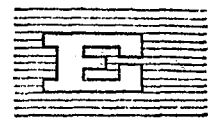


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Distr.
 GENERAL
 E/CN.4/1365
 31 January 1980
 ENGLISH
 Original: FRENCH

COMMISSION ON HUMAN RIGHTS
 Thirty-sixth session
 Item 6 of the Provisional Agenda

PROGRESS REPORT OF THE AD HOC WORKING GROUP OF EXPERTS PREPARED IN
 ACCORDANCE WITH COMMISSION ON HUMAN RIGHTS RESOLUTION 12 (XXXV)
 AND ECONOMIC AND SOCIAL COUNCIL DECISION 1979/34

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INTRODUCTION

1. The mandate of the Ad Hoc Working Group of Experts, established in 1967 under resolution 2 (XXIII) of the Commission on Human Rights, which was extended and enlarged by subsequent resolutions of the Commission and the Economic and Social Council, was renewed by the Commission in its resolution 12 (XXXV) adopted on 6 March 1979. This decision was approved by the Economic and Social Council in its decision 1979/34 of 10 May 1979.
2. By its resolution 12 (XXXV), the Commission decided that the Group would be composed of the following experts acting in their personal capacity: Mr. Kéba M'Baye (Senegal), Chairman-Rapporteur; Mr. Branimir Yanković (Yugoslavia), Vice-Chairman; Mr. Annan Arlyin Cato (Ghana); Mr. Humberto Díaz-Casaneuva (Chile); Mr. Felix Ermacora (Austria); Mr. Mulka Govinda Reddy (India).
3. In the same resolution, the Commission decided that the Ad Hoc Working Group of Experts should continue to study the policies and practices which violate human rights in South Africa, Namibia and Zimbabwe, and that it should carry out a comprehensive study on the action taken to implement the recommendations made by the Ad Hoc Working Group of Experts since its establishment, with a view to improved assessment of the further efforts needed in the struggle against the system of apartheid and against colonialism and racial discrimination in southern Africa (para. 15). In this connexion the Group decided to give effect to this decision in the final report which will contain further recommendations.
4. The Commission also requested the Ad Hoc Working Group of Experts to continue to institute enquiries in respect of any persons suspected of having been guilty of the crime of apartheid or of a serious violation of human rights in Namibia, and to bring the results of those enquiries to the attention of the Commission on Human Rights (para. 5).
5. Finally the Commission requested the Group to submit a report on its findings to it at the thirty-seventh session at the latest, and to submit a progress report to it at the thirty-sixth session (para. 16).
6. Moreover, the Commission requested the Group, in co-operation with the Special Committee against apartheid, to investigate the cases of torture and murder of detainees in South Africa contained in a report drawn up by the Special Committee against apartheid (E/CN.4/1327/Add.2) and communicated to the Commission and to submit a special report on this investigation to the Commission on Human Rights at its thirty-sixth session.
7. To give effect to that decision the Group undertook a mission of inquiry in London from 30 July to 2 August 1979 and thus prepared a special report in which it analysed the cases submitted to it in the light of articles II and III of the International Convention on the Suppression and Punishment of the Crime of Apartheid. The special report is contained in document E/CN.4/1366.
8. For its part, the Economic and Social Council, in its resolution 1979/39 adopted on 10 May 1979, requested the Ad Hoc Working Group of Experts to continue to study allegations regarding infringements of trade union rights in the Republic of South Africa and to report thereon to the Commission on Human Rights and to the Council at such times as it may consider appropriate.

9. The present progress report was prepared by the Group at meetings held at the United Nations Office at Geneva from 14 to 25 January 1980. It is based on information, in the form of oral statements and written communications from individuals or organizations concerned. In addition, with the assistance of the Secretariat, the Group engaged in a systematic search and analysis of documents of the United Nations and the specialized agencies, official gazettes and reports of relevant parliamentary debates, publications by the International Defence and Aid Fund for Southern Africa, newspapers and magazines of various countries and works dealing with matters relevant to its terms of reference.

10. In preparing its progress report, the Group took account of the basic international standards relating to its activities, as enumerated in its earlier reports, particularly in the report it submitted to the Commission on Human Rights at its thirty-fifth session (E/CN.4/1311).

11. The Ad Hoc Working Group of Experts will not be formulating any conclusions and recommendations in this progress report, but proposes to continue its past practice of presenting them in its final report, which is to be submitted to the next session of the Commission in 1981.

I. SOUTH AFRICA

Introduction

12. As previously the principal developments in the Republic of South Africa during the period under review have centred around the issues of political repression, detention and trials; and the continued implementation of the Government's "separate development" policy towards "independence" for the so-called "homelands", compulsory "homeland citizenship" for Africans, and the elimination of African citizenship and economic rights in the "white Republic of South Africa".

13. The Group has accordingly in its present report paid particular attention to developments in all these fields, with particular emphasis, on those aspects which appear to involve flagrant violations of human rights as defined in United Nations conventions and declarations.

14. During the period under review, the Group has noted evidence of crisis within both white and black South African communities provoked by continuing confrontation between the forces of repression and liberation, as the "separate development master plan" creates further conflict between the interests of apartheid and those of industry; and between those of the undeveloped rural "homelands" and those of urban African populations.

15. During the same period, the ruling Nationalist Party has been shaken by the information scandal involving the use of government funds for "unauthorized" political purposes, the so-called "Muldergate Scandal", that led to the resignation of the Information Minister, Mr. Connie Mulder, and later that of the State President and former Prime Minister, Mr. B.J. Vorster. In mid-1979 Mr. Jimmy Kruger, Minister of Justice, Police and Prisons since 1974 and through the period of intensified torture and deaths of political detainees that have been described in previous reports of the Group, was replaced. 1/

16. Mr. P.W. Botha's Government has made attempts to present itself as "reformist" and "flexible". It was stated that adaptations in policy have been made in a number of sensitive areas: in attitudes to the rights of African workers in the white economy, notably in the announced extension of trade union rights to Africans following the publication of the Wiehahn report; in a promise to review the key 1936 Land Acts, which limit the amount of land available for African occupation; in the organization of education for Africans, for which a newly-named Department of Education and Training is to be responsible; 2/ and in a further promise to review the Immorality Act and the Mixed Marriages Act which prohibit sexual relations between white and black. 3/ The first three matters are dealt with in the relevant sections of the report.

1/ Focus on Political Repression in southern Africa (hereinafter Focus)
No. 23, July-August 1979, International Defence and Aid Fund, London.

2/ See para. 250 below.

3/ Guardian, 27 September 1979.

17. Information available to the Group, however, indicates that none of these measures can be expected to make real changes in the over-all pattern of apartheid, Mr. Botha's policies do not depart from those of the previous regime in the essential matter of rejecting any form of power sharing with blacks in a unitary state, but should be seen in terms of strategies to gain "allies" among conservative elements among the blacks: the "homeland" leadership and the urban middle class, in the face of deepening rejection of the present system of black workers, students and the masses in the "homelands". 4/

18. Like the Vorster Government, the present Government retains as central to its aims the policy of migrant black labour. A conference organized by the South African Institute of Race Relations in July 1979 concluded that recent government policy shifts are not designed to eliminate unemployment, poverty and discrimination, but instead to "shift them to the rural areas". The conference warned that "if it works" this policy could drive a permanent wedge between urban and rural black South Africans. It could weaken any united political opposition to the present political system and incorporate urban blacks into a less discriminatory urban society at the expense of rural black people. 5/

19. According to further information available to the Group, "black consciousness" organizations have begun to surface again in South Africa during the period under review, for the first time since the repression that followed the uprisings in Soweto and elsewhere in 1976. A nationally-based Azanian Peoples Organization (AZAPO), under the presidency of Mr. Curtis Nkondo, a former political detainee, emerged in 1979, following a conference in May 1978. 6/ These organizations, whose policies are based squarely on an end to apartheid and the establishment of a democratic unitary state, reject government moves such as those designed to allow blacks to join certain trade unions as "just another way of subjugating the workers". 7/

20. The Group has also before it evidence of mounting armed military pressure on the South African regime from African guerrilla movements during the period under review. Paramilitary South African police counter-insurgency units have engaged in a number of clashes with guerrillas in border areas, in which at least three policemen were injured in 1978 and several guerrillas allegedly killed or captured. According to the International Defence and Aid Fund's publication Focus, "The large number of political trials reported ... in the past year show a significant trend away from offences related to alleged recruiting towards prosecutions involving the possession of arms and ammunition", indicating that guerrillas are present and active in the country. 8/

4/ Guardian, 24 September 1979.

5/ Sunday Post, 8 July 1979.

6/ Guardian, 3 October 1979.

7/ Ibid., Observer, 7 October 1979.

8/ Focus, No. 20, January-February 1979.

A. Capital Punishment

1. Reference to some relevant laws

21. Previous reports of the Ad Hoc Working Group of Experts (notably E/CN.4/1020, paras. 73-81, and E/CN.4/1111, paras. 40-43) have described the laws in force providing for the death penalty; 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).

22. The Group's last report (E/CN.4/1311, para. 44) noted that, in the Transkei, the death penalty had been retained for "terrorism" and "harbouring and helping terrorists". In Bophuthatswana, which became "independent" in 1978, and in Venda, which became "independent" in 1979 (see paras. 110-113 below), no steps have been taken to repeal any legislation involving the death penalty.

23. No legislation has been enacted during the period under review to reduce or extend the circumstances in which the death penalty might apply in South Africa.

2. Analysis of information and evidence received by the Ad Hoc Working Group of Experts

24. The Report of the Commissioner of Prisons published in April 1979 9/ showed that of 85,540 convicted prisoners in jail on 30 June 1978, 262 had been sentenced to death; and of 258,957 sentenced prisoners admitted to jail during the period 1 July 1977 to 30 June 1978, 145 had been sentenced to death penalty.

25. According to additional information available to the Group, 132 persons were executed during the year 1978; 10/ of this total, 105 were black and 26 Coloured. 11/ The Minister of Prisons told the South African House of Assembly on 14 March 1979 that of 105 persons executed during the period 1 July 1977 to 30 June 1978, 25 persons were Coloured and 79 were black. 12/ During the first four months of 1979, 57 persons were executed. 13/

26. The Group again noted that the number of executions in the territory of the Republic of South Africa remained particularly high. The upturn in the number of executions noted in the Group's last report (E/CN.4/1311, para. 47) has further increased during the period under review to an "all-time high" of 132 hangings in 1978, an increase of 46.6 per cent on the 1977 executions. 14/ According to information available to the Group, there is one hanging every three days in South Africa. 15/

9/ Report of the Commissioner of Prisons of the Republic of South Africa for the period 1 July 1977 to 30 June 1978, RP 29/1979, April 1979.

10/ Cape Times, 22 January 1979.

11/ Daily Dispatch, 23 January 1979.

12/ Assembly Debates, 16 March 1979

13/ Rand Daily Mail, 7 April 1979.

14/ Daily Dispatch, 23 January 1979.

15/ Rand Daily Mail, 23 January 1979.

27. The Group once more noted the high proportion of Africans executed - a total of 193 out of 256 in the past three years - compared with the number of whites executed (four in the same period). The Group's last report (E/CN.4/1311, para. 48) noted the much higher incidence (six times) of crimes of murder and rape committed in South Africa by whites against blacks as compared to those committed by blacks against whites.

Case of Solomon Mahlangu

28. The Group's last report (E/CN.4/1311, para. 49) drew urgent attention to the case on behalf of Solomon Mahlangu, a young freedom fighter, who was found guilty through "common purpose" under the Terrorism Act and sentenced to death. The Group notes that despite support from the United Nations and a number of world governments and campaigns inside and outside South Africa to mobilize public opinion, 16/ an appeal for clemency to the State President was turned down 17/ and Solomon Mahlangu was executed on 6 April 1979. 18/ According to information available to the Group, 2,000 mourners attended Mr. Mahlangu's memorial service 19/ and police used teargas to disperse the mourners at a wreath-laying ceremony. 20/

B. Massacres and violations of the right to life

29. Previous reports of the Group (notably E/CN.4/1270, paras. 30-45, and a special report A/32/226, paras. 16-35) have demonstrated the brutal police methods used to suppress unrest and resistance throughout South Africa.

30. According to information available to the Group, the Minister of Police told Parliament in March 1979 that during 1978 a total of 204 persons, including 12 children, had been killed by the police "in the execution of their duties", and 514, including 47 children, had been injured. 21/ The numbers of recorded fatalities from police shootings have showed a steady upward trend since 1968, when there were 37 deaths. 22/

31. The Group's last report (E/CN.4/1311, para. 53) described police attacks on demonstrators, on boycotting schoolchildren and on mourners at funerals. During the period under review information has reached the Group that these attacks still occur. In March 1979 a black child died and another was wounded when police opened fire on protesting schoolchildren at KwaMakhuta High School. 23/ In June 1979 a student was killed at Fort Hare by a security policeman (see para. 212 below).

16/ Post, 4 January 1979; Rand Daily Mail, 16 January, 15 February 1979; Post, 15 February 1979.

17/ Guardian, 4 April 1979.

18/ Post, 18 April 1979.

19/ Rand Daily Mail, 9 April 1979.

20/ Rand Daily Mail, 16 April 1979.

21/ Assembly Debates, 9 March 1979.

22/ Cape Times, 14 March 1979.

23/ Rand Daily Mail, 2 March 1979.

C. Treatment of Political Prisoners, Detainees and Captured
Freedom Fighters

1. Reference to some relevant laws

32. Legislation governing detention without trial, security legislation that makes a wide range of political acts punishable by law and the laws governing the conditions of prisoners have all been described in previous reports of the Group (see in particular E/CN.4/1159, para. 50; E/CN.4/1187, paras. 30-32). At present, individuals in South Africa may be held without trial under three laws: pending the investigation of possible charges under the Terrorism or General Laws Amendment Act; under the Criminal Procedure Act of 1977; or under the Internal Security Act's preventive detention clauses of Section 10.

33. The Group's previous reports have taken particular note of amendments to the law in recent years which affect court procedures, the rights of accused before and during trials, the treatment of witnesses and the treatment of political prisoners and detainees (see E/CN.4/1270, paras. 47-52, and E/CN.4/1311, paras. 108-111).

34. An amendment to the Criminal Procedure Act, 1977, was passed in May 1979, 24/ which the parliamentary opposition charged would remove the right of the accused to contest the validity of admissions made before a magistrate at a preliminary hearing. 25/

35. During the period under review two acts, a Police Act Amendment Act and an Inquest Act Amendment Act, have been passed, both of which are expected to have the effect of inhibiting press coverage of the treatment of political detainees. (See para. 224 below).

36. The Police Act Amendment Act makes it an offence to publish any "untrue matter" about the police "without having reasonable grounds for believing the statement to be true", the burden of proof to be on the accused. Penalties are up to R10,000 fine and/or five years' imprisonment. According to Focus, this provision may lead to the press being unable to print any account without clearing it first with the police authorities. 26/

37. The Inquest Act Amendment Act makes it an offence to "prejudice, influence or anticipate" the proceedings or findings of an inquest after the investigation into the cause of death has commenced. This Act will effectively silence the deceased's family as well as witnesses and the press until after the inquest is over. The regular postponement of inquests into unnatural deaths of detainees suggests that the Act could be used to prevent information from being published for months and even years, according to Focus. 27/

24/ Criminal Procedure Amendment Act, No. 56 of 1979.

25/ Focus, 23, July-August 1979.

26/ Focus, 22, May-June 1979.

27/ Ibid.

2. Analysis of information and evidence received

(a) Treatment of detainees

38. According to the report of the Commissioner of Prisons for the period 1 July 1977 to 30 June 1978, 28/ on 30 June 1978 there were 63 persons in custody under section 6 of the Terrorism Act, all of whom were black; 67 persons under the Internal Security Act, (formerly the Suppression of Communism Act), 59 of them black, and 24 "witnesses under detention". The same report also stated that between 1 July 1977 and 30 June 1978 there had been three people detained under the Criminal Procedure Act and 115 under the Internal Security Act. Three persons had also been detained during the same period under the Ciskei's proclamation R252, whose powers include detention without trial, banishment by decree and prohibition of unauthorized meetings of more than 10 people (see also the Group's last report, E/CN.4/1311, para. 205). In February 1979 it was reported that 74 persons, the majority of whom were striking bus drivers, were detained under proclamation R252. 29/

39. According to information available to the Group, the Minister of Police stated in May 1979 that 65 persons were being detained under the Terrorism Act, 23 under the Internal Security Act and six under the Criminal Procedure Act in "non-security cases" and four under the General Laws Amendment Act (under the 14-day detention clause). 30/

40. The Minister of Police also gave details of length of detention of those awaiting trial under "terrorism" charges. These included four people who were eventually acquitted of terrorism after being detained 212 days before being charged, and five convicted of terrorism who had been detained for 380 days before being charged. Of the 24 cases detailed by the Minister, persons acquitted of "terrorism" had spent an average of 106.5 days in detention before being charged, and persons finally convicted had spent an average 296 days in prison before being charged. 31/

41. The Group's last report (E/CN.4/1311, paras. 63-77) dealt at length with the torture of detainees. This year the Group has again taken evidence from the following witnesses describing their treatment while detained under the security laws in connexion with an investigation concerning the cases of torture and murder of detainees in South Africa (E/CN.4/1366).

42. Mr. Tsanki Lazarus Modiakgotla (500th meeting) gave evidence to the Group about his detention under section 6 of the Terrorism Act. Mr. Modiakgotla was arrested on 28 January 1977 in Soweto because of his involvement in student activities. Mr. Modiakgotla testified to his treatment in Protea police station and at John Vorster Square. He was taken to Protea police station and there thrown up to the ceiling from the floor until he lost consciousness. The witness testified on how he was taken to a cemetery and beaten with a stick while his hands were tied behind his back. He was then taken to John Vorster Square, where he was kept for about two weeks without medical treatment and then again taken for interrogation. He was made to stand

28/ Report of Commissioner of Prisons ..., op.cit.

29/ Daily Dispatch, 8 February 1979.

30/ Focus, 24, September-October 1979, quoting Rand Daily Mail, 26 May 1979.

31/ Cape Times, 11 May 1979.

naked for four days and beaten. He testified to hearing the screams of a friend, 32/ who was being interrogated on the same floor at John Vorster Square. He described his further torture where he was given electric shock treatment and tied up while policemen jumped on his chest and stomach. Whilst in the prison Mr. Modiakgotla was shown his friend, who had been forced to stand for six days and whose feet were badly swollen. The witness himself was then made to stand for a further five days with a car tyre on his neck. In all, the witness was in detention in John Vorster Square for 20 months and finally released without being charged on 13 December 1978.

43. Mr. Malcolm Smart (504th meeting) named several places where regular torture occurred. He named the Koppol Building in Pretoria and the Sanlam Life Insurance Building in Port Elizabeth as places where the security police are known regularly to assault detainees. He also pointed to allegations that people have been assaulted in rural areas but told the Group that, since there are so many places where people could be taken, it is difficult to pinpoint those most often used.

44. Three other witnesses, Mr. Martin Nkosi Alias Joe Mbatha (502nd meeting), Miss Freda Mhale (504th meeting) and Miss Brigitte Mabandla (501st meeting), gave evidence concerning their medical treatment whilst in detention. Mr. Nkosi testified that he was seen twice by a doctor after extensive torture. The first time the doctor gave him ten stitches and on the second removed the stitches. He was given no treatment for his right eye, which was filled with blood. Miss Mhale was also seen twice by a doctor after she had been tortured and starved. On the first visit the doctor put his stethoscope to her shoulders and then said "there is nothing wrong with the bitch", leaving the interrogators to continue. On the second visit she was given vitamin pills although Miss Mhale pointed out that the pills were useless since she was not being given enough to eat. Miss Mabandla was also seen by a doctor who gave her no medical treatment.

45. Mr. Nkosi (502nd meeting) and Miss Mhale (504th meeting) also described receiving visits from magistrates while in detention. In both cases the magistrates asked them for their complaints but nothing was done to alleviate their condition.

46. In this connexion Mr. Malcolm Smart (504th meeting) told the Group that the system in South African prisons means that medical officers are forced to subordinate the interests of the patient to the pressure they receive from the security police.

47. This witness then went on to say that although some detainees have complained to magistrates, the magistrates concerned are not interested or can get no changes in conditions because detainees under the Terrorism Act are in the sole control of the security police.

48. Mr. Smart also told the Group that there is much evidence to suggest that section 6 of the Terrorism Act provides the opportunity for torture. He described how detainees are kept incommunicado without access to a lawyer or their family. He told the Group that methods of torture included brutal physical assault, the application of electric

32/ Paul Langa, now imprisoned on Robben Island.

shock to the head, body and limbs, mock assassinations, threats, intimidation, sleep deprivation, prolonged solitary confinement and attempts to dehumanize detainees by keeping them naked and in filthy conditions. He described how even members of the South African judiciary are denied access to section 6 detainees, nor can they order their appearance in court. He told the Group how, under section 6, there is no effective limit on the period of detention and that there is widespread suspicion that detainees are held incommunicado for long periods of time in order to ensure that their injuries shall not be noticeable on their release.

49. Mr. Smart also pointed to the far-reaching effects of the 1978 amendment to the 1977 Criminal Procedure Act (see E/CN.4/1311, para. 56). The amendment extends the time during which detainees can be held as potential State witnesses indefinitely. He told the Group that many people were being held for long periods of time, and then sent to prison for contempt of court or perjury when they either refused to give evidence or denied statements previously made to the security police. He also told the Group that a recent trend has been to call an increasing number of State witnesses, and that former detainees are being called as State witnesses. He pointed out that the witnesses are coming under increased pressure to give evidence, since judges have recently agreed that they can give evidence in camera. This means that it is becoming increasingly difficult for the defence to discover who has been giving evidence and whether they are detained after their appearance in court. He also pointed out that the fact that courts are sitting in camera means that allegations of torture cannot be published although there is no evidence that torture has diminished. In fact it is increasing.

50. Mr. Smart also told the Group that the Police (Amendment) Act (see para. 34 above) has further served to keep allegations of torture away from the public eye. It has become an offence for any individual or newspaper to print allegations against the police unless these allegations are demonstrated to be true. Mr. Smart pointed out that this is very difficult since the victims of torture are held incommunicado and the security police always deny allegations of torture.

Detention and torture of women

51. A witness, Miss Agnes Moyaka (503rd meeting), a former factory worker, gave evidence concerning her treatment in detention. She was arrested on 1 January 1977, dragged naked from bed and punched and kicked in the ribs in the Kompol Building in Pretoria. She was given electric shocks and repeatedly kicked and beaten and told that she would be thrown out of the window. Miss Moyaka spent three months in Pretoria and was subjected to daily beatings. She was then transferred to Krugersdorp where she was kept in solitary confinement. She spent nine months in that prison without water to wash and sometimes without food. She was finally taken back to Pretoria and released after nine months but ordered to report on her movements. Miss Moyaka is left with a malformed upper lip and scars on her legs from her treatment in detention. She was tried and acquitted after her detention; and was threatened with further detention if she complained about her torture.

52. Another witness to the Group, Miss Freda Mohale (504th meeting) also gave evidence about her torture whilst detained. Miss Mohale is a trained nurse who was arrested in July 1975 while entering South Africa from Botswana. She was told that she was carrying books banned in South Africa and taken to a police station at Zeerust, where she was ordered to strip naked and was searched. She was eventually taken to Bloemfontein and kept at the Ridge Road police station. She was interrogated at the Bloemfontein police headquarters. She was taken into a room on the fourth floor and told that if she did not co-operate she would be thrown out of the window, as they had thrown Ahmed Timol. She was interrogated for 52 hours and continually beaten and kicked all over her body.

53. After six weeks Miss Mohale was transferred to John Vorster Square and kept in solitary confinement. After two weeks she was taken for interrogation and continually assaulted. She was beaten on the head with a pipe, made to stand holding two telephone directories and beaten every time she fell. During her time in John Vorster Square Miss Mohale was given very little food. After nine months in solitary confinement Miss Mohale was taken to court on 26 April 1976. She did not give evidence and was detained for a further six months. She was regularly assaulted and, on 6 June 1976, was taken to the Fort prison. During her time in prison Miss Mohale's condition deteriorated: her ankles swelled, she had palpitations and was starved. In September 1976 Miss Mohale was transferred to the police station at Zeerust. After 15 months she was released on bail on 1 November 1976 under a charge of possessing banned literature, which was finally withdrawn in January 1977.

54. Mrs. Brigitte Sylvia Mabandla (501st meeting) described her ill-treatment while detained for almost six months at Sydenham police station, Durban, and security police headquarters, Pretoria. (E/CN.4/1366).

55. Another witness to the Group, Miss Nomalizo Kraai (502nd meeting), gave evidence concerning her detention. The Special Report of the Group (E/CN.4/1366) summarized her ill-treatment.

Detention and torture of students and children

56. Figures compiled by the Institute of Race Relations in May 1979 give the number of minors (those under the age of 18) arrested since 1976 as 8,823. Of 4,219 children prosecuted in 1977/8, 2,908 were convicted. 33/ The Minister of Police stated that there were 252 children being held in detention in 1978 under the Terrorism and Internal Security Acts. 34/ According to information available to the Group, over half of them had been held for 18 months. 35/

57. Information has continued to reach the Group about physical maltreatment of young detainees. These include the case of a 14-year old girl who had her knee broken by security police during interrogation, 36/ a 19-year old youth who had been kept without food and tortured for four days whilst in detention, 37/ an 18-year old member of the Soweto Students League who was punched, kicked, almost strangled and then given electric shocks, 38/ a 19-year old witness who was beaten with a sjambok, 39/ and five children aged between 11 and 14 who were forced by a policeman to beat a dog which was then released to bite them. 40/

33/ Race Relations News, May 1979.

34/ Rand Daily Mail, 22 February 1979.

35/ Leaflet: Children in South Africa, Amnesty International.

36/ Sunday Post, 29 April 1979.

37/ Rand Daily Mail, 23 January 1979.

38/ Rand Daily Mail, 6 June 1979.

39/ Rand Daily Mail, 14 June 1979.

40/ Rand Daily Mail, 30 September 1978.

58. Mr. Malcolm Smart (504th meeting) told the Group that there are many allegations that very young people have been routinely assaulted, particularly in the Port Elizabeth area in 1976, 1977 and 1978.

Cases of "disappearances"

59. Information available to the Group indicates that persons in detention, including young people and children, have continued to "disappear" in the period under review. Cases include that of Mr. Miselo Nongquokwana, who was arrested on 29 June 1978, and has not been seen since, although his torn clothes have been released by the police. 41/ The Group's last report (E/CN.4/1311, para. 78) noted the disappearance of Elias Shiburi, detained in March 1977: Mr. Shiburi has not yet been found. 42/ In addition, Mr. Washington Malauzi, who was last seen with his face swollen after detention by security police, has not been seen since September 1978. 43/

(b) Treatment of political prisoners

60. According to information available to the Group, there were 98,625 sentenced prisoners in South African jails on 30 June 1978. Of these, 74,150 were Africans. The average daily prison population, including unsentenced prisoners, in the period 1 July 1977 to 30 June 1978, was 99,292, an increase of 9,207 over the previous year (cf. E/CN.4/1311, para. 82). A total of 2,234 children (infants), of whom 2,051 were African, were recorded as having been in jail during the same period, 172 of them born during their mother's imprisonment. 44/

Cases of children

61. The Minister of Prisons told the Assembly that there were nine children under 18 years serving sentences for crimes against the State on Robben Island. 45/

Robben Island and Pretoria Central Prison

62. Previous reports of the Group have paid special attention to the Robben Island prison in which Nelson Mandela, Walter Sisulu and other long-term black political prisoners are held, and in its last two reports (E/CN.4/1270, para. 91, and E/CN.4/1311, paras. 91-100) four former political prisoners described conditions on the Island.

63. According to the Minister of Prisons, there are 438 persons over 18 years serving sentences for crimes against the State and 220 serving sentences for other crimes on Robben Island. 46/ Thirty-six of these persons are serving sentences of life imprisonment. 47/

41/ Voice, 20 May 1979.

42/ Ibid.

43/ Post, 7 January 1979.

44/ Report of the Commissioner of Prisons ..., op.cit.

45/ Assembly Debates, 1 May 1979.

46/ Ibid.

47/ Assembly Debates, 6 April 1979.

64. In September 1979 the South African authorities refused permission to Britain's former Foreign Secretary, Dr. David Owen, MP, to see Nelson Mandela on Robben Island.

65. According to additional information available to the Group, political prisoners have, during the period under review, been required to seek special permission to pursue past matric studies in prison. Mrs. Helen Suzman told the House of Assembly that, on Robben Island, there were 400 prisoners who would fall into the political prisoners' category and thus need consent to study. 48/

(d) Treatment of former political detainees and political prisoners and their families

66. According to information available to the Group, in February 1979 there were 86 families of former political prisoners living in the Dimbaza resettlement area who had been deported there after the release of the head of the families from Robben Island. The majority of these families had been served with banning orders. According to the Voice, the conditions in which these families live are "inhuman ... they were living in abject poverty". 49/

(e) Recent political trials

67. According to information available to the Group, the following security trials took place during the period under review:

Trial of the Soweto 11

68. The Group's last report (E/CN.4/1311, paras. 106-114) described the trial of 11 black students who faced a series of charges arising from the upheavals in Soweto on 16 June 1976. The 11 students were sentenced to a total of 62 years' imprisonment on 11 May 1979, most of which was suspended. Four years of each sentence were suspended. 50/

Four trials in Hermanus

69. According to information available to the Group, four trials were carried out in August 1978 in Hermanus in the Western Cape. The trials were carried out there in keeping with the Criminal Procedure Act in order to be far from any major centre. Widespread harassment of parents and friends, roadblocks and interrogation of spectators were all reported. In the first trial three students were sentenced to five years' imprisonment each under the Sabotage Act. Five years each were also given to two students in the second Hermanus trial, and to two students in the third trial. The fourth trial involved four youths, two of whom were eventually acquitted and two of whom were given three years' imprisonment. In all four trials there have been allegations of police threats and violence directed at State witnesses, which were not denied. All except two of the accused had been in detention almost seven months before their appearance in court. 51/

48/ Rand Daily Mail, 26 May 1979

49/ Voice, 15 February 1979.

50/ Guardian, 12 May 1979.

51/ NUSAS, August 1978.

The Bethal Trial

70. The trial of 17 persons accused under the Terrorism Act, and of furthering the aims of the Pan Africanist Congress, was described in the Group's last report (E/CN.4/1311, para. 106). In June 1979 the 17 were sentenced to a total of 147 year's imprisonment. Sixteen men were found guilty under the Terrorism Act and one under the Internal Security Act. 52/

Trial of Nxumalo and others

71. During the period under review, seven men and one women stood trial under the Terrorism Act. Timothy Nxumalo and seven others were charged with assisting other persons to go for military training. Timothy Nxumalo was also charged with returning to South Africa with arms, and shooting at a former policeman. 53/ He was sentenced to an effective term of 22 years' imprisonment after the other seven accused were taken to Durban to stand trial separately. During the trial Mr. Nxumalo, who denied the charges, said he had been assaulted over a three-day period by the security police and beaten on the testicles and sides of his elbows. 54/

Trial of Hadebe and Mthetwa

72. Two men, Mandlenkosi Christopher Hadebe and Mandla Jack Mthetwa, are currently standing trial charged with high treason, as well as on three Terrorism Act counts and two Riotous Assemblies Act counts. The two men were persuaded to plead guilty in terms of the Criminal Procedure Act on their first appearance in court, but on their second appearance their lawyer succeeded in getting their plea changed to not guilty. 55/

Trial of Mogale and Mabaso

73. Two members of the Soweto Students' League, Linda Mario Mogale and Elias Mabaso, face charges of attempted murder, malicious damage to property, arson and terrorism arising out of petrol bomb attacks on houses in 1978. During the trial Mr. Mogale told the court about assault and torture by the security police whilst in detention. A State witness also claimed that police had beaten him with a sjambok while interrogating him about whether he knew Linda Mogale. Several State witnesses have already given evidence in camera. 56/

52/ Star, 30 June 1979.

53/ Focus, 19 November 1978, quoting Rand Daily Mail, 16 September 1978 and 6 October 1978; and Natal Witness, 28 September 1978.

54/ Daily News, 14, 24 and 30 November 1978.

55/ Focus, 23, July-August 1979, quoting Daily News, 16 and 18 June 1979.

56/ Focus, 23, July-August 1979, quoting various reports in Post and Rand Daily Mail, May 1979.

"Treason" Trial

74. Twelve young Africans appeared in court in August 1979 charged with treason. They are alleged to have conspired to overthrow the State by force; and in an alternative charge of 43 counts under the Terrorism Act, to have received military training abroad. The pattern of a common law charge (treason) with a Terrorism Act charge as an alternative, seems to be an emerging one, according to press reports. 57/

(f) Bannings and house arrest

75. According to information available to the Group, the number of bannings under the Internal Security Act continued to be high during the period under review.

76. During the period under review there has been a large number of former political detainees banned on their release from prison. Among persons known to have been subjected to banning orders are: Dilizo Mji, former SASO President, banned and restricted to Durban until 1983 on release from 396 days in detention. 58/ Terence Tryon, former SASO Secretary General, banned after his detention and restricted to Umzinto, Natal, until 1983; 59/ Kenneth Rachidi, former BPC Chairman, banned for five years and restricted to Johannesburg after his release from 12 months' detention; 60/ Revd. Isaac "Drake" Tshenkeng, former Vice President of BPC, banned and restricted to Johannesburg until 1983, after his 14-month detention; 61/ Mr. Khayalethu Mqhayisa, a playwright who had organized a memorial service for Steve Biko and was banned in December 1978 after his release from Grahamstown Prison, where he was held for 184 days; 62/ Mr. Peter Jones, the former Black People's Convention organizer who was arrested with Steve Biko in August 1977 (see para. 108 below) and banned in February 1979 on his release from prison; 63/ Dr. Mampheli Ramphele banned and restricted to Lenyenye, thus forcing the closure of two medical out-stations that she had operated; 64/ Mr. Shadrack Mapumulo, Mr. Helia Phungula, Deleza Chiliza and Mr. Russel Mpanga, all banned in March 1979 after their release from 12 months' detention. 65/

77. According to further information banned persons are finding it increasingly difficult to work and live under their banning orders. Among the cases that have

57/ Guardian, 1 August 1979.

58/ Rand Daily Mail; 22 November 1978.

59/ Ibid.

60/ Rand Daily Mail, 20 December 1978.

61/ Rand Daily Mail, 30 December 1978.

62/ Post, 17 January 1979.

63/ Cape Times, 14 February 1979.

64/ Post, 7 January 1979.

65/ Daily News, 28 March 1979; Rand Daily Mail, 29 March 1979.

come to the Group's notice are members of the Black Consciousness Movement who were detained under the security laws and banned on release who are unable to find employment. 66/

78. Among persons known to the Working Group to have been the first banned man to be deported to the supposedly independent Transkei is Pindile Mfeti, a trade unionist, who was banned in 1977 and deported from Germiston. 67/

Former political prisoners banned

79. Among former political prisoners known by the Group to have been banned during the period under review are:

- Malcolm Mbonisis Dyani, banned on his release from Robben Island in January 1979 after serving a 15-year jail sentence. 68/

- Vusumzi Mtyanti Msauli, banned on his release from Robben Island in 1978 after serving a 14-year jail sentence. 69/

- Mosibodi Mangena, banned on his release from Robben Island in October 1978 after serving a five-year sentence. 70/

- Petros Nkutsoeu, banned in May 1979 on his release from jail after serving a five-year sentence, and banished to the QwaQwa bantustan. 71/

- Mosibudi Aaron Mangena, banned in October 1978 after his release from a five-year jail sentence. 72/

- Ebrahim Ismail, banned in February 1979 on his release from Robben Island after serving a 15-year jail sentence. 73/

- Vukile Stephen Tshweta and Lungelo Shadrack Dwaba, banned on their release from Robben Island in March 1979 after serving 15-year sentences. 74/

Prosecutions arising out of banning orders

80. The Group's last report (E/CN.4/1311, para. 122) noted the conviction of Mrs. Winnie Mandela for breaking her banning orders. During the period under review,

66/ Post, 19 January 1979.

67/ Rand Daily Mail, 1 August 1979.

68/ Rand Daily Mail, 20 January 1979.

69/ Post, 26 January 1979.

70/ Post, 24 January 1979.

71/ Post, 4 May 1979.

72/ Government Gazette, 6189; 20 October 1978.

73/ Daily Dispatch, 28 February 1979.

74/ Focus, 22, May-June 1979.

Mrs. Mandela was successful in appealing against her conviction. 75/ She has since been charged three further times with breaking her banning orders, all without conviction. 76/

81. During the period under review, two other banned persons, Mrs. Fatima Meer and her son-in-law, Mr. Baptiste Marie, were each sentenced to three months' imprisonment for contravening the terms of their banning orders. The sentences were conditionally suspended for three years. 77/

D. Deaths of Detainees

82. The history of deaths in detention between 1963 and 1977 has been reviewed in a previous report of the Group (E/CN.4/1270, paras. 112-122). The total number of detainees, held under security legislation, known to have died while in detention during that period was 46, 24 of whom had died between August and September 1977. The Group's special report (E/CN.4/1366) analyses 18 cases of murder of detainees known to have died while in detention.

83. The Group also noted that apart from political detainees a number of other prisoners had died in detention. According to the Minister of Police, the number of such deaths (i.e. excluding those of political detainees) was 161 in 1978. 78/ In the same year, 283 policemen were convicted of culpable homicide, murder and assault. 79/

84. Mr. Malcolm Smart (504th meeting) told the Group that in cases where detainees have died in custody their inquests have looked into the immediate cause of death only. He gave, as an example, the case of Dr. Hoosen Haffejee, where the coroner's verdict was suicide, but during the inquest there was no attempt to determine how the many injuries had appeared on the dead man's body. (See also E/CN.4/1366).

E. Alleged responsibility of Security Police Forces

85. The Group's special report (E/CN.4/1366) gives further confirmation on the names of torturers mentioned in its previous report E/CN.4/1311, para. 133 and draws up a list of alleged perpetrators.

86. According to additional information available to the Group, 78 members of the police force were found guilty of assault in 1978 and R178,725 had been paid out in compensation to the victims of assault. In addition, R32,050 had been paid out to members of the public in respect of 32 complaints concerning wrongful arrest. 80/

87. The Minister of Police told Parliament in March 1979 that there were 34 actions pending against the police on behalf of former Terrorism Act detainees. 81/

88. Particulars of more recent claims for damages arising from cases of torture by the police force have been made available to the Group. These include the case of Mr. Zwelakhe Sithole, who was in hospital for five months after being suspended over an open fire while in detention, 82/ and of Mr. Peter Jones, detained under section 6 of the Terrorism Act with Steve Biko, who had injuries inflicted on him during interrogation and who was kept naked in a cell for 2½ months. 83/

75/ Rand Daily Mail, 1 March 1979.

76/ Focus, 20, January-February 1979, quoting reports from Morning Star and Cape Times.

77/ Post, 13 June 1979.

78/ Rand Daily Mail, 20 June 1979.

79/ Rand Daily Mail, 29 May 1979.

80/ Rand Daily Mail, 10 March 1979.

81/ Assembly Debates, 2 March 1979.

82/ Post, 8 May 1979.

83/ Rand Daily Mail, 15 May 1979.

F. Forced Removals of Population

89. The Group has studied in previous reports the forced removals of population consequent on the policy of territorial apartheid, and in its last report (E/CN.4/1311, paras. 139-142) noted that these removals, in connexion with the implementation of the bantustan and migrant labour policies, were being accelerated.

90. According to information available to the Group, not only have forced removals continued on a massive scale in the current period, but the conditions of people in resettlement areas continue to deteriorate.

1. Conditions in resettlement areas

91. During July 1979 an investigation by a South African Sunday newspaper into conditions in 10 resettlement areas in Natal and the Eastern Cape revealed "malnutrition, sickness, unemployment and a general feeling of helplessness among the people restricted to these areas against their will". 84/ In one area - Sada in the Eastern Cape - reporters were told that four to five people were dying every week of malnutrition and related diseases, most of them children.

Eastern Cape

92. The Sunday Post's investigation of six main resettlement areas in the Ciskei - Thornhill, Sada, Zweledinga, Oxton, Elukhanyisweni and Dimbaza - total population over 120,000 - revealed "appalling, inhuman conditions". All had sprung up over the past four years, populated by people forced to leave their own land in "black spots" declared "white" under apartheid legislation; people evicted from white urban areas and white farms; and people who had left the Transkei on the eve of its so-called "independence". They suffered from abject poverty, as a result of lack of jobs - those who did work received "slave salaries" of R6-R15 per month - forcing the able-bodied male population to migrate under the contract labour system to South African urban centres. Venereal and malnutrition diseases, including pellagra and kwashiorkor, were rampant. The land is barren and not suitable for farming. Zweledinga in particular is subject to subzero temperatures and the people cannot easily find even firewood to heat their homes with. In a mud village outside Sada, called "Village of Tears", there is not a single water tap among 10,000 people and only 13 "privately owned" pit toilets. 85/

93. According to further reports available to the Group, there is no significant industry within hundreds of kilometres of this area and the Ciskei Development Corporation has no plans for development there. Water has to be brought to many areas by truck and food can be bought only after a long busride to Queenstown. Thornhill is a "rural slum" of boxlike mud structures with corrugated iron roofs. There is a prefabricated school and a clinic. 86/

94. In Glenmore, a resettlement area near Grahamstown, 11 children died in their first five weeks at the camp, according to Professor Whisson, professor of social anthropology at Rhodes University, who is running a charitable feeding scheme there. He said that, contrary to government claims, not one of the 3,000 residents had received adult rations since the camp was started. He described the initial move to Glenmore as "an enormous confidence trick" on the people, who had been moved originally from Klipfontein farm, with the promise of fertile irrigated land. 87/

84/ Sunday Post, 8 July 1979.

85/ Ibid.

86/ Daily News, 14 July 1979.

87/ Rand Daily Mail, 10 August 1979.

95. Glenmore is situated on land scheduled for eventual incorporation into the Ciskei "homeland" and, following strenuous resistance from the Ciskei authorities to assuming responsibility for yet another "dumping ground", further resettlement was suspended pending the creation of "work opportunities". 88/

Natal

96. Similar conditions to those in the Eastern Cape also apply to resettlement camps in Natal. The Sunday Post described Kwavulamehlo, west of Pietermaritzburg, where 700-odd people are camping in tents in sweltering heat, without work and where they are not allowed to grow food or graze cattle on the surrounding land. The people are starving and their health, particularly that of the children, is suffering. 89/

97. A further community, of between 4,000 and 8,000, has been "resettled" in Nondweni, a "Tin Town" in the Nqutu district of Natal, to be incorporated in Kwazulu. Since mid-1976, according to further information before the Working Group, 113 people are officially reported to have died there, 73 of them children, though the residents estimate that the death rate is much higher. 90/

Northern Transvaal and Bophuthatswana

98. According to information before the Group, conditions in the "squatter towns" of Winterveld and around Thaba Nchu in Bophuthatswana, mentioned in the Group's last report (E/CN.4/1311, para. 145) continue to degenerate. Winterveld's population, mainly composed of Africans expelled from urban areas of Pretoria and the Rand, may be as high as 750,000; the town has no sewers and is "a breeding ground for dysentery, gastro-enteritis, bilharzia, kwashiorkor, bronchitis and venereal disease". There is no clinic, since the Black Community Programme, which ran one, was banned. And, as in Thaba Nchu, all non-Tswana residents are subject, since Bophuthatswana "independence" in December 1977, to harassment, threats of eviction and fines for "illegal squatting", while the Bophuthatswana and South African Governments dispute responsibility for them. 91/

2. Sufferings caused by rural resettlement schemes

99. A squatters camp at Frankfort, near Kingwilliamstown, Eastern Cape, which sprang up after families had been evicted from white farms in the area in 1977, was bulldozed in March 1979 and the inhabitants told to build their own accommodation in another place, Peelson, within three months. The squatters have been harassed, arrested and fined more than once since their occupation of the Frankfort site, which the South African Government says they occupied illegally. They are not to receive any help with building materials for their new homes. 92/

100. Among other reports brought to the attention of the Group, about 45,000 squatters were forcibly removed in June 1979 by the Bophuthatswana government lorry from Kromdraai, Thaba Nchu, to a site at Langverwacht, presently consisting of a half-built school and a row of corrugated iron shacks. Some said they were thrown out of their houses and their stock confiscated. 93/ While in Kwazulu, some

88/ Rand Daily Mail, 8 August 1979.

89/ Sunday Post, 15 July 1979.

90/ Sunday Post, 8 July 1979.

91/ Star, 21 July 1979; Sunday Post, 4 March 1979.

92/ Daily Dispatch, 2 March 1979.

93/ Sunday Post, 3 June 1979.

42,000 inhabitants of the Tugela valley are being removed to accommodate the new Woodstock Dam, which will flood their valley. The African landowners all have title deeds, for which they have been offered compensation, but they are not satisfied with negotiations so far; and complain that even if they receive compensation, their tenants will be homeless and have not been offered alternative land. 94/ A further 29,000 Africans have been removed from white farms and resettled in Kwazulu in 1978: but, since Kwazulu does not have land for them, they have been settled on state farms. 95/ Estimates of the total number of people who will have to be moved to realize the Government's consolidation plans for Kwazulu amount to some 300,000, at an estimated cost of R1,000,000. 96/

101. According to further information before the Group, 66,000 Batlokwa are to be moved from their homes in the northern Transvaal district of Soekmekaar, to the Dendron area, which will be part of the Lebowa "homeland". The people opposed the move. They have been moved twice before and claim that the new move is to accommodate a "white corridor" for South African security forces. 97/ Five hundred families had petitioned the Minister of Co-operation and Development, Mr. Piet Koornhof, against the move, who is reported to have promised that no one "would be moved against their will". Nevertheless, 30 police trucks arrived to move them at the beginning of October 1979, so hundreds of people fled into the bush. 98/

3. Urban evictions

102. The trends identified in last year's report (E/CN.4/1311, paras. 151-152) to force African families out of the cities and house single workers in sex-segregated hostels, have continued to develop through the period under review. In April 1979 a shantytown outside Daveytown, Benoni, was demolished by police on the instructions of the East Rand Administration Board, leaving several hundred people homeless. 99/

103. At the same time Coloured and Indian Johannesburg residents are being systematically prosecuted under the Group Areas Act for living in "white" areas, although no housing in a group area is available for them and the Coloured area at Eldorado Park, in particular, has become an overcrowded slum. 100/

104. In the Eastern Cape, squatters in camps around East London were ordered to demolish their homes, at the beginning of 1979, and rebuild them in the bush. 101/ Twenty-one squatters were fined by the Plural Relations Commissioner's Court for remaining in East London without permission. 102/

94/ Rand Daily Mail, 30 March 1979.

95/ Daily News, 13 June 1979.

96/ Daily News, 28 June 1979.

97/ Star, 15 November 1978, 9 December 1978.

98/ Guardian, 4 October 1979.

99/ Post, 4/5 April 1979.

100/ Sunday Express, 24 June 1979.

101/ Daily Dispatch, 12 January 1979, 17 February 1979.

102/ Daily Dispatch, 6 January 1979

105. The camp at Crossroads, near Cape Town, threatened with demolition by the end of 1978 (E/CN.4/1311, paras. 153, 155), won a reprieve from the Minister of Plural Relations, Dr. Piet Koornhof, in April 1979 following a campaign of resistance from residents that won wide publicity nationally and internationally. The Minister promised that alternative housing would be provided for residents who met a wide range of qualifications.

G. The Bantu Homelands Policy

106. The situation and historical background to the Bantu homelands policy have been reviewed by the Group in previous reports (notably E/CN.4/1050 and E/CN.4/1187, paras. 93-97). In the Group's most recent reports (E/CN.4/1270 and E/CN.4/1311) it has considered the question of the "homelands" specifically in relation to the rights of peoples to self-determination as defined and developed by the United Nations, in the light of the South African Government's claims to be offering the "homelands" a so-called "political independence".

107. During the period under review, the territory of Venda was declared "independent" on 13 September 1979, bringing to three the total number of "homelands" to accept the South African Government's plan (see para. 110 below). The leaders of Gazankulu, Kwazulu, Ciskei, Lebowa, QwaQwa and Kangwane (Swazi), however, all associated with the Black Alliance movement, have continued to indicate that they are not interested in "independence" under the terms offered. A meeting of Chief Ministers held in November 1978 called the Nationalist Government's dispensation, which aimed at independent "homelands" and proposed constitutional changes which excluded black people, "unacceptable" to the majority of blacks. And in a subsequent meeting in February 1979, Professor Ntsanwisi of Gazankulu declared that "independence was not discussed at all". 103/

108. As in recent years, the issues to raise most feeling in South Africa in connexion with the Bantu homelands policy have been those of citizenship, whereby black South Africans are being deprived of their remaining rights to live and work in "white" areas and forced to take up "citizenship" of a "homeland"; land; and poverty, particularly in relation to continued compulsory removal of "non-productive" Africans from "white" areas, who are "dumped" in so-called resettlement areas within the "homelands" (see paras. 91-97 above and para. 128 below). These and other questions are discussed below in the light of the principles of the right of peoples to self-determination as incorporated in the Declaration on the Granting of Independence to Colonial Countries and Peoples. (see E/CN.4/1222, para. 125).

1. Summary of relevant legislation

109. The laws relating to the setting up and development of the "homelands" have been described and analysed in previous reports submitted by the Group to the Commission on Human Rights. In particular, the legislation passed in relation to the so-called "independence" of the Transkei and Bophuthatswana is outlined in reports E/CN.4/1222 and E/CN.4/1270.

110. A Status of Venda Act, No. 107 of 1979, was gazetted on 13 June 1979, granting a so-called independence to the territory of Venda. The Act provided for the continued validity of all Republic legislation applicable in Venda at the time of so-called "independence", and all treaties, conventions and agreements binding on the Republic of South Africa at that time, as well as all agreements entered into between the Republic and Venda, until such time as they are repealed or

renounced by the Venda Legislative Assembly. The Act's controversial citizenship clause declares the following categories of persons Venda citizens: every person who was a citizen of Venda in terms of any law at the commencement of the Act; every person born in or outside Venda, who is not a citizen of another homeland and who had one or both parents who were Venda citizens at the time of his/her birth; every person who has been lawfully domiciled in Venda for five years and who, on application in the prescribed manner, has been granted Venda citizenship by the competent authority in Venda; every South African citizen who is not a citizen of any other homeland but who speaks a language used by any tribe which forms part of the population of Venda, including any dialect of any such language; every person who is not a citizen of another homeland who is related to a member of the tribe in Venda, or who has identified himself with any part of its population, or who is culturally or otherwise associated with any member or part of such population. 104/

111. Under the Venda constitution, set up under the Black States Constitution Act of 1971, the legislative assembly was expanded from 84 to 87 members, the three additional members to be nominated by an executive president, who is also commander in chief of the "national" force. Forty-two members of the assembly are elected, 25 appointed chiefs and 17 appointed headmen. The president shall hold office for five years and has powers under the new constitution to appoint and dismiss chiefs. Official languages are to be Venda, English and Afrikaans. 105/

112. South African security legislation, including the Terrorism and Internal Security Acts, continues to apply in Venda. The Group Areas Act and the Reservation of Separate Amenities Act have, however, been repealed. 106/

113. Among the agreements signed between the Republic and the government of Venda before so-called "independence" were a non-aggression pact and agreements on economic and industrial co-operation, the movement of persons across common borders, civil aviation, telecommunications, veterinary controls, health services, double taxation, international bridges and forestry technology. 107/

113a. A Black States Constitution Act of 1979 gives "homelands" powers to ban and banish people, as well as to resettle black individuals and tribes under their jurisdiction "from any place within the area of a legislative assembly to any other place in that area". 108/

114. When the so-called independence of Venda was proclaimed, international opinion expressed once again its opposition to the Bantustan system because of its obvious injustice for the black population of South Africa. 109/ In this connexion, it would be recalled that the General Assembly in its resolution 32/105 of 15 December 1977, unanimously declared that proclamation of so-called "independence" of Bantustans are totally invalid and reaffirmed the inalienable rights of the African people of South Africa in the country as a whole.

104/ Status of Venda Act, No. 107 of 1979; Post, 6 June 1979.

105/ Post, 27 March 1979.

106/ Ibid.

107/ Rand Daily Mail, 14 August 1979.

108/ Voice, 5 August 1979.

109/ The Star, 14 April 1979; International Herald Tribune, 14 September 1979; Le Monde, 14 September 1979; S/13548.

2. Violation of the right of all people to the exercise of sovereignty

115. The Group has detailed in previous reports the grounds on which the "independence" of the "homelands" violate rights to sovereignty (E/CN.4/1270, para. 219). During the period under review, the denial of sovereignty to the black majority over all but a fragmented 13 per cent of the country's land has persisted. Although the Prime Minister, Mr. P.W. Botha, was widely reported in January 1979 to have "promised to review" the 1936 Land Act on which South African Governments ever since have based their land allocations to African use and which envisaged only an eventual 13 per cent of the country's total land area for Africans, information before the Group indicates that no substantial readjustment of land for the "homelands" is likely.

116. Further information before the Group indicates that South African interests continue to dominate the administration in the so-called "independent homelands"; and that South African military and security forces continue to control external "defence" and "internal law and order".

116a. In the newly "independent" Venda, a narrow strip of territory along the Limpopo river has been excised from the territory for use by the South African Defence Force, which also has use of the Madimo air base on Venda territory. 110/

117. Information before the Group also indicates that "independence" is being increasingly imposed on the people of the "homelands" against their will.

3. Exploitation of black workers

118. The exploitative nature of the policy of migrant labour, whereby; black workers are forced to "migrate" to "white" areas to work under contract, separate from their families, has been described in previous reports (E/CN.4/1270, E/CN.4/1311). During the period under review, unemployment has exacerbated hardship both in the "homelands" and in urban areas.

119. According to information before the Group, unemployment is now so high in some "homelands" that men "have to wait for months or even years to be 'requisitioned' for any kind of job anywhere. Their children are literally starving, and they have no means of survival except illegal employment in so-called white areas or, by using their initiative, to earn in the informal sector in cities where such activity is possible. It is not possible in the areas they come from because these communities are poverty stricken. There are almost no consumers in such areas - merely pensioners and dependants." 111/

120. The unemployment situation in the Transkei for example seems to have deteriorated since the so-called independence, to the Group, so that the Transkei Government has been sending pleas to South African labour centres asking them to employ more Transkeians on labour contracts. 112/

121. Allegations about "slave" wages paid in the "homelands" to private and government employees have been mounting during the period under review. In Bophuthatswana, wages of R6.90 a week paid to women at one Babelegi factory and R6-R8 per week in others were exposed by the press in February 1979. 113/

110/ Rand Daily Mail, 6 August 1979.

111/ Mrs. Sheena Duncan of the Black Sash, quoted in the Financial Mail, 13 May 1979.

112/ Financial Mail, 26 January 1979.

113/ Post, 9 February 1979.

Government-employed labourers received a minimum of R31.60 a month in Lebowa, 114/ and private employees in some cases as little as R7.50 a week. 115/ And in the first wage determination gazetted by the Transkei since "independence", a minimum of R7.82 per week was settled for women in manufacturing industry and R10.12 a week for men. 116/

4. Obstacles to the right to freely pursue economic development

122. Further evidence has come before the Group during the period under review to demonstrate the fundamental economic dependence of the "homelands" upon the Republic.

Venda

123. Venda, with a "population" of about 450,000 of whom more than half (67 per cent) of the "productive" males are employed outside the "homeland", is the smallest of the "homelands". Though its land is fertile and its people predominantly agricultural, it imports 50 per cent of its food. Lack of transport facilities has inhibited development of markets for local produce and exploitation of its few mineral resources, which are mainly coal and copper. Venda has few metalled roads and no railway. Like the other "homelands" it thus depends on the Republic for most of its annual budget - R30.3 m of the territory's total budget of R36.4 m for 1979-80, all development aid and export markets. Per capita income is R22 per month. According to information available to the Group, the territory's total mineral output - of graphite and manganese - amounted to R532,482 in 1976-77, and its coal and copper will depend on development of transport to attract the capital for mining. But the necessary railway will cost R50 m - a sum which can only come from the Republic of South Africa. Economic development so far has been centred on a R5 m parliamentary building, a presidential mansion costing 2580,000, a R1.8 m camp for the National Force, a R300,000 independence stadium and a R2 m shopping centre in the new "capital" Thohoyandou. 117/

Transkei

124. The Transkei's continued economic dependence upon the Republic of South Africa is stressed in the government's "development strategy" tabled in the Umtata Assembly in April 1979, which recognizes that "one can hardly speak at present of a Transkei economy in any meaningful sense: more properly one must call it a labour reserve". Migrant labour, it states, is "in effect the basis of the economy". In actual fact, it perpetuates poverty because (a) migrants do not concentrate on improving their agricultural potential because their chief source of income is not from their land; and (b) "while migrant labour creates profits and tax revenues in the country in which it is employed, the social costs fall on the migrant's home country". 118/

114/ Post, 18 April 1979.

115/ Post, 27 April 1979.

116/ Financial Mail, 18 May 1979.

117/ Rand Daily Mail, 2 July 1979; Financial Mail, 13 July 1979; Cape Times, 9 August 1979; S/13.548; International Herald Tribune, 14 September 1979; Le Monde, 14 September 1979.

118/ Financial Mail, 27 April 1979.

Ciskei

125. According to a study by the Institute of Social and Economic Research at Rhodes University, presented to East London City Council, the Ciskei is economically completely dependent on the white city of East London for employment, capital, economic knowhow and entrepreneurship; and on other areas of South Africa for raw materials. The report recommended economic development within the region, not on the borders as at present; and concluded that the only way to make the territory viable would be to expand it to include the entire industrial area of East London. At present agriculture in the territory cannot support its rural community, let alone urban dwellers, and 40-50 per cent of the population of the main town, Mdantsane, were living below the poverty datum line in 1976. 119/

Bophuthatswana

126. According to information available to the Group, the territory's Secretary of Finance, Mr. Hendrick Pretorius, is actually paid by the South African Government to help administer Bophuthatswana's R125 m budget, of which R22 m is a direct grant from South Africa. 120/

5. Obstacles to the right to freely determine political status

127. The Group's previous reports have identified among the obstacles to freely determine political status: (a) enforced removals to bantustan, (b) the question of citizenship. The Group has available to it further evidence that these two issues have become increasingly urgent during the period under review.

128. According to information before the Group, the territory most vulnerable to the intensification of the migrant labour system through forced removals over the past few years in Bophuthatswana, which is reported to have between 500,000 and 750,000 "squatters" in the Winterveld area north of Pretoria (see para. 98 above), most of them removed by the South African authorities from "white" areas under the various forced removals schemes. Accommodating these in "proper housing ... is clearly beyond the resources" of the Bophuthatswana Government, 121/ which, having failed to gain co-operation from the South African authorities in dealing with the problem; has threatened all non-Tswana among the squatters - in all perhaps 360,000 122/ - that if they do not take out Bophuthatswana citizenship, they will be expelled. Some 3,000 Ndebele were reported to have agreed to take up citizenship in January 1979, 123/ but to the great majority of squatters this solution is simply not available because a condition of citizenship is that they should have been five years legally resident in the territory: and squatters are there illegally. 124/

129. A similar situation exists in the Ciskei, where some 300,000 people had been moved into resettlement areas such as Whittlesea, Glenmore, Sada and Dimbaza (see paras. 92-95 above), but no employment was available - the Ciskei National Development Corporation created only 685 jobs in 1977-78. 125/

119/ Daily Dispatch, 2 February 1979.

120/ Sunday Post, 13 May 1979.

121/ Financial Mail, 20 April 1979.

122/ Star, 27 January 1979.

123/ Post, 5 January 1979

124/ Post, 14 January 1979, 7 May 1979.

125/ Rand Daily Mail, 17 May 1979.

130. On the question of "citizenship", according to information available to the Group, "no single aspect of official policy has proved as unpopular as this (the citizenship policy), or as detrimental to the popularity of the different chief ministers. No matter how much they may protest that they have no intention of taking independence, blacks in the urban areas remain suspicious". 126/ No more than 57 people of Transkei origin living in South Africa have applied for Transkei travel documents since the so-called "independence" in 1976, and the South African Government has been forced to grant an extension of two years to the period during which blacks are to take out Transkei travel documents or forfeit their South African "reference books". During the extension period, no new reference books, only duplicates, will be issued to Transkei "citizens" working in the Republic.

131. In an effort to persuade Tswana to take out "citizenship" of Bophuthatswana, the South African Government has declared that citizens of the "homeland" earning less than R1,200 per year will be exempt from tax returns.

132. According to further information available to the Group, another implication of the citizenship question is that children of citizens of a "homeland", born after that "homeland" becomes "independent", may be deprived of their right to live in houses in "white" areas inherited from their parents. 127/

133. Evidence that government officials are in fact using pressure to force adults with rights under the present law to residence in urban areas to take out "homeland citizenship" came to the Group in a report from Port Elizabeth, Cape, where officials have refused to issue birth certificates to young people - who need them both for secondary schooling and for permission to seek work - until the parents take out "homeland citizenship". 128/

6. Abuse of police powers by the "homeland" authorities

134. Previous reports of the Group made reference to the transfer of repressive powers by the South African Government to the "homeland" authorities. Information before the Group indicates that these powers are being increasingly used.

Transkei

135. The Group's previous reports (E/CN.4/1270, para. 214, and E/CN.4/1311, paras. 196-197) have made reference to repressive measures taken against its opponents by the Transkei regime. During the period under review, 40 people have been reported to be detained under the Transkei's Public Security Act, none of whom had by 22 March 1979 appeared in court. Five Pan Africanist Congress militants were the subject of a question in the Transkei National Assembly in March 1979 as having been arrested by Transkei police after evading arrest in South Africa. Chief George Ndabankulu confirmed that three of these had been arrested for engaging in subversive activities. 129/

136. Further acts of repression reported to the Group include the banning of the Dikwankwetla Party, ruling party of the QwaQwa "homeland", under the Transkei Public Security Act, 130/ and of a service in Butterworth to commemorate the third anniversary of the Soweto uprisings and consequent massacres. 131/

126/ Rand Daily Mail, 13 August 1979.

127/ Race Relations News, May 1979.

128/ Sunday Times, 19 August 1979.

129/ Post, 22 March 1979.

130/ Daily Dispatch, 2 June 1979.

131/ Daily Dispatch, 18 June 1979.

137. Evidence of torture used by Transkei police available to the Working Group includes the trial of six policemen in January 1979, charged with the murder of Mr. Kwezi Noah, suspected of stealing R40,000 from the strong room in the Palace of Justice, Umtata, in 1977. Evidence of torture was given by a man arrested with him, Mr. Edwin Ndawo. 132/

Venda

138. During the period under review, repressive powers have been transferred to the so-called independent Venda (see paras. 110-113 above).

139. According to information available to the Group, an opposition MP also claims that, while driving through the bush, a passenger in his car was killed by a shot fired by the Minister of Justice, who subsequently told parliament that "Venda police must know how to handle firearms, so he as head of the police had to be a crack shot". 133/

Bophuthatswana

140. According to information before the Group, Chief James B. Toto, a former Minister of Justice and of Works in Chief Mangope's cabinet, was detained for 36 days without trial during 1978; 134/ and six other no-trial detainees were released on 22 December 1978: a seventh detainee remained in prison. 135/

Ciskei

141. Information before the Working Group indicates that on 8 February 1979 there were 74 detainees, held under Proclamation R252, made by the Department of Bantu Administration in September 1977 following the death in detention of Steve Biko, to enable the Ciskei Government to deal with people "deemed to be a threat to law and order". 136/ Towards the end of the same month, 65 bus drivers were detained, having been involved in a strike. 137/ Two men, Joseph Kobo, an editor, and Livingstone Malotana, a councillor, after release from 90-day detention, were reported as having been banished from the Ciskei. 138/

7. Attempts to disrupt national unity and to destroy the identity of the blacks

142. During the period under review, the "homeland" policy has continued to disrupt the national unity of black South Africans, not only by dividing them according to their supposedly traditional tribal groups, but also by causing conflicts between urban and "homeland" Africans (particularly through the enforcement of "homeland citizenship", see paras. 130-133 above); and between "homeland" Africans and the groups of their own or other "tribe" forcibly removed into "homeland dumping grounds" (see paras. 128-129 above).

143. According to the testimony available to the Group, extreme poverty, the disintegration of families brought about by the migrant-worker system, and the economic exploitation of the black community, combine with other factors to destroy the blacks' identity. (See paras. 118-121 above).

132/ Post, 31 January 1979.

133/ Drum, June 1979.

134/ Post, 3 January 1979.

135/ Post, 2 January 1979.

136/ Daily Dispatch, 8 February 1979.

137/ Rand Daily Mail, 27 February 1979.

138/ Focus, 23 July-August 1979.

H. Condition of Black Workers

144. In its previous reports the Group described extensively the condition of black workers. The reports have continually stressed that the oppression of blacks is synonymous with the exploitation of labour. In its fifteenth report, 139/ the International Labour Organisation has again concluded that inequality of income and wages, employment and opportunities, the basic features of the apartheid system, remain unchanged during the period under review.

1. Conditions of workers in the agricultural sector

145. The farm labour system and the plight of agricultural workers as the most numerous but most heavily exploited sector of the South African labour force have been described in detail in previous reports of the Group (E/CN.4/1187, paras. 130-172, E/CN.4/1222, paras. 184-213, and E/CN.4/1270, paras. 139-154).

146. Figures for employment in agriculture were provided in an earlier report of the Group (E/CN.4/1222, para. 195). The Group's last report (E/CN.4/1311, para. 217) also described the exceptional rate of increase in black unemployment in the "white" rural areas since 1970. According to additional information available to the Group, in "homeland" areas thousands of people have been crammed into government resettlement schemes after being moved from "white areas" and, since the "bottom fell out of the migrant labour market", families are forced to live off a land which cannot support them. 140/

(a) Recruitment of workers

147. The methods of recruitment of black agricultural workers were described in previous reports of the Group (E/CN.4/1187, paras. 134-144; E/CN.4/1222, paras. 186-191; E/CN.4/1270, paras. 141-147). The Group's last report (E/CN.4/1311, para. 218) reported on the effect of the Bantu Laws Amendment Act and an amendment to the Unemployment Insurance Act which forced unemployed Africans into government institutions or "homelands" and to the loss of unemployment benefit by agricultural workers.

148. A number of cases concerning the employment of children is referred to in paragraphs 152, 154-156 below.

(b) Wages and working conditions

149. According to information available to the Group, agricultural wages remain the lowest in any sector. An ombudsman for the South African Council of Churches found that in the western Transvaal farmers were paying their workers as little as R4 a month, plus a bag of mealie meal. According to the ombudsman, "the system of paying in cash and kind binds the workers to the farmer from the cradle to the grave". 141/

139/ Fifteenth Special Report of the Director General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa, ILO, Geneva, 1979.

140/ Financial Mail, 16 February 1979.

141/ Daily News, 2 May 1979.

150. In Kingwilliamstown, 28 families have been facing jail sentences after refusing to leave the farm on which they worked. The workers were originally earning R1 and R2 a month which was raised to R20 a month after they went on strike. After a further strike to get a promised R10 increase, the workers were ordered to leave the farm. 142/

151. The South African Government appears to be resisting the conclusion of the Riekerk Commission that retired farm labourers should be able to settle or remain on white farms "as long as the owner agrees". 143/ At present farm labourers retire without pensions and with no place to live. One such case which came to the Group's attention was that of a 70 year old labourer who was given R10 and told to leave the farm and go to Lesotho. 144/

(c) Assaults on farm labourers

152. The attention of the Group was drawn to a number of cases of assault on farm labourers during the period under review. Among these were: a herdsman who died after being punched and kicked by a farmer, who was fined R500 for the offence; 145/ a 13 year old boy who died after being horsewhipped by a man on a farm; 146/ a 12 year old boy who died from injuries received from beatings with a fan belt by a farmer; 147/ a seven-months pregnant woman who was shot by a farmer, who was sentenced to 12 months' imprisonment; 148/ two brothers who are standing trial after they allegedly assaulted a farmhand who subsequently died. 149/

(d) Child labour

153. During the period under review, a number of cases concerning the employment of children in the agricultural sector have come to the attention of the Group.

154. In February 1979 Botswana police claimed that local primary schoolchildren were being illegally recruited inside Botswana and taken to work on farms in South Africa. Several children have disappeared from the Botswana border village of Olifantsdrift, and it is alleged that a farmer's agent has been visiting the village to induce children to go near the border fence so that they can be recruited. 150/

155. In the same month the Sunday Post revealed that the former head of the Bureau for State Security, General Hendrik van den Bergh, was employing children full-time on his farm. The children were paid R5 a week and did not attend school. 151/

142/ Rand Daily Mail, 24 April 1979.

143/ Financial Mail, 22 June 1979.

144/ Post, 19 March 1979

145/ Rand Daily Mail, 1 September 1978.

146/ Post, 25 December 1978

147/ Post, 12 December 1978.

148/ Daily Dispatch, 4 January 1979

149/ Rand Daily Mail, 22 May 1979

150/ Post, 21 February 1979

151/ Sunday Post, 18 February 1979.

156. During the period under review three youth camps run by the Administration of Coloured Affairs were to be closed down. According to an investigation by the Coloured Persons' Representative Council, the camps were "nothing else but pools of child labour and slave labour". The children had been kept in "disgusting and inhuman conditions" and, in some cases, allowed to work for 25 cents a day. 152/

2. Conditions of workers in the urban (industrial and other) sector

(a) Wages and working conditions

157. Previous reports of the Group have shown that the gap between white and black earnings expressed in cash terms continues to widen. Additional information before the Group indicates that this trend has continued through the period under review.

158. According to the International Labour Organisation 153/ "One of the features of the earnings pattern continues to be the substantial difference in relative and absolute levels of income between whites and blacks ... rarely does the average African income reach one-third of that of whites in any sector and ... in most cases it is between a quarter and a fifth, with the mining industry averaging around one-seventh ...".

159. The ILO Report also states that "... partly as a result of the introduction of a general sales tax which by its nature bears more heavily on the lower paid, rises in the cost of living for Africans were greater (for low income groups it was 13.4 per cent and for high income groups 11.2 per cent)". 154/

160. The Group's last report (E/CN.4/1311, para. 227) gave figures for the gap between white and black wages in various sectors of employment. The ILO Report contains a table which demonstrates the gap for 1977. 155/

Category	Average white earnings per annum	Average black earnings per annum	Ratio White: African earnings	Absolute gap in earnings per annum
Mining	R8 916	R1 272	7:1	R7 644
Manufacturing	R7 932	R1 788	4.4:1	R6 144
Construction	R8 436	R1 488	5.7:1	R6 948
Public authorities	R5 496	R2 052	2.7:1	R3 444

161. According to additional information available to the Group, BMW is paying some of its workers below the Household Subsistence Level, which is R114.29 less than the minimum wages laid down in the EEC Code of Conduct (see E/CN.4/1311, paras. 272-274). 156/

152/ Sunday Times, 17 September 1978.

153/ ILO, op.cit., p. 12.

154/ Ibid., p. 12.

155/ Ibid., pp. 14-15.

156/ Post, 4 December 1978.

162. A survey carried out during the period under review pointed to the low pay and bad working conditions of domestic workers. The average monthly pay for these workers is R22 a month with "wages in kind" (food, etc.) being very low.

(b) Job reservation

163. According to the 1979 International Labour Organisation Report "statutory job reservation continues to be a feature of the labour situation under apartheid". At least five determinations in terms of section 77 of the Industrial Conciliation Act are still reported to be in force. 157/ The recommendation of the Wiehahn Commission that job reservation be abolished and these five determinations "phased out" is dealt with in paragraphs 189, 193 and 194 below.

164. The ILO Report also stated that, despite the withdrawal of 18 determinations from the Industrial Conciliation Act, lack of apprenticeship places for non-whites means that job reservation is still in force.

165. On the railway, the ILO Report states, Africans are still being excluded. The Minister of Post and Telecommunications said in April 1978 that "It is departmental policy to employ blacks in the Western Cape area only to serve their own people and where whites or coloureds are not available - mainly on duties of an unskilled nature. 158/

166. African workers are also being excluded under the Environment Planning Act. This provides that an employer cannot employ an unqualified employee in a particular grade unless he has in his employ a qualified worker in the same grade, and for each such qualified employee he shall not employ more than three unqualified employees. Under this Act, it has been stated in the South African parliament, over 6,000 Africans have been refused jobs. 159/

167. The ILO Report also states that employers are still practising job reservation. The majority of subsidiaries of British companies in South Africa have a high percentage of black employees in unskilled and semi-skilled jobs, with relatively few Africans doing more specialized work. Of subsidiaries of American companies which reported on the implementation of the "Sullivan principles", 57 per cent had no Africans in the artisan category and 45 per cent had none as technicians; only 17 per cent employed Africans in the first category and 33 per cent in the second. 160/

157/ ILO, op.cit., p. 6.

158/ ILO, op.cit., p. 7.

159/ Ibid.

160/ Ibid.

168. During the period under review, the (all-white) Mine Workers' Union has come out strongly against the abolition of job reservation in the mines. In replying to their case, the Minister of Labour said: "I will not abolish any job reservation unless I have the co-operation of the trade unions in doing so. In fact, job reservation is still the law of the land." 161/

169. Despite recommendations in the Wiehahn Report, Africans cannot become artisans unless they have "homeland" citizenship. There is only one technical institute, the George Tabor Institute in Soweto, where Africans can be trained outside of a "homeland". 162/

170. During the period under review, an investigation into the workings of the Anglo-American Corporation found that the corporation practised discrimination and job reservation. 163/

(c) Unemployment

171. The Group's last report stated that, despite the absence of any official government statistics on the subject, the rate of black unemployment is rising rapidly (E/CN.4/1311, para. 237).

172. According to the International Labour Organisation Report "no major steps appear to have been undertaken or announced by the Government during the period under review in order to remedy growing unemployment, despite a number of urgent appeals for attention to the problems ...". 163a/

173. Official unemployment figures for workers indicate a total of 800,000 unemployed in April 1979. A report by the Prime Minister's Economic Advisory Council based on figures compiled by the Department of Statistics estimated that African unemployment stood at 11.1 per cent in 1978, compared with 11.1 per cent for Coloureds, 9.4 per cent for Asians and 3.6 per cent for whites. 164/ In May 1979 the Minister of Co-operation and Development said that 1,060,569 Africans had registered as unemployed during 1978. 165/ In August 1979 the Cape Times reported that African unemployment stood between one and two millions. 166/ The Economic Bureau of Pretoria University estimated that, in April 1979, 15.5 per cent of African urban workers were without jobs. 167/

174. Such official figures as exist on African unemployment are for registered African unemployed. Other estimates indicate that the number of Africans unemployed is considerably higher. Studies conducted by the International Labour Organisation, which produce findings similar to those of the Central Merchant Bank, indicate that, in 1977, 22.4 per cent of the economically active black population was unemployed and that, throughout the period 1960-1977, unemployment had never fallen below 17.5 per cent and had been consistently around the 20 per cent mark from 1970. 168/

161/ ILO, op.cit., p. 8.

162/ Star, 26 May 1979

163/ Rand Daily Mail, 16 January 1979.

163a/ 226/ILO, op.cit., p.10.

164/ Financial Mail, 6 April 1979.

165/ Rand Daily Mail, 16 May 1979.

166/ Cape Times, 20 August 1979

167/ Rand Daily Mail, 18 April 1979.

168/ ILO, op.cit., p.9.

175. A recent survey carried out at Witwatersrand University suggested that 25 per cent of the African population is currently unemployed and that, on current trends, the figure could reach 40 per cent by 1990. The study also shows that the ratio of whites to Africans in the economy as a whole has remained more or less static, despite the fact that black penetration of all sectors has increased. 169/

176. According to information available to the Group, unemployed black workers are subject to humiliating medical examination when they register at the West Rand Administration Board. The Post said that men are herded from building to building, examined by personnel who are not medically qualified, and have their genitals examined in humiliating conditions. 170/

(d) Inadequate training of black workers

177. The ILO Report reiterated that "the basic inequalities of the system of education and training remained entrenched in South Africa", 171/ despite indications that changes might be taking place. Changes in educational policy, and in particular the new Education and training Bill (published in Government Gazette 6213 of November 1978) have done little but bring the existing situation up to date. The ILO Report gives figures for the percentage of Africans apprenticed in various sectors. 172/

(e) Living conditions of black workers

178. Previous reports of the Group (E/CN.4/1270, paras. 177-179, and E/CN.4/1311, para. 245) dealt with conditions in hostels for migrant labourers. According to additional information available to the Group, the Dube hostel in Soweto is known as the "hostel of terror", its passages called the "corridors of death". The hostel was continuously visited by members of the police force who harassed the inmates. During the period under review, the West Rand Administration Board refused to improve conditions in the hostel, which houses 6,272 migrant labourers, on the grounds that no funds were available. 173/

179. Housing conditions for workers from the Ciskei and Transkei in Cape Town are described as "atrocious". The dormitories are continually covered in mud and no gutters or rainwater drains are supplied. 174/

180. During the period under review, the accident and death rate in mines continued inordinately high. In 1978 the Department of Mines stated that there were 877 deaths and 24,722 injuries - an accident death rate of 1.28 per 1,000 workers and an injury rate of 36.1 per 1,000. 175/

169/ Financial Mail, 31 August 1979.

170/ Post, 4 February 1979.

171/ Ibid., p. 3.

172/ Ibid., p. 6.

173/ Post, 3 December 1978.

174/ Daily Dispatch, 1 August 1979.

175/ Star, 28 April 1979.

I. Infringements of trade union rights

181. The Economic and Social Council at its first regular session in 1979, has in its resolution 1979/39, requested the Ad Hoc Working Group of Experts to continue to study this question and to report thereon to the Commission of Human Rights and to the Economic and Social Council at such times as it may consider appropriate. The present section dealing with the question of infringements of trade union rights have been prepared in response to the specific request of the Economic and Social Council.

182. During the period under review, information has become available to the Group concerning: (1) the suppression of the right to organize trade unions, particularly in relation to the publication of the first section of the report of the Wiehahn Commission; and (2) the persecution of workers because of their activities, especially their resort to strike action.

(1) Suppression of the right to organize trade unions

183. A court ruling in August 1978 established that black trade unions and works committees have no legal standing and cannot therefore go to court on behalf of the workers they represent. In the case against Bosman (Pty) Ltd. of Vereeniging, brought by the firm's works committee, the Transport and Allied Workers' Union and a number of individual workers, who claimed that the firm had fired some workers because of their union activities, Mr. Justice Eloff of the Pretoria Supreme Court ruled that neither the union nor the committee had any legal standing. The Bantu Labour Relations Regulation did not provide that a committee could take up the case of an employee except with an employer: the law gave it no power to go to court. The union, because it was not registered, had no statutory rights and no direct interest in the applications. 175a/ The Financial Mail called this 'one of the most important judgements affecting labour law in recent years', and pointed out that it meant that black African workers have no organization which can undertake legal action on their behalf. Agreements reached in negotiation can thus not be legally enforced, and even where an individual black worker obtained a favourable judgement, it could not be binding on an employer in relation to other employees. 175b/

(a) The Wiehahn Commission

184. The Group's previous report referred to the setting up of the Wiehahn Commission to examine ways in which industrial relations in South Africa could be reformed (E/CN.4/1311, paras. 253-262), and to the misgivings voiced by witnesses before the Group that the recommendations of this Commission would have the effect of bringing workers' organizations more directly under the control of the State.

185. Part one (of a projected seven) of the Commission's report was published in May 1979, nearly two years after the Commission's appointment in June 1977. Its most important recommendations included the following:

- that all workers, including migrant workers, should be entitled to join trade unions (a minority recommended the exclusion of migrant labourers and commuters from 'homeland' dormitory towns);

175a/ Daily Dispatch, 24 August 1978.

175b/ Financial Mail, 25 August 1978.

- that membership of trade unions should be decided by the union concerned - that is, that trade unions may be racially exclusive or mixed;
- that all unions, regardless of racial composition, be entitled to apply to the Minister for 'registration', but unregistered unions would not be able to conclude agreements with employers or have union dues automatically deducted from wages, and stricter criteria for registration would be applied;
- that statutory job reservation be abolished, though the five remaining job reservation orders would be phased out in consultation with the unions concerned;
- that Africans would be allowed as apprentices in 'white areas' subject to 'negotiation, consultation and consensus' to protect non-African interests;
- that statutory insistence on 'separate facilities' at the work place be abolished, subject to negotiation between employer and employees;
- that a statutory National Manpower Commission be established to review labour policy, representing State, employers and trade unions. 175c/

186. In a statement issued on 2 May 1979, the Minister of Labour, Mr. S.P. Botha, announced that he accepted all the above recommendations in principle; but in a White Paper published the following week it became clear that the key recommendation that all black workers should be entitled to join a trade union - would be modified to apply only to workers with fixed employment and residence rights in South Africa, that is, not to migrant workers and dormitory town commuters from the 'homelands'. 176

187. In arguing its case, the Wiehahn Commission made the following points:

- that black trade unions already exist, 27 unregistered unions having 50,000 to 70,000 members, and 'cannot be wished away';
- that they are however under no statutory control and 'enjoy the largest degree of unlimited freedom ...';
- that being ignored by the State 'permits them to develop an anti-South African stance and structure';
- that they receive substantial financial support from abroad, as well as training courses and exchange visits with foreign trade unions;

175c/ Financial Mail, 4 May 1979; Summary of the first part of the report of the Wiehahn Commission of Enquiry into Labour Legislation in South Africa published by South African Permanent Mission to the United Nations Office at Geneva, May 1979.

176/ Statement by the Minister of Labour, issued by the South African Permanent Mission to the United Nations at Geneva; Rand Daily Mail, 11 May 1979; The Guardian, 3 May 1979.

- that in line with the EEC, Sullivan and other labour codes foreign companies are already recognizing black unions, which fact 'harbours great danger for the system under the Industrial Conciliation Act, the Labour Relations Act and the Wage Act, and in turn 'endangers labour peace';
- that 'if the system does not change ... some of the existing registered trade unions - white and coloured - will consider unregistration in terms of the Act, and so open their doors to black workers'. 177/

188. Black reaction to the Wiehahn Commission Report, according to information available to the Group, was apprehensive. What this means is that for a long time to come the trade union movement will be under white control. All the commission should have done was allow black unions free access to the negotiating table. Now the white unions, with the experience and ready machinery, will organize blacks and kill the black unions. 178/

189. The economic newspaper, Financial Mail, pointed out first that the potential for job discrimination had not been eliminated by the Wiehahn recommendations: consensus must be reached on an industrial council, so the white unions will have a veto on change. On the trade union issue it is pointed out that, read with the White Paper published immediately after the report and which specifically repudiated the Commission's proposal that migrant labourers should be entitled to join unions, limiting the right to those with 'permanent' rights in urban areas, the new recommendations 'may actually set the union movement back - particularly black unions'. 179/

190. Resistance to the proposals, came also from some of the white trade unions, and though the 200,000-strong Confederation of Labour accepted the proposals by 13 votes to 11, the secretary of the powerful white Mine Workers Union walked out of the meeting when the vote took place. 180/

191. According to information before the Group the amendments to the Industrial Conciliation Act tabled after the Wiehahn proposals had been published went back on several of its recommendations. In particular, the new Bill excluded all migrant workers and commuters from trade union rights and outlawed the formation of new 'mixed' unions. This move was seen as an attempt at 'appeasing the right-wing opposition to labour reform'. Any union that includes migrant workers or commuters will face a fine of R500 for each illegal member. 181/

192. Black trade unions concluded that unregistered trade unions would 'face ruin' if the Bill went through. The General Secretary of the new federation of African unions, FOSATU (Federation of South African Trade Unions), said that the Bill had three clear intentions: to deprive the majority of black workers of the right to union membership and collective bargaining; to halt the operation of unregistered unions; and to extend Government control over all aspects of union activity. In Natal, for instance, more than 90 per cent of union members are migrants. 182/

177/ Summary of the first part of the Wiehahn Commission ..., op.cit.

178/ Post, 2 May 1979.

179/ Financial Mail, 11 May 1979.

180/ Rand Daily Mail, 12 May 1979.

181/ Cape Times, 23 May 1979.

182/ Rand Daily Mail, 24 May 1979.

193. Additional restrictive measures in the Bill include the following facts: it enables the Registrar of Unions to withdraw the recognition of any trade union - without giving reasons; it forbids any unregistered body from collecting dues by stop order; forbids the registration of racially mixed unions except with the permission of the Minister of Labour; means no registered union can admit as a member or have any relationship with a person who is not an employee, at the risk of a R500 fine; forbids unions from being involved in politics by providing funds for political parties or candidates in any political election; provides for 'protection' against 'unfair labour practices', such as may be the dismissal of a white worker in favour of a black worker; leaves unaltered the situation whereby black people can become artisans only by taking out 'homeland' citizenship. 183/

194. After amendments, which followed a concerted stance by the two main black trade union bodies, the Consultative Committee of Black Trade Unions and FOSATU, in rejection of the Bill, 184/ the Bill provided for some Ministerial discretion to authorize mixed unions; for a modification of the veto by existing registered unions on newly registered unions; allowed for 'relationship' between a union and non-employees, i.e. migrants and commuters; and provided for a right of appeal against the definition of 'unfair labour practices' by the new industrial court. 185/ The Minister of Labour was also reported to have given 'certain assurances' to black unions that he would extend by proclamation trade union rights to 'most commuters' when the Act was gazetted. This move was seen as an attempt to 'drive a wedge' into the united black front against the Bill. 186/

195. When the Act was finally gazetted in September, the Minister of Manpower Utilization (previously the Minister of Labour), Mr. Fanie Botha, announced that the right to join a trade union would in fact be extended by Proclamation to all blacks, including migrant workers and commuters. 187/

(b) Struggle for the acquisition of trade unions' rights

196. Previous reports of the Group have detailed the continuing struggle by black trade unions for recognition. The following further examples have come before the Group during the period under review:

- (i) The Metal and Allied Workers' Union alleged in April 1979 that Williams Brothers, an East Rand company, was victimizing its members. When membership in its plant reached 60 per cent, the union applied for recognition but its letter was torn up in front of a shop steward. The following day the management appointed a liaison committee, which the workers rejected, demanding to elect their own. The management then interfered with the election. Five shop stewards have been dismissed and other workers threatened with dismissal. 188/

183/ Sunday Post, 27 May 1979.

184/ Rand Daily Mail, 13 June 1979.

185/ Rand Daily Mail, 25 June 1979.

186/ Financial Mail, 29 June 1979.

187/ Guardian, 26 September 1979.

188/ Post, 5 April 1979.

- (ii) A national organizer of the South African Allied Workers' Union claimed that a security policeman offered him R40 per month to inform police on discussions at union meetings. Mr. Tozamile Gqweta named Warrant Officer Schooling as having approached him in Cambridge, East London. 189/
- (iii) The General Secretary of the Food and Canning Workers' Union, Mr. Jan Theron, was arrested under the Riotous Assemblies Act in Worcester, Cape, in March 1979, following a union meeting in connexion with a lockout at the Rainbow Chicken factory. 190/
- (iv) In June 1979, 24 workers at Nel's Dairy, Johannesburg, won a court order restraining their employer from wrongfully dismissing them for attempting to form a works committee; and workers at Precision Tools, a Reef engineering firm, won a similar order restraining their employer from dismissing them for works committee or trade union activities. 191/
- (v) The firm Fattis and Monis dismissed five union members at its Belville, Cape, factory, then five more who asked management for reasons and another 78 workers who went on protest strike, according to the National Union of Distributive Workers. 192/
- (vi) Two other firms have refused to recognize black unions during the period under review. At Rainbow Chickens of Hammarsdale, Natal, 55 African workers were arrested in August 1979 after police teargassed a meeting called to demand negotiations over reinstatement of a woman worker. The management refused to negotiate with the union. 193/

197. According to Mrs. Helen Suzman MP, speaking in the House of Assembly in June 1979, 159 trade union leaders have been banned since 1952 and 16 trade union organizers or educational officers belonging to unregistered unions have been banned since 1973. 194/

(c) Impact of the Code of Conduct of the European Economic Community

198. The Group's previous report (E/CN.4/1311, para. 272) outlined the terms of the code of conduct recommended by the member governments of the EEC to national and multinational companies operating in South Africa, which lays down that companies shall ensure that their employees are free to join a trade union of their choice; that racial discrimination shall not operate at the place of work; and that minimum wages be at least 30 per cent above the minimum level to supply basic needs. During the period under review, it has been reported that a number of companies have failed to abide by this Code of Conduct.

199. Mr. Leonard Sikhakhane, general secretary of the Sweet, Food and Allied Workers' Union, has complained that some foreign firms are signatories to the EEC Code and 'have kept the information away from their workers'. One company, he claims, not

189/ Daily Dispatch, 26 April 1979.

190/ Cape Times, 7 March 1979.

191/ Financial Mail, 22 June 1979.

192/ Rand Daily Mail, 10 August 1979.

193/ Financial Mail, 31 August 1979.

194/ Rand Daily Mail, 8 June 1979.

only took away the right to freedom of association but went so far as to say "Our company is prepared if requested by the employees to assist them in the formation of the union and in making such funds available to set up the administration". 195/

200. In a report to the British House of Commons, the Secretary for Trade said that 173 companies had submitted reports to the Department of Trade by 31 January 1979. Two companies had declined to send in a report. 196/

(2) The persecution of workers because of their activities, particularly as a consequence of strike action

201. According to information given by the Minister of Labour in the House of Assembly, there were 51 industrial strikes in South Africa, involving 8,543 workers; and 250 employees were prosecuted for strike action. 197/

J. Student Movements

202. The segregation of university education by race and the rise of student movements among white and black students were analysed in a previous report of the Group (see E/CN.4/1187). The Group's last two reports described the boycotts and disturbances in schools and universities that followed the student uprisings in June 1976 and continued sporadically throughout 1978. (E/CN.4/1270 and E/CN.4/1311).

203. During the period under review, Soweto schools opened on a large scale for the first time since the uprisings of 1976 and the newly renamed Department of Education and Training (formerly the Department of Black Education) announced that the Government would aim for equal educational facilities for black and white, though it was unable to set a date for the achievement of this aim. 198/ Unrest in black city schools and in the secondary schools and universities in the 'homelands' (see paras. 209-214 below) continued, as did the expulsions, arrests and persecution of students.

1. Relevant legislation

204. The legislation relevant to university education was summarized in a previous report of the Group (E/CN.4/1187, paras. 176-188), as were the provisions of the Government's policy on Bantu education (later Black education) as they are applied in schools and colleges (ibid. paras. 194-197).

205. A new Education and Training Act, No. 90 of 1979, was gazetted during the period under review, 199/ to replace the (repealed) Black Education Act (formerly Bantu Education Act) 1953 and amendments.

2. Student Campaigns against the Government's policy of Bantu education

206. The new Bill was dismissed as no more than 'cosmetic' by black students and teachers from the time of its first publication. The Soweto Teachers' Action Committee (TAC) called a national conference to discuss it in January, at which

195/ Post, 29 November 1978.

196/ Guardian, 16 February 1979.

197/ Assembly Debates, 5 March 1979.

198/ Daily Dispatch, 22 May 1979.

199/ Education and Training Act, No. 90 of 1979, Government Gazette, 29 June 1979.

Dr. Nthato Motlana declared that the Bill was not new but a continuation of Bantu education. 200/ The TAC declared that its demands were for a unitary education system and the total elimination of separate education departments; free and compulsory education for Africans, as for all other races; and equality in per capita expenditure on education. It condemned black education as currently geared to indoctrinate blacks 'to despise themselves and bow down to white people'. The African Teachers of South Africa, though prepared to accept two separate departments of education also rejected the Bill. 201/

207. Black teachers have particularly expressed disquiet over moves to appoint white teachers in Soweto, who they fear are being trained to take over from black headmasters. Black principals of 'community' schools previously under the control of school boards with parental participation are, under the new Act, brought directly under the control of the Department, which rules by circular and without consultation. 202/ At schools with white principals, too, money was being spent to improve amenities which were not being improved in other schools; and only white principals and teachers have been supplied with two-way radios which can keep contact, for instance, with the police. £500,000 is reported to have been spent on Soweto schools. 203/

208. Among the grievances of school students, expressed through the newly formed Congress of South African Students (COSAS), were the banning of debate in many black schools; the introduction of high security fences round schools; compulsory Afrikaans; poorly equipped schools; lack of vocational guidance; and non-recognition of black teachers' organizations such as the Soweto Teachers' Action Committee. COSAS demands an end to Bantu Education, not its 'modernization'; the same education for all; the same textbooks; the same subjects. 204/

209. According to information before the Group, there has been considerable unrest in rural African secondary schools during the period under review, frequently involving boarding pupils from urban areas forced by Government policy to attend 'homeland' secondary schools. In March 1979 a boy died and at least four were wounded in clashes with police at Kwama Khuta High School, near Amanzimtoti, Natal; the school was subsequently cleared and students told to reapply for admission. 205/ More than 160 pupils at Inchanga High School, near Cato Ridge, were banned from school after protesting about living conditions at the school. 206/ Hundreds of students from Sidlamafa Secondary School, near Hector'spruit, fled back to Johannesburg after police were called to disperse a student meeting called to protest at the arrest of three of their colleagues. 207/

3. Student movements in black universities

University of the North (Turfloop)

210. According to information available to the Group, there has been continued conflict between students and authorities in the black universities during the

200/ Post, 7 January 1979.

201/ Post, 29 January 1979.

202/ Post, 3 March 1979, 17 May 1979.

203/ Post, 11 February 1979, 17 May 1979.

204/ Post, 11 June 1979.

205/ Post, 2 March 1979.

206/ Post, 30 March 1979.

207/ Post, 21 May 1979.

period under review. In May 1979 Ngwako Ramasthodi, a third-year law student, was ordered off the campus for allegedly contravening the conditions on which he had been readmitted in February - that is, that he did not take part in student politics. He was reported to have attended a Sharpeville memorial meeting. 208/ A sit-in was staged throughout the university, in protest, and a contingent of 70 armed police was called to the university by the rector. 209/ In Mr. Ramsthodi's case, too, the Supreme Court set aside the rector's expulsion. 210/

211. Students in the current year appear to be shifting their tactics of opposition away from direct confrontation with university authorities and thus exposing themselves to large-scale expulsions such as have taken place over the past few years. According to a recent press report, 'students have developed a level of political sophistication and organization that makes it impossible for staff to know their real mood. This year they managed to organize strikes in commemoration of both Biko day and the anniversary of Sharpeville, without giving any advance warning. This is in spite of very close co-operation between university administration and the police security section based on campus.' 211/

212. The University of the North Black Staff Association (BASA) continues to operate from outside the campus, after its banning two years ago, according to information available to the Group. 212/

University of Fort Hare

213. First-year students from 15 Transkei schools were expelled from the Fort Hare campus in March, following the disqualification of examination results in these schools by the Transkei Ministry of Education. Students were charged R1.50 per day board and lodging for the days they had already spent on campus. 213/

214. In June 1979 a student, Theodore Mhaga, was shot dead by security police on Fort Hare campus after being allegedly found in the room of the guard. Two thousand mourners attended his funeral at Alice in the Ciskei, 214/ and students at the university boycotted classes, demanding that the rector dismiss the security guards and donate R1,000 from university funds to the bereaved family. The boycott was still going on when the university closed for holidays in July, after which the rector warned that students who would not accept the university rules, including the presence of the security guards, would not be readmitted. Students resolved to apply for an interdict to prevent the rector from closing the university and expelling individual students. 215/ The inquest into Mr. Mhaga's death found that he died as a result of gunshot wounds fired by security guard Mr. L. Kolesky, but that 'no one was responsible' for his death. 216/

208/ Post, 3 May 1979.

209/ Post, 4 May 1979.

210/ Post, 11 July 1979.

211/ Guardian, 28 August 1979.

212/ Voice, 26 August 1979.

213/ Sunday Post, 4 March 1979.

214/ Post, 19 June 1979.

215/ Post, 6 July 1979, 16 July 1979.

216/ Post, 19 June 1979.

Blacks at 'white' universities

215. According to information given by the Minister of Education and Training to the House of Assembly, some 1,700 blacks applied to attend universities other than universities for blacks, and only 313 were accepted in the period 1 March 1978 to 20 April 1979. 217/

216. After reports that black lecturers at the (correspondence) University of South Africa were designated 'assistant professional officers', and banned from the university cafeteria, 218/ the University made a statement that all black lecturers were now called lecturers; but made no comment on 'petty apartheid'. 219/ Black students also complained of segregation in public examinations, of black post-graduates having had to sit their examinations alone in a store-room while white students sat in a comfortable hall. 220/

Theological Training College

217. The Southern-Africa Theological College of Independent Churches, Roodepoort, was closed down in May 1979, after the principal, 'Bishop' Mokoena, called in the security police and expelled all students. 221/

218. Black medical students at the University of Natal are conducting a campaign against their exclusion from the medical school. Government policy is to force all Africans to go to the new Medical University of Southern Africa (Medunsa), near Garankuwa. The students claim that they are being excluded from bursaries and interest-free loans at the Natal college and that the Government has already cut UNE's subsidy by R900,000. 222/

219. The first black students at Stellenbosch University, an Afrikaans language university and traditional home of Afrikaans intellectualism, have been barred from living in residence and from functions at which there is dancing. One student commented that they had 'virtually no social life on the campus'. There are 18 black students, who say they are being treated as outcasts by other students and rejected by other blacks for associating with whites. 223/

220. The new Minister of National Education, Dr. Piet Koornhof, has assured whites that they need have no fear that the Government's policy of allowing small numbers of blacks to study at white universities was undermining the separate universities principles. 224/

4. Student movements in white universities

221. According to information before the Working Group, further measures have been taken to suppress opposition to apartheid among white students. Several student newspapers were banned during the period under review, notably National Student,

217/ Assembly Debates, 8 May 1979.

218/ Sunday Post, 25 February 1979.

219/ Sunday Post, 11 March 1979.

220/ Post, 21 February 1979.

221/ Post, 31 May 1979.

222/ Sunday Post, 24 June 1979.

223/ Sunday Times, 20 August 1978.

224/ Rand Daily Mail, 5 September 1979.

organ of the National Union of South African Students (NUSAS), and Varsity, organ of the University of Cape Town, both banned in perpetuity; 225/ and Nux, of the University of Natal, several individual issues of which have been banned. 226/ An article on the Broederbond was censored from Wits Student, newspaper of the University of the Witwatersrand. 227/ Students claim that articles on 'military matters', arising from concern among students with the call up for military service, were the main reason for these bannings. 228/

222. Some efforts have been made by Afrikaans-speaking university students in the period under review to open a form of dialogue with black students. The Afrikaans Students Bond, representing Afrikaans-speaking students, decided in July 1979 to open its membership to Afrikaans-speaking Coloured students. Coloured response has, however, been negative; 229/ as also to approaches from SRCs at Afrikaans- and English-speaking universities who have suggested dialogue with blacks. Black students feel that whites would do better to use their energy in pressing the white Government to lift bans on black student organizations. 230/

223. Bishop Tutu, general secretary of the South African Council of Churches, told a conference at the University of the Witwatersrand in July 1979 that blacks would judge the white universities by their contribution to the liberation struggle and charged that students who 'appeared radically concerned' were sucked into racist thinking as soon as they left university. 231/

K. Other Serious Violations of Human Rights resulting from the policy of apartheid and racial discrimination

1. New repressive laws

224. During the period under review, amendments have been passed to the Inquest Act and the Police Act, further restricting the freedom of the press. The Inquest Amendment Act (see para. 37 above), according to a comment in Focus, 'will effectively silence the family, witnesses and press' until after the inquest is over. 232/ On the Police Amendment Act (see paras. 36 and 50 above), Focus commented that 'This innocuous sounding provision will, it is feared, lead to the press being unable to print any account of police actions without clearing it with the police authorities first, as a similar provision of the 1959 Prisons Act has done. 233/

225. In a Government notice gazetted in April 1979 under the Riotous Assembly Act, 1956, the Minister of Justice again prohibited all outdoor 'gatherings', except 'bona fide sporting' gatherings, unless expressly authorized by the Minister or a magistrate, from 5 April 1979 to 31 March 1980. 234/

225/ Daily News, 11 July 1979, 9 June 1979.

226/ Rand Daily Mail, 10 April 1979.

227/ Rand Daily Mail, 19 February 1979.

228/ Daily News, 11 July 1979.

229/ Guardian, 14 July 1979.

230/ Rand Daily Mail, 9 July 1979.

231/ Ibid.

232/ Focus, 22, May-June 1979.

233/ Ibid.

234/ Government Gazette No. 6403, 5 April 1979.

226. An amendment to the Publications Act has closed a loophole in the Act (see para. 231 below).

2. Pass arrests and curfew

227. The increase to R500 in the penalty on employers for employing Africans 'illegally' in an urban area (see para. 105 above) was expected to cause thousands of Africans to lose their jobs and find themselves deported to the 'homelands', in the light of a new tough line on influx control heralded by the Riekert Commission report. According to a White Paper published in mid-1979, the Government sees its influx control policy in terms of (a) control at place of work, (b) control at place of residence, and (c) control over the time limit during which blacks may remain in urban areas. 235/

228. Despite the Riekert report's recommendations that night curfews for blacks be abolished, information is available to the Group that stricter enforcement of the so-called 'white by night' ruling, whereby only blacks with special permits may be present in white residential areas at night, is being considered in Cape Town. Not only blacks, but many whites housing them, are likely to be victims of 4 a.m. police raids, according to the Financial Mail, 'if a hitherto secret official report has its way'. 236/

229. According to information before the Working Group, the Department of Plural Relations Reference Bureau now has a centralized record of almost 15 million fingerprints of Africans. The Bureau has a register of all Africans over 16. 237/

3. Harassment of journalists and the press

230. Several journalists have been prosecuted in the course of their professional work during the period under review. A senior Johannesburg journalist was charged under the Defence Act and the Official Secrets Act in April 1979 and detained overnight by security police. Dr. du Plessis, assistant editor of the Star African News Service, was reported to be writing a book on the Rhodesian war, copies of the manuscript of which were seized by police. 238/

231. Following the failure of a prosecution under the Publications Act of a student editor, Mr. Sean Moroney, editor of Wits Student, in 1978, the Act was amended and fears were expressed in the press that 'wide-ranging' prosecutions might follow. 239/

232. Professor Andre Brink, of Rhodes University, told a discussion on 'The Writer in Africa' in April that 'censorship in South Africa should not be regarded as a protection for moral standards or religious beliefs but an extension of a repressive political apparatus'. 240/

235/ Star, 14 July 1979.

236/ Financial Mail, 19 June 1979; Sunday Times, 19 August 1979.

237/ Focus, 22, May-June 1979.

238/ Rand Daily Mail, 21 April 1979.

239/ Rand Daily Mail, 7 May 1979.

240/ Cape Times, 19 April 1979; Rand Daily Mail, 6 July 1979; Guardian, 17 September 1979.

233. A pamphlet, Journalists: Repression and Truth in Southern Africa, published by the United Kingdom National Union of Journalists during the period under review, lists the following laws as restricting press freedom in South Africa: the Internal Security (Suppression of Communism) Act; the Bantu Administration Act; the Criminal Law Amendment Act; the Criminal Procedure and Evidence Act; the Public Safety Act; the Prisons Act; the Official Secrets Act; the BOSS Law. 241/

234. In a rare and detailed explanation of the banning of an issue of a new literary magazine, Staffrider, the Director of Publications told the editors of the paper that 'the undesirable material is mostly confined to unfair, one-sided and offensive portrayals of police actions and methods, calculated to evoke hatred and contempt of them. The Appeal Board has on several occasions pointed out that the police have been authorized by the state to maintain law and order; and that material calculated to bring them into contempt and to undermine their authority as a body is prejudicial to the safety of the State.' 242/

241/ Journalists: Repression and Truth in Southern Africa, NUJ, 1979.

242/ Staffrider, April/May 1979.

II. NAMIBIA

Introduction

235. The illegal processes whereby South Africa has steadily extended its jurisdiction over Namibia were described in a previous report of the Group (E/CN.4/1311, paras. 354-444).

236. Previous reports of the Group have also discussed the Development of Self-Government for Native Nations in South West Africa Amendment Act, No. 20 of 1973, which enable the South African State President to grant "self-government" to any of six proclaimed "homelands" (Ovamboland, Kavangoland, Eastern Caprivi, Damaraland, Hereroland, Namaland) established as a result of the Development of Native Nations in South West Africa Act, No. 54 of 1968, and the South West African Affairs Act, No. 25 of 1969, which increased the illegal incorporation of Namibia into South Africa by greatly extending the area over which the South West African Administration in Windhoek, the governing authority in the territory since 1925, had no jurisdiction (E/CN.4/1135, paras. 196, 198-201, 245-250; E/CN.4/1020/Add.1, paras. 1-2).

237. The Group in its current report has paid particular attention to development which involve flagrant violations of human rights, such as the violation of the right to self-determination, freedom of speech, freedom of movement and freedom of association involved in the holding of the internal election of 4 to 8 December 1973 under South African control; the imposition by the Administrator-General of further security regulations providing for indefinite arrest and detention, amendment of existing regulations to provide further unrestricted interrogation rights to the police, and extension of martial law from the three "security areas" of Ovamboland, Kavangoland and Eastern Caprivi, to cover six magistral districts in the "Police Zone" (the original demarcated area of white settlement) from Tsumeb to Windhoek; the widespread arrest, detention and torture of Namibians by the security police acting under the instructions of the Administrator-General; the harassment, intimidation and killing of civilians in northern Namibia by police and troops engaged in "counter insurgency" operations to the extent that all semblance of order and the rule of law had disappeared; the detention of Namibians arrested in Katutura and seized in the Kassinga raid in appalling open-air conditions, and spread of detention camps throughout the territory; the increased militarization of Namibia and continued development of an army structure in the territory recruited from the indigenous population and expansion of ethnically-based "tribal armies", such as the Ovambo Home Guard, used to supplement the presence of the South African Defence Force in the "operational area".

238. The most significant developments during the period under review have been the continuing efforts to implement the proposal for a peaceful settlement as provided in the following Security Council resolutions.

(a) Security Council resolution 385 (1976)

239. Resolution 385 (1976) of 30 January 1976 which, inter alia, declared that it was imperative that free elections under United Nations supervisions and control to be held for the whole of Namibia as a political entity. To implement this resolution the efforts were directed in the sense to persuade the Government of South Africa to co-operate in the holding of Territory-wide elections under United Nations supervisions.

240. It will be recalled that the Western proposal for a peaceful settlement provided for the establishment of a cease-fire in the Territory; the phased withdrawal of all but 1,500 South African troops who would be confined to bases at Grootfontein, Oshivello or both and withdrawn after the certification of the election; the return of all Namibian refugees and Namibians detained or otherwise outside the Territory, including personnel of the South West Africa People's Organization (SWAPO), in order that they might participate freely in the political process; the release of all Namibian political prisoners held by South Africa; and the installation in the Territory of a United Nations Transition Assistance Group (UNTAG) headed by a Special Representative of the Secretary-General to monitor both sides and to ensure free and fair elections to a constituent assembly by 31 December 1978.

(b) Security Council resolution 431 (1978)

241. Resolution 431 (1978) which has been adopted by the Security Council on 27 July 1978 requested the Secretary-General to appoint a Special Representative for Namibia and to submit a report containing his recommendations for the implementation of the proposal in accordance with resolution 385 (1976) mentioned above. A report submitted to the Security Council on 29 August 1978 by the Secretary-General contained besides the cease-fire proposal, his recommendations for the implementation of the proposal for a settlement. 243/

(c) Security Council resolution 435 (1978)

242. By its resolution 435 (1978) of 29 September 1978 the Security Council approved the report of the Secretary-General and decided the establishment of United Nations Transitional Assistance Group (UNTAG). The Council also called on South Africa to co-operate with the Secretary-General; declared that all unilateral measures taken by the illegal régime in respect of the electoral process, including the unilateral registration of voters or the transfer of power, were null and void. . . .

(d) Security Council resolution 439 (1978)

243. By its resolution 439 (1978) of 13 November 1978, the Security Council called upon South Africa to cancel the elections; demanded that South Africa co-operate with the Security Council and the Secretary-General in the implementation of Council resolutions 385 (1976), 413 (1978) and 435 (1978); and warned South Africa that its failure to do so would compel the Security Council to meet forthwith to initiate appropriate actions under the United Nations Charter, including Chapter VII. The Security Council called on the Secretary-General to report on the progress of the implementation of the resolution.

244. Following discussions between the Secretary-General and the South African Secretary for Foreign Affairs, Mr. Brand Fourie, Dr. Waldheim stated in report presented to the Security Council on 25 November that he had been informed that the South African Government declined to cancel the December elections, but remained willing to co-operate in implementing resolution 435 (1978), subject to agreement being reached on certain points, including the setting of a fixed date for elections and further discussion on the composition and size of UNTAG. Thus, despite the United Nations refusal to recognize the legality of the South African supervised

243/ Secretary-General report contained in Official Records of the Security Council, Thirty-third Year, Supplement for July, August and September 1978, Document S/12827.

voting, the elections took place in Namibia from 4 to 8 December 1978 244/. Therefore South Africa refused to cancel the elections which it said was an internal process to elect leaders.

245. On 22 December 1978, the South African Foreign Minister informed the Secretary-General that his Government had concluded its consultations with "the leaders of South West Africa" who had expressed their support for an internationally acceptable settlement, in view of which South Africa hoped that the Secretary-General would dispatch his Special Representative to complete consultations on outstanding issues, which it was imperative to be concluded in January 1979. The Foreign Minister listed points which in his opinion followed from his decision to co-operate, including the understanding that elections would take place not later than 30 September 1979, that the maintenance of law and order would remain the primary responsibility of existing police forces, and that the Administrator-General would exercise legislative and administrative authority until independence. 245/

246. On 1 January 1979, the Secretary-General informed South Africa that his Special Representative would visit South Africa and Namibia for consultations relating to the date for elections, and the emplacement of UNTAG, and that following from the parties concerned informing him separately of their willingness to undertake and observe a cease-fire, the emplacement of UNTAG should commence before the end of February 1979, while consultations relating to the composition of the military component proceeded at United Nations Headquarters. The Special Representative subsequently visited South Africa from 13 - 22 January and also visited the front-line States from 28 January to 10 February, Nigeria from 11-12 February, and had consultations with Mr. Nujoma in Luanda on 9-10 February.

247. On 26 February 1979, the Secretary-General issued his report concerning implementation of Security Council resolutions 435 (1978) and 439 (1978). This proposed that to assist the peaceful return of Namibian exiles (estimated to number some 45,000 people in all), reception centres operated under the close supervision of UNHCR be established to provide transit facilities and ensure all returning Namibians would be free to locate where they wished. Coincidental with the cessation of all hostile acts, the South African Defence Force (SADF) armed forces would be restricted to base and subsequently be withdrawn in phases as previously outlined. Any SWAPO armed forces in Namibia at the time of the cease-fire would be restricted to base at designated locations inside the Territory after necessary consultation, and all SWAPO forces would be restricted to base in neighbouring countries. Although there was no specific proposal for UNTAG to monitor bases in these countries the Secretary-General stressed he had received repeated assurances from neighbouring States that they would ensure that the provisions of the settlement were adhered to, and it

244/ International Herald Tribune, 8 December 1978; Guardian, 8 December 1978, Le Monde, 8 December 1978.

245/ Official Records of the Security Council, Thirty-third Year Supplement for July, August and September 1978, documents S/12827, S/12836, S/12841, S/12853, S/12869; ibid., Supplement for October, November and December S/12900, S/12915, S/12938, S/12950, S/12983.

was proposed to establish UNTAG offices to facilitate co-operation in Angola, Botswana, and Zambia. The Secretary-General said he intended to send identical letters to South Africa and SWAPO proposing a specific hour and date for the commencement of the cease-fire requesting both parties to write to him within 10 days before the proposed date of their agreement to abide by its terms. A list of possible troop-contributing countries had been submitted to the parties, and before the commencement of the operation, the proposed composition of the military component would be submitted for the approval of the Security Council. The Secretary-General noted that if the co-operation of the parties was forthcoming, he proposed to designate 15 March as the date for the emplacement of UNTAG and commencement of the cease-fire. The text of the proposed cease-fire letter was contained in an annex to the report, and it requested the parties to inform him of their acceptance of the terms of the cease-fire no later than 5 March. 246/

248. On 12 March 1979 the Foreign Ministers of the five Western members of the Security Council invited South Africa and SWAPO to attend "proximity talks" through mediators to be held in New York 19-20 March to discuss outstanding issues. The front-line States and Nigeria were also invited to attend, and according to South African sources, invitations had also been issued to the Democratic Turnhalle Alliance, DTA, the NNF, SWAPO-D, and the Action Front for the Retention of Turnhalle Principles, AKTUR.

249. According to the information available to the Group, during the New York discussions, attended by all the above parties, the South African Foreign Minister maintained his Government's opposition to paragraphs 11 and 12 of the cease-fire proposal, those dealing with the monitoring of SWAPO bases inside and outside Namibia. In an attempt to ensure a compromise, it was reported that the United States Secretary of State, Cyrus Vance, had proposed the installation of electronic monitoring equipment along the border to ensure there could be no cease-fire violations. Mr. Botha promised to convey the idea to the South African Cabinet. However, the SWAPO Vice-President, Misheke Muyongo, leading the SWAPO delegation at the talks, said this would be unacceptable to SWAPO and to the front-line States as it would affect the composition of UNTAG.

250. On 8 May 1979 Mr. R.F. Botha announced in Cape Town that South Africa had approved the request for the establishment of a national assembly with legislative powers in Namibia, but remained willing to follow proposals for United Nations supervised elections. In proclaiming the new body on 15 May the Administrator-General, M.T. Steyn, claimed that the move would facilitate implementation of the cease-fire proposals, and constituted a further "vital step" on the ultimate road to independence. In a statement issued in Luanda on 15 May, Mr. Nujoma said the move had destroyed efforts to solve the Namibian problem through the United Nations and that implementation of resolution 435 (1978) was the only issue, and that responsibility for escalation in the level of fighting in Namibia would be the responsibility of South Africa. 247/

246/ Ibid., Thirty-fourth year, Supplement for January, February and March 1978 S/13002, S/13105, annex, S/13120, annex.

247/ Financial Times, 15 and 23 May 1979; Guardian, 16 May 1979.

251. In a resolution adopted on 31 May 1979 the General Assembly at its 108th plenary meeting, determined that South Africa had acted deceitfully during the protracted period of talks for a negotiated settlement in Namibia in contravention of resolutions of the Security Council; condemned South Africa for imposing a so-called internal settlement on the Namibian people through a fraudulent and illegal "national assembly"; called on all Member States not to accord any recognition to the illegal national assembly; and reaffirmed that a just and durable settlement was only possible with the participation of SWAPO as "the sole and authentic" representative of the Namibian people. The resolution also condemned South Africa for its escalated arrests and detentions of leaders and members of SWAPO; demanded their immediate release, called on Member States to provide increased assistance to SWAPO to enable it to intensify its struggle for the liberation of Namibia; solemnly declared that South Africa's illegal occupation of the Territory of Namibia constituted a serious threat to international peace and stability; and called on the Security Council to convene urgently to take enforcement measures against South Africa as provided under Chapter VII of the Charter to ensure South Africa's compliance with the resolutions and the decisions of the United Nations in Namibia. 248/

252. The proclamation providing for the establishment of the National Assembly was published on 14 May 1979 by the Administrator-General, Proclamation AG 21 of 1979. The proclamation provided the "National Assembly of South West Africa" with powers to make laws to be entitled Acts, and in any such law to repeal or amend any legal provision, including any South African Act of Parliament, in so far as it related to the administration of the territory.

253. According to the information available to the Group, attempts by the DTA to introduce legislation to modify existing apartheid regulations met with vociferous opposition from AKTUR and right-wing extremist white organizations. On 8 June, the first reading of the Abolition of Racial Discrimination (Urban Residential Areas and Public Amenities) bill was approved by 37 votes to seven; the legislation sought to impose penalties of up to R300 and gaol terms of up to three months for offenders. Apart from opening existing white residential areas to all races, the bill provided for the abolition of separate facilities in hotels, restaurants, cinemas, nature reserves and public recreation areas. During the second reading of the bill at the end of July, Mr. Mudge said a period of three months would be given to owners of public buildings before the penalty clauses were implemented.

254. The previous report of the Group drew attention to the increasing military presence in Namibia (See E/CN.4/1311, paras. 338-347). During the period under review, available information indicates that South Africa took further measures to ensure its control of territory by strengthening its military occupation of the territory. According to this information available, South Africa troops in Namibia are deployed in a network of military bases equipped with sophisticated weapons, including tanks, armoured cars, fighter-bombers, helicopters, and small aircraft specially adapted for a counter-insurgency role. 249/

255. On 29 September, Mr. Sam Nujoma, President of SWAPO, in a speech to the Security Council, stated that there were a total of about 60,000 South African troops

248/ General Assembly, Thirty-third session, Agenda Item 27, Question of Namibia, A/RES/33/206, 1 June 1979.

249/ A/AC.109/L.1318, 18 July 1979, paras. 4-6, Windhoek Advertiser, 19 March 1979.

in Namibia. 250/ Previously, the maximum number had been estimated at 53,200 (See E/CN.4/1311, para. 339). In the period leading up to the December elections there were numerous reports of South Africa increasing troop numbers, particularly in the north.

256. On 5 March 1979, South African forces in Namibia launched attacks into Angola; according to the SADF the raids were to pre-empt a movement of SWAPO forces southwards to new base camps close to the border, preparatory to moving into Namibia after a cease-fire.

257. The Security Council convened on 20 March 1979 to consider a complaint by Angola, regarding the attacks, and on 28 March approved resolution 447 (1979), which condemned South Africa for persistent and sustained armed invasions of Angola, and requested the Secretary-General to obtain available information from Angola on "human casualties and material and other damage resulting from these acts of aggression". 251/

258. During the period under review South Africa also took further measures to involve Namibians in its military campaign against SWAPO and to create the basis for a separate defence force for the territory. The previous report of the group (See E/CN.4/1311, paras. 342-3) referred to the appointment of Major-General Jannie Geldenhuys as Officer Commanding of the SWA Command in August 1977, with the specific task of re-organizing the army command structure in Namibia. Extensive recruiting took place for the multi-ethnic 41st SADF battalion formed in 1977, and it was announced that the battalion had been sent to the operational area for active service, the first time it had been used in a counter-insurgency role, while it was also confirmed that black Namibian Commandos had been used operationally for the first time in the Eastern Caprivi. The first black Namibian officer in the SWA Command, a captain, was appointed on 1 October, and Major-General Geldenhuys announced that white officers were being replaced with "locals" as quickly as possible. 252/

259. The annual congress of the white Republican Party in September passed a resolution asking the DTA to propose compulsory military training for all races between the ages of 18 and 25. Other motions proposed included the declaration of the entire territory as a security district, the defoliation of a strip of territory in the border areas, and the bulldozing of observation strips.

250/ Official records of the Security Council, Thirty-Third year, 2087th Meeting.

251/ Focus, No. 23, March-April 1979, p.6. Official Records of the Security Council, Thirty-fourth year, 2139th meeting, March 1979.

252/ Windhoek Advertiser, 20 September 1978, Windhoek Observer, 23 October 1978, Windhoek Advertiser, 19 March 1979.

A. Capital Punishment

1. Reference to some relevant laws

260. As stated in previous reports of the Group, the various South African laws providing for the death penalty have been illegally made applicable to Namibia. The Terrorism Act, No. 83 of 1967, which was made retroactive to 1962 when it was introduced and which provides the death penalty for a wide definition of "terroristic activities", the Sabotage Act (General Law Amendment Act, No. 76 of 1962) and the Internal Security Act, 1950 (formerly known as the Suppression of Communism Act, 1950) as amended in 1976, are used in Namibia to the exclusion of all other legislation (see E/CN.4/1270, para. 296). No further legislation was passed and made applicable to Namibia that reduced or extended the circumstances in which the death penalty may apply during the period under review.

2. Analysis of information received

261. The South African Government publishes no information with respect to any executions of convicted Namibian prisoners that may have been carried out, and during the period under review there were no reports of the execution of Namibians via the judicial process. However, as noted in a previous report of the group (E/CN.4/1270, para. 300), only relatively few SWAPO guerrillas captured according to communiqués published by the military authorities, have actually been tried for participation in guerrilla activity, which strongly suggests many are being held in indefinite detention at undisclosed locations, or tried and executed in secret.

262. During the period under review, three SWAPO members were tried on charges under the Terrorism Act in connexion with the derailment of a train near Karibib in June 1978, and the sabotage of a road bridge near Keetmanshoop in May 1978. Johannes Alfons Pandeni, an unemployed school teacher, and Petrus Nangola Iilonga, 25, both pleaded guilty at the outset of their trial on 31 October 1978, to charges of participating in guerrilla activities and stated that they had acted under order from PLAN, The Peoples Liberation Army of Namibia, SWAPO's military wing, and not as SWAPO supporters. They were described by police as highly trained saboteurs. The third accused, William Biwa, 26, a farmer, pleaded guilty to harbouring and aiding the guerrillas. The men had been arrested by the South African Railways Police who said they had discovered an explosives and arms cache on a farm near Gibeon in Namaland, and that the three accused had been positively identified with both incidents. On 15 November, Pandeni and Iilonga were each sentenced to 18 years imprisonment after being found guilty of causing both explosions, and Biwa was sentenced to six years for having harboured Pandeni and Iilonga during May and June 1978. Passing sentence in the Windhoek Supreme Court, Mr. Justice Badenhorst said he had seriously considered imposing the death sentence. 253/

B. Massacres and violation of the right to life

263. According to the information available to the Group, serious suffering and loss of life was caused to Namibian civilians in the northern areas by the military activities of SADF. In June 1979, the Rev. Paul Vee, an American Lutheran churchman, visited Namibia as an official representative of Lutheran Churches in the

United States and Wee reported that at the Engela mission on the border, the evidence of suffering was at every hand, with graves of many victims, usually innocent farmers and children, caught in cross-fire between SADF and SWAPO forces, and many direct accounts of intimidation, detention, torture and death at the hands, of SADF and tribal forces. 254/

264. It was reported that civilians in the north on two occasions, 29 April 1979, and 2-4 May 1979, had seen black Namibians being dropped from SADF helicopters. On 21 May 1979, unarmed villagers from various places in Northern Namibia were rounded up by South African soldiers who proceeded to identify those suspected of being SWAPO supporters, and then bayonnetted them to death and buried them. Other villagers made to view the murders were tortured to intimidate them to renounce any association with SWAPO. The SADF officially announced the accidental death of two black civilians and the wounding of four others on 13 June 1979; this was the first official admission of the death of civilians as a result of operations by the security forces. 255/

C. Forced removals of population

265. The last report of the Group has described the mass round-ups of thousands of people in the North by the security forces with many detainees subsequently reported to be missing, as well as the depopulation of the one-kilometre wide no-go zone along the northern border (see E/CN.4/1311, paras. 369-70).

266. According to the information available to the Group there were no forced removals of population during the period under review as in previous years, whether to clear the way for military campaigns or to further implement the "homelands" policy. However, the disruption of normal civilian life in the northern areas by the activities of the SADF continued, and the scale of the mass arrests carried out under the martial laws provisions, constituted in the opinion of the Group a form of mass population removal since the intimidation was calculated to cause a further exodus of SWAPO supporters from Namibia (see paras. 276-281 below).

D. Treatment of political prisoners and captured freedom fighters

1. Summary of some relevant laws

267. As indicated in previous reports of the Group, the South African security laws providing for severe penalties of detention and imprisonment for a range of "political offences", as well as legislation governing the situation of prisoners in gaol, have been made specifically applicable to Namibia and are still applied (see E/CN.4/1030/Add.1, para. 9, E/CN.4/1222, paras. 332-333 and E/CN.4/1311, paras. 372-376).

268. During the period under review stringent regulations relating to the imposition of martial law and security matters were promulgated by the Administrator-General. According to the information available to the Group, martial law was declared over a wide area of Namibia from Windhoek to Tsumeb in the north-east, covering the six magistral districts of Windhoek, Tsumeb, Outjo, Okahandja, Otjiwarongo and

254/ Episcopal Churchmen for South Africa (ECSA), 29 June 1979.

255/ Ibid., 26 July 1979, SWAPO Press Release, London, 25 July 1979; Focus, No. 23, July-August 1979, p. 16.

Grootfontein, and affecting 80 per cent of the total population in the territory. Through amendments to the Security Districts Proclamation AG 9 of 1977, the Administrator-General declared the area a "security district" and conferred wide-ranging powers on the security forces to arrest any person without a warrant, search him or her, and to carry out interrogations, if it was suspected that the person had committed or was planning to commit a crime, or had information about one; empowered the security forces to search any building, vehicle or property, and to confiscate anything relevant found; prohibited all public meetings unless at least 24 hours notice had been given to the magistrate concerned, and prior permission granted. On 11 May 1979 the Administrator-General announced that the security forces were now empowered to detain those arrested in security districts for up to 30 days, without recourse to a lawyer unless permission for a lawyer to be consulted is granted by a judge, instead of the 96 hours provided originally in Security Districts Proclamation AG 9. The measures followed the murder of members of the family of a white farmer in the Tsumeb area on 9 May, which police attributed to a 12-strong SWAPO guerrilla unit which remained untraced. 256/

269. Proclamation AG 26 of April 1978, which makes provision for the indefinite detention incommunicado of suspects, was amended on 18 May 1979, to allow for detainees to be detained subject to conditions determined by the Administrator-General and these conditions included interrogation at any time by a justice of the peace at the place of detention. Another Proclamation AG 27, of 18 May 1979, provided for certain amendments to Security Districts Proclamation AG 9 of November 1977. An additional section, provided for the Administrator-General to issue an order in writing for the further detention of any person named in the order who had been held in terms of AG 9, or was otherwise in custody as a result of operations carried out by the security forces or suppression of terrorism or any other purpose in terms of the Defence Act, No. 44 of 1957. The effect of this amendment was to allow the security forces on the instructions of the Administrator-General to hold suspects beyond 30 days. Those so detained were to be held at a place specified in the order or as determined from time to time with the approval of the Administrator-General, whether within or outside a security district. Anyone so detained was to be held in accordance with the order until it was withdrawn by the Administrator-General acting on the recommendation of the Officer Commanding the South West Africa Command of the SADF. 257/

270. On 22 June 1979, a dawn to dusk curfew was imposed in Ovamboland in terms of Proclamation AG 50, (Order under the Security Districts Proclamation, 1977, in Relation to the Movement of Persons in Ovambo). Existing provisions banning the movement of all motor vehicles at night were extended to cover bicycles and pedestrians, to the effect that no person was allowed to be outside any time during the night without the permission of a peace officer, as defined in section 1 of the Criminal Procedure Act, No. 51 of 1977, or any officer of the security forces. Offenders are subject to a fine of up to R600 or three years imprisonment. 258/

256/ Financial Times, 11 May 1979, Rand Daily Mail, 11 May 1979, Focus, No. 23 July-August 1979, p.2.

257/ Official Gazette, Nos. 3963, 3964, 18 May 1979.

258/ Official Gazette, No. 3978, 22 June 1979, Focus, No. 23, op. cit.

271. According to information available to the Group, new identity documents were to be issued from the end of August 1979 to all Namibians aged over 16. The documents were compulsory and had to be carried for presentation on demand to any member of the South African Police or SADF. Anyone not applying for these documents was liable to a maximum penalty of a R500 fine and/or six months imprisonment. In September, the Director of Community Services at the office of the Administrator-General announced that more than half the estimated number of residents had been registered in terms of new legislation. A date on which the carrying of the new identity document became compulsory had still to be determined. The uniform identity document drive was reported to have been introduced partly as a security measure for all residents. It was reported that the entire north of the territory from the Atlantic coast to the Eastern Caprivi had been declared a restricted area to civilian aircraft in July 1979. The restrictions included a ban on all flights in the area between 6 p.m. and 6 a.m., no flights below 3,000 feet, the compulsory filing of a flight plan in advance, and maintenance of continuous two-way radio contact with military air traffic control centres in Grootfontein, Ondangva, Rundu and Ipacha. The additional regulations were set out in an amendment to the Aviation Act, following a civilian aircraft crash on the Kavango river, which forms part of the border between Angola and Namibia. 259/

2. The Police Forces: existing structure and United Nations proposals

272. A previous report of the Group described the incorporation of the local Police Force into the South African Police, which body is accordingly authorized by South Africa to exercise the powers entrusted to the former under the laws of the mandated territory (see E/CN.4/1050, paras. 264-267). 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 directions of the Ministry of Justice, Police and Prisons.

273. Four types of police currently operate in Namibia. (a) The South African police units stationed in, or seconded to, Namibia. They are furnished with military vehicle jeeps and helicopters and are involved in so-called counter-insurgency operations jointly with the SADF; (b) the security police, with a large detachment of men on duty in Namibia are particularly concerned with the detention and interrogation of political prisoners; the head of the Security Police is Colonel Koos Myburgh; (c) the municipal police, including African constables under white officers is mainly responsible for enforcing pass laws, influx controls, registration of workers at employment bureaux, issuing of permits, etc.; (d) so-called tribal police which is a force operating under the control of the tribal authorities and "homeland" governments of Ovamboland, Kavangoland and East Caprivi, and is not subject to South African departmental regulations or any form of public scrutiny (see E/CN.4/1135, para. 210; E/CN.4/1159, paras. 243-244; E/CN.4/1187, para. 360).

274. The last report of the Group described the proposal for a civil police element as part of the civilian component of the United Nations Transition Assistance Group, UNTAG, consisting of approximately 360 experienced police officers, and the rejection of this by South Africa (see E/CN.4/1311, paras. 380-381).

3. Analysis of evidence and information received

275. The evidence collected by the Group on this subject is presented as follows: (a) the numbers of political prisoners and some recent arrests; (b) allegations concerning torture and the cruel, inhuman and degrading treatment of political prisoners and captured freedom fighters; (c) allegations concerning violations of the right of the accused to a fair and public trial and procedures for complaints and redress.

(a) Political prisoners and recent arrests

276. During the period under review according to the information available to the Group, South African police arrested large numbers of SWAPO officials and supporters.

277. On 26 February 1979, 57 members of the SWAPO Youth League, arrested in connexion with the SWAPO demonstration of 2 December, were found guilty by the Windhoek magistrates court of demonstrating in a municipal area without the prior permission of the municipal authorities. Warrants of arrest were issued at the hearing for a further eight SWAPO members who had failed to attend the court. The 57 were discharged after being cautioned by the magistrate. 260/

278. On 27 April 1979, 39 top officials and senior members of SWAPO, representing almost the entire leadership within Namibia, were arrested by security police, acting on the orders of the Administrator-General, Justice Steyn. The arrests, which preceded the establishment of a National Assembly, were in terms of Proclamation AG 26 of April 1978 which permits the Administrator-General to detain any person whose actions are felt likely "to promote violence or intimidation", indefinitely without charge or trial.

279. According to the information available to the Group, Mr. Axel Johannes, Administrative Secretary, was arrested on 29 April after evading capture for two days following his return from attending the "proximity talks" in New York. A large number of SWAPO officials and members were arrested at the same time.

280. The security police were also reported to be searching for a number of other SWAPO officials and members in order to arrest them including Pastor Festus Naholo, Secretary for Foreign Affairs; Mokganedi Tlhabanello, Publicity and Information Secretary; Daniel Tjongarero, Vice-Chairman; Jason Angula, Secretary for Labour; Emmanuel Ngajizeko, Deputy Administrative Secretary; Rev. B.J. Karuera, member of SWAPO national executive. Mr. Tjongarero and Mr. Tlhabanello were on overseas missions at the time of the arrests. It was reported that Mr. Tlhabanello was arrested on 12 July 1979 on his return from West Germany, and subsequently released on 21 July. 261/

281. Many of those arrested were being held incommunicado in Gobabis prison, while lawyers from overseas organizations and from inside Namibia were being refused access to the detainees. A number of other unidentified SWAPO members were arrested in subsequent months; it was reported that the total detained as of 4 August 1979 was 72. It was subsequently reported that as of mid-September, 14 of those originally detained had been released, without being charged, leaving 58 people still held under AG 26. In addition 27 people were being held in terms of section 6 of the Terrorism Act, charged with attempting to leave the territory illegally. 262/

260/ Cape Times, 5 January 1979, Windhoek Advertiser, 27, 28 February 1979.

261/ SWAPO Press Release, 9 May 1979, London, Focus, No. 22, May-June 1979 p. 14 Rand Daily Mail, 5 June 1979, Summary of World Broadcasts, 23 July 1979, ME/6174/B/8.

262/ SWAPO Press Release, 25 July 1979, London, Star, 4 August, 8 September 1979, Summary of World Broadcasts, 23 July 1979, op. cit.

(b) Information concerning torture and the cruel, inhuman and degrading treatment of political prisoners and captured freedom fighters

282. According to the information available to the Group there was evidence of widespread brutality and maltreatment of detainees during the period under review. SWAPO sources reported that Daniel Tjongarero and Mokgadi Tlhabanello had been seen being admitted to the Windhoek state hospital after their arrest on 6 December 1978, with injuries indicating that they had been assaulted; Mr. Tjongarero was carried on a stretcher, and Mr. Tlhabanello was handcuffed and his face bruised and swollen. (See para. 280 above). On 8 December, in an attempt to offset those allegations, two overseas journalists, and a United States observer of the election, were allowed into the Windhoek gaol to interview the six SWAPO executive members detained, under a special dispensation granted by the Minister of Justice under the Terrorism Act. The questioning was via Colonel Koos Myburgh. Although they subsequently reported that the officials appeared in good health, it was reported that Lucia Hamutenya had said she had been slapped in the face and kept standing for three nights. Police denied the allegation, but admitted that it was normal practice to check on detainees every half hour at night to see that they had not committed suicide. Colonel Myburgh said it was planned to interrogate the SWAPO leaders extensively, but to date most of them had simply been given pen and paper and asked to tell their stories. 263/

283. In its last report the Group have described the repeated detention and sufferings inflicted by police on Axel Johannes, SWAPO Administrative Secretary (E/CN.4/1311, para. 388). Arrested in April 1978 and detained under the Terrorism Act, Mr. Johannes was transferred to Seeis prison east of Windhoek, where he was interrogated by Captain Koffee and Nel, and four black security police. His hands were handcuffed behind his back, and he was pulled upwards off the ground by means of a rope attached to his handcuffs and led through the bars of the overhead cell window, placing great strain on his arms and shoulders. A cloth was tied over his mouth; Captain Nel struck him repeatedly in the face, the other policemen struck him in the buttocks and the stomach and a blanket was tightened round his throat making breathing impossible, while the cloth caused bleeding.

284. Released in September 1978, Mr. Johannes was arrested again on 3 February 1979, in Ovamboland, after allegedly overtaking two police vans. According to a detailed statement issued on 16 March, he was taken to a police camp at Uutapi-Ombalanti, where he was blindfolded and his ankles and wrists tied to iron bars. Cold water was poured over his whole body, a type of cap was put over his head, and he was administered repeated electric shocks. The electrodes were placed successively on either side of his midriff, inside his upper thighs, on his penis, his anus, and into his nostrils. Describing the intensity of the electric currents passing through his body, Mr. Johannes said: "The feeling of shock was not the same on each occasion. Sometimes it would be a short sharp pain at intermittent intervals, other times it would be a slow, long drawn-out agony, other times it would be a rapid jerking". He was subsequently taken to Oshakati where he was told by Major Badenhorst of the Security Police that he was being held under the provisions of AG 9. On 16 February he was found guilty in the Ondangwa magistrates court of having contravened the

regulations prohibiting the driving of a vehicle at night in "security districts" in Namibia and was fined R200 or 100 days imprisonment. Mr. Johannes took part in the New York "proximity talks" in March 1979 and subsequently returned to Namibia. 264/

285. Namibian refugees taken prisoner by the SADF following the raid on Kassinga in May 1978 were reported to be detained at a detention centre at the Hardap Dam near Mariental. According to official South African sources about 200 prisoners were taken after the massacre, of whom 63 were released three weeks later. According to SWAPO, the remaining 130 known captives from the Kassinga raid were being subjected to brutalities by the South African police. The allegations were based on the eyewitness reports of two people who had been released; detainees had been tortured by the removal of eyes, severing of ears, lips, fingers and genital organs; strangling to death and use of electric shocks. Many still bore horrific scars and burn marks after such torture. Forty of these prisoners were reported to have been subsequently moved to Gababis prison. In July, the SWAPO President, Mr. Nujoma, issued an urgent appeal for an "on-the-spot investigation through legal experts and democratic lawyers", and on 25 July, the London office of the SWAPO Representative in Western Europe requested the International Commission of Jurists and Amnesty International to send a team of lawyers to Namibia. The lawyers were being requested also to investigate conditions in the detention camps set up by South Africa where thousands of Namibians were being detained. Amongst other revelations of an upsurge of atrocities on the part of the South African police and military according to SWAPO, was the existence of an open-air detention centre near Windhoek, where refugees from Namibia who had arrived in Angola stated that most of the 5,000 people arrested in the mass swoop on Katurura in June were being held. Five people were said to have died of exposure and starvation after being held for five days without food and water, while others were said to be seriously ill. 265/

(c) Violations of the right of the accused to a fair and public trial

286. The Group received no direct evidence as to violations of the right of the accused during court hearings for the period under review. The Group however, feels certain that on the basis of past trials during which duress has been used to obtain a confession from the accused or to force witnesses to give evidence for the prosecution (see E/CN.4/1311, para. 414, E/CN.4/1270, paras. 323-324) a continuing pattern of systematic violations of the rights of the accused pertains in Namibia.

E. Situation of the African black workers

1. Background information

287. In its previous reports the Group has examined the effects of the labour system in Namibia, including the system of recruitment of migrant workers; the denial of trade union rights; the disparity in wages between black and white workers; and the low wages and resulting poverty (E/CN.4/1222, paras. 385-390; E/CN.4/1187, paras. 376-379; E/5622, paras. 117-136; E/CN.4/1135, paras. 283-299; E/CN.4/1270, paras. 325-337; E/CN.4/1311, paras. 415-424).

264/ Namibia Bulletin, No. 1/79, March 1979, p. 9. Focus, No. 21, March-April, 1979, p. 7.

265/ SWAPO Press Release, 25 July 1979, Episcopal Churchmen for South Africa 11 July 1979.

288. The bulk of Namibia's African population is dependent on the meagre income available from subsistence agriculture and the contract labour system. Lack of natural resources, coupled with years of official neglect means that subsistence agriculture, practised in the "homelands" makes a very small contribution to the territory's GDP - in 1953, the last year for which South Africa provided such information, the figure was less than 3 per cent, and in the opinion of observers, this situation may since have deteriorated. 266/ Because the "homelands" or reserves are incapable of supporting their population, the majority of black Namibians have the choice of working for white employers or starvation. The operation of the contract labour system has been described in previous reports of the Group. According to the International Labour Office, South Africa's policies in the territory, based on the system of discriminatory laws in force in the Republic, and the establishment of "homelands" for each of Namibia's so-called ethnic groups as a means of ensuring a supply of cheap black labour to the mines, farms and factories of the white-owned and white-controlled commercial economy result in the exploitation of human resources. 267/

289. South Africa has revised its population figures in recent years, without, however, providing any detailed and reliable figures. According to a study prepared in 1977 for the United Nations Institute for Namibia, the total population as of 1977 was of the order of 1,250,000. This was distributed as follows: 60 per cent Africans from the northern zone (Ovambo Kavango-Caprivi); 24 per cent from the central and southern zones (including Kaokoveld); 9 per cent Coloured; 7 per cent European (one half South African, the rest expatriates, including the 25 per cent of German ancestry). 268/

290. The economically active population of 518,000, some 40 per cent of the total population, included 433,000 Africans, 48,500 "Coloured" and 36,500 Europeans. Of these, approximately 230,000 Africans and 10,000 Coloureds were engaged in subsistence or non-white-owned small agriculture; 43,500 Africans, 6,500 Coloured and 6,500 Europeans were employed on white-owned farms and ranches; 159,500 Africans, 32,000 Coloureds and 30,000 Europeans were engaged in urban employment (mining, manufacturing, construction, commerce, public services). These latter figures include 75,000 Africans and Coloureds employed as domestic servants. Approximately 97,000 Africans and 12,500 Coloureds, 110,000 altogether are engaged in work as individual, short-term migrants without their families. Of these about 75,000 are Africans from the north working in large-scale agriculture and urban sectors in the centre and south. This figure (110,000) represents about one half of the total black Namibian labour force employed outside subsistence agriculture. 269/

291. The wide scope of the individual migrant contract labour system is evidenced by the fact that at least 40 per cent of the 260,000 household units in Namibia have a male member away in distant employment. The proportion approaches half for all non-European households, and two-thirds for households in the subsistence agriculture sector. Migrant workers number approximately 25,000 in subsistence agriculture and 85,000 in urban activities.

266/ The Workers of Namibia, Gillian and Suzanne Cronje, International Defence and Aid Fund, February 1979, p. 20.

267/ International Labour Office, Workers and Discrimination in Namibia, 1977.

268/ United Nations Institute for Namibia, Towards Manpower Development in Namibia, Lusaka, 1977.

269/ United Nations Institute for Namibia, Manpower Estimates and Development for Namibia, 1978, Table II.

2. Analysis of information received

292. According to the information available to the Group, the black working population was being severely affected by the stagnation of the economy. It was reported that the economy in 1979 was characterized by 15 per cent inflation and a zero growth rate, this compared with an average 3.3 per cent growth rate in the 1970-1977 period. Official unemployment was over 10 per cent, with concealed unemployment probably three times higher. Private fixed investment, including mining, had gone into sharp decline, and no single revenue-producing building had been erected in Windhoek's central business district since 1973. The inflation rate had sharply increased, following the trend in South Africa, with a scarcity of some import goods, while some R200m of individual funds are estimated to have left the country since 1977. The collapse of the pilchard resource in 1978 had led to cut-backs in the fish-canning industry. The cost of living in Windhoek was reported to be 30 per cent higher than in any urban areas in South Africa. 270/

293. The cost of living for black workers in South Africa has often been measured by the poverty datum line, PDL; the amount of money necessary to ensure a family barely survives. Various estimates of the PDL have been made over the past few years for Namibia. The University of Port Elizabeth Institute for Planning Research estimated that the Household Subsistence Level, HSL, a comparable measure to the PDL, for a black family of six in Windhoek, was R192 as of April 1979. The HSL includes calculation in respect of the cost of food, clothing, fuel, light, rent and transport. 271/

294. According to the information available to the Group, wage levels have in certain instances, particularly in mining, risen considerably in recent years, but in general black wages remain inadequate to meet basic needs, while wide disparities between the income of black and white workers remain. It is estimated that while the annual per capita income enjoyed by whites in Namibia is in the region of R3,000 a year, for blacks it is a mere R125 per head per year, a ratio of 24:1. A number of more outward-looking employers in Namibia, particularly overseas companies, have in recent years rejected racial discrimination.

295. As reported previously by the Group, there have been moves to introduce the principle of equal pay for equal work regardless of race (see E/CN.4/1311, para. 421). In November 1978 it was reported a new pay scale for all State employees would be in force by the end of the month. Railway workers and post office employees had already been put on the new scales, and R10m had been set aside for the adjustment. Some 6,500 black workers would be affected by the change, and of these, 800 were to go to absolute parity with whites, while the rest would have their pay scale adjusted. During the period under review a R1.5m technical training college was opened by De Beers at Ongwediva, Ovamboland. The courses will enable Africans to reach second and third levels of the National Technical Certificate, the qualification for apprenticeships in technical trades, with an initial 51 students enrolled for courses in plumbing, carpentry, welding and motor mechanics. 272/

- 270/ Financial Mail, 17 August 1979, Economist Intelligence Unit, Quarterly Economic Review of Southern Africa, Third Quarter, 1979, p. 3.

271/ The Workers of Namibia, op. cit., p. 46, Institute for Planning Research, The Household Subsistence Level in the Major Urban Centres of the Republic of South Africa, April 1979.

272/ Star, 25 November 1978; Quarterly Economic Review, op. cit., Second Quarter, 1979, p. 24.

296. According to the information available to the Group, some 2,500 Namibian black mineworkers, representing about 15 per cent of those employed on the mines, went on strike at the end of 1978 for improved wages and working conditions. There was some evidence that their action might also have been motivated by pressure from employers to vote in the December election. Strike action was first reported on 22 December, by 2,000 of the Rossing work-force. In a statement issued by the Black Workers' Committee, it was pointed out that the 10-20 per cent wage increases promised by the management would mean an additional R8 per month for black workers, and R100-200 for the lowest paid white workers, and called instead for a 22 per cent wage increase for all black workers. A number of other grievances were listed including the lack of protection from the poisonous effects of uranium radiation; bad treatment by South African security police; low priority accorded to the health and welfare of black workers and the lack of recreational facilities; accommodation in unsanitary single quarters. On 23 December, the workers were reported to have returned to work, with negotiations continuing via a special committee set up to examine the expressed grievances. Strikes also took place at the Kranzberg wolfram mine, Omaruru, the Uis tin mine and the Tsumeb mine. At Kranzberg, where 208 of the 270 black miners were sent on strike on 2 January, the strikers were sacked and repatriated to Ovamboland, while replacement labour was sought. 273/

F. Conditions of Africans in the "homelands"

1. Background information

297. The implications of the "homelands" policy as established pursuant to the recommendations of the official "Odendaal Commission" of 1964 were described in a previous report of the Group (see E/CN.4/1020/Add.1, paras. 29-36). Other reports of the Group have summarized the legislation enacted in the period since February 1973 in relation to the setting up of "homelands" for occupation exclusively by so-called "Native Nations" in accordance with the provisions of the Self-Government for Native Nations in South West Africa Act, No. 54 of 1968, and the Amendment Act No. 20 of 1973 (see E/CN.4/1135, paras. 245-252, E/CN.4/1159, paras. 237 et seq.) The previous report of the Group referred to the continued establishment of "homelands" structures in the form of second-tier "representative authorities" provided for in the draft Turnhalle constitution of March 1977. This provided for "existing legally constituted bodies" to be accepted as representative authorities for the different so-called ethnic groups (see E/CN.4/1311, para. 426).

2. Summary of recent legislation

298. During the period under review there have been relatively few examples of legislation aimed specifically at an extension of the "homeland" structures. It would appear that in a period of continuing diplomatic contacts with western nations and the United Nations, South Africa has not wished to draw attention to the continued existence of the policy under the new guise of second-tier representative authorities. Proclamation AG 28 of 1979, amending the Establishment of an Elected Coloured Council for South West Africa Ordinance, No. 29 of 1966, made provision for reduction in members of the Council from 21 to 18. 274/

273/ Focus, No. 20, January-February 1979, pp. 1 and 16, Namibia Today, No. 1 1979, p. 10.

274/ Official Gazette, No. 3,965, 13 May 1979.

3. Analysis of information received

(a) Political rights and personal freedoms

299. The holding of December elections and the reinforced South African military presence have been described above (see paras. 252-259)..

300. The most intimidating part of the election was the lack of a secret ballot; the election regulations provided for polling by secret ballot upon presentation of a registration card. On entering the polling station and presenting their cards, voters were issued not only with a ballot paper but also an envelope on which was written the number of their registration card. The electoral law included a provision whereby if the polling officer was of the opinion the voter might be illiterate he could offer to mark the paper. Polling officers seem to have made it the standard practice to mark ballot papers. One journalist saw 90 out of 100 black voters having their papers marked for them; many polling stations were heavily guarded army tents, which meant that exchanges between a voter and a polling officer were audible to police, troops and other voters, as well as DTA officials at the door. Only the DTA was able to appoint agents to all polling stations and the briefing they were able to give voters before they voted was important for the outcome. 275/

301. According to the information available to the Group, difficulties continued with the plans to grant the Rehoboth Gebiet self-government through elections to a Rehoboth Volksraad and Kaptein (see E/CN.4/1311, para. 430). In March 1979 the six elected Volksraad members threatened a UDI if their demand to be sworn in, 17 months after the elections were held in November 1977, was refused. Three of the six members had been expelled from the ruling Rehoboth Bastervereniging of Dr. Benjamin Afrika, as well as from the DTA, for proposing to be sworn in to work under the white chief director appointed to administer Rehoboth on an interim basis, while a legal dispute between Dr. Afrika and his rival for the Kapteinship, Mr. Hans Diergaardt, was resolved. In April it was announced that there was to be a new election for the Kapteinship, with Mr. Diergaardt withdrawing his legal action in return for Dr. Afrika resigning as Kaptein. As a result of the election held in July, Dr. Afrika won re-election as Kaptein. In September, the Baster Volksraad was opened by the Administrator-General, Dr. Viljoen; among problems facing the Volksraad were said to be creation of work opportunities, economic stability, viable development and the establishment of a public service. Dr. Viljoen described self-rule as meaning greater self-determination for Rehoboth, although it had to be kept in mind that the area was part of the territory. 276/

(b) Personal freedoms: freedom of movement

302. As of June 1979, according to the Rev. Paul Vee (see para. 263 above), the South African army and police occupied nearly every village and controlled nearly every road, in Ovamboland. For the first time temporary camps were being fortified with permanent buildings and underground living quarters. All towns, such as Oshakati, Ondangwa and smaller centres were surrounded by barbed wire fences with sentries from the "home Guards" and the SADF at the single entrance. In addition, tanks, armoured personnel carriers and army troops were everywhere and in great

275/ Elections in Namibia, op. cit., pp. 27-29, A/AC.109/1.1282, paras. 133, 135 and 141.

276/ Windhoek Advertiser, 29 March 1979, 19 April 1979, Star, 22 September 1979.

numbers. Rev. Wee was told by the deputy Administrator-General, Mr. John Vial, in response to presenting the views of United States Lutheran Churches against the continued detention of SWAPO members under AG 26, that an emergency situation unfortunately necessitated the abrogation of certain legal procedures. 277/

(c) Health

303. It was reported in July 1979 that bubonic plague had spread to the western Cape, after having been introduced from "countries to the north" through the border war in Namibia. A Health Department ecologist warned that the medieval "black death" would spread like wildfire in South Africa if risk areas are not vigilantly controlled and that there had been a deterioration of bubonic plague measures along northern borders. It was reported that the Anglican mission clinic at Ondudu in Ovamboland, which used to be supplied from the now closed St. Mary's mission hospital, Odibo and visited by nurses, stood empty. There were many sick people in the area without medical care. The Okathitu clinic also used to be supplied with medicines and practical nursing training from Odibo, but reliance now has to be made on basic medicines. 278/

G. Impediments to student movements

304. The question of student movements has been examined in previous reports of the Group (see E/CN.4/1222, paras. 396-407; E/CN.4/1270, paras. 356-365); it was found that education for Namibia is based on concepts so restrictive and authoritarian as to deprive the African population of an education worthy of the name. There is no university in Namibia, only a number of technical and vocational training centres, theological seminaries and segregated high schools. These include the government-controlled Windhoek Augustineum, now restricted to Coloureds only; the Ongwediva Educational, Vocational and Training Institute in Ovamboland; the Cornelius Goroseb high school at Khorivas, intended "capital" of Damaraland, and the Paulinium Theological Seminary and Martin Luther High School in Windhoek. Only a very limited number of African students have been able to attend "Bantu" Universities in the Republic; a few manage to obtain scholarships abroad. The primary and secondary levels of education are characterized by progressively higher drop-out rates in respect of Africans.

1. Relevant legislation

305. Previous reports of the Group have summarized the South African legislation affecting education for Africans (see E/CN.4/1187, paras. 388-389). The general policy has been to regulate the pattern of black education in conformity with that of the Republic. African education was transferred to the Department of Bantu Administration and Development, and that of Coloureds, Namas and Rehobothers to the Department of Coloured, Rehoboth and Nama Relations by the South West Africa Affairs Act of 1969. Teaching methods are based on the "Bantu Education" syllabus calling for instruction in mother tongue according to tribal group and in Afrikaans. At the secondary level, English and German may be taken as additional languages but the medium of instruction remains Afrikaans. The African education system is administered by a Regional Office in Windhoek, which controls all institutions offering primary and secondary education (see also E/CN.4/1311, para. 438).

277/ Episcopal Churchmen for South Africa, 29 June 1979, op. cit.

278/ Survey of World Broadcasts, ME/61.77/ii, 26 July 1979, Financial Mail, 27 July 1979, ECSA, April 1979.

2. Analysis of information available

306. It was reported that in June 1979, a group of young students, most of whom had only slight connexions with the internal legal organization of SWAPO, was arrested. 279/ Amongst those arrested in the period under review were 80 SWAPO Youth League members on 2 December 1978; and 34 youths, alleged to be SWAPO supporters, arrested for attempting to leave the territory for Botswana on 30 August, of whom six were to stand trial.

H. Information concerning persons who have been guilty of the crime of apartheid or of a serious violation of human rights

307. It should be recalled that in its resolution 6 (XXXIII) of 4 March 1977, the Commission on Human Rights requested the Group to institute an inquiry in respect of any person who had been guilty, in Namibia, of the crime of apartheid or of a serious violation of human rights, and to bring the results of that inquiry to the attention of the Commission on Human Rights.

308. After studying the relevant information received and in the light of the mandate entrusted to it, the Group has already drawn up two lists of persons, who in its view, were considered having been guilty of the crime of apartheid or of a serious violation of human rights (see E/CN.4/1270, paras. 559-567 and E/CN.4/1311, para. 444).

309. Furthermore, the Commission on Human Rights, in its resolution 12 (XXXV) of 6 March 1979, requested the Ad Hoc Working Group of Experts to continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights, and to bring the results of those inquiries to the attention of the Commission on Human Rights.

310. From the information collected by the Group during the period under review, the Group is of the view that there is sufficient reason for believing that the following persons have been guilty of the crime of apartheid or of a serious violation of human rights.

Case No. 1: Colonel Attie Drotshe, who was appointed Divisional Commissioner of Police in January 1979, for gross neglect of the conditions of detainees arrested under his command in the period under review (see paras. 277-285).

Case No. 2: Colonel Koos Myburgh, chief of the South African Security Police, for responsibility for brutality towards detainees as above.

Case No. 3: The Administrator-General, Justice M.T. Steyn, as the responsible official for ordering the detention of SWAPO members under Proclamation AG 9 and AG 26.

Case No. 4: Major Badenhorst of the Security Police, Brigadier van Niekerk, head of the CID in Namibia, Captains Koffee and Nel, in connexion with the torture of Axel Johannes (see para. 283).

III. ZIMBABWE

Introduction

311. 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 previous reports of the Group.

The "Internal Constitution"

312. In its last report, the Group described the way in which the illegal régime sought to come to an agreement with the so-called internal African nationalist leaders: Bishop Abel Muzorewa, leader of the United African National Council (UANC), the Revd Ndabaningi Sithole, leader of the internal Zimbabwe African National Union (ZANU-Sithole), and Chief Jeremiah Chirau, the President of the Zimbabwe United People's Organisation (ZUPO) (E/CN.4/1311, paras. 447-455).

313. On 2 January 1979, the illegal régime published Proposals for a New Constitution for Rhodesia. According to the proposals, the name of the territory would be Zimbabwe-Rhodesia. There would be a President appointed by an electoral college consisting of the members of the Senate and the House of Assembly. The President would be the Constitutional head of State, acting on the recommendation of the Executive Council or "some other person or authority". The Senate would consist of 30 Senators of whom 10 would be blacks, 10 would be whites and 10 would be African chiefs elected by the Council of Chiefs. The Assembly would consist of 100 members of whom (a) 72 would be reserved for blacks, elected by voters on the common voters roll to represent 72 constituencies, (b) 20 would be reserved to whites elected on a preferential voting system by voters enrolled in the white constituencies, and (c) 8 would be reserved for whites elected by the 92 members of The House of Assembly from 16 candidates nominated by the 28 white members of the outgoing Assembly. 280/

314. Apart from confirming the political composition of the new Parliament, the constitution contained the following proposals:

(a) The name of the country is to be "Zimbabwe Rhodesia";

(b) The law of the country is to be "the law in force in the Colony of the Cape of Good Hope on 10 June 1891, as modified by subsequent legislation having in Zimbabwe Rhodesia the force of law". In other words, all the law which previous reports of the Group have shown seriously to contravene the United Nations Declaration of Human Rights remain in force, unless specifically repealed.

(c) The appointment of the judiciary and of civil servants is under the control of two commissions, the members of which are required to be the most senior members of the present judiciary or civil service (or recently retired), i.e. inevitably European. Similarly, the Commissioner of the Police and the army and air force Commanders are appointed by the President on the instruction of Commissioners, who are again present or recently retired senior officers or civil servants. There is no provision for the future appointment of these officials by the elected government.

280/ Southern Rhodesia, Cmd. R.P. 2-1979, Salisbury, quoted in United Nations document A/34/23/Add.1

(d) The army, air force and police are almost totally insulated from control by the elected government. Thus, for example, the Commander of the army or air force "shall not in his command of the branch concerned and in the exercise of his responsibilities and powers in relation thereto, be subject to the direction or control of any person or authority". The only exceptions are that the Prime Minister or Minister may give "general directions of policy" with respect to the defence of the country, and the Commander may not increase the total number of personnel.

(e) Persons now citizens of Southern Rhodesia would continue to be citizens of Zimbabwe Rhodesia. In addition, persons who at the fixed date (to be published) possessed or were entitled to dual citizenship would be able to retain such dual citizenship or their right thereto. A person who held a foreign passport would not be required to surrender it, nor would he or she be denied a passport of Zimbabwe Rhodesia because of it.

(f) The draft constitution provides that English would be the official language of the country.

315. According to information available to the Group, the proposed constitution preserves the power of the whites in the Territory after independence, inasmuch as almost all of the major provisions in the constitution would be entrenched. Furthermore, the proposed qualifications for membership in the judiciary, police, defence force and public and prison service commissions are such that no African could qualify at present.

316. The draft constitution was submitted to an all-white referendum on 30 January 1979. Seventy per cent of the 93,000 white voters were reported to have participated in the referendum of whom 85 per cent approved the draft constitution which is to be put before the present Parliament for its endorsement.

317. On 1 February 1979, an article in The New York Times quoted the United States Department of State as having said that the referendum failed "to address the real issue of how to bring peace and a lasting political settlement" to the Territory.

The internal elections

318. The internal elections were held on 17-21 April 1979 to elect the 72 Members of Parliament on the common roll. Voting was on a simple party list proportional representation system. There was no electoral registration but double voting was excluded by making those who had voted dip their hands into an ultra-violet fluorescent (but otherwise invisible) dye. The total population entitled to vote - those over 18 who had been resident in the country for two years or more - was estimated by the Central Statistical Office to be 2,900,000 and the total poll was estimated to be 64.5 per cent, which included 3.6 per cent of spoilt ballot papers.

319. According to information available to the Group Lord Chitnis, who observed the elections on behalf of the British Parliamentary Human Rights Group, reported: "These elections should be discounted in any government policy decisions about Rhodesia. It was not a valid test of opinion and its results are meaningless." 281/

Dr. Claire Palley, Professor of Law at the University of Kent, whose observations were issued by the British Minority Rights Group and the Catholic Institute for International Relations, proposed a number of principles which she concluded the elections violated, for example: "(3) The basis of any independence constitution must be acceptable to the people of Rhodesia as a whole: Not complied with. (4) Any test of Rhodesian opinion must be fair and free: Not complied with. (5) The views of the people of Rhodesia as a whole must be ascertained by a Referendum based on Universal Adult Suffrage: Not complied with." 282/ However, a number of other reports reached opposite conclusions. For example, three American teams - from Freedom House, New York, from the Institute of American Relations and from the American Conservative Union - all concluded that the elections were such that sanctions by the American Government should be dropped. 283/ Similarly, the report commissioned by the British Conservative Party 284/ and a report commissioned by Mrs. Margaret Thatcher while still Leader of the Opposition 285/ concluded that the elections were completely satisfactory.

320. The result was the election of 51 members of the UANC and the appointment of Bishop Abel Muzorewa as Prime Minister. The Rhodesian Front, with 28 members, is the second largest party. ZANU-Sithole, led by the Revd. Ndabaningi Sithole, refused initially to take up its seats because of defects in the elections. Although it produced evidence of these defects, ZANU did not challenge the election in any way until the results were declared. In the cabinet formed by Bishop Muzorewa, Mr. Ian Smith was appointed Minister without Portfolio as one of the Rhodesian Front appointees. Although Bishop Muzorewa has the Defence portfolio in addition to his duties as Prime Minister, his control of the armed forces is vestigial (see para. 314 (b) above). With the subsequent defection of seven UANC MPs to form the Zimbabwe Democratic Party, he can get legislation through only with the support of one of the other parties.

321. At the Commonwealth Heads of Government Conference, held in Lusaka (Zambia) in August 1979, the British Government agreed to hold a constitutional conference. In the subsequent communiqué the Heads of Government "acknowledged that the government formed under an independence constitution must be chosen through free and fair elections, properly supervised under British Government authority and with Commonwealth observers". It also recognized "that the internal settlement constitution is defective in certain important respects". They "confirmed that they were wholly committed to a democratic constitution, including appropriate safeguards for minorities". 286/

282/ Dr. Claire Palley, Zimbabwe Rhodesia: Should the present government be recognized; 1979, p.39.

283/ Ian Greig, The Rhodesia elections through the eyes of American observers, Foreign Affairs Research Institute, London, No. 8/1979, June 1979.

284/ Lord Boyd et al, Report to the Prime Minister on the election held in Zimbabwe/Rhodesia in April 1979, May 1979.

285/ John Drinkwater QC, A report on the general election held in April 1979 in Zimbabwe-Rhodesia.

286/ Daily News (Tanzania), 7 August 1979, quoted in Facts and Reports, Vol. 9, Q6.

322. A week later the British Government gave an outline of their proposals for an independence constitution. These included provisions for a minority seating for Europeans - but without the power to block amendments to the constitution; and for senior civil servants to be appointed directly by the Prime Minister (with advice).^{287/} The constitutional conference commenced on 10 September 1979.

323. A week after the Commonwealth Heads of Government meeting at Lusaka, invitations were sent to Bishop Muzorewa and the Patriotic Front to appoint delegations to attend the constitutional Conference at Lancaster House. The two parties accepted the invitation and the conference began on 10 September 1979.

324. According to information available to the Group, the Conference organized its work in three stages. The first stage was to agree on the terms of a new constitution for an independent Zimbabwe. After detailed discussion of the preliminary proposals, the British Government tabled, on 3 October, a detailed draft of an independence constitution. The draft constitution provided for majority rule and gave the elected legislature and the Government deriving its authority from it, full powers to implement policies on the basis of which they would have been elected. These constitutional proposals were agreed upon initially by the Salisbury delegation and, after protracted discussions, by the Patriotic Front on 13 October. The acceptance by the Patriotic Front was, however, made conditional upon satisfactory arrangements being agreed for its implementation.

325. The Conference was also to decide on arrangements for putting the agreed independence constitution into effect during the interim period. The proposals were based fully on the provisions of the Lusaka agreement, namely that elections should be free and fair and properly supervised under the British Government's authority with Commonwealth observers present. At the same time all political parties had to be assured that they would be able to explain their policies and to state their cases freely to the electorate.

326. The British Government confirmed that it was prepared to supervise that electoral process to the full extent necessary to ensure that it was free and fair. It invited Commonwealth observers to witness the elections and the full electoral process.

327. After further negotiations, a more detailed account of the British Government's proposals was tabled on 2 November. The arrangements included the following provisions: the British Government's preparedness to appoint a Governor, who will be British, with full executive and legislative authority. The British Government's appointment of an Electoral Commissioner to supervise the elections with supporting staff. An Election Council will be appointed, to be chaired by the Electoral Commissioner, and to comprise representatives of the parties contesting the election. The Governor would assume authority over the civil police who would be responsible under his supervision for the maintenance of law and order. The Commanders of the security forces, and of the Patriotic Front forces, would also be responsible to him and would be equally responsible for the maintenance of the ceasefire. All foreign troops, such as South African forces should leave Zimbabwe as soon as the British Governor reaches Salisbury. Zimbabwe would become independent as soon as the results of the elections were proclaimed and a government was formed. On 15 November the Patriotic Front agreed to the proposals for the interim period subject to a successful outcome of the negotiations on a ceasefire. Elections are planned to take place on the 27, 28 and 29 February 1980.

328. On the following day the Conference began to discuss the arrangements for a ceasefire, thus entering into its third and final stage. These envisaged that the primary responsibility for the observance of the ceasefire would rest with the forces of both sides and with their commanders who would be represented on a Ceasefire Commission under the chairmanship of the Governor's adviser.

329. On 7 October 1979 Lord Soames was appointed Governor for Zimbabwe-Rhodesia. He was given full legislative and executive powers to run Zimbabwe-Rhodesia for an interim period of about two months before independence.

330. Although the conditions for the withdrawal of foreign troops had been met, Lord Soames, the Governor, having taken up office at Salisbury on 12 December 1979, information reached the Group to the effect that the Kenyan Head of State had complained of the presence of South African troops in Zimbabwe. 288/ Furthermore, according to The Times of India, the Chairman of the Commonwealth observer group for the Rhodesia-Zimbabwe elections had stated that the Commonwealth heads of mission were seriously concerned at the presence of South African troops in Rhodesia. 289/ Lastly, Amnesty International had stated to the press that Lord Soames had not succeeded in ending the detention of thousands of persons, without charge or trial, or even in solving other major problems affecting human rights. 290/

Guerilla activities in Zimbabwe

331. During the period under review the guerilla activities have increased in intensity and have extended to cover the whole of the territory. The actions of the security forces are dealt with in paras. 340 to 346 below.

A. Capital Punishment

1. Summary of relevant legislation

332. The legislation purporting to sanction capital punishment by the illegal regime was analysed in detail in a previous report of the Group (E/CN.4/1020/Add.1, paras. 75-77). In particular the Law and Order (Maintenance) Act, with its many amendments, established the death sentence (often mandatory) for a wide range of offences and lays the onus of proving innocence upon the accused. In September 1978 the illegal regime introduced martial law into certain areas of the country (see E/CN.4/1311, para. 535). A person convicted before these summary courts (for any offence connected with the armed liberation struggle or the "maintenance or restoration of law and order") may be sentenced to death. All previous legislation (including the martial law regulations) involving the death sentence remains unaffected by the "internal settlement". In particular the right to "protection of the right to life", which is the first clause in the Declaration of Rights incorporated in the Zimbabwe-Rhodesian "constitution", is specifically excluded from applying to any law passed before it came into force. 291/

288/ Le Monde, 16 January 1980.

289/ The Times of India, 19 January 1980.

290/ Le Soleil, Dakar, 16 January 1980.

291/ "Bill: To provide for a new constitution for Zimbabwe Rhodesia ...", Section 120(3).

333. According to information available to the Working Group, the Rhodesian Catholic Justice and Peace Commission challenged the interpretation of the martial law regulations by which a man sentenced to death was unable to petition the President or Acting President for mercy. Although this challenge was initially upheld by the High Court in Salisbury, the Appeal Court, led by the "Chief Justice" (Mr. Hector McDonald), overruled this decision. The High Court had upheld the original submission on the ground that "mercy began when legal rights ended". The Appeal Court held that the regulations put all power into the hands of the Review Authority. 292/

2. Capital punishment sanctioned through the judicial process

334. As noted in last year's report, a number of witnesses before the Working Group expressed grave concern that executions of men in the death cells would be resumed in the period under review, in spite of an unofficial pledge by the "transitional government" not to execute prisoners convicted of so-called "war crimes". There is some indication that judgements in the courts involving the death sentence in fact have become more severe. According to information available to the Group two Africans convicted of assisting the nationalist guerrillas were reported to have been executed at the end of January 1979. Another nine Africans, also sentenced to death by the martial law courts, were awaiting execution. 293/ However, at the beginning of August 1979 the rebel regime decided to change the regulations to allow those sentenced to death to appeal for clemency to the President, who must now sign the warrant for execution. 294/

335. In last year's report (E/CN.4/1311, para. 465) the Group commented that the level of international protest (particularly that from the British Government) against these executions has been muted. The fact that the executions have been secret has in any case made effective international protest difficult. Furthermore, it is difficult to obtain full information about those charged in the courts and the outcome of their trials. Press reports are incomplete, parts of trials are sometimes held "in camera" and significant stages (including appeals and their outcome) are often not reported. But the regime has made it clear that the death sentence is virtually always carried out (see E/CN.4/1311, para. 467). The information available about the number of people being sentenced to death, and thus executed, has been made considerably more difficult to obtain by the introduction of the martial law courts.

336. The following persons are known to have been sentenced to death before the ordinary courts since July 1978, and so are likely to have been executed.

- (i) Savcous C. Hove lost his appeal against the death sentence (reported in E/CN.4/1311, para. 669 (iii)) for assisting in the killing of a man thought to be a District Assistant. 295/

292/ Herald, 14 June 1979.

293/ Guardian, 9 February 1979.

294/ Evidence of Justice and Peace Commission, October 1979.

295/ Herald, 12 September 1978.

- (ii) Pearson Ndhlovu was sentenced to death in the High Court, Salisbury, for being involved in guerrilla activities in the Mtoko area. 296/ His appeal against sentence was rejected in September. 297/
- (iii) Augustine and Aggrey Nyerenyere were sentenced to death at the beginning of August 1978 in the High Court, Salisbury. They were convicted of planting bombs in six postboxes. Although no one was injured in the subsequent explosion, 298/ their appeal against sentence was rejected in September 1978. 299/
- (iv) Reuben Donga was sentenced to death in August 1978 at the Salisbury High Court for killing 13 men, women and children in an attack on a kraal. 300/ His appeal was turned down in October 1978. 301/
- (v) Daniel Moyo was sentenced to death in September 1978 on charges of recruiting guerrillas. His appeal was dismissed in November 1978. 302/
- (vi) Peter Chikono was sentenced to death in October 1978 for being a member of a guerrilla group and being involved in fighting with the regime's security forces. 303/ His appeal was lost in November 1978. 304/
- (vii) Walter Jelemani Ncube was sentenced to death in October 1978 at the Salisbury High Court for being part of a guerrilla group which had attacked a Rhodesian ferry, killing one of the passengers. He himself did not join the firing until the security forces fired back. 305/ His appeal against sentence was dismissed. 306/
- (viii) John Mafu Maseko and Ambrose Ndhlovu were sentenced to death by the Bulawayo High Court in October 1978. They were both involved in sabotage attacks, although no one was hurt. Their appeals were rejected in January 1979. 307/

296/ Herald, 29 July 1978.

297/ Focus, No. 19, November 1978, p.12.

298/ Rhodesia Herald, 5 August 1978.

299/ Herald, 20 September 1978.

300/ Herald, 24 August 1978.

301/ Herald, 6 October 1978.

302/ Focus, No. 20, January-February 1979, p.6.

303/ Herald, 3 October 1978.

304/ Herald, 24 November 1978.

305/ Herald, 4 October 1978.

306/ Focus, 21, IDAF, March-April 1979, p.83.

307/ Herald, 26 January 1979.

- (ix) George Moyo was sentenced to death in February 1979 on charges of membership of a guerrilla group which ambushed and killed an African police reservist. 308/ His appeal was dismissed in March 1979. 309/

337. The following are known to have been sentenced to death by the martial law courts:

- (i) Martin and Todd Gonzo and Wonder Chisvo were convicted of burning a compound. 310/
- (ii) A Mr. Chando was convicted of charges involving the alleged killing of witches. 311/
- (iii) Mike Chimandu, Givus Mukunduna, Thomas (last name unknown) and Manyowa Kanyowa Kupa were convicted of unknown charges. 312/
- (iv) James Kadirire, arrested in December 1978, was convicted of unknown charges. 313/
- (v) Simon Musonza convicted for unknown offences. 314/
- (vi) Two Africans, names unknown. One accused of sanctioning the death of a commercial driver. No witnesses were brought to either "trial". 315/

338. From the above information it appears that during the period under review 11 people were sentenced to death and had their appeals against sentence rejected, in the ordinary courts. However, the ordinary courts appear almost completely to have stopped hearing cases involving security matters since the beginning of 1979.

339. Although no publicity is given to executions (see para. 335 above) the number of people being executed, according to information available to the Group, remains high.

308/ Focus, 21, IDAF, March-April 1979, p.3.

309/ Herald, 29 March 1979.

310/ Focus, 22, May-June 1979, p.12.

311/ Ibid.

312/ Ibid.

313/ Ibid.

314/ Focus, 23, IDAF, July-August 1979, p.5.

315/ Boyd et al, op.cit., Appendix 5.

B. Massacres and Other Violations of the Right to Life

1. Atrocities committed by the security forces

340. During the period under review the Group has received information showing that many non-combatants have been killed, threatened with death or seriously injured through the actions of the official security forces and the semi-official auxiliaries. A report issued by the Catholic Institute for International Relations described the situation as follows: "Increasingly members of the armed forces, white and black alike, have come to regard the civilian population as the enemy. Fear breeds prophylactic violence and savage episodes of vindictive punishment. Fear encourages the deployment of indiscriminate weaponry, such as air strikes, napalm, gun ships and a 'shoot first, sort the bodies later' philosophy." 316/

341. The extent of the killing of civilians is indicated even in the official statistics issued by the Rhodesian Ministry of Information: 317/

<u>Month</u>	<u>Total civilians</u>
September 1978	419
October	359
November	198
December	215
January 1979	231
February	278
March	251
April	245

In April 1979 the 245 civilians were made up of 133 "terrorist collaborators", 72 African civilians "murdered", seven stock thieves and 28 killed in the cross-fire.

342. The killing has continued since the internal elections. In May and up to 24 June 1979, 483 civilians were killed, 198 of them "terrorist collaborators", 39 killed in the cross-fire, 18 stock thieves and 226 black civilians allegedly murdered by the guerrillas. 318/

343. According to Mr. Robert Mugabe, President of ZANU, a total of 3,647 civilians were killed by Rhodesian troops in the run-up to the internal elections. This information was collected by ZANU by an on-the-spot commission. 319/

344. There have been an increasing number of trials of members of the security forces on charges of murder, culpable homicide or related charges. Altogether, 24 cases were heard involving members, or ex-members, of the security forces (which include all

316/ CIIR, Rhodesia after the Internal Settlement, November 1978, p.16.

317/ Herald, 2 May 1979.

318/ Focus, 23, IDAF, July-August 1979, p.4.

319/ Ibid., quoting Sunday News (Tanzania), 20 May 1979.

armed units such as the District Assistants who guard the 'protected villages' and the paramilitary British South African Police), resulting from the death of 28 men, mostly civilians. Some were the result of a brawl or an argument not directly related to the war but many involved the death of civilians while under "military protection".

345. Under the Indemnity and Compensation Act, killings of civilians are exempt from court action if the "Minister of Law and Order" testifies that the action was committed in good faith to suppress terrorism or to maintain public order (see E/CN.4/1222, para. 525).

346. The security forces of the illegal regime are using food as an additional weapon to try to stop the African people supporting the guerrillas. According to a situation report by the Rhodesian Catholic Commission for Justice and Peace: "The 'starve the terrorists' policy of the security forces has led to widespread starvation. Planting is reduced to a minimum; granaries have been destroyed; stores and grinding mills have been closed down; people carrying food are stopped and their supplies are sometimes destroyed. The imposition of curfews - in some cases as long as 22 hours - means that cattle cannot be cared for, fields cannot be worked and crops cannot be protected from predators such as baboons. Similarly, people living in protected villages are in no position to produce their usual food supply. Relief by international and local agencies has been prohibited in two areas." 320/

347. This major reduction in food supplies, particularly in areas which have for years had difficulty in carrying their population, must eventually result in the deaths of many people and so be seen, in the opinion of the Group, as a violation of the right to life in Zimbabwe.

2. Aggression against neighbouring States

(a) Alleged right of hot pursuit

348. The illegal regime of Southern Rhodesia has continued to claim the right of "hot pursuit" across its international borders. The armed forces of the illegal regime have continued to commit acts of aggression against the territories of Angola, Mozambique, Botswana and Zambia. These attacks have increased in scope and intensity.

(b) Attacks on Angola

349. In February 1979 the rebel regime made an air attack on a Zimbabwe refugee camp under the control of ZAPU. The rebel regime claimed that it was a training camp for ZAPU guerrillas. According to the Angolan authorities, 192 people were killed, 14 local Angolan civilians among them. Over a thousand people were injured, 470 of them seriously. It should be noted that this aggression required that the Rhodesian aircraft must have flown through either Namibian or Zambian air space, as there is no common border. 321/

320/ Rhodesian Catholic Justice and Peace Commission, op.cit.

321/ Radio Luanda, 28 February 1979; Radio Brussels, 28 February 1979; Times of Zambia, 27 February 1979.

(c) Attacks on Mozambique

350. During the period under review it is reported that the regime's forces have invaded Mozambique several times, striking as deep as 200 kilometres into the country. In a communique issued by the Mozambique Ministry of National Defence, 19 separate attacks were listed as having taken place between 29 November and 28 December 1978 in the provinces of Tete, Manica, Safala and Gaza. 322/ In March 1979 bombing attacks were made in the Gaza Province on several targets. In one, 16 people (one a soldier) were killed and seven (two soldiers) were wounded. 323/ In April 1979 the rebel regime made a bombing raid against four places in Gaza Province and one in Tete Province. 324/ In June 1979 a further attack was made on Mozambique, resulting in the death of a number of Mozambique soldiers. This attack was the first one to be announced after the latest constitution came into operation under Bishop Buzorewa. There was no evident change of policy. 325/

351. The rebel regime has also sponsored a dissident group called "Mozambique National Resistance", which uses Rhodesian broadcasting facilities to make verbal attacks on the People's Republic of Mozambique. Agents trained by Rhodesia have also made sabotage attacks, mainly on industrial and military targets. The most serious of these was the destruction of the oil depot outside Beira and the cutting of the electricity supply line to Beira. 326/ The trial of 10 men accused of spying, sabotage and attacks against the Mozambique armed forces showed that they were acting on behalf of the illegal regime. They were trained by them and acted as spies on their behalf. The 10 were found guilty in March 1979 and executed for their crimes. 327/

(d) Attacks on Botswana

352. The border between Rhodesia and Botswana is still one of great tension - partly because it is ill-defined and the people living on both sides tend to move to and fro across it.

322/ Radio Maputo, 5 January 1979. See also Official Records of the Security Council, Thirty-third Year, Supplement for October, November and December 1978, document S/12964, annex; and ibid. Thirty-fourth Year, Supplement for January, February and March 1979, document S/13018, annex.

323/ Agencia de Informacao de Mocambique (AIM), Bulletin No. 33, 14 March 1979.

324/ AIM, Bulletin No. 34, 23 April 1979.

325/ Guardian, 5 June 1979.

326/ Radio Maputo, 23 and 24 March 1979.

327/ Radio Maputo, 31 March 1979.

353. The crucial link between Zambia and Botswana, a ferry at Kazangula on the Zambesi river, has come under sustained attack, culminating in its closure. In September 1978 the regime directed fire on the Botswana Defence Force camp at Kazangula on two different occasions. 328/ Similar incidents were reported in November 1978, 329/ and April 1979. 330/ The regime finally blew up the ferry in an attack, claiming that it had been used by Zimbabwe guerrillas. 331/ This means that Botswana has no overland contact with independent African States to the north. In March 1979 three ZAPU-Patriotic Front vehicles were ambushed by the regime's forces 20 miles from Kazangula. 332/ In April the Botswana Defence Force intercepted two Rhodesian troop carriers on Botswana territory. 333/ The same month the regime kidnapped 14 Zimbabweans living in a home in Francistown by disguising themselves as members of the Botswana Defence Force. 334/ In May Botswana boat off an attempted attack when a convoy of Rhodesian armoured cars and troop carriers moved towards the border. 335/

(e) Attacks on Zambia

354. At the beginning of March 1979 a Zambian village near Lake Kariba was bombed, killing five villagers. 336/ The same month another bombing raid was made against the Zambia National Defence Force training area and two people were killed. One was a German expatriate teacher. 337/ Another bombing attack was also made on what the regime claimed were ZAPU camps. 338/ In April the regime made an attack into the centre of Lusaka (the capital of Zambia) and destroyed the residence of Mr. Joshua Nkomo and the headquarters of ZAPU. 339/ An aerial attack was made on a ZAPU agricultural centre about 20 km from Lusaka at the end of June. Another attack was made on a ZAPU office in Lusaka. Altogether 22 people were killed in these two attacks. 340/

355. At the same time the rebel regime have been infiltrating Rhodesian commandos into southern Zambia. According to The Guardian "The Rhodesians have apparently set up road-blocks on the main road from Lusaka to Siavonga, a small town on the north bank of the Kariba dam, and have demanded that African drivers produce their identity cards." At least two civilians have been reported killed at these road-blocks and several others missing. The Rhodesian forces are also believed to have planted land-mines on dirt roads leading to suspected guerrilla staging camps. 341/

328/ Herald, 8 and 13 September 1978.

329/ Times of Zambia, 16 November 1978.

330/ Radio Gaborone, 23 April 1979.

331/ Africa Research Bulletin, 16, No. 4, p.5244C; Herald, 18 April 1979.

332/ Radio Johannesburg, 23 March 1979.

333/ Radio Gaborone, 23 April 1979.

334/ Guardian, 14 April 1979.

335/ Radio Johannesburg, 8 May 1979.

336/ Zambia Daily Mail, 7 March 1979.

337/ Times of Zambia, 12 April 1979.

338/ Herald, 13 April 1979.

339/ Guardian, 14 April 1979.

340/ Herald, 27 June 1979.

341/ Guardian, 1 December 1978.

C. Living conditions in rural and urban areas
and forced removal of population

356. The historical background to the development of the African areas has been summarized in previous reports of the Group (particularly E/CN.4/1020/Add.1 and in E/CN.4/1311, para. 506). The process of removing the formal signs of racial division and discrimination was reported in the Group's 1977 report (E/CN.4/1270, para. 415), where it was stated that all European farming land had been made unreserved. However, this had little practical effect because of the price of land.

357. In the Rhodesian Constitutional Agreement of March 1978 one of the objectives set out was "the further removal of discrimination". 342/ The Executive Council and the Ministerial Committee have been charged to make proposals to this end and of the Parliament then in session (which was dominated by European members of the Rhodesian Front) to enact legislation. 345/

358. According to information available to the Working Group, the measures which have been taken have made little effective change. Land discrimination was "abolished" in the Land Tenure (Repeal) Act. 344/ The Tribal Trust Lands were, however, retained in the Tribal Trust Lands Act, which set up a Tribal Trust Land Board consisting of two African chiefs and four others (who are expected to be Europeans). 345/ However, security of ownership for present landowners is protected by the Declaration of Rights in the new constitution and is one of the specially entrenched clauses requiring the votes of 78 members of parliament (i.e. including at least six European members) to amend it. This clause is the longest in the Declaration, including a very detailed statement of appeals and of methods of compensation, and makes any Act of Parliament unconstitutional that proposes the compulsory acquisition of farming land for farming resettlement purposes unless the land has been wholly unoccupied for at least five years. Periods of "public disorder" or "disaster" would be discounted. If after that period the land is taken over, then the compensation must be the maximum that could have been paid in the preceding five years by a "willing seller to a willing buyer". Furthermore, the compensation money must be allowed to leave the country within a reasonable time, whether to an individual or a company. 346/ As it was stated in the last report of the Group, the population density of European areas is less than a third of that of the African areas, while European areas contain nearly twice as much of the three best land categories (E/CN.4/1311, para. 520). The effect of this Right to the Protection from Deprivation of Property is to tie the hands of any future government wishing to redistribute land.

342/ Rhodesian Constitutional Agreement, 3 March 1978 C (c).

343/ Ibid., 3 (a) (iv).

344/ Parliamentary Debates, House of Assembly (hereinafter Debatés), 19 December 1978, vol. 99, cols. 1799-1805.

345/ Ibid., cols. 1806-1808.

346/ Bill - to provide for a new constitution for Zimbabwe-Rhodesia, Section 124.

359. Other Acts which purported to remove racial discrimination were the Constitution Amendment (No. 2) Act (which allowed Africans to vote in municipal elections), 347/ and the Local Government Laws Amendment Act (which dealt with African townships). In proposing this Bill, the Minister announced: "There will initially be no staffing difficulties because all staff aspects of the administration will continue as if there had been no change." 348/ This Act gives the franchise only to owners of property and to those who directly pay some tax, rate or rent. Lodgers, servants and boarders do not have the vote. The present (European) municipalities are also absolved from any financial responsibility for the (African) townships. 349/ The two acts dealing with education and medical services will be dealt with in paras.416 and 421 respectively below.

360. A detailed review of the distribution of the African and European population (at the 1969 census), divided by land category, was given in a previous report of the Group (E/CN.4/1135, paras 357-362). Since that time, the African population is estimated to have risen from 4,880,000 in June 1969 to 6,640,000 in June 1978. During the same period, the European population is estimated to have increased from 230,000 to 260,000. 350/ There is no up to date statistical information about distribution of population, however, but there have been major movements of the population due to the war (see paras. 375 and 388 below). Previous reports have given evidence of increased urbanization (not due to refugees) (E/CN.4/1311, para. 508) and about the excess of women and children normally found in the TTLs (E/CN.4/1187, paras. 610 and 618).

361. Although there is a wide range of oppressive regulations to cover the rural areas, which has been described in previous reports, the Martial Law Regulations (E/CN.4/1311, para. 535) have overtaken these. A detailed discussion of their effects will be given in paras. 397-406 below.

2. Conditions of Africans, Coloureds and Asians in urban areas

362. A UNESCO study shows not only that it has been consistent policy to segregate African and European residential areas, but also that the size of individual African areas has been carefully controlled. "The number of Africans living in a particular township is fixed at approximately 30,000 for the sake of easy surveillance. The isolation of the African area by trees and land, and the maintenance of few roads leading into the European areas, allow for easy security control of African areas and their sequestration in the event of riots." 351/ This pattern of development is being largely maintained under the legislation described in para. 359 above.

347/ Debates, vol. 99, 19 December 1978, cols. 1778-1779.

348/ Ibid., col. 1824.

349/ Ibid., cols. 1821-1830.

350/ Monthly Digest of Statistics, January 1979, Supplement, Table 1.

351/ Marion O'Callaghan, Southern Rhodesia: the effects of a conquest society on education, culture and information, UNESCO, 1977, p. 219.

363. In March 1979, a new set of regulations was introduced (as Council by-laws) to prohibit relatives of a servant from living in the servant's quarters. Written permission can be given for a visitor (for 14 days only) by the employer, and must be registered with the local Council. 352/ The provisions are substantially the same as those of the repealed Act - with the words "African" and "European" excised.

364. According to information before the Group, continued opposition to any relaxation of racial discrimination is particularly evident in Umtali, on the eastern border of Rhodesia.

3. The Rhodesian "separate development" or "bantustanization" policy

365. Previous reports of the Group have described the illegal régime's policy of "separate development", which has been pursued parallel to the régime's land policy (E/CN.4/1135, paras. 365-377; E/CN.4/1222, para. 500; and E/CN.4/1270, paras. 427-429). The essential core of this policy was to relieve the wealthy European areas of the financial responsibility for the poor rural areas as well as giving a semblance of black control over their own destiny. This pattern has continued in the new Acts which purport to remove racial discrimination. Discrimination by income has replaced that by colour, with Europeans having almost exclusive economic control of the country. The legislation described in paras. 357-359 above keeps the present discriminatory system intact.

366. According to a publication by UNESCO: "The political and economic; subservience of the African population is directly linked with their dispossession of the land. Wealth in Rhodesia was not to be found in a mineral bonanza of gold or diamonds, but in land." 353/ Information before the Group indicates that no recent changes have affected this.

4. Forced removal of rural Africans as a result of the land policy

367. There has been only one report in the period under review on movement of Africans as a direct result of land policy. According to the Herald, in the middle of November 1978 "an exercise of evictions and hut-burnings to relieve squatter congestion in the Fingo location near Ntabazinduna, north of Bulawayo" was suspended after 12 huts of squatter families had been burnt. Only six of the huts had been vacated. They had been served with 30-day eviction orders by the District Commissioner. Another 11 were subsequently given eviction orders. A month later, the régime was deciding whether to prosecute them. Only Fingo Africans are allowed to live in the Fingo location, established immediately after the settler column arrived in Rhodesia in 1891. 354/

352/ Herald, 1 March 1979.

353/ Reginald Austin, Racism and apartheid in southern Africa-Rhodesia, UNESCO, Paris, 1975, p. 31.

354/ Herald, 17 November 1978, 12 December 1978.

5. Conditions in the "protected and consolidated villages"

368. According to the CCJP the "protected villages" contained about 750,000 people by September 1978. However, in that month (as reported by the Group last year in E/CN.4/1311, para. 529) the régime opened up some 79 villages in the north-east of the country. The CCJP estimated that there were about 500,000 people in the "protected villages" by September 1979. 355/

369. Further information before the Group indicates that conditions in the "protected villages", as far as food and accommodation are concerned, remain very bad. According to CCJP's latest report: "Conditions in many of these villages (are) extremely poor and often constitute a health hazard, medical facilities (are) rudimentary ... Many protected villages (are) situated a long distance from farmers' fields, the imposition of curfew (makes the proper tending of crops and cattle difficult and food supplies (are) scarce." 356/

370. The behaviour of members of the Guard Force, which are supposed to protect the "protected villages" from the so-called terrorists, has been a cause of serious concern.

371. There is evidence that more "protected villages" have been established. Six are known to have been established in the Beitbridge area alone. Altogether 8,000 people are restricted and are totally dependent upon supplies from the International Committee of the Red Cross. Conditions are so bad that in one village (Tshiturapadsi), 26 children died in November and 35 in December 1978. 357/

6. Refugees in neighbouring countries

372. The situation regarding the plight of refugees from Rhodesia was extensively discussed at the conference on the situation of refugees in Africa, held at Arusha (Tanzania) (hereinafter the Arusha Refugee Conference) in May 1979. Mr. Alberto Sithole, Director of the Mozambican Centre for Support for Refugees, said: "Hitherto the Mozambican Government had considered the presence of Zimbabwean refugees in our country as temporary. Consequently, the programme of assistance since its inception had been concentrated on relief measures. The construction of settlement buildings in durable material was deliberately avoided. Our Government has now realized, following the recent events inside Rhodesia, that the Zimbabwean refugees will have to stay longer than earlier expected. For this reason, our Government has decided, in full consultation with the Patriotic Front and UNHCR to provide durable and essential infrastructures in all refugee settlements in Mozambique." 358/ At the same conference, the representative of the United Nations High Commissioner for Refugees (UNHCR) outlined its policy, which was to co-ordinate assistance with representatives of the liberation movements recognized by the Organization of African Unity, as well as with the States actually sheltering refugees from Southern Africa. "This assistance ranges from general relief, to accommodation in reception transit centres, to agricultural integration, and to educational placement." 359/

355/ CCJP, op. cit., pp. 9, 10.

356/ CCJP, op. cit., p. 9.

357/ SANA, op. cit., p. 4.

358/ Arusha Refugee Conference, op. cit., Vol. II, Ref/AR/Conf/Rpt 10.

359/ Ibid., Ref/AR/Conf/BD 15.

373. According to information available to the Group, the total number of refugees has risen very rapidly. In June 1978 there were about 116,000 refugees in Botswana, Mozambique and Zambia (E/CN.4/1311, paras. 530-532). By the end of 1978, the total was about 164,000, 360/ and by September 1979 there were 235,000 refugees in these three countries. 361/ What this massive exodus of Zimbabwe refugees means was pointed out by the chief medical officer of the International Red Cross. He said that the proliferation of camps in Botswana and Zambia was causing serious health problems. Certain camps he had visited were wholly or partially without sanitation, the water was often polluted and there were swarms of flies, vermin and other insects. He felt that the threat to the health of these communities was acute, particularly because the resistance of the people was low. 362/

374. The number of Zimbabwean refugees in Botswana increased rapidly from 12,000 in the middle of 1978 to 19,000 by the end of the year. According to the UNHCR, over 35,000 refugees from Namibia and South Africa, as well as Rhodesia, have entered the country, though many have gone on to other countries. Two transit camps were built near Francistown and Selibe Pikwe to accommodate 500 and 1,000 people respectively. However, these have had to accommodate 3,300 and 6,000 people at one time or another. The report states: "Life in these transit camps is grim, particularly for the children, who make up over 50 per cent of the inhabitants in both ... The overcrowding brings with it the inevitable risk of epidemics. In recent months there have been outbreaks of disease, including cerebral meningitis, causing death among the children." 363/

375. The number of Zimbabwe refugees in Mozambique has risen from 70,000 in mid-1978 to 150,000 in mid-1979. 364/ An estimated 90 per cent of these are under the age of 20, with about a quarter between 6 and 14, and 10 per cent under six years. Most refugees are resident in five rural settlements, with some in a number of temporary transit centres. 365/

376. There has been a similar massive influx of refugees into Zambia. In mid-1978 there were 30,000 Zimbabwe refugees (out of a total of 67,000), of which 22,000 were children (13,000 boys and 9,000 girls). By the end of the year there were 45,000 Zimbabwe refugees and 50,000 by April 1979. The conditions in these camps are very bad.

D. Treatment of political prisoners and captured freedom fighters

1. Introduction and relevant legislation

377. 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 many amendments, has been given in previous reports (E/CN.4/1111, paras. 242-252; E/CN.4/1187, para. 521; E/CN.4/1270, paras. 440 and 441; and E/CN.4/1311, para. 534). These laws notably contain the requirement that the

360/ Ibid.

361/ CCJP, op. cit., p. 13.

362/ Radio Johannesburg, 22 February 1979.

363/ The Refugee Children, UNHCR Projects for Refugee Children, 1979.

364/ AII, Bulletin No. 37, July 1979.

365/ The Refugee Children, op. cit., p. 54.

defendant prove his innocence, even in cases carrying the death penalty. A previous report also described the provisions of the Indemnity and Compensation Act (E/CN.4/1222, para. 525), under the provisions of which no official of the illegal régime, including soldiers or the police, may be brought to court for torturing or killing a prisoner or bystander, if the Minister of Law and Order certifies that the action was committed in good faith to suppress terrorism or to maintain public order.

378. In last year's report (E/CN.4/1111, para. 535), the Martial Law Regulations were described. In addition, the Emergency Powers (Maintenance of Law and Order) (Amendment) Regulations, No. 10 of 1978, gives a "member of the security force" the power to put someone into detention in a Martial Law area simply by writing an order. As with the other Martial Law provisions, this one cannot be challenged or queried by a court of law. Furthermore, anyone detained remains so even after the ending of Martial Law, pending revocation by the Minister of Law and Order after consultation with the Minister of Combined Operations. These detainees, unlike detainees under the ordinary "civil" law, cannot be visited by representatives of the International Committee of the Red Cross. 366/

379. According to information available to the Group, the areas covered by the Martial Law Regulations have been continually expanding and applied actually to about 90 per cent of the country.

380. In a statement issued shortly after the Martial Law Regulations had been promulgated, the illegal régime explained that under martial law "there will be no need" for the security forces "to seek chapter and verse under the law for any action they propose to take for ... the safety of the State will be the supreme law". 367/

381. The State of Emergency, which has been in continuous existence since before UDI, was extended for a further six months at the beginning of July 1979. For the first time in the illegal régime's history, the order was passed unanimously - and in a parliament comprised mainly of Africans. 368/

2. The functions of the courts

382. As has been indicated in para. 18a above, the ordinary courts have steadily reduced in importance. Only "Offences unconnected with terrorism continue to be tried by the normal courts", the military authorities deciding which are connected with "terrorism". 369/ During the period under review, the special courts have been virtually discontinued. 370/

383. According to information received by the Group, in one important series of fraud trials involving the import of defence materials, all of the hearings, including the judgements and the names of the defendants, were held in camera. Only the fact that the trial was held has been reported. 371/ (See para. 414 below.)

366/ Political Prisoners in Rhodesia in 1979, International Defence and Aid Fund for Southern Africa (IDAF), September 1979, p. 29.

367/ Martial Law in Rhodesia 1978. How it will affect people in their daily lives. Ministry of Information, Immigration and Tourism, Rhodesia, October 1978.

368/ IDAF, op. cit., p. 3.

369/ Herald, 22 December 1978.

370/ IDAF, op. cit., p. 13.

371/ Herald, 22 November 1978, 27 and 28 March 1979.

384. Very little evidence is available about the operation of the special courts martial. A number of attorneys have expressed disquiet over their possible role in courts martial. According to a report in the Herald in January 1979, "Some felt it could be contrary to their professional ethics". 372/ The International Defence and Aid Fund cites the case of a woman who owned a store in a rural area. In February 1979 she was picked up by the security forces and taken to a detention centre in the TTL. The next month she was taken before a special court martial held in the District Commissioner's office. There were 10 security force officers on the bench, including four white farmers. Her husband had found out about the trial and was allowed to attend, but not to speak. A defence lawyer was not allowed to speak to her or indeed to stay. In the event she was acquitted because the witnesses against her (who all worked for her) refused to give evidence. 373/

3. Evidence of torture by the police

385. According to information before the Group, torture of political detainees remains standard practice. Amnesty International claimed in March 1979 to have received "frequent and consistent allegations, over a period of years, concerning the torture of detainees, particularly during interrogation, by members of the police special branch and the security forces ... It would appear that the use of torture is at least implicitly condoned by the Transitional Government, which appears to have taken no action in response to a number of cases of alleged torture referred to the authorities by certain African Members of Parliament. Various methods of torture are alleged, including severe beatings with fists or blunt instruments; the application of electric shocks to the head, body or limbs; blindfolding; whipping on the soles of the feet; and repeated immersion head-first in barrels of water until unconscious. The use of torture has been a long-standing problem in Rhodesia but now, with the deteriorating security situation and with powers of detention having been extended under martial law to all members of the security forces and those assisting them, it has reached epidemic proportions. Many reports have been received in recent months which suggest that in areas such as Belingwe, Gvanda and Bikita, large numbers of civilians, including many children and young people, have been rounded up, taken to police or military camps and systematically tortured by the security forces in an attempt to obtain information about the movements and activities of nationalist guerillas." 374/

386. More specific examples of torture have been made available to the Group by the International Defence and Aid Fund. According to a statement by ZAPU, "Civilians falsely accused of collaborating with ZAPU freedom fighters were put into oil drums and then the drums pulled by jeeps. After such cases the old people died either of shock, wounds and/or unknown diseases." 375/

372/ Herald, 24 January 1979.

373/ The Implementation of Martial Law in Rhodesia, IDAF, August 1979, Appendix B.

374/ Malcolm Smart, Human Rights Violations in Rhodesia, 1978-79, Amnesty International, pp. 16-17.

375/ IDAF, Political prisoners ..., op. cit., p. 24.

4. Treatment of political prisoners

(a) Prison conditions

387. According to a letter dated 21 January 1979 on conditions in Khami maximum security prison, near Bulawayo, the prison doctor (Dr. Lewis) has no concern for his patients but asks their offence then says: "You come to kill us and expect us to treat you?". The letter gives the names of six prisoners who died in prison from neglect between 1973 and 1978. The medical assistant, Daniel Ifpande, is accused of deliberately giving wrong medication. Prisoners are also harassed by two warders, Sgt. Paul Nyoni and Sgt. Simon Ndhlovu, whose "cruelty to political prisoners is worse than Hitler's gestapo police". Their daily diet of sadza and beans is dirty and inadequate. After each exercise they are stripped naked and searched. "The agreement reached on 3 March 1978 has made things worse for the prisoners here." 376/

388. According to the International Defence and Aid Fund, conditions for Africans in Rhodesian prisons are "cramped and unhygienic, and appear to have become more so as the prisons have accommodated more and more prisoners". Most African prisoners are Class III, those convicted of political offences are maximum sentence prisoners. No beds are provided for them, they have to sleep on thin sisal mats or the bare floor. The three blankets provided and the clothes (without shoes) are inadequate for the cold Rhodesian winter. The diet consists predominantly of maize meal, with unsugared black coffee, poor quality beans and small and irregular portions of meat. "Bronchitis, ulcers, TB, high blood pressure and anaemia are common illnesses among political prisoners." Prisoners may go out to labour on the prison farm (like the other prisoners), but many are subjected to long periods of solitary confinement. Visiting is allowed once or twice a month, for 15-30 minutes at a time. Recently the International Committee of the Red Cross has been refused access to the maximum security prisoners. 377/

(b) Detentions

389. On 16 April 1979 there were, according to the Commissioner for the British South Africa Police, 232 people under detention for political reasons, excluding those detained under martial law. According to Amnesty International, the number was approximately 350. 378/ According to the CCJP in September 1979, over 7,000 people were detained without trial under martial law regulations. These people have no access to legal representatives nor are their cases considered by the review authority, as was the case under the previous emergency regulations. 379/

390. In answer to a question in Parliament, the Joint Minister of Justice agreed that certain "privileges" over and above the minimum laid down by the regulations had been allowed to detainees in Vha Vha detention camp, including an extension of the period for visits. But these had been withdrawn by the officer in charge of the camp because of the "concentration of detainees". 380/

376/ ICSA Bulletin, International Committee against Apartheid, Racism and Colonialism in Southern Africa, April 1979, p. 10.

377/ IDAF, Political prisoners ..., op. cit., p. 14.

378/ Malcolm Smart, op. cit., p. 17.

379/ CCJP, op. cit., p. 6.

380/ Debates, 8 December 1978, col. 1752.

391. Many of those detained have either completed a prison sentence for a political offence, 381/ or been acquitted by the courts. One of the detainees, in a letter to the IDAF, wrote: "All I worked for when I was young up to the day I was detained was taken away from my family for no reason given ... Since I think, according to my belief, it is wrong for any Government that claims Christian principles and democracy, to detain people without trial, and at the same time destroy the properties of people whom it had detained for their political beliefs." 382/

392. In May 1979 it was revealed that detainees and political prisoners were being released on applications by the internal political parties. Some were released because of "suitability and potential effectiveness" in helping the security forces against the nationalist guerillas. However, stringent conditions may be placed on released detainees under section 115D(1) of the Prisons Act, restricting the area in which the person may live, areas which he or she may visit and the jobs he or she may undertake. He or she may also have to report regularly to the authorities or actually have to leave the country permanently. 383/

5. Deportations and prohibited visitors

393. In February 1979 the transitional government proposed a clause in their new Immigration Bill to remove the right of people threatened with deportation to appeal to the courts. The only ground left for appeal is that of mistaken identity. The President of the Rhodesian Guild of Journalists said that the proper procedure should be to allow both sides in a deportation hearing to state their case fairly in an open court. 384/

6. Treatment of freedom fighters

394. The known cases of freedom fighters sentenced to death have been recorded in paras. 336-339 above. In addition, the Group has before it information on other trials involving a further 15 guerillas. The final result of one trial is not known. All the other 14 were convicted during the period of the interim government. There have been no reported trials after the end of March 1979 - any trials before the special courts martial would be held in camera and not reported (see paras 398-400 below). The sentences given in the trials which have been reported are tabulated below: 385/

<u>Sentence</u>	<u>Number sentenced</u>
12 to 14 years' imprisonment	3
17 to 18 years' imprisonment	2
25 years' imprisonment	3
Life imprisonment	6

381/ IDAF, Political prisoners ..., op. cit., p. 18.

382/ IDAF, Political Prisoners in Rhodesia, April 1979.

383/ Herald, 15 May 1979.

384/ Radio Salisbury, 18 February 1979.

385/ Rhodesia Herald, Herald, various dates between 10 August 1978 and 20 March 1979.

7. Treatment of persons accused of security offences

395. According to information available to the Group, between the end of July 1978 and June 1979, 97 people (almost all Africans) were accused of "terrorist" offences such as recruiting, helping or not reporting guerillas, going for guerilla training, taking direct action against the property of the régime (such as minor sabotage against the railways) and breaking the curfew. Seven people were found not guilty. In nine cases, the outcome of the trial was not reported. In another 11 cases the accused were found guilty but were passed to a higher court for sentence because the lower court was not able to give the sentence it thought appropriate. The sentences on the other 70 are tabulated below: 386/

<u>Sentence</u>	<u>Number sentenced</u>
Sentence (or sentencing) totally suspended for period	4
Fine or sentence up to six months	38
1 to 4 years' imprisonment	15
5 to 9 years' imprisonment	3
10 to 17 years' imprisonment	10

396. Thirty-eight of those convicted were found guilty of breaking the curfew in the Salisbury area - mostly after the internal elections. 387/

397. In another case a man was given a sentence of two years' imprisonment, suspended for five years, for not reporting the presence of guerillas. He said that his two sons had gone with the guerillas who threatened to kill them and destroy his home in the TTL. 388/

398. An African Roman Catholic nun was found guilty and sentenced to one year imprisonment, suspended on appeal. She had been asked on several occasions for medicine by the guerillas and she had not told the security forces when they arrived. She was concerned that if she had done so the mission station with the clinic would then be shut down. 389/

386/ Herald, various dates from 2 August 1978 to 7 June 1979.

387/ Herald, 10 May 1979.

388/ Herald, 20 March 1979.

389/ Herald, 1 and 30 November 1978.

E. Disparity between the wages and conditions of employment
of black and white workers and discrimination against
black workers

1. Introduction

399. Detailed analyses of black and white incomes have been made in previous reports of the Group (see, in particular, E/CN.4/1135, paras. 417-421, and E/5622, paras. 137-160). There has been no new legislation that significantly affects industrial relations or the employment of Africans in the period under review. The legislation passed which purports to remove racial discrimination has, according to information before the Group, had no discernible effect on the legislation covering industry and industrial relations.

400. Since 1975 the economic recession, caused both by the war and by the fall in international trade, has resulted in a rapid drop in African employment as well as a smaller drop in European employment. However, the Monthly Digest of Statistics no longer gives a racial breakdown of total population or employment figures. In the most recent statistics available which contain a breakdown according to race, the rate of African employment was continuing to fall: late in 1978 it had dropped by about 15,000 (out of a working population of about 900,000) compared with the same period the previous year. European employment had decreased by about 3,500 (out of 120,000). The African population total was increasing, while the European was decreasing because of the emigration. 390/ Public administration, which covers the armed forces, was again the only sector to show any increase, and it went up over-all by over 13 per cent between 1977 and 1978. 391/

2. Economic position of Africans

401. A major study of the manpower available to a free Zimbabwe was presented at a Patriotic Front seminar held in Tanzania in November 1978. This revealed the way in which the economy has been manipulated to the benefit of European workers in Rhodesia. A paper on white migration and its effect on the Rhodesian economy, states that "contrary to the 'official ideological' view that white immigration has caused employment growth for Africans, there exists a strong argument that the opposite was held." Immigrants have both displaced Africans from jobs that they could do and stopped them from being trained. The white immigrants have helped to keep the skilled dominance of the officially multiracial unions in white hands. The campaigns and incentives used to encourage immigrants have absorbed resources that might otherwise have helped the indigenous (African) workers, and only a few of the immigrants have brought significant quantities of capital with them. One of the points made was that the employment of Europeans has prevented Africans from being trained in the central functions of both the State and the industry of the country. At independence, a sudden exodus would require an accelerated training programme, technical assistance, etc. 392/

390/ Supplement to the Monthly Digest of Statistics, October 1978, Table 6.

391/ Ibid., April 1979, Table 4.

392/ Zimbabwe Manpower Survey, Patriotic Front Seminar, November 1978, International University Exchange Fund: No. 8, "The Patterns of white emigration/immigration and their effects on the Zimbabwean economy", D.G. Clarke.

402. Another paper described the way in which the Rhodesian economy has centred upon multinational interests almost exclusively. The mining industry in particular took its labour from the whole of southern Africa, with cheap contract labour procured from Mozambique and Nyasaland (now Malawi). "During this period the mining industry became highly capital-intensive and concentrated on ownership as local trusts were formed and large oligopolistic British, South African and American-based multinationals bought out the small petit-bourgeoisie in the mining sector. In agriculture, the small African farmer and peasant were virtually squeezed out and external demand continued to favour tobacco interests over those identified with domestic food production, leading to only modest attention to the latter sector of the economy. In class terms, African peasants became increasingly marginalized as they were called upon to supply cheap farm labour or remain locked up on the infertile, arid and crowded cheap-labour reservoir - the 'reserves', now the TTLs." 393/

403. In a paper dealing with the problems in the agricultural sector, in the perception of many of the Europeans in Rhodesia, "indigenous Africans were portrayed as people who resented farm work. But their refusal of farm work was, and remains, a realization of the appalling working conditions and meagre wages paid - well below the poverty datum line. They have often thus been better off working in their own fields than on the white farms." 394/

404. The existence of a small number of Africans with industrial skills was described as follows: "Among the factors which have contributed to the dearth of skills among Africans are the racist politics of successive white régimes. The capitalist employers did little to change the situation while the white workers have been positively hostile to black workers." He also complained of the lack of technical training - in particular, apprenticeship training. Despite several Acts of Parliament, reports, etc., calling for increased African apprenticeship, the average number of apprentices in each year between 1970 and 1977 inclusive was 878 Europeans and 85 Africans. 395/

405. An analysis of the post-UDI economy of Rhodesia stated that: "The perpetuation of racial privilege over the period has ensured that the skilled and highly-paid jobs have been reserved for Europeans and, especially during the 1967-1974 period of rapid economic growth, there have been serious shortages of skilled manpower. These shortages have their roots both in the educational policies of the present régime and in the country's labour practices ... In the period 1967-1974 when the economy experienced high growth rates, increased employment opportunities were created for the black population in modern sectors of the economy. Yet even in this

393/ Ibid.: No. 3, B. Chidzero and K. Noyana, "The structure of the Zimbabwean economy and future manpower implications".

394/ Ibid.: No. 10, Chigwendere, "Agriculture and the utilization of labour and skilled manpower in the subsistence and commercial sector of the Zimbabwean economy".

395/ Ibid.: No. 12, Moyo, "Notes on skilled manpower for industrial development in Zimbabwe".

period, the economy did not expand fast enough to absorb the potential workforce, wages remained low for black workers and poverty increased in the rural areas where the vast majority of the population live. In the post-1974 period, the problems of poverty have been compounded both because of an absolute decrease of blacks in paid employment and also because of the economic devastation of the rural areas." 396/

406. A supplement was published in July 1979 to the University of Rhodesia's report on the poverty datum line for families of Africans in various Rhodesian urban centres (see E/5622, paras. 157-160). This supplement listed the values of various items of minimum consumption by the members of a range of typical families, as in September 1978. A very brief summary of the results is given below: 397/

<u>Family</u>	<u>Urban Poverty Datum Line</u> <u>Rh^c per month</u>
A - Man and pregnant woman	60.17
C - Man, woman and two children	77.91
G - Man, woman and four children	107.68

For comparison purposes, the average monthly wage of a range of (mainly urban) occupations is given for September 1978: 398/

<u>Sector</u>	<u>Rh^c per month</u>	<u>No. of employees</u>
Manufacturing	85.4	122 200
Construction	68.5	36 000
Distribution and restaurants	75.8	51 600
Private domestic	38.0	120 700

407. A report in December 1978 showed that the cost of essential food and other items in the rural areas was much greater than in the urban areas. For example, a packet of mealie meal costing Rh^c 5-6 in the town will cost Rh^c 10-12 in the rural areas when it is split up and sold by the mug or jar. A district commissioner said: "The prices in the tribal trust lands have always been high, almost as though by tradition. I have known of boxes of matches ... and items such as sugar and condensed milk all over-priced." 399/

408. One way in which people manage to survive is in the "informal sector". A report in March 1979 described how sandals are made from tyres removed from the Salisbury municipal waste dump. "Plastic bags, mirrors and tyres are the most sought items." The reporter points out that the job is dangerous. "If someone trips he could easily be ploughed under the big wheels of the grader." 400/

396/ Ibid.: No. 4, Riddell, "Post 1964 economic changes under sanctions and war and their implications for manpower in Zimbabwe".

397/ V.S. Cubitt, 1979 Supplement to The Urban Poverty Datum Line in Rhodesia: a study of the minimum consumption needs of families 1974, University of Rhodesia, 1979.

398/ Supplement to the Monthly Digest of Statistics, January 1979, Central Statistical Office, Salisbury, Tables 6 and 7.

399/ Sunday Mail, 10 December 1978.

400/ Herald, 22 March 1979.

3. Labour conditions and the rights of workers

409. At the end of July 1978 more than 500 African employees at a mine near Selukwe owned by Rhodesian Chrome Mines went on strike because they were dissatisfied with a pay award. The management called the police (who "kept an eye on the strike and a spokesman said on Saturday the strike had been peaceful") and paid off all the workers. The strike folded the next day. 401/

410. A strike involving 3,000 workers took place at the Mangula mine, 130 km northwest of Salisbury, because a pay rise of 10 per cent was seen as inadequate and the ration allowance had not been increased. The police were again brought in and they opened fire on the crowd, killing four men and seriously injuring another four. According to the police officer, "There was just one heavy volley of rifle fire, mostly over the heads of the crowd." There was no warning given. According to both the mine management and the white-led Associated Mineworkers of Rhodesia, the strike was due to "widespread intimidation". The miners went back to work two days later, when the management agreed to meet them to discuss their grievances. 402/

411. In October 1978 a strike took place over a pay demand at a furniture factory in Salisbury. Again, as is the standard practice, the police were called and cleared the workers away. The workers said they had been promised a rise in July 1978 when the wage freeze was lifted but one had not been paid. The workers were in some doubt as to whether they had been summarily dismissed or not and they went back to work the next day. 403/

412. At the end of July 1978 Mr. William Chimpaka, one of the African MPs, claimed that within the Ministry of Roads and Road Traffic, Africans with two to four years' secondary education were being put into lower graded jobs than those they had originally applied for. He claimed that local managers and supervisors were preventing African staff from developing their careers, and that ministries cared little about their lower income employees. 404/

413. A year later the president of the Chamber of Mines warned his colleagues that a "noisier and less reasonable type of trade unionist" was emerging in Rhodesia. He said that they had to "tread warily". "By treading warily I mean compliance with the relevant industrial agreements, a preparedness to discuss complaints with employees and their representatives and taking steps to ensure that heads of departments and other subordinates are fully aware of the need to comply with agreements and to react responsibly to complaints by employees or their representatives." 405/

401/ Sunday Mail, 30 July 1978; Rhodesia Herald, 31 July 1978.

402/ Herald, 15, 16, 17, 18 August 1978; Sunday Mail, 20 September 1978.

403/ Herald, 19 and 21 October 1978.

404/ Rhodesia Herald, 29 July 1978.

405/ Herald, 9 June 1979.

F. Other forms of serious violations of human rights
resulting from racial discrimination

1. Secret trials

414. As the Group has reported on previous occasions (e.g. E/CN.4/1270, para. 496), the illegal régime has wide powers to hold secret trials. All the special courts martial are held in secret, even to the extent of not allowing the attendance of witnesses or lawyers. A series of three trials in which it appears that a number of important Europeans have been accused of major swindles while breaking sanctions on behalf of the régime have been held entirely in camera. According to a newspaper report: "The trial in camera of the first of three men alleged to have contravened the Exchange Control Act began in the High Court, Salisbury, yesterday (21 November 1978). Before the hearing started two uniformed Police Officers were posted at each of the two entrances leading to the court where the trial was being held. The hearing is being held in camera in terms of a Ministerial Certificate issued by the former co-Minister of Justice, and of Law and Order, Mr. Hilary Squires, banning publication of the proceedings and the name of the accused." 406/ The trial ended in March 1979 and the press reported that "the Attorney General's office is considering making available for publication an edited version of the judgement of the trial in camera." 407/ Nothing was, in the event, published. Another trial began under the same conditions a week later. 408/

2. Education of blacks: discrimination in school and educational and cultural exploitation

415. Previous reports (including E/CN.4/1187, para. 579, E/CN.4/1222, para. 608, and E/CN.4/1270, para. 499) have dealt with educational discrimination against black children in relation to white. It was pointed out that white children have, by law, to go to school until Form IV (i.e. they get at least 11 years of full-time education), while there is no compulsory education for Africans. It was also shown that there was a high drop-out rate among those Africans who go to school - barely 50 per cent of those who enter primary school finish their primary education. Only 20 per cent of these get to secondary school and only 6 per cent of those who enter the educational system reach Form IV. Education costs a higher proportion of African incomes than of European incomes. Last year the Group's report (E/CN.4/1311, para. 593) showed that over 10 times as much was spent by government per European pupil as per African pupil in 1977.

416. At the beginning of November 1978 the Secretary for Education, Mr. John Smith, said that "No major changes are expected when the education proposals laid down under the March 3 accord come into force". The Education Bill was laid before the Rhodesian Parliament in the middle of December 1978 by Mr. Rowan Cronje, one of the Joint Ministers of Education. It proposed to divide the schools into Community schools, High Fee schools, Low Fee schools and Free schools. In all cases, the central administration would pay the salaries of the teachers and it would also pay a capitation allowance corresponding to the number of children in the school and what age they were. However, the community schools would be run by a board of

406/ Herald, 22 November 1978.

407/ Herald, 27 March 1979.

408/ Herald, 28 March 1979.

governors, who would buy the school from the administration and would, among other things, set their own fees and control admission, though, according to Mr. Smith, they "would not be able to exclude any child on the grounds of race alone". The high fee schools would be rigidly zoned and only the children of bona fide residents would be allowed entry. Any children of African servants illegally resident in an ex-European (and therefore expensive) residential area would be excluded, as would the children of a relative staying with the owner of the property. Also, the academic standing and the age of the child would have to be compatible with the present (European) standards. (Often African pupils are a lot older than their European contemporaries because they started their education later.) Most high fee schools would replace the old European schools - if they were not made community schools first. The régime estimated that the fees at the two types of school would be about the same. Low fee schools would also be zoned and would replace the old African schools in the main. The free schools would mainly be in the TTLs. 409/ The Education Act is part of the specially entrenched legislation requiring 78 votes to change it.

417. In the ensuing months it became clear that the community schools are a means whereby the Europeans can continue to protect their racial exclusivity. For example, in January 1979 the Joint Minister of Education, Mr. Cronje, stated in an interview about community schools: "If the people of Chipinga wish to take over the school there to establish what the Americans call a neighbourhood school, its pupils will have to subject themselves to the white culture or European culture. If an Asian child wants to go there, that's fine, but he will be subjected to the Christian faith, our ways and habits, customs, traditions and criteria". In further discussion, he said that some Africans could be allowed into a community school - as had happened to a small extent with a few high fee private schools in the past. "But it has been discovered that once the ratio between white and black in that school exceeds a certain percentage, the standards drop - in one case to a level where even black parents removed their children from that school." 410/ At the end of May 1979 the illegal régime announced that 37 out of the 130 (presumably European) primary schools were going to be community schools, and five out of 36 secondary schools. Another four applicants were under consideration. It is not at all clear what proportion of the rest would be high fee paying. 411/

418. The effect of the new education policy is beginning to become evident. Thus, for example, two areas of what had been expensive African housing in the suburbs of Marimba Park and Westwood, were zoned for a low fee school, so middle class Africans found themselves without the option of sending their children to a high fee school. The nearest high fee school is zoned for an ex-European residential area. The value of the housing in the ex-African area has dropped, with a consequently greater pressure on the ex-European area. This process thus helps to keep house values up for Europeans. 412/

409/ Herald, 7 November 1978; Debates, 19 December 1978, cols. 1810-1821.

410/ Herald, 22 January 1979.

411/ Herald, 22 May 1979.

412/ Herald, 28 April 1979.

419. At the beginning of the school year in January, about 120 African children attempted to go to three local government European schools, but were banned on the grounds that the Education Act had not been passed. Mr. Cronje said that he was not prepared to "break the (existing) law" because he might be taken to court by a local resident. 413/

3. Health: disparity between black and white facilities

420. An important study published in 1979 by the Catholic Institute for International Relations describes "The struggle for health" in Rhodesia. The authors say: "Consistent with the racial divisions in the wider society of Rhodesia, the health services in the country have been traditionally separated into European and African facilities. Without the mission medical services, the racial division would be far greater, but even with the mission services Europeans have access to a wider range of facilities." 414/ Some examples are tabulated below. 415/

<u>Facility</u>	<u>Africans</u>	<u>Europeans</u>
Hospital beds	1 per 525	1 per 219
Occupancy of hospital beds	30-86%	31-74%
Maternity beds	1 per 6 339	1 per 964
Doctors	1 per 11 500 (1 per 45 000 to 100 000 in rural areas)	1 per 330

These figures are probably an over estimate of the present position in the rural areas as far as Africans are concerned because of the effect of the war. In another study it is shown that the most important "qualitative improvements in the health experience of the Zimbabwean people will mostly result from improvements in social conditions ... The most important single advance necessary would be in the state of nutrition of the population". The main input from the health service is in preventive medicine. "Yet in Zimbabwe ... a tiny proportion (10 per cent) of the Government health budget is allocated to the preventive services, while 90 per cent is devoted to hospital and clinic services." 416/

421. In its legislation to remove race from the statute book, a "Medical Services Act" was passed and is entrenched into the constitution of "Zimbabwe-Rhodesia". In introducing it, the Joint Minister of Health, Mr. Magaramombe, said: "The Bill provides for the existing structure of our medical services to be maintained."

413/ Radio Salisbury, 16 January 1979; Herald, 17 and 18 January 1979.

414/ J. Gilmurray, R. Riddell and D. Sanders, "The Struggle for Health", From Rhodesia to Zimbabwe, No. 7, CIIR, 1979, p. 36.

415/ Ibid., pp. 36-39.

416/ IUEF, op.cit.: No. 16, "Skills requirement in the health sector in Zimbabwe", D. Sanders, November 1978, p. 180.

However, two classes of hospital have been introduced. The "open" hospital will be higher fee and the "closed" hospital will be lower fee. "The basic distinction in regard to the admission of patients of either type of hospital will be the patient's ability and willingness to pay the prescribed fees, irrespective of his race or colour." "Open" hospitals will be open to private medical and dental practitioners to act as consultants to their patients. ^{417/} Thirty-seven per cent of the total budget went in 1974 to the Andrew Fleming hospital, which was a whites-only hospital and will be an "open" high fee hospital under the above arrangement. ^{418/}

4. Violations of freedom of speech and association

(a) Introduction

422. In a previous report (E/CN.4/1135, para. 339), the Group made reference to measures taken by the illegal régime to restrict meetings in the TTLs. Administrative means are often used to stop meetings in the urban areas (E/CN.4/1159, para. 356). In an earlier report it was stated that all meetings of a political nature were banned unless authorized by a white officer, including meetings of under 12 people (E/CN.4/1187, para. 584). That report also referred to legislation which stopped people who had been convicted of making "subversive" statements from either being quoted or going to meetings (*ibid.*, para. 585). In the Group's 1977 report, the régime's decision to issue "D" notices, which prohibit publication of any matter, without appeal, was described (E/CN.4/1222, para. 616). The Group's 1979 report (E/CN.4/1311, paras. 599-600), mentioned further controls on free reporting. No newspaper can report information about deportees; no reports of any measure or act of the régime or the security forces against "terrorism" can be published except under very stringent conditions. Furthermore, the régime set up a new restrictive means of accrediting defence reporters, with the object of establishing a corps of "journalists considered by the authorities to serve the best interests of the country". All of these restrictions, including those covering journalists (with the minor exception noted in para. 426 below), still apply.

(b) Examples of violations of the right to freedom of speech and freedom of the press

423. At the end of August 1978 the editor of the Zimbabwe Times, Mr. H.M. Munangatire, appeared before Salisbury Magistrates court in connexion with a report which had been published without the authority of the Combined Operations HQ. ^{419/} Charges against him and his deputy editor were withdrawn without explanation in February 1979. ^{420/} However, in October 1978 the Zimbabwe Times itself was banned. The order said that the paper and all other periodicals by Herma Press "are likely to be contrary to the interests of public safety and security", and declared them all prohibited. The publication had been going for 17 months and had a circulation of about 20,000. There is no appeal against the banning, which had the support of the UANC. ^{421/} An attempt to publish a successor to the Zimbabwe Times under the name of The World was cancelled after the Joint Ministers of Justice said they would ban it if it were published. ^{422/}

^{417/} Debates, 19 December 1978, cols. 1808-1809.

^{418/} IUEF, *op.cit.*, No. 16.

^{419/} Herald, 1 September 1978.

^{420/} Herald, 25 October 1978, 4 February 1979.

^{421/} Herald, 3 October 1978.

^{422/} Radio Salisbury, 19 October 1978; Herald, 20 October 1978.

424. According to evidence before the Working Group, other papers, such as the Herald, survive by self-censorship. The editor of the Herald, Mr. Rowland Fothergill, was quoted during the period under review as saying that when rigid censorship was withdrawn in 1968 editors of the time (including himself) agreed to the continuation of a certain limited form of self-censorship, simply because they acknowledged that it would be in the interests of the State to do so. The areas where this applied were security and sanctions-busting. "This state of affairs still persists ... We have come to know instinctively what would be prejudicial to those two interests were we to publish it." 423/

425. in May 1979 the régime charged a British journalist, Paul Ellman, under a section of the Emergency Powers Regulations which covers articles the régime believes could cause "alarm and despondency". Mr. Ellman reports for the Guardian and Observer, among other newspapers. 424/ There is no report of any trial.

426. For the period of the internal election, censorship of military affairs was lifted for the international press, though not for the internal press. According to the Sunday Mail, "the move is seen as an attempt to gain greater international credibility for its claims that this week's elections are palpably 'free and fair' and therefore heighten its hopes for international recognition". 425/

427. As recorded in the Group's last report, the Board of Censors of Rhodesia can ban or prohibit sale or possession of certain books. In the "Catalogue of banned books, periodicals, records, etc., for 1978" the following numbers of titles have been banned or prohibited:

All books	138
Political books	6
All periodicals	124
Political periodicals	9

The majority of banned publications are allegedly for "pornographic" reasons. Two of the banned political books were Southern Africa after Soweto by A. Callinicos and T. Rogers and Black Fire by M. Raeburn. Among the periodicals was the December 1977 No. 4 issue of Information Bulletin, entitled "Human Rights in Our Times". 426/

(c) Examples of violations of the right to free association

428. At the beginning of August 1978 the District Commissioner banned a public meeting which was to have been held by ZAPU in Bulawayo. Permission had originally been given for the meeting. 427/ Another meeting, to have been held in Wankie, was banned at the end of August. Apparently a third had been banned. No reasons were given. 428/ The Joint Minister of Justice and Law and Order, Mr. Zindoga, reaffirmed the policy of banning political assemblies "if it is felt that they would endanger life and property". 429/

423/ Herald, 14 October 1978.

424/ Herald, 4 May 1979.

425/ Sunday Mail, 15 April 1979.

426/ Catalogue of banned books, periodicals, records, etc., for 1978, Board of Censors of Rhodesia.

427/ Rhodesia Herald, 5 August 1978.

428/ Herald, 18 August 1978.

429/ Radio Salisbury, 26 August 1978.

429. At the beginning of September 1978 the régime put a "D" notice on newspapers mentioning ZANU or ZAPU, or their leaders, Robert Mugabe and Joshua Nkomo. The newspapers were also forbidden to announce this prohibition. 430/

430. In the middle of September 1978 ZAPU and the People's Movement (the internal wing of ZANU) were banned. This happened at the same time as a large number of the internal leaders of ZAPU and ZANU were detained. 431/

IV. ADOPTION OF THE REPORT

431. 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. Annan Arkyin Cato

Mr. Humberto Díaz-Casanueva

Mr. Felix Ermacora

Mr. Mulka Govinda Reddy

430/ Star, 2 September 1978.

431/ Herald, 17 September 1978.