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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

REPORT OF THE AD HOC WORKING GROUP OF EXPERTS PREPARED IN
ACCORDANCE WITH COMMISSION RESOLUTION 5 (XXXI)

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INTRODUCTION

1. At its thirty-first session the Commission on Human Rights, by its resolution 5 (XXXI) of 14 February 1975, decided that the Ad Hoc Working Group of Experts established under its resolution 2 (XXIII) should continue carefully to observe and survey further developments concerning the policy of apartheid and racial discrimination present in the situation prevailing in Namibia and Southern Rhodesia (para. 12).
2. By the same resolution, the Commission requested the Group to study the private goal and farm goal systems, the development of the separate homelands policy and its effects on the right to self-determination, as well as the farm labour system in the Republic of South Africa (para. 13), and also to study the consequences of apartheid as regards the African family and to inquire into the particular difficulties of the student movements in South Africa and Namibia (para. 14).
3. In paragraph 15 of resolution 5 (XXXI), the Commission requested the Group to submit a report on its findings to the Commission not later than at the Commission's thirty-third session and to present an interim report to the Commission at its thirty-second session.
4. This interim report is presented in accordance with that request. It was prepared by the Group during the two series of meetings it was held at the Palais des Nations, Geneva, from 28 to 31 July 1975 and from 12 to 23 January 1976. It is based essentially on information collected by its members and by the Secretariat, mainly through a systematic search of documents of the United Nations and the specialized agencies, official gazettes and reports of relevant parliamentary debates, publications by the Information Service of the International Defence and Aid Fund for Southern Africa, newspapers and magazines of various countries, some studies on racial relations, and works dealing with matters relevant to the Group's terms of reference.
5. This report is a sequel to the eight reports previously presented to the Commission by the Ad Hoc Working Group of Experts on various questions relating to human rights in southern Africa (E/CN.4/950, E/CN.4/984 and Add. 1-19, E/CN.4/1020 and Add. 1-3, E/CN.4/1050 and Corr. 1, E/CN.4/1076, E/CN.4/1111, E/CN.4/1135 and E/CN.4/1159).
6. In preparing this report, the Ad Hoc Working Group of Experts has taken into account the basic international standards governing its activities, as set forth in its previous reports and particularly in the report presented to the Commission on Human Rights at its thirty-first session (E/CN.4/1159). In addition, the Group has taken into consideration the following resolutions adopted by the General Assembly at its thirtieth session: 3383 (XXX), 3396 (XXX), 3397 (XXX), 3398 (XXX), 3399 (XXX), 3411 (XXX), 3412 (XXX), 3452 (XXX) and 3453 (XXX).
7. At the 1335th meeting of the Commission on Human Rights, on 7 March 1975, the Chairman of the Commission announced, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council that the composition of the Ad Hoc Working Group of Experts referred to in paragraph 12 of resolution 5 (XXXI), renewing the Group's mandate, would be as follows:

Mr. Keba M'Baye (Senegal), Chief Justice of the Supreme Court;

Mr. Branimir Janković (Yugoslavia), Professor of International Law, Belgrade;

Mr. Amjad Ali (India), Member of Parliament, New Delhi;

Mr. Annan Arkyin Cato (Ghana), Counsellor, Permanent Mission of Ghana to the United Nations, New York;

Mr. Humberto Díaz Casamueva (Chile), Professor of International Organizations, Rutgers University, and Professor of Hispano-American Literature, Columbia University, United States of America;

Mr. Felix Ermacora (Austria), Professor of Public Law, Vienna.

The Commission further decided that Mr. M'Baye (Senegal) would continue to serve as Chairman of the Group.

8. In the course of its meetings at the Palais des Nations, Geneva, in July 1975 the Ad Hoc Working Group of Experts agreed that its Chairman would continue to serve also as Rapporteur and Mr. Janković as Vice-Chairman.

9. With regard to the plan of the report, the Group has conformed as closely as possible to the scheme laid down in Commission resolution 5 (XXXI). In addition, taking into account paragraph 12 of that resolution, the Group decided to include in its report a review of developments in the political situation in southern Africa.

10. Given the particular situation prevailing in each of the territories covered by the Group's terms of reference, political developments in southern Africa are analysed in each of the chapters dealing with South Africa, Namibia and Southern Rhodesia respectively.

11. In general terms it will suffice to note here that in the case of South Africa the Ad Hoc Working Group of Experts found that, even though certain signs suggested that the South African authorities contemplated relaxing certain aspects of the policy of apartheid, the alleged reforms did nothing to eliminate that policy but, on the contrary fitted into the context of apartheid in that their main purpose was to divide the black population.

12. In the case of Namibia, the main purpose of the repressive measures taken by the South African authorities against the Namibians is to prevent them from engaging in political activities of any sort whatsoever and to keep them in a State of extreme poverty. Thus, during the elections held in the "Bantustan" of Ovamboland, measures of intimidation were applied in order to elicit support from the Namibians for the so-called constitutional conference which was to start on 1 September 1975.

13. With regard to the situation in Southern Rhodesia, the Ad Hoc Working Group of Experts regrets to state that, in spite of the efforts allegedly being made to resolve the problem of Southern Rhodesia, the illegal régime continues to practise repressive measures, including in particular imprisonment and arbitrary detention of political leaders and other freedom fighters, the infliction of collective punishment, and forced movements of population.

14. It will be recalled that in its last report to the Commission on Human Rights (E/CN.4/1159) the Ad Hoc Working Group of Experts, stating with regret that none of the recommendations contained in previous reports had been respected by the South African authorities, reiterated its previous recommendations.

15. It will also be recalled that the Commission on Human Rights, at its thirty-first session, requested the Secretary-General to transmit to the Ministers of Foreign Affairs of Member States the conclusions and recommendations arising out of the investigations made by the Group in 1973 and 1974. ^{1/} The text of the conclusions and recommendations was transmitted to all Governments by a note verbale dated 3 June 1975.

16. Lastly it should be mentioned that, in the course of the meetings which it held at Geneva in July 1975 and January 1976, the Ad Hoc Working Group of Experts exchanged views concerning the mission it is to carry out in Africa in 1976 with the aim of collecting evidence and hearing testimony on the subject of new developments in the matters covered by its new terms of reference.

^{1/} The conclusions and recommendations of the Ad Hoc Working Group of Experts are set forth in chapter V of document E/CN.4/1159.

I. SOUTH AFRICA

A. NEW DEVELOPMENTS RELATING TO THE POLICY OF APARTHEID AND RACIAL DISCRIMINATION

1. Capital punishment

(a) Reference to some relevant laws

17. The South African laws in force that provide for the death penalty have been reproduced or analysed in previous documents of the Ad Hoc Working Group of Experts (notably E/CN.4/1020, paras. 73-81, and E/CN.4/1111, paras. 40-43). Particular attention has been drawn to the Sabotage Act (General Law Amendment Act No. 76 of 1962) and the Terrorism Act (No. 83 of 1967) (see E/CN.4/1135, para. 18, and E/CN.4/1111, paras. 42-43).

(b) Analysis of information received

18. According to information received by the Group, two legal conferences held in South Africa during the period under review - the biennial conference of the Association of Law Societies and a conference on "Crime, Law and the Community" - once more drew attention to the exceptional number of statutory offences incurring the death penalty and the high rate of executions in the Republic 1/ (see also previous report E/CN.4/1159, para. 38). In spite of these public criticisms, however, the Minister of Justice, Mr. Jimmy Kruger, said in July 1975 that there was "no possibility at all" of the Government reviewing the question of capital punishment. 2/ The terms of the Commission of Inquiry into the Penal System equally excluded consideration of capital punishment (see para. 44 below).

19. During the years 1972-1974, 241 persons were sentenced to death by South African courts, 127 of whom were executed; 46 executions took place in 1972, 45 in 1973 and 36 in 1974. In March 1975, however, 77 persons were awaiting execution (2 whites, 20 Coloureds and 55 Africans), 3/ and the figure for hangings in the first half of 1975 alone was 36. 4/

2. Massacres and alleged violations of the right to life

(a) Deaths in gaol or at the hands of the police

20. According to information supplied by the Minister of Police to Parliament in March 1975, 79 persons died while in detention during 1974: among listed causes of death were 10 cases of "suicide", 18 of "cerebral" or "brain" injuries, 7 of "internal" or "multiple" injuries, and 9 "fatally wounded during attempt to escape". 5/

1/ Sunday Times (Johannesburg), 6 April 1975.

2/ Rand Daily Mail, 29 July 1975.

3/ House of Assembly Debates, 21 March 1975; Observer (London), 30 March 1975.

4/ Cape Times, 24 July 1975.

5/ House of Assembly Debates, 21 March 1975.

21. Further figures supplied by the Minister indicated that 101 persons, 87 of them Africans, were shot and killed by policemen "in the execution of their duties" during 1974. 6/

22. Among deaths in gaol during the period was that of a political prisoner on Robben Island, Alfred Khonza, who was sentenced in 1963 to 20 years in gaol, later reduced to 12, for leaving the country illegally to receive military training abroad. He was buried at Dimbaza in March 1975, after dying in gaol only weeks before he was due for release. 7/

(b) Deaths following riots and industrial protests by black workers

23. According to information available to the Group, 131 miners lost their lives in clashes on gold and coal mines during the period September 1973 to March 1975. 8/

24. The deaths of 11 African miners shot by police during a disturbance at the Carletonville mine in September 1973 were described in the Group's 1974 report (E/CN.4/1135, para. 152), and recommendations were made by the Group in 1975 for government compensation for the families of the victims. 9/ In the worst single incident on the mines since then, 23 men were killed in the Northfield Colliery near Glencoe, Natal, in March 1975. The incident was described as a "riot" in the white press, and by the Minister of Police as a "straight faction fight between Basutos and Xhosas". 10/

25. Among incidents of police firing on apparently unarmed crowds was one at Thaba Nchu in the Bophuthatswana homeland in July 1975. Two Africans were killed and four injured when police fired in "self defence" at a crowd who were protesting at attempts by homeland officials backed by (Republic) police to force them to limit the number of cattle kept and grazed on local land. 11/

3. Forced removals of population

26. According to information received by the Group, forced removals of African populations continue to take place on a large scale, as the Government proceeds to implement its schemes for territorial segregation of the races and the "consolidation" of the "Bantu homelands" (cf. section B below). The Deputy Minister of Bantu Administration and Development told Parliament in February that a total of 190,794 persons had been removed from "black spots" in the period since 1948. 12/

6/ House of Assembly Debates, 6 September 1974 and 18 March 1975.

7/ Files of the International Defence and Aid Fund for Southern Africa, March 1975.

8/ Sunday Times, 9 March 1975.

9/ Star, 8 March 1975.

10/ Rand Daily Mail, 3 March 1975; the same issue of the paper details a "diary of killing, maiming" on the mines between September 1973 and March 1975.

11/ Cape Times, 7 July 1975.

12/ House of Assembly Debates, 21 February 1975.

27. In the past ten years 74,362 persons had been "resettled"; 13/ and 5,226 had been "resettled" in 1974. The Minister was unable to give a figure for those still to be moved. 14/

28. Among the schemes known by the Group to have caused conflict during the period under review are the following:

(a) The planned removal of several thousand Africans in the Eastern Cape to a new township at Committeesdrift in the Ciskei (see previous report E/CN.4/1159, para. 156). Removal notices have already been issued to Fingoes at the Fingo Village at Grahamstown. These people, according to information before the Group, have lived on these sites, which they own, since 1855. The first houses in the resettlement area will not be ready until 1977. 15/

(b) The threatened removal of 12,000 Zulus from Charlestown in Natal from land they own but has now been declared "white". 16/

(c) The projected removal of 59,800 Swazis from the lowveld to the Barberton, Caroline and Ermelo districts, which are to be added to the "Swazi homeland". Seven chiefs are petitioning the Commissioner General on behalf of 80,000 Swazis who oppose the removal. 17/

(d) The forced removal of several hundred families from Thaba Nchu in Bophuthatswana to Witsieshoek in Basotho Qwaqwa. Arrests were reported of people resisting removal - according to the Sotho authorities some of the families being moved were not Sotho at all but Zulu and Xhosa. 18/

(e) The forced removal of 2,000 Tswana from Mayen in the Northern Cape to Vaalboshhoek in the Bophuthatswana homeland. When Chief Geoffrey Moseki and 900 of his subjects left their homes in May 1975 and took to the bush, Colonel Krige, District Commandant of Kimberley, threatened them with "war" and starvation if they refused to move. 19/

(f) The plan to move 28,000 Africans from Bophelong and Boipatong townships near Vanderbijlpark on the Rand to Sebokeng, north of the town, in about 1985. 20/

13/ House of Assembly Debates, 2 September 1974.

14/ House of Assembly Debates, 14 February 1975.

15/ House of Assembly Debates, August 1974; Financial Mail, 5 July 1974; Cape Times, 2 September 1974 and 6 May 1975.

16/ Cape Times, 23 August 1974.

17/ House of Assembly Debates, 27 August 1974; Star, 31 August 1974.

18/ Rand Daily Mail, 3 October 1974.

19/ House of Assembly Debates, 17 October 1974; Sunday Times, 16 February 1975; Rand Daily Mail, 20 and 21 February 1975, 8 May 1975.

20/ Rand Daily Mail, 8 December 1974.

4. Treatment of political prisoners and captured freedom fighters

(a) Reference to some relevant laws

29. Legislation governing detention without trial and the conditions of prisoners in gaol has been described in previous reports (see E/CN.4/1159, para. 50). The web of security legislation that makes a wide range of political acts punishable by law, sometimes with extremely heavy penalties, has also been covered in various documents available to the Ad Hoc Working Group of Experts, and in the 1973 report of the Group, E/CN.4/1111.

30. During the period under review this legislation was further elaborated by the Second General Law Amendment Act No. 94 of 1974 (which amended the Bantu Administration Act of 1927, making it an offence to cause, encourage or foment feelings of hostility between population groups; penalties are R2,000 or two years' imprisonment or both). 21/

31. The main piece of legislation passed during the period under review that might be used to affect political prisoners or captured freedom fighters is the Proclamation for Rehabilitation Institutions in the Bantu Homelands, No. R133, published in the Government Gazette of 6 June 1975. Under this proclamation centres may be set up in the homelands, which will remain, however, under Republic government control, for the "reception, treatment and training" of persons committed thereto under the Bantu Laws Consolidation Act or the Bantu Labour Act. The Black Sash and other observers have found a great deal to be disturbed about in this piece of legislation. They pointed out that these Acts cover mainly pass and technical offences, which normally carry sentences of up to three months in gaol; yet under this Act such "offenders" may be arbitrarily sentenced to up to three years in a rehabilitation centre "for the purpose of improving their physical, mental and moral condition". 22/ Commentators have also pointed out that many of the provisions of the proclamation appear to have been borrowed from the Prisons Acts - notably the provision whereby inmates will be permitted only approved visitors, their mail will be censored and press reporting on the institutions will be restricted. The Rand Daily Mail called the project "a concerted drive to brainwash - 'reorientating' is the official word - Africans to accept the Nationalists' Bantustan ideology". Further, the Bantu Urban Areas Consolidation Act under section 25 defines "undesirable" Africans as including men guilty of what are regarded as political offences. 23/

32. Homeland leaders have expressed their suspicions and in some cases hostility in relation to the scheme by denying all knowledge of the "consultations" said to have taken place with them. Chief Buthelezi of KwaZulu said he viewed the centres with great alarm: "I cannot see why pass law offenders should be dumped on our lap". Professor Ntsanwisi, Chief Minister of Gazankulu, said: "It is more than a rehabilitation centre. It sounds like a prison." While the Governments of Lebowa and Ciskei, where the first two centres are allegedly already being built, equally denied all knowledge of the project. 24/ The Chief Minister of

21/ Survey of Race Relations, 1974 (South African Institute of Race Relations), p.71.

22/ Rand Daily Mail, 19 July 1975.

23/ Rand Daily Mail, 22 July 1975, 5 August 1975.

24/ Rand Daily Mail, 22 July 1975.

Bophuthatswana, the third government claimed by the Minister of Bantu Affairs and Development to have been consulted about the scheme, said his government was "totally opposed" to the project and would not allow any centre within Bophuthatswana borders. 25/

(b) Analysis of information received

33. Once more no comprehensive figures were published for detentions under the various security laws during 1974. In September 1974 the Minister of Police said that no persons had been detained in terms of section 6 of the Terrorism Act in the first six months of the year. 26/ In February 1975 he confirmed that some persons had been detained under the Terrorism Act following the banned pro-FRELIMO meeting in September 1974. 27/ Then in March 1975 the Attorney General, Dr. Percy Yutar, gave the figure of 26 still detained, though he said he did not "even know their names". 28/ Twelve detainees had by this time already been brought to court, so the total arrested under the Terrorism Act in September was presumably 38. 29/

34. At least a further 11 men were detained in Soweto and the Coloured townships around Johannesburg in the period February-April 1975, according to the Rand Daily Mail, which named and described the dawn arrest of each of them. 30/ Several of the detainees were said to have had connexions with the black student movement.

35. In April 1975 a document published by the South African Students' Organization (SASO) named 24 members of black organizations - South African Students' Organization, Black Peoples' Convention, Black Community Programme, Black Allied Workers' Union, Theatre Council of Natal and Peoples' Experimental Theatre - detained since November 1974, and mostly still in detention. 31/

36. In May the Star gave the names of 14 detainees under the Terrorism Act still alleged to be held in Johannesburg, and claimed that 16 more were also being held in Pretoria. 32/

37. In September the Rand Daily Mail claimed that 38 detainees under the same Act were still being held, and 15 under the General Law Amendment Act in South West Africa. The paper said that 31 detainees were Africans, 9 whites, 17 Coloureds and 2 Indians. Five were women. Most of the detainees were named, including seven alleged to have been held for nearly a year. 33/ The paper estimated later in the month that there were at least 68 persons being detained under the Terrorism Act, 50 of them held incommunicado; 21 are Namibians. 34/

25/ Rand Daily Mail, 5 August 1975.

26/ House of Assembly Debates, 27 September 1974.

27/ House of Assembly Debates, 4 February 1975.

28/ Star, 15 March 1975.

29/ Rand Daily Mail, 10 March 1975.

30/ Rand Daily Mail, 5 April 1975.

31/ "Second report on arrests, detentions and trials of members and supporters of SASO, BPC, BCP, BAWU, Tecon and PET" (published by SASO, April 1975).

32/ Star, 24 May 1975.

33/ Rand Daily Mail, 3 September 1975.

34/ Rand Daily Mail, 13 September 1975.

38. In a wave of arrests in August 1975, 12 people were detained under the Terrorism Act, including the prize-winning Afrikaans poet, Breyten Breytenbach, who normally lives in Paris, Mrs. Clara Rohm, whose husband is a scientist working for the Atomic Energy Board, Karel Tip, President of NUSAS, students Gerry Mare and Glenn Moss, and journalist Lawrence Dworkin. 35/

39. There have been further allegations of maltreatment of political prisoners during the period under review. In paragraph 58 reference is made to allegations of torture under interrogation of the accused in the SASO trial. In February 1975 a Prisons Department spokesman said that Mr. Sathaisivan Cooper, former public relations officer of the Black Peoples' Convention, detained since the FRELIMO rally in September 1974, had collapsed in the Pretoria central prison. He was treated for "suspected convulsions". 36/

40. The Minister of Justice gave Parliament in February 1975 the following figures for convictions under certain security laws during 1974: 37/

	<u>White</u>	<u>Coloured</u>	<u>Asian</u>	<u>African</u>
General Law Amendment Act (Sabotage Act, 1962)	0	0	0	1
Suppression of Communism Act	2	2	1	7
Terrorism Act	0	0	0	1

41. He gave the following figures for persons serving sentences under certain security laws on 1 January 1975: 38/

	<u>White</u>	<u>Coloured</u>	<u>Asian</u>	<u>African</u>
General Law Amendment Act, 1962	7	3	9	219
Suppression of Communism Act	0	0	0	4
Unlawful Organisations Act	0	0	0	8
Terrorism Act	2	3	4	61

42. According to information before the Group, the total gaol population in October 1974 for South Africa and Namibia was 96,587 (no race breakdown available). In 1968/69, 352,435 African men and 71,867 women were gaoled; in 1972/73, 234,913 men and 58,534 women were gaoled. 39/

43. The report of the Department of Prisons published in May 1975, however, revealed that the daily average prison population for the year ending 30 June 1974 was a record 98,851, a rise over ten years of nearly 10 per cent. The total prison population over the year was 625,000. Of the 342,000 sentenced prisoners, 288,000 were black, 45,000 Coloured, 7,000 white and 1,500 Asian. 40/

35/ Rand Daily Mail, 23, 27, 30 and 31 August 1975.

36/ Cape Times, 6 February 1975.

37/ House of Assembly Debates, 7 February 1975.

38/ Ibid.

39/ House of Assembly Debates, October 1974.

40/ Star, 17 May 1975.

44. A Commission of Inquiry into the Penal System was set up in October 1974 under the chairmanship of Mr. Justice Viljoen. Its terms of reference were "to inquire into the penal system of the Republic of South Africa and to make recommendations for its improvement. Provided that the question whether the death penalty should be retained shall not be inquired into." 41/

45. Relatives of political prisoners immediately made plans to make representations to the Commission on the special disabilities political prisoners suffer (cf. para.49 below). 42/

46. The Minister of Prisons, however, made clear that there would be no general inquiry into conditions in South Africa's gaols, on the grounds that it would "take too long" to study the Republic's 242 gaols. 43/

47. In February it was announced that the Commission had rejected the evidence of Bram Fischer and seven other political prisoners on the conditions under which they were held as, in the words of Judge Viljoen, "conditions applying to political prisoners ... fall outside the scope of inquiry of my commission.". 44/

48. A spokesman for the Department of Prisons announced in February that the Department might act against any prisoner who contravened regulations in the contents of submissions to the Penal Reform Commission. 45/ And the Minister of Justice made it clear that the evidence submitted by Bram Fischer had been a point against him in deciding his future (see para. 53 below). 46/

49. Mrs. Helen Suzman summarized the disabilities of political as against ordinary prisoners in Parliament in October 1974. She listed among other disabilities lack of remission of sentence, lack of access to newspapers or other forms of news, censorship of books and correspondence, difficulties in the way of study facilities, and limitation of visiting and correspondence privileges. 47/

50. The Minister of Prisons announced in May 1975 that he would allow the publication of prisoners' photographs in the press (illegal without permission under the Prisons Act of 1959) "under certain circumstances". 48/ A single picture of Bram Fischer was allowed to be printed in the press after his death (see para. 53 below).

51. Government ruled in January 1975 that in certain circumstances representations from homeland leaders for the release of political prisoners would be considered: if they were made on behalf of individual prisoners only and if they were "ethnically consistent" (sic). 49/

41/ Government Gazette, No. 4446, 18 October 1974.

42/ Sunday Times, 20 October 1974.

43/ Rand Daily Mail, 25 October 1974.

44/ Rand Daily Mail, 4 February 1975, 12 April 1975.

45/ Rand Daily Mail, 22 February 1975.

46/ Rand Daily Mail, 31 January 1975.

47/ House of Assembly Debates, 24 October 1974, NB col. 6294 on.

48/ Cape Times, 10 May 1975.

49/ Rand Daily Mail, 15 January 1975.

52. On the other hand, official statements reiterated that Nelson Mandela would not be released. 50/

53. Abram Fischer, 66-year-old distinguished South African jurist and leader of the South African Communist Party sentenced to life imprisonment in 1966 for "conspiring to commit sabotage", was reported in December 1974 to be suffering from cancer. Immediate demands were made in South Africa and abroad for his release, including an appeal by the Chairman of the United Nations Committee Against Apartheid, Ambassador Edwin Ogbu. These were rejected by the South African Government in December, in spite of personal appeals by Advocate Fischer's two daughters (his only son had died while Mr. Fischer was in prison) to the Minister of Justice and to the Prime Minister, and in spite of continued reports of the prisoner's failing health. The daughters were allowed to visit him regularly, but it was only in March that Advocate Fischer was allowed to leave hospital to stay with his brother, Dr. Paul Fischer, in Bloemfontein. The Minister made clear that he would still be a prisoner, whom no visitor would be allowed to see without permission of the Department of Prisons. The only visitors given permission were immediate members of his family. He died on 8 May 1975. His family were instructed to return his ashes after the funeral to the Prisons Department. The press were allowed to publish a single photograph. 51/

54. The Department of Prisons refused any information on the state of health of Govan Mbeki, one of the Rivonia accused sentenced to life imprisonment and now on Robben Island, following a telephone call to a newspaper claiming that he was seriously ill. "It was not department policy" to discuss the health of prisoners, the spokesman said. 52/

55. Violence in daily prison life was evidenced once more during the period under review. According to information before the Group, there were no fewer than 230 departmental investigations into allegations of assault by prison warders on prisoners between January and September 1974, 53/ and 40 people were found guilty. The Minister of Prisons sent a letter expressing "strong disapproval" of assaults on prisoners following the conviction of warder Potgieter at Leeukop gaol (see the 1975 report, E/CN.4/1159, para. 86). But Mr. Potgieter's promotion to captain has apparently not been affected by his conviction. 54/

50/ Rand Daily Mail, 31 January 1975.

51/ Sunday Times, 4 August 1974; Rand Daily Mail, 5 December 1974; Sunday Times, 8 December 1974; Rand Daily Mail, 9 and 18 December 1974; Times, 12 December 1974; Morning Star, 23 December 1974; Guardian, 23 January 1975; Rand Daily Mail, 3, 24 and 26 February 1975; Morning Star, 11 March 1975; Cape Times, 11 March 1975; Star, 15 March 1975; Rand Daily Mail, 11 March 1975; House of Assembly Debates, 5 February 1975; Cape Times, 9 May 1975; Guardian, 9 May 1975; Times, 10 May 1975. Extracts from Bram Fischer's statement from the dock at his trial in 1966 were published in United Nations, Unit on Apartheid, Notes and Documents, No. 8/75.

52/ Rand Daily Mail, 10 September 1975.

53/ Sunday Times, 30 October 1974.

54/ House of Assembly Debates, 15 October 1974.

Schlebusch trials

56. In spite of the success of defendants' appeals to the Supreme Court in 1974 against convictions for refusing to testify before the Schlebusch Commission, the State won a further appeal to the Appellate Division in the case of Dr. Beyers Naude, Director of the Christian Institute. Dr. Naude's appeal before the Supreme Court was heard in March. 55/ Rev. Theo Kotze has also been charged for refusing to testify - he argued objections to the secrecy of the Commission's hearings and expressed misgivings that the evidence might be misused. 56/ Judgment was postponed until 3 October, after the outcome of the Naude appeal. 57/

57. In May 1975 the Commission reported on the Christian Institute, accusing it of supporting "violent change" in South Africa and its leaders of adopting strategies characteristic of "revolutionary socialist techniques". It found that since the Institute obtained "91 per cent" of its funds from abroad it had to "dance to the tune" of foreign supporters. 58/ In the following month the Prime Minister declared the Institute an "affected organization" under the Affected Organizations Act (see E/CN.4/1159, paras. 183-184), thus cutting it off from its sources of overseas support. 59/

SASO terrorism trial

58. Thirteen of the detainees belonging to SASO and other black organizations arrested after the pro-FRELIMO rally in September 1974 appeared in court on various occasions between 31 January and 13 March 1975 60/ (see E/CN.4/1159, para. 79; also para. 33 above). Their indictment ran to 105 pages, charging the men with various offenses under the Terrorism Act. 61/ After defence applications for further particulars on the charges, 62/ Judge Boshoff instructed the State to supply some of these. 63/ He still found the indictment "vague" on 11 June, 64/ and adjourned the case once more. During the adjournment the State dropped the case against two of the accused. 65/ When the trial started in August, however, the accused were in fact reduced to nine. 66/ Two of the original 13 were to give

55/ For background to the Schlebusch Commission, see previous reports E/CN.4/1135, para. 151, E/CN.4/1159, para. 78; Rand Daily Mail, 26 March 1975.

56/ Cape Times, 11 March 1975; Rand Daily Mail, 11 March 1975.

57/ Star, 16 March 1975.

58/ Times, 28 May 1975.

59/ International Herald Tribune (quoting New York Times), 7 and 8 June 1975.

60/ Rand Daily Mail, 13 March 1975.

61/ "Second report on arrests, detentions and trials of members and supporters of SASO, BPC, BCP, BAWU, Tecon and PET" (published by SASO, April 1975), p.6.

62/ Cape Times, 6 May 1974.

63/ Rand Daily Mail, 17 May 1975.

64/ Rand Daily Mail, 12 June 1975.

65/ Rand Daily Mail, 24 June 1975.

66/ Rand Daily Mail, 13 August 1975.

state's evidence and to be accused under the Riotous Assemblies Act. 67/ Counsel for the defence alleged that the accused had been systematically beaten and tortured under interrogation, and that their statements were inadmissible as evidence "because they were extracted by torture". 68/

59. Eighteen members of SASO and other black organizations were to stand trial in August 1975 under the Riotous Assemblies Act, following the pro-FRELIMO rally in September 1974. Four of these apparently defaulted on their bail, and warrants for their arrest have been granted. 69/

Bannings

60. Powers to impose banning orders on organizations and individuals were extended to homeland governments under sections 1 and 10 of the Second Bantu Laws Amendment Act No. 71 of 1974. Although the legislative and executive powers of the Republic will be retained in the homeland areas, homeland governments may ban any organization of which Africans are members, ban the furtherance of the objects of such an organization, place restriction orders on any African official of such an organization, restrict the presence of an African to any place, and prohibit the publication of any utterance of an African. The homeland government may, however, act only with the prior approval of the Minister of Bantu Administration and Development. 70/

61. A total of 164 banning notices under the Suppression of Communism Act were operative on 31 December 1973. 71/

62. A total of 62 persons were banned after serving prison sentences under security laws in 1973, and 30 in the first half of 1974. 72/

Censorship

63. Magazines banned in 1975 included Bandwagon, edited by Rev. Theo Kotze and others (see para. 56 above) and Varsity, magazine of the Students Representative Council of the University of Cape Town. 73/

64. The editor of the Daily News, Durban, accused under the Riotous Assemblies Act of advertising a banned pro-FRELIMO rally in September 1974, was acquitted in January 1975. 74/

65. Thirty-one leading Afrikaans writers decided to form an Afrikaans Literary Guild to fight censorship. 75/

67/ Sunday Express, 23 March 1975.

68/ Rand Daily Mail, 13 and 18 September 1975.

69/ SASO, op.cit., pp.4-5.

70/ Survey of Race Relations, 1974 (South African Institute of Race Relations), p.69.

71/ House of Assembly Debates, 9 August 1974.

72/ House of Assembly Debates, 17 September 1974.

73/ Rand Daily Mail, 22 March 1975.

74/ Cape Times, 24 January 1975.

75/ Guardian, 14 July 1975.

5. Disparity between the wages of black and white workers,
and the low wages paid to black workers

66. According to information before the Ad Hoc Working Group of Experts, black workers have obtained wage increases in the period under review. These increases, however, have tended to be accompanied by further increases for white workers and also by continuing rises in the cost of living, so that the wage gap between black and white workers has been largely unaffected and the mass of black workers still live below the recognized poverty lines.

67. Attempts by African workers to organize trade unions have, as in previous years, encountered numerous set-backs, including banning and arrest of trade union leaders, although a small number of firms have begun to express sympathy with the idea of black trade unions. Strikes by black workers have continued to be met with suppression: arrests and the dismissal of strikers.

68. Government policy is that no African trade union will be recognized, according to the Minister of Labour, Mr. Marais Viljoen, and African workers should use the liaison machinery set up by government but not yet fully put to use. Employers should establish works or liaison committees under the Bantu Labour Relations Regulations Act of 1975. 76/

69. The Minister of Labour told Parliament in September 1974 that 189 works committees had been set up and 1,230 liaison committees since 1973 under the Bantu Labour Relations Regulation Act. 77/

70. African trade unions, however, tend to see these committees as devices to hinder the growth of African unionism.

71. In August 1975 it was announced that wage agreements between employers and black workers and liaison committees would be made legally binding in 1976. According to the Department of Labour, 2,112 committees covered 587,000 black workers. 78/

72. According to information available to the Group the wage gap continues to grow, in spite of increases in wages for black workers. The following table represents average monthly wages for whites and Africans in April 1975, compared with April 1973 (in brackets): 79/

SECTOR	<u>Whites</u>	<u>Africans</u>	<u>Work force</u>
Mining and quarrying	R593 (R405)	R67 (R27)	620,623 (684,054)
Manufacturing	R486 (R376)	R100 (R67)	1,343,500 (1,260,100)
Construction	R472 (R376)	R95 (R67)	419,800 (384,700)

76/ Rand Daily Mail, 15 August 1974.

77/ House of Assembly Debates, 20 September 1974.

78/ Star, 9 August 1975.

79/ Rand Daily Mail, 15 August 1975.

SECTOR	<u>Whites</u>	<u>Africans</u>	<u>Work force</u>
Electricity	R554 (R404)	R116 (R76)	31,900 (28,100)
SA Railways	R493 (R365)	- -	248,135 (229,559)
MANUFACTURING			
Major groups:			
Food	R446 (R343)	R91 (R58)	152,000 (138,300)
Beverages	R430 (R357)	R108 (R75)	27,200 (26,000)
Tobacco	R434 (R348)	R117 (R84)	3,900 (4,100)
Textiles	R484 (R396)	R82 (R53)	97,000 (93,800)
Clothing	R471 (R371)	R79 (R66)	129,700 (127,800)
Footwear	R450 (R356)	R96 (R74)	34,800 (36,100)
Wood and cork	R464 (R323)	R72 (R52)	64,900 (60,800)
Furniture	R486 (R370)	R91 (R72)	38,900 (37,200)
Paper and products	R506 (R402)	R116 (R86)	32,900 (32,200)
Leather and products	R444 (R337)	R89 (R63)	8,100 (7,800)
Rubber products	R471 (R432)	R114 (R81)	23,400 (22,800)
Chemicals	R510 (R399)	R97 (R71)	71,900 (68,000)
Non-metallic mineral products	R486 (R374)	R93 (R61)	107,400 (101,800)
Basic metal	R541 (R396)	R115 (R72)	95,100 (89,100)
Metal products	R493 (R396)	R103 (R72)	154,900 (145,800)

SECTOR	<u>Whites</u>	<u>Africans</u>	<u>Work force</u>
MANUFACTURING (contd.) Major groups:			
Machinery	R506 (R384)	R123 (R77)	73,100 (65,400)
Electrical machinery	R462 (R359)	R125 (R82)	51,700 (47,100)
Transport equipment	R475 (R371)	R121 (R83)	90,300 (80,600)
Miscellaneous	R486 (R392)	R95 (R70)	50,600 (48,100)

73. A number of official and independent surveys have accumulated evidence on the wage gap, among them studies by the Institute of Personnel Management, 80/ which showed that white workers earned 34 per cent more than black workers doing the same job; and Market Research Africa, which established that between 1962 and 1973 white wages had risen 101 per cent and black wages 120 per cent - which meant that average white household income had risen from R258 to R519 a month, while average black household income rose from R25 to R55 a month. 81/

74. The Financial Mail estimated in February 1975 that distribution in income between the races had in fact changed very little since the First World War, the white share remaining nearly 75 per cent and the African share less than 20 per cent. 82/

75. Public Service wage rises announced in 1974 in practice were found to do little to narrow the gap, 83/ and in October African employees were still waiting for their increases although other employees had received theirs. 84/

76. The Minister of Transport gave the following average annual wages paid to South African Railways employees at 31 December 1974: 85/

Whites	R5,153-89
Coloureds	R1,343-76
Indians	R1,479-12
Bantu	R1,092-72

80/ Cape Times, 23 August 1975.

81/ Star, 3 August 1975.

82/ Financial Mail, 21 February 1975.

83/ Cape Times, 10 and 13 July 1974.

84/ Rand Daily Mail, 31 October 1974.

85/ House of Assembly Debates, 11 February 1975.

77. Similar discrepancies, according to information before the Group, exist in salaries paid to the South African Police: 86/

"Black constables started on pay scales of R65 a month rising to R175 a month. Coloured and Indian salaries ranged from R97.50 a month to R225 a month, white constables with a standard ten education started at R175 a month (equal to the highest notch for Blacks) and rose to R365 a month."

78. It was reported in March 1975 that black social workers were leaving the profession because of pay discrimination as against white workers, and poor working conditions. Blacks often do not earn after 20 years' service what a white receives as starting pay. 87/

79. The Central Bantu Labour Board chairman asked the Wage Board in March to raise the wages of unskilled labourers in municipal employment from R8.60 a week to R20 a week. 88/

Poverty levels

80. Average wages paid to black government employees were still lower than current poverty datum line (PDL) levels in early 1975, according to information before the Group. PDLs varied from R82 to R104 a month in different parts of the country, but unskilled black government employees were earning R75.17 and Post Office employees R77.17. 89/

81. Eight out of ten African men working in industry also earn less than PDL level - calculated by the South African Bureau of Market Research in June 1975 as R99 per month for an urban household of five or six. 90/

82. Evidence before the Group also indicates that black wages are not keeping up with inflation in the Republic. The Bureau of Market Research calculated that a black household would need 20 per cent more income to cover minimal subsistence needs in February 1975 over May 1974; and that food costs had risen by 25 per cent in this period. 91/

83. Mr. F. Van Wyk, Director of the South African Institute of Race Relations, calculated in May 1975 that 500,000 Africans in Johannesburg were living below the PDL. 92/

84. Worse even than the plight of urban workers, however, remains that of workers in so-called "border areas" around the "Bantu homelands" set up in accordance with the Government's policy of "decentralization". NUSAS Wages Commission

86/ Star, 26 April 1975; also House of Assembly Debates, 9 August 1974.

87/ Star, 15 March 1975.

88/ Rand Daily Mail, 12 March 1975.

89/ Star, 8 March 1975.

90/ Sunday Express, 8 June 1975.

91/ Financial Gazette, 25 April 1975.

92/ Rand Daily Mail, 27 May 1975.

investigators from the University of the Witwatersrand found wages as low as R2.44 for a 43-hour week at Babalegi outside Pretoria at the end of 1974, the over-all average wage for the area being only R7.66. An estimated PDL for the area was R16.82 per week. Minimum wage provisions under the Wages Act do not apply in the homelands. 93/ Domestic workers in border areas of the Eastern Cape worked 208 hours per month at an hourly rate of 14.5c - that is, R30 per month. 94/

Job reservation

85. Shortage of skilled white labour continues to exert pressures against the official policy of job reservation: more than 13,000 "white" jobs on the railways were said to be being done by blacks in March 1975, 95/ and Johannesburg City Council was employing "unskilled" blacks on jobs normally done by "skilled" whites. 96/ But in June the Minister of Labour gave an assurance to white workers that "white" jobs now being done by blacks would revert to whites if South Africa suffered a depression. 97/

86. In a document before the Group, the International Labour Organisation has proposed four steps to the South African Government as a means of implementing its promise to the United Nations to eliminate racial discrimination. 98/ The four proposals are: to repeal the pass laws and end the migrant labour system; to grant trade union rights to Africans; to remove barriers to job advancement (job reservation, etc.); and to end wage disparities based on race or sex. 99/

Harassment of African trade unionists

87. Information was laid before the Group by the International Confederation of Free Trade Unions (ICFTU) in December 1974 on the arrest of Drake Koka, General Secretary of the Black Allied Workers' Union; and of L. Mabandla, M. Mbeo and S. Cooper, organizers of BAWU in Durban. The ICFTU made strong protests at the arrests and alleged that "brutal assaults and torture" had been perpetrated against the detainees. 100/ The complaint by ICFTU was the subject of a report by the Group to the Economic and Social Council at its sixtieth session.

88. According to information available to the Group, the period under review has, in spite of these set-backs, been characterized by a certain expansion of black trade unions. In July 1974 the Financial Mail listed 22 black trade unions

93/ Rand Daily Mail, 13 December 1974; Financial Mail, 13 December 1974; Rand Daily Mail, 9 June 1975.

94/ Rand Daily Mail, 24 February 1975.

95/ Rand Daily Mail, 4 March 1975.

96/ Rand Daily Mail, 7 March 1975.

97/ Rand Daily Mail, 24 June 1975.

98/ Rand Daily Mail, 4 June 1975.

99/ Eleventh Special Report of the Director-General on the Application of the Policy of Apartheid of the Republic of South Africa (Geneva, ILO, 1975), p.50.

100/ Communication from ICFTU, contained in a note by the Secretary-General (E/5638 of 18 March 1975).

with a membership of nearly 40,000. 101/ By the end of the year the African Engineering and Allied Workers' Union alone had claimed an increase in membership of 42 per cent within a year. 102/

89. According to information available to the Group, police intervened in 69 strikes in the second half of 1974 and a total of 826 workers were charged in respect of these strikes. 103/

90. In all there were 246 strikes involving African workers during 1973 and 54 in the first half of 1974. 104/

101/ Financial Mail, 19 July 1974.

102/ Sunday Times, 8 December 1974.

103/ House of Assembly Debates, 21 February 1975.

104/ House of Assembly Debates, 9 September 1974.

B. THE "BANTU HOMELANDS" POLICY

91. Though the situation and history of the "Bantu homelands" have been the subject of examination by the Ad Hoc Working Group of Experts in previous reports, notably in the 1970 report (E/CN.4/1050), which outlined the origins of the policy of "native reserves" and their constitution under the present government as "Bantu homelands", this is the first occasion on which the Group has considered the question in relation to the right to self-determination of peoples as defined and developed by the United Nations.

92. The Group has undertaken to study this question in the light of the claims of the South African Government that it is offering the homelands "political independence" and, in particular, planning to grant "independence" to the Transkei in October 1976.

1. Historical background

93. It will be recalled that the South African Government's establishment of "native reserves" has its origins in the traditional South African policy of forcing African labour into the white economy while at the same time limiting African settlement in the urban areas. In particular, the "reserves" were institutionalized in the Land Acts of 1913, which froze the proportion of land available for African use, and of 1936, which laid down the terms of a "final settlement" of the land issue by which 13 per cent of the total land area of South Africa would be "reserved" to Africans, that is, existing black land plus some 6.2 million hectares to be bought by a Trust set up for the purpose.^{105/}

94. It will also be recalled that the present Nationalist Government evolved from the time of its accession to power in 1948 a policy of "territorial apartheid", and that in 1955 it set up the Tomlinson Commission to report on the minimum conditions necessary to begin the development of the reserves as "Bantu homelands".^{106/}

95. It was not until 1962, however, that Dr. Verwoerd, then Prime Minister, began to present the Bantustan policy in terms of "self-governing states". In that year, which followed the international isolation of South Africa after Sharpeville, he said:

^{105/} See E/CN.4/1050. See also Oxford History of South Africa, Wilson and Thompson, eds. (hereinafter cited as Oxford History), vol. II, chap. II.

^{106/} Ibid.; see also B. Rodgers, The Bantu Homelands (International Defence and Aid Fund, 1972), pp. 3-4.

"I believe that these people (the Africans) should be given their own States as they desire ... I believe that they will see what is taking place in the rest of Africa, and this will strengthen the bonds between us, rather than lead to their joining up with foreign countries, which will result in conflict and chaos ... We are trying to establish well-disposed little black neighbouring States and to safeguard them from such dangers by being prepared to render all kinds of services to them."107/

96. The steps taken since then to grant "self-government" to the Transkei (1963) and establish seven further "homelands" by 1972; to make every African a citizen of a "homeland" whether he lives there or not (1970); to place education under "homeland" control (1970); to enable the executive to set up "homeland" legislative councils by proclamation (1971); and to transfer control of internal police forces to "homeland governments" by proclamation (1972) have been described in previous reports (including E/CN.4/1020, E/CN.4/1111, E/CN.4/1135).

97. Measures taken towards the "consolidation" of land of the homelands have also been described in previous reports. In 1972, KwaZulu still consisted of 29 scattered land areas, Ciskei and Bophuthatswana of 19 each, and only Basotho Qwaqwa was a single contiguous area.108/

2. Effects of the separate homelands policy on the right to self-determination

(a) Introduction

98. The right of all peoples to self-determination is recognized in the United Nations Charter, which contains provisions expressly establishing this right, namely in Article 1, paragraph 2 (Chapter I, "Purposes and Principles") and in Article 55 (Chapter XI, "International Economic and Social Co-operation"). Many resolutions and other instruments adopted by the General Assembly have made the point that, under the Charter, the right to self-determination applies both to Trust Territories and to Non-Self-Governing Territories.

99. At its fifteenth session the General Assembly, on 14 December 1960, adopted resolution 1514 (XV), entitled "Declaration on the Granting of Independence to Colonial Countries and Peoples". This declaration represents one of the most significant contributions which the United Nations has made to formulating and developing the concept of the right of self-determination, to condemning all forms of subjection of peoples to alien domination and exploitation as a denial of the right to self-determination and of fundamental human rights, and to strengthening its action in connexion with decolonization. The right of peoples to self-determination was reaffirmed in article 1 of the International Covenants on Human Rights, in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States adopted by the General Assembly in resolution 2625 (XXV) of 24 October 1970 and in General Assembly resolution 1803 (XVII) on "Permanent sovereignty over natural resources".

107/ House of Assembly Debates, 23 January 1962, quoted in Rodgers, op.cit., p. 4.

108/ Rodgers, op. cit., p. 15.

100. The Declaration on the Granting of Independence to Colonial Countries and Peoples was adopted without dissent by the General Assembly, incorporating inter alia, the following principles:

- (a) That all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory;
- (b) That the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights;
- (c) That all peoples have the right to freely determine their political status and freely pursue their economic, social and cultural development;
- (d) That all armed action or repressive measures of all kinds directed against dependent peoples shall cease;
- (e) That immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour;
- (f) That any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations;
- (g) That all States shall observe faithfully the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights, and the Declaration on the Granting of Independence to Colonial Countries and Peoples on the basis of equality, non-interference in the internal affairs of all States and respect for the sovereign rights of all peoples and their territorial integrity.

The General Assembly, with a view to following up the implementation of the Declaration, established the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, known as the Committee of Twenty-four, or the Committee on Decolonization.

101. The Ad Hoc Working Group of Experts proposes to examine the present economic and social situation in the homelands, and the claim of the South African Government to be promoting their "independence", in the light of these principles.

(b) Economic, political and social situation in the homelands

(i) Repressive legislation

102. All the security legislation (see section A above) that applies to the Republic applies also to the homelands; in addition the State President, as "Supreme Chief" of all Africans in the homelands, has wide powers of arrest and detention which he may use without reference to the South African Parliament.^{109/}

^{109/} Under the Bantu Administration Act of 1927, section 5 as amended by Act 42 of 1964.

The State President may also order the removal of any tribe or portion of a tribe, and there is no recourse to the courts for an injunction.^{110/} And he may prohibit any gathering or ban any person from being present.^{111/}

103. The Minister of Bantu Administration and Development may at any time depose any chief or headman, who is in any case a paid government servant.^{112/} The majority (up to 74) of members of the present Transkei Legislature are chiefs, up to 50 members only being directly elected.^{113/}

104. Proclamation R400 of 1960 still applies in the Transkei, providing for wide emergency powers to ban meetings and arrest people, though it will "probably" be repealed on "independence".^{114/}

105. The Second Bantu Amendment Act 1974 extends powers to ban organizations and individuals in the homelands, provided they are Africans, to homelands governments (see section A above).

106. These repressive measures, together with plans announced by the Government in the period under review to set up "rehabilitation centres" in the homelands, to which "petty offenders" from white areas could be sent for "treatment" (see section A above), should be viewed in the light of provisions for the free determination by peoples of their own future under (c), (d) and (e) of paragraph 100 above.

(ii) Land consolidation

107. "Final" proposals have been published in the period under review to consolidate the present 113 different areas that constitute the homelands into 36. Estimates on the number of Africans still to be moved under these schemes vary between 130,000 and 200,000.^{115/} The cost of these proposals is estimated at £300m - £500m, and they will take ten years to implement.^{116/}

108. The fragmentation of the proposed "independent" territories, including the fact that the Transkei, seen as the most economically viable of the proposed "States", will consist of two separate land areas,^{117/} should be viewed in the light of the principles in (a) and (f) of paragraph 100 above.

^{110/} Ibid.

^{111/} Ibid.

^{112/} Under the Bantu Authorities Act No. 68 of 1951; Proclamation No. 180 of 1956; GN, 11 October 1957.

^{113/} Transkei Constitution Act 1963, amended 1975, Act No. 4628.

^{114/} Sunday Times, 7 September 1975.

^{115/} House of Assembly Debates, 14 February 1975; Rand Daily Mail, 28 March 1975; Financial Mail, 18 April 1975; Financial Times, 25 February 1975.

^{116/} Star, 8 February 1975; Financial Gazette, 21 February 1975.

^{117/} Rodgers, op.cit., p. 15.

109. Land consolidation remains the most publicly contentious issue between homeland leaders and the South African authorities. Eight leaders declared early in 1974 that they would not accept independence before more land had been conceded;^{118/} and in July 1975 Chief Buthelezi said that it was a farce to ask for independence of separate pieces of inadequate territory for the largest ethnic group in the country.^{119/} In August 1975 it was announced that talks between the South African and Transkei Governments had "deferred" the question of land and territorial boundaries.^{120/}

(iii) Population

110. Census figures show that 8,060,773 proclaimed homeland "citizens" live outside the homelands and only 6,997,179 inside them.^{121/} These figures also reveal a considerable disproportion among the numbers of men and women in each area, there being approximately 1 million more females than males in the homelands, and approximately 1 million fewer females than males in the "white" areas.^{122/}

(iv) Africanization

112. Figures for expansion of schooling under homeland governments, police stations (50) now administered by Africans, prosecutors (62) and magistrates (28), were given in Parliament during the period under review.^{123/} Diplomatic training was announced for African homeland officials, ten of whom are training for diplomatic posts in an "independent" Transkei.^{124/} The Bantu Investment Corporation Board, which controls funds for investment in homeland enterprises, remains entirely white.^{125/}

(v) Economic development

113. According to information before the Ad Hoc Working Group of Experts, however, the central criticism of the "independent homelands" scheme is that it involves no real alteration in the profound economic dependence of the African areas on the industrialized white economic "core". No steps towards "development" of the homelands so far have begun to alter this central fact.

114. One study of homelands' economics before the Group points out that some 53 per cent of the de jure population of the homelands live in "white" areas, whose higher incomes raise the per capita income to R112 per annum; but that

^{118/} Times (London), 18 January 1974.

^{119/} Cape Times, 19 July 1975.

^{120/} Star, 16 August 1975.

^{121/} Muriel Horrell, The African Homelands of South Africa (South African Institute of Race Relations, 1973), p. 37.

^{122/} H. Bernstein, For Their Triumphs and For Their Tears (International Defence and Aid Fund, 1975), p. 66.

^{123/} House of Assembly Debates, 17 March 1975, 16 August 1974, 6 September 1974.

^{124/} BBC, London, 4 October 1974; Star, 16 August 1975.

^{125/} Financial Mail, 12 July 1974.

per capita income of homelands' residents alone (including migrant workers) was only R75 in 1966/67. Some 630,000 African men are migrants, that is, over one third of the men normally resident in the homelands.126/

115. This excessive dependence on income from outside the homelands is linked with extreme poverty, and malnutrition, throughout the homelands, of which details have been given in previous reports. The average industrial wage in 1974 was R40 per month, and wages paid by the homelands' biggest employer were only R2.50 to R3.25 per week.127/

116. The study quoted above offers eight factors which compound the economic dependence:

- (i) Employment - homelands are unable to provide sufficient job opportunities;
- (ii) Budgetary aid - it is unlikely that any homeland will be able to meet its budgetary expenditure from local revenue; 75 per cent is currently voted by the South African Parliament;
- (iii) Financial institutions are all at the "core" and their policies are dictated by the interests of the "core";
- (iv) Enterprise and capital are similarly situated;
- (v) Similarly, technological skills;
- (vi) Transport - most homelands are landlocked, none has at present a port, and South African railways and roads have a monopoly on transport, for fragmented territories;
- (vii) Other communications, including press, telecommunications and radio, are similarly centred on the "core";
- (viii) Trade patterns are set by "core" patterns, distributors and markets are all at the "core".127a/

The Transkei has already agreed to remain part of the South African Customs Union and Rand currency area.128/

117. Commenting that there has not even been a development plan drawn up for individual homelands, Maasdorp concludes that "the potential economic 'viability' of the homelands is open to serious doubt"; and that in addition "pressures within the ruling party itself are such that the pace of homeland development cannot be

126/ Gavin Maasdorp, Economic Development Strategy in the African Homelands (South African Institute of Race Relations, 1974). A subsequent study by Jill Natrass (Financial Mail, 19 September 1975) actually calculates a figure of 1,750,000 to 2,000,000 migrants in South Africa, including men and women.

127/ Financial Mail, 25 October 1974, 11 October 1974.

127a/ Maasdorp, op.cit., pp. 7-8.

128/ Sunday Times, 7 September 1975.

accelerated beyond its present rate. Investment in the homelands implies a redistribution of income, i.e. white incomes will increase at a slower rate ... Various studies have shown that while government supporters approve of separate homelands, only a minority favour the development of the homelands.129/

118. Attempts to tempt both South African and foreign investors into the homelands have so far had little success, and concessions are being increased in an attempt to improve the position. In 1974 the South African Government announced that homeland governments would be permitted to make their own terms for investors 130/ - the Bantu Investment Corporation (BIC) was "desperate" to attract investment, according to the Financial Mail, and was "selling low wages" to investors (see para. 115 above).

119. The BIC announced that it aims to create "20,000 jobs a year" by making the establishment of industries "an attractive proposition";131/ but figures released in Parliament during the period under review indicated that a total of only 19,253 Africans were employed in manufacture in the homelands,132/ mainly in South African-owned firms,133/ and 110,000 in government service; 60,000 on the other hand, enter the homeland employment market annually.134/

120. All these facts on the slow rate of Africanization and sluggish economic development should be seen in the light of the principles in (b), (c) and (e) in paragraph 100 above.

(c) Conditions of Africans in transit camps

121. Little new information emerged in the period under review on conditions of Africans in transit camps. However, information is available to the Group on the deterioration of conditions in a "tent town" at Rooigrond, Bophuthatswana, where the homeland government is refusing all responsibility for the people forcibly removed from "white" land.135/

122. Information is also before the Group on continued bad conditions at the Ciskei resettlement area of Dimbaza, in spite of R350,000 reported to have been spent there on housing and a projected R3 million investment by the Xhosa Development Corporation; 1,450 people still draw rations, and kwashiorkor, tuberculosis, scabies and "mental disturbances" are common.136/

129/ Maasdorp, op.cit., p. 31.

130/ Financial Mail, 4 October 1974.

131/ Star, 3 May 1975.

132/ House of Assembly Debates, 25 February 1975.

133/ 11,249 Africans were employed in South African firms, 2,159 by foreign firms in 1974. House of Assembly Debates, 19 August 1974.

134/ Rand Daily Mail, 1 August 1974.

135/ Rand Daily Mail, 15 March 1975.

136/ Cape Times, 19 September 1974; Rand Daily Mail, 5 October 1974.

(d) Real aims of homelands policy

123. A paper prepared by the African National Congress of South Africa for the Organization of African Unity in 1975^{137/} sets out to analyse the real aims of the "Bantu homelands" policy as: (a) to legitimize the inequitable apportionment of the land; and (b) to permanently exclude all Africans, whether resident in the homelands or outside, from the body politic. It also points out that (c) the "Bantustans" serve the function of dividing the African people on tribal lines, thus weakening their resistance to oppression; (d) they also confuse international opposition to apartheid; (e) by creating an élite of rulers, government servants, businessmen and professionals in the homelands, the white government hopes to provide a bulwark against popular revolt against apartheid; and (f) "the Bantustans are intended to serve as part of the machinery of super-exploitation of the workers".

124. The function of the homelands as a perpetual source of cheap migrant labour for the white economy was further stressed in an article in Anti-Apartheid News in November 1975, which points out that "economic viability is not regarded as a precondition for the independence of the Bantustans", so that they are fated to "a condition of economic subordination to South Africa - from which they will never escape"^{138/}

(e) Future outlook

125. According to information before the Group, the South African Government intends to go ahead with "independence" for the homelands, and in particular for the Transkei in October 1976.^{139/}

126. "Independence", as envisaged for the Transkei, will involve such contradictions as the facts that "South Africans" will be free to travel into and out of the Transkei, but Transkei citizens will not be free to enter South Africa without a "pass"; and that while Transkei state schools will be non-racial, exclusive "white" schools will continue to exist there, under the Cape (Republic) Administration.^{140/}

127. An "independent" Transkei plans to apply for United Nations membership and will expect to exchange diplomatic missions with foreign countries.^{141/}

^{137/} Reproduced in Sechaba, June/July 1975.

^{138/} Anti-Apartheid News, London, November 1975.

^{139/} Cf. Summary of Nationalist policy, Survey of Race Relations, 1974, pp.1-2; Survey of Race Relations, 1973, p. 146.

^{140/} Sunday Times, 7 September 1975.

^{141/} Sunday Times, 7 September 1975.

128. South Africa expects "military co-operation" with independent Bantu homelands, which "should find their place within the military milieu of South Africa and not outside".142/

129. Continuing sources of conflict between the South African Government and the "homeland" authorities will include the issues of land (see paras. 107-109 above); the situation of Africans in "white" areas, including trade union rights and discriminatory laws; and the question of financial allocation of revenue between black and white.143/

142/ Star, 26 April 1975.

143/ Cape Times, 6 August 1975.

C. THE FARM LABOUR SYSTEM

Introduction

130. This is the first occasion on which the Ad Hoc Working Group of Experts has been requested specifically to study the farm labour system in South Africa, although wages and conditions of labour in agriculture have been touched on in previous reports (see, for example, E/CN.4/1159, annex 2, evidence of Joel Carlson, pp. 9-12, on use of prison labour in agriculture).

131. The Group has found information on employment in South African agriculture sparse and contradictory. Official statistics themselves vary widely as between the ten-yearly population census, the periodic agricultural censuses, and information offered in Parliament: for instance, the figure of 980,000 Africans employed in white agriculture from the 1970 population census ^{144/} does not correspond with the total of 1,461,620 in the detailed table below. ^{145/} Explanations for the discrepancies include the general unreliability of census figures on Africans in white areas when the position of many people may be "irregular" and therefore provide motivation for withholding information; and seasonal factors - the 1970 census was taken in May when demand for agricultural labour is at its lowest. All sources, however, agree that agriculture remains the largest single employer of labour in the Republic and that Africans constitute over 82 per cent of the agricultural labour force. These figures do not include dependents of employees: the total African population of the white rural areas was approximately 3.5 million in 1970. ^{146/}

132. The Group's consideration of wages and conditions of farm workers is also hampered by the fact that few comprehensive studies, either official or by academic or other independent bodies, have ever been done in the field. The last detailed study, apart from the Government Agricultural Census Reports, ^{147/} of farm labour conditions was done in 1958 in an area of the Eastern Cape. ^{148/} The most important contribution to the field since has been the chapter on farming contributed by Francis Wilson to the Oxford History of South Africa. ^{149/}

^{144/} Quoted in: Merle Lipton, White Farming: A Case History of Change in South Africa. (South African Institute of Race Relations, 1975), p. 6.

^{145/} Rosalynde Ainslie, Masters and Serfs: Farm Labour in South Africa (International Defence and Aid Fund, 1973), p. 51.

^{146/} Ainslie, op.cit., p. 45; Lipton, op.cit., p. 12.

^{147/} Of which the latest available to the Group are for the years 1968/69 and 1971/72, though the Working Group understands that a census for 1972/73 has been published since.

^{148/} Margaret Roberts, Labour in the Farm Economy (South African Institute for Race Relations, 1958).

^{149/} Oxford History, vol. II: Farming 1866-1966.

Employment in agriculture as at 31 August 1969

		<u>African</u>	<u>White</u>	<u>Coloured</u>	<u>Asian</u>
Regular farm employees	Male	592,364	17,780	93,310	4,302
	Female	112,999	996	9,390	216
	Total	705,363	18,776	102,700	4,518
	Per cent	84.8	0.5	12.4	2.3
Casual farm employees	Male	313,605	1,215	79,601	824
	Female	333,701	575	44,749	1,209
	Total	647,306	1,790	124,350	2,033
	Per cent	83.5	0.3	16.0	0.2
Domestic servants on farms	Male	11,746	51	1,557	155
	Female	97,205	241	17,529	265
	Total	108,951	292	19,086	420
	Per cent	84.6	0.3	14.8	0.2
Over-all totals		1,461,620	20,658	246,136	6,971

133. Agriculture is in general a backward sector of South Africa's economy and, despite some growth of commercial farming since the Second World War and some mechanization, 150/ it remains highly labour-intensive; and the farmers' demand for cheap labour remains a recurrent theme in the Republic's economic and political life.

1. Method of recruitment of African agricultural workers

(a) Historical background

134. Farmers' demand for cheap black labour dates back to the earliest days of white settlement and conquest, when settlers took possession of huge tracts of land which they could not farm alone. Dispossessed Africans became labour tenants (sharecroppers) or squatters on "white" farms. 151/

135. Cash taxes were used to force Africans to earn money in the white economy; and the various Masters and Servants Laws controlled the movement of African labourers, tying them to the farms by making it a criminal offence to desert an employer, break a contract, or disobey a "lawful" command. 152/

150/ By 1967 there were 170,000 tractors, or almost 2 per farm; Lipton, op.cit., p. 5.

151/ Oxford History, vol. I, chap. VI, IX.

152/ H.J. and R.E. Simons, Class and Colour in South Africa (London, 1969), p. 23; Ainslie, op.cit., pp. 11-12.

136. Pass laws were enacted from the late nineteenth century to restrict African entry into the towns (where wages were higher than on the farms). ^{153/}

137. The Land Acts of 1913 and 1936, by restricting African land, forced more working-age African men into the white economy. ^{154/}

138. Although wages on the farms were lower than in the towns and working conditions oppressive, farm labour retained the advantage that workers were traditionally free to live with their families and usually also to cultivate a piece of land or graze some stock for themselves (see para. 139 below).

(b) Types of farm labour ^{155/}

(i) Labour tenants

139. Traditionally, farm labour was based on a labour tenant system whereby African families lived on "white" land which they paid for with an agreed period of labour for the landlord (usually six months per year). Government policy has for some time been to replace this settled labour with contract migrant labourers whose families would remain in the "homeland". In 1960 there were nearly 200,000 labour tenants on white farms but by the end of 1970 there were only 27,585. By 1973 there were reported to be none in the Cape, Transvaal or Orange Free State, and only 16,350 in Natal. ^{156/}

(ii) Squatters

140. This system was supplemented by an irregular arrangement whereby families "squatted" on white land without formal agreement, in exchange for work by any member of the family when required by the farmer (including children). Successive administrations have tried to eliminate this system but in 1967 there were still over 77,000 squatter families, estimated to represent some 422,000 persons. ^{157/}

(iii) Registered labourers

141. The Bantu Laws Amendment Act of 1964 provided for the registration of African farm labourers. Farm workers are registered on annual contract, either from among local labour tenants or squatter families, or, increasingly over the past ten years, direct from the "homelands" through government labour bureaux. This process is consistent with the government's policy to replace settled workers living on farms

^{153/} Oxford History, vol. I, chap. IX; vol. II, chaps. III, IV, IX; Ainslie, op.cit., p. 12.

^{154/} Oxford History, vol. II, chaps. III, IV, IX; Ainslie, op.cit., pp. 12-13.

^{155/} Cf. Ainslie, op.cit., pp. 20-22.

^{156/} House of Assembly Debates, 8 May 1973; Some Notes on the Size and Distribution of the African Population (South African Institute of Race Relations, 1972); Ainslie, op.cit., p. 20.

^{157/} Ainslie, op.cit., p. 21.

with their families by migrant labourers on annual contract. By the end of 1972, some 402,518 African farm workers were registered with labour bureaux, of whom nearly 35,000 were attested at tribal bureaux (i.e., in the homelands). 158/

(iv) Convict labour

142. Convict labour has been used on South African farms since the nineteenth century in response to the continued demand of white farmers for labour. By 1957/58, 199,312 convicts were being hired out to farmers annually. In 1972, there were 22 "farm gaols", 12 in the Cape, 9 in the Transvaal and 1 in the Orange Free State 159/ (for further details see paras. 165-172 below).

(v) The "volunteer" scheme

143. Devised after the Second World War by agreement between the Department of Native Affairs, the Secretary for Justice and the Commissioner of Police but never officially gazetted, this was a scheme whereby Africans arrested under the pass laws could be given the "option" of prosecution or six or twelve months' labour on a farm. The maximum fine for these petty offences was in fact £1 or £2. Once on the farm, these men were virtually prisoners, often locked up in special buildings at night, working under guard during the day. Without passes, they could not in any case expect to escape. In 1959, after a press scandal (see evidence of Joel Carlson, E/CN.4/1159, annex 2), 160/ the scheme was suspended. 161/ But the current aid centre scheme (see previous reports: E/5622, paras. 76-78; E/CN.4/1111, para. 92) has been seen in some sense as a revival of the old "volunteer" scheme. Africans arrested in urban areas for petty offences are being "helped to find employment" in place of prosecution.

(vi) Child labour on farms

144. The children of squatter families have traditionally worked for white farmers, like their parents (cf. (ii) above). However, there have been recurrent charges that farmers have forced children living on their farms to work for them, or forcibly recruited child labour elsewhere. The parents of the Coloured boy killed in the incident described in para. 155 (a) below alleged that he was "forced" to work; and the other children claimed that they were sjambokked when they refused to do so. A mother told a press reporter: "There is nothing we can do. We have no say. Someone calls at dawn with his bakkie (truck) and rounds up the children. Sometimes they cry and run away. We are then forced to catch them ourselves for fear of being chased from our homes if our children do not work." 162/ The

158/ Ainslie, op.cit., p. 21; F. Wilson, Migrant Labour in South Africa, (Johannesburg, Spro-Cas, 1972), chap. 3.

159/ Ainslie, op.cit., p. 22.

160/ For details, see Joel Carlson, No Neutral Ground (London, Davis-Poynter, 1973), chap. 3.

161/ Ainslie, op.cit., pp. 21, 22.

162/ Sunday Times, 24 February 1974.

Department of Bantu Affairs was investigating allegations in August 1975 that a Natal farmer had tricked 13 African children into work in his cane fields for low wages by offering them "joy rides" or lifts "back to their homes in the Transkei". Consent of parents had not been sought, as required by law. Wages offered were R4 or R5 per month but the children received only a small part of this in case they ran away. 163/

2. Conditions of African agricultural workers

(a) Methods of control

145. A series of repressive measures, the most fundamental being the pass laws that restrict entry into the urban areas, combine to make sure that once a man (or woman) is a farm labourer, he is likely to remain so: (i) the Masters and Servants Laws (see para. 135 above) were operative until 1974, when they were repealed under the General Laws Amendment Act; (ii) the Bantu Laws Amendment Act of 1964 set up Bantu Labour Control Boards with jurisdiction over all farm labourers and powers to decide the number of Africans to be employed on any farm; 164/ (iii) the Bantu Labour Act No. 67 of 1964 extended the system of district and local labour bureaux already operating in "white" areas to the homelands as well - any work-seeker must register with a bureau, which keeps a record of his employment and "regulates the supply of labour" to correlate with "demand". 165/

146. By the end of 1972 a total of 2,829,740 African workers had been registered at labour bureaux - 402,518 as farmworkers. It became an offence to leave a tribal area except through a bureau and contracts could not be longer than a year. This system has been criticized as intended to direct African labour to the least popular and least well-paid work - that is, to agricultural work. 166/ The Bantu Affairs Administration Act of 1971 still further centralized control over black labour by transferring control of Africans in white areas from local authorities to Bantu Affairs Administration Boards. An expert on agriculture sits on each board.

(b) Wages and working conditions

147. The latest official figures on wages for African farm labour come from the 1971/72 Agricultural Census, which calculates R154 per annum (R12.80 per month) as the average African agricultural wage - the figure including wages in cash and kind. In 1972 the Financial Mail estimated that African farm workers in the Transvaal

163/ Sunday Times, 10 August 1975.

164/ Ainslie, op.cit., p. 37.

165/ Ainslie, op.cit., pp. 38, 39; Bulletin of the Wages Commission, Students Representative Council, University of Natal, Durban.

166/ Ainslie, op.cit., p. 42.

were earning between R12 and R16 per month, and more recent estimates for various parts of the country vary widely between R3.75 per month and R40 per month. 167/

148. An inquiry into 29 farms in the Albany District of the Eastern Cape in 1973, apparently the only detailed survey of its kind to be conducted among farm workers since 1958, found that workers were getting R118.76 per year in cash, representing, according to employers' estimates, 25.23 per cent of their total wage - the remainder, paid in kind, included housing, water and the right to graze stock, as well as food rations and medical treatment. 168/

149. This figure, though amounting to less than R10 per month in cash, represented a considerable increase over the sums paid in 1958 at the time of the survey "Labour in the farm economy". 169/ In 1958, average monthly payment was £7.7.8, or R15, per month, including cash and kind. 170/

150. The South African Agricultural Union has suggested R42 per month as a wage for agricultural labourers. 171/

151. The 1973 Black Sash study found that 80 per cent of farm workers surveyed lived in mud-brick and iron houses built by themselves or the farmers, but only one third of the houses had running water and 84 per cent had no lavatories. 172/

152. The survey also found that farm schools existed up to Standard 6 (approximately the eighth year of schooling) but that "probably" only 5 per cent of children from these farms go to secondary school. Schools exist by the good will of the farmer, who must build them himself, though he receives some government subsidy. One teacher is allocated for 50 children. 173/

153. Evidence before the Group suggests that the Government's failure to encourage schooling for children of African farm workers is part of a deliberate policy to ensure that education shall not be a means of escape from farm labour. The Minister of Bantu Education ruled in 1959 that when a farmer wanted to provide schooling for the children of his labourers, part of the curriculum would have to be "training in

167/ Ainslie, op.cit., pp. 26-31; Report of the Wages Commission, Students Representative Council, University of Natal, Pietermaritzburg: Survey of the wattle-growing industry of the Natal mist belt, 1973; Cape Times, 15 and 16 August 1972, Financial Mail, 13 October 1972; Star, 30 December 1972; Guardian (London), 16 July 1973; Cape Times, 18 September 1973; Financial Mail, 5 October 1973; Rand Daily Mail, 24 October 1973; Times (London), 25 October 1973; Rand Daily Mail, 12 August 1974, 17 and 18 October 1974; Star, 5 October 1974; Cape Times, 23 March 1975.

168/ Jill Joubert, "Down on the farm", The Black Sash, August 1975.

169/ Roberts, op.cit.

170/ Roberts, quoted in Joubert, op.cit.

171/ Financial Mail, 2 November 1975.

172/ Joubert, op.cit.

173/ Ibid.

the normal activities of the farm, in order to encourage a feeling of industriousness on the part of those children, and particularly, to sharpen in their minds the fact that education does not mean that you must not work with your hands" 174/

154. A tradition of physical brutality by employers against black farm workers has been drawn to the attention of the Group through the evidence of witnesses over the years, most recently by that of Joel Carlson. 175/ Further evidence before the Group suggests that the South African press has carried regular reports of those cases of brutality that reach the courts, at least over the past 20 years, and that such cases do not show any sign of disappearing from court registers. 176/

155. The following cases were reported in South African newspapers during 1974:

(a) A Cape farmer admitted sjambokking (whipping with a hide whip) children working on his farm, at an inquiry into the death of a 12-year-old Coloured boy whose arm was severed by the driving band of a water pump when he was working with other children at midnight irrigating a field. The following night, according to the children, the farmer whipped the other children for laziness when they refused to come and work because they were afraid after the accident. 177/

(b) A farmer of Kamelldrift was fined R20, or 20 days, for "slapping" a labourer, who suffered a fractured skull and haemorrhage which left him partially paralysed. 178/

(c) A Worcester farmer was convicted of culpable homicide and fined R600, or 12 months, after a six-year-old child was killed by a "warning shot" from the farmer's shotgun. The farmer said he was trying to frighten children away from playing near his farmhouse. 179/

(d) A white farmer and two of his employees were found guilty of common assault for beating two Africans - one was in hospital for a week - and then painting them "silver". 180/

174/ Survey of Race Relations. 1958-59, pp. 260-261, quoted in Ainslie, op.cit., p. 31.

175/ See "Pass laws and prisons - How whites maintain racial supremacy in South Africa" (E/CN.4/1159, annex 2) and his book No Neutral Ground (New York, Thomas Y. Crowell, 1973), an excerpt from which is given in para. 156 below.

176/ Ainslie, op.cit., contains a list of ten such cases selected from the cases reported in South African newspapers 1954-1972.

177/ Sunday Times, 24 February 1974.

178/ Rand Daily Mail, 30 July 1974.

179/ Cape Times, 2 and 3 August 1974.

180/ Rand Daily Mail, 20 September 1974.

156. The Group is reminded that in 1953 a United Nations/ILO Ad Hoc Committee defined South Africa's labour system as a system of forced labour, and that it found itself

"convinced of the existence of a legislative system applied only to the indigenous population and designed to maintain an insuperable barrier between these people and the inhabitants of European origin. The indirect effect of this legislation is to channel the bulk of the indigenous inhabitants into agriculture and manual work and thus to create a permanent, abundant and cheap labour force ... The ultimate consequence of the system is to compel the native population to contribute, by their labour, to the implementation of the economic policies of the country, but the compulsory and involuntary nature of this contribution results from the peculiar status and situation created by the special legislation applicable to the indigenous inhabitants alone, rather than from direct coercive measures designed to compel them to work, although such measures, which are the inevitable consequence of this status, were also found to exist. It is in this indirect sense, therefore, that in the Committee's view, a system of forced labour of significance to the national economy appears to exist in the Union of South Africa."

The Group has the impression that this definition may be particularly appropriate to the system of recruitment and conditions of work of farm labourers in South Africa at present.

3. Comparative analysis of the situation of African workers
in the agricultural sector and in other sectors

157. Wage determination, insurance (except for injuries sustained at work, covered under the Industrial Injuries Act) and workmen's compensation schemes do not apply to agricultural workers. There is also no limit on the number of hours they may be required to work, they have no paid holidays or sick leave entitlement, and their wives and children may be required to work for the farmer as well, for no extra pay. 181/

158. Agricultural and domestic workers are also specifically excluded from the Industrial Conciliation Act, the Wages Act and the Bantu Labour (Settlement of Disputes) Act: that is, no machinery exists for reviewing their wages, expressing wage demands or complaints, or settling disputes. 182/

159. These restrictions help ensure that agricultural wages remain the lowest in South Africa. In 1971 a financial commentator suggested that they had not improved, and might even have fallen, since the last century. 183/

160. Agricultural wages have also not benefited from the general rises in black industrial wages that have been taking place since 1973. 184/

181/ Ainslie, op.cit., p. 26; see also previous report E/5622, paras. 113-115.

182/ Ainslie, op.cit., p. 26.

183/ Financial Mail, 23 April 1971.

184/ See E/5622, para. 115, evidence of ILO representative.

161. Wage determinations -- laying down statutory minimum wages -- affecting unskilled labourers in industry in 1973 varied, according to area, between R7.80 and R11 per week. ^{185/} Two years later (see section A above, para. 72) many of these wages had risen by 30 per cent or more -- in the case of mineworkers, the increase was nearly 150 per cent. According to the table in paragraph 72 above, wages in April 1975 ranged between approximately R15 per week and R56 per week.

162. By contrast, the Group can find no evidence that the wages of agricultural workers have risen substantially since the 1971/72 Agricultural Census, quoted by the ILO in 1974: African farm workers were being paid about R154 a year (R12.8 per month), of which the cash wage was only R119 per year (R9.92 per month). Mrs. Helen Suzman quoted only R7.50 per month as the average agricultural wage in 1974. ^{186/}

163. Agricultural workers are in the peculiar position of having much of their computed (by the farmer) wage paid in kind (cf. para. 147 above).

164. The South African Agricultural Union has suggested R42 per month as a wage for agricultural workers (see para. 150 above), but even this figure is lower than the lowest wage paid to unskilled workers in industry.

4. Farm gaols and private gaols

165. Over a century ago, in 1860, ^{187/} black prisoners were used by the State at the Cape to work on roads and docks. Soon thereafter, in 1889, prison labour was hired out by the State to the Cape wine farmers. With the rapid economic growth following the devaluation of the pound in 1932, the gap between farm wages and industrial wages widened and this led to a farm labour shortage, a situation which had not existed since the passing of the 1913 Land Act. As the shortage grew worse and farmers complained more loudly, two means were adopted by the Department of Prisons to help farmers obtain labour. Firstly, pass laws were more strictly enforced. The second measure was the introduction in 1934 of the "sixpenny scheme". This compelled short-term prisoners (mostly pass offenders) to work out their sentences in working on farms. The farmers paid the Department of Prisons sixpence a day for each prisoner. ^{188/}

166. The next important step in the employment of prison labour was taken in 1947. It took two forms, the establishment of farm gaols and the inducement of arrested Africans "to volunteer" to work on farms. The first "farm gaol", housing long-term prisoners, was built in the western Cape. This system was fully established after the National Party came to power in 1948. In terms of the new system the cost of building each gaol was met by local farmers, each of whom bought shares, and each was able to draw labour according to his proportion of the total share capital. Responsibility for running the gaol rested with the Prisons Department. This

^{185/} Ibid., para. 182.

^{186/} E/5622, para. 115; Rand Daily Mail, 17 October 1974.

^{187/} Oxford History, vol. II, p. 146.

^{188/} "African labour in South Africa", Notes and Documents, No. 25/74; United Nations Unit on Apartheid, August 1974, p. 10.

included paying wardens' salaries and the cost of prisoners' food. The Department charged between 15 and 50 cents per day for each prisoner hired out to a shareholder farmer. ^{189/} In 1952 the Bethal area had four such prisons, and another prison with a capacity of 350 prisoners was opened that year. In the same year large gaols at Klein Drakenstein for the wine farmers at Paarl, and near Welkom in the Orange Free State. In 1954 two new gaols were opened in the Paarl area and by 1966 there were 23 such prisons accommodating more than 6,000 long-term prisoners. Thirteen were in the western Cape, where the pass laws were being stringently enforced, nine were in the eastern Transvaal and one in the Orange Free State. In all these areas, other black labour was being attracted to the mines or industrial areas where wages were double and triple those paid by white farm owners. Farmers owning gaols had a vested interest in crime, and would not permit a state of affairs where a gaol costing 50 to 70 thousand rand would be empty of prisoners. The right to draw prison labour from a farm gaol increased the value of the farm and shareholders admitted this in their statements to reporters. In the western Cape, the right to employ prison labour was valued at R10,000 a convict. ^{190/} The Director of Prisons in 1959 said at Riverdale in the Cape: "Farmers want labour from us and we cannot supply it all, but we are doing everything in our power to meet the emergency." In 1963, the Klapmuts Farmers Association pressed urgently for a farm prison but was advised by the authorities that the waiting list for farm prisons was more than 30.

167. The second manner employed in obtaining farm labour from prisons was adopted in 1947. The "voluntary scheme" was begun in Johannesburg. Pass law offenders arrested by the Police were taken to Court where, before prosecution, they were "induced to volunteer" for farm labour. The scheme was extended throughout the country and in 1954, General Circular 23 was adopted by the Department of Bantu Administration and Justice and the Commissioner of Police. The first three paragraphs are worth quoting.

"Paragraph 1. It is common knowledge that large numbers of natives are daily being arrested and prosecuted for contraventions of a purely technical nature.

"Paragraph 2. These arrests cost the state large sums of money and serve no useful purpose. [emphasis added]

"Paragraph 3 The Department of Justice, the South African Police and this Department have therefore held consultations on the problem and have evolved a scheme, the object of which is to induce unemployed natives now roaming about the streets in the various urban areas to accept employment outside such urban areas."

168. The working conditions on the farms were atrocious and led to brutality and in some instances death. The following is an extract from sworn testimony filed in court; the farmer declined to enter the witness box to contest it.

^{189/} F. Wilson, op.cit., p. 21.

^{190/} Oxford History, vol. II, p. 148.

"On his first day on the farm one of the farm labourers said: 'When I arrived at the field I saw Potgieter sitting on the hood of his Ford car, watching all the workers in the field. Soon after I started working two of the boss-boys, Abram and Philip, approached me and asked whether I had any money. I said no I had not. They beat me all over the head and body with the knob-kerries which they carried. My mouth started to bleed, I fell to the ground, and one of them kicked me all over my head with his booted foot. All this time Potgieter was there - I saw him when I got up again. I also saw that the two boss-boys beat up the other new workers also and then they just beat everyone as they walked among them.

"These beatings occurred regularly and I noticed that whenever Potgieter arrived at the place where we were working, and honked his horn, the boss-boys immediately started moving among us and hitting out at anyone within striking distance with their knob-kerries. At the same time they would shout to us to work faster. Potgieter would also shout, 'Slaan hulle dood.' (Beat them to death).

"At first I wanted to retaliate when I was beaten but the ones that had been there longer than me warned me not to do so. I was told that one of the boss-boys had killed a man in November, hitting him over the head with a knob-kerrie. The dead man's grave was pointed out to me.

"I have seen it happen that when my fellow workers who were beaten or who had fainted for want of water on a hot day were lying unconscious on the ground, the boss-boys Abram and Philip passed water into their mouths and invited us to urinate in this manner to revive the unconscious men. At other times, those who had fainted were further beaten even by Potgieter himself who came and said they were only faking and did not want to work.

"Plans for escape were discussed continuously among the workers and I never gave up hope of being able to escape. My first attempt failed and I was picked up the day after I left the farm. In that attempt thirty-four managed to escape but I and one, Leonard, were found by Potgieter's son. I was taken back to the farm and Potgieter beat me with a knob-kerrie. He hit me in the small of my back and one blow behind my neck and I fell to the ground. Potgieter's son saw this assault on me as well as the boss-boys and some of the other workers. He called me a baboon and told me I could do nothing to him. I was on the farm of Potgieter for about four months. I never received a penny for the work I did - I never saw any worker being paid any money. At last in March my opportunity came to escape and I was successful. A number of others escaped at the same time as I did." 191/

169. These volunteers were induced to serve three to six months (of days worked) for 9 pence per day, paid at the termination of the period of contract.

170. After a series of habeas corpus applications which were given much press publicity, a public outcry in and outside South Africa led the responsible Minister to suspend the scheme in 1959. However, under the Prison Act of 1959 a new system of probationary release on parole took its place. The Prison Act of 1959 made it a criminal offence to disclose conditions in the prisons and where prisoners worked, and no disclosure of the kind previously made has been attempted. Press reports still draw attention to brutalities practised by some farmers in prosecutions brought by the State in murder charges, but otherwise little is heard about the brutal conditions of work for farm worker prisoners released on parole.

171. In 1971 and in 1972 in Parliament the Minister of Prisons said that the Government was considering abolishing the farm gaols despite opposition from farmers. Nevertheless, the system is still in force. Moreover, in June 1975 the Government of South Africa issued Proclamation R.133 setting up "rehabilitation institutions in the Bantu Homelands". Africans who do not comply with the pass laws may be committed to a rehabilitation institution for up to three years. At such institutions Africans shall do such work as is ordered by the superintendent of such institution. What work will be done by those detained at such institutions and under what conditions is not stated, but they shall be obliged to work. The powers of the superintendent are unbridled, yet there is no minimum qualification for men appointed to such office. Without supervision and control, without regulations protecting those detained, it is inevitable that malpractices will occur and be perpetrated on this new kind of "forced labourer".

172. As observed by J. Carlson:

"The use of prison labour has long been condemned by the ILO, and many countries have enacted laws prohibiting the importation of the products of such labour. An example of such a prohibition is to be found in the United States Tariff Act of 1930, which prohibits the importation of the products of prison or indentured labour. It is a provision never before enforced. ..., in 1974, the United States Attorney General in Alabama and the attorney for the United Mine Workers Union took action to prevent the United States from importing coal (2,500,000 tons) from South Africa. Because the South African Master and Servants Act, nearly 100 years ago, provided penal provisions against black unskilled workers, and it and similar laws applied to black coal miners, it was proper to ask the court to prohibit these imports. To thwart this action, the South African Minister of Justice rushed legislation through Parliament to repeal the penal provisions. According to the [Johannesburg] Star of 9 November, this action "appears to have thwarted one of the most ingenious and dangerous" attacks yet made against South African trade with the United States.

"This attack could well be followed by other trade unions and other governments. South Africa's use of prison labour is a violation of the fair competition spirit of the General Agreement on Tariffs and Trade. Prison farms provide farmers and police and Prisons Departments with a vested interest in crime. It is obvious that farmers who build a 'farm gaol' costing £25,000 sterling are not going to be satisfied when there are not enough prisoners to fill it. It is there to be filled by prisoners who are compelled to work. In the Cape, a recent advertisement of a farm for sale read, "Price 120,000 pounds sterling, includes winery sheds and 10 convicts." The migrant labour and prison farm labour system is the most sophisticated and most firmly established slave labour system in existence today.

"The system is fundamentally in conflict with the United Nations Bill of Human Rights. All countries trading with South Africa must be made aware of the basis upon which their trade is based. In very many countries, laws exist nationally to prohibit such trade. Trade unions should be made aware of the forms of labour existing in South Africa. No trade unionist should handle South African goods.

"South Africans quickly reacted to one small threat from the United Mine Workers Union in the United States, by amending nearly 41 laws and regulations. The fight against Apartheid, against a system which is a crime against humanity, must be fought on all fronts. Every act of support of Apartheid, whether political, social or economic, helps Apartheid to survive and inhibits change. The community of nations in the United Nations, organized labour, and the world community, only need a little inspiration to find ways and means of isolating and of bringing an end to the cruel system of white supremacy." 192/

192/ E/CN.4/1159, annex 2, pp. 11-12.

D. STUDENT MOVEMENTS

Introduction

173. Evidence and findings of the Ad Hoc Working Group of Experts on grave manifestations of apartheid have in previous years included racial discrimination in the field of education. Attention has been drawn to the practice of strict racial segregation in higher education, as in all educational spheres, and to the rigid control over students in black colleges under white control.^{193/} Previous evidence has also drawn attention to the repression of student movements that have challenged and found themselves in opposition to official educational policy.^{194/}

174. This is the first occasion, however, on which the Ad Hoc Working Group of Experts has specifically studied the question of student movements in South Africa. It is therefore felt to be necessary to place student movements and activities in the general context of the development of the South African university system, and in particular of the development of policies of racial discrimination and apartheid in higher education.

1. University legislation in South Africa

175. Legislation and regulations of two kinds affect student movements: the set of laws to establish and entrench the application of apartheid to higher education; and security laws to which students, as other members of the population, are vulnerable.

(a) Laws applying apartheid to universities and colleges

176. The nine residential white universities in South Africa are administered under the Universities Act No. 61 of 1955 and its amendments of 1959, 1961 and 1969. The Act placed these universities and the University of South Africa (offering extra-mural, mainly correspondence courses) under the jurisdiction of the Ministry of Education, Arts and Science. Under the Act the Minister appoints a University Advisory Committee, and a Committee of University Principals advises on matters related to admission of students, period of attendance etc. The universities themselves decide on staff appointments and the attendance of any particular student.^{195/}

177. The main legal instrument for imposing university apartheid is the Extension of University Education Act No. 45 of 1959, which made it illegal for any non-white to attend one of the white universities without the Minister's permission and provided for the establishment of separate higher education institutions - tribal colleges - for blacks. White persons were prohibited from attending the new colleges, maximum penalties of a fine of R200 or six months' imprisonment being provided for contravention. The Minister may further decide that particular colleges shall admit

^{193/} See previous report of the Working Group E/CN.4/1159, para. 172.

^{194/} Ibid. para. 173. The same report gives information on recent political trials of officials of SASO (South African Students' Organisation) for contravention of banning orders (paras. 76 and 77) and on charges under the Riotous Assemblies Act for attendance at a banned meeting in support of FRELIMO (para. 79).

^{195/} For further details see Apartheid: Its Effects on Education, Science, Culture and Information (UNESCO, 1972).

only students of specific ethnic or other groups. Students must renew their registration annually. The Minister may refuse permission to any person if he considers it to be in the interests of the university college to do so; this power may be delegated to the Council. The law also empowered the Government to decide upon dates after which non-white students of specified groups who were not already registered and had not received the Minister's written permission would be prohibited from attending universities. This affected the attendance of non-whites as students of the "open" universities.

178. Under the gazetted rules for the control of the new colleges,^{196/} each segregated college has a rector appointed by the appropriate Minister, who prescribes his powers and duties. Each has both a (white) council and a (non-white) advisory council. All the members of both bodies are appointed by the State President, who designates the Chairmen. Similarly at each institution there is a (white) senate and a (non-white) advisory senate. The rector is ex officio chairman of the former body, the other members being professors or lecturers selected by the Minister after consultation with the council. The Minister determines the establishment of each college. All posts were initially to be State posts, the power to appoint, promote or discharge being vested in the appropriate Minister, subject to prior consultation with the council.

179. The same year saw the passage of the University College of Fort Hare Transfer Act No. 64 of 1959, which transferred control of the college from its Governing Council to the Minister of Bantu Education and which limited the admission of students to Africans unless the Minister made exceptions in the case of other non-whites. No white person could attend. The provisions relating to the control and administration of Fort Hare were the same as those laid down for the new colleges in the Extension of University Education Act.

180. The University Education Amendment Act No. 32 of 1960 amended both the above measures to provide that monies for capital expenditure for Bantu university colleges might be advanced by the Loan Account to the Bantu Education Account on terms and conditions laid down by the Minister of Bantu Education and the Minister of Finance.^{197/}

181. The Extension of University Education Act No. 29 of 1971 widened the powers of the responsible ministers to further tighten the regulation of the registration of non-white students at universities other than those catering for their own racial groups, or the University of South Africa, which provides correspondence courses only, and the Natal Medical School.^{198/}

182. The University of Fort Hare Act No. 40, the University of Zululand Act No. 43 and the University of the North Act No. 47, all of 1969, declared the three African tribal colleges "universities", and the University of Durban-Westville Act No. 49 and the University of the Western Cape Act No. 50 of 1969 did the same for the Indian and

^{196/} Government Notices 2049 of 1959 and 59 of 1960; revised regulations for the University of the North were contained in Government Notice 554 of 5 April 1962. See Muriel Horrell, A Decade of Bantu Education (Johannesburg, South African Institute of Race Relations), p. 148. For an outline of the Regulations see Survey of Race Relations 1959-1960, pp. 231-234.

^{197/} Survey of Race Relations, 1959-1960, p. 211.

^{198/} Survey of Race Relations, 1971, p. 288.

Coloured university colleges respectively. The three African universities would be administered under the Minister of Bantu Education, the Indian university under the Ministry of Indian Affairs and the Coloured university under the Ministry of Coloured Affairs. The Universities Amendment Act No. 67 of 1969 then laid down that the term "university", for most of the purposes of the principal Act of 1955, would not apply to the universities of the African, Coloured and Indian groups.

183. The University of Durban-Westville Amendment Act No. 60 of 1973 repealed provisions relating to the establishment of an advisory council and an advisory senate at the University of Durban-Westville. In fact, according to the Minister of Indian Affairs, an advisory senate was never brought into being. In time, the council would become an entirely Indian body.^{199/}

184. The Bantu Universities Amendment Act No. 6 of 1973 amended the University of Fort Hare Act, the University of Zululand Act and the University of the North Act, all of 1969, to specify the seat of each university and provide for its possible extension. The measure added, in each case, "provided that the university may conduct its university activities also at such other places as the Minister [of Bantu Education], after consultation with the Council, may approve". The universities were empowered to invest, lend and borrow money. The Minister's approval is necessary if money is to be borrowed.^{200/}

(b) Admission, control and dismissal of students

185. Whereas the white universities are corporate bodies established by private Acts of Parliament, state-aided but not state-controlled, and governed by university councils jealous of their autonomy, the "tribal colleges" for Africans are almost directly under state control. The rector, corresponding to the principal or vice-chancellor at other universities, is appointed by the Minister of Bantu Education. The council has only such powers as the Minister may care to delegate. Members of senate and advisory senate are selected by the Minister in consultation with the council. Staff and students are subjected to various restrictive regulations. Students' representative councils either do not exist or are controlled by the university authorities. The "conscience clause" upheld by all South African universities (except Potchefstroom), which provides that there shall be no discrimination against staff or students on the basis of religion and no test of religious belief imposed, does not apply in the case of the separate universities for non-whites.^{201/} The colleges are financed by the State through the Bantu Education Act, the assets of which are derived almost entirely from the taxation of the African population itself.^{202/}

^{199/} Survey of Race Relations, 1973, p. 335.

^{200/} Ibid.

^{201/} Martin Legassick, "The National Union of South African Students: ethnic cleavage and ethnic integration in the universities", Occasional Paper No. 4, African Studies Center, University of California, Los Angeles, pp. 12-13.

^{202/} Ibid., p. 13.

186. Rules have been gazetted for the admission, control and dismissal of students at the Bantu university colleges.^{203/} The regulations include restrictions on students leaving the college precincts without permission, restrictions on student organizations or organizational work without the prior approval of the rector; restrictions on meetings held in the college grounds without permission from the rector; restrictions on the circulation of magazines, pamphlets or publications for which the students are wholly or partly responsible, without the permission of the rector, in consultation with the advisory senate; restrictions on the issue of statements to the press without the permission of the rector. Any student who in the opinion of the rector infringes these regulations is guilty of misconduct and may be suspended or dismissed.^{204/}

187. After Fort Hare was placed under the control of the Bantu Education Department, when a number of staff members were not reappointed, and a number of students were not readmitted,^{205/} there was extensive protest at the college which culminated in a student decision to dissolve the student representative council. A few days after the disturbance, when every student was notified he had to sign a declaration reaffirming his acceptance of college regulations or face dismissal, new, more stringent regulations were gazetted. Students were in future required each year to apply for permission to report for registration, and the application form had to be accompanied by a testimonial of good conduct by a minister of religion, a Bantu Affairs Commissioner or a magistrate. Parents or guardians had to guarantee to pay fees in advance, to accept liability for any damage the applicant might cause to college property, and to agree that the applicant be subject to the disciplinary regulations of the college.^{206/}

188. Regulations enforced at the separate universities for Africans subject forms of organization and representation of grievances to the control of the university authorities. The latter have explicitly forbidden the activities of specific student bodies. (See paras. 238-239 below).

(c) Security laws

189. Security laws to which students, as well as other members of the population, are vulnerable, include the Suppression of Communism Act 1950; the General Law Amendment Act No. 37 of 1963; the Terrorism Act No. 83 of 1967; the General Law Amendment Act No. 101 of 1969. Student leaders have been prosecuted under several of these laws (see previous reports, including E/CN.4/1135, paras. 119-135, and E/CN.4/1159, paras. 73, 76, 77, 79).

^{203/} Government Notice 2049 of 18 December 1959 in respect of the University College of the North and R.59 of 15 February 1960 in respect of the University College of Zululand, see Survey of Race Relations, 1959-1960, p. 231.

^{204/} Survey of Race Relations, 1959-1960, pp. 231-232.

^{205/} The Minister of Bantu Education stated that their readmission "was not in the best interests of the College because of their activities in 1959". House of Assembly Debates, 8 March 1960, col. 2927, and 3 May, cols. 6530-6531.

^{206/} For further particulars of the regulations, see Survey of Race Relations, 1959-1960, pp. 232-234; Horrell, op.cit.

190. Censorship, bannings and other government measures operate to restrict academic freedom at the universities and the activities of the student body.^{207/}

2. Background of the student movements

191. The regulations prepared by the Government relating to the structure of the South African student movements and, in particular, the impediments placed in the way of their organization and activities are a reflection of policy in the field of education which, in its application of complete race and colour segregation, culminated in the policies pursued by the Nationalist Government in implementation of its apartheid policy after 1948.

192. The movement for a special institution to provide higher education for non-whites, and more specifically for Africans, began in the first years of this century. It led to the establishment in 1916 of the South African Native College at Fort Hare.^{208/} It was to prepare students for the matriculation examination, though a limited range of university training was also provided. The college was intended primarily for African students, but students of other racial groups were admitted. Until 1935 the only university degree for which students at Fort Hare could study was a B.A.; then, in 1935, an undergraduate science degree was introduced. In 1937 matriculation training was discontinued. By 1949 the number of students enrolled had reached 343, and the numbers remained constant at 350 in the succeeding years. Until 1951 Fort Hare was associated with the University of South Africa; that year it became affiliated to Rhodes University.^{209/} In the post-war years the increase in the demand for higher education for Africans became widespread.

193. Until university "apartheid" was introduced, non-white students could attend the "open" universities of Cape Town and Witwatersrand, where a practice of "academic segregation" was followed; and they could also enrol at the University of Natal in segregated classes (though when possible the same lecturers were shared with the white students) and they could become students at the College of Fort Hare, or the small, part-time Kelege ya Bana ba Afrika in Pretoria. They could also study by means of correspondence courses provided by the University of South Africa, with headquarters in Pretoria.^{210/} The Afrikaans-medium universities of Stellenbosch, Pretoria, the Free State and Potchefstroom were closed to non-white students. The University of Rhodes occasionally admitted an African who wished to take a post-graduate course that was not available at Fort Hare.^{211/} The establishment of a medical school primarily for non-whites was being planned prior to 1948, when the Nationalist Government came to power; that Government continued with those plans.

^{207/} See The Open Universities in South Africa and Academic Freedom 1957-1974, published by the Academic Freedom Committees of the Cape Town and Witwatersrand Universities; Sunday Times, 19 January 1975.

^{208/} The name of the college was changed to Fort Hare University College in October 1953. On the history of this college, see Alexander Kerr, Fort Hare 1915-1948 (New York, Humanities Press).

^{209/} See M.V. O'Dowd, John M. Didcott and P. Tobias, The African in the Universities, written on behalf of the National Union of South African Students, December 1954.

^{210/} Horrell, op.cit., p. 121.

^{211/} Ibid.

194. The application of the principle of apartheid in the field of education was foreshadowed by the appointment in 1949 of the Native Education Commission under the chairmanship of Dr. W.W.M. Eiselen, then Secretary for Native Affairs.^{212/} The De Villiers Commission on Technical and Vocational Education had been appointed at the time the Nationalist Government came to power; it recommended that structurally the education system for Africans should be the same as for whites, but that in planning African education, due consideration should be given to the background and environment of these people and their occupational opportunities.^{213/} The report of the Eiselen Commission, published in 1951,^{214/} took African school education out of the hands of provincial education authorities and transferred it to the central Government, more particularly to the Department of Native Affairs. The Minister of Native Affairs was given unrestricted powers to decide for himself such matters as the content of African school education, teachers' conditions of service, and the registration and establishment of schools.^{215/}

195. Educational policy was in this period laid down in speeches made by the Minister of Native Affairs, Dr. H.F. Verwoerd.^{216/} He said that "Native education" should be controlled in such a way that it should be in accord with the policy of the State. Good relations could not exist "when the education is given under the control of people who create wrong expectations on the part of the Native himself". Education was to "train and teach people in accordance with their opportunities, according to the sphere in which they live". In a subsequent statement Dr. Verwoerd said that the previous system of education had blindly produced pupils trained on a European model, thus creating the vain hope among the "Bantu" that they could occupy posts within the white community despite the country's policy of apartheid. Within their own areas, doors were open to Africans. Education should thus "stand with both feet in the Reserves and have its roots in the spirit and being of a Bantu society".^{217/}

196. During 1959 the Minister of Bantu Education, Mr. W.A. Maree, said:

"The paramount principle in the education of the [African] child in the urban areas must be just as it is in the Reserves, that we must try to retain the child as a child of his own national community, because it is

^{212/} The Commission's terms of reference included the following: "The formulation of the principles and aims of education for Natives as an independent race in which their past and present, their inherent racial qualities, their distinctive characteristics and aptitude and their needs under the ever changing social conditions are taken into consideration. The extent to which the existing primary, secondary and vocational educational systems for Natives and the training of Native teachers should be modified in respect of the content and form of syllabuses, in order to conform to the proposed principles and aims and to prepare Natives more effectively for their future occupations."

^{213/} Horrell, op.cit., pp. 3-4.

^{214/} For relevant findings, see paras. 754-961.

^{215/} O'Dowd, Didcott and Tobias, op.cit., p. 16.

^{216/} Speeches cited in Horrell, op.cit., pp. 5-6, especially House of Assembly Debates, 17 September 1953, cols. 3576, 3585.

^{217/} Senate, 7 June 1954, cited by Horrell, op.cit., p.6.

the basic principle of Bantu education in general that our aim is to keep the Bantu child a Bantu child ... The Bantu must be so educated that they do not want to become imitators [of the whites but] that they will want to remain essentially Bantu".218/

197. The Bantu Education Act of 1953, subsequently amended in 1954, 1956, 1959 and 1961, deals only with the broad outlines of the system upon which the Government decided, and it was left to the responsible Minister to make regulations dealing with all other matters.219/

198. These policy statements and the passage of the Bantu Education Act No. 47 of 1953, as amended, were direct precursors to the elimination of African students from the "open" universities to which they had been admitted in small numbers. In December 1953 the Government appointed the Holloway Commission "to investigate and report on the practicality and financial implications of providing separate training facilities for non-whites at universities". Consideration of the desirability of such separate facilities was not included in the terms of reference. In evidence given before the Commission several universities favoured the continuation of their individual systems. The National Union of South African Students (NUSAS) expressed the same view, and in the second edition of a publication The African in the Universities published a survey of the then existing facilities for the higher education of non-white students, together with an examination of the systems of university segregation and non-segregation. It argued that segregated institutions fell short in many ways of the facilities available at the non-segregated universities.220/

199. The Holloway Commission report, published in February 1955, rejected, mainly for financial reasons, the suggestion that new universities for non-whites only should be established in the near future or that separate non-white sections should be created in the universities of Cape Town and the Witwatersrand in accordance with the system prevailing in Natal. It suggested that if segregation was desired the most feasible scheme would be to concentrate non-white students in the main at Durban and Fort Hare, but that the process of transfer should be gradual.221/

200. Towards the end of 1955 the Government appointed an interdepartmental committee to obtain further information, particularly on the financial implications of obtaining separate facilities, and to advise on how the scheme could be applied. Before the findings of that committee had been made public, the Government introduced a Separate University Education Bill, in March 1957. When protests ensued the bill was withdrawn and an amended version was prepared to be referred to a Select Committee during the 1957 parliamentary session. The Government Gazette of 15 November 1957 announced the intention of the Minister of Native Affairs to introduce a Fort Hare College Transfer Bill the following year.222/

218/ House of Assembly Debates, 17 June 1959, cols. 8318-8319, cited in Horrell, op.cit., p. 6.

219/ Details of the Act are contained in Horrell, op.cit., pp. 10-11.

220/ O'Dowd, Didcott and Tobias, op.cit., see especially chaps. 7, 8 and 9.

221/ Horrell, op.cit., p. 123.

222/ Ibid., p. 124.

201. Protests against any introduction of segregation of university facilities took place for two years, between 1955 and 1957.^{223/} Before the Bill had passed its second reading or the Commission had been appointed, the Government commenced work on the erection of two colleges for Africans, at Ngoya in Zululand and at Turfloop near Pietersburg in the Northern Transvaal.^{224/}

202. The Extension of University Education Act No. 45 of 1959 became law in spite of opposition (see para. 176 above). The Act provided for the establishment of university colleges for non-white persons. It was stated in the definitions of the Act that university education was to mean "education of a standard equivalent to that provided by universities established by Act of Parliament". The colleges for Africans were to be financed out of monies appropriated by Parliament from the Bantu Education Account and placed under the control of the Minister of Bantu Education. Subsequently it was decided that the Coloured college would fall under the Department of Coloured Affairs and the Indian college under the Department of Indian Affairs, these institutions to be financed from the General Revenue Account.^{225/}

203. The University College of the Western Cape was opened at Bellville South to cater for Coloured students, and two new colleges were opened for Africans - the University College of the North at Turfloop, near Pietersburg, which was mainly for Sotho students, and the University College of Zululand at Ngoya for the Zulu and Swazi groups. New African students admitted to Fort Hare were selected mainly from the Xhosa group.^{226/}

204. During 1963, additions were made to the temporary premises of the University College for Indians on Salisbury Island in Durban Bay. Permanent buildings for the college were being designed. Students at the college were enrolled in the faculties of arts, science, commerce and education, but Indian students had been admitted to various universities to study medicine, dentistry, architecture, engineering, law and social science.^{227/}

205. The University College of Fort Hare Transfer Act No. 64 of 1959 empowered government to transfer control of the college from its governing council to the Minister of Bantu Education. At that time Fort Hare University College was a multiracial organization: in 1959 the staff consisted of 28 whites, 10 Africans and 1 Coloured. Of the 489 students, only 38 per cent were of Xhosa or Fingo origin and 34 per cent came from other African groups; 14 per cent were Coloured and 14 per cent Indian. The maintenance, management and control of the University College of Fort Hare was assigned to the Minister of Bantu Education as from 1 January 1960.

^{223/} Ibid., pp. 125-128. The protests included mass meetings of students, and meetings of Convocation at the Universities of Cape Town and Witwatersrand. Student representative councils of universities represented at a congress of NUSAS in July 1956 agreed that this body should co-ordinate a campaign by students to oppose any interference with the principle of academic non-segregation.

^{224/} Horrell, op.cit., p. 128.

^{225/} Horrell, op.cit., p. 129.

^{226/} Survey of Race Relations, 1959-1960, p.228.

^{227/} Survey of Race Relations, 1964, p. 294.

(For protests by students and staff and repercussions at Fort Hare, see below paragraph 220.)^{228/} From the time the policy of the ethnic grouping of students was adopted the enrolment at Fort Hare declined sharply. Non-Xhosa speaking students were no longer admitted but besides this, the number of Xhosa-speaking students decreased.^{229/}

206. Admission of Africans to the previously "open" universities was seriously curtailed once proclamations were gazetted ^{230/} stating that no non-white person who was not already registered as a student might register at any university except with the consent of the responsible Minister. In 1961 only three Africans were permitted to enrol at an "open" university, and in 1962 only two new students were admitted.^{231/}

207. In 1974, student enrolment at all universities was as follows: ^{232/}

<u>University</u>	<u>White</u>	<u>Coloured</u>	<u>Indian</u>	<u>Chinese</u>	<u>African</u>	<u>Total</u>
Cape Town	8 449	404	82	31	6	8 972
Durban-Westville	-	-	2 342	-	-	2 342
Fort Hare	-	-	-	-	1 029	1 029
Natal	7 198	91	347	8	256	7 900
Orange Free State	6 685	-	-	-	-	6 685
Port Elizabeth	1 967	-	-	-	-	1 967
Potchefstroom	6 415	2	-	-	4	6 421
Pretoria	14 313	-	-	-	-	14 313
Rand Afrikaans	2 143	-	-	-	-	2 143
Rhodes	2 299	-	3	39	1	2 342
Stellenbosch	9 284	-	-	-	-	9 284
South Africa	26 981	1 177	1 946	60	3 995	34 159
The North	-	-	-	-	1 509	1 509
The Western Cape	-	1 440	-	-	-	1 440
The Witwatersrand	9 855	28	143	231	42	10 299
Zululand	-	-	-	-	1 003	1 003
Totals	95 589	3 142	4 863	369	7 845	111 808

^{228/} For a discussion on the response of the Fort Hare University authorities to the report that led to the Act, see Clifford P. Dent, Fort Hare and the Report of the Fort Hare Commission, 1955. Dr. Dent was then Principal of the College.

^{229/} Survey of Race Relations, 1962, p. 198.

^{230/} Nos. 221 and 222 of 16 October 1959.

^{231/} Horrell, op.cit., p. 139.

^{232/} Survey of Race Relations, 1974, p. 369.

3. Consequences of the policy of apartheid with regard
to the student movements

208. Since the institution of apartheid divisions in South African society is reflected by and perpetuated in the "ethnic" nature of the universities, student movements in South Africa likewise reflect these divisions. The divisions extend to the existence of separate English and Afrikaans-medium universities and distinct student bodies. The National Union of South African Students (NUSAS) was founded in 1924, with a membership from the Afrikaans-medium and English-medium universities. Fort Hare College was not admitted to membership, and there were no non-white students at the "open" universities of the Witwatersrand and Cape Town.^{233/} In 1933, three of the Afrikaans-medium centres - Grey University College (later the University of the Orange Free State), Potchefstroom and Pretoria - disaffiliated from NUSAS and formed the Afrikaans Nasionale Studentebond.^{234/} In 1948 the Afrikaans-medium universities formed a new organization, the Afrikaans Studentebond (ASB).

Afrikaans Studentebond (ASB)

209. The ASB remains representative of the Afrikaans-medium universities.^{235/} During 1965, representatives of Afrikaans-medium universities and colleges of education held a student rally at which NUSAS was criticized as a "leftist" body.^{236/} At its July congress that year, the ASB accused NUSAS of undermining the traditional South African way of life and of trying to embarrass the Government.^{237/} The 1966 congress of the ASB stressed the need for the unity of Afrikaners and the role of the ASB in serving the interests of the Afrikaner people.^{238/} In 1972 a meeting of student leaders from eight centres affiliated to the ASB recommended radical changes in the organization's structure and policy. The meeting recommended that the ASB change its name, stop "dogmatically following the political line of the Nationalist Party" and become involved in practical projects, especially in the Bantustans.^{239/} Following this, responsibility for "homeland development, community services, student services and contact with non-whites" was assigned to particular centres. NUSAS and recent student demonstrations were again attacked.^{240/}

^{233/} Legassick, op.cit., p.15.

^{234/} For the reasons for the split in white student politics at the time, see Legassick, op.cit., p. 16.

^{235/} For an account, see Johan C. Fick, "Afrikaner student politics - past and present", Student Perspectives on South Africa, eds. H.W. Van der Merwe and D. Welsh, eds. (Cape Town, 1972).

^{236/} Rand Daily Mail, 9 April 1965, cited in Survey of Race Relations, 1965, p.279.

^{237/} Rand Daily Mail, 7 July 1965; Survey of Race Relations, 1965, pp. 279-280.

^{238/} Survey of Race Relations 1966, p. 44, citing a report by an observer; Rand Daily Mail, 9 July 1965.

^{239/} Rapport, 9 April 1972; Sunday Times, 19 March and 9 April 1972, cited in Survey of Race Relations, 1972, p. 396.

^{240/} Ibid.

National Union of South African Students (NUSAS)

210. NUSAS admitted Fort Hare College to membership in 1945. This, together with the declared intention of the ASB "to fight in every possible way ... the aims of NUSAS" made reconciliation of Afrikaans-medium and English-medium university centres impossible. Several period of negotiations (1949-1950; 1957-1961) produced a series of conferences, debates and correspondence, together with proposals for federal structures to link or replace existing student bodies; these efforts broke down. NUSAS-affiliated centres insisted on the right to nominate any delegate they wished, whereas the Afrikaans-speaking centres demanded that "mixed" universities be represented by white students only.^{241/} By 1951 NUSAS policy was in firm opposition to the Nationalist Government's educational policy and discriminatory matters in other areas of concern to students. In particular, NUSAS had opposed Christian National Education and government interference with universities.^{242/}

211. While the focus of NUSAS criticism of government policy has been on education,^{243/} its criticism of apartheid has extended to all fields.^{244/} By 1962 the passage from campaigning on student issues only to "fighting for the recognition of human equality and dignity for all" had been made.^{245/} Mass student protest coincided with the university apartheid legislation when NUSAS organized protest marches against the pending Separate University Education Bill.^{246/} In the educational field, NUSAS participated in projects such as the South African Committee for Higher Education, the Student Defence and Aid Fund, and a prison education scheme.^{247/} NUSAS also condemned the pass laws, the 1962 Sabotage Act and the 1963 General Law Amendment Act.

212. Government opposition to NUSAS and its policies became overt from 1963 onwards.^{248/} Action was taken against members of the NUSAS executive.^{249/} Actions included refusal of passports, banning orders, gaolings and deportations. NUSAS members were placed under police surveillance, and the organization was penetrated by Security Police informers.^{250/} Widespread student protests took place in 1972 in support of

^{241/} Legassick, op.cit., p. 17.

^{242/} Ibid., pp. 18 and 19.

^{243/} See "The policy on education", as adopted by the 51st NUSAS Congress, July 1974, (mimeographed).

^{244/} For an account of the background to the development of NUSAS policy, see M. Legassick, op. cit., especially pages 15-31, 32 and 38; see also M. Marshall, "Student resistance to apartheid", Unit on Apartheid, Notes and Documents, No. 11/73, April 1973; C. Bundy, "Embattled and embittered", Guardian, 8 October 1974. A more detailed early history of NUSAS is contained in Survey of Race Relations, 1965, pp. 278-279; Defence and Aid Information Service, January-July 1969, pp. 277-278.

^{245/} See Legassick, op.cit., p. 31.

^{246/} Ibid. pp. 36-37.

^{247/} Ibid. p. 40.

^{248/} Ibid. pp. 44-49.

^{249/} For details of specific government action against student leaders, see Marshall, op.cit., p. 8.

^{250/} Marshall, op.cit. see also Defence and Aid Information Service, October-December 1967, pp. 105-106.

strikes and protests at black colleges, following on the expulsion of a student leader from Turfloop (University of the North) (see paras. 221-223 below). During May 1972 NUSAS launched its Free Education Campaign, during which mass student meetings, public meetings and the distribution of information were organized on all NUSAS-affiliated campuses, and attention was focused on events at Turfloop earlier that month. This led to a baton charge by the police of a student meeting on the steps of St. George's Cathedral, Cape Town. A student march in Johannesburg was likewise broken up. 251/ Arrests and trials followed. 252/

213. Student wages commissions. The National Union of Students' Welfare Department was established during 1971 to promote literacy and tutorial classes, to campaign for equal pay for equal work, and to undertake community development work. 253/ During 1972 and 1973, student wages commissions at various university centres affiliated to NUSAS released a jointly prepared 10-point Charter of Workers' Rights and campaigned for improvements in the wages and working conditions of black workers. 254/ This included the compilation of factual material about the conditions in various industries, budget surveys, visits to factories to compile answers to questionnaires on workers' wages, and sit-ins of company offices. 255/

University Christian Movement

214. The University Christian Movement, a student body of an interdenominational Christian character, was formed in 1969; after five years of trying to remain a multiracial organization, it decided to disband. Three reasons were given: (i) harassment by the Security Police; (ii) the withdrawal of all Church support except for that of the United Congregational Church; (iii) the growth of black consciousness among the black members and their unwillingness to work within a multiracial organization. It was stated at the congress, when the decision to disband was taken, that, though the members were firmly committed to an eventual non-racial South Africa, for the time being a black-white polarization was necessary because the situation of whites was so different from that of the majority of the members of the Movement. 256/ The Movement had been severely handicapped by the banning and restriction orders served on its officers. 257/

251/ Survey of Race Relations, 1972, pp. 392-393

252/ Ibid., pp. 393-394.

253/ Survey of Race Relations, 1971, pp. 292-293.

254/ Survey of Race Relations, 1973, p. 343. See also Cape Times 25 November 1972; Bulletins of Wages Commission of SRC of University of Natal, No. 4 of 1 February 1972, No. 5 of 10 February 1972; Guardian 2 and 18 April 1973.

255/ Cape Times, 17 December 1973; Guardian 2 April 1973; Rand Daily Mail, 18 April 1973, Cape Times, 5 April 1973; Rand Daily Mail, 21 March 1973.

256/ Survey of Race Relations, 1971, p. 294; Survey of Race Relations, 1974, p. 31.

257/ Cape Times, 10 July 1972.

South African Students' Organisation (SASO)

215. SASO emerged in July 1969. ^{258/} Its inaugural conference was held at the University of the North (Turfloop). An official outline ^{259/} of the factors that had led to the establishment of the organization was sent to all presidents of students' representative councils of English and Afrikaans-medium universities, as well as to other organizations. It cited as historical background to the formation of the new body (i) the implementation in 1960 of the Fort Hare Transfer Act, which had brought Fort Hare University College under direct government control and dealt a blow to student contact between that university and the rest of the student population; (ii) the separate colleges for Coloureds, Zulu and Sotho-speaking and Indians, where the authorities' power of veto was applied to student moves to associate with NUSAS; (iii) the position of the black students in "open" organizations like NUSAS and the University Christian Movement cited here as the turning-point was the NUSAS conference of 1967, when the blacks were made to stay at a church building in the location, and were brought to the conference site by car each day; (iv) the selection of an all-white executive at the 1968 NUSAS Congress. Accordingly, student representative councils from black campuses meeting in 1968 decided overwhelmingly in favour of a black student organization.

216. The structure of SASO is based on the student representative councils operating as "power bases" which affiliate on behalf of their students. Where no council exists, SASO accepts a majority student body decision as automatic affiliation of that centre. There is also provision for individual membership. The governing body is the General Students' Council which meets annually and consists of delegates from the various centres and the executive. This is the official policy-making body.

217. Subsequent statements elaborated the policy of the organization. A SASO policy manifesto published in August 1971 ^{260/} stated:

"1. SASO is a Black Student Organization working for the liberation of the black man first from psychological oppression by themselves through inferiority complex and secondly from physical oppression accruing out of living in a white racist society.

"2. We define black people as those who are by law or tradition politically, economically and socially discriminated against as a group in the South African society, and identifying themselves as a unit in the struggle towards the realization of their aspirations.

"...

^{258/} See the description of the emergence of SASO on page 245 of Survey of Race Relations, 1970, and page 42 of the Survey for 1971.

^{259/} South African Students' Organisation circular SB/2/70 (mimeographed). The aims of the body are outlined on page 5. They included "to crystallize the needs and aspirations of the non-white students and to seek to make known their grievances", and "to make the non-white students accepted on their own terms as an integral part of the South African community".

^{260/} SASO Newsletter, August 1971.

"4(a) SASO upholds the concept of black consciousness and the drive towards black awareness as the most logical and significant means of ridding ourselves of the shackles that bind us to perpetual servitude." 261/

The same statement rejected the policy of integration advocated by the Progressive Party and "other Liberal institutions", since those attempts were "directed merely. at relaxing certain oppressive legislation and to allow blacks into a white-type society". The policy was adumbrated in various speeches made during 1971 and subsequent years. 262/ A commission on black education reported to the second conference of the organization, and resulted in the adoption of a Declaration of Student Rights. 263/

218. During 1971, SASO planned activities based on leadership training, community development and literacy programmes. 264/ Members of the Natal Medical School started a free preventive medicine clinic. 265/ Students from SASO branches at the Universities of the North (Turfloop), Fort Hare, and Ngoya (Zululand) and at the Black Section of Natal University completed a two-month literacy campaign in association with churchmen. 266/ Students at the University of Natal (Black Section) had been active advising communities on low-income budgeting, teaching literacy, and raising money to install a water-pump. 267/ SASO students also operated a clinic near Wentworth for the poor of the coloured community of the area. 268/ During 1972, SASO's membership was reported as 6,000 and growing. 269/

4. Disturbances and protests by students

Disturbances at African schools

219. In African schools, disturbances have resulted from the nature of the system. These have included incidents during 1959, when students of the Amanzimtoti Zulu Training School left as a result of complaints about the tuition; there was a boycott of classes and attempts to set buildings on fire at the Kilnerton High School near Pretoria; and a disturbance took place at the Moroka Training Institute

261/ See "The definition of the Black Consciousness" (mimeographed paper).

262/ For references see Survey of Race Relations, 1971, pp. 42-43; Survey of Race Relations, 1972, pp. 29-30, 386-387. See also SASO 1972, which is an official account of the background; aims and structure of SASO and an introduction to the SASO Executive.

263/ Mimeographed.

264/ Survey of Race Relations, 1971, p. 293.

265/ Rand Daily Mail, 7 July 1971, cited in Survey of Race Relations, 1971, p. 293. See "New Farm" Project on Preventive Medicine (mimeographed).

266/ Survey of Race Relations, 1972, pp. 386-387.

267/ Ibid.

268/ Ibid.

269/ Ibid., p. 387.

at Thaba Nchu following complaints about the food. 270/ In 1961, there was considerable unrest at a number of African colleges and schools when the Republic was proclaimed, resulting in the closure of Fort Hare College three weeks before the term was due to end. Police raided the Healdtown Training College and High School during the same period; and the Lovedale United Theological School was closed. There were disturbances at a number of other educational institutions, especially in the Eastern Cape. In the first half of 1971 there were disturbances at 10 African schools; 271/ there were also disturbances during 1973. 272/

Disturbances at universities

220. Discontent at Fort Hare came to a head when the student representative council was dissolved in 1960; 273/ during 1964 the students again boycotted the graduation ceremony. 274/

221. In March 1972 students at the University College of the North (Turfloop) made bonfires of the students' diaries when the authorities ordered the excision of the SASO manifesto and the Declaration of Student Rights. 275/

222. In April 1972, at the University College of the North's graduation ceremony the students' elected speaker, Mr. O.R. Tiro, as past president of the Turfloop student representative council, strongly criticized the predominantly white control of black universities, discrimination against black people by the authorities, and the system of Bantu education in general. Mr. Tiro was expelled by the all-white disciplinary committee of the University. When a petition for his reinstatement was rejected, students commenced a sit-in. The authorities suspended the student representative council, banned all meetings and announced the expulsion of 1,146 students. Police with riot sticks and dogs arrived on the campus. By 6 May the campus was deserted and sealed off by the police. 276/ Students were readmitted only on condition that they accepted conditions laid down by the university authorities. By the time students had been readmitted, the 22 members of the suspended student representative council had been excluded. 277/

223. In May 1972, SASO called for a national boycott by black students. A meeting of student leaders from seven black campuses demanded black councils and senates and freedom of student organization. 278/

270/ For further details see Survey of Race Relations, 1959-1960, pp. 220-221. For further details of disturbances at schools and disciplinary action taken by the authorities, see Survey of Race Relations, 1961, pp. 238-241; Survey of Race Relations, 1962, pp. 183-184.

271/ Defence and Aid Information Service, January-June 1971, col. 443.

272/ Ibid., July-December 1973, col. 388.

273/ Survey of Race Relations, 1959-1960, p. 236.

274/ Survey of Race Relations, 1964, p. 293.

275/ Survey of Race Relations, 1972, p. 387.

276/ Star, 6 May 1972, cited in Survey of Race Relations, 1972, pp. 387-388.

277/ Star, 6, 7 14 June 1972, cited in Survey 1972, p. 388.

278/ Sunday Express, 14 May 1972, cited in Survey 1972, p. 388. See also "Alice Declaration on Turfloop Crisis" (mimeographed), 14 May 1972.

224. Also in May 1972, students at the University of Durban-Westville, the University of Zululand, the Springfield College of Education, the M.L. Sultan Technical College and the Transvaal College of Education took part in protest actions. 279/

225. In July 1972, students at the University of the Western Cape began a boycott of lectures in support of the Turfloop students. 280/ New regulations governing students at the University of the Western Cape forbade the formation or membership of organizations not approved by the authorities. The Rector called the police to the campus after the students refused to terminate a visit by the SASO president. 281/

226. In June and July 1973 student protests about the way in which the University of the Western Cape was run culminated in demonstrations calling on the Rector to resign. The Rector closed the university for a month and announced that students wishing to return would be obliged to complete a readmission form including a promise to comply with all university rules and regulations. 282/ Among the students' complaints were poor teaching, the generally oppressive rules and regulations, 283/ the authorities' refusal to give reasons for the expulsion of four students, and the lack of university autonomy. An internal committee of inquiry led to the appointment of a government inquiry under the chairmanship of Mr. Justice J.T. Van Wyk (see paras. 233, 242).

227. In October 1974, more than 1,400 African students of the University of the North (Turfloop) marched on the Mankoenj police station and staged a one-hour sit-in. The students handed a petition to the police in which they demanded the release of the detained president of their student representative council, Mr. G.K. Sedibe. During the sit-in the chairman of the local committee of SASO, Mr. Cyril Ramaphosa, was arrested. The petition also demanded the release of other students arrested at the same time as their president after a pro-FRELIMO rally at the university on 25 September 1974. The students demanded the reform of certain laws, citing the Riotous Assemblies Act, the Suppression of Communism Act, the Terrorism Act and the Sabotage Act. 284/ The sit-in later extended to the university premises. On the sixth day of the vigil a force of police was standing by on the campus. 285/ The university authorities offered the students an amnesty on condition they returned to classes. 286/ The student protest was followed by the appointment of a government commission of inquiry into the incident (see paras. 234-235).

279/ Survey of Race Relations, 1972, pp. 388-391.

280/ Cape Times, 9 and 12 May 1972.

281/ Survey of Race Relations, 1972, p. 389.

282/ Cape Times, reports cited in Defence and Aid Information Service, January-June 1973, p. 128.

283/ New regulations governing students at this college were gazetted by the Minister of Coloured Affairs, which gave the force of law to internal disciplinary rules. There were 73 regulations in all. See Survey of Race Relations, 1972, p. 389.

284/ Rand Daily Mail, 17 October 1974.

285/ Cape Times, 21 October 1974; Rand Daily Mail, 21 October 1974.

286/ Rand Daily Mail, 23 October 1974.

Commission of inquiry into certain organizations, including NUSAS

228. In February 1972 287/ the Prime Minister announced in the House of Assembly the appointment of a Select Committee to inquire into and report upon the objects, organization, activities and financing of four organizations, among them NUSAS. 288/ The Prime Minister announced that "according to information which the competent authorities have at their disposal there was most certainly a prima facie case". This information, he said, would be made available to the Select Committee. The Committee was to have power to take evidence and call for papers. The United Party opposition in Parliament contested the motion on the grounds that it was not properly motivated and suggested instead that the inquiry be undertaken by a judicial commission, but it took part in the work of the Committee, which was composed of five Nationalist and three United Party members of Parliament. 289/

229. NUSAS announced that it would boycott the Parliamentary Committee set up to investigate it, unless it was forced by law to give evidence. It also announced that a number of documents requested by the Parliamentary Select Committee could not be handed over by the organization because they had not been returned by the Security Police, which had seized them in a raid more than a year previously. 290/ In April 1972 the NUSAS President, Mr. Paul Pretorius, was issued with a summons to appear before the Committee. The appearance, he said, was in accordance with a decision of the NUSAS National Council, which had mandated him to give evidence only when forced to do so by law. 291/

230. The Office of the Prime Minister announced that the Parliamentary Select Committee would be converted into a Commission of Inquiry to enable it to finish its work during the parliamentary recess. 292/ Notice of the appointment of the Commission and details of its extended terms of reference were gazetted. 293/ The wider terms of reference included the power to make recommendations and to investigate persons and organizations connected with the four organizations under investigation. New powers included the power to subpoena witnesses. The regulations listed in a proclamation by the State President also provided for stringent secrecy in the Commission's investigations. 294/ The Deputy Minister of Police, Mr. A.L. Schlebusch, Nationalist Member of Parliament for Kreenstad, was appointed Chairman, and the Commission came to be identified as the Schlebusch Commission. 295/ During the second half of 1972 a number of academics were summoned to give evidence before the Commission. 296/

287/ House of Assembly Debates, 10 February 1972, cols. 723-729; see ensuing columns for debate on the issue.

288/ The other three organizations were the South African Institute of Race Relations, the University Christian Movement and the Christian Institute of South Africa. For details see Star, 12 February 1972, p. 7.

289/ House of Assembly Debates, 10 February 1972, cols. 729-732.

290/ Rand Daily Mail, 13 March 1972.

291/ Cape Times, 4 April 1972.

292/ Cape Times, 13 July 1972, as cited in Defence and Aid Information Service, July-December 1972, p. 528.

293/ Government Gazette, 14 July 1972, vol. 85, No. 3613; Government Notice No. 1238.

294/ See Regulation No. 14 of Government Notice No. 1238.

295/ Star, 5 August 1972.

296/ Rand Daily Mail, 25 October 1972; Cape Times, 25 October 1972.

231. The Schlebusch Commission tabled two interim reports in the House of Assembly during the start of the 1973 parliamentary session. One recommended urgent action against eight NUSAS student leaders; the other recommended the establishment of a permanent parliamentary commission on internal security. Both reports were unanimous, the recommendations having the full support of the four senior opposition Members of Parliament who served as members of the Commission. 297/ As a result of the two reports the Government banned the eight NUSAS leaders named. The Government also announced that legislation would be introduced to establish the Internal Security Commission. 298/ The Commission's evidence claimed that NUSAS had been guilty of political activity directed to upsetting the existing political order; leadership of this activity by a "clique"; social non-conformity; statement of defiance of the law; and receiving foreign money. 299/

232. NUSAS issued a detailed report rejecting the findings of the Schlebusch Commission. The NUSAS "counter report" analysed the evidence on which the banning action had been taken against eight student leaders. It rebutted specific allegations, presented financial details to reject the claim that NUSAS relied on "tainted" overseas funds, and denied that the organization was manipulated by a "clique" of commune dwellers. 300/

The University of the Western Cape

233. After trouble involving a wide section of the Coloured community as well as students of the University of the Western Cape demanding the unconditional reinstatement of leaders victimized after student protests, the Government appointed a commission of inquiry under Mr. Justice Van Wyk to investigate the student complaints. 301/ During the dispute, 17 students were suspended. The Van Wyk Commission report, published in March 1974, said the Government had either to end the ethnic character of the Coloured university or prevent potential trouble-makers from getting a foothold. The immediate causes of the unrest were said to have stemmed from the activities of SASO. There was also dissatisfaction that whites instead of Coloureds controlled the university. Objections to the rules and regulations were found by the Commission, with a few exceptions, to be unfounded or exaggerated. 302/

297/ Rhodesia Herald, 5 March 1973. The Government banning produced protest on the part of anti-Government newspapers and within the United Party; the opposition Shadow Minister of Education, Mrs. Catherine Taylor, resigned on the grounds that opposition participation was endorsing Government student bannings. See Rand Daily Mail, 5 March 1973; see also Sunday Times, 11 March 1973.

298/ For the debate on the report of the Commission of Inquiry see House of Assembly Debates 16 August 1974, cols. 829-914.

299/ Sunday Times, 18 March 1973. This report commented that the five classes of allegation had not produced the evidence "to hang a cat". The evidence produced by the Schlebusch Commission did not justify the banning of the eight NUSAS student leaders, according to an opposition MP, Mr. Japie Basson, see Sunday Times, 22 April 1973.

300/ Rand Daily Mail, 16 August 1974. See also Cape Times, 14 August 1974; Varsity (University of Cape Town student newspaper), special issue on the Schlebusch report.

301/ Rand Daily Mail, 1 March 1974; Sunday Times, 1 March 1974.

302/ For a précis of the press reports see Defence and Aid Information Service, July-December, cols. 383-384.

Commission of inquiry into the University of the North (Turfloop)

234. In November 1974 the Government appointed a commission of inquiry into "certain matters relating to the University of the North". 303/ The Chairman and sole member of the Commission was Mr. Justice J.H. Snyman of the Transvaal Division of the Supreme Court. The Commission was to inquire into events at the university on 25 September, to determine the causes and the part played by the university management, the student representative council and any other organization. The student representative council was mandated by the 1,000-member student body to appear before the Commission and briefed an advocate, Mr. I. Mahomed, to lead their evidence. 304/ A former student leader who had taken refuge in Botswana after detention following the pro-FRELIMO rally said he could give evidence to the Commission only if it held a hearing on "neutral ground". 305/

235. Evidence given before the Commission by a black member of the academic staff claimed that unrest on the campus had been a manifestation of grievances about discrimination against blacks which was entrenched at the university. 306/ Fifty-two academics of the university made representations for a radical change in the method of appointment of the university's senate, council, rector, lecturers and administrative staff. The submissions were made by the Black Academic Staff Association (BASA). 307/ Police evidence to the Commission said there was abundant proof that the prime cause of student unrest at the university was the activity of SASO, which was being manipulated in the direction of "communism" and towards confrontation with the State. The evidence added that BASA was likewise involved, since BASA ideology was "just an extension of SASO ideology". 308/ In his final submissions on the last day of the inquiry, Mr. Mahomed summarized the attitudes of the black staff and students at the university. The press report of his submission included the following:

"If radical domestic reforms in the administration of Turfloop, and other black universities, were undertaken to bring the administration in line with the policy of a university 'not only for blacks, but of blacks and by blacks' it would give those connected with it a sense of personal dignity and a fuller sense of commitment which would help to ensure a more effective running of the university. There was no reason, he said, why the majority of members of the university council should not be blacks - drawn from responsible black bodies such as homeland governments and African parents' organizations in the urban African areas. The appointment of an African Rector or Registrar to Turfloop would also help to rid the Africans on the campus of inferiority complexes, brought about as a result of discriminatory practices on the campus itself. He said that the continuous control by whites of an African

303/ Government Gazette, 1 November 1974; Government Notice No. 2051. See also Rand Daily Mail, 2 November 1974, 8 November 1974.

304/ Rand Daily Mail, 21 November 1974. For some detail of the Commission proceedings and evidence in the initial stages, see Rand Daily Mail, 21, 27 and 30 November 1974.

305/ Rand Daily Mail, 6 December 1974.

306/ Rand Daily Mail, 5 March 1975.

307/ Sunday Times, 30 March 1975.

308/ Rand Daily Mail, 25 and 26 March 1975; Star, 29 March 1975.

university in an area intended as an African homeland was a source of fundamental and acute grievances. The students and lecturers at Turfloop were articulate and idealistic and acutely conscious of their own dignity. Discriminatory practices on the campus had therefore acted as an important catalyst in the alienation of the administration and the student body, he said. It was not the discrepancies in salaries, facilities and the amount of study leave allowed for white and black which turned the knife in the wound, said Mr. Mahomed, but the fact that discrepancies existed purely because of the difference in skin colour." 309/

5. Impediments to student organizations

236. Previous reports of the Ad Hoc Working Group of Experts (notably E/CN.4/1135, E/CN.4/1111, E/CN.4/1159) have described how student leaders who made explicit criticisms of apartheid have been subjected to banning and restriction orders. Thus, at the start of the 1973 academic year seven students and a lecturer associated with NUSAS were served with five-year banning orders, following the interim report of the Schlebusch Commission. 310/ Similar measures were used in the case of SASO in the same year. On one occasion the SASO office was broken into and confidential files were stolen. This was followed by banning orders on eight SASO activists. 311/ In a list of 29 members and supporters of black organizations detained and interrogated between November 1974 and March 1975, published by SASO in the period under review, at least eight are described as students, or specifically as SASO members. 312/

237. The presence of police informers on university campuses was alleged in a publication of the Academic Freedom Committee of the Cape Town and Witwatersrand Universities. 313/ The knowledge, or the suspicion, that such informers were present at lectures and campus meetings created an atmosphere of insecurity under which staff and students were in fear of being reported or misreported to the authorities, who might then take action on the basis of those reports without recourse to a court of law, said the booklet. A few months after the publication of the booklet, the head of the Security Branch in the Western Cape confirmed that one of his officers had been involved in a secret meeting with a student. A newspaper published extracts from the conversation during which the student said he had been harassed by Security Branch policemen since 1972; there had been several offers to buy information from him. 314/

309/ Rand Daily Mail, 27 March 1975.

310/ Defence and Aid Information Service, January-June 1973, col. 126.

311/ Cape Times, 1 February 1973; Rand Daily Mail, 6 February 1973, Rand Daily Mail, 1 and 3 March 1973; Star, 17 March 1973 (cited by Defence and Aid Information Service).

312/ "Second report on arrests, detentions and trials of members and supporters of South African Students' Organisation, Black Peoples' Convention, Black Community Programme, Black Allied Workers' Union, Theatre Council of Natal, Peoples' Experimental Theatre" (published by SASO, April 1975).

313/ The Open Universities in South Africa and Academic Freedom 1957-1964. Signatories to the booklet included the two principals of the Universities, the chairmen of the University Councils, academics and a student leader. For a report on the publication, see Sunday Times, 12 January 1975.

314/ Rand Daily Mail, 22 April 1975; Cape Times, 22 April 1975. For earlier accounts of police surveillance and intimidation see Defence and Aid Information Service, January-July 1969, p. 278.

238. Restrictions on student expression are in any case built into the black university system. For instance, when the University Colleges of the North and Zululand were opened, affiliation to NUSAS or any other student organization was not permitted. 315/ From the beginning of 1971 all students applying for admission to the University College of the North (Turfloop) were also required to sign a declaration of loyalty to the college. The text of this declaration was given to Parliament on 12 March 1971. 316/ It was confirmed that the Council of the College had banned all protest, whether peaceful or violent. 317/

239. After the formation of SASO, the Departments of Indian Affairs and Coloured Relations were reported to have stated that the student bodies of universities under their control would not be permitted to affiliate to SASO. 318/ In March 1973 eight SASO leaders were banned for five years. Other members of SASO who took over offices relinquished by the banned officials were banned in turn. 319/ Later in the year it was reported that SASO had been banned from the campuses of Fort Hare, the North, and the Western Cape, and from the area of the Bophuthatswana government. 320/ The Council of the University of the North announced a ban on the activities of SASO as well as a decision to disband the students' representative council and to hold a new election. 321/ SASO complained that this university had not only banned SASO campus activities but had refused to admit certain students who were members of the organization. 322/ It had been disclosed the previous year that 130 black students who applied to the University of South Africa (a correspondence university) for admission after being expelled or suspended from tribal colleges were rejected. 323/

240. On 1 February 1974, Mr. O.R.A. Tiro, a SASO leader who had fled to Botswana, was killed by a parcel bomb. After his flight he had become president of the South African Students' Union, whose second conference was due to be held in Gaberone in June. 324/

241. The arrests and trial following the banned pro-FRELIMO rally were reported in a previous report of the Group (E/CN.4/1159, para. 79). At the beginning of February 1975, 12 blacks detained without trial for four months after the rally were remanded for summary trial in Pretoria on charges under the Terrorism Act.

315/ Horrell, op. cit., p. 151.

316/ House of Assembly Debates, 12 March 1971, col. 482.

317/ Rand Daily Mail, 12 March 1971, cited in Defence and Aid Information Service, January-June 1971, col. 443.

318/ Rand Daily Mail, 7 July 1971, cited in Survey of Race Relations, 1971, p. 293.

319/ Ibid. The names of the banned SASO leaders are given.

320/ Rand Daily Mail, Townships edition, 8 September 1973, cited in Survey of Race Relations, 1971, p. 344.

321/ BBC Monitoring Service, 20 February 1975.

322/ Rand Daily Mail, 20 February 1975.

323/ Star, 6 July 1974.

324/ Defence and Aid Information Service, January-June 1974, col. 665.

The 81-page charge sheet specifically named SASO, and alleged that the accused had conspired with one another and others between 1968 and 1974 to commit various acts, including attempts to transform the State by unconstitutional, violent or revolutionary means. 325/ A few days later a thirteenth detainee was joined with the others to face charges under the Terrorism Act. 326/

242. At the beginning of 1975, the Van Wyk-De Vries Commission report on universities included recommendations that could declare NUSAS an unlawful organization, give universities political powers to end political activity on the camps, cause universities to forfeit State subsidies for failure to stop staff-student activities, and exclude the jurisdiction of the courts in these matters. 327/

325/ Times, (London), 8 February 1975.

326/ "Second report on arrests, detentions and trials of members and supporters of SASO, BPC, BCP, BAWU, Tecon and PET" (published by SASO, April 1975).

327/ Star, 15 February 1975; Sunday Times, 16 February 1975; Rand Daily Mail, 12 February, 4 March 1975.

E. APARTHEID AND THE AFRICAN FAMILY

243. This question is being studied in detail for the first time by the Ad Hoc Working Group of Experts, although reference has been made in various reports in the past to the disruptive effects of apartheid upon African family life.

1. Description of the African family and analysis of its role

244. Within the traditional social organization of the tribe the outstanding social unit was the family or household, consisting typically of man with his wife or wives and dependent children, together with any other relatives or unrelated dependants who might be attached to him. In addition to its biological function, the family played an educational role. It was additionally largely a self-sufficient unit for the production and consumption of food.^{328/}

245. The African family structure within the social order (patriarchal rule, male tutelage, male primogeniture, polygyny, arranged marriages, the sororate and levirate) provided women, and families, with protection and secured their rights when they belonged to self-sufficient households in peasant communities.^{329/}

246. Although the impact of white conquest and the development of the white urban economy tended themselves to dislocate African traditional society, the most violent dislocation of the family system followed the twentieth century institutionalization of the migrant labour system, which had its origins in the diamond industry in the mid-nineteenth century.^{330/}

247. The migrant labour system in turn developed out of, and was perpetuated by, policies of control relating to: (a) land and territorial segregation; (b) labour; and (c) influx of Africans to urban areas.

(a) Land

248. The Native Land Act No. 27 of 1913 was the initial legislative enactment embodying the principles of territorial separation. A series of commissions whose

^{328/} I. Schapera, Western Civilization and the Natives of South Africa (Routledge, 1934), see chap. 1, pp. 6-10.

^{329/} H.J. Simons, African Women: Their Legal Status in South Africa (Evanston, Ill., North-western University Press, 1968), pp. 79-84, 87-93, 100-106. For details on kinship and clan organization in traditional society, see: Schapera, op. cit., pp. 15-19; on sex and age differentiations: ibid., pp. 19-22; E.J. Krige, in I. Schapera, ed., The Bantu-Speaking Tribes of South Africa (Routledge, 1937), pp. 95-118; on differential social structure details: Monica Wilson, "The Nguni people", in The Oxford History of South Africa, Monica Wilson and Leonard Thompson, eds. (Oxford, Clarendon Press, 1969) (hereinafter cited as Oxford History), vol. I; Monica Wilson "The Sotho, Venda and Tsonga", in Oxford History, vol. I, esp. pp. 153-155, 158-163.

^{330/} Oxford History, vol. II, p. 214. See also Francis Wilson, Migrant Labour in South Africa (Johannesburg, Spro-Cas, 1972), esp. chap. 1, "Historical background".

function was to lay down permanent lines of territorial separation led to further measures passed in 1936, in particular the Native Trust and Land Act No. 18 of 1936 (for a summary, see the report of the Tomlinson Commission 1951-1955, pp. 44-45, paras. 30-35; see also E/CN.4/1050).^{331/}

249. The restrictions on African land were closely related to the demands of white agriculturalists and industrialists for labour: that is, limitations on African land were intended, like the cash taxes imposed on Africans from the nineteenth century onwards, to force them to earn money in the white economy.^{332/}

(b) Contract and migrant labour

250. Some industries, like mining, engage male labour on a contract basis which precludes a worker enlisting for employment together with his family.^{333/}

251. Labour statistics indicate the heavy and consistent rise in the number of migrant workers.^{334/} Black workers employed in the gold mines alone nearly doubled between 1910 (183,793) and 1939 (321,400).^{335/}

252. Several government commissions (pre-1948) condemned the migrant labour system: in 1942 the report of the Interdepartmental Committee on the Social, Health and Economic Conditions of Urban Africans (the Smit Committee) (para. 8) and in 1946 the Social and Economic Planning Council, Report No. 9, "The Native Reserves and their place in the economy of the Union of South Africa" (para. 11). The report of the 1946-1948 Native Laws Commission (the Fagan Commission) saw the idea of total segregation as totally impracticable; and stated that there was in the urban areas a settled, permanent African population (p. 19, para. 28). The Smit Committee in particular stressed the impact of the system on African family life, reporting that "the past half-century had witnessed a decline in the stability of Native family life which constitutes a danger to the whole nation - black and white alike - in the spheres of health, of morality, and of general social structure, peace, order, reasonable contentment, goodwill, and a sense of national solidarity".^{336/}

^{331/} For up-to-date statements of the factual position of land, see: M. Horrell, The African Reserves of South Africa (SAIRR, 1969); and M. Horrell, The African Homelands of South Africa (SAIRR, June 1973).

^{332/} "The original intention was to locate the resident natives on these surveyed allotments, and to make no provision for the natural increase of the population, the surplus to find work elsewhere ... so that ... during the coming generation a limited number will be agriculturists, i.e. native farmers - and the rest will have to go out and work" - quoted by M. Wilson from "Native location surveys".

^{333/} Francis Wilson, Labour in the South African Gold Mines, 1911-1969 (London and Cambridge, Cambridge University Press, 1972), esp. pp. 2-5.

^{334/} Sheila van der Horst, Native Labour in South Africa (Cass reprint 1971); see p. 216 for the increase in African labour enlistment between 1904 and 1939.

^{335/} F. Wilson, op. cit., pp. 157-158.

^{336/} Quoted in Oxford History, vol. II, p. 189.

253. But after the Nationalist Government won the 1948 election it repudiated the Fagan Commission and reaffirmed the findings of the Stallard Commission in 1922 that permanent residence in the towns was the exclusive right of whites. Policy was aimed at freezing the number of Africans in the towns and preventing the further townward migration of African families.^{337/}

(c) Entry to urban areas

254. The policy against the urbanization of Africans except as temporary workers goes back to pre-Union years ^{338/} and after Union the Native (Urban Areas) Act of 1923 provided the foundation of policy.^{339/}

255. From 1948, government policy to reduce and turn back any but the essential flow of labour into the urban areas has been intensified. Section 10 of the Bantu (Urban Areas) Consolidation Act No. 25 as amended is the crucial clause which controls the admission to and presence of Africans in urban areas. Under this legislation no African may remain in an urban area for more than 72 hours unless he has a permit to work or to seek work, or unless he or she qualifies for exemption because he has lived in that urban area since birth or for 15 continuous years, has worked 10 years for the same employer, or is wife, unmarried daughter or son under 18 of an African already exempted, who "after lawful entry into the area, ordinarily resides with that African".

256. In 1952, section 10 of the Native (Urban Areas) Consolidation Act was made applicable to African women as well as to African men.

257. Section 10 of the Act was increasingly strictly applied in the late 1950s. (An unmarried woman may be ordered out of town if she does not qualify to remain, loses her job and no suitable vacancy exists. A married woman may be forced to leave if her husband dies or deserts her.) ^{340/}

258. In 1974 over one in five arrests under the pass laws were of women (60,273 women and 214,368 men were arrested).^{341/}

259. Revised Native Labour Regulations were issued in 1959 (Government Notice No. 63 of January 1959); for the first time the regulations were made applicable to African women employees, who could not legally enter employment unless they reported to the local employment office.^{342/}

^{337/} Oxford History, vol. II, p. 191.

^{338/} Oxford History, vol. II, p. 186.

^{339/} Oxford History, vol. II, pp. 187-188.

^{340/} Survey of Race Relations, 1957-1958, p. 47.

^{341/} House of Assembly Debates, 11 February 1975; see also statistics for arrests of men and women in Survey of Race Relations, 1966, pp. 163-164.

^{342/} Survey of Race Relations, 1958-1959, pp. 104-107.

260. The Bantu Laws Amendment Act No. 76 of 1963 affected (a) entry into urban areas; and (b) domestic servants in urban areas.^{343/}

261. The Bantu Laws Amendment Act No. 42 of 1964 reinforced measures for the control of the presence and employment of Africans.^{344/}

262. Bantu Labour Regulations published on 3 December 1965 controlled the entry of wives into urban areas, and enacted measures to restrict the tenancy of houses by women (applications for the tenancy of houses by unmarried mothers are not entertained; in the case of a divorcee, tenancy of a home cannot be transferred to her unless her ex-husband voluntarily agrees to cede his right to it; in the case of a widow, she must prove that the marriage was legal, that she can afford to pay the rent, and that she is qualified to remain in the area).^{345/}

263. Minor children may be prevented from living with their parents. This may be for lack of suitable housing - there were 14,000 African families on the waiting list in Johannesburg in 1973;^{346/} and government policy is to encourage hostel accommodation rather than family housing for urban Africans (see para. 280 below). Or it may be because one or other of their parents do not qualify for residence in the urban area, or because they are the children of an unmarried mother who is not entitled to have children on her residence permit.^{347/}

264. Section 10(1) of the Urban Areas Act has virtually closed the towns to new women entrants.^{348/} Domestic workers' contracts involve undertaking not to allow their children to join them on employers' premises, and penalties are extended to the employers as well as the workers for contravention of this undertaking.^{349/}

265. Parents who wish their children to be educated beyond primary level are being forced to send them to the "homelands" for schooling, since urban secondary schools are being reduced according to deliberate government policy.^{350/}

^{343/} Survey of Race Relations, 1963, pp. 124-127.

^{344/} Survey of Race Relations, 1964, pp. 174-181 (clauses concerning women are referred to at pp. 179-180).

^{345/} Survey of Race Relations, 1966, p. 165.

^{346/} Memorandum on the pass laws and influx control, Sash, Johannesburg, February 1974.

^{347/} Survey of Race Relations, 1966; Hilda Bernstein, For Their Triumphs and for Their Tears: Women in apartheid South Africa, (International Defence and Aid Fund, 1975).

^{348/} House of Assembly Debates, 18 February 1975, cols. 962-963; Survey of Race Relations, 1966: no women admitted to Cape Town municipal area, p. 162.

^{349/} Star, 18 September 1973, cited in X-Ray, February 1974, vol. 4, No. 5, pp. 1-2.

^{350/} Bernstein, op. cit., p. 30.

2. Short-term and long-term effects of apartheid on the African family

(a) Effects on rural families

(i) Disparity in male-female population ratios

266. Statistics for 1936 and 1946 (both census years) indicate a disparity in male-female population ratios, by urban and rural areas, as follows:^{351/}

Urban areas on average	1936	100,000 more men than women
	1946	100,000 more men than women
"Non-Bantu rural areas"	1936	71,000 more women than men
	1946	19,000 more men than women
"Bantu" rural areas	1936	490,000 more women than men
	1946	528,000 more women than men
Diggings, gangs, compounds etc.	1936	500,000 more men than women
	1946	500,000 more men than women

267. The sex ratios in an African reserve demonstrate the most extreme imbalance at working and family-rearing ages of parents. One of the only complete surveys of the effects of migrant labour on an African reserve - the Keiskammahoek Rural Survey - revealed "a most disproportionate absence of men of working age and a heavy burden of dependent old and young on the people of productive age remaining ... In the face of steadily declining numbers of men of working age and increasing numbers of children and of old people, the trend is leading towards a ... population comprised mainly of old and young"; and "Already (1946) the people of 65 years and older and children under 15 comprise more than half the population, and at the rate at which trends developed during the intercensal decade (1936-1946) they would constitute 60 per cent of the total population in another generation".^{352/}

(ii) Changing structure of the family

268. Information available to the Group indicates that the migrant labour system inaugurated a pattern of separation of husband and wife and the absence of the male head of the family over prolonged periods of time.^{353/} The Keiskammahoek Survey showed how few homesteads had a male head at home. In a five-village

^{351/} UG 53 of 1951, Report of the Eiselen Commission, see table X, p. 17. Table XII indicates the high percentage of women in the African Reserves; also the very slight changes between 1936 and 1946. By 1960 the total urban African population consisted of 2,000,929 men and 1,443,021 women (footnote 27).

^{352/} D. Hobart Houghton and Edith M. Walton, "The economy of a Native Reserve" (hereafter referred to as the Keiskammahoek Survey), vol. 2, 1952, see esp. table 8, p. 35 and pp. 20-35.

^{353/} M.B. Mbata, "The African in the city and his family", address to the South African Institute of Race Relations, Durban, 1960, p. 3, cited in Oxford History, vol. II, p. 214.

sample, for instance, only 59 per cent of the ~~steads~~ had a male head at home. In numbers of other homesteads, the head was a widow. The composition of the homestead was "in a perpetual state of flux".^{354/}

269. Economic effects of the absence of the male from the rural family have been said to be both the result and the cause of the poverty of the Reserve economy, since the absence of so many in the prime of life inhibits economic progress and accounts for the low agricultural productivity.^{355/}

270. The women are left in the reserves to rear families alone. They are fortunate if they have a little land and their absent husband sends them money regularly. To them remains the task of taking care of the old as well as bringing up "fatherless" children.^{356/}

271. Resettlement camps are areas in the "homelands" to which the old, the women and children who have no right of residence in urban areas are sent. The plight of broken families there is, if anything, more extreme than that of others in the reserves, because the people are urban people, unused to working the land, they inherit neither social facilities nor opportunities for employment, and the land they are allotted is often dry and worthless.^{357/}

(iii) Social effects

Broken families

272. The absence of men from the reserves is put as high as 54 per cent and 72 per cent in some districts.^{358/}

Conjugal relations disturbed

273. Prolonged absence of the menfolk means, according to information before the Group, a high proportion of broken families. Men in the cities separated for long periods from their wives tend to set up other relationships, and under financial and other pressures to abandon their rural families. The women too may be lonely and form other attachments.^{359/}

^{354/} Keiskammahoek Survey, pp. 53-54, see table 23, p. 60, also table 26.

^{355/} Keiskammahoek Survey, pp. 51-52, 112-113. Also evidence of the Secretary of Health to the Fagan Commission (Report of the Native Laws Commission, 1946-1948), p. 40.

^{356/} Phyllis Ntantala, "The widows of the reserves", Africa South, vol. 2, No. 3, April-June 1958, pp. 9-13. See also "Apartheid and the disabilities of women in South Africa", Unit on Apartheid, Notes and Documents, December 1973, esp. pp. 4-8, citing Towards Social Change, Report of the Study Commission on Christianity in Apartheid Society.

^{357/} Documented by Cosmas Desmond, The Discarded People, Christian Institute of South Africa. See also Financial Mail, 15 June 1973.

^{358/} Monica Wilson, "Let no man put asunder", SA Outlook, January 1974.

^{359/} Ellen Hellman, "The effects of industrialization on social structure and family life" (mimeographed, 1968), p. 13. See also Dr. Trudi Thomas, "Children of the Ciskei", Fact Paper 8; X-Ray, December 1973.

Illegitimacy

274. Prolonged separations and broken families make for a large number of illegitimate children. Some of these will have been born to abandoned mothers; others to women in the cities who cannot look after them and send them to rural relatives to bring up. In the Keiskammahoek Reserve, one child in every four was illegitimate.^{360/}

Consequences for the status of women

275. The status of African women, relative to guardianship and custody of minor children, to marriage and property rights, is complicated by conflicts between the common law and African customary law. Certain aspects of African law, in addition, have been reinforced by the present government, with the effect of confirming women as perpetual minors without property rights, including rights of inheritance, without the freedom to marry without permission of their fathers, or the right to custody of their children should their father claim them.^{361/}

Effects on rural children

276. The effect of migrant labour on African children in the Ciskei homeland has been recently studied by Dr. Trudi Thomas, a white mission doctor in the Ciskei homeland.^{362/} Her statistics, based on questionnaires, show that 60 per cent of malnourished children were illegitimate; and 80 per cent of them had been deserted by their fathers, most of whom worked in cities. Dr. Thomas warns most strongly of the emotional consequences of separation: unloved, she says, the children "become unloving; neglected, therefore neglectful; unsupported, therefore unsupporting. Migrant labour selects and reinforces brutish attitudes, callous and irresponsible behaviour".

(b) Effects on urban families

(i) Disparity in male-female population ratios

277. For figures demonstrating the disparity in male-female population by urban and rural areas, see paragraph 266 above.

(ii) Changing structure of the family

278. Information before the Group indicates that industrialization under the migrant labour system has meant changes in the structure and functions of the family

^{360/} Keiskammahoek Survey, pp. 11-12 and chap. 3, table 29. See also "Migrant labour: Churches' statement" (Christian Council for South Africa), SA Outlook, March 1956; and Dr. Trudi Thomas, op. cit.

^{361/} For parliamentary debate on legal disabilities of African women, see House of Assembly Debates, 18 February 1975, cols. 954-996. See also "Apartheid and the disabilities of women in South Africa", Unit on Apartheid, Notes and Documents, December 1973.

^{362/} The Children of Apartheid (Africa Publications Trust), cited in X-Ray, December 1973.

in urban areas: the replacement of the traditional extended family by the nuclear family, with weakened bonds with the wider kinship group.^{363/}

279. Urban families, like rural families, have a high incidence of female-headed households - this despite the preponderance of men over women in the urban areas.^{364/}

280. In towns, changed household structures owe much to the shortage of family accommodation.^{365/} There has been a long-standing housing crisis for urban Africans, involving long waiting lists (cf. para. 263 above); but this has been exacerbated by the present government's policy of demolishing family housing and erecting hostel accommodation only.^{366/}

(iii) Social effects

Broken families

281. Housing allocations in Cape Town go to male heads of families only, so that widows, divorcees, abandoned wives and unmarried mothers cannot keep a home for their children.^{367/}

282. In a speech made in September 1973, the Deputy Minister of Bantu Education said that in certain circumstances the Government would allow the housing of African workers and their wives together, but the children would have to remain in the homelands.^{368/} There were also some concessions made on home ownership for Africans in urban areas during 1975.^{369/}

283. However, according to information before the Ad Hoc Working Group of Experts, a breakdown of Johannesburg's black population in June 1971, together with the type of housing to which it was allocated shows a rapidly growing number of men and some women (about 100,000 persons of a population of 736,134) housed on a single basis.

^{363/} Hellman, op cit., p. 13.

^{364/} Oxford History, vol. II, p. 215. See also M. Wilson and A. Mafeje, Langa (1963), p. 79.

^{365/} University of Natal, Institute for Social Research, "The Baumanville Community" p. 24, cited in Oxford History p. 216; Wilson and Mafeje, op. cit., citing instances from Langa, p. 75.

^{366/} Rand Daily Mail, 11 and 15 April 1975; also House of Assembly Debates, 20 and 30 August 1974, on numbers of family units built and the waiting list; see also Survey of Race Relations, 1974, pp. 165-168.

^{367/} Survey of Race Relations, 1967, p. 176.

^{368/} Rand Daily Mail, 20 September 1973, cited in Survey of Race Relations, 1973, p. 135.

^{369/} Times (London), 3 May 1975.

The total does not include mine compound residents or domestic servants living on their employers' premises. The figures also indicate the numbers living in (a) hostels and (b) compounds.370/

284. The extent of migrant labour in Port Elizabeth may likewise be gauged from tables showing the details of municipal hostels and employer compounds as they were at the end of 1971.371/

285. The intensified plans for the removal of "redundant" black families from the urban areas, with the aim of creating a labour force domiciled in the rural areas which migrates to the urban areas as single workers, has led to a massive programme of hostel building.372/

286. The effects of influx control have been especially severely felt in the Western Cape in the disruption of family life, according to information before the Group.373/ There the government announced in 1961 that no additional African women were being permitted to enter the Western Cape, whether to obtain employment or to join their husbands permanently.374/

287. Families are regularly broken up by the arrest of African men - and women - for contravening control laws and regulations. Pass law arrests numbered nearly 10.5 million between 1948 and 1973.375/

288. The Ad Hoc Working Group of Experts has had its attention drawn to various dossiers on families broken up as a result of the operation of the pass laws and labour regulations, and of the population removal schemes. These involve women with children refused permission to reside with their husbands, and "endorsed out" of urban areas, with virtually nowhere to go.376/

370/ F. Wilson, Migrant Labour in South Africa, op cit., table 7, p. 30. For details of municipal hostels, see table 8, pp. 31-32.

371/ F. Wilson, op. cit., table 24, pp. 65-66.

372/ "Hostels for South Africa's urban workers", Africa Bureau Document Paper 6, X-Ray, June 1973. Re hostels in Alexandra Township (near Johannesburg), see Rand Daily Mail, 19 August 1972, cited in X-Ray, June 1973; Rand Daily Mail, 20 March 1975, 21 April 1975; Star, 22 August 1973, cited in X-Ray, February 1974, p. 3. Re government plans to provide accommodation for more than 27,000 workers at Pinetown, Natal, see Rand Daily Mail, 29 September 1974; House of Assembly Debates, 13 August 1974.

373/ Survey of Race Relations, 1957-1958, p. 47, citing a "Memorandum on Some of the Effects of the Implementation of the Native (Urban Areas) Consolidation Act ... and other Restrictive Legislation", produced by the Cape Western Regional Office of the South African Institute of Race Relations, May 1958, following an investigation of cases.

374/ Survey of Race Relations, 1961, p. 128.

375/ For statistics on influx control arrests see Survey of Race Relations, 1958-1959, p. 102; for arrests of women in police raids see also Survey, 1967, p. 181; Rand Daily Mail, 4 February 1975; Financial Mail, 26 July 1974; House of Assembly Debates, 11 February 1975; Rand Daily Mail, 8 February 1975.

376/ Compiled by the Black Sash, cited in Africa Bureau Document Paper, X-Ray, August 1972; and X-Ray, June 1974, p. 4.

289. It has also taken note of the Supplementary Settlement Scheme devised by government officials during 1969, which enabled certain women to take employment only if they send their dependants to rural areas. These children lose their right to return.^{377/}

Effects on urban women

290. Women may be endorsed out of urban areas or refused permission to live with their husbands.^{378/} Indeed, according to an analysis of the disabilities of African women made by the International Labour Organisation's special report on apartheid, even if an African woman who is qualified under section 10(1)(a) or (b) of the Bantu (Urban Areas) Consolidation Act (see para. 255 above) marries an African who lives in another area, and she goes to live with him, she loses her rights in her area of origin. Even if he qualifies under section 10(1)(a) and (b) in his own area, his wife will not acquire such rights there, although she has lost her rights in her own area. Even if he can get a permit for her to live with him and can accommodate her, this will give her no permanent rights and, if she becomes a widow or divorcee, she will have lost her legal foothold in both areas. If she was, before marrying, qualified under section 10(1)(c) as an unmarried daughter of a qualified African, she loses her rights if she marries an African not qualified in her area.^{379/}

291. Like rural African women, urban women too suffer from the apartheid system on grounds both of their colour and of their sex. Apart from their restricted right to tenancies (see para. 281 above), disabilities under customary law (see para. 275 above) and dependent status in relation to their husbands (e.g., in regard to residence qualifications described in paras. 255 and 290 above), they are discriminated against in terms of rates of pay - regardless of whether they may be the family's sole breadwinner - social security and other benefits.^{380/} And once married, even this limited value to the economy is assumed to fall away and they and their children, together with the old, are seen as "superfluous appendages" in perpetual danger of being expelled from the "white" areas.

292. Women, when they are permitted to work in urban areas, are now being housed in single-sex hostels, even when they are married and have a husband working in the same area. Hostels now in use in Alexandra, outside Johannesburg, have been

^{377/} X-Ray, March 1972, Africa Bureau Document Paper "The flesh and bones of apartheid".

^{378/} Survey of Race Relations, 1974, p. 175.

^{379/} Eleventh Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa (Geneva, ILO, 1975), p. 33.

^{380/} Ibid., pp. 34-36.

described as "prisons", built on a cell system, with built-in police charge office and a control room to operate steel riot gates on every floor. No male guests, even husbands, are allowed, and visiting children may not visit their mothers' rooms but must sleep alone in a special room.^{381/}

293. In short, women are the section of the African population most vulnerable to the Government's view of the African as a "temporary sojourner" in the white economy,^{382/} and evidence before the Group suggests that this insecurity or outright illegality built into their existence in urban areas is leading to a high crime rate among women.^{383/}

Effects upon urban children

294. Unstable family life, poverty and insecurity, desertion, deprivation and violence have all been described by Dr. Trudi Thomas as components of the background in which urban African children grow up. "If you set out, deliberately, for the sake of behavioural science, to produce a vicious and brutal person, you could hardly pick a better set of deprivations."^{384/}

295. Between 30 per cent and 70 per cent of all African babies born in big towns are illegitimate.^{385/}

296. Information before the Group suggests that these conditions are leading to a high rate of juvenile delinquency in South African cities. "Child hobos", for instance, some as young as seven or eight years old, abound. Some of them are children of parents arrested under the pass laws; others children for whom there is no place in school; yet more, children of shattered homes and beyond "adult control". Many are illegally in the city since their families have been deported to 'homelands'.^{386/}

297. Over 60 per cent of African children admitted to Johannesburg's Baragwanath hospital are treated for malnutrition. Similar conditions apply to hospitals and clinics throughout South Africa. Professor John Hansen, head of the Department of Pediatrics at the University of the Witwatersrand, said the causes of malnutrition included poverty and unstable or broken families.^{387/}

^{381/} For further details, see Bernstein, op. cit., p. 33; also Rand Daily Mail, 20 March 1975, 7 April 1975.

^{382/} See Hellman, op. cit., p. 12, for an expansion of the significance of this "temporary" policy.

^{383/} Cape Times, 25 June 1975.

^{384/} Quoted in Bernstein, op. cit., pp. 29-30.

^{385/} Bernstein, op. cit., p. 29.

^{386/} "Twilight children", Sunday Times, 28 July 1974.

^{387/} Rand Daily Mail, 29 June 1973, cited in X-Ray, November 1973, p. 1.

298. Information before the Group shows in particular that urban African children are being deprived of schooling because of government policy to encourage secondary schools for Africans in the "homelands" only (see para. 265 above). Children sent to the "homelands" for schooling in this way lose their right to return to the town.

Effects on urban men

299. Migrant work means separation from families, loneliness and insecurity for urban men, as for the families left behind. Consequently, men may frequently set up a second family in the urban area and thus acquire an intolerable financial burden.^{388/}

300. Social consequences of the bachelor existence forced on men in the compounds and bachelor quarters in the townships, on the other hand, include drunkenness and alcoholism, prostitution and venereal disease, homosexuality, violence and crime.^{389/}

301. Influx control, which causes so many people to live a "twilight existence" beyond the law, has been said to be a cause of the high crime rate; 1,000 killings a year take place in Soweto, the black township outside Johannesburg.^{390/}

302. The migrant system has also been known for decades to have had an adverse effect on the physical health of migrant workers;^{391/} and according to the WHO it is also a cause of mental ill-health. "For the whole broken family," according to the WHO, "inability to lead a normal family life, and consciousness of being regarded and treated as inferiors, could not be other than harmful to mental health." The report notes that almost two thirds of the Africans admitted to South African mental hospitals are "schizophrenics".^{392/}

303. The "socio-economic structure of the population" has been blamed for "an ever-increasing avalanche of patients" in urban African hospitals.^{393/}

^{388/} Bernstein, op. cit.

^{389/} See F. Wilson, Migrant Labour ... op. cit., last chapter; and World Health Organization report "Health implications of apartheid in South Africa", March 1975.

^{390/} Rand Daily Mail, 23 and 26 November 1974; see also crime statistics, House of Assembly Debates, 20 September 1974.

^{391/} For detailed evidence, see submissions of Dr. Gale, Secretary for Health, to the report of the Native Laws Commission 1946-1948, pp. 38-40.

^{392/} WHO report on health and apartheid, op. cit.

^{393/} Professor Shamroth, delivering an inaugural lecture as Professor of Medicine, report in Star, 23 March 1974, cited in X-Ray, July 1974, p. 3.

II. NAMIBIA

Introduction

304. The illegal processes whereby South Africa has steadily extended its jurisdiction over Namibia have been described in the 1975 report of the Ad Hoc Working Group of Experts. 1/ That report drew attention to the public flogging of suspected members or sympathizers of the South West Africa People's Organization (SWAPO) by the "tribal" police in Ovamboland; the deployment of units of the South African Defence Force in the Caprivi Strip and along the Territory's northern border with Angola; the detention of the leadership of SWAPO and the SWAPO Youth League under the provisions of the Terrorism Act; and the decision by the National Party executive in the Territory to hold "multiracial talks" with the representatives of the "ethnic groups" of the Territory on Namibia's constitutional future. 2/ Previous reports also discussed the Development of Self-Government for Native Nations in South West Africa Amendment Act, No. 20 of 1973, which enabled the State President to grant "self-government" to "homelands" without recourse to Parliament, and the South West African Affairs Act, No. 25 of 1969 which carried further the illegal incorporation of Namibia into South Africa by greatly extending the fields in which the South West African Administration had no jurisdiction. 3/

305. Despite the advisory opinion of 1971 given by the International Court of Justice, the contacts made by the Secretary-General of the United Nations between February 1972 and December 1973, the appointment of the full-time United Nations Commissioner for Namibia in January 1974, the activities of the United Nations Council for Namibia, and the repeated resolutions of the United Nations calling for the withdrawal of its administration from Namibia (culminating in Security Council resolution 366 (1974) of 17 December 1974, by which the Council called on South Africa to make a "solemn declaration" to comply with United Nations resolutions by 30 May 1975), South Africa has maintained and reinforced its illegal occupation of Namibia. During the period under review it has continued to apply apartheid measures to the Territory, notably by further consolidation of the "homeland" structures, including the holding of further elections in Ovamboland, by frequent recourse to the range of repressive legislation (illegally applied to the Territory) in order to suppress political activity by the African population, and by holding a so-called "constitutional conference" attended by representatives of the different "ethnic groups" in Windhoek, from which SWAPO, and other political organizations with a cross-ethnic composition, were excluded. 4/

306. The laws specifically affecting capital punishment, forced removals of population, treatment of political prisoners and captured freedom fighters, public floggings, the conditions of Africans in the "homelands", the situation of student movements and the African family, are discussed in the corresponding sections of this chapter.

1/ See E/CN.4/1159, para. 194.

2/ Ibid., paras. 196-199, 208-236.

3/ E/CN.4/1135, paras. 196, 198-201, 245-250; E/CN.4/1020/Add.1, paras. 2 and 3.

4/ See record of Security Council proceedings for 17 December 1974 (S/PV.1811 and S/PV.1812) and 30 May 1975 (S/PV.1823).

307. The State of Emergency proclaimed in Ovamboland under Proclamation RL7 of 4 February 1972 remained in force throughout the period under review. ^{5/} During elections for a new legislative council for Ovamboland in January 1975, widespread coercion and intimidation of electors were documented by SWAPO and the Lutheran Churches, with meetings that had been organized in support of a SWAPO call for a boycott of the polls being declared "illegal" and dispersed by the tribal police. Following the shooting of the Ovamboland Chief Minister, Filemon Elifas, on 16 August 1975, South African security police were instructed by the South African Minister of Justice to arrest possible suspects; those detained included SWAPO leaders and supporters, clergy and members of the Lutheran Churches, and individual opponents of the Ovamboland government. There were no official details of charges.

308. Further action was taken against the leadership of SWAPO and of the Namibia National Convention (NNC) by the security forces in Windhoek and inside the "police zone" during the period under review. Those arrested were reported as being held under the provisions of the Terrorism Act and the Suppression of Communism Act, incommunicado, and without access to lawyers or relatives (see paras. 333-338 below).

309. The continued harassment of churches with a predominantly African or multiracial membership by the South African authorities occurred during the period under review, involving permit denials, expulsions and imprisonment. The Anglican Suffragan Bishop of the Damaraland diocese was expelled in June; clergy from the Evangelical Lutheran Churches were detained in August 1975 (see paras. 336-337 and 367-369 below).

310. Information available to the Working Group indicates a significant expansion of military activity in the Territory by South African armed forces during the period under review. The SWAPO President, Mr. Sam Nujoma, referred in his address to the Security Council on 30 May 1975 ^{6/} to a build-up of troop levels and to the opening of new military bases near the Angolan Botswana borders. In September it was officially admitted by the South African Government that Defence Force units based in northern Namibia had crossed the border into Angola, ostensibly to protect installations of the Kunene hydro-electric scheme from possible guerrilla attack. Following an alleged attack by SWAPO guerrillas on an Ovamboland frontier post in October, the Defence Force was instructed by Pretoria to take "appropriate action" (see E/CN.4/1159, paras. 244-246, and paras. 359-360 below).

311. The implementation of the National Party plan for a so-called "constitutional conference" to discuss the Territory's future, which took place in September 1975, and the attitudes to it of SWAPO and other political organizations in Namibia are discussed elsewhere in this chapter (see section D below). The convening of the

^{5/} Government Gazette, No. 3377. For a summary of emergency powers, see E/CN.4/1111, paras. 149, 164, 192.

^{6/} See S/PV.1823, 30 May 1975.

conference was anticipated in the text of the formal reply from the South African Government to Security Council resolution 366 (1974), transmitted in the form of a letter from the Minister for Foreign Affairs to the United Nations Secretary-General, Dr. Kurt Waldheim, on 27 May 1975.

312. Action by the United Nations regarding Namibia during the period under review concerned principally the General Assembly, the Security Council, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the United Nations Council for Namibia.

313. The General Assembly, at its twenty-ninth session, after consideration by the Fourth Committee of the reports of the United Nations Council for Namibia and the Special Committee for 1974, adopted resolution 3295 (XXIX) of 13 December 1974 on the question of Namibia, by which it inter alia approved the report of the Council for Namibia, reaffirmed the inalienable and imprescriptible right of the people of Namibia to self-determination and independence, and demanded the immediate and unconditional withdrawal of South Africa from Namibia. It urged the Security Council to take appropriate action, and called upon States that had not yet complied with the relevant United Nations resolutions to discontinue all direct and indirect relations with South Africa where it purported to act on behalf of or concerning Namibia.

314. On 17 December 1974, the Security Council unanimously adopted resolution 366 (1974) in which it demanded that South Africa make a solemn declaration that it would comply with the resolutions and decisions of the United Nations and the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia, and that it recognized the territorial integrity and unity of Namibia as a nation, such declaration to be addressed to the Security Council. It demanded further that South Africa take the necessary steps to effect the withdrawal, in accordance with resolutions 264 (1969) and 269 (1969), of its illegal administration in Namibia and to transfer power to the people of Namibia. Pending this transfer, the Security Council demanded that South Africa comply fully, in spirit and in practice, with the provisions of the Universal Declaration of Human Rights; release all Namibian political prisoners; abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices; accord facilities to all Namibians in exile for return to their country without risk of arrest or intimidation. The Security Council decided to remain seized of the matter and to meet on or before 30 May 1975, for the purpose of reviewing South Africa's compliance.

315. The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples held a one-week session in Lisbon from 12 June 1975, the first held by the Special Committee in Europe. Under a consensus on Namibia adopted on 18 June, the Committee condemned South Africa's policies regarding Namibia and the escalation of its "reign of terror"; called for free elections without delay under United Nations supervision and control; reaffirmed the inalienable right of the people of Namibia to self-determination and independence, and the Committee's continued support and solidarity for the people of Namibia, led by SWAPO; called on South Africa's major trading partners and other interests collaborating in depleting Namibia's natural

resources to cease such support for and collaboration with South Africa; and urged the Security Council to take mandatory action against South Africa under Chapter VII of the United Nations Charter. 7/

316. The United Nations Council for Namibia at its 209th meeting, held in New York on 27 September 1974, enacted a "Decree on the Natural Resources of Namibia", pursuant to its terms of reference contained in General Assembly resolution 2248 (S-V) of 19 May 1967. The decree was the first legislative action taken by the Council; it was enacted with the aim of protecting the natural resources of the territory on behalf of the people of Namibia and of ensuring that those resources were not exploited without the consent of the Council for Namibia. The decree provided inter alia that any natural resource from Namibia taken from that Territory without the Council's consent was liable to be seized and forfeited and that any vehicle, ship or container found to be carrying such products were also subject to seizure and forfeiture by the United Nations Council for Namibia. 8/

317. The Council, as trustee of the United Nations Fund for Namibia, also adopted guidelines specifying the purposes of the use of the Fund as education and training, social and medical assistance, legal defence, and international assertion of Namibia's sovereignty. A plan for the creation of the United Nations Institute for Namibia, to be provisionally located in Lusaka, Zambia, was also adopted. The purpose of the Institute was stated to be "to enable Namibians, under the aegis of the United Nations Council for Namibia, to undertake research, training, planning and related activities with special reference to the struggle for freedom of the Namibians and the establishment of an independent State of Namibia".

318. Following an application by the United Nations Council for Namibia, the General Conference of UNESCO admitted Namibia as an associate member of the organization on 21 October 1974.

319. On the invitation of the Government of Senegal and under the sponsorship of the United Nations Commission for Namibia, the International Conference on Namibia and Human Rights was organized by the International Institute of Human Rights, in collaboration with the International Commission of Jurists and the International Association of Democratic Lawyers. The Conference took place at Dakar from 5 to 8 January 1976. It represented a response to the concern felt by the Commission on Human Rights as reflected in paragraph 8 of resolution 5 (XXXI) of 14 February 1975.

7/ A/AC.109/495, 26 June 1975.

8/ Decolonization, vol. I, No. 3 (December 1974), issue on Namibia, p. 24.

A. NEW DEVELOPMENTS RELATING TO THE POLICY OF APARTHEID
AND RACIAL DISCRIMINATION

1. Capital punishment

(a) Reference to some relevant laws

320. Reference was made in the 1975 report of the Ad Hoc Working Group of Experts to provisions in the Second General Law Amendment Bill, which specified the powers of high courts in "homelands" to carry out death sentences in areas under their jurisdiction. The Minister of Justice, Mr. J. Kruger, informed Parliament during the first reading that clause 3 served merely to eliminate doubts on the legal position concerning the locality where any death sentence imposed by future supreme courts or high courts of the "homelands" were to be carried out. This clause was made applicable to the Territory: at present there are no such courts with the power to impose the death sentence in any of the "homelands" in the Territory. 9/

(b) Analysis of information available to the Ad Hoc Working Group of Experts

321. An African contract worker from Ovamboland was convicted of the murder of the Deputy Director of Bantu Affairs at Walvis Bay in March 1975, by the South West African Supreme Court at Swakopmund. He was accused of stabbing the official fatally in the course of rioting in the labour compound on 1 January 1975. There was no appeal against his death sentence. 10/

2. Massacres and violations of the right to life

322. According to information available to the Ad Hoc Working Group of Experts, one African was killed instantly and 13 wounded when police opened fire on contract workers at Katutura labour compound on 23 April 1975. The workers were protesting against carrying passes. In a statement by Brigadier W. Louw, the Divisional Commissioner of Police in the Territory, it was claimed that the police had been compelled to fire in self-defence during rioting by the 5,000 inmates of the compound. This had been precipitated by a dawn raid to check identity documents and passes; several of those checked had alerted the rest, and a large crowd had attempted to escape through the gate of the compound, which was blocked by police reinforcements. One African was subsequently found to be mortally wounded; 10 were

9/ Other clauses of the Act, which were not made applicable to the Territory, included provisions for a fine of R2000, or two years' imprisonment, or both, for words or actions having the "intent" to encourage or foment hostility between sections of the population of the Republic. It was made an offence for anyone to furnish information about business carried on, in or outside the Republic, in compliance with any order, direction or letter emanating from outside the Republic without the permission of the Minister of Economic Affairs. The Act also provided for the abolition of the Masters and Servants Act. (Government Gazette, No. 4510, Act No. 94 of 1975; House of Assembly Debates, 31 October 1974, col. 7265; South Africa Press Mirror, London, vol. 1, No. 39).

10/ Windhoek Advertiser, 17 March 1975, Rand Daily Mail, 18 and 24 March 1975.

later admitted to hospital. Mechanized patrols were placed on indefinite stand-by duty on the compound's perimeter, and a number of arrests were made, including 168 for not having documents allowing them to remain in Windhoek, and 127 on charges of committing violence. During the subsequent hearing of 76 men on charges of public violence, sworn affidavits were produced to the effect that the police had been responsible for the violence. Mr. David Meroro, SWAPO National Chairman in the Territory, said the shooting amounted to a massacre, since eyewitnesses had seen the police fire without any warning, or any attempt to control the crowd by other means. There had been conflicting reports of the number of deaths involved; one newspaper report had mentioned three, later amended to tally with the police account. The local hospital had refused to provide details of those admitted with injuries; most relatives were too far away to provide identification. 11/

323. According to information available to the Group, loss of civilian life in the period under review was being caused by the activities of South African troops and military police in the northern area of Namibia. It was reported that five civilians had been shot and killed, while many people had been admitted to Oshakati hospital suffering from bullet wounds, in the course of counter-insurgency operations. Villages and more remote areas had been strafed, and according to sources in Angola and Zambia, recent Angolan refugees into Zambia had told of strikes into Angola by low-flying South African military aircraft. 12/

3. Forced removals of population

324. From the information available to the Group there does not appear to have been any implementation of population removals during the period under review. Information referred to in the previous report of the Working Group (E/CN.4/1159, paras. 247-250) estimated that upwards of 25 per cent of the total African population of Namibia would need to be moved if the plans for the "homelands" were to be fully realized. Details of transfers of land intended to consolidate the boundaries of several "homelands" were provided by the Minister of Coloured Relations and Rehoboth Affairs to Parliament in 1974. A total of 1,004,374 hectares was to be transferred from whites to Namaland; 73,790 hectares to the Rehoboth Gebiet; while 209,052 hectares was to be taken from Namaland for whites, at a total cost to the State of R13,994,247. A total of 3,227,750 hectares had been bought from whites for adding to the "native homelands" up till then, at a total cost to the State of R26,554,785. 13/

11/ Windhoek Advertiser, 23, 24 April 1975; Guardian, 24 April 1975; Namibia News, May-June 1975; SWAPO press statement 29 April 1975.

12/ SWAPO press releases, L/9/75/1, 1 September 1975, and L/9/75/3, 10 September 1975.

13/ House of Assembly Debates, 27 August 1974.

4. Treatment of political prisoners and captured freedom fighters

(a) Summary of some relevant laws

325. As indicated in previous reports of the Group, the South African security laws that provide for severe penalties of imprisonment and for detention without trial for anti-apartheid activities and political offences have been made specifically applicable to Namibia. 14/ These include the Prisons Act, No. 8 of 1959, and the General Law Amendment Acts, No. 76 of 1962, and No. 101 of 1969. In addition there are certain proclamations which concern Namibia exclusively 15/ in particular Proclamation R17 of 1972, which made Ovamboland subject to emergency law, and Proclamation R304 of 1972, extending the powers of the South African Police Force in northern Namibia. 16/ A previous report of the Working Group (E/CN.4/1050, paras. 264-267) described the incorporation of the South West African Police Force into the South African Police, which body is accordingly authorized to exercise the powers entrusted to the former by the laws of the Mandated Territory. The Commissioner of the South African Police exercises the command, superintendence and control of the force in Namibia through the Divisional Commissioner of Police in Windhoek, subject to the direction of the Minister of Police.

326. Three types of police operate in Namibia. The South African Police units stationed in, or seconded to, Namibia are heavily armed, with military vehicles, jeeps and helicopters. Until June 1974, they were responsible for patrolling the northern border with Angola. There are no official figures for the numbers involved: the latest available estimate is of a total of 17,000 police and troops. 17/ The municipal police, including some African constables under white officers, are controlled by the white urban authorities. The tribal police in Ovamboland and Kavangoland are controlled by the tribal authorities of those areas and are not subject to departmental regulations or public scrutiny. 18/

(b) Analysis of the information received by the Ad Hoc Working Group of Experts

327. The information received by the Group can be analysed under several headings, as in previous reports; (a) information concerning recent arrests and the number of political prisoners; (b) allegations concerning torture and the cruel, inhuman and degrading treatment of political prisoners; (c) allegations concerning violation of the right of the accused to a fair and public trial and procedures for complaint and redress.

328. The Group examined the information analysed below in the light, in particular, of the international standards embodied in the following instruments: the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination, the Standard Minimum Rules for

14/ See E/CN.4/1020/Add.1, para. 9.

15/ See E/CN.4/AC.22, for details of the Native Urban Areas Proclamation, No. 56 of 1951; E/CN.4/1050, paras. 261-263, for details of the Native Administration Proclamation, No. 15 of 1928.

16/ See E/CN.4/1135, para. 252.

17/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 23 (A/8423/Rev.1), para. 23.

18/ See E/CN.4/1135, para. 210, E/CN.4/1159, paras. 243-244, and relevant sections of the present report.

the Treatment of Prisoners, the Geneva Conventions, the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1975).

(i) Information concerning recent arrests and the number of political prisoners

329. Raids on African migrant labour compounds and gatherings of Africans to check identity documents and passes continued throughout the period under review.

330. Outjo municipal police were reported to have arrested 39 SWAPO office-bearers and supporters for attempting to hold a public meeting without permission. Five SWAPO organizers had driven through the town to publicize the meeting. The group were detained in prison over the week-end after refusing to pay "admission of guilt" fines. In a subsequent hearing at the Outjo magistrates' court, they were charged with failing to produce identity documents and pass books asked for by the municipal police. Each was sentenced to a fine of R10, or ten days in prison. 19/

331. In spite of the denials by the South African authorities, information available to the Group indicates that there are currently 38 Namibian prisoners on Robben Island and 9 in Pretoria prison, while 11 SWAPO leaders were held in solitary confinement for periods of up to six months, under the Terrorism Act. The SWAPO Chairman, Mr. David Meroro, was one of these. In a parliamentary reply, during October, 1974, the Minister of Prisons stated there were eight prisons in Namibia, holding a total of 1,514 prisoners. 20/

332. According to information available to the Group, consideration is being given by the Minister of Justice, Mr. J. Kruger, to ending the use of Robben Island as a maximum security prison. The official reason given by the Department of Prisons was the shortage of fresh water, which had to be ferried from the mainland. It was subsequently reported that the Minister of Justice was to consider the possibility of transferring to Namibia prisoners from the Territory who were being detained on Robben Island. 21/

333. A number of actions against political activity by Africans were taken by officials in the Territory following the United Nations Security Council meeting of June 1975. The Namibia National Convention (NNC), a coalition of political organizations allied with SWAPO, had announced its intention to protest against the South African occupation of the Territory. The Windhoek City Council refused

19/ Windhoek Advertiser, 10, 12 February 1975.

20/ Times, 17 February 1975; report of the United Nations Council for Namibia (Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 24 (A/9624), vol. II, pp. 14-15; House of Assembly Debates, 11 October 1974, col. 720.

21/ Guardian, 10 April 1975, 6 June 1975.

permission for a demonstration; subsequently, Windhoek's Acting Chief Magistrate, Mr. C.J. Botha, was instructed to prohibit the holding of the proposed gathering and march in Windhoek or anywhere in the district of Windhoek. The prohibition was promulgated under Ordinance 9 of 1930, the Riotous Assemblies Ordinance, read with article 19 of the South West African Affairs Act of 1969. It was reported that on 14 June 1975 armed police arrested 18 poster-carrying NNC demonstrators on Kaiser Street in Windhoek. A march by 3,000 people from Katutura was turned back by armed police without incident. The demonstrators were released after being brought before a judge two days later. Other public meetings banned included one planned by the SWAPO Youth League opposite the French bank centre in Windhoek. A notice prohibiting the planned meeting was issued by Windhoek's Chief Magistrate, Mr. H.S. van der Walt, under instructions from the Minister of Justice. The promulgation was done in terms of section one of Ordinance 9 of 1930. An alternative site was proposed in Katutura; subsequently the management committee of the City Council laid down new policies on political meetings and rallies, which restricted these to the area of the racial group holding the rally. 22/

334. According to information received by the Group, a wave of arrests by the security police took place in Windhoek and Ovamboland, after the shooting of the Ovamboland Chief Minister, Chief Filemon Elifas, on 16 August 1975 at Oniipa, near Ondangwa (see para. 363 below). Those arrested included the leadership of SWAPO and the NNC in the Territory, as well as clergy and members of the two black Evangelical Lutheran Churches. The arrests were made under the provisions of the Terrorism Act, the General Law Amendment Act, and Proclamation RL7 of 1972. SWAPO was blamed for the killing by Mr. Jannie de Wet, the Commissioner-General for the Indigenous Peoples, who said that the authorities had been notified of a number of death threats from SWAPO received by Chief Elifas, the last of which had been only a few weeks previously. Mr. David Meroro, the SWAPO National Chairman, issued a statement in Windhoek denying any SWAPO involvement with the shooting. The police declined to say officially whether Chief Elifas had been assassinated or to describe the nature of the shooting; an intensive police investigation was announced by the Minister of Justice, Mr. J. Kruger. Mr. Vorster was reported to have said that his government would leave no stone unturned in its efforts to apprehend the assassins; speaking to reporters during his state visit to Uruguay, he said that law and order would be maintained "regardless of the consequences", 23/

335. It was confirmed by the Divisional Commissioner of Police, Brigadier W. Louw, that five SWAPO officials were being held for questioning under the provisions of the Terrorism Act, after being found in allegedly suspicious circumstances near the home of the Herero leader in Katutura, Chief Clemens Kapuuo. The five were Axel Johannes, SWAPO National Secretary; Aaron Machimba, SWAPO National Organizer; Othniel Kaakunda, SWAPO Organizing Secretary; David Munjaro, SWAPO Secretary for Foreign Affairs; Alpheus Naruseb, a member of the Windhoek branch of SWAPO. They were apprehended by Chief Kapuuo's bodyguard of Herero tribesmen and handed over to the police. Chief Kapuuo had stated that his name was on top of a SWAPO assassination list. Brigadier Louw stated that armed police, reinforced by units from South Africa, were protecting the homes of Chief Kapuuo and other delegates

22/ Windhoek Advertiser, 10, 19, 25 June 1975; Lutheran World Federation News Service, 21/75.

23/ Star, 18 August 1975; Guardian, 18 August 1975; Times, 18 August 1975; Daily Telegraph, 18 August 1975.

to the constitutional conference due to take place in Windhoek on 1 September 1975. It was reported that tension had arisen between members of the Herero and Ovambo communities in Katutura following a meeting of contract workers, at which there was public rejoicing at the death of Chief Elifas, and shouts that Chief Kapuuo would be the next. 24/ It was confirmed that the homes of Mr. David Meroro, SWAPO National Chairman, and Mr. D. Tjongarero, NNC Secretary for Information and Publicity, had been searched by Colonel Koos Myburgh, head of the security police in Windhoek. Mr. Tjongarero reported that a number of placards, publications and news clippings had been removed by the police. Mr. Meroro was reported to have gone into hiding to escape renewed arrest and detention; he subsequently escaped to Botswana and from there to Lusaka, Zambia. 25/

336. Four members of the Evangelical Lutheran Church were arrested at a rally called by the NNC to explain the previous arrests of SWAPO members. Rev. Jeremiah Kameeta of the Paulinum Theological Seminary; Rev. Festus Maholo, a student at the Paulinum and Secretary of the SWAPO Walvis Bay branch; Mr. Alexander Kangueni, a teacher of the Church-sponsored Martin Luther High School at Okombahe and NNC Chairman; and Mr. Emmanuel Guiteb, voluntary administrator of the Otjiwarongo diocese. Although the Katutura meeting had been legal, police and armed soldiers, using dogs, had broken into the compound and halted the meeting. A fifth Lutheran, arrested separately, was the Rev. Sebulon Ekandjo, editor of the anti-government Omukweto publication of the Evangelical Lutheran Church, printed at Onipa in Ovamboland. The five were detained and placed in solitary confinement under the Terrorism Act; although one of the five was reported to be seriously ill, relatives and members of the church were refused access, and there was no assurance of medical treatment by the police. A petition protesting at the arrests was sent to the South African administrator of the Territory, by Dr. Lukas de Vries, President of the Evangelical Lutheran Church, while protests were also sent from the Lutheran World Federation in Geneva. 26/

337. During the period under review it was reported that there had been a number of arrests of SWAPO and church members in Ovamboland; among the identified leaders of SWAPO arrested were Sam Shivute, Secretary of the SWAPO northern branch; Reuben Hauwanga, SWAPO Publicity Secretary in the north; Skinny Hilundwa, Chairman of the SWAPO northern branch; Emmanuel Hatutale; and Theophilus Kalimba. It was reported that the detainees were held incommunicado, with relatives, lawyer and clergy refused access; there were no details of any charges. It was reported also that a number of office-bearers and individual members of the Lutheran Evangelical Church had been detained.

24/ Windhoek Advertiser, 19 August 1975; Star, 18 August 1975; Financial Times, Guardian, Times, 20 August 1975; SWAPO press release, 1 September 1975, L/9/75/1.

25/ Star, 13 and 20 September 1975.

26/ Lutheran World Federation News Service, 31/75, pp.1-2; SWAPO press release releases, 1 September 1975, L/9/75/1, 10 September 1975, and L/9/75/3.

338. The importance attached by SWAPO to the release of political prisoners in the Territory and in South Africa, combined with the securing of freedom for political activity, was reaffirmed in an executive statement of SWAPO released simultaneously in Windhoek and Lusaka. This called for the release of detainees and the setting aside of the banning order on Mr. Immanuel Macuilili, the acting President of SWAPO, amongst other pre-conditions for any constitutional talks with the South African Government. They were repeated in a SWAPO statement listing eight such pre-conditions in July. 27/

(ii) Torture and cruel, inhuman and degrading treatment of political prisoners and captured freedom fighters

339. The National Chairman of SWAPO, Mr. David Meroro, presented detailed evidence in an affidavit at his resumed trial during April 1975 of his torture during his detention under the Terrorism Act. His trial was attended by diplomatic observers and his statement was confirmed by other detainees. Mr. Meroro had been charged with possessing banned literature following a police raid on his Katutura home and shop in February 1974 and had since appeared in court several times during a protracted trial process. Mr. Meroro stated that he had been tortured, a piece of rope tied around his neck, and told to "listen to the ghosts". This was denied by two police witnesses, Major W.F. Schoon and Captain J.G. Coffee. Mr. David Sogget, appearing for Mr. Meroro, asked the court to consider the "psychological havoc" caused by the conditions of isolation for five months and requested it to impose a suspended sentence in view of this ordeal, the disintegration of his client's personality, and his age, 57. The Regional Court Magistrate, Mr. L.V. de Kock, in passing sentence, agreed that the five months of isolation was a "heavy punishment". Mr. Meroro was sentenced to two months' imprisonment conditionally suspended for one year. 28/

340. The SWAPO office in London was reported to have received a letter from one of the SWAPO members detained in the north, Mr. Theophilus Kalimba, providing details of his arrest, detention and torture. It described his escape from Oshikango prison, where other SWAPO members, including Sam Shivute and Reuben Hauwanga, were held. The text of the letter read:

"I would like you to know how I and the others are treated in jail. We are accused of being guilty of killing Filimon Elifos. Our legs and arms are tied, we are hung from the roof, and tortured. We are given only a cup of water at 12 p.m. The South African Government are trying to destroy the Namibians physically and mentally. The people in jail are watched over by soldiers so that they do not get a chance to sleep. To tell the truth, and I want to tell this as I know by experience, not by theory, if the others are treated in the same way I was treated for those days I was in jail, then they will die or their mental capacities be damaged. I cannot really understand what will happen to someone who is forbidden to sleep even half a second, day and night."

27/ A/10023/Add.3, para. 117; SWAPO press statement, 17 January 1975; Star, 26 July 1975.

28/ Windhoek Advertiser, 14 and 17 March 1975; Namibia News, May-June 1975; Anti-Apartheid News, May 1975; see also relevant paras. of the 1975 report, E/CN.4/1159.

The letter was to be taken with other evidence prepared by SWAPO relating to the current detentions in the Territory by Mr. Meroro to the United Nations General Assembly and Fourth Committee. It was reported that the Acting Commissioner of the South African Police, General Prinsloo, had stated that no one of that name had been arrested and there had been no escapes from Oshikango. 29/

5. Public floggings

341. A previous report of the Ad Hoc Working Group of Experts (E/CN.4/1159, paras. 260-271) has discussed in detail the public floggings of upwards of 100 men and women alleged to be members or supporters of SWAPO by the tribal authorities of Ovamboland during the latter part of 1973. During the period under review, attempts continued by the leaders of the Anglican and Lutheran Churches to secure a permanent ban on floggings for alleged political activities.

342. According to information available to the Group, limitations on the flogging of political opponents of the Ovamboland government have been imposed by the South African Supreme Court. In the case of Wood and others v. Ondangwa Tribal Authority and another, the Appellate Division ruled in Bloemfontein on 24 February 1975 as follows:

"The respondents (these are the tribal authorities) are interdicted from arresting, detaining, and inflicting punishment on any person on the ground that he is, or is suspected of being, a member of Demkop or of SWAPO or on the ground that he has or is suspected of having carried out the lawful activities of these organizations."

The Chief Justice of South Africa, Mr. Justice Rumpff, ordered that the tribal authorities should pay the cost of the application. The application was originally initiated not only by a victim of illegal suppression, Mr. Thomas Komati, a SWAPO youth leader who was in detention for much of the previous court proceedings, but also by Bishop Richard Wood of the Anglican Church who had since 1973 sought to intervene against public flogging in Namibia. The ruling of the appellate division came more than a year after the South African Government had refused to stop floggings on the grounds that they were a "tribal matter" in which it had no right to interfere. The Chief Justice said that Judges Badenhorst and Strydom of the Supreme Court of Windhoek had "erred" in not granting a permanent interdict on the floggings in March 1974, when the applicants' plea had been rejected on the grounds that an individual was not entitled to institute an action in the interests of the general public and that the applicants had no locus standi in the case. He stated

"It would obviously be impractical for all the people threatened with illegal arrest and flogging to come with individual actions, supported by affidavits, particularly when they are resident about 300 km from the seat of the Court and when legal assistance is not readily procurable. I think that in all the circumstances and in the extraordinary conditions that prevail in those areas, a prohibitory interdict should have been granted by the lower court against the tribal authorities."

Legal action had been first initiated in November 1973, when an interim interdict had been granted by the Windhoek Supreme Court. 30/

343. It appeared from information available to the Group that flogging was still occurring in Ovamboland after this ruling. This was alleged by Mr. Johannes Nangtuala, the DEMKOP leader, who said that flogging was still being used to intimidate political opponents. It was reported that the Commissioner-General for the Indigenous Peoples, Mr. Jannie de Wet, had told a press conference of 24 South African political correspondents in Oshakati that a series of concessions on the issue had been made by Chief Elifas and his councillors. It had been agreed that there would be no more public floggings or flogging of women or political opponents of Chief Elifas. But flogging for other offences was to continue, in private. A system of appeal to an Ovambo government-appointed court had been instituted. Chief Elifas stated in answer to questions about the alleged flogging of SWAPO members that there had been no beatings conducted without prior trial by the tribal courts of Ovamboland. 31/

344. A document detailing the violations of human rights involved in the floggings was addressed to the United Nations Secretary-General from the International Secretariat of Amnesty International. This stated that the organization believed that the violations disclosed in the communication, particularly those of articles 2, 5 and 7 of the Universal Declaration of Human Rights, were particularly gross manifestations of governmental cruelty. 32/

6. Conditions of Africans in the "homelands"

(a) Background information

345. The system of "native reserves" devised by the German administration before the mandate period and subsequently taken over and extended by the South African administration has been described in an earlier report of the Ad Hoc Working Group of Experts; the implications of the "homelands" policy as established by the "Odendaal Commission" of 1964 has likewise been described. 33/ The reports of the Working Group for 1974 and 1975 summarized legislation enacted in the period since February 1973 in relation to the continued establishment of "homelands" for so-called "native nations" in accordance with the provisions of the Development of Self-Government for Native Nations in South West Africa Amendment Act, No. 20 of 1973. 34/

30/ International Herald Tribune, Times, Windhoek Advertiser, 25 February 1975; Lutheran World Federation News Service, 7/75; Namibia News, March-April 1975.

31/ Rand Daily Mail, Star, 23 May 1975.

32/ "Communication from Amnesty International concerning a consistent pattern of gross and reliably attested violations of human rights perpetrated by the Government of South Africa upon inhabitants of Namibia", London, August 1974.

33/ See E/CN.4/1020/Add.1, paras. 29-36, and A/8723/Add.2, paras. 11-40.

34/ See E/CN.4/1135, paras. 245-252; E/CN.4/1159, paras. 239-242.

(b) Summary of recent legislation

346. Most of the legislative enactments introduced during the period under review were an extension or consolidation of the legislative process analysed in the Group's previous reports and involved the consolidation of Bantustan structures in the Territory.

347. Proclamations R177 and R178 of September 1974 provided for the establishment of "community authorities" for the Mbandero community of the Rietfontein block, and the Herero community of Okamatapati, both located within Hereroland. The authorities, set up under the provision of the Development of Self-Government for Native Nations Act, were to function in accordance with "local law and custom". 35/

348. A series of proclamations and government notices provided for amendments of the establishment and procedures for election of an "Elected Coloured Council for South West Africa". The Council seat was specified as Windhoek, with six electoral divisions: Empelheim, Khomasdal, Krönlein, Narraville, Nautilus, Tanariskia. The Council was to continue for five years, with an executive committee of three, subject to dissolution at all times by the State President of South Africa. 36/

349. The Department of Coloured Relations and Rehoboth Affairs was officially retitled the Department of Coloured, Rehoboth and Nama Relations, with effect from 1 November 1974. This followed from the redesignation of the Nama community in the 1970 census from "Native" to "Coloured". 37/

350. The Ovambo Constitution Proclamation No. R104 of 1973 and the Ovambo Election Proclamation No. R105 of 1973 were amended during the period under review to make it compulsory for each voter to be in possession of a registration card or valid document issued in terms of section 10 of the Ovambo Nation Registration Enactment No. 5 of 1972. 38/

351. Provision for the election of members of the Advisory Board of the Rehoboth Gebiet in March was made under a government notice issued in terms of the Rehoboth Gebiet Affairs Proclamation No. 9 of 1928, as amended. This established the procedure for the nomination to the Rehoboth Magistrate of candidates to fill five seats on the Advisory Board. A proclamation provided for the application of the Income Tax Ordinance No. 5 of 1974 of the Territory to the Rehoboth Gebiet for the period 1 March 1975 to 29 February 1976. 39/

35/ Government Gazette, Nos. 4397 and 4398.

36/ Government Gazette, Nos. 4375, 4382, 4384, 4391, 4403; Proclamation 158; Government Notice R1599; Proclamations 168, 172, 185.

37/ Government Gazette, No. 4491; Proclamation 20.

38/ Government Gazette, No. 4558; Proclamations R14 and R15.

39/ Government Gazette, No. 4597; Government Notice R392; Government Gazette No. 4740; Proclamation 134.

352. The establishment of the first tier of a bantustan structure for Namaland was provided for in Proclamation 160 of July 1975: the "Proclamation to provide for the establishment of a Nama Council, Tribal Authorities and Village Management Boards in Namaland". The composition of the Nama Council was to be: chiefs/headman of the tribal authorities; councillors appointed by tribal authorities; and six councillors appointed by the minister after consultations. There was no provision for the holding of elections; the chairman of the Council was to be appointed by the minister. 40/

(c) Analysis of information available to the Working Group

(i) Political rights and police powers

353. During the period under review the information available revealed a pattern of continual harassment of Namibians seeking to exercise their political rights by the tribal police of the Ovamboland tribal authorities and by South African police and troops stationed in the north. This was documented in detail during the elections for a reconstituted Ovambo Legislative Council with an elected majority, from 13 to 17 January 1975. The dissolution of the existing Council, dominated by the nominated supporters of the Chief Minister, Chief Elifas, was announced by the South African Commissioner-General, Mr. de Wet, in October; officially the purpose was stated as reconstitution on a more representative basis and selection of representatives for the Ovambo community during the proposed constitutional talks. 41/

354. Mr. de Wet was reported to have issued an invitation to "all parties" to take part freely in the elections, although public meetings would require prior permission. SWAPO spokesmen referred to the elections as "tribal" since they were to take place in a bantustan, and issued a call for a boycott of the polls. In the elections of August 1973 the boycott was successful, with only a 2.8 per cent poll. Bishop Richard Wood issued a statement in support of the call for a boycott, in which he said abstention would express a rejection of bantustan policies and outmoded tribalism. In view of the continued existence of the emergency regulations, there was no campaign of mass rallies by SWAPO. But an attempt to organize one public meeting at Oluno, near Ondangwa, was reported to have been dispersed by tribal police acting under the orders of the brother of Chief Elifas. A leaflet giving prior notice of the meeting was circulated by SWAPO; in a radio broadcast, Chief Elifas, acting in his capacity as tribal chief of the area, stated that the meeting would be illegal as no permission had been requested. Tribal police waiting at the place where the meeting was to be held dispersed an estimated 200 people with violence. Several people were reported as injured and subsequently admitted to hospital; one of them, Mr. Jairus Muleka, had been beaten senseless. 42/

40/ Government Gazette, No. 4785; Proclamation 160.

41/ Rand Daily Mail, 2 October 1974; Africa, April 1975

42/ Star, 2 November 1974; Financial Mail, 28 November 1974;
Windhoek Advertiser, 6 January 1975, 13 January 1975.

355. An account of intimidation and election malpractices by the tribal police and South African officials was prepared by SWAPO officials inside the Territory and submitted to the United Nations Council for Namibia and the Commissioner for Namibia during August 1975. It was also referred to in the address by Mr. Sam Nujoma to the Security Council in May 1975. 43/

356. The methods used to intimidate voters in Ovamboland were reported to have included the following:

- (a) The 116 polling booths were frequently controlled by helicopters, which circled around them, and by security police, Ovamboland tribal police and the army;
- (b) The labour recruitment bureau at Oluno told approximately 2,000-3,000 men seeking work in the south that they would not be recruited if they had not voted; a special election mark was made on the reverse side of each man's identity card;
- (c) Those applying for permits and travelling documents were told that none could be issued unless they had crossed the ballot paper;
- (d) Government officials, chiefs and headmen told people they would be excluded from all medical services if they refused to vote;
- (e) Old, blind, disabled and mentally retarded people in receipt of government pensions were told they could lose these if they did not vote;
- (f) The Bantu Investment Corporation (BIC) officially told its employees to vote or to face expulsion;
- (g) Chief Josia Taapopi of Uukwaluudhi travelled his area informing people of the punishment he would inflict if they failed to vote; tribal police armed with rubber batons and swords forced people from their homes or fields and escorted them to the polls;
- (h) It was not taken into account whether a voter was aware of what he was doing, nor was there any secrecy in the ballot box. Mr. William Hashili, a government maintenance employee, was taken to Oluno polling booth and told to vote. A clerk read out names to him and proposed the most suitable; he knew of only two. The clerk crossed the ballot paper for him, adding another four names to make six. 44/

357. SWAPO and church leaders in Ovamboland claimed there had been intimidation after it was announced that there had been a total poll of 66,100 people, or over 55 per cent of the 120,000 registered electors. It was noted by observers that the polling, spread out over five days, had initially been slow and that less than

43/ Namibia News, March-April 1975; record of the 1823rd meeting of the Security Council (S/PV.1823), 30 May 1975.

44/ Namibia News, March-April 1975; Sunday Times, 16 February 1975; Windhoek Advertiser, 14 April 1975; Africa, April 1975.

5 per cent of the 14,000 Ovambo contract workers in the south entitled to vote had done so. The poll result was hailed by Chief Elifas and Mr. de Wet as a blow for SWAPO and an endorsement of the "homelands" policy. Brigadier W. Louw promised an "official enquiry" into the allegations of irregularities. The majority of the 111 candidates who contested the 42 seats up for election were classified as independent. It was reported that only 5 of the 14 members of the ruling Ovamboland Independence Party, which supported Chief Elifas, had been elected, and only 3 senior headmen and sub-headmen had been elected. 45/

358. According to information available to the Working Group, there was harassment in the period after the elections of individuals attempting to gather evidence of the alleged election intimidation. Mr. Sam Shivute, a SWAPO official in the north, was reported to have been threatened with death by the tribal police, who broke into his house and assaulted his wife. He subsequently went into hiding and an affidavit presented on his behalf resulted in the granting of an interim order by the Windhoek Supreme Court preventing the Uukwambe tribal authorities from assaulting, molesting or interfering with him or his wife. The livelihood of other potential witnesses in a court action had been threatened by the tribal police. It was reported that at subsequent political meetings there were large numbers of security police, who often attempted to act as agents provocateurs. 46/

359. It was reported by SWAPO sources that there was a continuing build-up of the South African armed forces in northern Namibia during the period under review. New military bases had been established at Onuno and Ohanguerra near the Namibia/Angola border, at Nkongo in north-east Namibia, and at Gobabis near the Botswana/Namibia border. Troop reinforcements moved to the north ostensibly to maintain security along the border were conducting a "reign of terror" against all opponents of their presence in the country. The homes of at least three people, two of them priests, had been burned down, and civilians had been shot and wounded. The command of the Defence Force in the Territory was assumed in November 1974 by Brigadier D.R. Marais. In a subsequent press interview at Outjo he stated that 2,000-3,000 SWAPO exiles were being trained as "terrorists" in Angola and that 500 had recently completed training courses and were in camps just across the border, well trained and well armed. Military power in the Territory was concentrated in citizen force units and the commandos; its defence was dependent on manpower and equipment from South Africa. He said that there was a need for the development of a military power to which all national groups would contribute. The account of the border situation was repudiated in Pretoria by General F. Armstrong, Acting Chief of the South African Defence Force. It had previously been reported that a conference of army and police officers had been held at Oshakati to discuss clashes between black Angolan troops and South African army and police units. 47/

45/ Times, 13, 15, 16 and 19 January 1975; Windhoek Advertiser, 10 February 1975.

46/ Windhoek Advertiser, 7 April 1975; Star, 31 May 1975; Namibia News, May-June 1975.

47/ Times, 3 July 1975; Windhoek Advertiser, 2 March 1975.

360. The South African Minister of Defence, Mr. P.W. Botha, stated on the occasion of the opening of the third session of the Kavangoland Legislative Council that the necessary preparations to train Kavango soldiers had been started by the Defence Force. Through an intensive training programme a Kavango police force had been trained to take over control of the cordon gates on the Botswana/Kavango border and the control post between Grootfontein and Rundu on the Kavango/Namibian border. 48/

361. According to information available to the Group, in September 1975 it was admitted by the South African Minister of Defence that troops from northern Namibia had crossed the border into Southern Angola. The troop movement had been reported in Lisbon following publication of the text of an official note from Pretoria; newspapers in South Africa are prevented under the provisions of the Defence Act from publishing any reports about troop movements. Mr. P.W. Botha, the Defence Minister, stated that a 30-man patrol had been sent to Ruacana Falls to protect the installations and workers of the Cunene River hydroelectric project from possible guerrilla attack. MPLA and SWAPO sources reported that some 800 South African troops had penetrated as far as Pereira de Eca, 50 kilometres from the border, and were reported to be attacking villages on both sides of the border in counter-insurgency operations. 49/

362. It was reported that in an emergency meeting the Ovambo Cabinet had asked the South African Government to send troop reinforcements to the border area following an alleged attack by a SWAPO guerrilla force on two border posts in which eight Africans, six tribal policemen and a headman and his wife had been killed. It was announced that the Defence Force units had been instructed to take "appropriate action" by the Pretoria command. Subsequently it was reported that in a "follow-up action" two SWAPO bases in southern Angola had been found and destroyed, a quantity of military equipment seized, and seven SWAPO guerrillas killed. The Defence Force statement did not say where the raid took place or that troops had actually crossed the Angolan border. 50/

363. The widespread arrests of SWAPO members and clergy from the Lutheran Churches in the period since the shooting of Chief Filemon Elifas on 16 August have been referred to in paragraphs 334-337 above. The Chief was shot as he left a friend's house at Oniipa, near Ondangwa, after a regular Saturday night visit and died in Oshakati hospital. His successor, Pastor Cornelius Ndjoba, was expected to follow the same pro-apartheid policies. In a meeting with Mr. Vorster several weeks previous to his death, Chief Elifas was reported to have stressed his desire for political independence for Ovamboland, "interdependent" with other states of the Territory. A transfer of additional powers to the Legislative Council had been agreed to by Mr. Vorster; these included Health and Information Services and the Road Transportation Board. The Defence Force would remain as long as its presence was essential for law and order. 51/

48/ Windhoek Advertiser, 21 April 1974

49/ Guardian, 6 and 9 September 1975; Star, 13 September 1975; Financial Times, 2 September 1975; SWAPO press releases, L/9/75/1 and L/9/75/3, September 1975.

50/ Guardian, 14 15 and 18 October 1975; Windhoek Advertiser, 14 October 1975.

51/ Star, 9 August 1975; Guardian, 18 August 1975; Financial Times, 27 August 1975.

364. Proposals to take the East Caprivi homeland to the final stage of "self-government" were reported to have been made by the Minister of Bantu Administration, Mr. M.C. Botha, during a state visit to Ngezi. There was to be a new legislative council with elected members and a cabinet, to bring it into line with the constitutional status of Ovamboland and Kavangoland, with their greater legislative power. 52/

(ii) Personal freedom and freedom of movement

365. A document prepared by the Lutheran Ovambokavango, Anglican and Roman Catholic Churches and the Baptist Congregation provided a detailed background to the exodus of an estimated 3,000-4,000 young Namibians in June-September 1974. 53/ It reported that the use of permits and travel documents heavily restricted movement within the country. Passports were refused, or granted with difficulty: whereas whites paid R3 for a passport an African had to add a deposit of R200-R400. Proclamation R17 had restricted freedom of speech and movement and the freedom to take part in political activities without persecution, contrary to the pledges given by Mr. Vorster to Dr. Escher, the envoy of the United Nations Secretary-General, in 1972.

366. According to information available to the Ad Hoc Working Group of Experts, the South African Government has falsely claimed to have repealed the "pass laws" in the Territory. The repeal of various laws relating to the carrying of permits was referred to in a paragraph of the letter addressed to the United Nations Secretary-General by Dr. Hilgard Muller on 27 May 1975 (see para. 311 above), which said that "certain laws found to be restricting had been removed". The laws concerned affected the movement and employment of certain sections of the African community and had apparently been deleted from the Statute Book as from April 1975. These were the Extra-Territorial and Northern Natives Control Proclamation No. 9 of 1935, Section 19 of the Native Administration Proclamation No. 11 of 1922, the Masters and Servants Proclamation No. 34 of 1920, the Control and Treatment of Natives on Mines Ordinance No. 3 of 1917. The abolition would mean that henceforward no more identity passes would be issued to Africans from the northern "homelands", whose position would become identical to those within the "police zone". Africans in the south in urban areas and on farms would be provided with "homeland" government-issued identity cards, or with letters of appointment proving that they had jobs. Mr. Dirk Mudge, chairman of the Executive Committee of the South West African Legislative Assembly, said that visits could be made anywhere, although contracts of service would be needed to remain in one place. The influx regulations would remain in force since their withdrawal would bring "chaos and unemployment" in Windhoek. The Chief Bantu Affairs Commissioner, Mr. P.E.S. Iude, was reported to have said that the abolition of laws on internal travel passes might be considered also. The Masters and Servants Act, governing the employment of farm workers and domestic servants and containing various penal sanctions in labour contracts, had been previously repealed during 1974 in South Africa by the Minister of Justice. 54/ In a statement on the issue, the United Nations

52/ Star, 27 June 1975.

53/ "Why people are leaving Namibia", Lutheran World Federation News Service, 38/74, 23 October 1974.

54/ Windhoek Advertiser, 29 May 1975; Rand Daily Mail, 29 May 1975; Financial Times, 30 May 1975; Times, 30 May 1975.

Commissioner for Namibia said that any claim to have repealed the "pass laws" was misleading, since many of the measures which required Africans to carry identification documents, permits or receipts remained in force. There were numerous municipal by-laws requiring Africans to carry curfew-passes and tax and rent receipts, and these could be enforced at will at the behest of the South West African Administration. The laws in force included the major part of the Native Administration Proclamation No. 11 of 1922, the Urban Areas Proclamation No. 56 of 1951, and the Employment Bureaux Regulations of 1972. 55/

367. A number of repressive actions were taken against clergy and lay members of the Anglican and Lutheran Churches during the period under review.

368. The total number of clergy of the German United Evangelical Mission was reported to have been reduced to five following a refusal by the Administration to renew the residence permit of Rev. Hans-Jochen Messerschmidt. Rev. Messerschmidt, who had been sent to the Territory four years previously, left at the end of March 1975. A demonstration of support at the airport by young church members was broken up by police. Total staff at the mission had been reduced from 50 to 20 in the last three years. 56/

369. In June an expulsion order was issued against Bishop Wood and his wife and Mr. Rolf Friede, the lay director of Windhoek's Christian Centre, by the South African Administrator of the Territory. The Woods and Mr. Friede were declared to be "undesirable residents" but no other reason was provided, nor were any charges made. They were given one week to leave the Territory. The action followed a campaign in official circles and in the press against Bishop Wood as a SWAPO supporter and writer of political pamphlets: Bishop Wood played a prominent role in the legal campaign against the flogging in Ovamboland and in attempts to bring allegations about the elections to court. White hostility to these three church people was reported to be evident. In a letter of 22 September 1975 to all member churches and national committees of the Lutheran World Federation, Dr. Carl Mau, Secretary-General of the Federation, enclosed the text of his letter to Mr. Vorster which protested at "systematic harassment" of churches in the Territory. He said:

"By arrests which include a number of pastors and teachers and many members of our churches, as well as other Christian churches, and by the expulsion of pastors and leaders of Christian churches of the area, we can only conclude that the South African Government is engaging in a systematic attack upon the Christian churches in Namibia of a kind that is intolerable and an offence to the world community of Lutheran churches. This is accentuated by the fact that in a number of cases it is impossible for the church leaders or families of those imprisoned to see those who are being detained without being charged of any crime. Several appeals to see them by their family, or by their spiritual leaders, have been of no avail. The brutality with which such measures are being carried out can only offend the conscience of freedom- and peace-loving peoples everywhere." 57/

55/ Windhoek Advertiser, 5 June 1975.

56/ Lutheran World Federation News Service, 12/75, 21 April 1975.

57/ Windhoek Advertiser, 16, 18 and 24 June 1975; Lutheran World Federation News Service, 20/75, 18 June 1975; 21/75, 25 June 1975; 33/75, 26 September 1975; Anti-Apartheid News, September 1975.

(iii) Health

370. It was reported that the closure of two Anglican mission hospitals was expected to affect seriously medical facilities in Ovamboland. Together with five out-station clinics, the hospitals dealt with over 200,000 patients a year, with about 2,000 a year admitted to hospital. Although Odibo had been the only hospital in the Territory able to offer training for nurses in the medium of English, permission for nurses to train for official registration had been persistently refused by the authorities. The Archdeacon of Ovamboland, Rev. Lazerus Haukongo, stated that the result had been much death and suffering, and that large areas of northern Namibia were left destitute of proper medical facilities. 58/

371. It was reported that security police had prevented officials of the World Health Organization from entering the Territory to investigate an outbreak of bubonic plague in Ovamboland. By the end of November 1974 it had been reported that, out of 252 cases of plague recorded in the period since September, there had been seven deaths and that eleven people were still hospitalized. SWAPO's representative at WHO since May 1974, Dr. Libertin Appollus Amathila, had requested an official investigation of the outbreak. Immigration officials at the airport, on the instructions of Colonel Jan Griebenau of the security police, told Drs. B. Cvjetanovi and A.A. Arata that they could not enter because they were without visas. 59/

372. The following details about health facilities in the "homelands" of the Territory were provided in a ministerial answer in Parliament during 1974. There were said to be 22 mission hospitals, 5 state hospitals and 50 "clinic centres", providing a total of 3,441 hospital beds. There were 39 white doctors available, 213 white nurses, 575 black nurses, 1 white dentist, 7 white chemists, 6 white physiotherapists, 5 white radiographers, 10 white health inspectors, 2 black health inspectors, 18 white health assistants, 7 black health assistants. There were no details of a breakdown of medical personnel as between the different "homelands". 60/

373. According to official information published by the South African Government, as of 1973 there was a total of 183 hospitals and clinics throughout the Territory, of which 145 were for the black and Coloured population groups, 17 for all groups, 21 for the white population group. There were 1,085 beds available for the white population group and 6,300 for the non-white population groups, a ratio of 10 beds per 1,000 for the whole population. There were 143 general medical practitioners and 19 specialists in the Territory, a total of 2,330 nurses, including 1,530 from the black and Coloured population groups. Since the opening of the Oshakati state hospital in 1966, a team of specialists is flown there twice a month. In the southern sector, or police zone, there were four specialists and 20 government medical officers acting as district surgeons. In the northern areas government doctors fulfilled the role of district surgeons. 61/

58/ Namibia News, February 1975.

59/ Windhoek Advertiser, 9, 21 and 29 October 1974, 27 November 1974; Namibia News, February 1975.

60/ House of Assembly Debates, 15 February 1975, col. 95.

61/ South West Africa Survey, 1974 (South African Department of Foreign Affairs), p.66.

374. A survey of the health implications of apartheid in South Africa, published by the World Health Organization, contained data with considerable relevance to conditions in the Territory. WHO had been requested by the United Nations Special Committee against Apartheid to prepare a study on the effects of apartheid in the fields of health and medicine. The information covered mental and physical health, rates of infant mortality, malnutrition, communicable diseases, health care facilities, and the situation of health professionals of the Coloured and black population groups. ^{62/} It is apparent from the conclusions drawn in this survey that the present situation resulting from the policy of apartheid prevents all individuals from enjoying the highest possible standard of health. The widespread prevalence of avoidable diseases and premature deaths is, in fact, due primarily to nutritional deficiencies and infections. Consequently, the discriminatory measures to which the Africans are subjected cannot fail to have a detrimental effect on their health.

(iv) Economic opportunities

375. Information available to the Working Group during the period under review indicated a continuing low level of economic opportunities in the "homelands", maintaining the economic pressures for labour migration to jobs in the southern sector. The level of unemployment in Ovamboland has been estimated as high as 70 per cent of the economically-active population of approximately 135,000. According to a preliminary survey of the Namibian economy and labour force by a University of Cape Town economist, the total labour force in the Territory was approximately 302,000, of which 37,000 were Coloured, 32,000 white, 233,000 African, with migrants comprising 54 per cent of the total male labour force and 37 per cent of the total Ovambo labour force. The main problem areas were said to be the low labour productivity of "homeland" agriculture, the low labour intensity of the mining industry, the small employment potential of manufacturing, and the possibility of significant open unemployment in the future. It was estimated that the total labour force would increase by some 8,000-9,000 workers annually from 1975 onwards. ^{63/}

7. The low wages paid to black workers

376. Information available to the Ad Hoc Working Group of Experts for the period under review indicates the continuation of the pattern of low cash earnings by non-white workers within both the commercial and the subsistence economic sectors. A recent unofficial study gives figures for the mean gross wages paid to Africans in Namibia in various industries:

^{62/} Unit on Apartheid, Notes and Documents, No. 5/75 (March 1975), "Health implications of apartheid in South Africa".

^{63/} Jo Morris, "The role of foreign firms in Namibia" (Africa Publications Trust, London, 1974), p. 137; W.H. Thomas, "The economy of South West Africa: an over-all perspective", University of Cape Town, February, 1975 (mimeographed), pp. 7,8,15,16.

Estimated gross wages per month in Namibia

<u>Sector</u>	<u>Rand</u>
Mining	R30
Construction	25
Metal products	40
Food industry	27

The Windhoek poverty datum line (PDL) was estimated to be R81.75 per month in 1973, with the majority of the African labour force earning less than half of the PDL. Food prices in Namibia were estimated to be increasing at the rate of 17 per cent per annum. 64/

377. According to a survey by the Institute for Planning Research at the University of Port Elizabeth, the cost of living in the Territory had increased by 40 per cent over the 12-month period ended December 1974. The PDL had been revised upwards to R112.74 per month for an African family of six. The term used by the Institute was HSL - household subsistence level. For a Coloured family of five, the PDL was estimated at R138.79 per month. 65/

378. Figures of wage levels and non-cash benefits of African workers were provided in the official government survey of the Territory. 66/ According to these figures, average cash earnings of African employees at Consolidated Diamond Mines were R87.38 per month as of 1973, while the guaranteed monthly earnings of the lowest group of earners was between R49 and R62 per month. Non-cash benefits, food, lodging, medical treatment, etc., were estimated to represent another R25.09 per worker per month. At the Tsumeb Corporation Ltd., which operates three base metal mines in the Territory, average cash earnings were R36.63 per month as of 1973, with non-cash benefits valued at R34.78 per month. In the fishing industry, "typical" earnings in a canning factory during the six-month fishing season as of 1974 were: cash - basic, R27.30, overtime R26.00, bonus R8.66, leave pay R1.43, total R63.39 per month. In addition an average of R17 per worker per month was paid by the industry in compound fees. Crew members were paid a basic wage of R80 per month for 8 months, R40 per month for the remaining 4 months. 67/

379. Continued dissatisfaction of workers and employers at the operation of the revised contract labour system, particularly as regards the level of wages, was indicated in a speech by the Deputy Minister of Bantu Administration to a conference of Windhoek industrialists. He said that during 1974, out of 3,300 farm labourers who had applied for employment contracts, over 1,000 had subsequently left the job before the end of the year. 68/

64/ Morris, op.cit., pp. 141-142.

65/ Windhoek Advertiser, 2 December 1974.

66/ South West Africa Survey, 1974, pp. 58-61.

67/ Namib Times, 31 January 1975.

68/ Star, 7 July 1975.

8. Other serious violations of human rights

380. Information available to the Ad Hoc Working Group of Experts that the programme of political consultations to reach a "mutually satisfactory solution" on the Territory's future, launched by the National Party Executive Committee in September 1974, has been accompanied by a campaign of increased repression of political organizations working for national independence for the Territory on a unitary basis. These include in particular SWAPO and the Namibia National Convention (NNC), a group of political and tribal organizations allied with SWAPO. Although the leaders of the National Party stated that the "homelands" policy was not a sine qua non for the so-called multiracial conference, and that all options, from a federation to a unitary state, were open for discussion, participation in the exercise was in practice limited to those African leaders agreeing to represent the "particular interests" of one "ethnic group". The formal motion by the all-white Legislative Assembly approving the holding of multiracial talks stated that there were various population groups each with the right to its own culture and language; barred participation by non-white political parties on the grounds that no one knew precisely who was represented; excluded any solution on the basis of majority rule; and noted that "law and order" should be maintained by South Africa during the process of moving towards self-determination. 69/

381. In a statement issued in Lusaka on 26 September 1974, SWAPO spokesmen said that they wished to make it clear that the announcement of the talks was a well calculated and deliberate political manoeuvre aimed at entrenching "bantustanization" and annexing Namibia to South Africa. In a statement issued in Windhoek, Axel Johannes, the SWAPO Organizing Secretary in Namibia, said his organization would be prepared to consider discussions with the South African Government provided it was prepared to renounce the "homelands" policy and restore human rights to the inhabitants of the Territory. The people of Namibia had undergone "massacre, murder, torture, imprisonment, barbaric public floggings, and every form of deprivation of fundamental human rights for many years" but were prepared to recognize a genuine change of heart. 70/

382. At a press conference in Windhoek on 17 January 1975 Axel Johannes, administrative secretary of SWAPO, reiterated his organization's refusal to participate in the so-called multiracial talks because they were "tribally orientated" and did not involve the true leaders of the Namibian people, and restated the pre-conditions for negotiations with the South African Government. The statement said that a future SWAPO Government would promulgate a bill of rights which would guarantee the fundamental human rights of which the people of the Territory had been deprived. The six pre-conditions were that South Africa should: (i) recognize and state publicly the right of the Namibian people to independence and national sovereignty; (ii) accept the principle of the absoluteness and inviolability of Namibian territorial integrity; (iii) recognize and accept SWAPO as the only authentic representative of the Namibian people;

69/ A/10023/Add.3, paras. 106-110.

70/ Ibid., para. 116; SWAPO press statement, 30 December 1974.

(iv) release all political prisoners in Namibia and South Africa; (v) allow all Namibians in exile to return without fear of arrest or victimization; and (vi) make a prior commitment before any talks to withdraw all troops and police from Namibian territory. 71/

383. At the Ninth Extraordinary Session of the Council of Ministers of the Organization of African Unity, held in Dar es Salaam from 7 to 10 April, a resolution adopted unanimously on Namibia condemned South Africa for its continued illegal occupation of Namibia and the increased methods of repression used against the Namibian people. 72/

384. The SWAPO President, Mr. Sam Nujoma, provided details of what he called "the actions which the occupying régime has taken in its campaign to prevent the Namibian people from advancing towards self-determination and genuine national independence". He referred in particular to the build-up of South African armed forces in the Territory and the imposition of bantustan elections in Ovamboland. 73/

385. It was reported that the South African officials in the Territory were attempting to put together an alliance against alleged Ovambo domination by exploiting amongst the smaller ethnic groups the fear of being outnumbered in a unitary state, which some kind of federal system guaranteeing minority rights would prevent. It was reported that a SWAPO document containing provisional details of constitutional arrangements for the Territory had been released to the press throughout the world shortly before the start of the constitutional talks in Windhoek on 1 September. The proposals committed the party to the eradication of racialism, with full Namibian citizenship available to all born in the country or resident there five years prior to independence. A comprehensive bill of rights would be enforceable against the executive or administration at the instance of a citizen; the International Convention on the Elimination of All Forms of Racial Discrimination and the two International Covenants on Human Rights would be ratified. In addition, the Optional Protocol to the International Covenant on Civil and Political Rights would be observed: this allows international action to be brought against Governments for failure to protect the human rights of their citizens. Ethnic regionalism and proportional representation in the single-chamber, 100-member elected legislature are ruled out, but there is provision for the establishment of a house of chiefs as a second chamber with advisory functions. 74/

386. It was reported that a representative meeting of anti-apartheid political parties and groups had been held at Okahandja on 13-14 September 1975. The meeting included representatives of the Namibia National Convention and of the Damara, Nama and Herero communities. They issued a statement which said that the so-called constitutional conference called by the South African Government had been unrepresentative and tribal, with delegates not reflecting the desires of the people

71/ A/10023/Add.3, para. 117; SWAPO press statement, 17 January 1975.

72/ SWAPO Information Bulletin, New York, 16 April 1975.

73/ S/PV.1823 (30 May 1975).

74/ Star, 29-30 August 1975; Times, 2 September 1975.

of the Territory. While the Government ostensibly sought a peaceful solution, the police arresting and intimidating political leaders and their supporters. The conference had been illegal, since it showed contempt for the international status of the Territory. The statement said they supported a unitary constitution based on the Universal Declaration of Human Rights. When the question of Namibia was considered at the thirtieth session of the General Assembly, the Fourth Committee, in accordance with a decision taken at its 2134th meeting, held on 30 September 1975, acceded to the request for a hearing made in a telegram dated 22 September 1975 from representatives of anti-apartheid political parties and groups in Namibia addressed to the Secretary-General.

B. STUDENT MOVEMENTS

Introduction

387. This question is being reviewed for the first time in this report. Information and evidence available to the Ad Hoc Working Group of Experts indicate that education in Namibia is based on concepts so restrictive and so authoritarian as to deprive the African and Coloured inhabitants of the Territory of an education worthy of the name. Although there are no universities in Namibia, there are a number of technical and theological institutes, as well as segregated high schools, where a student consciousness can be said to exist. These include the government-controlled Windhoek Augustineum, a high school, a teachers' and technical training centre, the Ongwediva Educational, Vocational and Training Institute in Ovamboland, and the Paulinum Theological Seminary and Martin Luther high school, controlled by the Lutheran Church organization. The only black graduates are therefore from South African universities (see chapter I, on South Africa, section D, above).

1. Relevant legislation

388. The 1958 Van Zyl Commission recommended the adoption of the South African apartheid policy of Bantu education in the Territory. This involved teaching according to the Department of Bantu Education syllabus: "mother-tongue" instruction according to ethnic group and the replacement of mission-run schools by state schools. According to information given in the "Odendaal report", 89 per cent of Coloured and 57 per cent of African schools were mission-run in 1962. 75/

389. Education of Africans was until 1969 under the aegis of the South West African Administration in Windhoek. Following the passing of the South West African Affairs Act No. 25 of 1969, the education of Africans was transferred to the Department of Bantu Administration and Bantu Education; that of Coloureds, Rehobothers and Namas to the Department of Coloured Rehoboth and Nama Relations. South Africa's Bantu Education Act No. 47 of 1953, as amended, was made applicable to Namibia in 1970, and the educational system of the Territory is being developed on identical lines to that of the Republic. Bills providing for separate educational facilities for the different "ethnic groups" and provisions for the transfer of control of local education to the "homeland" authorities have been enacted.

2. Existing student groups

390. Identifiable student groups have not, so far as is known, developed in Namibia, given the official structure imposed by the South African Government on educational centres. Until the late 1960s the South African Government provided almost no higher educational facilities in the Territory; in 1962, 98 per cent of all schooling was at primary level and only 46 per cent of African children attended school. In that year a total of three Africans were in matriculation (i.e. a university entrance qualification) class. 76/ The most recent information available gives a total of seven schools providing secondary education, four vocational training centres, and

75/ Report of the Commission of Enquiry into South West African Affairs 1962-63 (Odendaal Report). Quoted in M.K. McGill, "Education policy and results", in South West Africa, Travesty of Trust, R. First and R. Segal, eds. (1967).

76/ Gottfried Geingob, "Experience as a student and teacher", in South West Africa, Travesty of Trust; Odendaal Report; Breaking Contracts: The Story of Vinnia Ndadi (Canada, LSM Press, 1974).

five teacher training centres. There were no institutes of higher education. Of 451 schools officially listed in 1973, 407 were "community schools", teaching the Bantu education syllabus. Of the enrolled Africans, 75 per cent drop out of school in the first three years. As of 1971, only 6 out of 1,911 African school teachers in the Territory had a university degree. In 1973, 39, and in 1974, 29 Namibian students qualified for university entrance, and a total of 33 Namibian students were studying at South African (Bantu) universities. 77/

391. In spite of an enormous demand for basic education among Africans, the poverty of schooling offered, its ideological and linguistic bias, and the authoritarianism of the institutions combine to make African students reject the state schools. Those who cannot get into mission schools, which provide a reasonable educational standard, may prefer to go out to work rather than attend a state school. The number of mission schools has been reduced over the period of South Africa's administration of the Territory, from 211 in 1922 to 36 in 1973.

392. Large numbers of young Namibians contrive to escape abroad to seek education. In the 1950s and 1960s, Herero and other African communities saved sums of money to send talented young people abroad, many of whom subsequently became spokesmen for the nationalist organizations SWAPO and SWANU. In the past 10 years these movements have themselves sponsored students in African countries, Western and Eastern Europe and the United States. All these factors have combined to discourage the evolution of a student community within Namibia. 78/

393. Political activities in schools and training colleges have, however, been continuous since 1971, when demonstrations and walk-outs in support of the advisory opinion of the International Court of Justice of 1971 were reported. In August 1973, the SWAPO Youth League was established, with many students amongst its membership. The activities and subsequent repression of the League have been summarized in previous reports of the Group, and police repression of students has continued during the period under review. In 1974 the flight of young Namibians from Namibia was partly attributed to the enforcement of segregation in education; the expulsion of pupils and students who wanted to study; and the enforced transfer of teachers, especially those who opposed the Government. Namibian students have recently been expelled from universities in the Republic, as well as from schools and jobs in the Territory, for alleged membership of SWAPO and for attempting to arrange public meetings. 79/

3. Impediments to student movements

394. The principal barriers to the development of student movements within the Territory, apart from those listed above, appear to be the segregation of African and Coloured students; and the provisions of the Bantu Education Act and the Education Acts for Coloureds, Namas and Rehobothers for suspension and punishment of pupils by the authorities for a range of purported offences against discipline. 80/

77/ Survey of Race Relations, 1974, (SAIRR), pp.342-353; Morris, op. cit., pp.166-167, 177; House of Assembly Debates, 18 March 1975.

78/ Geingob, op. cit., p.221.

79/ See E/CN.4/1135, paras. 208, 220, 221, 223, 228-32; Magdalena Shamena, "Letter from a Namibian woman", in Objective: Justice, March 1975; Lutheran World Federation-News Service, 38/74, 23 October 1974; Namibia News, May-June 1975.

80/ South West African Survey, 1974, pp.62-63; Survey of Race Relations, 1974, pp.342, 347, 352, 353; cf. E/CN.4/1159, para. 275; Breaking Contract: The Story of Vinnia Ndadi, (Canada, LSM Press, 1974).

395. In the northern "homelands" of Ovamboland and Kavangoland, the supervision of the educational system is shared in theory between the Department of Bantu Administration and the "homeland" governments. The increasing level of political conflict in these areas and the general climate of intimidation have been described in the previous report of the Group. 81/

C. APARTHEID AND THE AFRICAN FAMILY

Introduction

396. This question is being discussed here for the first time by the Ad Hoc Working Group of Experts. The framework of the system of racial segregation, the pass, permit and influx regulations, and the operation of the contract labour system, which all impinge on African community and family life, have been discussed in the sections dealing with these topics in the current and previous reports of the Group. These aspects are reviewed here in the context of the underlying theme of the effects of apartheid on the African family.

1. Description of the African family and analysis of its role

397. In general there is little original material on the African family relating specifically to Namibia. However, much of the work carried out on the family and its role in South Africa has relevance to the situation in Namibia. Therefore, for descriptions of the effects on the African family of urbanization, removals of population, the migrant labour system, the pass laws and segregation of ethnic groups, reference is made to chapter I of the present report.

398. There is some post-Second World War material available on the population, age structure, family and social life of Africans in rural areas, reserves and urban locations, compiled by the Department of Native/Bantu Affairs. It deals with the situation of the African family in the pre-Bantustan period, prior to the implementation of the "Odendaal report" on "homelands" for the different "ethnic groups". The bulk of the material relates to families and individuals of the Herero and Damara (Bergdama) communities. 82/ These studies covered the following reserve: Otjituo (Herero), Waterberg East (Herero), Okambahe (Damara), Otjohorongo (Herero), Epukiro (Herero), Aminuis (Tswana/Herero), Otjimbingwe (Herero/Damara), Ovitoto (Herero); and the following locations: Grootfontein, Otjiwarongo, Omaruru, Gobabis, Karibib, Usakos, Okahandja, with mixed populations of several communities, Coloureds, and migrant workers from the northern areas. These reports show that in general the Hereros had extended family dwellings, with a nuclear structure predominating amongst Damaras, and that in both cases there was an imbalance between the male and female population, with males aged 16-30 away at work on white farms and in towns. They

81/ E/CN.4/1159, paras. 196, 276.

82/ Study of the Grootfontein District, EP No. 45, Department of Bantu Administration, 1959; Study of Otjiwarongo District, EP No. 44, 1959; Study of Omaruru District, EP No. 43, 1959; Study of Gobabis District, EP No. 42, 1959; Study of Karib District, EP No. 40, Department of Native Affairs, 1958; Study of Okahandja District, EP No. 38, 1957.

also show that close relationships were maintained wherever possible between families and relatives in the rural reserves and the urban locations, and that there was considerable intermarriage between the different African tribes and communities in the urban locations.

399. Contemporary conditions in the urban locations of the Territory, particularly in Katutura, the African township outside Windhoek, have been analysed in several recent studies. These emphasize the social difficulties caused by the inability of many heads of families to earn more than the barest subsistence income for their families, and the isolation of the migrant workers, even within the African township, owing to the restrictions on freedom of movement and residence. 83/

400. No historical or anthropological studies of African family life outside the "police zone", i.e. in Ovamboland, Kavangoland, Kaokoveld and the Caprivi, were available to the Group. A series of studies of the effects on family life of the contract labour system, however, were carried out following the 1971 general strike by migrant workers from Ovamboland and other northern areas. These lay stress on the detrimental effects of the absence of husbands and fathers, which leaves the burden of farming and bringing up children on wives and mothers, and of the pass laws, influx control regulations and residential segregation as between African "ethnic groups" in white areas. Farming on a regular basis in the reserves, which might otherwise provide some degree of self-sufficiency to African families, is hindered by the continual absence of the males. 84/

2. Short-term and long-term effects of the policy of apartheid on the African family

(a) Effects on conjugal relationships

401. The disintegrating effects of the contract labour system have been extensively analysed: these include drunkenness, adultery, venereal disease, broken marriages. Repeated periods away under contract can mean that up to two thirds of a marriage may be spent away from home. The strict imposition of influx controls, which recent Government statements in the Territory have stressed will be maintained, whatever other relaxations in apartheid regulations may be made, prevents the wife and family moving with the labourer. One of the major demands of strikers in 1971 was for their families to be allowed to move with them to their place of work. 85/

402. Contract workers are deeply aware of the destructive effects of the system on their lives and resent it accordingly, as shown by the survey conducted by Rauha Voipio for the Evangelical Lutheran Church Synod in Namibia. This involved questionnaires sent to contract workers and their wives and pastoral workers in Ovamboland and the industrial and mining centres. Nearly 1,000 of these questionnaires were returned and these remain the most comprehensive source for information on the effects of

83/ Morris, op. cit., pp.148-152; W. Pendleton, Marriage and Urban Tribalism among Africans, Paper No. 30, (Johannesburg, Institute for the Study of Man in Africa, 1972); W. Pendleton, Katutura, A Place Where We Do Not Stay (San Diego State University Press, 1974).

84/ John Kane-Berman, "Contract labour in South West Africa" (South African Institute of Race Relations, document RR/30/72, April 1973); Breaking Contract: The Story of Vinnia Ndadi (Canada, LSM Press, 1974), pp.14-15.

85/ Kane-Berman, op. cit., pp.22-24; appendix III, XI-XIV.

migrant labour on family life of the Africans in the Territory. Workers are shown to spend on average 12-18 consecutive months away from home, with periods of 6-12 months becoming more common since the introduction of the "revised" recruiting system in 1972. 86/

403. It is estimated that as many as 37 per cent of the adult males are away from home at any one time. This puts marriages under constant strain, both from the point of view of the wife left at home and of the husband on his own in the labour compounds or farms. 87/

404. For details of the labour regulations and influx control measures which enforce separation of families, reference is made to previous reports of the Group. 88/

405. The disparities in the male/female population balance in reserves outside the "police zone" are referred to extensively in the government studies previously mentioned. The lack of employment opportunities near home force men to leave home for long periods at a time. 89/

(b) Effects on parental relationships

406. Children of families in the northern areas are forced to grow up without the presence of the father; because of their long absence, fathers are often forgotten by their children. "Because of the contract my children do not know me", was one of the answers to the 1972 questionnaires. 90/

(c) Psychological, social, moral, cultural, political and economic effects

407. The apartheid policies which particularly affect family life in Namibia are the pass laws, influx control, residential segregation, the immorality acts, forced removals, and the "homeland" policies. Although there is much material on these with regard to African families in the Republic, there is little written specifically about their effects in Namibia. Reference must be made to the material on conditions in the Republic.

408. The effects of pass laws and restrictions on the freedom of movement and association of Africans tend to separate families with members in different magisterial areas, homelands or reserves, causing economic, social, moral and psychological problems. Previous reports of the Group have also discussed this process, in particular those for 1974 and 1975. 91/

86/ Rauha Voipio, Kontrak soos die Ovambo dit sien (Christian Institute, South Africa, 1972), extensively quoted in Kane-Berman, op. cit.

87/ Morris, op. cit.

88/ E.g., E/5622, paras. 118-130.

89/ Government reports already quoted: EP No. 45, para. 140; EP No. 44, para. 59; EP No. 43, para. 157; EP No. 42, para. 130; EP No. 38, para. 62.

90/ Kane-Berman, op. cit.; Morris, op. cit.

91/ Kane-Berman, op. cit., pp. 11-13; Morris, op. cit., p. 148; A Trust Betrayed: Namibia (New York, United Nations Office of Public Information, 1974), pp. 11-12; W. Courtney, Namibia: US Corporate Involvement, pp. 10-11; E/CN.4/1135, paras. 211-232; E/CN.4/1159, paras. 68-69.

409. The detrimental political and economic effects of the implementation of the policy of "bantustanization" have been widely reported on. These involve the absence of political rights and the economic deprivation of African families in the homeland areas. This topic has also been discussed in previous reports of the Group. 92/

410. An individual illustration of the effects of apartheid policies - in this case the influx controls - on family life was provided by the case of Miss Natalia Kanta in March 1974. It was reported that she had unsuccessfully appealed to the Supreme Court against a decision by the Bantu Affairs Commissioner in Windhoek requiring her to return to the Otjinene reserve. Miss Kanta, an unmarried mother of three, had come to Windhoek after her cattle had died during a forced removal from Tsese: originally she had been allowed to remain temporarily in Windhoek, this time she was refused permission to work. 93/

92/ E/CN.4/1135, paras. 244-272; E/CN.4/1159, paras. 238-254; A Trust Betrayed: Namibia, pp.7-8; M. Scott, A Time to Speak (London, 1958); R. First, South West Africa (London, 1963); R. Vigne, A Dwelling Place of Our Own (London, International Defence and Aid Fund, 1973), pp.33-36.

93/ Windhoek Advertiser, 30 March 1974.

D. THE DAKAR CONFERENCE

1. Organization

(a) Preparation

411. At its thirty-first session, the Commission on Human Rights adopted resolution 5 (XXI) of 14 February 1975, paragraph 8 of which reads as follows:

"Requests the United Nations Commissioner for Namibia to take into account the recommendations of the Ad Hoc Working Group and in particular to expose the public flogging of opponents of apartheid and to organize a world-wide seminar devoted exclusively to the large-scale violations of human rights that are taking place daily in Namibia".

412. Following contacts between the United Nations Commissioner for Namibia, the International Institute of Human Rights and the Chairman of the Ad Hoc Working Group of Experts, the Government of the Republic of Senegal invited the Institute to organize, under the auspices of the United Nations Commissioner for Namibia and in co-operation with the International Commission of Jurists and the International Association of Democratic Lawyers, a conference to be held at Dakar on the subject: "Namibia and human rights".

(b) Participation

413. The Dakar Conference was, in fact, held from 5 to 8 January 1976. It was attended by eminent personalities from all parts of the world. There were delegates appointed by their Governments, by intergovernmental organizations and by non-governmental organizations. There were also representatives of SWAPO, headed by their President, Mr. Sam Nujoma. Experts invited in an individual capacity also took part in the Dakar Conference.

414. In accordance with its request, the Ad Hoc Working Group of Experts was invited in its entirety to take part in the Conference and, in fact, attended.

415. It should also be pointed out that the United Nations Council for Namibia, in its entirety, representatives of the Special Committee of 24 on Decolonization and representatives of the Special Committee on Apartheid were present at Dakar.

416. Mr. Rupiah B. Banda, Minister for Foreign Affairs of the Republic of Zambia, Mr. Amadou Mahtar M'Bow, Director-General of UNESCO, and Mr. Issoufou Djermakoye, Under-Secretary-General of the United Nations, were also present at Dakar.

(c) Related activities

417. In addition to the Dakar Conference itself, related activities designed to draw attention to racial discrimination in general and to the problem of Namibia in particular, were organized.

418. An international film festival on racial discrimination, opened by a gala evening presided over by the Minister of Justice of the Republic of Senegal, made it possible to present to the public, in various Dakar cinemas, eleven films on the subject of racial discrimination against blacks.

419. In the Conference Hall, an exhibition of documents relating to Namibia was organized.

420. A stamp commemorating the Dakar Conference on Namibia and Human Rights was issued, combined with a slogan and postmark, and was used throughout the duration of the Conference.

2. Work

(a) Conference documents

421. The Conference documents were prepared by the International Institute of Human Rights, a Senegalese legal subcommittee and the staff of the United Nations Commissioner for Namibia. Some of them were reproduced during or after the Conference. The Division of Human Rights of the United Nations also submitted a document. 94/

422. Particular attention should be drawn to a working paper that was of special importance in that it represented the unanimous agreement of the churches which took part in the Dakar Conference and to the very important speech by President Léopold S. Senghor, which is submitted both as a monograph and as a programme relating to the Namibia problem. At the request of the Chairman of the Ad Hoc Working Group of Experts, Professor Felix Ermacora prepared a study on public flogging in Namibia.

(b) Committees

423. The Conference was opened by an inaugural meeting presided over by Mr. Léopold S. Senghor, President of the Republic of Senegal. In the course of this meeting, the following persons spoke: Mr. Amadou Mahtar M'Bow, Director-General of UNESCO, Mr. Issoufou Djermakoye, Under-Secretary-General of the United Nations, Mr. Sam Nujoma, President of SWAPO, Mr. Rupiah B. Banda, Minister of Foreign Affairs of the Republic of Zambia and Mr. Léopold S. Senghor, the President of the Republic of Senegal himself.

424. At a second plenary meeting presided over by Mr. Kéba M'Baye, Chairman of the Ad Hoc Working Group of Experts and President of the Conference, the following persons spoke: Mr. Duncan W. Kamana, Chairman of the United Nations Council for Namibia, Mr. G.A. Allana, Chairman of the Commission on Human Rights, a representative of the Special Committee of 24 on Decolonization, Mr. Franck Boaten, representative of the Special Committee on Apartheid, Mgr. Johannes Dyba, representative of the Holy See, Mr. Hellberg, representative of the Lutheran World Federation, Mr. Dwain Epps, representative of the World Council of Churches and Mr. Schreiber, Director of the Division of Human Rights of the United Nations.

425. Two working committees were established, each of them being directed by a bureau consisting of two co-chairmen, two rapporteurs and a secretary.

94/ The list of documents circulated at the Dakar Conference on Namibia and Human Rights is given in annex II to this chapter.

426. Co-ordination work in connexion with the Conference was carried out by an Executive Committee made up of the United Nations Commissioner for Namibia, Mr. Seán McBride, the Chairman of the Conference, Mr. Kéba M'Baye, the Acting President of the International Institute of Human Rights, Mr. Gansho van der Meersch, the Secretary-General of the International Commission of Jurists, Mr. Niall McDermot, and the President of the International Association of Democratic Lawyers, Mr. Jöe Nordmann.

427. The first committee was entrusted with the task of studying the topic: "Namibia and human rights, yesterday and today" in terms of the following three headings:

"Historical, political, economic and social data on the human rights situation in Namibia";

"The legal position of the inhabitants of Namibia under the present illegal regime";

"Aspects of the internal and external struggle for human rights in Namibia".

428. The second committee was given the task of studying the topic "Namibia and human rights, yesterday and today" in terms of the following three headings:

"Present and future work of governmental and non-governmental organizations for the liberation of Namibia; implementation of the Decree on natural resources by the United Nations Council for Namibia";

"Ways in which the Namibians could exercise their right to self-determination";

"Implementation of human rights in independent Namibia".

429. The work of the committees formed the subject of a general report drafted by Mr. Abdoulaye Dieye, Counsellor to the Supreme Court of Senegal.

430. The Conference ended with a plenary meeting presided over by Mr. Abdou Diouf, Prime Minister of the Republic of Senegal, in the course of which after submission by Mr. Allana, Chairman of the Commission on Human Rights, of a motion of thanks, the general report prepared by Mr. A. Dieye and the Declaration of Dakar with its annexed Programme of Action, submitted by Mr. Kéba M'Baye, President of the Conference, were adopted by acclamation without discussion.

431. During the plenary closing meeting, the Prime Minister took the floor to declare the Conference closed.

3. Results

(a) Declaration of Dakar and Programme of Action

432. The conclusions and recommendations of the Conference were set out in two documents: the Declaration of Dakar and the Programme of Action, annexed thereto. These documents are reproduced in annex I to this chapter.

(i) Declaration of Dakar

433. The Declaration of Dakar and the Programme of Action represent the expression of world-wide public opinion about the present situation in Namibia, a territory illegally occupied by the Republic of South Africa even though it is legally under the administration of the United Nations. This public opinion is not to be considered as the opinion of Governments, because the participants in the Conference did not take part in it as State representatives but in their individual capacities, as representatives of governmental or non-governmental organizations. However, it should be added that special account was taken of the decisions and resolutions which the various United Nations bodies have adopted on Namibia. The list of participants shows the wide-ranging nature of the participation and the world-wide interest shown in the problem of Namibia. The work of the Dakar Conference and the conclusions it reached were widely reflected in the world press.

434. The Declaration stresses the right to self-determination, which it regards as a pre-requisite for all other human rights.

435. It notes that South Africa has violated its mandate and considers that the extension of the apartheid regime to Namibia constitutes a threat to peace and security.

436. It condemns the recent reinforcement of the South African military presence in Namibia and expresses indignation at the active or passive complicity of which some States are guilty.

437. Having described the characteristics of the apartheid regime, the Declaration welcomes the steps taken by the international community and recommends a prudent attitude to South Africa's alleged policy of "ouverture" and "dialogue".

438. The Declaration invites Governments to recognize SWAPO as the only authentic representative of the people of Namibia.

439. It states that, failing the use of coercive measures by the international community, only force, including armed struggle, can constrain South Africa to respect the decisions of the United Nations.

(ii) Programme of Action

440. The Programme of Action is proposed to international organizations, States, non-governmental organizations and social, professional, trade-union and information organizations as a set of steps to be taken to secure for the people of Namibia the exercise of their right to self-determination. It is annexed to the Declaration, with which it forms a single whole.

441. The Programme first addresses the Security Council which, it is suggested, should decide that the occupation of Namibia by South Africa constitutes a threat to international peace and security. A number of measures would stem from this decision, such as an embargo on the sale, gift or transfer of arms, an approach to certain intergovernmental organizations to suspend economic and financial relations with South Africa and a request to the Federal Republic of Germany to close its consulate at Windhoek.

442. The Council is also asked to declare that it is imperative to hold free elections, to demand that South Africa recognize the rights of the people of Namibia, take the necessary measures to effect the withdrawal of its illegal administration and, in any case, comply with the decisions of the international community, release political prisoners and abolish apartheid in Namibia.

443. For its part, the General Assembly is invited to act in the place of the Security Council if the latter does not exercise its powers under the Charter.

444. In addition, it is decided that an international week of solidarity will be organized each year on 27 October by international committees for aid to Namibia, while parliaments and inter-parliamentary organizations are requested to discuss the question annually. It is then stated that Decree No. 1 concerning protection of the natural resources of Namibia must be enforced, that the United Nations Council for Namibia should consider the possibility of acceding on behalf of Namibia to the 1966 Conventions and that trade unions should use the means available to them to oppose the assistance given by certain States to South Africa.

445. The Programme of Action also advocates the effective liberation of political prisoners, assistance to certain churches, the setting-up of an effective information system, and the establishment of a filing system for the purpose of recording and, at a later stage, prosecuting crimes committed in Namibia, together with a number of measures to be carried out by the United Nations Commissioner for Namibia.

446. Lest the Programme of Action should remain a dead-letter, it suggests that the United Nations Commissioner for Namibia should annually review the efforts made and results obtained within the framework of the actions envisaged.

(b) Recommendations of the Ad hoc Working Group of Experts

447. The Declaration of Dakar and the Programme of Action were immediately transmitted by President Léopold S. Senghor to the current Chairman of OAU. It should be emphasized that the Conference expressed the wish that the two documents should be given the widest possible publicity. Consequently, in addition to the letter sent on 16 January 1976 by the Chairman of the Ad hoc Working Group of Experts to the United Nations Secretary-General requesting him to communicate the Declaration and the Programme of Action to the members of the Security Council and, if possible, to all Member States, the Group recommends that the Commission should, in a resolution, propose that the Declaration and Programme of Action be distributed to all Member States as official United Nations documents.

448. The Group also recommends that the Commission on Human Rights draw the attention of all bodies to the need to implement fully the Programme of Action annexed to the Declaration of Dakar.

449. The Group recommends that the Commission on Human Rights congratulate and thank the Government of Senegal for having taken the initiative in convening the Dakar Conference.

Annex I

DECLARATION OF DAKAR ON NAMIBIA AND HUMAN RIGHTS

The participants at the International Conference on "Namibia and Human Rights" which was held in Dakar from 5 to 8 January 1976,

Considering that the right of the peoples to self-determination is an inalienable and imprescriptible right,

Considering that the implementation of the right of peoples to self-determination is the sine qua non of enjoyment of the fundamental rights and freedoms deriving in particular from the provisions of the United Nations Charter, the Universal Declaration of Human Rights and the Covenants on Human Rights,

Considering, in particular, the Declaration of the Granting of Independence to Colonial Countries and Peoples and the Charter of Economic Rights and Duties of States,

Considering resolution 2145, of 27 October 1966, revoking the Mandate of South Africa over South West Africa,

Considering that the International Court of Justice has affirmed that the presence of South Africa in Namibia is illegal,

Considering that the Security Council has declared that such presence is detrimental to the maintenance of peace and security in the region,

Convinced that the armed struggle of the people of Namibia, supported by progressive and democratic forces will inevitably triumph,

Noting that SWAPO has been recognized by the United Nations as the only authentic representative of the people of Namibia,

Noting with satisfaction the creation by the United Nations General Assembly of the United Nations Council for Namibia,

Hoping that the implementation of action by the United Nations Council for Namibia, in particular its Decree No. 1, will accelerate the process of the decolonization of Namibia.

Firmly resolved to support by their words, deeds and studies the struggle for the liberation of Namibia,

Adopt the following Declaration and Programme of Action annexed thereto:

I

1. Like all peoples, the people of Namibia have the right to self-determination. By virtue of that right it must be able to determine freely its political status and ensure its economic, social and cultural development.

2. The exercise of that right by the people of Namibia is a pre-requisite for their enjoyment of human rights. It involves the liberation of the people of Namibia from the yoke of South Africa's colonialism and the restoration of its fundamental national rights, which are independence, sovereignty, the right to dispose of its natural resources and the unity and integrity of its territory.

3. Any attempt to destroy the national unity and territorial integrity of Namibia is inconsistent with the purposes and principles of the United Nations Charter. The policy of "Bantustanization" is contrary to those purposes and principles. It aims at denying to the people of Namibia the exercise of its right to self-determination.

4. It is necessary to denounce and condemn the so-called constitutional conference convened by South Africa, the composition and purpose of which have been illegally determined by the South African Government.

II

5. South Africa has deliberately violated the obligations deriving from its Mandate over South West Africa. Its refusal to place South West Africa under the Trusteeship System, in spite of a number of resolutions of the United Nations General Assembly requesting it to do so, reveals its annexation intent. The termination of its Mandate by the United Nations General Assembly on 27 October 1966 makes its presence in Namibia illegal.

6. The presence of South Africa in Namibia is all the more intolerable in that it is subjecting the people of Namibia to the detestable system of apartheid, a deliberate negation of the most elementary human rights which has been universally condemned.

7. Namibia has been split into an arid and economically useless zone of "reserve" (homelands) where the great majority of the Black population is being parked on a third of the Territory, and a "police" zone exclusively reserved for Whites and comprising the major part of the plateau, suitable for agriculture and rich in mineral resources, including uranium. The Blacks are excluded from the "Territorial Government", which itself has very limited authority. They are deprived of freedom of movement and cannot leave their reservation without a pass. They do not have the right to choose either their employment or their employer. When forced to work in the "police" zone, they have to leave their wives and children and live separated from their families. They do not have either the right to organize or the right to strike.

8. Such a system, which reduces a whole people to slavery, constitutes a crime against humanity.

III

9. Maintenance of the occupation of Namibia by South Africa and of the system of apartheid is a continuing threat to peace and security in southern Africa, the whole of Africa and the world. Consequently, South Africa and its colonialist, racist and aggressive policies must be strongly denounced and vigorously combatted by the international community as a whole.

10. The recent reinforcement of the military presence of South Africa in Namibia must be condemned as a means of consolidating the illegal occupation of that country and of repressing the legitimate resistance of the people of Namibia. What is more, the use of the territory of Namibia as a base for intervention in the internal affairs of African countries, as is at present the case in Angola, aggravates the threat to international peace and security and must cease immediately.

11. It is regrettable that the triple veto of the United States, the United Kingdom and France paralyzed the Security Council by preventing it from taking effective action and, more precisely, from applying the sanctions provided for by Chapter VII of the United Nations Charter. The attitude of these three States has rightly caused and is still causing indignation among the people of Africa and the other peoples of the world.

12. The military and economic assistance furnished to South Africa by certain States must also be openly denounced and manifestly combatted by all the forces of progress. Arms sales, nuclear co-operation agreements and economic activities by multinational companies in South Africa or Namibia constitute acts of sheer complicity with the policies of apartheid.

13. It is high time for the States of Africa to make it clear to the countries which are supporting South Africa in this way that they cannot continue to do so while claiming the friendship of the peoples of Africa.

IV

14. Unquestionably, substantial efforts have been exerted by the United Nations, the specialized agencies and governmental and non-governmental organizations to bring South Africa to its senses and to obtain improvements in the life of the people of Namibia and its gradual accession to independence. Among the many varied measures taken towards those ends, the termination of the Mandate of South Africa over South West Africa and the creation of the United Nations Council for Namibia undoubtedly mark important stages towards the independence of Namibia.

15. Decree No. 1 of the United Nations Council for Namibia was lawfully issued by that body under its powers as laid down in resolution 2248 (S-V) of the United Nations General Assembly, and it should be possible to use it judiciously to "protect the natural resources of the people of Namibia and to ensure that these natural resources are not exploited to the detriment of Namibia, its people or environmental assets".

16. Also to be welcomed is the firm attitude of the Organization of African Unity towards the problem of Namibia and that attitude, together with the efforts of the United Nations and the struggle of the people of Namibia, will not fail to have its effects.

V

17. The facts are inescapable, however, and it must be acknowledged that all these efforts have been incapable of fundamentally modifying the policies of South Africa on Namibia or of bringing about a qualitative change in the situation of the people of Namibia.

18. There is no doubt that a large-scale diplomatic offensive has lately been launched by South Africa in the form of an alleged policy of "ouverture" and "dialogue" towards the African States, an offensive which has been strongly supported by the mass media, mostly under imperialist control, which is attempting to give it great play by the worldwide dissemination of cleverly controlled "news".

19. However, this policy of South Africa is a snare because it is alien to the true interests of the people of Namibia and is part of a global imperialist military and politico-economic strategy. What is more, the facts show that South Africa has neither in principle nor in practice abandoned its policies of annexation and domination of Namibia.

20. Under these circumstances, as was recommended by the special meeting of the Foreign Ministers of OAU member States, held at Dar-es-Salaam in April 1975, the policy of concertation and the so-called détente as regards the African States, advocated by South Africa and aimed at causing confusion in international public opinion as well as at undermining African unity and the struggle for the elimination of apartheid in South Africa must be categorically rejected.

VI

21. It must be realized that South Africa will never willingly end its illegal occupation of Namibia and will never of its own accord abandon its policies of oppression and enslavement of the peoples of southern Africa.

22. That is why it must be compelled to do so by all means available to the international community, in which the United Nations, the Organization of African Unity, governmental and non-governmental organizations, and the States of Africa - each according to its means - have their special role to play.

23. Economic or other measures of compulsion should be taken to oblige South Africa to comply with the decisions of the international community. In that connexion, the activities of trade unions and of social and information bodies should reinforce and stimulate the action of international governmental and non-governmental organizations.

24. Obviously, however, so long as the international community does not use the means with which it has endowed itself, or can endow itself, to put an end to the illegal occupation of Namibia by South Africa, all means, including armed struggle, are justified to liberate the country. Consequently, to that end it is necessary to enlist the effort of the international community and more particularly that of the countries of Africa, by giving SWAPO all the political, moral and material support it so sorely needs.

25. Accordingly, those Governments which have not yet done so should recognize SWAPO as the only authentic representative of the people of Namibia.

* * *

Programme of Action

adopted by the Dakar Conference on Namibia and Human Rights and proposed to international organizations, States, non-governmental organizations and social, professional, trade-union and information organizations as a set of measures to be taken to secure for the people of Namibia the exercise of their right to self-determination

1. The Security Council could follow up its resolution 366 (1974) by adopting the following measures:
 - (a) Determining, under Chapter VII of the United Nations Charter, that the continued occupation of Namibia by South Africa and, in particular, the use of that Territory as a military base, constitute a threat to international peace and security.
 - (b) Deciding on a complete embargo on the sale, gift or transfer of arms and of all other forms of military equipment to South Africa, such embargo to include existing and future agreements for the provision of radar and telecommunication systems for strategic or military purposes between South Africa and any other country of military alliance.
 - (c) Considering steps to be taken to prevent the training or equipment by the South African authorities of Portuguese or other mercenaries to be used against liberation movements in Namibia or elsewhere in Africa.
 - (d) Restraining any attempts by South Africa to alter the borders of Namibia or to fragment or partition any portion of the Territory.
 - (e) Requesting the European Economic Community and the European Free-Trade Association and all States having financial relations with South Africa to suspend them so long as South Africa continues illegally to occupy Namibia or to practise the system of apartheid.
 - (f) Requesting the Government of the Federal Republic of Germany to close its consulate in Windhoek and to undertake an education campaign for the re-orientation of the German population in Namibia so as to enable them to live in a free Namibia.
 - (g) Requiring all States to refrain from extending facilities directly or indirectly to enable South Africa to undertake the production of uranium, plutonium and other nuclear materials or reactors.
2. The Security Council, could, in addition, take the following measures:
 - (a) Declare that in order that the people of Namibia be enabled to freely determine their own future, it is imperative that free elections under the supervision and control of the United Nations be held for the whole

of Namibia as one political entity; the date, timetable and modalities for such elections to be decided upon by the United Nations as soon as possible, providing always that a period of not less than eighteen months should elapse between the time at which the date of the elections is determined and the actual date for the holding of such elections in order to enable the people of Namibia to organize politically for the elections and in order that the United Nations may have adequate time to establish the necessary machinery within Namibia to enable it to supervise and control such elections.

- (b) Demand that South Africa now make a solemn declaration accepting the foregoing provisions for the holding of free elections in Namibia under the United Nations' supervision and control and undertaking to comply with the resolutions and decisions of the United Nations and the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia and that it recognized the territorial integrity and unity of Namibia as a nation; such declaration to be addressed to the Security Council of the United Nations.
 - (c) Demand that South Africa take the necessary steps to effect the withdrawal, in accordance with resolutions 264 (1969), 269 (1969) and 366 (1974), of its illegal administration maintained in Namibia and to transfer power to the people of Namibia with the assistance of the United Nations.
 - (d) Demand again that South Africa, pending the transfer of powers provided for in the preceding paragraphs:
 - (i) Comply fully in spirit and in practice with the provisions of the Declaration of Human Rights;
 - (ii) Release all Namibian political prisoners, including all those imprisoned or detained in connexion with offences under so-called internal security laws, whether such Namibians have been charged or tried or are held without charge and whether held in Namibia or South Africa;
 - (iii) Abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices, particularly bantustans and homelands;
 - (iv) Accord unconditionally to all Namibians currently in exile for political reasons full facilities for return to their country without risk of arrest, detention, intimidation or imprisonment.
3. Should the Security Council fail to take effective action to put an end to the illegal occupation of Namibia, the General Assembly should exercise its legal authority, in accordance with the United Nations Charter, to implement the previous decisions it adopted in its resolution 2145 (XXI) (1966) terminating South Africa's mandate over Namibia.

4. Beginning in 1976, an international week of solidarity with the people of Namibia will be organized in the week following 27 October, the anniversary of the ending of South Africa's mandate in Namibia.
5. In order to organize the international week of solidarity with the people of Namibia, there will be set up National Aid to Namibia Committees in all countries where they do not already exist.
6. Each year, parliaments and inter-parliamentary organizations should include in their agenda, as an item for discussion, the question of the liberation of Namibia.
7. The States Members of the United Nations must fully enforce Decree No. 1 of the United Nations Council for Namibia concerning protection of the natural resources of Namibia, and in particular:
 - (a) where necessary, take the measures required for application of the Decree by their domestic authorities and prohibit, under pain of punishment as a criminal offence, the import, without the authorization of the United Nations Commissioner for Namibia, of goods emanating from that country;
 - (b) provide the United Nations Commissioner for Namibia with all facilities for exercising the judicial activities vested in him by Decree No. 1;
 - (c) disseminate information concerning the unlawfulness of importing goods emanating from Namibia in violation of the provisions of Decree No. 1, and give full publicity to violations committed by enterprises operating under their jurisdiction.
8. The United Nations Council for Namibia must do its utmost to ensure respect for human rights in Namibia and, in particular, consider the possibility of adhering to the United Nations Covenant on Economic, Social and Cultural Rights and the United Nations Covenant on Civil and Political Rights.
9. The United Nations Commission on Human Rights should make an investigative body responsible for looking into violations of human rights in Namibia and preparing cases for future legal prosecution.
10. Governmental, intergovernmental and non-governmental organizations as well as public opinion must give maximum political and material support to SWAPO, the authentic representative of the people of Namibia in its liberation struggle.
11. Trade unions should organize themselves to oppose by every means available to them the continuation and expansion of economic dealings between South Africa and other States.
12. United Nations bodies and international organizations must ensure that political prisoners are provided with effective defence and their families are given financial support.

13. Organizations and public bodies must extend their support to the churches in Namibia in their opposition to the racist colonial administration and assist the victims of South African oppression in Namibia, including prisoners and dependents.
14. In the project it has undertaken, the International Institute of Human Rights should prepare and publish a compendium of all basic documents relating to Namibia.
15. A United Nations radio transmitter will be established in a free country of Africa to transmit, in all languages spoken in Namibia, United Nations broadcasts on racism, decolonization and Namibia.
16. All nations should contribute to the United Nations Fund for Namibia to promote the training and education of Namibians so as to fit them for assuming the administration of their country.
17. The United Nations Commissioner for Namibia should ensure the preparation and publication of special studies on the following questions:
 - (a) The production and exploitation of uranium in Namibia;
 - (b) The production and export of diamonds from Namibia;
 - (c) The export of Swakara fur;
 - (d) The Cunene Dam scheme (designed to provide power for mines and water works).
18. Each year, at the end of the international week of solidarity with the people of Namibia, the United Nations Commissioner for Namibia should review the efforts made and results obtained in connexion with this Programme of Action and report thereon to the United Nations Council for Namibia.

Annex II

LIST OF DOCUMENTS OF THE DAKAR CONFERENCE ON
NAMIBIA AND HUMAN RIGHTS

I. WORKING PAPERS

- Conf.Dakar(NDH76) I : Human Rights in Namibia
- by Mrs. Elizabeth S. LANDIS
- Conf.Dakar(NDH76) II : Selected Aspects of the Activities of the
United Nations concerning Namibia and Human Rights
- by the Division of Human Rights, United Nations
- Conf.Dakar(NDH76) III : Flogging in Namibia
- by Felix Ermacora
- Conf.Dakar(NDH76) IV a : Namibia and the International Rule of Law
- by SWAPO of Namibia
- Conf.Dakar(NDH76) IV b : Discussion Paper on the Constitution of Independent
Namibia
- by SWAPO of Namibia
- Conf.Dakar(NDH76) V : Constitution of the South West Africa People's
Organization
- Conf.Dakar(NDH76) VI : Self-Determination: Techniques of Implementation
and the United Nations
- by a Member of the Staff of the International
Institute of Human Rights
- Conf.Dakar(NDH76) VII : Self-Determination: its Continuing Validity
- by Mr. Sornarajah
- Conf.Dakar(NDH76) VIII : Independent Namibia: Survey of Methods Utilized to
Ensure the Protection of Minorities
- by a Member of the Staff of the International
Institute of Human Rights
- Conf.Dakar(NDH76) IX : Les droits de la femme: normes internationales,
programmes de mise en oeuvre
- par Jean-Bernard Marie

- Conf.Dakar(NDH76) X : Labour Régime and the Namibian Worker:
Some Reflections on Human Rights
- by Osita C. EZE
- Conf.Dakar(NDH76) XI : La Namibie et les Parlements: diverses activités
parlementaires relatives à la Namibie
- par un membre du Secrétariat de l'Institut
International des Droits de l'Homme
- Conf.Dakar(NDH76) XII : La Namibie et les Conventions internationales des
Droits de l'Homme
- Document préparé par un groupe de travail à
Strasbourg (rapporteur: A.C. Kiss)

Legal history of Namibia through documents
(International Institute of Human Rights)

IV INAUGURAL ADDRESSES

- Mr. Amadou Mahtar M'BOW, Director-General of UNESCO.
- Mr. Issoufou DJERMAKOYE, Under-Secretary-General of the United Nations,
(Message from the Secretary-General, Mr. Kurt Waldheim).
- Mr. Sam NUJOMA, President of SWAPO.
- H.E. Mr. Rupiah B. BANDA, Minister of Foreign Affairs of the Republic of
Zambia
- H.E. Mr. Léopold Sédar SENGHOR, President of the Republic of Senegal
- H.E. Mr. Duncan W. KAMANA, Ambassador, Chairman of the United Nations Council
for Namibia.
- Mr. ALLANA, Chairman of the Commission on Human Rights of the United Nations.
- H.E. Mr. Franck BOATEN, Ambassador, Representative of the Committee on
Apartheid.
- Mr. HELLBERG, Representative of the Lutheran World Federation.
- Texts not distributed
- H.E. Mrs. JOKA-BANGURA, Chairman of the Fourth Committee during the thirtieth
session of the United Nations General Assembly and representative of the
Special Committee of 24 on Decolonization.
- Mgr. Johannes DYBA, Observer for the Holy See at the Conference.
- Mr. Dwain EPPS, Representative of the World Council of Churches.

III. OTHER DOCUMENTS

- Rules of Procedure (E/F).
- Statement by a Group of Representatives of the Churches (E/F).
- Forces for Change in Namibia (by R. WOOD).
- The draft Declaration as proposed by the Executive Committee of the Conference (E/F).
- Programme of possible measures: preliminary draft that may be revised by the Executive Committee (E/F).
- Statement by H.E. Mr. S. KARIM, Ambassador, on behalf of the United Nations Council for Namibia, during the official visit paid by the Members of the Council to H.E. Mr. Léopold Sédar SENGHOR, President of the Republic of Senegal, on 7 January 1976 (E/F).
- A list of Namibian Political Prisoners (by Amnesty International) (E/F).
- Rapport sur la situation juridique des habitants de Namibie sous le régime illégal actuel (sous-comité juridique) (F).
- La situation social en Namibia (sous-comité juridique) (F).
- Le Décret sur les ressources naturelles de la Namibie (par M. RIGAUX) (F).
- Statement by the Representative of the Netherlands in the Fourth Committee of the General Assembly of the United Nations (E/F).
- Case Histories from Namibia (SWAPO) (E).
- Esquisse d'une théorie juridique justificative de la guerre de libération nationale (par le Doyen Ibrahima FALL) (F).
- Christian responsibility in Namibia (Lutheran World Federation) (E/F).
- Reproduction of article published in "The Review" of the I.C.J., No. 14, June 1975 (E/F).
- Statement on behalf of the Okahandja summit (E).
- Communication de M. Mohamed FALL (République Islamique de Mauritanie) (F).
- Namibia's Population: South Africa's misleading Estimates (E/F).
- Resolution adopted unanimously by the 25th Assembly of FMANU (E/F).
- Extract from Business Week of 24 November 1975 (E/F).
- Prepared Statement of Mr. PEAY (Lawyers Committee for Civil Rights under law: first: before Special Political Committee of the United Nations General Assembly (New York, October 1975); second: Dakar Conference.

- Halting the arms race, arms reduction, disarmament and détente (by a working group in Warsaw) (E/F).
- Resolution adopted at the 62nd Inter-Parliamentary Conference, London, 4-12 September 1975 (Extracts relating to Namibia already reproduced in Annex III to document Dakar Conf/NDH/XI) (E/F).
- Reports of British House of Lords (20 October 1975): Uranium purchases from Namibia (quoted on page 11 and in annex I, section 4, of document Dakar Conf/NDH/XI) (E)
- Letter from the SWAPO Chief Representative for West Africa, Mr. HISHONGWA.
- Provisional list of participants, Rev.2.

IV. FINAL DOCUMENTS

- Rapport de la Commission I (F).
- Report of Committee II (E/F).
- Rapport Général (F).
- Resolution (introduced by Mr. ALLANA and adopted unanimously by the Conference) (E/F).
- Declaration of Dakar (adopted unanimously by the Conference) (E/F).
- Programme of Action (adopted unanimously by the Conference) (E/F).
- Présentation de la Déclaration de Dakar par M. Kéba MBAYE, Président de la Conférence (F).

III. SOUTHERN RHODESIA

A. NEW DEVELOPMENTS RELATING TO THE POLICY OF APARTHEID AND RACIAL DISCRIMINATION

Introduction

450. The illegal and unilateral process by which the rebel régime proclaimed the independence of Southern Rhodesia from the colonial Power is covered in detail in documents E/CN.4/AC.22/13, paras. 1-11, and E/CN.4/1020/Add.1, paras. 72-74. The so-called "new constitution", which was adopted by the Southern Rhodesian Parliament, along with the various supporting Acts, are analysed in previous reports of the Group (E/CN.4/1020, paras. 369-373 and E/CN.4/1020/Add.1, paras. 73, 74).

451. As the Group said in its 1973 report (E/CN.4/1111, para. 232), the illegal régime and the British Government negotiated "settlement" proposals in 1972. These were overwhelmingly rejected by the people of Rhodesia as a whole 1/ but was "left on the table" until the British Government cancelled all previous settlement offers on 4 July 1974.

452. As the Group emphasized in previous reports (E/CN.4/1111, para. 231; E/CN.4/1135, para. 327), although the United Kingdom has consistently refused to take measures sufficient for the restoration of lawful government in Southern Rhodesia, the territory remains in international law, in terms of British legislation and of the relevant resolutions of the United Nations, a British Crown Colony to which all international conventions signed and ratified by the United Kingdom are also applicable.

453. During the period under review, the rebel régime has not only consistently failed to present proposals acceptable to the African majority but, has also refused to agree reasonable proposals regarding the manner of negotiations with the leaders of the African majority. As reported in the Group's 1975 report (E/CN.4/1159, para. 284), the rebel régime agreed to a cease-fire to be followed by talks. The agreement was made in Lusaka on 11 December 1974 and, according to a press statement issued by the African National Council of Zimbabwe, the agreement had the following provisions:

- "(1) That the Government would release all political detainees and restrictees (which included people in protected villages) immediately;
- "(2) That the Government would release all political prisoners as soon as possible;
- "(3) That the Government would revoke the death sentences imposed on political prisoners and release them;
- "(4) That the Government would grant a general amnesty to all those considered to have committed political crimes, including those outside the country;
- "(5) That the Government would lift the ban on ZANU and ZAPU;
- "(6) That the Government would create conditions to allow free political activity and expression in the country;

1/ Rhodesia: Report of the Commission of Rhodesian Opinion under the Chairmanship of Lord Pearce, Cmd 4964.

"(7) That the Government would halt political trials;

"(8) That the Government would lift the state of emergency.

"It was agreed that on the ceasefire there would be an informal ceasefire which would require both sides to inform their forces without an announcement. After the announcement of the date for a constitutional conference and the commencement of meaningful discussions there would be a formal ceasefire which could be officially promoted." 2/

The rebel régime claimed that there had been no such agreement and on 9 January the "Minister of Law and Order" stopped releasing detainees (see also para. 525). A number of meetings were held between the rebel régime, led by the "Prime Minister", Mr. I.D. Smith, and the leaders of ANC, to determine where a constitutional conference would be held, under whose chairmanship, and the agenda. The main stumbling-block has been the location of the talks, as the rebel régime has maintained that the talks had to take place in Southern Rhodesia, while ANC was prepared to consider any location other than one in Southern Rhodesia. Although the rebel régime promised that no action would be taken against the leaders of ANC in the event of the conference coming to no agreement, the rebel régime refused to give an undertaking that all members of the ANC negotiating team would be given an amnesty from arrest to attend a conference in the country. This meant that Mr. J.R.D. Chikerema, and latterly the Reverend Ndabaningi Sithole, would have been effectively excluded from the ANC negotiating team. A full conference was held by ANC and the rebel régime at Livingstone/Victoria Falls in a train straddling the border over the River Zambezi, but broke down over the absolute refusal of the rebel régime either to give amnesty or to continue negotiations outside of Southern Rhodesia.

454. During this period of "détente", the guerrilla war on the northern and eastern zones has continued, and the régime has continued to try to bolster its authority by means of further repressive legislation and executive action.

455. During the period under review, there has been a change in the relationship between the rebel régime and the South African Government. The "détente" in southern Africa was formally instituted with a speech by Mr. B.J. Vorster, the South African Prime Minister, on 23 October 1974. He called "for all those who have influence to bring it to bear upon all parties to find a durable, just and honourable solution, so that internal and external relations can be normalized". This resulted in the release of the Zimbabwe nationalist leaders in December 1974. Between October 1974 and September 1975, there were the following official (and known) contacts between the régime and the South African Government:

9 December 1974 - Mr. Vorster paid a secret visit to Southern Rhodesia; 3/

2 March 1975 - Mr. P.K. van der Byl, "Minister of Foreign Affairs, and of Defence", visited Mr. Vorster to brief him about the detention of Rev. Ndabaningi Sithole; 4/

2/ Rhodesia Herald, 13 January 1975.

3/ Report by Robert Mugabe to the Justice and Peace Executive, Catholic Commission for Justice and Peace in Rhodesia, 17 December 1974.

4/ Rhodesia Herald, 7 March 1975.

18 March 1975 - Mr. Smith paid a visit to have talks with Mr. Vorster in Cape Town; 5/

3 April 1975 - Mr. H. Muller (the South African Foreign Minister) visited Salisbury. As a result, the Rev. Ndabaningi Sithole was allowed to leave the country; 6/

29 June 1975 - Mr. Smith paid a visit to Mr. Vorster in Pretoria; 7/

9-10 August 1975 - Mr. Smith paid a visit to Mr. Vorster in Pretoria; 8/

25 August 1975 - Mr. Vorster (as well as President Kaunda of Zambia) visited the Victoria Falls/Livingstone talks. 9/

The aim of these interventions was to try to produce a settlement in Southern Rhodesia, as a means of safeguarding the internal situation of the Republic. They have not yet produced any real results. However, the whites in Southern Rhodesia have continued to be economically and politically supported principally by South Africa. For example, Dr. H. Muller, the South African Foreign Minister, refused "point blank" to apply economic sanctions against Southern Rhodesia. 10/ The possibility of all Southern Rhodesian goods going through South Africa brought the response that the South African Railways would face an "insurmountable problem", but that they would do all they reasonably could to help. 11/ This economic concern is a result of the very considerable South African investments in Southern Rhodesia. 12/ This was large before UDI and has expanded considerably since. 13/ The South African Chamber of Mines Labour Organisation has also started to recruit African labour from Southern Rhodesia (see para. 560 below).

456. Changes in the political situation in southern Africa, including the ending of the guerilla war in Mozambique and the assumption of Mozambican independence, have also affected the recruitment of foreign workers in Southern Rhodesia. At the time of the population census in April 1969, the number of "foreign" Africans, and their sex, was as follows:

	<u>Male</u>	<u>Female</u>
From Mozambique	77,440	31,670
From Malawi	123,310	40,130
From Zambia	29,700	14,810

5/ Guardian, 19 March 1975.

6/ Rhodesia Herald, 4 April 1975.

7/ Sunday Mail, 29 June 1975.

8/ Guardian, 11 August 1975.

9/ Guardian, 26 August 1975.

10/ Rhodesia Herald, 22 May 1975.

11/ Rhodesia Herald, 11 June 1975.

12/ For foreign trade with Southern Rhodesia see also the reports of the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia; the last report is contained in documents S/11594 and Add.1-2.

13/ See John Sprack, Rhodesia: South Africa's Sixth Province (International Defence and Aid Fund).

The number of Africans from other countries (including other ex-Portuguese colonies) is small. Migration figures since 1969 have been collected only for adult males, but in all cases there has been a net emigration. It can be seen from these figures that the number of males is very considerably greater than the number of females. If the figures for the over 15 year olds (i.e. those who are economically active) are taken into account, the preponderance is even greater.

457. The recruitment of these Africans has been either on a voluntary basis (with the Africans coming to Southern Rhodesia in search of jobs), by recruitment by the individual employers, or by the Rhodesian African Labour Supply Commission (RALSC). This organization was set up on the pattern set by the South African "Witwatersrand Native Labour Association" (WNLA); and in the 1950s the RALSC was an important source of labour (mainly from Nyasaland, but also from Mozambique) for the farms and plantations. In the 1960s the Commission was not so successful because of the very low wage rates it offered, which were considerably lower than those of the WNLA. Attempts to recruit labour for farms and plantations inside Rhodesia were an almost total failure. Since UDI, most of the recruitment has taken place in Malawi. In the period 1965-1971, the numbers recruited were 3,669 per annum - mostly from Malawi. However, the wage rates were low and the desertion rate was high. ^{14/} In April 1974, the Malawian Government stopped recruitment by the Commission, and the annual report of the RALSC for 1974 stated that "the suspension of recruitment is having a serious effect on our cash crop farmers". In fact, the income of agricultural and plantation workers is very low indeed. The purpose of the contract labour system has been to undermine the bargaining position of the African workers in Southern Rhodesia, and so keep the wage rates at a low level.

1. Capital punishment

(a) Summary of relevant information

458. The legislation sanctioning capital punishment in Southern Rhodesia was analysed in detail in a previous report of the Group (E/CN.4/1020/Add.1, paras. 75-77). The Law and Order (Maintenance) Act, with its numerous amendments, establishes the death sentence (often mandatory) for a wide range of offences and lays the onus of proving innocence upon the accused.

459. The Law and Order (Maintenance) Amendment Act was passed in December 1974. This made the death sentence mandatory for any person convicted of recruiting a person for "terrorist" training. Previously the courts had had discretion between life imprisonment and the death penalty. ^{15/}

460. A spokesman for the "Ministry of Justice" announced on 22 April that public announcements would no longer be made after hangings. The decision was taken because the question of executions was "an emotive one". He said that when a death sentence was passed and the appeal turned down, it must be accepted that the sentence had been carried out. ^{16/} It should be noted that a number of trials have been held in camera, so that it is possible for accused persons to be executed in total secrecy (see paras. 566 and 567).

^{14/} D.G. Clarke, Contract Workers and Underdevelopment in Rhodesia (Mambo Press), chap. III.

^{15/} Rhodesian Parliamentary Debates, House of Assembly (hereinafter Parl. Deb.), 14 November 1974, cols. 913-918; Rhodesia Herald, 12 December 1974.

^{16/} Guardian, 23 April 1975.

(b) Capital punishment sanctioned through the judicial process

461. Virtually the only sources of information about capital punishment - both the carrying out of the executions and also the judicial process through which it is administered - are the sources of the rebel régime as reported in the Southern Rhodesian press. It is very doubtful if more than a small proportion of the trials which lead to the death sentence (or any other sentence) are reported. A number of trials are either held completely in camera (see paras. 566 and 567) or significant information about them is left out.

462. In the Group's report of last year, it was noted that most Africans sentenced to death were actually executed (E/CN.4/1159, para. 291). The executions reported in the period under review (and therefore only covering about half a year) appear to follow a similar pattern - following the sentence or appeal with a gap of two or three months only. It can therefore be presumed from empirical evidence that a death sentence will almost automatically result in an execution. The "Minister of Justice" refused "in the national interest" to answer a Parliamentary question in August 1975 requesting details of the number of people condemned to death and executed since UDI, and since the Lusaka agreement in December 1974. 17/

463. According to the statement quoted above from the "Ministry of Justice", all those sentenced to death can be presumed to have had their sentence carried out. Evidence that hangings are continuing was also given in a statement by the Publicity Secretary of the African National Council. In the middle of June 1975, Dr. Edson Sithole said: "We condemn in the strongest terms the manner in which executions are being carried out." He cited two recent cases of two men who were hanged at 7 p.m. instead of early in the morning. "Formerly, people about to be executed were given advance notice and were allowed a last opportunity to see their relatives and friends. Now the Government [sic] has abolished this. Some to be executed are told an hour or two before." This statement was not challenged by the rebel régime. 18/

464. A sympathiser (unnamed) of freedom fighters lost his appeal against the death sentence in November 1974. He had been convicted of being an accomplice of two freedom fighters who beat two Africans to death. He did not take part in the beatings. 19/

465. Two freedom fighters lost their appeal against the death sentence in March 1975. One of them, Clever Mabonzo, was convicted of killing a member of the régime's Veterinary Department, shooting at a white farmer, and having arms of war. The other was Baya Tsauke, who was convicted of shooting four Africans, of shooting at a white in the Roads Department, and of having arms of war. It should be noted that the nationalist parties claim that the only Africans who are killed by them are informers and supporters of the rebel régime. 20/

466. In February 1975, two Africans (unnamed) were sentenced to death for acts of "terrorism", and for possessing arms of war. The trial was held in camera. 21/

17/ Parl. Deb., 29 August 1975, col. 1533.

18/ Rhodesia Herald, 17 June 1975.

19/ Rhodesia Herald, 23 November 1974.

20/ Rhodesia Herald, 7 March 1975.

21/ Rhodesia Herald, 28 February 1975.

467. In March 1975, two freedom fighters, Maxwell Nyamhandu and Chiwiye Mapfundi, were sentenced to death for complicity in the murder of a white farmer about two years previously. 22/

468. In March 1975, Elly Wandiauwona, the leader of a group of freedom fighters, was sentenced to death for killing an African and also for "an act of terrorism" in firing at the security forces. 23/

469. In March 1975, a freedom fighter, Kariba Herbert Tobias, lost his appeal against the death sentence. He had been sentenced for the death of an African informer, for ambushing a motor vehicle, and for possessing arms of war. 24/

470. In April 1975, four men were arrested and charged with recruiting young men as freedom fighters. The men were Maurice Nyagumbo, 25/ a leader of ANC, and one of those from the ZANU side who negotiated with the illegal régime in Lusaka; Moven Mahachi, the manager of an African farming co-operative in Inyanga which has given considerable help to the Tangwena tribe; John Mutasa, a farmer previously associated with the Cold Comfort Farm society; and Percy M'kudu, a former African MP and a prominent member of the Anglican Church. All face the mandatory death sentence if found guilty. 26/

471. In August 1975, the death sentence on two freedom fighters was confirmed in the Appeal Court. They were found guilty of an act of "terrorism" and also of being responsible for the death of an African farm worker. Apparently, they had laid a mine which was detonated by a vehicle laden with farm workers. One man was seriously injured and died of tetanus, despite being given an anti-tetanus injection. 27/

472. In August 1975, Benson Ncube and Robbie Nyambabu were sentenced to death for recruiting or encouraging six African juveniles to undergo "terrorist" training. 28/

22/ Rhodesia Herald, 11 March 1975.

23/ Rhodesia Herald, 19 March 1975.

24/ Rhodesia Herald, 22 March 1975.

25/ Information received from Amnesty International, Swedish Section, 27 May 1975.

26/ Guardian, 5 May 1975, 7 May 1975, 25 June 1975; Rhodesia Herald, 9 April 1975.

27/ Rhodesia Herald, 5 April 1975, 7 August 1975.

28/ Rhodesia Herald, 16 August 1975.

2. Massacres and violations of the right to life

(a) Non-combatant Africans killed by the security forces

473. In the period under review, information available to the Ad Hoc Working Group of Experts indicates that there have been a considerable number of non-combatant Africans killed by the régime, either "by accident" or because they were breaking the curfew. Most of these incidents have been admitted by the régime. Some, however, have come to light only as a result of the activities of unofficial organizations such as the Roman Catholic Justice and Peace Commission.

474. It has been reported by the Catholic Commission for Justice and Peace in Rhodesia that on 19 April 1974, five helicopters and an armed attack aircraft attacked a group of seven children who were herding cattle. Two were killed and the other five were injured. Four were taken to hospital and the parents got to hear of the incident from the fifth child. No compensation has been offered to the parents.^{29/}

475. At an inquest in October 1974, it was stated that one African (Cosmos Kasana) had been shot dead and another man injured because they were near to the security fence of the New Sarum air station. The guards opened fire and killed Kasana.^{30/}

476. Two boys were killed in a disturbance in a "protected" village. A spokesman for the régime said that a District Assistant's gun had gone off "as he picked it up". According to the statement, the deaths occurred during a "mild disturbance".^{31/} However, according to the Catholic Commission for Justice and Peace, the incident occurred because the children knocked the District Assistant's gun down as the men were leaving the "protected" village. The District Assistant was annoyed and shot them as a result. Apparently, a man has appeared in the Magistrate's Court, Salisbury, but all the proceedings were held in camera.^{32/} (See paras. 513-518 below for further information about the conditions in "protected" villages.)

477. A man breaking the curfew was killed by the security forces on 20 March 1975.^{33/}

478. Two Africans were killed "accidentally" when a grenade exploded at Mtoko police station on 5 April 1975. This was confirmed by the rebel régime only after they were approached by the news media four weeks later.^{34/}

^{29/} Man in the Middle: Torture, Resettlement and Eviction, a report compiled by the Catholic Commission for Justice and Peace in Rhodesia (London, Catholic Institute for International Relations, 1975), p.4.

^{30/} Rhodesia Herald, 18 October 1974.

^{31/} Rhodesia Herald, 24 December 1974.

^{32/} Man in the Middle ..., p.4.

^{33/} Rhodesia Herald, 28 March, 1975.

^{34/} Rhodesia Herald, 1 May 1975.

479. The death of a man killed by the security forces while allegedly breaking the curfew was reported in April 1975.^{35/} Another two curfew breakers were killed on 18 April 1975, and another African was killed in an unspecified "accident".^{36/} A curfew breaker was killed on 13 May 1975,^{37/} and another two were reported killed on 20 May 1975.^{38/}

480. On 15 June 1975, the Sunday Mail reported that 20 Africans had died when security forces clashed with "terrorists" at a kraal in the "operational area" on 12 June. According to the régime, a patrol was alerted by the sound of a man being clubbed, found itself under fire, and "the 20 died in the subsequent battle".^{39/} However, according to the Catholic Commission on Justice and Peace, nine children and four women were among the 20 Africans, who were all civilians. Three freedom fighters had come to the village and had beaten the village headman with a stick for being a "sell out". As they left, a grenade exploded and the security forces opened fire from about 10 yards. There was no counter fire. The bodies of the 20 people killed by the security forces were removed and were burnt a few miles away. In addition, 15 other people were injured in the incident, of whom five were children and eight women. The Commission called for an independent inquiry and for a judicial inquest. Speaking in the "Senate" at the end of August, the "Minister of Law and Order" stated that "speaking generally" the Commission's allegations had been shown on investigation to be "far from the truth". He went on to say that one sure fact that had emerged from the incidents was that civilians who associated with "terrorists" were likely to be hurt in the process.^{40/}

481. Three African curfew breakers were killed and one wounded in the period 4-12 July 1975,^{41/} and on 2 July another was killed in "cross-fire" between freedom fighters and security forces.^{42/} Four Africans were killed in the curfew area along the eastern border with Mozambique. Two of them were said to be intending to join the freedom fighters in Mozambique.^{43/} Finally, the death of another two curfew breakers killed by the security forces was announced on 1 September 1975.^{44/}

482. It should be noted that the reports of curfew breakers killed by the régime only began in March 1975. This may represent a new policy by the régime of informing the public; or it may represent a harder line with larger areas of the country under curfew. On the other hand, as it was pointed out in the Group's previous report (E/CN.4/1159, para. 294), the rebel régime's security forces have been summarily executing freedom fighters and these reports may represent a way of covering up such executions.

^{35/} Rhodesia Herald, 17 April 1975.

^{36/} Rhodesia Herald, 26 April 1975.

^{37/} Rhodesia Herald, 17 May 1975.

^{38/} Rhodesia Herald, 20 May 1975.

^{39/} Sunday Mail, 15 June 1975.

^{40/} Rhodesia Herald, 2 August 1975; Guardian, 2 August 1975;
Rhodesia Herald, 22 August 1975.

^{41/} Radio Salisbury, 16 July 1975.

^{42/} Rhodesia Herald, 4 July 1975.

^{43/} Rhodesia Herald, 5 August 1975.

^{44/} Radio Salisbury, 1 September 1975.

(b) Death resulting from interrogation

483. According to a statement by the Catholic Commission for Justice and Peace, Alois Mutanda Fred Chimimba was shot in the head and killed as a result of being interrogated by the security forces in the Mount Darwin area on 2 January 1975. Apparently the soldier was questioning Chimimba in English, but he did not answer. The soldier then prodded him with a pistol, which went off. Although the police later investigated the incident, no prosecution had been made by the time of the publication of the statement (May 1975).^{45/}

(c) Deaths following political unrest

484. A serious incident involving the loss of life of a large number of Africans took place on 1 June 1975. Tensions mounting during a meeting of the central committee of the ANC in Highfield Township, Salisbury, apparently led to clashes between two large groups of Africans of opposing political views. The detachment of police which intervened had clearly the intention not of dispersing the crowd but purely and simply of firing into it. Its total complement was no more than 20 men with no back-up force, no reinforcements and no tear-gas or other riot-control equipment. As a result of an incident involving a white dog handler, the Commanding Officer of the detachment fired two shots into the air and then gave the order to his men to fire into the crowd. Five Africans were killed and a further eight injured. Then, although the crowd rapidly dispersed, in a series of incidents in the African townships a further nine Africans were killed and about a dozen injured (although it is likely that many more did not dare to go to hospital for treatment). One of those killed was trampled to death by the panicking crowd.^{46/} In a statement issued two days later, the police claimed that only 11 had been killed, not 12 as originally reported;^{47/} but the subsequent inquest found that 14 had been killed in the incident.^{48/}

485. Information before the Ad Hoc Working Group of Experts suggests an alarming lack of respect for African life by the authorities on this occasion.^{49/} The officer commanding the Salisbury South Division of the police revealed at the inquest that the police had been ordered to shoot if they found life and property were endangered. They were also given instructions to shoot those responsible for stoning.

486. The police arrested 68 people, though eventually only 34 were charged with public violence.^{50/} Included among these were three men who, according to a witness for the police, had restrained part of the crowd both from attacking the police and from fighting with other Africans. Two of the three were found guilty (the other escaped from prison): Lovemore Mapondera was sentenced to five years' imprisonment, and Lancelot Biyanda to four years with labour, with one year conditionally suspended in each case.^{51/}

487. The African National Council called for a judicial inquiry to be held "to clear the grave allegations that the police acted hastily and without warning".^{52/} No such inquiry has been conceded.

^{45/} Man in the Middle, ..., p.4.

^{46/} Rand Daily Mail, 2 June 1975; Radio Salisbury, 2 June 1975; Guardian, 2 June 1975.

^{47/} Rhodesia Herald, 4 June 1975.

^{48/} Rhodesia Herald, 25 July 1975.

^{49/} Rhodesia Herald, 8, 11, 15 and 26 July 1975.

^{50/} Rhodesia Herald, 17 June 1975.

^{51/} Rhodesia Herald, 11 July 1975, 15 August 1975.

^{52/} Rhodesia Herald, 5 June 1975.

3. Forced removals of population

(a) Introduction

488. The historical background to the development of the African areas was given in the 1970 report of the Ad Hoc Working Group of Experts (E/CN.4/1020/Add.1), and a comprehensive survey of the laws which affect Africans in these areas was given in its 1970 and 1971 reports (E/CN.4/1020/Add.1 and E/CN.4/1050). There have been no significant legislative changes in the period under review.

489. A detailed review of the distribution of African and white population (at the April 1969 census), divided by land category, was given in the 1974 report (E/CN.4/1135, paras. 357-362). Since that time, the African population of Southern Rhodesia (according to official estimates) has risen from 4,880,000 in June 1969 to 5,900,000 in December 1974. ^{53/} There is no up-to-date information regarding the distribution of population. The distribution of African population (again at the April 1969 census) is given in paragraphs 610 and 618 below by land category and sex, and also by age. From this, it will be seen that there is an excess of both women and young children in the Tribal Trust Lands (TTLs) compared to the white urban and rural areas.

490. The Group's 1975 report (E/CN.4/1159, para. 330) gave important information about new and oppressive regulations covering the rural areas (particularly in the north-east).

(b) Conditions of Africans in urban areas

491. As is already clear from earlier Group reports, African workers are accommodated in a number of African townships on the outskirts of white towns. The accommodation comprises a number of large barrack-like flats for single men, small council houses, often supported by industrial concerns for the benefit of their own employees only, and a (growing) number of estates where Africans can own their own houses. Domestic servants usually live with the families they serve, in a "kia" at the end of the garden, although there are bye-laws which control their presence in white areas.

492. As Salisbury is the largest and most developed city, Salisbury City Council has gone furthest in formulating policies to advance apartheid in the urban areas. In the period under review, the most important statement of policy was the "Urban Plan" of the African Affairs section of the Salisbury City Council, which was accepted by the Council in April 1975 and is likely to lead to the removal of numbers of Africans from townships in the city: the basic concern of this document, which was 200 pages long and took a year to produce, was to protect Salisbury as a city "where European interests are paramount". It thus made a number of proposals for removing the estimated increase in the African population of the city over the next 50 years: the setting up of satellite towns in Seki and Chiota TTLs (both within 20 kilometres of Salisbury); the expulsion of "foreign" Africans; reduction in the size of African families (and therefore a reduction in the rate of increase of the African population); and removal of the African townships of Dzivareskwa, Tafara, Mabvuku and Harari.

^{53/} Monthly Digest of Statistics, August 1975, table 1.

493. The satellite towns would provide a source of labour for Salisbury. The document suggested that the administration of these towns would be partially African, but went on to say: "It has still to be shown that the African can meet and sustain the high technical and accounting standards expected in European ruled countries."

494. The plan proposes to remove the names of alien Africans from the city's housing lists, to charge the full economic rents for council houses, and (in general) to employ only indigenous Africans. (It should be noted that about 10 per cent of Salisbury's African population was born outside of Southern Rhodesia.)

495. Among proposals for reducing the population, the plan suggests encouraging family planning "by using the fee structure of the social services" to make Africans more aware of the financial burdens of children; and increasing employment for women, thus discouraging them from producing "large and burdensome" families.

496. In arguing for the removal of the four townships, the document claims that the safety of whites, Asians and Coloureds in adjacent suburbs to Harari, and the security of central Salisbury are threatened by the existence of Harari as an African township and recommends that the area be used for commerce and industry. 54/

497. According to information available to the Group, Africans had no say in the development of this plan (all the Council officers involved were white), nor in the subsequent debate in the Council. As Mr. E. M. Munetse of Harari complained in a letter to the Rhodesia Herald on 16 January 1975: "The residents of Harari are like people awaiting a trial ... Residents of urban townships are more than worried. How long are they to live in fear of the fate of their townships?"

498. In commenting on the plan, a spokesman for the rebel régime made it clear that, whenever practicable, future African townships should be set up in TTLs. It was reported that approval had already been given or was being sought for towns in Seki, Sansaguru, Fort Victoria and Chiweshe, and others would follow. 55/

499. In November 1974 the "Minister of Local Government and Housing" said that the construction of African houses at Seki would start some time in 1975. The first Africans to be accommodated would be employed in Salisbury and the Government was looking at various means of rapid transit between Seki and Salisbury. 56/ (The lack of "consultation" over this project, even with the official "leaders" acknowledged by the régime, is described in E/CN.4/1135, para. 367.)

500. According to further information available to the Group, Salisbury is also engaged in a major development to provide 5,000 homes at Zengeza Township, which borders on the Seki TTL. It was reported in July 1975 that work was well advanced on 2,402 houses for families in this location. At the same time, blocks of single-storey units for 1,868 single men are being built near to the Willowvale industrial area. 57/

54/ Rhodesia Herald, 30 April 1975, 1, 5, 7, 12, 22 and 28 May 1975.

55/ Rhodesia Herald, 17 May 1975.

56/ Rhodesia Herald, 26 November 1974, 13 April 1975.

57/ Rhodesia Herald, 27 July 1975.

(c) Attempts to remove "illegal" African residents in urban areas

501. Information before the Group indicates that in pursuance of the policy of the rebel régime to keep the African population in the urban areas down to the minimum, African townships, and particularly the large men's hostels in the townships, were over the past year subject to regular police raids and other official pressures to get rid of any residents who had neither a job nor a special "permit" to be in an urban area:

(a) On 22 January 1975 an African man was shot and wounded by the police and 61 others were arrested in the early hours of the morning, when police were searching for "known criminal elements" in the Mbari single men's hostel in Harari. 58/

(b) On 9 April 1975 the police (on the instructions of the Salisbury City African Administration Department) raided Nyenyere Hostel, No. 13. 544 "illegal" residents were found. 409 were in employment (though not authorized to be present in the hostel) but another 135 were unemployed and thus liable to prosecution. 59/

(c) On 29 May 1975 the police (again with the assistance of the African Administration Department) raided the two largest hostels in the Mbari complex. Of over 600 Africans arrested, 471 had jobs and were released after being cautioned as "illegal" lodgers; 44 youths were handed over to the Social Welfare Department; 75 were to appear in court; and another 50 were still in custody. 60/

502. In Salisbury the City Council has inspectors looking for illegal lodgers - in terms of the Africans (Urban Areas) Accommodation and Registration Act (which came into operation in 1971) - in servants' quarters. In the first half of the year, the white residents of the Borrowdale area tried unsuccessfully to get the City Council to agree to exempting white housing plots of 4 acres (1.6 hectares) or over. The present situation is that the wife and children of an African employee can get permission to stay in the property for up to 14 days; special permits for up to three months may be given if the wife needs medical treatment or is in full-time employment in Salisbury; a child below 6 years of age can also get permission to stay with his mother for three months if she is employed to look after white children (full time). 61/

503. The Group notes, however, that although it is clear that many Africans must have been brought to trial for lodging "illegally" either in the African townships or in the white areas, no trials or sentences have been reported in the Rhodesian press or on the radio.

58/ Radio Salisbury, 22 January 1975.

59/ Rhodesia Herald, 10 April 1975.

60/ Rhodesia Herald, 30 May 1975.

61/ Rhodesia Herald, 19 March 1975, 6, 11 and 28 June 1975.

(d) The Southern Rhodesian policy of "bantustanisation"

504. The policy of "community development" has been vigorously promoted by the rebel régime and was described in some detail in the 1974 report of the Ad Hoc Working Group of Experts (E/CN.4/1135, paras. 368-371). In particular, the policy of "provincialisation" mentioned in that report (para. 370), now slightly modified, is being brought into operation. Under this scheme the country will eventually be covered by eight "regional authorities". According to the "Minister", these regional authorities will be the executive arms of the provincial assemblies of chiefs, and their members will be elected by the chairman of the African council in the area. 62/ The Group appreciates that most of the chairmen of African Councils are Africans elected by their councils, but that they are also under the eye of the District Commissioner who has the "responsibility for ensuring that the chairman discharge(s) his office with due propriety". 63/ Though the purpose of the regional authorities will be to co-ordinate the activities of the various African councils in their areas, the central "Government" in no way abdicates its power and there is no plan to give any form of independence to the areas covered by the authorities or by the African councils. In fact, it is made clear that each body will be "assisted" by a District Commissioner. 64/

505. According to information before the Ad Hoc Working Group of Experts, the régime is continuing to put pressure on Africans to form African councils, and about 80 per cent of the African population is now covered by an African council. It is a cardinal point of the policy that African councils are responsible for primary schools in the rural areas, and this has been an important lever in the campaign to set the councils up. In answer to a question to an African member of Parliament, the "Minister of Internal Affairs" said that the régime was "investigating the possibility of regional authorities - should they agree to such a course - assisting in keeping schools open as a temporary expedient". He implied that the schools would close if this action were not agreed or possible. 65/ In another answer, the same "Minister" stated that in about two thirds of the African councils the members were elected by the ratepayers, and in one third they were appointed by the provincial commissioners. Although he went on to claim that "a form of election" was held in the case of the latter councillors, he also said that it was the chiefs in the area who were "responsible for appointing the members of the Council". 66/ It will be recalled that chiefs are effectively appointed by the white administration (E/CN.4/1135, para. 364).

506. The illegal régime has set up a new branch of the "Ministry of Commerce and Industry" to implement the policy of industrial decentralization, following the recommendations of the Parliamentary Select Committee on Decentralization, which

62/ D.K. Davies, Race Relations in Rhodesia 1972-1973, (1975), pp. 275-276.

63/ C.G. Passmore, The National Policy of Community Development in Rhodesia (University of Rhodesia, 1972), p. 231.

64/ Rhodesia Herald, 2 November 1974, 21 November 1974; Radio Salisbury, 13 January 1975; Parl. Deb., 4 October 1974, cols. 277-278.

65/ Parl. Deb., 16 July 1975, cols. 834, 835.

66/ Parl. Deb., 13 November 1974, cols. 748-749.

proposed that industry should be based on the borders of the TTLs, like the South African border industries. In a white paper, the rebel régime stated that it intended to discourage industrial expansion in Salisbury and Bulawayo, and to encourage it in other growth points. 67/ This "bantustanisation" policy should be seen against a background of increasing poverty of African rural areas and drastic underuse of white farming land.

507. In a letter to the Rhodesia Herald published in October 1974, a lecturer in agricultural economics at the University of Rhodesia, Mr. Harry Dunlop, said that 70 per cent of the TTLs lay in the lower rainfall region, which were, on the whole, unsuitable for arable farming. In the other 30 per cent where the rainfall was high, the light sandy soils were used too intensively. Yet only one quarter of the 6 million acres classified as potentially arable in the white area were actually under crops. Mr. Dunlop concluded that unless the Land Tenure Act were repealed, there would be a major breakdown in the ecological system. 68/

508. A drop in rural incomes from £15 per head per annum in 1956 to about £11 in 1968 was reported in the Group's 1974 report (E/CN.1135, para. 373). Another warning was given by a member of the Nationals Resources Board in June 1975. He said "the so-called subsistence economy of the tribal lands is inexorably depleting and destroying the very resources on which that way of life depends for its continued existence". He said that an "inevitable ecological collapse" would take place if something were not done. 69/ Another critic, Professor Hans Holleman, who in 1960 had been the author of the Mangwende Commission Report, said that in the part of Mashonaland he had studied pressure for land had almost reached "combustion point". He criticized "government" policy for the TTLs because it failed to recognize the interlocking economic interests of the white and African sections of the community. 70/

509. In an article in the Rhodesian Journal of Economics, A.K.H. Weinrich discussed "the factors influencing economic development in rural areas" of Southern Rhodesia. She showed that the rebel régime was prepared to support agricultural development for Africans only when it would not threaten white agriculture. She found the white administration of irrigation schemes, for example, and the agricultural assistance schemes in the TTLs, rigid and unhelpful. For instance, she noted that those possessing a Master Farmer's certificate appeared to be the most successful agriculturalists, yet commented that training schemes for this certificate had been discontinued in some areas. 71/

(e) Forced removal of rural Africans: removals as a result of the land policy

510. According to reports before the Ad Hoc Working Group of Experts, Chief Mapunganwana and his followers were to be removed from their area in Chipinga to

67/ Rhodesia Herald, 30 December 1974.

68/ Rhodesia Herald, 10 October 1974.

69/ Rhodesia Herald, 6 June 1975.

70/ Rhodesia Herald, 25 February 1975.

71/ Rhodesian Journal of Economics, 2 (No. 1) (1975), pp. 7-14.

African-designated land at the beginning of 1975. According to the "Ministry of Internal Affairs", they were "squattling" on "European land" in what was now designated the "Gungunyana Forest Land" - land their ancestors had occupied since they emigrated from Zululand in the nineteenth century. The move was condemned in a statement (vetted by lawyers to make sure it did not contravene the Law and Order (Maintenance) Act) issued by the United Church of Christ in Rhodesia. The statement also condemned the way in which land owned by the Church had been split into white and African areas. 72/

511. In the middle of March 1975 it was announced that Africans living within a 2,400 hectare area of the Chiweshe TTL would be evicted by the end of August. (The only exceptions were those living in the two "protected villages".) The "Government" had decided to build a new township in Chiweshe because of the threatened overcrowding in Glendale African township. It was stated that "it was probable that evicted Africans would be absorbed into neighbouring kraals if they were not already living in protected villages". The reports gave no indication whether or not compensation would be given. 73/

512. The Group's 1974 and 1975 reports described how the Tangwena people were still being harassed and kept away from their ancestral lands in the Inyanga area (E/CN.4/1135, para. 383; and E/CN.4/1159, para. 339). In answer to a Parliamentary question, the "Minister of Internal Affairs" said in the period under review that he did not know where Chief Rekayi Tangwena was, but he thought that he and his people had "returned to Mozambique from whence they came several decades past". (According to information available to the Group, on the other hand, the Rhodesian courts themselves established that the Tangwena had been resident in Rhodesia since at least 1905, and probably longer.) The "Minister" went on to state that the "Ministry of Social Welfare" still had control of about 100 Tangwena children. 74/

(f) Conditions in the "protected villages"

513. The 1975 report of the Ad Hoc Working Group of Experts described in considerable detail the setting up of the so-called "protected villages" (E/CN.4/1159, paras. 341-352). This policy has continued throughout the period under review. The move of the people of the Madziwa TTL into "protected villages", the start of which was reported last year, was completed by the end of October 1974. The Group has also received information that the rebel regime has decided to establish immediately 15 "protected villages" in the Mtoko, Mudzi and Mrewa areas, and that a further 40 such villages are planned. 75/

72/ Rhodesia Herald, 16 October 1975, 21 October 1975.

73/ Rhodesia Herald, 13 March 1975, 22 March 1975.

74/ Parl. Deb., 14 February 1975, cols. 1414, 1415.

75/ Man in the Middle p. 7.

514. Further information has become available to the Group about the conditions in these villages. The attitude of the rebel régime has been indicated in particular by the "Minister of Internal Affairs", who said in December 1974 that there would be no "spoon feeding" of Africans who had been resettled. "By taking tribesmen to protected villages we are saving their lives. I don't think we can be expected to do more than help them help themselves". He said that the Africans who had not built themselves homes were dragging their feet. ^{76/} This was a follow-up to government denials that "protected villagers" were being cut off from their traditional arable lands - the villages had been sited near to the lands in question, said the "Ministry". ^{77/} A senior spokesman stated a week later: "We have no intention of feeding people living in the Chiweshe and Madziwa villages", since they had to grow their own food. In answer to an allegation that the inmates of the villages were not allowed to take food and drink with them when they went out to work, the spokesman said: "One of the main reasons behind the protected village scheme was to isolate the terrorists [sic] from the local Africans so they cannot live off the land as they were once doing quite successfully, and also to deny them any security information. The villagers are free to work their lands during daylight, but we watch them to see they don't take extra food and water which could fall into terrorists' [sic] hands." ^{78/} In June 1975, the "Deputy Minister of Internal Affairs" suggested that "protected" villages presented a fine opportunity to improve tribal agriculture. ^{79/}

515. A report compiled by the Chiweshe Residents Association and mimeographed by the Catholic Commission for Justice and Peace gives the following table, indicating the distance in miles people had to walk in order to get to their fields:

<u>Kraal</u>	<u>...</u>	<u>Miles to</u> <u>fields</u>	<u>Kraal</u>	<u>...</u>	<u>Miles to</u> <u>fields</u>
Goredoma		15	Rwanga		16
Mufuka		21	Jaji		10
Mushananga		5	Mashiri		5
Shambira		7	Masoka		5
Matsvororo		10	Mawodzwa		14
Nyariri		17	Chiwunda		16
Mubaira		1	Musakanyi		1
Goromokwa		1			

This makes land very difficult to cultivate, particularly for the old. Furthermore, villages are quite unable to protect the land against wild animals at night; ^{80/} and they find it very difficult, too, to look after their cattle, especially since it is

^{76/} Sunday Mail, 1 December 1974.

^{77/} Rhodesia Herald, 21 November 1974.

^{78/} Rhodesia Herald, 28 November 1974.

^{79/} Rhodesia Herald, 26 June 1975.

^{80/} Catholic Commission for Justice and Peace, mimeographed document, 24 March 1975.

the accepted policy of the régime to dispose of unguarded cattle in areas where freedom fighters are believed to be operating. The Commission, in its report Man in the Middle, comments: "This is only one step removed from a scorched earth policy". 81/

516. According to this evidence, too, health and sanitary conditions are appalling in the "protected villages". It was announced in December 1974 that a University of Rhodesia clinic based in Chiweshe and only built in 1972 had been closed. The University authorities were in close touch with the civil and military authorities, whose "advice weighed heavily in coming to the decision to suspend the scheme temporarily". 82/ The seriousness of this move was underlined by some comments by the Principal of the Salvation Army Howard Institute in February 1975, when, after expressing concern about malnutrition and starvation in the area, he pointed out that "Chiweshe has always been a typhoid area. Our mission doctor is worried that a typhoid epidemic may break out towards the end of the rainy season". 83/ Similar concern was expressed by the Chiweshe Residents Association in its report referred to in paragraph 515, which describes the toilet facilities as simply a hole in the ground lined with a large-diameter pipe. "Out of these toilets, the big green flies come and get on the foodstuffs and some even in water containers as well as milk pots, and so on". Mosquitoes are found in large numbers because most of the villages have been placed on low ground near to water; and typhoid, diarrhoea and malaria have broken out in a number of places. The problem was made worse because it is difficult to get transport to a medical centre, and there is a reluctance on the part of drivers to risk going there if it is in the afternoon, as the curfew begins at 6 p.m. and those who are outside of a village after curfew are shot at night (see paras. 473, 477, 479, 481, 482 above). 84/ Man in the Middle produced evidence to suggest that the defoliant chemicals used by the security forces to destroy all crops in the Zambezi Valley had caused an illness which resulted in children shaking violently. The rebel régime denies this. 85/ The rebel régime, according to the Rhodesia Herald, has also "declined to comment on an allegation [from the Chiweshe Residents Association] that disease is claiming a victim a day in some protected villages in the Chiweshe TTL". 86/

517. However, what has probably caused the most concern has been the social implications of the "protected villages" policy. Man in the Middle gives a very good review of the social disruption caused by the move. The report deals with the psychological/spiritual importance of the home village, and of not moving without careful preparation. It then discusses the problems when a community used to having

81/ Man in the Middle ..., p. 9.

82/ Rhodesia Herald, 6 December 1974.

83/ Rhodesia Herald, 28.2.75. 28 February 1975.

84/ Catholic Commission for Justice and Peace, mimeographed document, 24 March 1975.

85/ Man in the Middle ..., p. 9.

86/ Rhodesia Herald, 28 February 1975.

a lot of room is suddenly herded into a small area. The social relationships between old and young and between the two sexes are suddenly disrupted. The problem of people from a rural environment adapting to an urban one are great in Africa (as elsewhere), but it is one which happens in a piecemeal manner, and so is comparatively manageable. This move, on the other hand, has been very sudden. Religious observances have also been badly disrupted. 87/

518. According to the report by the Chiweshe Residents Association 88/ this social disruption has also had destructive effects on sexual morality.

87/ Man in the Middle ..., pp. 6-12

88/ Catholic Commission for Justice and Peace, mimeographed document, 24 March 1975.

4. Treatment of political prisoners and captured freedom fighters

(a) Introduction

519. A comprehensive review of the historical background and legislation relating to security and imprisonment without trial, notably the Law and Order (Maintenance) Act and its amendments, was given in the 1973 report of the Ad Hoc Working Group of Experts (E/CN.4/1111, paras. 242-252).

520. Further pieces of legislation have been passed or proposed in the period under review relevant to the treatment of political prisoners, captured freedom fighters and their helpers: the Law and Order (Maintenance, Amendment Act, and the Indemnity and Compensation Bill.

521. The Law and Order (Maintenance) Amendment Act, passed in December 1974, introduced a further mandatory death sentence (referred to in paragraph 458 above) and proposed other extensions of its power. In a previous amendment to the main Act, eight kinds of statements are set out which are held to be subversive but subject to the defence that the statement was made in good faith and with the intention of correcting alleged errors "by lawful means". This defence is now disallowed. The "Minister of Law and Order", in proposing the amendment, stated: "Because of this proviso ... successful prosecutions for making subversive statements are difficult to obtain, except in the most glaring instances." The new Act also makes it an offence wilfully to deny knowledge of "terrorists" or to give false information concerning them. Finally, the Act prohibits anyone who has been convicted of making a subversive statement from attending a public meeting for between one and three years, and bans anything they say during this period from being quoted in printed matter or by the spoken word. ^{89/} It has been particularly noted by the Ad Hoc Working Group of Experts that when the Bill came to the Senate for debate the two sections dealing with the banning of persons from meetings and the banning of quotation of their words were declared by the Senate Legal Committee to be inconsistent with the Declaration of Rights which form part of the illegal 1969 "constitution". Yet, despite this, the Senate voted without opposition to support the whole Bill "in the national interest". ^{90/}

522. At the end of August 1975 the rebel régime introduced the Indemnity and Compensation Bill. The essence of this bill is the power to stop civil or criminal proceedings being instituted "against the state or its employees or appointees in respect of acts done in good faith whilst acting for the purpose of, or in connexion with, the suppression of terrorism [sic]". It also provides that court cases already instituted can be stopped; and that anyone who suffers loss due to any acts covered by the bill can apply for compensation. It was clear from the Parliamentary debate that the rebel régime was particularly embarrassed by the work of the Catholic Commission for Justice and Peace in Rhodesia and by the court cases the Commission had instituted. The "Minister", in proposing the bill, stated:

^{89/} Parl. Deb., 14 November 1974, cols. 913-918.

^{90/} Rhodesia Herald 5, 6, 7, 11 and 12 December 1974.

"We have to cope not only with the direct terrorist [sic] threat, but also with those people - some sincere and some not so sincere - who lose no opportunity to attempt to embarrass the Government [sic] by assisting and even persuading others to bring proceedings in the courts against the Government [sic]. There is, in short, a fifth column at work which on the face of it appears to stand for justice and peace and so forth, but which in reality has much more sinister objectives." 91/

This bill when it becomes law may be expected to allow the authorities to be even more careless of human rights than they are at present.

(b) Treatment of political prisoners

(i) Conditions of detainees

523. It should be noted that it is difficult to report actual detentions in the Southern Rhodesian press owing to laws which prohibit the use of a detainee's name. Thus, well-known people's names will be reported in the press outside Southern Rhodesia, though not within the country. The many detainees who are not known outside of Southern Rhodesia, however, will have their names reported neither outside nor inside the country.

524. It was claimed by the ANC in a statement issued in February 1975 that 60 maximum security prisoners in Salisbury central prison were on hunger strike. This was stated to be due to the tighter security introduced as a result of the escape of Kenneth McIntosh, the sanctions-breaking spy; an alleged assault by a white warder on an African prisoner; and because the period for exercise had been reduced by half. 92/

(ii) Detentions

525. As a result of the Lusaka agreement of 11 December 1974, the rebel régime agreed to release all political detainees, restrictees and political prisoners (see para. 453 above). However, according to information available to the Group, it never did release any political prisoners - claiming that prisoners who have, for example, been convicted under the Law and Order (Maintenance) Act or other security legislation are guilty of criminal acts and so are not covered by the agreement. As far as detainees are concerned, between 60 and 90 were let out before the "Minister of Law and Order", exactly a month after the agreement in Lusaka, stopped the release of detainees altogether. 93/ The inhuman way in which the release of of detainees was handled was reported in the Guardian. 94/

91/ Parl. Deb., 28 August 1975, cols. 433-439.

92/ Times, 19 February 1975.

93/ Daily Telegraph, 10 January 1975.

94/ Guardian, 2 January 1975.

526. Information has been received from Amnesty International with documentation covering eight "prisoners of conscience" - six of whom were detainees and two of whom have officially been released from detention. In a letter from Amnesty International, Mr. Malcolm Smart of their Research Department says:

"A number of political detainees were restricted to one or other of the 'protected villages' upon release at the beginning of the year [1975]. The majority were sent to Sowe New Village in the Centenary area but some were also dispatched to Mzarabani, Hoya and Mzengedzi. We have seen letters from some of them from which it appears that they are actually restricted to the confines of the particular village in which they live, so that their situation has deteriorated compared to the time when they were in detention. They can neither leave the village to seek work in Salisbury, etc., nor can they do much in the way of subsistence farming. They refer to the villages as 'cages'." 95/

527. The dossier submitted by Amnesty International also states that after the Lusaka agreement of 11 December 1974,

"more than 250 political detainees were not released - they remain in detention to this day. ... Amnesty International estimates that there are more than 300 political detainees at the present time, some of whom have been held continuously since ... [UDI]. In the 10 years which have elapsed since UDI, Amnesty International believes that more than 1,000 people may have been detained without charge or trial for various substantial periods of time."

528. The Guardian reported a claim by Sister Mary Aquina, a Dominican nun and lecturer at the University of Rhodesia, that the rebel régime had prepared 2,000 detention orders and was considering using them in the fairly near future. The information came from "an informed Rhodesian source". 96/

529. The "Minister of Law and Order" reiterated in the House of Assembly in July 1975 his intention not to release any more detainees. 97/

(iii) The redetention of the Reverend Ndabaningi Sithole

530. On 4 March 1975 it was announced that Rev. Ndabaningi Sithole had been detained by the rebel régime, allegedly because he was planning the assassination of certain opponents of his bid for the leadership of the African National Council. It was stated that his detention would be subject to review by a special court under the "Acting Chief Justice", Mr. "Justice" Macdonald. 98/ It was found subsequently that the detention order had been incorrectly set out, the form used being an

95/ Letter from Amnesty International Research Department, 3 October 1975.

96/ Guardian, 6 June 1975.

97/ Parl. Deb., 9 July 1975, cols. 713, 714.

98/ Rhodesia Herald, 5 March 1975.

out-of-date form, referring to the wrong sections of the Emergency Powers (Maintenance of Law and Order) Regulations 1974. 99/ It was also revealed two days later that the "Minister of Foreign Affairs, and of Defence" had been to South Africa on an unpublicized visit to inform the South African Prime Minister of the impending detention. 100/ A Times reporter commented: "It has long been an open secret in Salisbury that the Government [sic] has regarded Mr. Sithole as a stumbling block to a settlement." 101/ On 7 March the South African Minister of Foreign Affairs said in the South African Assembly that he hoped it would be possible for "a criminal trial to be held" rather than simply the quasi-judicial review which had been announced, 102/ and on 10 March the rebel régime said that the detailed regulations would be issued a few days later and that, despite previous statements to the effect that the whole proceedings would be held in camera, the "Acting Chief Justice" would hear as much of the proceedings in public as possible, "bearing in mind the need to protect state security and the identity of certain witnesses". 103/

531. When the regulations covering the special "court" were gazetted on 13 March 1975, it emerged that the hearing would differ from a trial in a number of very important respects. For example, it would not be bound by the rules of evidence as applied in the High Court, in civil or criminal cases; it would be possible for evidence (taken personally or in affidavits) to be withheld not only from the public but also from the detainee or his legal representatives; the decision as to whether the hearing would be held in public or in private was purely that of the presiding judge; the decision of the "court" would not be a final one - it could be overruled by the "President of Rhodesia"; and finally, although the "Minister of Law and Order" had to tell the detainee the grounds for the detention order, he could bring fresh allegations at any time before the judgment was made. 104/ In a letter dated 14 March 1975, the régime enlarged the charges against Mr. Sithole to include charges that he had, in effect, remained the leader of ZANU and Commander-in-Chief of the Zimbabwe African National Liberation Army (ZANLA), and had not repudiated their aims. He was also accused of wrecking the "ceasefire agreement". 105/ On 16 March the rebel régime bowed after all to unfavourable public opinion and possibly pressure from South Africa, and agreed that it would be bound by the decision of the "special court". 106/

532. The hearing opened on 24 March 1975 and the whole of the hearing was held in public. However, Mr. "Justice" Macdonald announced on the second day that he did not intend to press the first charge (that Mr. Sithole intended to assassinate some of his colleagues) but only the second one, and the Rev. Ndabaningi Sithole and his legal adviser withdrew from the court. The rest of the hearing was taken up with a

99/ Sunday Mail, 9 March 1975; Rhodesia Herald, 10 April 1975.

100/ Rhodesia Herald, 7 March 1975.

101/ Times, 7 March 1975.

102/ Star, 8 March 1975.

103/ Rhodesia Herald, 11 March 1975.

104/ Rhodesia Herald, 14 March 1975.

105/ Sunday Mail, 16 March 1975.

106/ Rhodesia Herald, 17 March 1975.

long statement detailing (from the régime's point of view) the progress of the armed conflict in the north-east of the country, with quotations from the political programme of ZANU, both from Mwenje No. 2 and from Zimbabwe News. These quotations particularly emphasized the socialist basis of ZANU's programme. 107/ In his decision, Mr. Macdonald confirmed the detention of Rev. Ndabaningi Sithole. He made it abundantly clear that the assassination charge had depended on the evidence of one witness only (For the Record, No. 24, April 1974, Ministry of Information, Immigration and Tourism, Rhodesia).

533. Mr. E. Clinton Bamberger, Dean of the Law School of the Catholic University of America, was sent by the Lawyers' Committee for Civil Rights Under Law (USA) and Amnesty International to observe at the hearing. In his report, Mr. Bamberger had this to say:

"The Government's [sic] attempt to construct a façade of judicial review must be seen for just that, a façade - a shameful degradation of judicial office and function ... I had the impression that the 'hearing' was conducted for the particular purpose of portraying ZANU as a guerrilla movement preying on African people, not representative of the political concerns of the African people, and an organization unworthy of being a party to negotiations for a political settlement." 108/

(c) Arrests of politically involved people

534. Information before the Ad Hoc Working Group of Experts indicates that almost all Africans arrested on charges of recruiting freedom fighters, helping them, etc., are members of the African National Council and/or some other political party. However, this section will deal only with those who are specifically mentioned in press reports as being members of ANC. It is also not clear whether people arrested are, in some cases, being detained without further trial or whether they have been tried separately; or whether their trial has simply not been reported.

535. In October 1974 the police reported that "a number" of people had been arrested in the Gwanda area, to be brought to the courts later. According to ANC, there were 20 and many of them were officials of the organization. 109/

(d) Deportation and prohibited visitors

536. In October 1974 a 30-year-old white woman, Mrs. Barbara Harvey, was deported because she was an "undesirable resident". As with almost all such orders, no explanation was given. She thought it was because she had been a member of the Centre Party (a mildly reformist and mainly white political party which opposes the Rhodesian Front), as well as having friends among Africans. 110/

107/ Rhodesia Herald, 25, 26 and 27 March 1975.

108/ Sithole hearing: substance of E. Clinton Bamberger's statement to the press, news conference, 2 April 1975.

109/ Rhodesia Herald, 16 October 1974.

110/ Rhodesia Herald, 15 October 1974.

537. In February 1975 two Norwegian journalists were refused entry. Gunnar Selgaard of Aftenpost and Jan Erik Smilden of Dagbladet (two Oslo daily newspapers) were detained at Salisbury airport under armed guard before being ejected from the country. 111/

538. In the same month, Dr. Morgan Johnson, a missionary who had served with the United Methodist Church in Rhodesia for 23 years, left the country after being declared a prohibited immigrant. He had been charged with an offence under the Law and Order (Maintenance) Act because of a cartoon he had drawn for the church monthly newspaper Umbowo in 1974, but the charge had been dropped. 112/

(e) Travel restrictions on Africans from Southern Rhodesia

539. The right to leave the country with a passport has been denied to a number of Africans. Furthermore, those who have left the country "illegally" without travel documents face prison if they come back.

540. The leaders of ANC were not allowed to meet Mr. James Callaghan in January 1975. The rebel régime refused all members of the delegation the relevant travel documents. 113/

541. When ANC tried to send a 10-man delegation to the Mozambique independence celebrations at the end of June, the rebel régime refused to issue passports to those who were without them. They said at the time that they were considering the applications and were not prepared to speed up their considerations. Only three ANC members went to the celebrations. 114/ Later, in August, it was announced that Dr. Edson Sithole, Mr. Enos Nkala and Mr. Morton Nalianga (all members of the ANC central committee) had been refused passports. 115/

542. A number of ex-detainees have had problems trying to get passports. Information has been received from Amnesty International on this point: "Joel Ndlovu and Norman Mabena, both of whom were released from Salisbury Remand and Holding Prison on 24 December 1974, have been denied passports. They have both received offers of scholarships from the United Nations Educational and Training Programme for Southern Africa and have places at the Middlesex Polytechnic (UK)." These they are unable to take up at present. 116/ Mr. Mabena is known to be a member of ANC. 117/

111/ Rhodesia Herald, 15 February 1975.

112/ Sunday Mail, 16 February 1975.

113/ Guardian, 3 January 1975.

114/ Radio Lusaka, 25 June 1975.

115/ Rhodesia Herald, 3 August 1975, 4 August 1975.

116/ Letter from Amnesty International Research Department, International Secretariat, 2 October 1975.

117/ Rhodesia Herald, 29 August 1975.

543. The Rev. Canaan Banana left Southern Rhodesia in May 1973 in order to further his studies. He crossed the border into Botswana without a passport -- it had been taken away from him. He obtained a British passport, which he used to go to college in the United States of America. When he arrived back in Southern Rhodesia in May 1975 he was immediately detained. He was not even allowed to greet his family. In June he was sentenced to three months with hard labour for leaving the country in 1973 "illegally". According to the Daily Telegraph: "It is understood that he will stay in detention after serving his sentence." 118/ According to information received from Amnesty International: "A similar case is that of Robert Bhebe, who was detained in the early 1970s after returning from Botswana. He had earlier left the country [sic] unlawfully while under a restriction order." 119/

(f) Treatment of freedom fighters and their helpers

544. The cases of some freedom fighters and their helpers who have been sentenced to death have been recorded in paras. 462-472 above. There have also been a number of cases where there is evidence of serious and unwarranted assault by members of the security forces. These will be dealt with in paragraphs 568-574 below. As is clear from the previous reports of the Ad Hoc Working Group of Experts (particularly E/CN.4/1111, paras. 242-252), the rebel régime persists in treating freedom fighters as common criminals. They are accorded no rights under the Geneva Convention as prisoners of war. In the period under review, there has been no change of attitude.

545. Twelve Africans were sentenced to between three to four years in gaol with labour for failing to report the presence of freedom fighters. One of the twelve was a Kraal head. The "offences" took place in the north-east between February 1973 and September 1974. 120/

546. Six kraal heads and 26 other Africans were given gaol sentences ranging from five to 10 years at Mtoko. They were all found guilty of failing to report the presence of freedom fighters, and three were also found guilty of helping them. All of the 32 were named. 121/

118/ Sunday Mail, 25 May 1975; Daily Telegraph, 21 June 1975; Rhodesia Herald, 21 June 1975.

119/ Letter from Amnesty International (see note 136).

120/ Rhodesia Herald, 17 December 1974.

121/ Rhodesia Herald, 8 January 1975.

547. Two freedom fighters, Kanan Matongo and Sani Takavarasha, were sentenced to 30 years' imprisonment. They were charged with involvement in the assault of other Africans who were accused of being "government sympathizers". 122/
548. Sixteen Africans were sentenced to between five and seven years' imprisonment for not reporting freedom fighters and for assisting them. 123/
549. A freedom fighter was sentenced to 18 years in gaol for having weapons. 124/
550. Two freedom fighters were sentenced to life imprisonment after being found guilty of having arms of war and of committing "acts of terrorism". 125/
551. An ex-detainee, said to be a member of ANC, was arrested in April 1975 for the assassination of Chief Makope of Chiweshe. Chief Makope was reported to have been a very strong supporter of the rebel régime. 126/
552. Norbert Mushuma was sentenced to nine years for attempting to leave the country to gain training to become a freedom fighter. He was arrested trying to cross the border into Botswana. 127/
553. Brazio Chimungondoro was sentenced to life imprisonment for assisting freedom fighters, for not reporting them, and for the "murder" of four South African policemen. 128/

122/ Rhodesia Herald, 1 February 1975.

123/ Rhodesia Herald, 28 February 1975.

124/ Rhodesia Herald, 13 March 1975.

125/ Rhodesia Herald, 21 March 1975.

126/ Radio Salisbury, 16 April 1975.

127/ Rhodesia Herald, 31 July 1975.

128/ Radio Salisbury, 6 August 1975.

5. Disparity between the wages of black and white workers
and the low wages paid to black workers

(a) Introduction

554. The disparity in black and white incomes has been dealt with in the previous reports of the Ad Hoc Working Group of Experts, including the report for 1974 (E/CN.4/1135 paras. 417-421) and the 1975 report to the Economic and Social Council (E/5622, paras. 137-160).

555. Two minor pieces of relevant legislation were introduced in 1975. The Services Levy Amendment Bill was introduced in July 1975, aimed at phasing out the subsidy which Rhodesian industry paid towards African housing in the townships situated in white areas. As a result, the rents of accommodation will go up - although the "Minister of Labour and Social Welfare" has said that wages would go up by at least a corresponding amount. 129/ The Agricultural Industry (Employees' Pension Scheme) Bill was introduced in August 1975. This proposes a pension funded by equal contributions from employee and employer. The implementation of the bill depends upon recommendations by the Rhodesian National Farmers' Union - who will appoint the board of trustees for the Fund. There will be no place for any representatives of the African workers. 130/

556. The repeal in 1974 of the penal provisions of the Master and Servants law by the South African Government resulted in some discussion of the Rhodesian version of these laws. According to a "government" spokesman, prosecutions under the Masters and Servants Act were "few and far between". However, in a hearing in June 1975, Mr. "Justice" Goldin said that the Act was in the "category of drastic, oppressive, or archaic legislation". Apparently 10 per cent of all prosecutions in 1974 in Karoi (where the case Mr. Goldin was discussing originated) were under the Act; 90 per cent of those convicted were first offenders and were sent to prison because they could not pay the fines. In the case under review, 15 Africans had been convicted because they had 'unlawfully departed from their master's service with intent not to return'. The conviction was quashed. In any case, it turned out that the fines originally imposed were greater than those allowed under the Act. The "Judge" said that in such cases the evidence often showed that the 'servant' was fully justified in deserting, and in this particular case the magistrate, in his letter to the "Judge" had reported that one charge had been withdrawn because the complainant had let off seven shots from an automatic weapon near to his employees while he was intoxicated. 131/

(b) Industrial relations and employment and pay policies of employers

557. Information has come before the Ad Hoc Working Group of Experts on how African employment is controlled in Southern Rhodesia by inhibiting the growth of trade unions, particularly black workers' unions, and by keeping most skilled

129/ Parl. Deb., 18 July 1975, cols. 1028-1036.

130/ Parl. Deb., 13 August 1975, cols. 536-538, 541-544.

131/ Rhodesia Herald, 9 November 1974, 25 November 1974, 27 June 1975.

and semi-skilled jobs in white hands. In an article in the South African Labour Bulletin, Mr. Peter Harris has described how job reservation in Southern Rhodesia is made to operate racially, even though it is legally a non-racial measure. The white-controlled trade unions enter into legally enforceable agreements with employers that certain jobs can be done only by qualified workers. However, it is expensive to train people - and the pool of whites who can be trained is not great enough to fill the jobs. Thus, the régime vigorously encourages immigration, especially of artisans, to fill these places, and employers need to train only a few apprentices, who are all white. There are a few jobs (for example, in the construction industry) which are being Africanized. In these cases the wages are being lowered comparatively to the all-white trades, and Africanization only happens, in any case, when there is an overriding need for black skills. 132/

558. The legal constraints on "approved" trade unions are described in previous reports (notably E/5622, paras. 137, 138). Evidence of the extreme difficulty of organizing the largest group of African workers was given by Mr. Duncan Clark in the South African Labour Bulletin. The Agricultural and Plantation Workers' Union has had to struggle to exist because of the refusal of employers to recognize it. Although the Masters and Servants Act (which controls agricultural labour) does not prohibit negotiations, the Rhodesian National Farmers' Union has made it clear in writing that no assistance shall be given to agricultural unionism. This stand is supported by the Anglo-American Corporation, Arbor Acres (Pty) Ltd. and other large commercial estates. The régime has steadfastly refused to give any status at all to the Agricultural and Plantation Workers' Union; the organizers find it difficult to meet their members on the farms (which are almost all in the white areas), the workers themselves are only able to pay very small sums in subscriptions, those members who do join have been victimized, and the officers of the union have been harassed (the General Secretary, Mr. Pollant Jabavu Mpofo, has been in detention since July 1973 and is held at Gwelo, according to information transmitted by Amnesty International). The Union has had some success in gaining benefits for workers after spontaneous strikes have happened. 133/

559. The Group has found it very difficult to obtain comparative information on the pay of black and white workers doing the same job on the same grade. According to Mr. Peter Harris, "unskilled manual work is performed almost entirely by blacks", and when skilled Africans have been promoted it has happened in such a way that white jobs are protected - e.g., by giving the black workers a different grade - and that no white ever works under a black. Thus blacks have advanced to responsible, but not competitive (with whites) jobs in the African education and health services.

560. In an attempt to deal with the problem of black unemployment the rebel régime has come to an agreement with the Mine Labour Organization (Wenela) Ltd, to allow it to recruit in Rhodesia, but 60 per cent of the "high" pay workers receive in South Africa is to be deferred, that is, paid into an account in Southern Rhodesia. According to the "Minister of Labour and Social Welfare",

132/ Peter Harris, South African Labour Bulletin, 1 (No.9) (March 1975), 46-52.

133/ Clarke, in South African Labour Bulletin, 1 (No.9) (March 1975), 53-65.

"A side effect of the deferred pay scheme will, of course, be the injection into our economy of a considerable amount of new foreign currency." Between January and April 1975, 1,667 recruits had been sent to South Africa. 134/ The managing director of the South African Chamber of Mines Labour Organization said in September 1975 that they were recruiting 150 Rhodesian blacks per week, and he expected there to be 20,000 in South Africa by the end of 1976. 135/

561. The Group notes the inadequacy of reporting in the Rhodesian press - especially since the banning of Moto - about the pay and employment conditions of blacks. What information there is exposes ways in which employers control the labour market. In October 1974, for instance, there was an "illegal" strike at the Wankie colliery when the men rejected an offer of an increase of 10 cents per shift on top of the basic minimum of 65 cents per shift for an underground worker. There was a total shutdown for two days and a number of blacks were arrested, of whom 18 were subsequently found guilty of clashing with the police and were sent to gaol for 12 months. The stoppage ended with the workers accepting the 10 cents after the intervention of the leader of the Associated Mineworkers of Rhodesia, a predominantly white union. Commenting some weeks later, Mr. Ken Mew attacked the "Government" for its lack of a realistic incomes policy. About the Wankie strike, Mr. Mew said: "The strike, needless to say, was alleged at least in part to be the work of agitators; as if a man needs to be agitated to protest at 65 cents for eight hours at the coalface". 136/ The management were only able to get a sort of acceptance of their offer because the majority of the workers, the blacks, were not represented by a union or by men they trusted. If they had been, and if they had been able to strike "legally", they could have undoubtedly got a better settlement.

(c) Evidence of poverty and low pay among blacks

562. The report of the study on the urban poverty datum line (PDL), published by the University of Rhodesia, 137/ was covered in some detail in the Group's 1975 report to the Economic and Social Council (E/5622, paras. 157-160), as was the negative response by "government ministers". The disparity between the average wages of black and white workers has been reported previously by the Group (E/CN.4/1135, paras. 417, 418; E/5622, paras. 153, 154).

563. Further evidence of poverty has been reported during the period under review. The Secretary for Health for the "Government" said in September 1974: "There are still patients in our hospitals with kwashiorkor, and the conditions in our TTIs are such that typhoid fever spreads and cholera is still occurring." 138/

564. In April 1975 Dr. Eric Gargett, senior welfare officer in the Bulawayo Housing and Amenities Department, said that African families that exist below the PDL, stay alive but do not live. "They economize on consumption goods,

134/ Parl. Deb., 15 November 1974, Col. 1039; 11 April 1975, cols. 1837-1840.

135/ Radio Salisbury, 15 September 1975.

136/ Rhodesia Herald, 18, 19, 22 and 28 October 1974; Sunday Mail 20 October 1974.

137/ V.S. Cubitt and R.C. Ridell, University of Rhodesia, 1974.

138/ Rhodesia Herald, 28 September 1974.

particularly good and clothing; they fail to pay school fees; they walk long distances because they cannot afford to ride; they go without necessities." 139/ Dr. Gargett's comments followed a report in January 1975 that 70 per cent of African workers in the Bulawayo townships lived below the breadline. Poverty is reported to be the biggest single problem facing families. 140/ Despite this evidence, and the evidence of the PDL, the "Minister of Social Welfare" said in July that only 0.18 per cent of Rhodesians needed the help of Social Welfare. He said that this low figure was an indication of Rhodesia's high standard of living. "The needs of destitute people in this country have not been neglected". It was not clear whether he was talking only about the white population. 141/

565. In October 1974 workers in the clothing industry got an increase of 7.5 per cent. This meant that wages of the lowest paid rose from \$R8.20 to \$R8.80 per week - well below the PDL for most families. The increase among the highest wages was \$R132 to \$R136. 142/ The General Secretary of the Rhodesian Engineering and Metal Workers' Union, Mr. David Chimusoro, said in April 1975: "Directors of companies and leading businessmen have spoken about the need to pay better wages, but not much is being done in this direction". 143/ The same view was expressed by Mr. Phinias Sithole, the President of the African Trade Union Congress, who criticized the "Minister of Labour and Social Welfare" who had called on "enlightened" managers to follow the principle of "a fair day's pay for a fair day's work". Mr. Sithole, said that what employers needed was "strong government, leadership and legislation; certainly not persuasion". He also stated that 99 per cent of African employees covered by industrial agreements were paid the minimum. 144/

139/ Rhodesia Herald, 10 April 1975.

140/ Rhodesia Herald, 23 January 1975.

141/ Rhodesia Herald, 24 July 1975.

142/ Rhodesia Herald, 17 October 1974.

143/ Rhodesia Herald, 17 April 1975.

144/ Rhodesia Herald, 15 March 1975.

6. Other serious violations of human rights

(a) Secret trials

566. In Southern Rhodesia, the "Minister of Justice" has powers in terms of section 403A of the Criminal Procedure and Evidence Act to impose as wide restrictions on publication of matters relating to any trial as he wishes. Most trials are held with only the press present - and this on condition that the newspapers print only what they are given permission to publish. Only white reporters are allowed to attend. These restrictions mean that a number of trials take place under conditions of complete or virtual secrecy.

567. In March, April and May 1975 three trials were held in which no indication of the charge, the result of the trial or even the race of the defendants was given. The "Minister of Justice" stated in a certificate that it would "not be in the public interest" for any of this information to be disclosed.^{145/} In July 1975 the trial of Julius Chimedza was held in camera; no other indication of the nature of the hearing was given.^{146/}

(b) Other cases of torture and assault

568. Previous reports have given evidence of the widespread use of violence by agents of the rebel régime against Africans (for example, E/CN.4/1159, paras. 303-312). In particular, defendants in trials often claim that they have been beaten or tortured by the police or the security forces in an attempt to obtain information.

569. In January 1975 three summonses were presented in the courts against the "Minister of Law and Order" claiming damages as a result of assault by members of the security forces. In the first, Mr. Tawandira and his daughter claim that they were shackled, blindfolded and beaten for a prolonged period in September 1974 by a white and two black policemen. The incident took place in the Mount Darwin area. In the second case, Mrs. Monica Dekka and her daughters, from the Chesa African Purchase Area, claimed that they were kicked and struck, blindfolded and subjected to an instrument with electric effects by a white and a black policeman. The assault took place in August 1974 in the Mount Darwin area. In the third case, Mr. J.M. Jairosi, a schoolteacher, was beaten with fan belts, kicked, dropped on the ground, his head was banged on the ground, and he was beaten on the soles of his feet. This assault allegedly took place in January 1973 at the Centenary police station, and was the work of a white and a black policeman. None of those who took out the summonses had been charged with any serious offence.^{147/} A further summons was served in March 1975 by an African from the Mtoko area, who alleged that he was assaulted by the police after his arrest in February 1975.^{148/} So far none of the cases has been heard and it can be assumed that they will be dropped when the Indemnity and Compensation Bill becomes law (see paragraph 522 above).

^{145/} Rhodesia Herald, 18 March 1975, 9 April 1975, 21 May 1975.

^{146/} Rhodesia Herald, 22 July 1975.

^{147/} Man in the Middle ... pp. 21, 22; Rhodesia Herald, 26 January 1975.

^{148/} Rhodesia Herald, 8 March 1975.

570. In evidence collected by the Catholic Commission for Justice and Peace in Rhodesia, 12 incidents of assaults were cited. These include the first three cases described above. They all involve physical assault of the most degrading kind, often in the presence of other villagers. In one case a whole village and its crops were destroyed because the villagers were allegedly helping freedom fighters. In the last incident, the villagers were told by a soldier that they had to disperse to other villages - they would not be allowed to rebuild. There has been no question of any sort of compensation, except in the case of two children who were killed in an "accident" in a "protected village". The parents were given £R100 for each child "to offset funeral expenses and any inconvenience caused to the parents".149/

571. In May 1975 a police reservist who hit a black with a pistol was found guilty of assault with intent to do grievous bodily harm. The man said he was only intending to "get a bunch of loafers" to move away from his home. He also fired the pistol into the air to frighten away the group of blacks.150/

572. In a case in June 1975 two white brothers were charged with assaulting a black driver whom they suspected of stealing a handbag. Although the woman whose bag had been taken said that the man was not responsible, they "knocked him silly against the car".151/

573. In an appeal decision, a black (Mukotsa Ngirazi) was allowed to go free after he had been convicted of several counts of stock theft as the result of a confession which he alleged had been forced out of him after being savagely beaten with sticks by the police.152/

574. In August 1975 a Southern Rhodesian police officer was found guilty of assaulting Mr. Francis Mutuma of Hatfield. Two other white police officers were found guilty in July of the same offence. Mutuma was taken into an office and made to do press-ups. He was then beaten over the back with a stick and later had to go to hospital to heal five scars over his back. In his summing up, the magistrate said: "The assault was made to elicit information from him".153/

(c) Evidence of unwarranted arrests

575. In October 1974 the Appeal Court quashed the conviction of 48 blacks who had pleaded guilty in a lower court to a charge of failing to obey the order of a district commissioner. He had ordered them to appear at his office without giving them any reason for the order - which he could legally do.154/

149/ Man in the Middle ... pp. 3-6.

150/ Rhodesia Herald, 6 May 1975.

151/ Rhodesia Herald, 4 June 1975.

152/ Rhodesia Herald, 1 August 1975.

153/ Rhodesia Herald, 21 August 1975.

154/ Rhodesia Herald, 18 October 1974.

576. A woman convicted twice for the same offence had one of the convictions set aside in May 1975. She had pleaded guilty on the second as well as the first occasion - presumably because she did not fully understand the court procedure. No comment was made as to why a second summons had been made.^{155/}

577. According to a report in the Sunday Mail in February 1974, Salisbury police arrested 50 to 100 blacks per day because they were not carrying their registration certificates. In many cases this is because the white employers are holding their certificates, after signing them, and not returning them to their African employees. The resulting arrests cause "a great deal of inconvenience to employees and employers".^{156/}

(d) Comparison of sentences imposed on whites and blacks for criminal offences

578. Clear evidence has come before the Ad Hoc Working Group of Experts of differences in sentences imposed on blacks and whites. Thus, two blacks were sentenced to three and a half years (with two and a half years' suspended) and two and a half years (with one and two thirds' years suspended) for breaking into stores and stealing goods in two African townships.^{157/} Another black was sentenced to six and a half years in gaol (with one year suspended) on 12 counts of breaking into schools in the Salisbury area.^{158/} In a trial at about the same time a white farmer was fined £R50 (or 10 days in gaol) for the death of a black woman.^{159/} Another white, who had killed his domestic servant and injured another black when he fired four shots into the shed where the servant lived at the end of his garden, was given a "deterrent" sentence of three years in gaol. The white had been angry because the servant had knocked down and broken an ornament of sentimental value.^{160/}

(e) Black education - disparity between black and white facilities

579. According to information available to the Ad Hoc Working Group of Experts, the estimated figures for expenditure on black and white education for 1974/1975, both in toto and as a proportion of the relevant populations, were:

	<u>African</u>	<u>White</u>
Total expenditure per annum (thousands)	\$30 662	\$25 830
Population (December 1974) (thousands)	5 900	274
Cost per head of population	\$5.2	\$94.5

Source: Digest of Statistics, tables 1 and 59 (August 1975).

^{155/} Rhodesia Herald, 27 May 1975.

^{156/} Sunday Mail, 9 February 1975.

^{157/} Rhodesia Herald, 24 April 1975.

^{158/} Rhodesia Herald, 26 April 1975.

^{159/} Rhodesia Herald, 31 July 1975.

^{160/} Rhodesia Herald, 20 June 1975.

In practical terms, this results in a rapid drop out of schoolchildren as they go through primary and secondary school. This can be seen in the table below (for 1975).

	<u>African</u>	<u>White</u>
First year primary	158 322	4 777
Last year primary	68 652	4 860
First year secondary	12 652	5 101
Fourth year secondary	4 863	4 980
Last year secondary	373	831

Source: Digest of Statistics, table 12 (August 1975).

580. In 1970 the régime decided to reduce salary grants to primary schools run by the churches by 50 per cent and, as a result, most of the churches handed over their schools to the régime. In January 1975 the Mashonaland Diocese of the Anglican Church decided to hand over its schools (over 200) to the régime because of financial problems. This means that virtually all primary African education is now under the direct control of the régime.161/

581. According to a psychologist working for the African Division of the 'Ministry of Education': "The main causes of the drop-out between Grades 1 to 7 [the beginning and end of African primary education] are financial, social and cultural". She went on to say that she thought many intelligent children did not get selected for secondary education because of inadequate schooling.162/

582. According to the "Minister of Education" there could be no improvements in black education because of the very rapid increase in the black population, and also of the enormous expenditure of resources on the "terrorist" war. The increase in the black population was also blamed by the Secretary for African Education, in his annual report published in June 1975, for the lack of adequate resources.163/

583. Although the black townships around Salisbury fall under the jurisdiction of the City Council, they are not part of the municipality. Thus, according to a Council spokesman, residents of the townships are not eligible for a bursary to go to the University.164/

(f) Violations of freedom of speech and association

(i) Introduction

584. In the Ad Hoc Working Group of Experts' 1974 report reference was made to measures taken by the illegal régime to restrict meetings in the Tribal Trust Lands (TTLs) (E/CN.4/1135, para.389). Administrative means are used to stop meetings

161/ Rhodesia Herald, 12 January 1975.

162/ Rhodesia Herald, 29 May 1975.

163/ Rhodesia Herald, 15 February 1975, Radio Salisbury, 6 June 1975.

164/ Rhodesia Herald, 7 January 1975.

in the urban areas (E/CN.4/1159, para. 356). During the period under review, the "Minister of Law and Order" issued an order prohibiting all meetings in the TTLs except for certain exemptions. The exemptions are such that virtually all political or trade union meetings are banned - they may be held only if authorized by an official of the "Ministry of Internal Affairs" - that is, chiefs and headmen are not allowed to authorize such meetings, only white officials. According to the "Minister", the new measure was to deal with meetings of fewer than 12 people, which were taking place on a considerable scale because meetings of more than 12 were already banned.^{165/} It was made clear in the House of Assembly that this ban included report-back meetings by African MPs to their constituents, unless authorized.^{166/}

585. In paragraph 521 above it was noted that the Law and Order (Maintenance) Amendment Bill was passed by the Senate despite an adverse report by its Legal Committee to the effect that two sections of the bill contravened the Declaration of Rights. The section in question prohibited persons convicted of making "subversive" statements from going to meetings or being quoted. The Senate did, however, cause the illegal régime to reconsider its Printed Publications Bill. The Legal Committee questioned the requirement that all new books should be supplied to the National Archives.^{167/}

(ii) Examples of violations of the right to freedom of speech

586. In the Group's report of last year, it was stated that the Roman Catholic weekly newspaper, Moto, had been banned for a period of three months in September 1974 (E/CN.4/1159, para. 362). According to further information available to the Group, in November 1974 this temporary action was replaced by a permanent banning order by the "Minister of Law and Order". The "Minister" made clear that the ban was imposed because Moto reflected the opposition of the African majority to the régime; in particular it gave full coverage to the liberation of the ex-Portuguese colonies in Africa "with emphasis on the achievement of the so-called African Freedom Movements".^{168/}

587. During the period under review attacks were made in the House of Assembly on the Rhodesia Herald and the Sunday Mail, although both newspapers are strong supporters of the régime and both operate under a considerable degree of self-censorship. A Rhodesia Front MP attacked in particular the Herald Group of newspapers for doing "so little to engender and sustain public confidence". His view was supported by the "Minister of Information, Immigration and Tourism".^{169/}

^{165/} Rhodesia Herald, 4 August 1975.

^{166/} Parl. Deb., 8 August 1975, col. 289.

^{167/} Rhodesia Herald, 27 February 1975.

^{168/} Parl. Deb., 15 November 1974, cols. 1075-1083.

^{169/} Parl. Deb., 11 April 1975, cols. 1871-1880.

588. The régime also has a rigid policy of banning books and other publications coming into the country on grounds that they are depraving "sexual morals" or are politically dangerous. In April five publications of a political or semi-political nature were banned, and in May another political publication was banned. Titles included Zimbabwe Exodus, published by ANC in the United States of America, and Focus on Liberation, vol.7, No.6, published by the All African Council of Churches.^{170/}

589. European newspapers are censored if they are considered to be seriously critical of the régime. In the Rhodesia Herald of 22 August 1975, four days before the Livingstone/Victoria Falls talks, the Rhodesia Party placed an advertisement discussing "détente" and the part which the African neighbours of Rhodesia had played in containing "guerilla warfare". The "Minister of Law and Order" asked the Rhodesian Attorney General to see if the advertisement contravened the Law and Order (Maintenance) Act. Two days later the Sunday Mail rejected a second advertisement by the Rhodesia Party after taking legal advice. It should be noted that the Rhodesia Party is a white-only party.^{171/}

(iii) Examples of violations of the right to free association

590. Previous violations by the régime of the right to free association have been reviewed in the Group's report of last year (E/CN.4/1159, para. 356). The difficulty in assembling evidence of such violations is that the bannings are seldom reflected in the press. Some examples, however, have been brought to the Group's attention.

591. In January 1975 the recently released leaders of ANC, Joshua Nkomo and Ndabaningi Sithole, were invited to a friendly football match to be held in Highfields in their honour. The "Minister of Law and Order" banned the match on the grounds that the occasion would be used as a rally for ANC.^{172/}

592. Shortly after this, ANC announced that a public meeting in Bulawayo had been banned by the authorities because ANC did not comply with "certain conditions". Another meeting had to be cancelled as the speaker, Joshua Nkomo, was refused permission to speak. The ANC was also told that it was not allowed to have processions of any sort.^{173/} In Sinoia in March the annual meeting of the Northern Province of the Women's Section of ANC was banned by the District Commissioner.^{174/}

^{170/} Rhodesia Herald, 14 April 1975, 26 April 1975 and 10 May 1975.

^{171/} Rhodesia Herald, 23 August 1975; Sunday Mail, 24 August 1975.

^{172/} Daily Telegraph, 11 January 1975.

^{173/} Radio Blantyre, 15 January 1975; Radio Johannesburg, 15 January 1975; Rhodesia Herald, 15 January 1975.

^{174/} Rhodesia Herald, 14 March 1975.

593. In March 1975 the Rhodesia police broke up a crowd of mourners of Mr. Herbert Chitepo, the assassinated ZANU and ANC leader. A number of mourners had gathered at the house of some relatives in New Highfields, including Mr. Chidyausiku, one of the African MPs. Mr. Chidyausiku refused to go and, as a result, a dog was set onto him. He was later charged with obstructing the police.^{175/}

594. Forty-eight people were arrested in Chiredzi for taking part in an "illegal" procession in support of ANC.^{176/}

(g) Other miscellaneous violations of human rights

595. In the Criminal Procedure and Evidence Amendment Bill the régime increased the summary powers of the executive and the lower courts. The "Minister of Law and Order" proposed that he should have the power to issue a certificate that would prevent any magistrate from letting a person out on bail. The second change would increase the jurisdiction of the lower courts, which at present can impose only small fines in cases of persons who plead guilty, if the court does not hear any evidence. If the court wants to impose a greater sentence it has to call evidence to prove the defendant's guilt. This safeguard is to be removed and, with the very minor safeguard that the detailed explanation of the charge must be recorded, the court may inflict a full sentence without calling any evidence.^{177/}

596. The illegal régime refused to allow the body of Herbert Chitepo to be brought back to his native country for burial after his assassination.^{178/} As was shown in paragraph 593 above, the régime also tried to stop all public mourning for his death.

597. A woman who was seven months pregnant was gaoled in April for failure to pay her debts.^{179/}

^{175/} Rhodesia Herald, 29 July 1975, 30 July 1975.

^{176/} Rhodesia Herald, 5 June 1975.

^{177/} Parl. Deb., 29 July 1975, cols. 1493-1498.

^{178/} Daily Telegraph, 22 March 1975.

^{179/} Rhodesia Herald, 19 April 1975.

B. APARTHEID AND THE AFRICAN FAMILY

1. Description of the African family and analysis of its role

(a) Ethnographic background

598. This subject is being studied for the first time by the Ad Hoc Working Group of Experts, although reference has been made in previous reports to the disruptive effects on African family life, in South Africa as well as in Southern Rhodesia, of inhuman and racist policies.

599. The Mashona and Ndebele, the two main peoples of Southern Rhodesia, are culturally distinct although they share many common characteristics. The Mashona lived in the country before the arrival of the Ndebele in the first half of the nineteenth century from Zululand in South Africa. The tribal structure of the Ndebele was the more centralized; the men were the warriors and the hunters, while the women were the farmers. The Mashona people had a far less centralized tribal system and were not a military nation. Both kept cattle as well as farming millet and various root crops.

600. The Mashona chieftainships were hereditary and succession is collateral in the male line of descent. This means that there were many possibilities of serious disputes, which often were dealt with by a split in the clan, one faction moving away. Similar problems occurred at the level of the "dunhu", or headmanship. The land in both the Ndebele and Mashona systems was not owned individually but was the responsibility of the chief or headman, who divided it according to the needs of the people. The Mashona kraals would typically move every eight to ten years as they exhausted the land. The chief would resolve quarrels between dunhus and deal with serious crimes (such as murder), while the headman would deal with lesser disputes, particularly between kraals over land. It was the aim of the traditional African courts to resolve conflicts satisfactorily, rather than to apportion blame or impose punishment.

601. Of central importance in both Mashona and Ndebele life is still the family, which is typically an extended family. In traditional rural conditions, children were the responsibility of all, and the successful were responsible for the poor of the family. Problems of illegitimacy or of orphans simply did not exist because all children were seen as a gift and any baby (whoever the father) was accepted into the family. If the natural parents died, a relative took over as a matter of course. Old people, both male and female, were especially honoured. 180/ Unity and cohesion were characteristic of the African family.

180/ Reviews of traditional African communities in Southern Rhodesia can be found in: H. Kuper, A.J.B. Hughes and J. van Velsen, The Shona and Ndebele of Southern Rhodesia (1954), particularly pp. 18-21, 63-93 and 94-100; C. Bullock The Mashona and the Matabele (1950), particularly chaps. III, IV, V, VI and XXII; M.W. Murphree, Christianity and the Shona (1969), chap. 2; J.F. Holleman, Chief Council and Commissioner (1968), pp. 83-96; and Edgar Moyo, Big Mother and Little Mother in Matabeleland (1973).

(b) Impact of colonialism and industrialization

602. Since arrival of the white settlers in Southern Rhodesia there have been dramatic changes in African social structure. Both white farmers and gold speculators looked upon the Africans primarily as a potential source of labour; but at the same time they did not want too many Africans settled with their families on "their" European land. Thus, the system of labour migration already developed in South Africa was adopted (see chapter I, section E, "Apartheid and the African family", above). At the same time attempts were made to define and restrict African land holdings, so that the traditional wanderings of African kraals were made more difficult and eventually stopped. These measures had the effect of gradually forcing some of the men off the land into the money economy. Also the settlers devalued the independent powers of the chiefs, who had led the uprisings in 1896, by making the chiefs petty government officers executing the white rulers' laws and collecting white-imposed taxes. And this too tended to erode the social hierarchy and the stability of family structures.

603. The system of labour migration is clearly the major source of disruption in African family life. African men seek work in the money economy; but low wages and inadequate housing, as well as the "pass system" which limits African access to urban areas, all tend to discourage them from bringing wives and children with them. In fact, the rural subsistence economy actually subsidizes the urban economy by providing a place for the majority of the family, particularly the very young and the very old, to live. There is often a regular traffic in children between town and country, with children staying in the country for some periods of their childhood and staying in the towns for other periods.

604. The conditions in the towns are such as to break down certain established structures, including the traditional economic and domestic roles. The young, who live only in the towns and cities, lose touch with their traditional background and tend to be cut off from all but their immediate family. African urban housing (planned by whites) indeed makes no concessions to African patterns of living. "The townships have been built to house small European-type families - and the schools have been built on the basis of the same calculations." 181/

605. The attitudes of the Christian churches too, have played a part in profoundly changing African social customs and values. European missionaries have attacked certain aspects of African culture as being "heathen" and unchristian: for example, the customs attached to marriage were attacked as being unchristian.

606. The Shona in particular had traditionally a very close and almost religious relationship with their land and with their cattle. Arbitrary and forced removals of people from the land, especially if the time allowed for preparation for the move is short, has been very demoralizing; separation from the land in Shona belief is a sign of the displeasure of some higher spiritual beings. 182/

181/ Edgar Moyo, op.cit., p. 45.

182/ Reviews of some of the effects of Western colonialism, industrialization and missionary activity are given in: L. Vambe, An Ill-fated People (1972) (a personal impression); N. Partridge, Not Alone (1972) (an optimistic account of the effect of urban living - Bulawayo - on Africans); E. Colson, Social Organization of the Gwemba Tonga (1960), see chaps. III and IV; E. Colson, Marriage and Family among the Plateau Tonga (1958), see chap. IV on labour migration; and J.A. Dachs, ed., Christianity South of the Zambezi (1973), see articles on "Traditional religion in Shona society" and "Shona marriage and the Christian Churches".

2. Short-term and long-term effects of the policy
of apartheid on the African family

(a) Political and economic background

607. The policies of the colonial government of Southern Rhodesia and of the present illegal régime have been reviewed in previous reports of the Ad Hoc Working Group of Experts. The historical background to the development of African tribal areas was given in the Group's 1970 report, and a comprehensive survey of the laws affecting Africans in these areas was given in both the 1970 and 1971 reports and has been updated in subsequent reports (E/CN.4/1020/Add.1 and E/CN.4/1050). The régime continues to operate a system of exploitation of African labour, by which the men are forced to work in the urban areas in order to pay government-imposed taxes, to get an education for their children, and to buy goods produced by the industrial economy. At the same time, the level of remuneration is such that the workers often remain dependent upon the rural areas for support for their families (see para. 489 above and paras. 610 and 618 below). The distribution of land and of population was reported in 1974 (E/CN.4/1135, paras. 357-362). From this, the very high density of the African population in the TTLs can be seen. The very depressed economic state of the TTLs was also reported in 1974 (E/CN.4/1135, paras. 372-379). All these factors tend to make for maximum insecurity in African social life.

608. The régime has carefully controlled the movement of Africans by making all male Africans who are employed carry a "registration certificate" (see also para. 501). The Group's report of last year stated that the region had ordered all Africans between 12 and 60 in certain areas in the north of Southern Rhodesia to apply for new registration books. Those have to be carried at all times (E/CN.4/1159, para. 330).

609. A social survey conducted in an African township outside Salisbury in 1967 showed some of the characteristics of the African population. The township had been built as a dormitory for domestic servants working in the nearby white suburbs. Sixty per cent of the head of households earned \$R10 to \$R20 per month. Many of the domestic servants actually lived on their masters' premises during the week and came home only during the weekend. The sex ratios were not even (there were more female children and young adults, up to 30, than males - an exceptional situation that reflected the special purpose of the township). A considerable number of children (24 per cent at least) were away from their families - mainly in the rural areas. However, few visiting children were allowed residence in the township. 183/

(b) Effects on conjugal relationships

(i) Lack of family housing

610. The distribution of the African population at the time of the last census (April 1969) is given in the table below:

183/ G. Chavunduka, "A social survey of Dzivaresekwa Township, Salisbury", Zambezia, vol. 2, No. 2 (December 1972), pp. 67-72.

Division of the African population by sex and by area

<u>Land category</u>	<u>Total</u>	<u>Male</u>	<u>Percentage</u>	<u>Female</u>	<u>Percentage</u>
Total African population	4,846,930	2,440,180	50.3	2,406,750	49.6
<u>African areas</u>					
Tribal Trust Lands	2,921,840	1,326,710	45.6	1,584,330	54.4
African Purchase Areas	135,610	64,500	48.6	68,310	51.4
<u>White areas</u>					
<u>Major urban areas</u>					
African Townships	453,840	266,880	58.8	186,960	41.2
White areas	202,720	138,190	68.2	64,530	31.8
<u>Rural areas</u>	919,940	517,710	56.3	402,230	43.7

Source: 1969 Population Census, volume II, The African Population, from tables 4, 5, 8 and 9. The land distribution described is that of the Land Apportionment Act, but the difference is insignificant compared to the Land Tenure Act.

From this it can be seen that there is a substantial excess of African males in the white areas, particularly in the white areas of the towns and cities. This is so even on the European farms, where there might be expected to be space for a traditional house with a garden. This excess of men is a result of the migrant labour system and indicates very clearly the extent of the break-up of the African family and the consequent disruption of conjugal relations.

611. In para. 491 above the figures for the (legal) African population of Salisbury were given. The large excess of men, many of them living in large "bachelor" hostels, is clear. A similar situation exists in other urban areas. The municipalities, such as Salisbury, used to provide the accommodation for "migrant" workers (such as these hostels), while the central administration provided the family estates (of the type referred to in para. 604 above). However, since the municipalities came to control all urban African housing, ^{184/} family houses are allowed to accommodate only the biological family of the tenant, or "legal" lodgers - those with work in the town. ^{185/}

612. D.G. Clarke has published a study containing case histories of a number of individual domestic workers (as at January 1973). These case histories exemplify the low incomes and split families referred to above. For example, a house worker, "C", who had been with his present employer since 1951, had his family with him.

^{184/} E.H. Ashton, Rhodesian Journal of Economics 3, (No. 4) (December 1969), 29-37.

^{185/} D.K. Davies, Race Relations in Rhodesia (1975), p. 295.

His monthly wages were \$R24. He had no free days at all - merely working shorter hours on Saturdays, Sundays and public holidays. He had three weeks' holiday a year, without pay. "D" is a female house worker who lived on the premises but also had a small house in a township, where her four children lived during the holidays. She got paid \$R12 monthly along with rations and electricity. She worked every day, with a half day off on Thursday and Sunday. "I" is a 60-year-old caretaker of flats in Salisbury. He got \$R19 monthly, plus a flat, but not food. His wife and four children lived in Umtali. "K", a gardener and house worker in Salisbury, got \$R18, lived on the premises but had his wife and child in Mtoko. They stayed with him during their holidays. 186/

(ii) The policy of "population control"

613. D.G. Clarke has also reviewed the problems of family planning amongst Africans in Southern Rhodesia. The growth of the African population is very high - about 3.6 per cent per annum at the beginning of the 1970s. According to the above-mentioned study, this high rate of growth is due to political and economic pressures: the very low income of Africans, and particularly the lowering in the average income of Africans in the TTLs, has made a large family economic sense for the individual African family; and the white-dominated régime has done nothing to make the economic conditions more favourable for small families. Furthermore, the white régime is avowedly trying to increase the white population: an official report in 1967 stated: "In the interests of the Rhodesian economy, and especially of the African inhabitants, it is essential that the European community be strengthened, and the numerical imbalance prevented from increasing unduly." 187/ In the same spirit the rebel régime and the white political parties have called for control of the African population and have tried several methods to do so.

614. In April 1973 the Rhodesian Front's Midlands division demanded that a positive policy to solve the problem of Southern Rhodesia's "explosive population growth" be formulated "within the framework of RF policy". 188/ In October of the same year the "Minister of Health and Social Welfare" made it clear how important he thought family planning. 189/

615. In the public discussion on the topic a member of the University of Rhodesia's Zoology Department stated that a campaign to reduce the birth-rate in Southern Rhodesia would succeed only if it were accompanied by massive development in the TTLs. 190/ Another suggestion was made by a leading Rhodesia Herald journalist. He wanted the first three children of a family to be educated completely free, and then the education for all subsequent children to be paid for by the parents at the full, unsubsidized rate. 191/ The "Ministry of African Education" also undertook a massive programme of family planning education in October 1974, concentrating on over-population as a world and a national problem. 192/

186/ D.G. Clarke, Domestic Workers in Rhodesia (1974) pp. 79-88.

187/ D.G. Clarke, in Rh. J. of Econ., 6 No. 2, (June 1972), p. 35.

188/ Rhodesia Herald, 26 April 1973.

189/ Rhodesia Herald, 29 October 1973.

190/ Rhodesia Herald, 1 December 1973.

191/ Rhodesia Herald, 19 April 1973.

192/ Rhodesia Herald, 4 October 1974.

616. In para. 582 above, it was noted that the "Minister of Education" had stated that there would be no increase in education facilities for Africans due to increase in population. Despite speeches by African politicians opposing contraception, the Gwelo health inspector in his report for 1974 stated that women were attending family planning clinics. 193/

617. In December 1973 the Salisbury City Council announced that it was increasing maternity fees and fees at children's day centres. The increases were between 170 per cent and 300 per cent. Although this was not necessarily done as a negative form of birth control, it was attacked fiercely by Africans, who were not consulted about the proposals before they were instituted. 194/ In March 1975 the City Council was considering a proposal to give birth control pills away free instead of at the present price of 10c per packet. 195/

(c) Effects on parental relationships

618. The system of migrant labour has resulted in a disproportionate number of African children being in the rural areas rather than the urban areas. This is shown in the table below:

<u>Location of African children</u>		
	<u>Under 14 years</u>	<u>Under 9 years</u>
	<u>4 months</u>	<u>4 months</u>
	<u>Percentage</u>	<u>Percentage</u>
Total population	47.7	34.2
In TTLs	52.9	37.5
In APAs	50.4	33.5
In white areas	38.6	28.6

Source: 1969 Population Census, volume II, The African Population, table 12.
The land distribution is that of the Land Apportionment Act.

Often the children are left with the mother (see, for example, para. 612 above), sometimes with the grandparents or other relatives. There is also evidence that many of the children in the urban areas have been sent there from the rural areas because of the better job opportunities and, sometimes, the better educational opportunities. 196/

619. There is available to the Ad Hoc Working Group of Experts evidence of increasing problems of social control of children and young people in the urban setting. They are a consequence of the way of life designed and applied by the

193/ Rhodesia Herald, 5 November 1974.

194/ Rhodesia Herald, 17 December 1975.

195/ Rhodesia Herald, 12 March 1975.

196/ Edgar Moyo, op.cit., pp. 45-52.

régime. In December 1973 the Salisbury authorities stopped 12-hour pop sessions because of the "problems" these were causing. According to a social worker, many African parents "did not exercise sufficient control" over their children. 197/

620. In July 1974 a crime wave involving youths was reported. There was a large increase in the number of youths involved in robbery and rape. This was also partly ascribed to the lack of "parental control". 198/

621. Writing in an Anglican magazine in July 1969 the editor of Moto, Paul Chidyausiku, described in stark terms the effect of low incomes and gross overcrowding in the African townships. He described first the problems of a poor family with a lodger. If the lodger helps them with food, can they stop him from sleeping with their grown-up daughters? A second man sends his family home, then both partners are subject to the temptations of extra-marital relations. A third family stays put but has to live in terrible overcrowding "with two, three or even four other families in the same room". The parents sleep on the beds while the children (often adolescent) sleep underneath. "Parents exercise their marital rights in the presence of their children". 199/

(d) Psychological, social, moral, cultural, political and economic problems of the family

622. In a study reported in March 1973 a University of Rhodesia lecturer commented on the effects of urbanization of Africans. He said that Africans were not becoming simply westernised, they were bringing their own traditions into the urban situation and adapting them to it. In some areas of their life there was a simple conversion to the modern way of life. As an example of adaptation, the tradition of "lobola" - very roughly translated as "bride price" or a reverse dowry - is now made in the towns with money rather than cattle. As an example of conversion, according to his researches the size of the extended family was gradually being reduced. 200/

623. There have been a number of confusing expressions of cultural conflicts reported in the Rhodesia Herald in recent years. In March 1973 some girls were attacked in Harari township because they were wearing wigs and mini-skirts; they were accused of aping whites. 201/ In September the same African reporter commented on an Ndebele who had studied in Britain and married his (Ndebele) wife there, and now spoke only English at home. Thus their children could speak no Ndebele in their native country. 202/ In November 1973 he reported a discussion about the effects on African life of white ideas of family size, political organization, health, farming and language. On the one hand, he pointed out the rebel régime called on the Africans to hold to their African culture (and so develop separately in separate areas); on the other hand, the whites were always telling the Africans how "superior" European culture was. 203/

197/ Rhodesia Herald, 10 December 1973.

198/ Rhodesia Herald, 7 January 1974.

199/ Contact (magazine of the Diocese of Bulawayo), July 1969, p. 9.

200/ Rhodesia Herald, 9 March 1973.

201/ Rhodesia Herald, 21 March 1973.

202/ Rhodesia Herald, 6 September 1973.

203/ Rhodesia Herald, 30 November 1973.

624. Probably some of the most serious cultural conflicts involve the beliefs about courtship and marriage. In the rural areas the local community had very rigid controls over the way boys and girls conducted themselves. In the towns and cities communities are much larger and much less personal, and controls are hard to enforce. Some families try to keep greater control themselves; others do not. In all cases, the controls are much weaker. 204/ In all these cases the context of urban living (the houses they live in and the jobs they have) is completely controlled by whites who rarely have any conception of African customs or needs.

625. A striking example of the lack of responsibility that such ignorance involves appears in two reports in the Rhodesia Herald in December 1973. In one it was stated that 30 per cent of the African drinkers in Harare got drunk every week-end. In the other it was reported that a Salisbury City Liquor undertaking had made a profit of \$R1,820,000 in the 1972/73 financial year. Because of this profit the City Council can afford to "give" a variety of facilities to the African townships. In fact, not all of the profit was used for this purpose and nearly 10 per cent was carried forward to the next year. No white money is used to provide social facilities in the townships, but whites decide how to use African-provided money. 205/

626. The moral and psychological effects of putting large numbers of Africans from the rural areas into "protected villages" have been described above in paragraphs 511-518. The "protected villages", as has been pointed out, have been instituted with no consideration for the way of life of the African people who have been affected.

204/ Rhodesia Herald, 6 February 1975, 14 May 1975.

205/ Rhodesia Herald, 19 and 30 December 1973.

IV. ADOPTION OF THE REPORT

627. The present report has been approved and signed by the members of the Ad Hoc Working Group of Experts, namely:

Mr. Kéba M'Baye
Chairman-Rapporteur

Mr. Branimir Janković
Vice-Chairman

Mr. Amjad Ali 1/

Mr. Annan Arkyin Cato

Mr. Humberto Díaz Casanueva

Mr. Felix Ermacora

1/ Mr. Amjad Ali was not present during the consideration and adoption of the present report.