in need of help.... He feels depersonalized. He lacks assurance and confidence. He has to be helped to rediscover himself.

"He responded to me as if I were interrogating him - remaining quiet, defensive and expressionless in demeanour. Withdrawal and passivity seem to be important defences against the undoubted destructive effects of solitary confinement and Mr. Matshaba still shows these features.

"Perhaps psychotherapy and renewed contact with the world will mitigate some of the ravaging effects on the personality of solitary confinement." 167/

Miss Joyce Sikakane

510. Miss Sikakane, a young reporter and writer, was detained under the Terrorism Act and subsequently charged with Mrs. Mandela and others. 166/

511. She said that during interrogation at Compol Buildings, two days after her arrest, Major Swanepoel had threatened to break her if she refused to talk and to keep her in the room until she talked.

Mr. Philip Ralph Golding

512. Mr. Golding, 24, an immigrant from the United Kingdom, who was employed as a labour economist by the Transvaal Chamber of Mines, was detained under the Terrorism Act on 16 May 1969. He appeared as a State witness in the trial of Mrs. Mandela and others. 166/

513. During cross-examination on 8 December, he reluctantly admitted that he had been assaulted during interrogation in prison. He had been kept standing for two days during his initial interrogation at Compol Buildings. "I was punched a bit... I was kicked a bit." Among those who had questioned him were Major Swanepoel, Lieutenant Ferreira, and Sergeant Truter. Lieutenant Ferreira had assaulted him. Two weeks after the assault, he made a statement to the police. 168/

514. He returned to the United Kingdom after giving evidence and an account of his ordeal was published in the Guardian of 9 January 1970. He wrote:

"... The interrogation room was about 10-ft. square. It had a table, chairs, and a wash basin. Metal shutters covered the single windows so that it was impossible to tell whether it was night or day. On the floor were two bricks.

"I was told to stand in the corner and then asked numerous questions about political activities. I refused to answer any of them. Later I was told by Major Swanepoel that he was going to enjoy breaking me.

"Later, Lieutenant Ferreira entered the room and asked me my name. I gave it to him correctly and he then repeated the question. I again replied correctly. He moved nearer to me and finger-jabbed me in both eyes. He then punched me on the jaw. I lost consciousness briefly and collapsed on to the floor.

"Lieutenant Ferreira kicked me in the back about five times, shouting at me to get up. When I did so, I was karate chopped on the back of the neck. After this assault I have little recollection of what happened, except that I made a short statement.

"The interrogation lasted continuously for 48 hours and was conducted by relays of two or more policemen changing every four hours... I was made to stand for almost the whole time until I was taken to Pretoria Prison about mid-day on Monday.

"... That night I suffered a massive nose bleed...

"In the prison my light was left on all night for a week. When I asked Warder Arlow if this would continue, he said the night service had 'probably forgotten me'. Two days after the light was switched off, I was



taken to make a sworn statement. I had great difficulty in giving the affidavit and Major Coetzee, who took it, said it was 'the most difficult' he had ever taken because I could not put it in my own words...

"In this way I gave evidence against four Africans, one of whom was the closest friend I had in South Africa. Under the circumstances I have described in detention, the words 'truth and justice' are meaningless to me. I am sure that in certain aspects I committed perjury and that in others I misled the court."

Miss Princes Nomyanise Madikizela

515. Miss Madikizela, 21, daughter of a former Transkei Minister and sister of Mrs. Winnie Mandela, was detained under the Terrorism Act in June 1969. Called as a witness in the trial of her sister and 21 other Africans in December, 1966/ she said that she had made a statement to the police after she had been threatened with imprisonment of 10 years in gaol. During more than six months of detention in solitary confinement, she had spoken to no one other than the warders and the police interrogators. She had lost a large amount of weight during her detention.

516. She had been interrogated on three occasions. The questioning had started during the early hours of the morning and had continued into the afternoon. She had been told by an African policeman that she would have to stand on bricks until she talked, and that an old lady who had been made to stand on bricks had been unable to walk when she was taken out.

517. She confessed that she could no longer distinguish between what she knew and what the police told her in detention.

Miss Eselina Nomqwitelo Klaas

518. Miss Klaas, of Port Elizabeth, was detained under the Terrorism Act on 14 May 1969 and called as a State witness in the trial of Mrs. Mandela and others. 1966/ She had already served three years' imprisonment for "furthering the aims of the African National Congress". She had apparently been detained for seven months for circulating forms to families of prisoners or ex-prisoners requiring relief.

519. She testified, under cross-examination, that she had been continually questioned for four days.

"For four days I was kept standing in a small police station without sleep. The police wanted me to make a statement. I stood all the time. I was never left alone."

Miss Nonbwe Brycina Nkala

520. Miss Nkala was detained under the Terrorism Act in May 1969 and called as a State witness at the trial of Mrs. Mandela and others. 166/

521. She told the court that she had been held in solitary confinement and made to stand for two days and two nights during interrogation.

522. She refused to give evidence "against my people" and was sentenced to two months in prison. After serving sentence, she was again detained under the Terrorism Act for four months.

Miss Shanti Naidoo

523. Miss Naidoo, a clerk who had suffered imprisonment and restriction for opposition to apartheid, was detained under the Terrorism Act on 3 June 1969 and called as a State witness in the trial of Mrs. Mandela and others. 166/

524. She told the court that she had been kept in solitary confinement, subjected to brutal interrogation and threatened with the arrest of all her family. She had had to sleep on the floor of the cell. She had made a statement only after a five-day interrogation during which she had not been allowed to sit or sleep. She said:

"I was interrogated, I was forced to make certain admissions because I couldn't stand the strain of standing on my feet for hours and hours..."

"My mind went completely blank and I went to sleep standing and I had a sort of a dream in which I was actually speaking to the officers who were interrogating me, in my sleep, and afterwards when I had sort of regained my senses, I was interrogated on this dream I had which was complete nonsense..."

"The interrogation went on for five days without any sleep."

525. She refused to give evidence on the ground that two of the accused were her friends, and was sentenced to two months in prison. After serving the sentence, she was again detained for four months under the Terrorism Act. 169/

Mr. Benjamin Sello Ramotse

526. Mr. Ramotse, 43, a member of the African National Congress, was handed by the Rhodesian security police to Lieutenant-Colonel T. J. Swanepoel of the South African police on 15 July 1968, and was detained under the Terrorism Act. His detention came to be known only in June 1970 when he was charged with 19 others under the Terrorism Act. He had been kept mostly under solitary confinement.

527. In an affidavit to the court, Mr. Ramotse said he had been seized in Botswana on 1 June 1968 by the Rhodesian police. He had been assaulted, kept spread-eagled over the bars of a window for several hours and given electric shocks to all parts of his body. After several days, he had been handed over to the South African police. The South African police, in turn, had tortured him.

528. Lieutenant-Colonel Swanepoel denied that Mr. Ramotse had been tortured. 170/

529. Mr. Ramotse was sentenced on 30 September 1970 to 15 years' imprisonment.

Unity Movement trial  
(trial of Kadar Hassim and others)

530. Early in 1971, a large number of persons from Durban, Johannesburg and Cape Town, as well as from the Transkei, were detained under the Terrorism Act on suspicion of their involvement in the underground activities of the Unity Movement and associated organizations. The Transkeians were taken to the Mkhambathi forest, where a special camp was set up, and they were interrogated by a team of police officers under the direction of Lieutenant-Colonel T. J. Swanepoel. Lieutenant Dryer, Captain Erasmus, Captain Baker, Warrant Officer Truter and Sergeant Nicholson were among the interrogators.

531. In August, 14 of the detainees were brought to trial in Pietermaritzburg under the Terrorism Act. Ten of them alleged that they had been assaulted and tortured during interrogation.

532. Dozens of other detainees appeared as State witnesses in the trial. The defence counsel alleged that many of the witnesses had been subjected to torture.

533. Most of the State witnesses denied that they had been assaulted or tortured. The Reverend Edgar Lockwood, an observer for the International Commission of Jurists, Amnesty International and the National Council of Churches of the United States, explained in a report:

"Cross-examiners trying to discover methods used by the police are usually incapable of breaking the carefully prepared testimony of those who have been through the interrogation process. The reason is quite clear.

"In the well of the court sit four or five of the police inquisitors. The team stares fixedly at the witness as he testifies. They are at the elbow of the Prosecutor and feed him notes of any deviations from the prepared script. The team is led by Colonel T. J. Swanepoel, described by the Dean in the other trial as a very cruel man and a sadist. Among his colleagues is the notorious 'Spyker' (Nailer) van Wyk, who is linked with the death under detention of the Imam Haron in Cape Town in 1970.

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170/ Cape Times, 25 August 1970.

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"It is no wonder that the witnesses almost always tell how good the food was in detention, how polite and considerate the police were." 171/

534. Convicting the 13 accused on 5 April 1972, 172/ Mr. Justice James rejected the allegations of torture.

535. Meanwhile, nine of the accused gave notice of suits for damages against the Minister of Police in connexion with the assaults.

536. The Government was reported to have opposed the suits on the grounds that the Police Act laid down a limit of six months for such actions.

537. The allegations are reviewed briefly in the following paragraphs. 173/

Mr. Mthiyeni Cuthsela

538. Mr. Cuthsela, 68, an elderly African from Bizana, was detained on 21 December 1970 under Proclamation R.400 in connexion with the trial of members of the Unity Movement. He was released and redetained twice. He was interrogated in the Mkhambathi forest and at Umtata prison about a meeting at his kraal. When he came home between detentions, his face was swollen and bruised.

539. Mr. Cuthsela was transferred to a hospital on 21 January and died the next day. When his son arrived at the hospital, the body had already been put in a sealed coffin.

540. Lieutenant-Colonel T. J. Swanepoel claimed that he had died of natural causes.

541. His son requested an inquest into the death of his father, whose body, he claimed, had a big wound on the forehead, but the request was rejected by an Umtata magistrate on 14 December 1971 on the grounds that the death was due to "natural causes". 174/

542. Mr. Mfrolwane Mbele, one of the accused in the Unity Movement trial, said in an affidavit that Mr. Cuthsela had been repeatedly assaulted.

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171/ Unit on Apartheid "Notes and Documents" No. 47/71.

172/ Thirteen were convicted. The trial of one of the accused had been separated in August and he was later acquitted.

173/ The affidavits of five of the accused were published in Unit on Apartheid "Notes and Documents" No. 53/71 of December 1971.

174/ Republic of South Africa, House of Assembly Debates (Hansard), 22 February 1972, Questions and Answers, cols. 297-298; International Defence and Aid Fund, London, press release, 14 December 1971; The Post, Johannesburg, 6 August 1971; Rand Daily Mail, Johannesburg, 15 December 1971.

"... When we arrived at the forest Cuthsela was taken out of the police van by one Silas Mogabudi and one Letsatsi, both policemen. They held Cuthsela each by one arm and Mogabudi began slapping Cuthsela with his open hand. Mogabudi did this twice and on each occasion Cuthsela fell down. Cuthsela was then taken away into the forest...

"On the next morning I saw Cuthsela eating. I spoke to him and he told me that he had been assaulted by the police with sticks. He lifted his shirt and I saw weals on his body. He said that he had been questioned about meetings held at his kraal.

"I saw Cuthsela every day until the 21st December 1970 when I was taken to Mt. Ayliffe. During that period Cuthsela told me daily that he was being assaulted and he told the police that they should rather shoot him. Cuthsela kept complaining about headaches. I heard Cuthsela ask the police, Captain Baker, for medicine for his headaches. Baker answered 'The cause of your headache is that you do not want to tell us the truth'.

"On the 4th January 1971 I was brought back to the forest. Cuthsela was brought to the forest about a week later. I spoke to him on that day. I asked him how he was. He told me that his head was still worrying him. I asked him whether he was taken to the hospital and he told me that he had not been. At night we slept in a tent and Cuthsela was moaning a great deal...

"The next morning while I was attending to my washing he was removed to the forest. He was brought back at sunset. I asked him how he felt and he told me that he was still suffering from headaches. I asked him what they were caused by and he told me that when he was at the forest the police had constantly assaulted him... He told me that his body had taken more than it could stand.

"At that time Cuthsela took off his trousers and I saw weals on his thighs and buttocks. Cuthsela was subsequently taken away from the forest. Cuthsela was an old man." 175/

Mr. Ncikwa Nagi Vimba

543. Mr. Vimba, 65, one of the accused in the Unity Movement trial 176/ said in an affidavit that he had been repeatedly assaulted by white policemen, Dreyer, Basil, and Truter, and African constables.

"Dreyer questioned me and when I answered he said I was lying. He and the said Basil got into a kneeling position and struck me continuously across the legs with sjamboks. I was wriggling, squirming and trying to

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175/ Unit on Apartheid "Notes and Documents", No. 53/71.

176/ See paras. 530-576.

move out of the way. Thereafter, Dreyer blindfolded me and I felt movement at my left wrist and hand as if I were being touched by a human hand. The said Dreyer then told me that his 'mpandulu' was going to work on me... I felt sharp pains at my left wrist. They travelled up my arm to my breast and I had convulsions.

"Every now and then there would be a respite when I would be asked questions and I would give what answers I could. This would be followed with laughter like a jackal and I would again feel the pains. The process continued for a long time and I would scream while the pain went through me. Each time the pain abated I would be questioned. After a time... I was locked up with my right leg handcuffed to the van. The following day my legs were swollen. After four days the police took a written statement from me."

544. He also made a deposition about assaults on several other detainees which he had witnessed.

"During March I also witnessed Mputhi Dlokodla being taken from a van when he arrived at the forest. He was taken into a tent... I heard screaming coming from the tent..."

"During early February... Mabila Kwezi was brought face to face with me... he said his brain was not working properly because he had been assaulted and treated with electric shocks. I noticed that his gait was unsteady and that his eyes were red."

545. He also made a deposition that Mr. Jakede Nohlaza had tried to cut his throat with a knife and that Mr. Lucas Somdizela had been tortured by an electric machine. 177/

546. He was subsequently sentenced to seven years' imprisonment under the Terrorism Act.

Mr. Albert Kwezi Tshangana

547. Mr. Tshangana, one of the accused in the Unity Movement trial, was detained on 10 February 1971. 176/ In an affidavit, he said he had been abused and assaulted by Sergeant van Wyk and other policemen.

"Sergeant van Wyk made me 'sit' where there was no chair for a long time. I was sweating and afraid. I felt faint and Sergeant van Wyk poured cold water on my head... I was kept in this sitting position for some time. The two van Wyks kicked and hit me. I was dragged by the collar of my coat along the floor from one office to another by the elder van Wyk. At another stage of my interrogation a young white man poured hot water inside my shirt. It was not hot enough to blister me but it hurt..."

"... I pretended to be unconscious to evade more assaults. It appeared as if the police thought I was unconscious and a doctor arrived at about 8 o'clock to examine me." 177/

548. He was subsequently sentenced to five years' imprisonment.

Mr. Mfolwane Mbele

549. Mr. Mbele, one of the accused in the Unity Movement trial, 176/ was detained on 17 December 1970. He said in an affidavit that he had been repeatedly assaulted during interrogation in a camp in Mkhambathi forest, by Captain Baker, Truter and others. He also made depositions concerning assaults on other detainees. 177/

550. Mr. Mbele was sentenced to eight years' imprisonment in April 1972 under the Terrorism Act.

Mr. Frank Anthony

551. Mr. Frank Anthony, one of the accused in the Unity Movement trial 176/ was detained in February 1971. He said in an affidavit:

"... A Sergeant van Wyk whom I knew by the nickname of 'Spyker' took me from my cell to the interrogation room. There Sergeant van Wyk informed me of how they had broken down tough men and women in the same room... He then told me that I should remember the death of the Imam. He said that they would not like to have such another incident on their hands... Sergeant van Wyk's threats made me very frightened.

"About two days later the said Sergeant van Wyk asked me to give him the names of the six persons I had sent out of the country. I replied that I had not sent any person out of the country nor did I know of anyone else who had done so... I was then forced to assume the position of someone sitting on a chair. My back was flat against the wall. My thighs had to be kept together and at right angles with my torso. My arms were folded across my chest. My legs, from the knee joint to my feet, were to be kept together and at right angles with my thighs. My unsupported buttocks were suspended in mid-air about one-and-a-half feet from the floor.

"As soon as I collapsed I was forced to assume the same posture until I was utterly exhausted. At one time Sergeant Andries van Wyk kicked my feet from under me. I had to repeat this act several times until I could hardly get up from the floor."

He was then forced to stand on bricks for about 30 minutes. 177/

552. Mr. Anthony was subsequently sentenced to six years' imprisonment.

Mr. Robert Cedric Wilcox

553. Mr. Wilcox, one of the accused in the Unity Movement trial, was detained on 10 February 1971. 176/ He said in an affidavit that on 15 February 1971, he had been threatened and abused during interrogation by Sergeant J. van Wyk, Sergeant A. van Wyk and Sergeant Grieff.

"Sergeant J. van Wyk then ordered me to get up from the chair I was sitting in and I was made to 'haunch' with my back against the wall, my arms folded and held up (not resting on my knees) as if I were sitting on an imaginary chair. Haunching in this position caused extreme physical discomfort and caused severe muscular pain in my thighs and legs after a short while... After a while I could not maintain this sitting position and slipped to the floor...

"I suffered severe pain and eventually could not maintain the sitting position and collapsed to the floor. Sergeant A. van Wyk then lifted me by the lapels of my jacket and dropped me from an upright standing position to the floor. This he did repeatedly for a number of times. He also held me by the lapels of my jacket and bashed my back against the wall several times, all the time telling me to talk and tell them more... I was then made to stand on two slanting bricks placed at an angle on a third brick flat on the floor. I was already physically exhausted and standing in this position aggravated the muscular pains in my legs. When I could not maintain this position and slipped off I was made to resume this position. Later I was made to stand on my toes on two bricks, one on top of the other. This was a great strain on my back and also on my legs.

"I still refused to talk and I was then made to hold a brick in each hand with my arms held straight above my head. With the bricks held thus I was made to run on the spot. When my arms sagged they were pushed up again by one of the policemen. While holding the bricks above my head I was made to walk up and down the room with the Security Policemen crowding around me and shouting and swearing at me... Still with the bricks in my hands I was made to step across a chair several times. At various stages I was made to run on the spot with the bricks in my hands and also to stand on the slanting bricks as well as on the two bricks on my toes. Later I was again made to sit in the imaginary chair. At about 5.00 p.m. three young Security Policemen also came into the office and watched the proceedings. One of them buttoned my shirt and twisted my collar with his hand at the back of my head causing me to choke.

"The various forms which I have described continued until about 6.30 p.m. or 7.00 p.m. I was at this time physically, completely exhausted in my body, especially my legs were wracked with pain. I then made a further verbal statement to Sergeant J. van Wyk...". 176/

554. On 6 April 1972, Mr. Wilcox was sentenced to six years' imprisonment under the Terrorism Act.



Mr. Kader Hassim

555. Mr. Hassim, one of the accused in the Unity Movement trial 176/ said in an affidavit, that he had been detained in February 1971 and had been subjected to threats, abuse and prolonged interrogation by Major Schoon, Major Dreyer, Sergeant van Wyk and Lieutenant-Colonel Swanepoel. 178/

556. Mr. Hassim was subsequently sentenced to eight years' imprisonment.

Mr. Joseph Bransby Vusani

557. Mr. Vusani, one of the accused in the Unity Movement trial 176/ had been detained on 17 February 1971. He said in an affidavit that he had been threatened and abused by Colonel Swanepoel, Captain Gloy and Captain Basil during interrogation in the Compol Building. He had been made to stand while being questioned from 18 to 21 February. 178/

558. Mr. Vusani is serving a six-year sentence under the Terrorism Act.

Mr. Mogami Josiah Moeng

559. Mr. Moeng, one of the accused in the Unity Movement trial 176/ said in an affidavit that he had been detained on 20 January 1971.

"From Meadowlands I was removed to Compol Building in Pretoria. I was taken into a small room where I was again interrogated by about ten Special Branch Policemen.

"I was instructed to hold a heavy dumb-bell in each hand and pebbles were put inside my shoes. I was instructed to do half squats.

"My interrogation continued throughout that afternoon. I was driven to the Mkhambathi forest near Lusikisiki in Pondoland... I was told I had taken men out for military training...

"I was told that if I did not make a statement to this effect I would be killed and buried where my family would never find my body. I think I made statement after statement." 178/

560. Mr. Moeng was sentenced on 6 April 1972 to eight years' imprisonment.

Mr. Dam Gideon Mahanjana

561. Mr. Mahanjana, one of the accused in the Unity Movement trial 176/ said in an affidavit that he had been detained in December 1970. Colonel Swanepoel had threatened him with death, and had struck him so hard in front of his left ear that he had lost consciousness. 178/

562. Mr. Mahanjana was subsequently sentenced to seven years' imprisonment.

Mr. Surianarayan Kala Venkathathnam

563. Mr. Venkathathnam, one of the accused in the Unity Movement trial 176/ said in an affidavit that he had been detained in February 1971.

"I was pulled violently from the chair. I was told to forget about the Special Branch of 1963 and that today the Special Branch does not waste its time.

"My interrogators referred to my wife and children in foul language... I withstood this tirade of swearing and threats for about an hour...

"Later I was again made to stand against the wall with my arms straight above my head. This time I was made to hold a thick heavy book in each hand. As my arms sagged, I was punched in the stomach and ribs and also hit with the handle of a feather duster over my head and shoulders. I was kicked on my ankle whenever I tried to ease my feet...

"My arms were too sore to hold a ballpen... The whole procedure was adopted again...". 178/

564. Mr. Venkathathnam is serving a six-year sentence under the Terrorism Act.

Mr. Paranjothee Anthony Pillay

565. On 12 August 1971, Mrs. Navanetham Pillay, a Durban attorney, brought an urgent application before the Natal Division of the Supreme Court of South Africa for an interdict to restrain the Security Police from torturing her husband, Mr. Paranjothee Anthony Pillay, an articled clerk. She also asked that the applicant be detained elsewhere than under the control of the Security Police.

566. In support of her application, Mrs. Pillay submitted an affidavit in which she stated that Mr. Pillay was first detained under Section 6 of the Terrorism Act on 19 February 1971 and kept in custody until 4 May. During this period, she said, the Security Branch of the South African Police had forced him by threats and ill-treatment to make a statement.

567. He had been interrogated for long periods, abused in the most filthy and vile language, and repeatedly threatened with assault and indefinite detention. The police had threatened him that if he did not co-operate they would also detain his wife.

568. After he had been coerced into making a statement on the lines suggested by the Security Branch, he was released and served with a subpoena to give evidence as a State witness in the Unity Movement trial. 176/

569. He was taken to the police station on 2 August, when the trial was scheduled to begin, and threatened with dire consequences if he refused to give evidence.

570. He was very upset because he had almost qualified to be admitted as an attorney and a perjury charge could be prejudicial to his admission as an attorney. He decided, however, not to give false evidence in court.

571. On 4 August, when he went to the police to tell them of his decision, he was again detained under the Terrorism Act.

572. Submitting affidavits by other detainees on methods of interrogation by the Security Police, Mrs. Pillay said that the Security Police would follow a pattern of intimidation even worse than that they had used earlier.

573. The case was dropped the next day after the police gave an undertaking that Mr. Pillay would not be removed from the present place of confinement. 177/

Mr. Jonathan Beyneveldt

574. Mr. Beyneveldt, 19, from Cape Town, was held in detention for several months and called as a State witness in the Unity Movement trial. 176/

575. Under cross-examination, he said that he had been threatened and assaulted during questioning. Sergeant "Spyker" van Wyk had struck him across the face three times, so hard that his hearing was affected. Following repeated threats, he had signed a statement prepared by the police, without reading it.

576. Mr. Beyneveldt was seized by the Security Branch immediately after he gave evidence, and charged with perjury. The Government subsequently dropped the case. 179/

The "Welkom Case"

577. In 1971, six Africans from Welkom, who had been detained for six or seven months, were charged on the Bloemfontein Regional Court of membership in and furthering the activities of the Pan-Africanist Congress. They were sentenced to terms of four to five years' imprisonment.

578. One of the accused alleged that he had been assaulted by police officers while in detention "for refusing to talk about the PAC" and had been warned not to report the assault: he had been threatened that otherwise he would be put into cold water. 180/

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179/ Unit on Apartheid, "Notes and Documents", No. 47/71.

180/ Azania News, Dar es Salaam, Vol. 7, No. 1.

Mr. Ahmed Timol

579. Mr. Timol, 30, a school teacher, was detained under the Terrorism Act on 22 October 1971. He died on 27 October, after a fall from the tenth floor of the Security Police headquarters in Johannesburg. The Security Police claimed that he had committed suicide.

580. An inquest was held after a delay of several weeks: the magistrate refused the application of the family's counsel for information in the possession of the prosecutor, and the inquest was delayed until an appeal of the ruling was decided by the Supreme Court.

581. It was disclosed at the inquest that Mr. Timol had been interrogated by Lieutenant-Colonel W. P. van Wyk, Captain Dirker, Captain Bean, Captain J. Z. van Niekerk and Captain Johannes Gloy. On the day of the death, he had been interrogated by Captain Gloy and Captain van Niekerk from 8 a.m. to 3.30 p.m. 181/

582. Results of the post mortem examination had shown several injuries sustained between three and 10 days before death. Medical specialists testified that these injuries could have been caused by blows and kicks with a boot. 182/

583. The magistrate, Mr. J. J. L. de Villiers, found on 22 June 1972 that Mr. Timol had committed suicide and that no one was to blame for his death.

Mr. Mohamed Salim Essop

584. Mr. Essop, 21, a medical student, was detained under the Terrorism Act on 23 October 1971.

585. On 26 October, the Chief District Surgeon of Johannesburg examined him at the Security Police headquarters at John Vorster Square, Johannesburg. Mr. Essop was in a semi-conscious state and appeared to be in a state of severe hysteria. Mr. Essop had a bruise below the right eye, on the lobe of the right ear, on the right lower lip, on both arms and below both knees, and scratch marks on his chest. He was then sent on a stretcher to the Johannesburg General Hospital to be examined by a neurosurgeon.

586. On the advice of the neurosurgeon, the patient, who was then semi-conscious, was sent to the H. F. Verwoerd Hospital in Pretoria for examination for hysteria.

587. Mr. Essop's father learned that his son was at the hospital and rushed to see him. On instructions from the police, the hospital staff denied that his son was there, but he managed to go to the ward and saw his son through a fanlight. He noticed that his son was seriously ill.

588. While the father was making an application to court, the detainee was transferred to the Prison Hospital and the hospital records were removed by the police.

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181/ The Star, Johannesburg, 26 April 1972.

182/ Rand Daily Mail, Johannesburg, 5 and 24 May 1972.

589. The detainee's father obtained a temporary court order on 29 October preventing the Security Police from assaulting his son. The court suggested that the Government permit the family doctor to examine the detainee, but the Government refused to allow it. The Security Police warned the hospital staff and doctors not to make statements to the family's lawyers.

590. The Pretoria Supreme Court on 8 December extended the order to 22 February and gave permission to the father of the detainee to take evidence from nine doctors and nurses.

591. In the hearing in February 1972 on the extension of the temporary order, Colonel P. J. Greyling, Divisional Commissioner of Security Police, said he had interrogated Mr. Essop several times. Among other Security policemen who had questioned Mr. Essop were Major Fourie, Captain Kennedy, Captain Le Roux and Adjutant Officer Cornelissen. Major Fourie said, under cross-examination, that Mr. Essop fell during long interrogation by him and hit a safe and a fan.

592. On 25 February, the Court confirmed the restraining order against the police.

593. The Court found in its judgement that the detainee suffered from hysteria and stated "Fear could have brought about hysteria. Taking the balance of probability, the detainee suffered from hysteria which was probably brought on by an assault on him." It strongly criticized the behaviour of Colonel P. J. Greyling, the Johannesburg Security Police Chief, in regard to this case, and awarded costs to the applicant. 183/

594. After almost five months of detention, Mr. Essop was charged with three others in March 1972 under the Terrorism Act. The trial began in Pretoria on 13 June 1972.

Mr. Quentin Charles Bulow Jacobson

595. Mr. Jacobson, a photographer and a British national, was detained under the Terrorism Act in 1971 and subsequently charged under that Act.

596. He said at his trial at the Rand Supreme Court on 11 April 1972 that he had been interrogated for periods of up to 72 hours. He had been denied reading matter despite his requests.

"In the first month of my detention I was driven to suicide, but I did not succeed..."

"I even fear I might have been drugged. I remember half way through the interrogation they gave me some coffee. My eyes popped open and I came spurting out with all these words." 184/

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183/ Rand Daily Mail, Johannesburg, 30 October 1971, 22 and 26 February 1972.

184/ Ibid., 12 April 1972.

597. He said on his return to London, after acquittal in the trial, that he had undergone three sessions of interrogation - one for 72 hours - carried out alternatively by a pair of "good" men and a pair of "bad" men. He had once been punched by a German immigrant policeman. He had made a suicide attempt while in solitary confinement: he had slashed at his elbow joint arteries with a very blunt razor blade and had tried to "beat my head in" with the heavy cast iron frame of his bed. He said the police were very angry and the prison authorities were so infuriated that they "pulled my hair". 185/

## VII. TREATMENT OF CONVICTED PRISONERS

598. While some effort is made to apply the principles of modern penal administration with respect to common law crimes in South Africa, political prisoners are treated vindictively and are deliberately subjected to humiliating conditions, designed to lower their morale and intimidate the oppressed people. Prisoners convicted of common law offences such as murder and rape are eligible for parole and remission of up to one third of their sentences, but political prisoners are consistently denied the same. They are also specifically excluded from amnesties, the most recent one on 31 May 1971, the tenth anniversary of the South African Republic. Indeed, the treatment of persons convicted for acts resulting from their opposition to apartheid is a virtual admission by the Government that while ordinary criminals are capable of being "rehabilitated", political prisoners are not and that they will continue to espouse the same convictions that led to their imprisonment. The reaction of the Government to such steadfastness on the part of political prisoners has been to wreak vengeance through harsher treatment and more frequent punishment.

### A. Categories of prisoners

599. Political prisoners have generally been subjected to worse treatment in South African gaols than ordinary criminals. For instance, on admission to prisons, convicted prisoners are classified into four categories which, inter alia, take into account the prisoners age, sentence, and the number and type of previous convictions. These categories - Groups "A" through "D" - carry different privileges. 186/ The lowest category, Group "D" is generally meant for prisoners with a record of violent crimes such as rape, robbery, knife assault and the like. It is invariably the group into which persons convicted of political offences are placed. While penal provisions allow for the reclassification of persons from one group to another, political prisoners are transferred to Group "C" only after long delays.

### B. Conditions in the prisons

600. Accurate and current information on prison conditions is difficult to obtain as prisoners are cut off from the outside world and may not refer to

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186/ The privileges accorded the different groups is as follows:

Group A. prisoners are allowed to write and receive three letters per month and to receive visits from two persons twice a month;

Group B. prisoners are allowed to write and receive one letter per month, and to receive visits from two persons once a month.

Group C. prisoners are allowed to write and receive one letter every three months and to receive a visit from one person in three months.

Group D. prisoners are allowed to write and receive only one letter every six months and a visit from one person in six months.

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the conditions of their imprisonment in letters to or during visits by relatives. Certain information is known, however.

601. Evidence received in 1963 and 1964 from Robben Island prison, where non-white political prisoners are gaoled, indicated brutal and widespread ill-treatment. There were allegations of frequent assaults by warders, attempts at sodomy by hardened criminals, hard manual labour, other indignities and humiliation, and lack of decent medical attention. 187/

602. Leaders of the people like Nelson Mandela continue to be obliged to work in the lime quarry or to break stones. They are given unpalatable food and are obliged to wear shorts. They receive no bread but only mealie meal.

603. A letter smuggled out of Robben Island prison in March 1969 indicated a continued lack of medical attention. A prisoner wrote:

"It has become imperative to us to write and report to you the most intolerable conditions to which we are subjected.

"The poor medical treatment we receive is a matter which must receive your first attention. From last year four of our men died mainly through negligence. Practically no treatment was given to them until they were completely helpless. Their ailments became complicated beyond remedy, and then only were they taken to a hospital in Cape Town, Somerset Hospital.

"In a matter of a week, Marks died. Simon Mkele stayed for a few days in hospital. He also died. This one had a medical recommendation to be discharged from prison but this never materialized.

"Headman Sindile Ncaphayi, of Port Elizabeth, is a case that requires special attention. He took ill on August 6 and reported sick. During this time there was an epidemic at Robben Island. About a hundred or more were affected. The doctor did not come until August 26. Only on August 30 was Ncaphayi sent to Somerset Hospital. He died on September 1.

"We have few more of our men who are really seriously ill. And if no action is taken they will definitely die. TB and asthmatic patients are forced to work in the quarry, a most brutal arrangement.

"Please arrange for a commission of inquiry to investigate this position. The food quality is exceedingly poor." (A/AC.115/L.243)

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187/ Affidavit by Mr. L. R. Galela, a former prisoner, transmitted by the Pan-Africanist Congress on 19 November 1963 (A/AC.115/L.41); three affidavits by former prisoners transmitted by Mrs. Ruth First on 12 May 1964 (A/AC.115/L.73).

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604. Mention may also be made of the fact that the non-white political prisoners are detained far away from their homes so that it is difficult for their families to visit them. As Miss Mary Benson wrote in a letter to the Observer, London, on 20 November 1968:

"Certainly political prisoners are now allowed more visits, but consider what actually happens: men who are imprisoned for life or for long terms - men who have sacrificed themselves to attain what to us are ordinary human rights - are mostly imprisoned on Robben Island. Many wives live in the Transvaal or Eastern Cape, 1,000 to 500 miles away. Supposing they can afford a visit every three months, they travel all that way for an average visit of half an hour! Supposing the prisoner lives another 20 years - he will have seen his wife for less than two days in all!"

605. Testimony obtained by the Ad Hoc Working Group from several former political prisoners also indicated that the treatment of political prisoners in Pretoria local prison, where most of the white political prisoners are kept, was most deplorable in the years 1964-1965. The conditions were tantamount to solitary confinement. <sup>188/</sup> Only one hour a day was allowed for exercise and wash. The cells were unsanitary. The prisoners were kept in "D" group and the warders tried to punish and humiliate them.

606. Mr. Abram Fischer, a highly respected jurist, was subjected to humiliation. Mr. David Evans told the Ad Hoc Working Group:

"In the early part of his imprisonment... he was subjected to the sort of indignity that I do not think any man should be subjected to. As a man of nearly sixty, he was made to do extremely menial work. He was made, for instance, to clean a lavatory with his bare hands. He was given a toothbrush and told to clean long pipes in the prison yard. This is a man who was one of South Africa's leading barristers, a man of great dignity, a man who is not very well. He had high blood pressure, trouble with his eyes and I think also some kind of heart complaint."  
(E/CN.4/AC.22/RT.97)

607. The situation improved subsequently as a result of protests and publicity. But still, the political prisoners were not allowed newspapers. Study facilities were restricted.

608. Recent information on the ration scales in the prisons reflects the gross racial discrimination in the prisons. In reply to questions by Mrs. Helen Suzman, Member of Parliament, the Minister of Police told Parliament on 15 February 1972 that in respect of the feeding of persons detained in police cells, no ration scales were prescribed for the whites. The ration scales for non-whites were established as long ago as 1927. Coloured people and

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<sup>188/</sup> Mr. Benjamin Turok, for instance, was kept in solitary confinement for 22 to 24 hours a day for nearly two and a half years. (E/CN.4/950, para.861.)

Africans were allotted 8 ounces of mealie-meal, one-third ounce of fat and one-sixth ounce of salt per day. Asians were allotted 8 ounces of rice and one-sixth ounce of salt. The daily costs permitted were 60 cents per day for whites, 30 cents for Asians, and 15 cents for Coloured people and Africans. In respect of persons detained as witnesses or for questioning under recent laws, higher daily costs had been provided: 150 cents for whites; 75 cents for Coloured people and Asians; and 45 cents for Africans. 189/

609. Mrs. Suzman commented that it was "unbelievable" that the police were still operating on a diet, dating back to 1927, or "meagre rations - which Charles Dickens might have written about in the nineteenth century". 190/

#### C. Visits by the International Committee of the Red Cross

610. The International Committee of the Red Cross (ICRC) proposed a visit to South African prisons in 1963 in order to report on the treatment of various detainees under the 90-day law. 191/ The visit was delayed by the South African Government on the grounds that the persons on the list provided by the ICRC had been released or charged. Finally, Dr. Georg Hoffman, the ICRC representative, visited several prisons and police stations from 1 to 20 May 1964 and interviewed 39 prisoners 192/ - none of them detainees, however.

611. Evidence by released prisoners disclosed how the South African prison authorities tried to mislead Dr. Hoffman. Mr. Dennis Brutus, who was a prisoner on Robben Island in 1964, disclosed, for instance, that shortly before the visit, he had been issued shoes. The convicts in the hospital were given uniforms for the period of the visit. Sick prisoners were allowed during the visit to lie on beds in the prison hospitals, when normally they had been told to lie on the floor (A/AC.115/L.194).

612. Despite deliberate and short-lived attempts by the prison authorities to improve conditions in the prison for Dr. Hoffman's visit, he did, however, note certain criticisms. He reported that of seven political prisoners picked out at random on Robben Island, three had complained that they had been beaten by warders.

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189/ He added that revised ration scales would become operative on 1 April 1972 but these are not available. Republic of South Africa, House of Assembly Debates (Hansard), 15 February 1972, cols. 207-208.

190/ The Star, Johannesburg, 16 February 1972.

191/ Earlier, Dr. Hoffman had been allowed to visit Mr. Robert M. Sobukwe in the Robben Island prison on 27 September 1963. The permanent representative of South Africa transmitted the report of Dr. Hoffman and the comments by the South African Government, in a note verbale of 18 December 1963.

192/ Republic of South Africa, House of Assembly Debates (Hansard), 14 February 1967, cols. 1194-1195.

At Leeuwkop, two of the five prisoners interviewed had complained about beatings by warders. He recommended that, wherever possible, political prisoners on Robben Island should be separated from common law prisoners; that study facilities should be made available to suitable prisoners; and that health amenities should be improved and the possibilities of open-air exercise should be increased for political prisoners. He also noted the practice of keeping political prisoners in the lowest two categories of prisoners.

613. The report of the ICRC representative was transmitted in June 1964. In a covering letter to the report, the Director for General Affairs of ICRC called for leniency into the rules governing correspondence and visits. He said:

"Indeed, the limits laid down seem to us to be particularly severe, especially for categories C and D, and hardly correspond to generally accepted standards. We observe in this respect that so far the majority of political prisoners are in the categories C and D."

614. The South African Government withheld publication of this report until 26 November 1966 despite repeated demands for its early release.

615. In the next few months, as there was increasing international attention to this matter, there were indications of some improvements in the treatment of convicted prisoners, especially as regards the upgrading of political prisoners.

616. It is known that there have been three further visits by ICRC representatives, 193/ but no reports have been published and no significant improvements have been indicated by prisoners who have since been released.

617. The South African Government has tried to gain propaganda value from the visits of the ICRC representatives, in order to dismiss the charges of maltreatment and torture of detainees as "unfounded". In view of the fact, however, that the visits have been to convicted prisoners alone, the visits themselves are only of very limited value and do not serve to dismiss the shocking charges levelled against the régime. The international community is therefore rightfully concerned with the treatment of convicted prisoners who are subjected to deliberately humiliating treatment and for the well-being of persons who have been detained under South Africa's detention laws.

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193/ Mr. G. C. Senn, a delegate of the ICRC, visited South African prisons in April-May 1967. Republic of South Africa, House of Assembly Debates (Hansard), 3 June 1969, col. 7134. Two delegates of the ICRC visited South African prisons in May 1969 and again in November-December 1970. (Letter dated 14 May 1969 from the Vice-President of the ICRC to the Secretary-General of the United Nations; ICRC in Action, Geneva, 20 January 1971.)

#### VIII. NEED FOR INTERNATIONAL ACTION

618. Having decided on terror against the opponents of apartheid as an essential means of imposing apartheid and perpetuating the racist régime, the South African Government has encouraged and shielded the Security Branch in the adoption of Nazi Gestapo methods. The Government has dismissed every allegation of torture as a conspiracy against the Security Police by the opponents of the régime. While the charges of torture and maltreatment of detainees have caused widespread public concern inside South Africa, the Government has rejected calls for impartial or judicial inquiries and instituted instead departmental inquiries which invariably exonerate the police officers concerned. The Police Department thus acts as a judge in its own case.

619. Security Branch officers who have become notorious for brutality have been promoted instead of being censured. The case of Brigadier Theunis Jacobus Swanepoel, whose name has appeared again and again in reports of assault and torture of detainees is illustrative. A mere captain in 1963, Swanepoel has been promoted very rapidly. In 1969 he was appointed Chief Interrogator of the Security Branch.

620. Brigadier Swanepoel interrogated Mr. Ngudle 194/ in 1963, the day before he was reported to have committed suicide by hanging. He interrogated Mr. Suliman Saloojee 195/ on 9 September 1964, the day he allegedly jumped to his death from the seventh floor office of the Security Branch. He arrested and interrogated Mr. James Lankoe, 196/ whose inquest showed medical evidence of the probability of electric torture. He was the interrogator in the cases of Mr. Albert Sachs, Mr. Paul Joseph, Mrs. Caroline de Crespigny, Mr. Victor Finkelstein, Mr. Dasingee Francis and Mr. Phillip Golding, 197/ all of whom alleged brutal physical torture and/or prolonged interrogation. He was the chief interrogator of the 37 Namibians tried under the Terrorism Act, 198/ several of whom submitted affidavits alleging torture during detention.

621. Brigadier Swanepoel claimed in an interview in 1969:

"The department operates more like a psychiatric ward than merely a series of stark police officers." 199/

He went on to boast that his interrogators had managed to convert many a sworn communist to another way of thinking.

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194/ See paras. 222-227 above.

195/ See paras. 336-339 above.

196/ See paras. 438-445 above.

197/ See paras. 249-252; 291-296; 361-363; 378-379; 430-437; and 512-514 respectively.

198/ See paras. 388-395 above.

199/ The Star, Johannesburg, 22 August 1969.

622. Other Security Branch officers who have become notorious for their bestiality, include Sergeant Donald Card, Sergeant "Spyker" van Wyk and Lieutenant Ferreira. 200/ They have so far been immune from censure.

623. As the Government has condoned the cruelty against political prisoners, and inhibited the courts and the press from protecting the rights of political prisoners, effective international action has become essential for ending this régime of cruelty. In this connexion, the efforts of organizations and individuals who have publicized the situation and helped provide legal and other assistance to the prisoners, deserve to be commended and supported. 201/

624. The persistent efforts of the Special Committee on Apartheid, since 1963, and of the Commission on Human Rights, since 1967, to draw attention to the grave situation and to promote international action have been greatly appreciated by the persecuted opponents of apartheid in South Africa and their families. These efforts have led to some amelioration of the treatment of prisoners serving sentences under the unjust laws, but the inhuman treatment still prevails especially with regard to detainees.

625. It is therefore indispensable that the international community continue to demand an impartial investigation into the treatment of political prisoners and detainees, as well as frequent visits by international observers to the prisoners.

626. At the same time, world public opinion must be made aware of the grave implications and consequences of the cruel, inhuman and degrading treatment of prisoners and detainees by the racist régime in South Africa.

627. The victims of this inhumanity, the genuine leaders and representatives of the great majority of the people of South Africa, have been engaged in a struggle against racist oppression and a struggle for the principles enshrined in the United Nations Charter and the Universal Declaration of Human Rights. Their struggle has been recognized as a legitimate one and one which deserves moral, political and material support by the international community. These leaders are entitled to play the crucial role in deciding the destiny of South Africa.

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200/ The reports of the Ad Hoc Working Group of Experts contain lists of Security Branch interrogators who have been mentioned in evidence before it. The interrogators have also been identified in the cases in the previous chapter.

201/ Special mention may perhaps be made of the International Defence and Aid Fund, led by the Reverend Canon L. John Collins, and its World Campaign for the Release of South African Political Prisoners which was inspired by General Assembly resolution 1811 (XVIII). The International Commission of Jurists and Amnesty International have also assisted in various ways. The Anti-Apartheid Movements of the United Kingdom and other countries, the American Committee on Africa and other groups, as well as many individuals, have carried on effective campaigns in co-operation with the Special Committee on Apartheid.

628. The brutality of the South African régime in its efforts to perpetuate and intensify racist oppression against the great majority of the population, in defiance of numerous resolutions of the United Nations, cannot prevent the final victory of the struggle of the oppressed people for freedom and human dignity. Indeed, despite the brutal torture, the Security Police have failed to break the will of numerous prisoners. Resistance to apartheid has continued in spite of ever more ruthless repressive laws and measures.

629. The actions of the South African régime and its Security Police have tended to aggravate the situation in the country, to minimize the possibilities of any peaceful solution and to increase the prospect of a wider and more violent conflict.

650. In order to avert these grave dangers for international peace and security, it is indispensable that effective measures be taken by the international community to oblige the South African régime forthwith to end its maltreatment and torture of prisoners and detainees, and to punish the perpetrators of these crimes. This is an essential first step in a move away from catastrophe. This must be followed by the release of all political prisoners and the repeal of all repressive legislation, so that a new course, in accordance with the principles of the United Nations Charter and the Universal Declaration of Human Rights, can be charted in free discussion by the genuine representatives of all the people of South Africa, irrespective of race, colour or creed.

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REFERENCES

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ANTHONY, Mr. Frank	(Unit on <u>Apartheid</u> "Notes and Documents" No. 53/71)
BONGOCO, Mr. Washington	(A/AC.115/L.123)
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GALELA, Mr. Lindiso Richard	(A/AC.115/L.41)
GAZIDES, Dr. Constantinos	(A/AC.115/L.106)
JOSEPH, Mr. Paul	(A/AC.115/L.106)
LEVY, Mr. Norman	(A/AC.115/L.106 and E/CN.4/AC.22/RT.12)
LEWIN, Mr. Hugh Francis	(A/AC.115/L.106)
MBELE, Mr. Mfolowane	(Unit on <u>Apartheid</u> "Notes and Documents" No. 53/71)
MOODLEY, Mrs. Mary Josephine	(A/AC.115/L.106)
MUTUMBULUA, Mr. Jason Daniel	
NICHOLSON, Miss Ann Drummond	(A/AC.115/L.106)
OTTO, Mr. Johannes Guaniipupu	
PILLAY, Mrs. Navanetham	
SCHERMBRUCKER, Mr. Ivan Frederick	(A/AC.115/L.106)
SHIHUNGELANI, Mr. Simeon	
SHITYUWETE, Mr. Joseph Helao	
TREWHELA, Mr. Paul Henry	(A/AC.115/L.106)
TSHANGANA, Mr. Albert Kwezi	(Unit on <u>Apartheid</u> "Notes and Documents" No. 53/71)
VIMBA, Mr. Ncikwa Nagi	(Unit on <u>Apartheid</u> "Notes and Documents" No. 53/71)
WILCOX, Mr. Robert Cedric	(Unit on <u>Apartheid</u> "Notes and Documents" No. 53/71)

Also three affidavits by former prisoners on Robben Island, transmitted by Mrs. Ruth First on 12 May 1964 (A/AC.115/L.73).

B. United Nations documents

1. Reports of the Ad Hoc Working Group of Experts

E/CN.4/950	Report of October 1967
E/CN.4/984	Report of February 1969
E/CN.4/1020	Report of February 1970
E/CN.4/1050	Report of 2 February 1971
E/CN.4/1076	Report of 15 February 1972
E/CN.4/AC.22/RT.6	Report of 23 May 1967
E/CN.4/AC.22/RT.14	Report of 5 September 1968
E/CN.4/AC.22/RT.12	Report of 28 January 1969
E/CN.4/AC.22/RT.69/1	Report of 24 December 1969
E/CN.4/AC.22/RT.95	Report of 16 December 1970
E/CN.4/AC.22/RT.97	Report of 17 December 1970

2. Reports of the Special Committee on Apartheid

A/5497 and A/5497/Add.1	Report of 1963
A/5825 or S/6073	Report of 1964
A/5957 or S/6605	Report of 1965
A/6356 or S/7387	Report of 1966
A/6864 or S/8196	Report of 1967
A/7254 or S/8843	Report of 1968
A/7625 or S/9473	Report of 1969
A/8022 or S/9939	Report of 1970
A/8422 or S/10366	Report of 1971

3. Documents of the Special Committee on Apartheid

A/AC.115/L.36  
A/AC.115/L.39  
A/AC.115/L.41  
A/AC.115/L.53  
A/AC.115/L.62  
A/AC.115/L.72  
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A/AC.115/L.181  
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A/AC.115/L.207  
A/AC.115/L.243  
A/AC.115/L.255  
A/AC.115/L.264

4. Unit on Apartheid "Notes and Documents"

- 4/69 Texts of repressive legislation in the Republic of South Africa  
- March 1969
- 8/69 Trial and sentencing of Africans in Pietermaritzburg under the  
Terrorism Act - May 1969
- 11/69 Repressive measures against opponents of apartheid in South Africa -  
I - July 1969
- 12/69 Repressive measures against opponents of apartheid in South Africa -  
II - July 1969
- 16/69 Special Committee on Apartheid expresses indignation at death of  
Imam Haron in detention in South Africa - October 1969
- 17/69 Four hundred days in prison in South Africa - Testimony of  
Mr. Desmond Francis - October 1969
- 4/70 A decade of repressive legislation in South Africa - March 1970
- 15/70 Arbitrary detention in South Africa and its implications - May 1970
- 18/70 South Africa's "Terrorism Act" - May 1970
- 34/71 Banning orders against opponents of apartheid in South Africa  
- August 1971
- 47/71 Who are the terrorists? - Report on the trials of  
Dean ffrench-Beytagh in Pretoria and of 13 non-whites in  
Pietermaritzburg under the Terrorism Act, by  
The Reverend Edgar Lockwood. - November 1971
- 51/71 Persecution of Mrs. Nonzamo Winnie Mandela - December 1971
- 53/71 Detainees allege ill-treatment and torture by Security Branch  
- December 1971
- 7/72 The Suppression of Communism Act by Massabalala B. Yengwa  
- March 1972
- 8/72 Statement by The Reverend Canon L. John Collins, President of the  
International Defence and Aid Fund for Southern Africa, London,  
before the Special Committee on Apartheid on 19 January 1972  
  
Statement by The Reverend Donald Morton before the Special Committee  
on Apartheid on 24 January 1972 - March 1972

C. Other publications

Amnesty International	<u>Prison Conditions in South Africa</u> (London, 1966)
Bernstein, Hilda	<u>The Terrorism of Torture</u> (International Defence and Aid Fund, April 1972)
Brutus, Dennis	<u>Robben Island</u> (Christian Action, London, 1967)
Christian Action	<u>Prisoners of Apartheid</u> (London, 1965)
	<u>The Purge of the Eastern Cape</u> (London, 1966)
	<u>Solitary Confinement</u> (London, 1967)
Cronje, Suzanne	<u>Witness in the Dark: Police Torture and Brutality in South Africa</u> (Christian Action, London, 1964)
de Crespigny, Caroline	"Prisoner of Verwoerd" in <u>New Statesman and Nation</u> , London, 8 July 1966
Duncan, Patrick	<u>South Africa's Rule of Violence</u> (London, Methuen, 1964)
First, Ruth	<u>117 Days: An Account of Confinement and Interrogation under the South African Ninety-Day Detention Law</u> (Penguins, London, 1965)
	"South African Trial by Torture", <u>New Statesman</u> , London, 15 November 1968
Golding, Philip	"I lost all meaning of truth and justice", <u>The Guardian</u> , Manchester, 9 January 1970
Hopkins, Adam	"The methods of a master-inquisitor", <u>Sunday Times</u> , 15 June 1969
International Defence and Aid Fund	<u>South African Prisons and the Red Cross Investigation</u> (London, 1967)
Matthews, A. S. and Albino, R. C.	"The Permanence of the Temporary", <u>South African Law Journal</u> , February 1966
Ninety-day Protest Committee	<u>Tyranny 90</u> (Cape Town, 1964)
Sachs, Albert	<u>The Jail Diary of Albie Sachs</u> , 1967
	<u>South Africa: the violence of apartheid</u> (International Defence and Aid Fund, London). Second edition 1970
United Nations, Office of Public Information	<u>Apartheid and the Treatment of Prisoners in South Africa</u> (1967)