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VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE  
AD HOC WORKING GROUP OF EXPERTS

Interim Report of the Ad Hoc Working Group of Experts prepared in  
accordance with Commission on Human Rights resolutions 1987/8 and  
1987/14 and Economic and Social Council resolution 1987/63

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General Introduction

1. The Ad Hoc Group Working of Experts, which is composed of six members serving in their personal capacity and appointed by the Commission on Human Rights, was established in 1967 under Commission on Human Rights resolution 2 (XXIII).
2. The mandate of the Group, which has been extended and modified by subsequent resolutions of the Commission on Human Rights and the Economic and Social Council, was recently renewed by the Commission in resolution 1987/14. The Economic and Social Council approved the resolution by decision 1987/142.
3. During the forty-third session of the Commission on Human Rights, Mr. Elly Elikunda E. M'Tango (United Republic of Tanzania) was appointed to replace Mr. Annan Arkin Cato (Ghana), who resigned from the Group on being appointed to other duties in Ghana.
4. The Commission on Human Rights therefore decided, when renewing the Group's mandate, that it would be composed of the following persons, serving in their personal capacity: Mr. Branimir Jankovic (Yugoslavia); Mr. Felix Ermacora (Austria); Mr. Humberto Diaz Casanueva (Chile); Mr. Mulka Govinda Reddy (India); Mr. Mikuin Leliel Balanda (Zaire) and Mr. Elly Elikunda E. M'Tango (United Republic of Tanzania).
5. In that connection, and in accordance with the procedure established by the Group, Mr. Balanda was unanimously elected Chairman of the Group at its 689th meeting on 10 August 1987. Mr. Diaz Casanueva was elected Vice-Chairman of the Group to replace Mr. Branimir Jankovic.
6. In its resolution 1987/14, the Commission on Human Rights decided that the Ad Hoc Working Group of Experts should continue to investigate and study the policies and practices which violated human rights in South Africa and Namibia (para. 26). The Commission also requested the Group, in co-operation with the Special Committee against Apartheid and other investigatory and monitoring bodies, to continue to investigate cases of torture and ill-treatment of detainees and the deaths of detainees in South Africa (para. 27). Furthermore, the Commission requested the Group to continue to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he might deem appropriate, particularly serious violations of human rights in South Africa which might come to its attention during its studies (para. 30). The Commission also requested the Group to submit its report to the Commission at its forty-fourth session.
7. In accordance with the practice followed since its establishment, the Group wishes to note that, at the present stage, it is submitting an interim report containing neither conclusions nor recommendations. However, the Group intends to state its conclusions and recommendations in the final report which it is to submit to the Commission at its forty-fifth session.
8. The Commission on Human Rights also renewed its request to the Government of South Africa to allow the Group to make on-the-spot investigations of the living conditions in prisons in South Africa and Namibia and of the treatment of prisoners in such a manner that:
  - (a) The Group would be guaranteed free, confidential access to any prisoner, detainee, ex-prisoner, ex-detainee or any other persons;

(b) The South African Government would provide a firm undertaking that any person providing evidence for such an investigation would be granted immunity from any State action arising from participation in the investigation (para. 29).

9. In this regard it should be remembered that, in a letter dated 1 May 1987, the Group drew the South African Government's attention to the request made by the Commission on Human Rights, and, more specifically, to paragraph 29 of the resolution. The Group also informed the South African Government of the meetings it planned to hold in Geneva from 10 to 14 August 1987 within the framework of its mandate and called on the Government to forward all information which might help it in accomplishing its task.

10. At the time of the adoption of the present report, the Group has received no response to its request for co-operation from the South African Government.

11. Concerning the situation of human rights in Namibia, the Commission on Human Rights, in resolution 1987/8, renewed its request to the Group to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he might deem appropriate, particularly serious violations of human rights in Namibia which might come to its attention (para. 24) and requested it to report to the Commission on Human Rights at its forty-fourth session on the policies and practices which violated human rights in Namibia and to submit appropriate recommendations (para. 25). The Commission also reiterated its request that South Africa allow the Group to make an on-the-spot investigation of living conditions in the prisons in Namibia and the treatment of prisoners (para. 23).

12. The Economic and Social Council, for its part, adopted on 29 May 1987 resolution 1987/63 on infringements of trade-union rights in South Africa. In the resolution, the Council, having examined the Group's report contained in the annex to document E/1987/70, requested the Group to continue to study the situation and to report thereon to the Commission on Human Rights and the Economic and Social Council.

13. In this regard, it should be remembered that in resolution 277 (X) of 17 February 1950, the Economic and Social Council laid down a procedure to be followed in dealing with accusations regarding violations of trade union rights made against the Governments of States Members of the United Nations and members of the International Labour Organisation. The resolution also laid down a procedure for allegations made against States Members of the United Nations which are not members of the International Labour Organisation. In accordance with that procedure, and following South Africa's withdrawal from ILO in 1966, the Economic and Social Council adopted resolution 1216 (XLII) of 1 June 1967, in which it authorized the Group to receive communications and hear witnesses and to consider the comments received from the Government of South Africa in its examination of the allegations regarding infringements of trade-union rights in South Africa, and requested the Group to report to it on its findings and to submit its recommendations for action to be taken in specific cases.

14. Thus since 1967 the Group has had a mandate to study a number of allegations regarding infringements of trade-union rights in South Africa and to report on the matter to the Commission on Human Rights and the Economic and Social Council. The Group deals with this issue in chapter IV of the present report.

15. In order to pursue the mandate assigned to it by the Commission on Human Rights in resolutions 1987/8 and 1987/14, and by the Economic and Social Council in resolution 1987/63, the Group met at Geneva from 14 to 18 August 1987, when it heard a number of witnesses; this enabled it to gather information on issues relating to policies and practices which violate human rights in South Africa and Namibia.

16. The Group held seven meetings, during which it re-examined its mandate in the light of its renewal, and decided on the organization of its work for 1987 and 1988. It also examined certain information on developments in the situation in South Africa and Namibia.

17. At its 695th meeting, having been informed that 32 people in South Africa were about to be condemned to death, the Group decided to send a telegram to the Chairman of the Commission on Human Rights at its forty-third session, drawing his attention to that situation, in accordance with paragraph 30 of Commission resolution 1987/14.

18. Further to this action, the Chairman of the Commission sent the following telegram to His Excellency P.W. Botha, President of the Republic of South Africa:

"On my behalf as Chairman of forty-third session Commission on Human Rights, please cable the South African authorities expression of the extreme indignation that 32 people have been recently judicially sentenced to death in South Africa and resolute demand to prevent execution of the people mentioned in the telegram sent to me by Ad Hoc Working Group of Experts on Southern Africa of the Commission on Human Rights. Evmenov Chairman forty-third session Commission on Human Rights."

19. The Group sent an identical telegram requesting the Secretary-General of the United Nations to intercede with the South African Government to secure suspension of the application of the death penalty. The telegram reads as follows:

"The Ad Hoc Working Group of Experts on southern Africa of the Commission on Human Rights, which is currently meeting in Geneva has learned with deep distress that the following 32 people have been judicially sentenced to death and are currently awaiting execution in South Africa: Mojalefa Reginald Sefatsa, Oupa Moses Diniso, Duma Joshua Khumalo, Francis Don Mokhesi, Reid Malebo Mokoena, Theresa Ramashamola (the Sharpeville six); Alex Matshapa Matsepane, Solomon Mankopane Maowasha (from Tzaneen); Elili Webushe; Dickson Madikane, Desmond Majola, Patrick Manginda (from Oudtshoorn); Daniel Maleke, Josiah Tsawane (from Sebokeng); Moses Mnyanda Jantjies, Mlamli Wellington Mielies (from Eastern Cape); Paul Tefo Setlaba; Similo Lennox Wonci, Mziwoxolo Christopher Makeleni,

Ndumiso Silo Siphenuka, Mackezwana Menze (Addo Youth Congress); Robert John McBride, Tjeluvuyo Mgedezi, Solomon Mangaliso Nongwati, Paulos Tsietsi Tschlana, Nzwandile Goeda, Wantu Salinga, Lundi Wana, Thembinkosi Pressfeet, Mzwandile Roro Mninzi, Monde Trevor Tingwe and Bekisize Ngidi.

The Ad Hoc Working Group of Experts has the honour to request your Excellency's intervention with the Government of South Africa in order to prevent death sentence from being carried out and thus save the lives of the 32 people. Highest consideration."

20. The United Nations Secretary-General sent the following telegram to the members of the Group, informing them of the action he had taken in this regard:

"I should like to refer to the cable of 14 April that you and other members of the Ad Hoc Working Group addressed to me concerning the 32 people who had been judicially sentenced to death in South Africa. I wish you to know that I have appealed to the Government of South Africa to avoid the carrying out of the death sentences and to exercise clemency."

21. In this connection, no response to these appeals had been transmitted to the Group by the time this report was adopted. However, it is reported that, despite the appeals for clemency, and as indicated in paragraph 103, two persons on whose behalf an appeal for clemency had been made - Mr. Moses Mnyanda Jantjies and Mr. Mlami Wellington Mielies - were executed on 1 September 1987.

22. During the period under review, the Group continued to monitor the situation of children in South Africa, and more specifically the arrest of children under 19 years of age, during school boycott demonstrations. In this regard, the Group remains concerned by conditions in detention and by the ill-treatment reportedly suffered by children at the time of their arrest or during detention, whether or not they are involved in protest movements.

23. In its last report (E/CN.4/AC.22/1987/1, paras. 80 to 94), the Group drew the attention of the Commission to the particularly alarming situation of children detained in various South African prisons. The scope of the phenomenon and the number of children who remain in detention continue to be a matter of concern for the Group. After receiving various mutually consistent reports, and despite the difficulties involved in checking statistics on the number of children still held in detention, the Group cannot but remain anxious about such a situation as described in detail in paragraphs 68 to 91.

24. As in the past, the Group, in drafting its interim report, undertook an analysis of the first-hand information it collected at its meetings at Geneva from 10 to 14 August 1987. This information took the form of verbal testimony and written communications from individuals or organizations concerned. A number of witnesses who appeared before the Working Group during that session wished their identity to remain unknown, the words "anonymous witness" are therefore used to designate them wherever a reference is made to their oral statement in the present report. The Group also systematically sought and analysed documents of the United Nations and its specialized agencies, official gazettes, publications, newspapers and magazines from various countries, as well as other publications dealing with matters related to its mandate.

25. In drafting its interim report, the Group was guided by the relevant international instruments and took into account the resolutions on the situation in South Africa and Namibia adopted by the General Assembly, the Security Council, the Economic and Social Council and the Commission on Human Rights, as well as by the International Labour Organisation and the World Health Organization. The Special Committee against Apartheid and the Council for Namibia participated in the work of the Group.

26. The present report, prepared in accordance with the mandate laid down by the Commission on Human Rights and the Economic and Social Council, was adopted by the Ad Hoc Working Group of Experts at meetings held at the United Nations Office at Geneva from 7 to 18 December 1987.



Part One

SOUTH AFRICA

I. RIGHT TO LIFE, PHYSICAL INTEGRITY AND PROTECTION FROM ARBITRARY ARREST AND DETENTION

A. Right to life \*/

27. In addition to the executions connected with daily incidents and those resulting from acts of the security forces, the Group received a number of reports of cases of organized assassinations.

28. According to the information released by the Detainees' Parents Support Committee (DPSC) in August 1987, anti-apartheid activists have been assassinated both within South Africa and in neighbouring States. The report indicates that internally vigilante forces are responsible for the killing, although their agents are sometimes unknown. Since 1985, Eastern Cape appears to be the area where most assassinations have taken place. The DPSC report also stressed that "assassinations have become common in Natal, where key UDF [United Democratic Front] leaders have been the victims ... in the last two years many members of UDF structures have been abducted and killed. On 17 March 1987, for example, seven UDF-supporting youths were killed in KwaMashu, near Durban. Nine 'vigilantes', with alleged links to Inkatha, are currently awaiting trial for the murder."

29. In his testimony before the Working Group at its 695th meeting, a witness provided details on the circumstances of the assassination of Mr. Andile Krwequana, a teacher who belonged to a progressive teachers' organization, who was shot dead one week after his release from detention. The witness stated:

"He was visiting a friend called Nano ... while he was sitting in the lounge, the house of Mr. Nano was surrounded by the police and the army. It was late in the evening; before he realized what was going on outside, a shot or a tear-gas canister penetrated the window and he was shot (dead)."

30. Complementary information on this subject is also included in section H.

31. According to information received by the Group, three black "special constables" (see para. 114 below) were suspended from duty and were put in custody on 2 February 1987, following a shooting incident which left four people dead and four others injured in Grahamstown, a black township of Tantyi. A spokesman for the police Directorate of Public Relations in Pretoria confirmed that the three policemen were guarding the Samuel Ntsiko Lower Primary School, when a shot was allegedly fired. The "constables" then returned the fire, killing four people and wounding four others. Police started investigations. No further information was received by the Group.

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\*/ This section is based in part on information drawn from:  
The Guardian, Sowetan, The Times, 4 February 1987;  
International Herald Tribune, 12 March 1987; The Star, 7 February 1987.

32. According to the State Bureau of Information, deaths attributed to racial unrest in South Africa dropped in February 1987 to the lowest level in two years: only 16 persons died in racial unrest in February, after 34 in January 1987. The Bureau, which under emergency press restrictions was the only authorized source of information about political violence in South Africa, said that the total number of unrest incidents in January and February 1987 reached a low not seen since December 1984. Bureau officials refused to disclose the total number of reported incidents of racial unrest.

33. A spokesman for DPSC, Mrs. Audrey Coleman, was reported to have reacted with scepticism to the Bureau's claim of a "dramatic" decrease in the number of unrest-related deaths since the imposition of the state of emergency in June 1986. In a statement released on 4 February 1987, the Bureau said that a daily average of 3.4 deaths had been recorded from January to June in comparison with a daily average of 1.4 for July to December - a 62 per cent decrease; the number of deaths dropped during the second half of the year from 665 to 251. This showed that the introduction of the state of emergency had "saved lives and protected property" the Bureau claimed. According to the Repression Monitoring Group (RMG) based in the Cape, however, the latest figures released in the third week of November 1986 put the death toll for 1986 at at least 1,306, or 48 per cent more than for the whole of 1985. The average of 2.4 deaths a day in 1985 allegedly increased to 3.9 deaths a day up to November 1986.

34. The Ad Hoc Working Group of Experts received information about an incident in which the South African police killed two persons, one of whom the Government alleged was an African National Congress of South Africa (ANC) guerrilla. The Group was not able to verify the allegation nor to find an explanation why the two persons were not arrested and prosecuted instead of being summarily killed.

#### B. Detention \*/

35. According to information available to the Group, detention without trial continued to occur on a wide and arbitrary scale throughout 1987, as confirmed by the scores of people who were detained and released many months later without being charged. Many of them were rearrested under the emergency regulations declared on 11 June 1987.

36. Since 1985, the exceptional measures that followed the proclamation of a national state of emergency under the Public Safety Amendment Act has resulted in massive arrests and detentions, with the object of hindering political activity and suppressing the nation-wide resistance to the Government policy of apartheid.

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\*/ This section is based in part on information drawn from: The Guardian, 13 February and 6, 7 and 14 November 1987; Sowetan, 13 and 16 February 1987; The Star, 14 February 1987; The Weekly Mail, 22-28 May and 12-18 June 1987; The Times, 13 June and 7 and 16 November 1987; Le Monde, 15 December 1987.

37. As the Bureau of Information created by the Government is the only body authorized to issue information, the real number of detainees for the period under review is still unknown.

38. However, the following figures, which appeared in the DPSC report of August 1987, were tabled in the South African Parliament in August 1987, including the names of detainees held under the emergency regulations for 30 days or more:

Table 1. Number of detainees

Date	Number	Total
12 February 1987	3 857	13 194
2 June 1987	1 400	14 594
23 June 1987	249	14 843
7 August 1987	1 100	1 100
21 August 1987	42	1 142

39. In the absence of regular official statistics, the estimates published by DPSC in June 1987 referred to 25,000 detainees under the emergency regulations and 1,187 detainees under security legislation for the period of June 1986 to June 1987.

40. DPSC defined five main target groups who "have borne the brunt of detention". These are:

- (a) Leaders and membership of extra-parliamentary politically committed organizations;
- (b) Trade-unionists and workers;
- (c) Clergymen and church workers;
- (d) Journalists and media workers;
- (e) Students and academics.

Table 2. Known targets of detention in the 1986/1987 emergency

	<u>Number</u>	<u>Percentage</u>
Scholars, students, teachers	1 039	33
Community and political workers	1 450	46
Trade-unionists and workers	475	15
Clergy and church workers	130	4
Journalists	19	0.5
Other	50	1.5
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<u>Total</u>	3 163	100
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41. According to the same source, youth organizations were particularly hard hit with 12,000 detentions in the first two months of the emergency (1986). A few months later, the rate of detention under the emergency regulations was approximately 700 per month. The Group studied carefully the state of emergency in its previous report (A/CN.4/AC.22/1987/1).

42. The law permitting detention is now consolidated in the Internal Security Act which came into force in 1982 and was amended in 1987. It provides for detention under four different sections: 28, 29, 31 and 50 (see sect. K).

43. In his oral evidence before the Group, the representative of ANC stressed (690th meeting) that "as the emergency detentions are affecting the entire mass democratic movements, endeavours were made to have them declared invalid. A series of court applications were made in various divisions of the (...) Supreme Court. All those applications were frustrated by the Appellate Division of the Supreme Court in South Africa".

44. The state of emergency has effectively extended the powers of the police to the military while at the same time introducing a number of new measures which permit the authorities to detain anyone without charge or trial.

45. In his testimony before the Group, an anonymous witness (694th meeting) referred to section 3 of the emergency regulations, under which

"there is a power in any member of the security forces, down to the lowest level, to arrest and cause to be detained any person for a period of up to 30 days, simply where it is the opinion of the officer that the person he is detaining would otherwise be a danger to the security of the State. The courts have been unable to challenge decisions by even very junior officers because the regulations are so drawn to make the decisions entirely dependent on the opinion of the officer (...). At the end of that 30-day period (which is an extension from 14 days in the 1986 emergency regulations), the Minister can extend the period of detention without limit, in other words, for the whole period of emergency. There is no appeal, there is no right to challenge the Minister's decision in the court".

46. Referring to his personal experience, a resident of the "homeland" of Ciskei stated in his testimony (695th meeting):

"within the space of the last two years, \*/ I have been detained no less than five times, the last detention being June-July 1987, after the 16 June commemoration of the 1967 uprising. At one time I was detained together with my 18-month-old daughter. My home has been tear-gassed and subjected to countless police raids".

The witness further added:

"I have never been convicted of any crime. When I was detained on 19 June 1987, I was staying together with another activist, Andile Krwequana, who was murdered one week after his release. The murder was not publicized (...) the press in our area refused to publish the story about this situation that led to his death".

47. In regard to arrests in the "homeland" of Ciskei, the same witness pointed out that "South African police used not to make arrests or carry out investigations in Ciskei, but with the rise of resistance against the system now the South African security police, together with the army, no longer recognize the 'sovereignty' of Ciskei; they simply arrest whoever they want in that area".

48. The South African Minister of Law and Order, Mr. Adriaan Vlok, declared that fewer than 4,000 persons had been detained in the last four months of 1986 under the state of emergency. He told Parliament that the total number since June did not approach estimates of more than 20,000 given by opposition groups, even when taking into account detainees held for less than 30 days and not included on the list. Mr. Vlok added that among 3,857 detainees on his list were 281 children under the age of 15, including three under the age of 12 and 18 who were just 12. On 12 February 1987, the above-mentioned list was tabled in Parliament under article 3(4) of the Public Safety Act, 1953.

49. In a related development, Mrs. Helen Suzman, a member of Parliament from the liberal opposition progressive federal party, noted that Mr. Vlok's list included only persons detained under the emergency regulations, and not "large numbers" imprisoned for up to 180-day periods under South Africa's longstanding Internal Security Act.

50. On 18 May 1987, police reportedly raided the backyard of a Soweto shop and arrested 25 people, including the wife of a former ANC member, Mr. Nomathemba Ngeleza, who had been released from Robben Island a short time before. The raid came in the wake of resurgence of unrest in many parts of the country. A representative for the Johannesburg firm representing six of the people detained in the swoop confirmed that they were being held under the emergency regulations.

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\*/ The state of emergency did not extend to the "homelands". Security legislation there is similar to the Internal Security Act (see sect. K).

51. On 12 June 1987, about 1,000 detainees held for varying periods under South Africa's state of emergency regulations which expired on 10 June 1987 were reportedly set free; an estimated number twice as high were to remain in prison, redetained under the new state of emergency. Most of those released appeared to belong to anti-apartheid organizations affiliated to UDF. It was also reported that an undisclosed number, among whom were children, had been released, then charged with various offences and either returned to custody or released on bail. Mrs. Audrey Coleman of DPSC described the police action as "absolutely appalling". The children were said to be held under the emergency regulations.

52. On 6 November 1987, it was reported that Mr. Govan Mbeki, the former Chairman of ANC, was released after more than 23 years in detention. Four other so-called security prisoners were reportedly released at the same time, one of whom was Mr. Nkosi, a member of the Pan-Africanist Congress of Azania (PAC), who had received a life sentence on charges of treason in 1963 at the age of 17. According to several sources, one month after his release, Mr. Mbeki was restricted in his freedom of movement reportedly deprived of the right to leave the judicial district of Port Elizabeth where he has elected domicile, and the press was forbidden to interview him.

53. Two of the other three security prisoners who were released belonged to PAC. They were serving imprisonment terms ranging from 15 to 20 years. The third person belonged to ANC. Mr. Mbeki declared "they told me that I was released without conditions", he also added that he would continue to live in South Africa and retain his membership of the South African Communist Party.

54. In a related development, it was also reported that President Botha rejected the suggestion that the release of ANC leaders from prison could lead to negotiations with the outlawed organization on the constitutional future of South Africa.

55. On 13 November 1987, the police reportedly raided the house of Mrs. Winnie Mandela in the Soweto township and arrested five youths staying there. Five others were also arrested at Mrs. Mandela's new house in a nearby area. The police claimed that the arrests were linked to the investigation of a robbery in the township a month earlier. According to Mrs. Mandela, the police was investigating street committees which were set up in many townships as an unofficial replacement for "disliked" black town councils.

#### C. Cases of torture and ill-treatment \*/

56. The Ad Hoc Working Group of Experts received a variety of evidence and communications describing a number of cases of torture and acts of violence committed both by the police and by the security forces. Apart from the information collected by the Group concerning ill-treatment of children (see sect. E), the Group noted the following cases.

\*/ This section is based in part on information drawn from: a report issued by the National Medical and Dental Association (NAMDA) Conference, April 1987; The Weekly Mail, 30 April-7 May, 15-21 May and 19-25 June 1987; International Herald Tribune, 3 February and 31 October-1 November 1987; The Star, 7 February 1987; The Guardian, 19 June 1987.

57. The Working Group heard a number of allegations of torture in police custody. A witness who appeared before the Group at its 695th meeting, stated that he was accused of preparing for the commemoration of 16 June and was allegedly punched and slapped, unlike the other inmates who were subjected to torture by "suffocating tubes". This method is apparently used instead of electric shocks as it leaves no scars. The representative of ANC informed the Working Group that his organization could make available various sets of affidavits relating to allegations of "rape, in cases where a detainee is female" and also physical and mental torture "at the hands of the police and prison authorities". He singled out the cases of babies who spent different periods of time in prison when their mothers were detained.

58. A panel of doctors, NAMDA, who have treated over 600 former detainees since July 1985, revealed, inter alia, that 82.5 per cent of them showed clinical signs compatible with their allegations of physical abuse. The doctors who examined detainees, found that 60 per cent of the patients were considered severely injured, while 85 per cent complained of severe symptoms.

59. This study was based on the physical and psychological examination of 131 detainees. According to the allegations, 32 per cent reported having been in solitary confinement, 36.8 per cent of whom said that it had lasted for between one and 19 days, while 31.6 per cent said they had spent between 120 and 279 days in solitary confinement. Of this group, 84 per cent were found to have psychological symptoms such as anxiety, depression and sleeplessness. Of the 69 former detainees (52.3 per cent) who alleged that they had been subjected to physical assaults, 67 were found on examination to have injuries consistent with the alleged assault. These included bruises (46 per cent), lacerations (45 per cent), lesions, consistent with being sjamboked (49 per cent), gunshot wounds (9 per cent), electric shock marks (7 per cent) and perforated eardrums (6 per cent); 46 per cent had more than five wounds and 35 per cent had fewer than five wounds. Mental abuse was alleged by 103 detainees (78.6 per cent). Of these 84.5 per cent said they had been interrogated, 35 per cent claimed they had been threatened, 26.2 per cent said they had been humiliated by, for example, being forced to strip naked and 41.7 per cent said they had been in solitary confinement.

60. Opening a parliamentary debate on a no-confidence motion in February 1987, the liberal Progressive Federal Party (PFP), South Africa's white opposition party, reportedly accused the Government of suppressing reports of psychiatric abuse of political detainees. Taking advantage of parliamentary privilege, which allows the media to report debates in the Chamber, Mr. Eglin, leader of PFP, introduced a study involving some of the estimated 25,000 people who had been held without trial under the emergency regulations. He further mentioned that 38 per cent had suffered severe mental strain. In a related development, another member of PFP, Mrs. Helen Suzman, told the House of Assembly that the estimates of the number of persons detained under the state of emergency since 12 June 1986, ranged between 20,000 and 25,000. According to PFP figures, there were about 5,000 people currently in detention. Of those, 10 per cent were women and 25 per cent children under the age of 18.

61. According to The Citizen of 21 February 1987, the Minister of Law and Order, Mr. Adriaan Vlok, reportedly stated that members of the public had received a total of R 1,209,780 as a result of assaults by police. The amount had allegedly been paid in respect of 124 complaints from shooting accidents and injuries sustained from police dogs. According to Mr. Vlok, these included 79 complaints of wrongful arrest which resulted in the police paying out R 196,723.

62. It was reported that a massive hunger-strike over conditions in East London's Fort Glamorgan prison had only come to light when a group of 23 persons detained under emergency regulations were released on 27 April 1987. The strike, allegedly centring on medical care, food, general conditions, prison staff attitudes and involving all 200 male emergency detainees, began on 25 April 1987 after a period of heightening tension between detainees and prison staff. However, the report did not provide details concerning those allegations because the emergency regulations prevented the publication of information concerning conditions in detention and treatment of detainees. The released detainees claimed that asthma cases were neglected; in October 1986, Mr. Mbuyiseli Songelwa, a prisoner awaiting trial, died after suffering from an asthmatic attack in prison. The South African prison service has issued a reply denying that Fort Glamorgan prison inmates staged a hunger-strike adding that "prisoners who refuse to eat are warned of the adverse effects thereof and are treated strictly in accordance with the internationally accepted guidelines set out in the Tokyo Declaration".

63. On 16 June 1987, it was reported that 45 South African detainees being held without trial under the state of emergency at the Modderbee prison went on hunger-strike. A memorandum signed by them stated that reimposition of the state of emergency had resulted in their instant redetention when they had already spent "months of suffering and pain" under the old emergency regulations. They said that they would register their concern through a "life-and-death" protest of an "indefinite" hunger-strike until their demands for release were met.

64. According to the information received by the Group, a white policeman testifying at the trial of two colleagues on murder charges on 30 October 1987 stated that his unit tortured blacks after arresting them without proper cause. Constable Michael Neveling reportedly told the court in the Eastern Cape Province town of Graaff-Reinet that the unit placed plastic bags over suspects' heads or forced their heads under water during interrogation. Constable Neveling was testifying against the squad leader, Warrant-Officer Leon De Villiers, 36, and Constable David Goosen, 26. The officers were charged on two accounts of murder and two of assault. Reportedly, Mr. Neveling and Sergeant H. Bloementhal stated earlier that a black man was stabbed and another shot execution-style during two "forays" by the 10-man unit into the black section of the town of Cradock on 26 July 1986.

65. According to Father Casimir Paulsen, a Catholic priest who had been in custody in a Transkei police cell for 85 days, "interrogation - for Transkei detainees - often means torture". During the period of his detention Father Paulsen was held in a 3.5 metre square cell at Kei Bridge police



station with up to three other prisoners. According to the allegations described in the press report, Father Paulsen had his hands handcuffed behind his back and was forced to kneel on the cement floor. One or more men lifted his legs repeatedly and sank his head in a water-filled canvas bag, forcing water into his mouth and up his nose. Transkei Security Police Chief, General Leonard Kawe, denied Father Paulsen's allegations. After being released he was given 24 hours to leave South Africa for the United States of America.

#### D. Conditions of detention

66. Describing the conditions in detention in the "homelands", a witness described his cell at the Middledrift police station in Ciskei as being one of the dirtiest he had been in. At the 695th meeting, he stated:

"They use the old bucket system. The bucket is locked with you inside the cell. There were many prisoners, criminal prisoners in the cell, and prisoners awaiting trial. The drinking water is in a bucket just next to the toilet bucket, with the only difference that the drinking water is covered with a dirty rag. The blankets were stinking. We were given one mat."

He further added:

"During our stay we [his daughter and himself] were only fed with a quarter of brown bread and we drank water from the bucket."

67. The number of inmates with whom the witness shared the cell allegedly went up from 6 to 100 detainees over a period of three months. It was also alleged that some prisoners had to remain for one year in the same crowded cell.

#### E. Children in detention \*/

68. According to concordant information, black children have been increasingly targeted for repression. The Group is particularly concerned by this situation which, far from improving, is steadily growing worse, notwithstanding official statements to the contrary.

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\*/ This section is based in part on information drawn from the DPSC monthly report throughout 1987; Lawyers' Committee for Human Rights "Children in gaol under the state of emergency", May 1987; International Children's Rights Monitor, 2nd quarter 1987; Sowetan, 12 February 1987; The Guardian, 23 February 1987; The Weekly Mail, 29 May-4 June 1987; Le Monde, 31 May-1 June 1987.

69. These allegations are amply confirmed by the testimony of the many children heard at the conference held at Harare (Zimbabwe) in September 1987 (see paras. 87-89 below). Moreover, the scale of the phenomena and the need for urgent action on the subject by the international community are clearly demonstrated by the information contained in the report published in March 1987 by the Lawyers' Committee for Human Rights and by the publication entitled "War against Children".

70. On 19 February 1987, the South African Minister of Law and Order, Mr. Adriaan Vlok, released to Parliament the Government's third list of detainees as required by law. Among the 4,000 names were 281 children aged 14 and under, three of them only 11 years old.

71. The list included only those who had been detained without trial under the emergency regulations since September 1986 and who had been held for more than 30 days.

72. According to The Weekly Mail of 22-28 May 1987, the Minister of Law and Order, revealed that 1,424 children aged between 12 and 18 were being held. That constituted 34 per cent of the number of detainees known to be held on that day. A total of 178 of the children held on 14 April were girls (12.5 per cent). On 3 April 1987, 738 children aged 17 or under were listed in the Johannesburg records of DPSC as having been detained since the start of the state of emergency (according to DPSC estimates, 40 per cent of detainees were 18 years or younger and 30 per cent were 17 and younger). The information was reportedly drawn primarily from the Southern Transvaal and did not include all areas of the country. By the end of April 1987, 144 of these children had been released (19.5 per cent) leaving 594 still in detention, including three 11-year-olds, three 12-year-olds and 20 13-year-olds. According to the Durban Black Sash, 64 children were still being held in detention in that region on 8 April 1987, while DPSC said 120 children were detained in Grahamstown and the surrounding region between 12 June 1986 and 3 March 1987. Of these, 31 had been released and 81 were presumed still in detention.

73. At the end of April 1987, DPSC estimated that 40 per cent of detainees, the equivalent of 10,000 people, were under the age of 18. The issue was confused by the Minister of Law and Order releasing figures referring to children aged 15 years and younger. In June 1987 he announced that all but 11 "children" under the age of 15 had been released (one 13-year-old, two 14-year-olds and eight 15-year-olds, statement released on 2 June 1987). It is not known how many 16- and 17-year-olds are still imprisoned under emergency regulations. Approximately 12 to 14 per cent of detainees during the year were reportedly women; some of them were pregnant at the time of their detention and, as well as babies being born in detention, some cases of miscarriage were reported.

74. Hundreds of children detained under the emergency regulations were reportedly released during the week of 29 May-4 June 1987. According to initial reports, several hundred children were released from Port Elizabeth prison, 30 to 40 from Krugersdorp police cells and eight from Modderbee prison on the East Rand. A senior police officer reportedly declared that children and their parents knew they had done "terrible things - necklacing, burning houses and cars, intimidating people ... ". He further said: "It's a great risk to set these children free, intimidation is high in the townships". The

release of the eight children detained in Modderbee prison reportedly occurred as detainees in the prison continued their week-long hunger-strike, in protest against reports that detainees were to be transferred to education camps. The Department of Education and Training denied that the Department of Prisons was in any way involved in planning or running courses for detainees. On 28 May 1987, a DPSC representative said an analysis of Government detention statistics indicated that, in spite of a steady turnover, the number of emergency detainees remained at about 5,000.

75. Concerning conditions in detention and in particular with regard to children and their age, a member of ANC made the following statement before the Group at its 690th meeting:

"According to our records, the youngest child we had who was in detention was about eight years old. But the emergency regulations and the Public Safety Act are directed at the mass democratic organizations in South Africa, such as the UDF activists, [Congress of South African Trade Unions] COSATU activists and activists of the National Union of Mineworkers. Some of those activists happen to be young mothers with babies of two or three months. And we should also include those babies, because when the mother is detained then so is the baby. What is disturbing is that in these prison conditions, the prison authorities do not offer special facilities for the young babies, nor are there any sleeping facilities for the baby or any special facilities for the food the baby should eat while the mother is in detention. There are instances where it has been found that, with the passage of time, some of the babies suffer progressive weight loss and the resultant effect is for the baby to suffer from malnutrition, and by the time the mother is released the baby needs to be admitted to hospital".

76. Referring to the same question in the "homelands" a witness stated, at the 695th meeting, that during his imprisonment in June 1987, in Mdanstane he could:

"... hear children crying in the corridors. Either they were hungry, detained with their mothers, or the blankets were not enough. At times you will find the mother is battling with the police at least to warm the food for the child, because the food is not cooked at the charge office. They fetch the food from the hospital which is about 15 to 20 km away. Then when they bring it, they don't give you the food while it is hot".

77. The witness then referred to his personal experience while sharing a prison cell with women from Whittlesea:

"There were 12 of them, and they were all under 21 years, or 18, and one of them was pregnant (...). We battled to get this woman released so that she might be able to deliver her baby at least in a place where there are facilities, like the hospital. We could see that it was in vain to ask that she be released although there were no charges preferred against her. When you are taken in, it is useless for you to press them to release you. You only prolong your stay there. So we asked that this woman be taken to hospital, but that took a very, very long time, until it was very nearly delivered in the prison."

78. The Working Group received a considerable number of reports concerning children treated exactly the same as adults in police cells and prison, a report issued in May 1987 by the Lawyers' Committee for Human Rights states that "they are sometimes held in overcrowded, insanitary conditions, supplied with thin lice-ridden bedding and given few opportunities for exercise".

79. The same report charged that physical assault was generally inflicted on children at the time of arrest or in the early hours or days in custody.

"It physically involves severe beatings, with whips, fists, rifles and other heavy objects as a result of which children have suffered broken teeth, broken bones and serious injuries (...). Children who have been assaulted are frequently denied family visits so that the parents are not alerted to their injuries."

80. A very large number of young people and children are charged with the serious common law offence of "public violence" in connection with "unrest in black townships".

81. According to an anonymous witness (694th meeting), the question of their ill-treatment was raised with the South African Deputy Minister of Law and Order who specified that the Government was totally opposed to any violence against children and that any cases brought to the attention of the Government would be dealt with, that any perpetrators of violence against children would be disciplined. However, many bodies dealing with the detention of children inside South Africa affirmed having "no notice of any evidence of any member of the security forces being disciplined for ill-treatment of children".

82. A specific example of the impotence of the judiciary under the state of emergency was brought to the attention of the Group by the same witness who stated that:

"A judge in his judgement refused to release a 13-year-old boy who was detained by the police and whose mother brought the case before the court, on the ground that he could not interfere with the opinion of the police officer that the child was a danger to the security of the State".

An appeal was then made to a three-man court which upheld the decision and refused to release the child. According to the same statement, the evidence that emerged from the sworn affidavit of the policeman was that:

"He believed that the boy was one of the ringleaders among a group of children in his school who were trying to persuade other children to join in a boycott of the school".

By the time the case got to the three-man court, the child had already been in detention for four months.

83. The position of the Government of South Africa in regard to the detention of children was reflected in a statement released by Mr. Adriaan Vlok, Minister of Law and Order, on 2 June 1987. Mr. Vlok stated that ANC was using children in order to further its strategy through acts of violence.

84. Opposing this allegation, in his oral testimony before the Group, the ANC representative (690th meeting) stressed that:

"ANC is very concerned about the plight of the children under apartheid and it has gone out of its way even to organize conferences focused on the plight of children in South Africa. ANC has also even consulted specialists, doctors, clinical psychologists, psychiatrists who specialize in children to write papers on the effect of detention on children and what the long-run effects would be of such detention, incarcerations, on children."

85. On 23 September 1987, the Minister of Law and Order declared in Cape Town that a total of 115 teenagers none of whom was under the age of 15 were currently in detention under the emergency regulations. Only three 15-year-olds, 28 16-year-olds and 80 17-year-olds.

86. According to Mr. Vlok's statement, most of them were being held in connection with serious offences ranging from murder to arson and public violence. He indicated that the children were all being detained under special circumstances of detention away from convicted criminals and as close to their parents' homes as possible. (See text of statement in document E/CN.4/1988/47).

87. This declaration was released on the day of the opening in Harare (Zimbabwe) of an international conference on children and the law in apartheid South Africa, held from 24 to 27 September 1987. Children as young as 11 years old testified before 500 delegates about their personal experience in South African prisons and the harsh treatment to which they were subjected, including beatings and torture by electric shocks, to force them to confess to different kinds of offences.

88. The Conference was attended by representatives of more than 150 international, regional and national organizations as well as 300 South Africans, the majority of whom had come from South Africa. The Conference discussed the issues under the following themes: (a) the rights of children under international law; (b) South Africa's security laws versus the child; (c) torture and its aftermath; (d) the military, the police and the "vigilantes"; and (e) refugees. A number of papers were submitted by experts and those with first-hand experience and were the subject of panel discussions.

89. The Conference concluded its meetings by the adoption of a declaration which, recognizing that the children of South Africa could not have a normal life as long as the apartheid system remained, urged lawyers, medical practitioners, social and religious workers and all others whose work involved special responsibilities for children, to play a part in the struggle to protect the children of South Africa and help to free them from apartheid. It also appealed to the international community to work for the imposition of sanctions against the régime and urged all Governments to declare their support for all those who, even at risk to themselves, were prepared to act in defence of the children of South Africa.

90. In addition to the communications and testimony mentioned above, the Ad Hoc Working Group of Experts methodically analysed the information which appeared in the international and South African press regarding the question of detention of children in South Africa. The following paragraphs, which are offered by way of illustration, give an idea of the seriousness of the situation.

91. DPSC, referring to a statement by Mr. Vlok that, as a parent himself, he wished every child could be at home with its parents, said it hoped Mr. Vlok's "concern and sympathy" would be extended to five youths currently in detention at Diepkloof prison near Johannesburg. The parents of the youths reportedly brought a joint action on behalf of their children against the Minister of Justice and two members of the prison service at Diepkloof, Major Theron and Warrant-Officer Van Zyl. According to DPSC, children traumatized by prison experience represented a "major national tragedy"; it also stated that 40 per cent of the detainees were children under the age of 18, who had been separated from their parents for up to six months. The joint action was later reported to be brought in the Rand Supreme Court. The case involved allegations of assaults by police and prison wardens, including tear-gas attacks. The injured detainees were all under the age of 21. The authorities, while denying the charges, described them as "serious" and agreed to be bound by a voluntary restraint order. The public was prohibited from hearing the allegations.

F. Deaths in detention and in police custody \*/

92. "The whole process of detention without trial subverts the rule of law and lends itself to abuses. As long as we have a system of detention without trial, this must be expected." The situation to which this statement in the DPSC report of December 1986 refers remained unchanged throughout the period covered by the present report.

93. In addition to cases of deaths reported under security and emergency laws, several other cases occurring in unclear circumstances were brought to the attention of the Working Group. Up to August 1987, human rights groups in South Africa had recorded 65 known cases of deaths in detention since 1963, and a total of 26 deaths in police custody in politically-related circumstances (these numbers do not include cases of death in the "homelands").

94. According to a statement made by the Minister of Law and Order on 2 March 1987, a total of 83 people died in South African police custody during 1986. Another 263 people detained by police since the beginning of the state of emergency, on 12 June 1986, had been taken to hospital. In answers to parliamentary questions, Mr. Vlok reportedly refused to disclose the names of those who had died in police custody or the dates on which they died. Twenty-seven had died of "natural causes" according to Mr. Vlok, 12 had committed suicide, three had been shot while trying to escape and one had been stabbed by other prisoners. In that connection, Mr. Vlok stated that in none "of the 43 instances have the presiding officers in their findings laid blame on the South African police."

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\*/ This section is based in part on information drawn from: The Guardian, 3 and 27 March 1987; Sowetan, 6 and 24 March 1987; International Herald Tribune, 28, 29 March 1987.

95. Reports made available to the Group on this matter, as reflected in the following paragraphs, point to frequent cases of ill-treatment, violence and torture preceding the reported death, mostly during interrogation in police custody in order to extract information or confessions.

96. It was reported that Warrant-Officer Lucas Magagane, Branch Commander, was testifying, on 5 March 1987, at the inquest of Mr. Makampo Lucky Kulumela, a journalist and member of the Azanian People's Organization (AZAPO) and the Media Workers' Association of South Africa (MWASA). Mr. Kulumela allegedly died in police cells less than 24 hours after he had been detained with six other people on 4 April 1986. The inquest was held at the Mokopane Magistrate's Court near Potgietersrus. Warrant-officer Magagane reportedly told the hearing that the Assistant Station Commander at Mokopane, Warrant-Officer Molongwane, had instructed him and about 20 policemen, at a parade on 4 April 1986, to arm themselves with sjamboks and hunt for "comrades" at Shebeens in Mahwekreng township. Warrant-Officer Magagane further said that, when he had checked the entry in the register the following day, one prisoner had been listed as dead and three others admitted to hospital with serious sjambok wounds.

97. In March 1987, it was reported that during an inquest held at The Seshego Magistrate's Court near Pietersburg, evidence by Advocate B. Nugent indicated that former UDP leader, Mr. Peter Nchabeleng (59) had died after swallowing his own vomit during a state of unconsciousness induced by severe sjambok beatings by members of the Lebowa police on 11 April 1986.

98. A young detainee held under the emergency regulations was found dead in his cell on 26 March 1987. Mr. Benedict Mashoke, 20, who hanged himself with his shirt, was reported to be the third detainee to die in custody since the full state of emergency imposed in June 1986. He had been detained without charges at police cells in Bugersfort in the Eastern Cape. Although an investigation has been ordered, its results were not available at the time of adoption of the present report.

#### G. Capital punishment and executions \*/

99. In his statement before the Working Group (694th meeting), an anonymous witness estimated that:

"The annual rate of executions in South Africa is something like 130 or more in recent years (...). Capital punishment is imposed for offences short of murder and seems to be imposed virtually exclusively on black people, and frequently in circumstances which have arisen from what are essentially political incidents".

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\*/ This section is based in part on information drawn from: International Commission of Jurists, Fact-finding Mission Report, March 1987; Anti-Apartheid News, March 1987; Sowetan, 9 July 1987; The Weekly Mail, 16 March and 9-15 October 1987; International Herald Tribune, Le Monde and The Times, 7 November 1987.

100. According to the Black Sash organization "all the current death sentences have been imposed after convictions for murder - an apparent move by the régime to portray its opponents not as political prisoners but as ordinary criminals".

101. In South Africa, vaguely described offences carry the death penalty which may be imposed for statutory offences under the Internal Security Act as well as for murder under the common law.

102. A fact-finding report released by the International Commission of Jurists in March 1987 indicated that terrorism, like the common law offence of treason, carried the death penalty. Its essence is the commission of violence with the intention of overthrowing the State. With regard to the situation in the "homelands", a witness informed the Group (695th meeting) that:

" ... heavy sentences are passed on our people. Six youths in Port Alfred were charged with 'unrest' and were sentenced to death. One of them, before he was arrested was told by the police that he should become a State witness or he would be arrested. He said he could not be a State witness because he was not even there at the scene of the crime, he knew nothing about the crime (...) after some time he was searched, he was arrested and held together with the accused. After a long time he was also convicted".

103. With regard to death sentences and executions which took place during the period under consideration, several sources reported that 121 people had allegedly been executed in 1986, five of them for political offences. At the end of June 1987, 76 people were reported to have been executed and 275 to be on death row, including 32 for politically-related offences (see list below):

Mojalefa Reginald Sefatsa	Moses Mnyanda Jantjies
Oupa Moses Diniso	Mlamli Wellington Mielies
Duma Joshua Khumalo	Paul Tefo Setlaba
Francis Don Mokhesi	Similo Lennox Wonci
Reid Malebo Mokoena	Mziwoxolo Christopher Makeleni
Theresa Ramashamola	Ndumiso Silo Siphenuka
Alex Matshapa Matsepene	Mackezwana Menze
Solomon Mankopane Maowasha	Robert John McBride
Elili Webushe	Tjeluvuyo Mgedezi
Dickson Madikane	Solomon Mangaliso Nongwati
Desmond Majola	Paulos Tsietsi Tsehlana
Patrick Manginda	Mzwandile Gqeba
Daniel Maleke	Wantu Salinga
Josiah Tsawane	Lundi Wana
Thembinkosi Pressfeet	Mzwandile Roro Mninzi
Monde Trevor Tingwe	Bekisizwe Ngidi

On 2 September 1987, many sources reported the execution on 1 September 1987 of Mr. Moses Mnyanda Jantjies and Mr. Mlamli Wellington Mielies from Eastern Cape (see list above) at the Central Prison in Pretoria. It was also reported that two other blacks were sentenced to death by a Pretoria court on 31 August 1987 for the murder by necklacing of a black policeman in 1986.



104. In his statement before the Working Group (690th meeting), the ANC representative appealed to the international community on behalf of his organization to intervene immediately and do all that was practically possible to save the lives of the 32 people on death row (see paras. 17-20 above).

105. It was reported that by 10 April 1987, a total of 40 people had been hanged in Pretoria Central Prison. The figure did not include those hanged in the "independent homelands". By mid-March 1987, Pretoria Central prison reportedly had 251 prisoners and Bophuthatswana had 24 prisoners on deathrow. In October 1987, it was also reported that according to Ciskei "government representative", Mr. Somtunzi, 10 prisoners had been hanged in Ciskei since September 1984 and five prisoners were currently on death row.

106. On 6 November 1987, three blacks convicted of murder were reportedly hanged in Pretoria. Mr. Mlungisi Lumphondo, 21, an anti-apartheid activist, was hanged for having taken part in the murder of a black "homeland" official from Ciskei and a woman who was with him. The two others were common criminals. The executions took place despite an appeal for clemency from the United Nations Security Council.

#### H. Other forms of repression \*/

107. A recent study by DPSC revealed a marked escalation of the number of kidnappings and assassinations of anti-apartheid activists, both inside and outside South Africa. The study, which covers the period June 1986-end June 1987, alleges that the majority of kidnappings take place in neighbouring foreign States, such as Lesotho, Botswana and Swaziland. "In recent years, it seems that an agreement has been struck with Swaziland for South African agents to be able to move freely within the country, and a number of kidnappings have taken place."

108. Several cases of kidnappings and murders were brought to the Group's attention after June 1986, and during the period under review supplementary information indicates that such kidnappings and murders have continued.

109. On 14 December 1986, an alleged senior member of ANC, Mr. Ismail Ebrahim, was kidnapped from Swaziland. His abduction led to his being detained, first in Pretoria, then in Johannesburg. It was later reported that Mr. Ismail Ebrahim won an application for release from detention, only to be charged with high treason on 14 May 1987. Mr. Ebrahim's lawyer announced that he would be charged with treason and other offences relating to the Internal Security Act. He has allegedly been in solitary confinement since his abduction. The application for his release was brought to court by Mr. Ebrahim's brother, Essop, and instructed by Mrs. Priscilla Jana. Reportedly, another application will be lodged challenging the right of the State to charge Mr. Ebrahim before a South African court in the light of the fact that he was abducted and detained in violation of international law.

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\*/ This section is based in part on information drawn from the chapter entitled "Extra-legal or Informal Repression" in the DPSC report, August 1987; The Weekly Mail, 8-14 May 1987, 15-21 May 1987 and 9-15 October 1987; City Press, 24 May 1987; New Nation, 9 July 1987.

110. An ANC activist, Ms. Sehila Nyanda, was allegedly kidnapped from Swaziland on 26 May 1987 and it is believed she is being held as a witness against Mr. Ebrahim.

111. Referring to this case as well as other cases of kidnapping, the ANC representative stated before the Working Group (690th meeting) that:

"Another feature of the aggressive tendencies of the Pretoria régime is the spate of kidnappings and assassinations of members of the African National Congress in the front-line States, especially Swaziland. On 9 July 1987, a senior member of our National Executive Committee, Cassius Make, together with another ANC member, Paul Dikeled, were gunned to death in a taxi in Mbabane, Swaziland. The assassins were identified as Pretoria's 'hit-squad' operatives. Those of our movement who happened to escape death were kidnapped and unlawfully removed from Swaziland to South Africa. After systematic torture and brainwashing, they are also made to work for the South African security force and they are made to accompany the Pretoria assassination squads back to Swaziland to trace the houses of members of the African National Congress, to identify, to point out their residences in various towns in Swaziland".

112. The witness further pointed out that:

"... these agents, erstwhile members of the African National Congress, kidnapped from Swaziland, are used as State witnesses in various cases involving members of ANC."

The witness gave as an example the case of Mr. Ismail Ebrahim mentioned above (see para. 109).

113. The representative of ANC also underlined the necessity of finding means which could persuade the Government of Swaziland to observe the principles of non-refoulement, in application of the Convention relating to the Status of Refugees.

#### "Vigilantes"

114. Reports of informal repression, which cover other cases of kidnapping and assassination, confirm a notable progression in the action of the secretly operating "vigilante" groups, some of whose members were recently incorporated into the municipal police as "special constables" or "kits" constables, trained to work in black townships ("kits" means instant in Afrikaans).

115. In September 1986, the then Minister of Law and Order, Mr. Louis Le Grange, introduced the special police constables - briefly trained and issued with quirts and arms - "to supplement the manpower of the police". As indicated in The Citizen of 23 September 1986, initially, they were to be employed in Western and Eastern Cape and in certain Reef townships. Mr. Le Grange stated that "they would have limited powers and would operate under the guidance and control of senior non-commissioned police officers".

116. By 25 August 1987, according to Mr. Vloks' statement in Parliament, around 400 "kits" constables had been trained by the South African Police.

117. Drawn from the ranks of bodyguards or former "vigilantes", their duties were described as including enforcement of "law and order", such as rent payment, breaking of consumer boycotts and work stay-aways, as well as disruption of even "suspected political organizations".

118. However, as it has been stated in a DPSC study on the matter, "in their brief existence, they have proved far more brutal than even the South African Police (SAP) and the South Africa Defence Forces (SADF)".

119. Over the last 10 months, increasing reports of violence and abuses committed by the "kits" constables have been brought to the attention of the Working Group.

120. The information received includes allegations of harassment, intimidation, assault, theft, sexual abuse and assassinations.

121. According to media information, people have allegedly been shot dead by "kits" constables: a 19-year-old student in Durban, and a 40-year-old priest in the Karoo town of Aberdeen. On 18 August 1987, it was reported that a "stoppage" involving 15,000 chemical workers was suspended on 17 August 1987 following the death of a worker, allegedly killed by the "vigilantes" brought to the mine by bus and accompanied by mine security personnel to break the strike. The strike took place at the Government-owned Sasol oil-from-coal plants in eastern Transvaal. Sasol reportedly threatened to sue "for defamation" if it was suggested that it had been responsible for the attack on the strikers.

122. In relation to these allegations, the Group was also supplied with affidavits and statements related to a number of cases sub judice or court applications filed by the residents of townships in different areas, particularly in Cape Town.

123. The areas which appear to be the most affected by the "vigilantes" action are referred to by DPSC in the following statement:

"The Eastern Cape is one of the worst areas, where mayors of townships in Port Elizabeth and Uitenhage have been closely associated with first 'vigilantes', then later, council police squads which have terrorized residents. Similar situations exist in Welkollm in the Orange Free State, Witwatersrand, Natal and the Transvaal township of Tembisa."

124. In his oral statement before the Group at its 695th meeting, a witness cited the cases of several people who had been assassinated by the so-called death squads and described the way they operated. The witness stated:

"Lately in the area known as Ciskei, two people have died as well as Eric Mntonga and Andile Kiwengana. The people were ordinary members of a youth organization, they were not officials. The police arrived with rifles. They asked for this comrade and they were told, 'no, he is not around'. They went to his bed and they saw somebody there and they shot him on the bed. This was in the space of two weeks, two people died that way. Then the police released a statement about the incident and they said 'no those were bogus police, they were not members of the police'."

125. Concerning the activities of the "vigilantes", it was reported that squatter refugees burned out of their old Crossroads homes in May 1986 by the so-called "witdoeke vigilantes" - allegedly supported by the police - would have to negotiate with self-proclaimed "witdoeke" leader, Mr. Johnson Ngxobongwana, to get their land back. According to the press report, Mr. Ngxobongwana, Chairman of the old Crossroads Committee, has officially become mayor of the squatter settlement, which was declared a local authority on 29 April 1987. Leaders of the refugee squatters, currently living in Khayelitsha tent towns and squatting on vacant land in Nyanga, stated earlier in May 1987 that repeated appeals to the authorities for negotiations concerning who would live on the land had been ignored, in spite of Minister Heunis' statement that they would be allowed to return "on a priority basis" and that "delicate negotiations" were under way. The leaders reportedly warned that if Mr. Ngxobongwana and his followers settled the land "there will never be peace". Confirmation that Mr. Ngxobongwana was officially mayor for a 12-month term and that refugees would have to negotiate directly with him came from Mr. Ricky Schelhase, Assistant Director for Housing at the Office of Community Services. Mr. Schelhase warned that no one could guarantee the safety of the refugees if they insisted on returning. According to him, an additional R 4 which Mr. Ngxobongwana demanded from residents each month over and above their R 7 rent, went into a "Crossroads Development Fund" account. The money would provide loans to people who wanted to build on the upgraded land. Mr. Schelhase also claimed that the total population of Crossroads had only been 40,000, contradicting the figure of 90,000 estimated in February 1987.

I. Administration of justice under the state of emergency \*/

126. Under the state of emergency imposed three times in the last two years, the situation with regard to the protection of the rights of individuals, and particularly of the black population, through the legal system appears to have deteriorated.

127. Testifying before the Working Group at its 693rd meeting, an anonymous witness underlined the persistent "attempts to exclude from the jurisdiction of the court the personal liberty of the black population of South Africa, to exclude from the jurisdiction of the court the activities of the executive and the security forces, with the result that a situation of lawlessness has been created in the townships and in the relations between the security forces and the black population of South Africa." The witness cited several examples which indicated that, except where questions of statutory interpretation arose, the jurisdiction of the court was excluded under security and censorship legislation.

128. The same witness also stated that the reinforcement of security legislation over a period of 30 years and the extension of the power of the executive in relation to matters of security were reflected in the criminal law and the scope of the definition of certain criminal offences, such as "terrorism", "subversion", "sabotage" and "advancing the object of communism".

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\*/ This section is based in part on information drawn from: The Star, 21 March 1987; The Citizen, 28 March 1987; The Weekly Mail, 8-14 May 1987.

"... the definitions of those offences where they are statutory are extremely broad, which enables the Government, if it chooses, to launch prosecutions against those whom it regards as political opponents ... and it is virtually impossible for a judge to say the defendant has not committed those offences".

129. He further referred to section 30 of the Internal Security Act which gives the Attorney-General the power to veto the granting of bail in prosecutions for certain security offences. In the same context, the witness pointed to specific provisions in the emergency regulations which stated that "no court shall have jurisdiction to inquire into this matter". As far as the security forces were concerned "they are excluded from liability for unlawful acts committed while engaged in their duties under the emergency".

130. Regarding the question whether the courts were impotent, the same witness remarked that there was an element of conflict among the judges. There were judges who, while constitutionally bound to apply the law laid down by the Parliament, were "mindful of the tradition of individual freedom, and therefore they seek to interpret the law wherever they can in favour of the individual". In conclusion, the witness emphasized that:

"only a minority of the judges have gone so far as to find invalid regulations issued by the Government, to defeat prosecutions by the Government and to release prisoners whom the Government wishes to keep in detention ... the Government has tackled this obstacles of having judges who will rule some of their legislation to be invalid or interpret it in an unfavourable way by simply changing the law. Although there are liberal judges at the level of the Supreme Court, there are fewer liberal judges in the Appellate Division, which is the final court of appeal in South Africa. Some of the liberal decisions against the Government have been overturned by the Appellate Division. In particular, recently an important decision of some of the lower court judges which allowed detainees to have access to lawyers was overturned by the Appellate Division which is believed to consist mainly of people who are supporters of the Government".

131. On 20 March 1987, the Rand Supreme Court reportedly acquitted a policeman who shot dead two Soweto schoolboys during the first state of emergency in 1986. He was also acquitted of attempted murder for shooting a third schoolboy. Mr. Justice MJ. Strydom found that he had acted in self-defence during attacks on him by children throwing stones.

132. A Fort Hare University student was reportedly sentenced to four years' imprisonment for refusing to testify in the "terrorist" trial in the Supreme Court in Bisho on 27 March 1987. The 27-year-old man, whose name the court ruled could not be revealed, was a State witness in the trial of five people who had been charged under the Ciskei National Security Act. Sentencing the man, who held a teachers' diploma from the Cape College of Education, Mr. Justice B. de V. Pickard, said he was the second witness who had refused to testify in that case. At the beginning of the trial, the court reportedly convicted a French national, Mr. Pierre André Albertini (27), a former Fort Hare University lecturer.

133. According to the latest DPSC report, there were 11 court applications for the release of 87 detainees from the beginning of March to the middle of April 1987. Three of these applications, concerning the release of three detainees were successful. Five applications, involving five detainees were dismissed, one application involving 68 detainees was postponed indefinitely and two detainees were released before their applications came to court.

J. Legal defence \*/

134. It is evident from the cases brought to the attention of the Group that the lack of legal assistance or representation, particularly in rural areas, is one of the basic features characterizing the trials in which black people or children are involved in South Africa.

135. At the 695th meeting, a witness who is a resident of one of the so-called "independent homelands", referring to the case of Rev. Stofile, stated that, after a lengthy period in gaol, the Rev. Stofile was sentenced to 11 years' imprisonment. Because of difficulties in obtaining appropriate legal aid, he was obliged to use the services of the only lawyer available at the time of his trial.

136. At the 694th meeting, the Group was informed by an anonymous witness that there were:

"two separate kinds of legal aid in South Africa. The first kind is an official sort of legal aid which is provided by the Government. That is minimal and it is virtually unavailable for cases involving security legislation or challenges to detentions or arrest .... Legal aid is hopelessly inadequate in South Africa. The second system of legal representation or the unofficial one is provided for those brought before the courts on charges relating to security or political situations ... that seems to operate through the generosity of people outside South Africa who provide funds for bodies like the South African Council of Churches to provide for the payment of legal fees".

137. With regard to the question of foreign funding, the witness further stated that:

"there have been fears, that the Government would take steps to prevent such funding coming in from outside South Africa and if that happened it would have a disastrous effect on the ability of people to obtain legal representation in courts."

138. It was reported that the lawyers representing the Ministries of Law and Order and Justice had agreed to pay South Africa's Roman Catholic Archbishop, Denis Hurley, R 25,000 (about £8,200) in an out-of-court settlement of an action for malicious prosecution. The Archbishop had reportedly sued the

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\*/ This section is based in part on information drawn from The Guardian, 3 March 1987; Sowetan, 3 March 1987.

Government after he had been charged, in September 1984, with having made untrue allegations against the South African police anti-terrorist unit, "Koevoet", operating in Namibia. As a result of the allegations, the Archbishop was prosecuted for unlawfully publishing false statements about "Koevoet", "namely that the security forces in Namibia were still perpetrating atrocities against local blacks".

K. Detention under the Internal Security Act \*/

139. The Government introduced the Internal Security Act (ISA) in 1982. It provided for detention under four different sections:

(a) Section 28 allows for indefinite preventive detention. After successful challenges in 1985, few people were held under it in 1986 and it is now in disuse although it has not been repealed.

(b) Section 29 empowers a police officer of the rank of lieutenant-colonel or above to detain for questioning a person whom the State believes is a threat to State security, has committed an offence endangering State security, or possesses information relating to the above. Most detainees who allege torture are held under this section.

(c) Section 31 allows for the detention of a person who is required as a State witness. With protracted treason trials, detainees have been held under this section for up to two years.

(d) Under section 50, a person may be held for up to 14 days in preventive detention. After that time, permission must be obtained from a magistrate for extension. People are often transferred from section 50 to section 29. (Section 50 was used extensively in the days before the proclamation of the state of emergency on 12 June 1986. Activists were allegedly detained before the announcement gave them time to go into hiding, and they were later transferred to detentions under the emergency regulations.)

140. The Group received the following information concerning cases of detention under the Internal Security Act. In this regard, DPSC listed 31 political trials completed during January, February and March 1987. Of the 105 people involved, 44 were convicted and 61 were acquitted or had charges against them withdrawn. According to the report, 42 persons are currently facing charges of treason in three trials - 19 in Delmas, 12 in Hermanus and 11 in Nelspruit. DPSC also listed 38 political trials under the Internal Security Act and related Acts which were still under way at the end of March. A total of 204 accused were involved in these trials. The following table provides details enclosed in the DPSC report:

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\*/ This section is based in part on information drawn from: a list provided by DPSC, August 1987; The Weekly Mail, 16 March 1987, 22-28 May 1987.

Table 3. Detentions under the Internal Security Act and related Acts (January-March 1987)

<u>Summary of detention status:</u>	
Section 29 Internal Security Act	206
Section 31 Internal Security Act	12
Ciskei National Security Act	63
Transkei Public Safety Act	146
Bophuthatswana Internal Security Act	1
Venda Terrorism Act	1
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<u>Total</u>	429
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<u>Summary by area:</u>	
PWV (Pretoria, Witwatersrand, Vereeniging area)	67
Transvaal country	20
Western Cape	5
Natal	120
Orange Free State	6
Transkei	146
Ciskei	63
Bophuthatswana	1
Venda	1
<u>Summary by length of detention:</u>	
Detained during 1985	15
Detained January-May 1986	23
Detained June 1986	42
Detained July 1986	32
Detained August 1986	20
Detained September 1986	82
Detained October 1986	29
Detained November 1986	18
Detained December 1986	42
Detained January 1987	34
Detained February 1987	73
Detained March 1987	18
Detention date unknown	1

141. In Cape Town Supreme Court, 15 alleged ANC guerrillas were reportedly charged with terrorism. Six of the accused altered their pleas to guilty of the main charge of terrorism under the Internal Security Act and seven to guilty of the lesser charge under the same Act of harbouring or assisting a person they had reason to suspect was planning, or had committed terrorism, sabotage or subversion. The trial's resumption followed a week's adjournment for consultation between the defence team and the accused.



L. Other manifestations \*/

142. During the period under consideration, the Group received the following information referring to other manifestations of non-respect for the right to life.

143. A policeman was reportedly injured when three hand-grenades were thrown into a house in Mahwelereng township on 3 February 1987. The house that was bombed was a hostel used by members of the police force. Several houses were subsequently raided, apparently, in search of the attackers.

144. On 6 February 1987, it was reported that a bomb blast rocked an exclusive, tightly guarded residential area of Cape Town where the President of South Africa and senior members of his Cabinet had homes. A white woman was reportedly injured by the explosion.

145. It was reported that a black man, Mr. Mbambo (52), and a black woman, Mrs. Gwen Mkhwanazi (58), were seriously injured when two unknown assailants threw a hand-grenade through the back door of the Wazanioke Bakery in KwaMashu, Durban.

146. On 12 March 1987, the South African police reportedly used tear-gas to disperse about 100 blacks who ran through the streets of central Johannesburg chanting and singing after attending a meeting in support of demands for the release of people detained without trial. The meeting was in response to advertisements placed in several South African newspapers by DPSC and it was meant to mark "National Detainees' Day".

147. On 16 March 1987, a police spokesman in Cape Town stated that a member of ANC was shot dead on 14 March 1987, when he allegedly led investigators to an arms cache and then tried to detonate a hand-grenade in an apparent escape attempt.

148. It was reported that the home of a UDF member, Mr. Pat Ntsibande in the Eastern Transvaal township of Bethal was petrol-bombed. It was reportedly believed to be the action of "vigilantes" in the area after the family had received death threats. Damage was minimal and no one was hurt in the attack.

149. On 21 April 1987, a police recruit was reportedly killed and 64 injured in a hit-and-run grenade attack on a police training college in Soweto near Johannesburg. The attack took place at Tladi College, a training school for municipal police, where recruits undergo a 13-week course. Seventy-two men were drilling when the grenade was thrown at them. Six of the injured were reported to be in a serious condition.

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\*/ This section is based in part on information drawn from: Sowetan, 4 February, and 30 March 1987; International Herald Tribune, 6 February, 22 April, 7 and 21 May 1987; The Citizen, 23 February and 16 March 1987; The Times, 13 March and 22 April 1987; The Guardian, 16 March 1987, 22 April and 6 May 1987; The Weekly Mail, 26 June-2 July 1987.

150. The Government of South Africa reported that two people had been "seriously injured" on the weekend of 18-19 April 1987, when "a group of eight blacks attacked a member of the security forces with sharp metal objects" in a township outside Germiston, east of Johannesburg.

151. On 5 May 1987, black South Africans reportedly registered a country-wide protest against the whites-only general elections with three land-mine explosions in the north of the country, an explosion in central Johannesburg, a grenade attack in Cape Town and clashes with security forces in several townships. The security forces reported 1 man dead and 11 injured, 4 seriously, including 1 soldier, in the northern Transvaal when a land-mine exploded under a lorry near the town of Messina, on the Zimbabwe border. Similarly, there were two blasts at the Johannesburg Civic Centre in the early hours of the morning. The devices included a grenade which exploded on a railway line outside Cape Town. In mid-afternoon, the Government's Bureau for Information reported clashes with security forces in 11 townships around the country - mostly in Natal. This upsurge of unrest coincided with the first day of a two-day stay-away called by UDF and COSATU as a protest against the election and the recent police killing of striking black railway workers. An independent monitoring group estimated that more than half a million heeded the stay-away.

152. On 20 May 1987, two car bombs reportedly exploded outside a court-house in Johannesburg killing three police officers and wounding five policemen and nine civilians. At police headquarters in Pretoria, a spokesman said that two of the officers wounded at the court-house bombing had been seriously injured. The independent South African Press Association reported that about 20 photographers and television crewmen had been taken into custody after they took pictures of the bombing scene from a nearby roof. The Government attributed responsibility for the attack to ANC.

153. On 25 June 1987, it was reported that the KTC settlement near Cape Town's Nyanga township was sealed off, houses searched and arrests carried out in what police described as a routine "crime prevention operation". Tension in the Nyanga area was apparently linked to rumours that an attack by the "vigilantes" (or "witdoeke") in the area left seven patrolling policemen injured, including five "kits" constables. A spokesman for the police in the Western Cape stated that 14 people had been arrested, but denied any link between this operation and "any specific incident".

II. APARTHEID, INCLUDING BANTUSTANIZATION AND FORCED POPULATION REMOVALS \*/

154. An analysis of the information received by the Group during the period under review shows that official statements are often at variance with measures taken by the Government of South Africa which serve to strengthen the system of apartheid. Thus, despite the repeal of the Influx Control Act and the removal of the "pass system" in July 1986, other measures, which define, limit and control the access of black people to the urban areas, remain as effectively imposed and their freedom of movement is still restricted under the present policy of "orderly urbanization".

155. A recent report by the International Commission of Jurists considered the abolition of the pass laws as part of a new government strategy to by-pass the courts: instead of prosecuting offenders publicly in the courts, an administrative discretion is substituted (which the judges cannot easily supervise), for example to decide whether a person without a "new identity document" shall be returned to his "homeland".

156. According to information submitted by Black Sash, the "orderly urbanization" - which is officially defined as "direct and indirect means of control", is currently supported by a number of reinforced existing laws which no longer refer to race: the Prevention of Illegal Squatting Act of 1951, the Slum Act of 1979, the Health Act of 1977 and the Trespass Act of 1959, as well as zoning regulations.

157. The Group received two communications released by the Government of South Africa in August and September 1987 concerning the National Council Bill. In a statement before the House of Assembly of the South African Parliament on 12 August 1987, the State President indicated that the Government had decided to proceed with the Bill in amended form and if possible, to finalize it during the same parliamentary session. The National Council Bill was published on 23 May 1986 as a basis for negotiation with black leaders. The Bill was tabled in Parliament in September 1987. The objects of the Bill were reported to be: (a) to plan and prepare a

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\*/ This chapter is based in part on information drawn from: International Commission of Jurists, Fact-Finding Mission Report, March 1987; Black Sash, South Africa: Internally Displaced People: An overview, March 1987 and "The freedom to move - but no freedom to stop moving", March 1987; Report of the Special Committee against Apartheid, Official Records of the General Assembly, Forty-Second Session, Supplement No. 22 (A/42/22), para. 19; Sowetan, 3, 23, 24, 25, 26 and 27 February and 17 and 18 March 1987; The Citizen, 4 February and 9 and 11 May 1987; International Herald Tribune, 5 February, 9 March, 7 and 9 April, 16-17 May, 11 and 12 June and 19 November 1987; The Times, 11 and 12 February, 7 March, 28 April, 4, 11, 20, 22, 25 and 29 May, 11, 12 and 13 June and 5 October 1987; The Guardian, 12 and 25 February, 10 March, 7, 12, 14, 20 and 22 May 1987, 11, 12 and 25 June 1987; Financial Mail, 20 February, 20 March, 12 and 19 June and 18 September 1987; The Star, 21 and 24 February and 7-14 and 28 March 1987; The Weekly Mail, 20 March, 8-14 and 22-28 May and 12-18 June 1987; Le Monde, 13 June 1987; The Christian Science Monitor, 22-28 June and 28 September, 4 October 1987 - Argus, 24 June 1987; South Africa Digest, 28 September and 16 October 1987

constitutional dispensation which provides for participation by all South African citizens in the processes of Government; (b) to grant to black South African citizens, on an interim basis, a voice in the process of Government; and (c) to further and protect sound relations among, and the human dignity, rights and freedoms of, all South African citizens.

158. The Government of South Africa, in a written statement forwarded to the Group, has indicated that in the negotiating process the Government found that a forum, such as the National Council, should be instituted.

159. However, in its report to the General Assembly at its forty-second session, the Special Committee against Apartheid pointed out that "not even the 'homeland' leaders, not to mention a single leader of stature in the black community, has agreed to serve on the National Statutory Council. Opposition organizations have rejected the Council and called on Pretoria to negotiate with the leaders recognized by the majority population" (para. 19).

#### A. State policy

##### 1. General

160. During the no-confidence debate in the House of Assembly on 3 February 1987, the State President reportedly said that there would be no fourth chamber of Parliament for blacks. Referring to black tribal and language differences, he said: "If we want to create such a chamber, then we have to accommodate six or seven nations in it and that is absurd".

161. On 11 February 1987, the South African Navy was reportedly accused by the Cape Times of forbidding the training of white recruits by Coloured (mixed-race) instructors. Citing "well-placed naval sources", the newspaper reported that seven Coloured instructors at the SAS Saldanha Naval Base, some 70 miles north-west of Cape Town, had been transferred elsewhere after being told by an officer that black instructors could not train white recruits. The seven men, along with six Indian instructors from the SAS Jalsena Base in Durban, had been brought to SAS Saldanha to help train February's intake of white conscripts, according to the report. Commander Dirk Visser, a Navy spokesman, refused to confirm or deny the paper's story and would only say that it was "not naval policy to comment on inter-unit transfers or personnel placements". According to the same report, the Navy had earlier been in the news over what was dubbed "the affair of the separated Swans" (South African women attested for Naval Service, a volunteer unit). This year's intake into the Swans included a number of Coloured and Indian women for the first time. A few days later, however, it was announced, in a statement in the name of the Chief of the Navy, Vice-Admiral Glen Syndercombe, that, owing to the "youth and vulnerability" of the Coloured and Indian recruits, it had been decided that they should be trained separately.

162. The Government's election manifesto was released at a press conference during the third week of February 1987 by the Chairman of the National Party's Federal Information Service, Mr. Barend du Plessis. The 18-page manifesto reportedly spelled out certain points of departure and aims of NP policies on economics, constitutional, social, international and security matters. Under the manifesto, "all political entities constituting South Africa - including self-governing States - are to have, at their choice, legislative and executive structures for self-determination at all levels of Government". It

was also stated that "full autonomy and even independence for metropolitan areas will not be refused". In the Group's view, the ultimate aim of this statement is to secure international acceptance for the granting of so-called independence to the "homelands".

163. According to a press report, the Government of South Africa appeared to be trying to force international recognition of the so-called independence of the black "homelands" through repeated incidents which had embarrassed foreign States. In a separate development, Pretoria reportedly used "independence" of one of the "homelands" in an apparent attempt to prevent a prominent black cleric from being appointed to one of the top Church posts in the country. The same report described another diplomatic incident related to demands made by the "homeland" of Bophuthatswana that Botswana railwaymen bringing trains across the border must apply for visas. The line is a key rail link between South Africa and Botswana, Zimbabwe, Zambia and Zaire.

164. Twenty-seven academics at one of South Africa's most influential universities have reportedly urged President Pieter W. Botha to scrap apartheid and commit itself to power-sharing with blacks. On 7 March 1987, the academics from Stellenbosch University - the intellectual cradle of the ruling National Party - issued a statement saying they could no longer refrain from making known their concern at the stagnation of apartheid reform.

165. On 9 March 1987, South Africa's ruling National Party reportedly acknowledged, in the Afrikaans newspaper, Beeld, that its 1981 plan to give blacks political rights was "on the rocks". However, it hinted that government planners were at the time working on a new deal for blacks. It was reported that Ministry of Constitutional Development planners were known to be drafting plans to include blacks in central Government, on the basis of the principle of "concurrent majorities" (according to press reports, "concurrent majorities" essentially means that each of the country's four designated races - whites, Coloureds, Indians and blacks - would get a say in government and that any major change after that would have to be approved separately by representatives of each race). While giving each race a veto, in practice, the idea of concurrent majorities would rest on one fundamental condition: the present controversial division between "own affairs" and "common affairs" would be retained, with each race having complete control over its own affairs, but exercising shared control over common affairs. The draft plans did not yet involve representation for blacks in the tricameral Parliament, but rather the separate election of representatives to a super-parliament or council of State. According to the report, those elections would be held through legislative assemblies in the black "homelands" and semi-autonomous town councils. In addition, the plan said that blacks should exercise their political rights at local government level and in their "homelands" but not at central government level. It was also reported that South Africa's three independent candidates in May's white election - Mr. Denis Worrall, Mr. Wynand Malan and Mr. Esther Lategan - had issued a joint manifesto calling for the freeing of black politics from restrictions, and negotiations aimed at creating a "South Africa with equal rights, justice and safety for all".

166. The proposed multi-racial constitution agreed on in November 1986 after eight months of negotiations became a campaign issue for the whites-only elections. President Botha and several senior Cabinet Ministers stepped up their criticism of the Natal power-sharing plan, ostensibly in order to rally the support of the extreme right-wing elements of the white electorate. They

warned that it offered inadequate guarantees to minorities because of its one-man-one-vote formula. Although he has said that he did not oppose a debate by Natal's blacks and whites on provincial constitutional reform, the President appeared to be returning to the idea of a national statutory council that was backed in 1986 by the National Party. In a related development, it was reported that the outcome of the May elections would be studied as a measure of the strength of white support for the proposals of the so-called National Indaba.

167. On 19 May 1987, South Africa's President reportedly indicated that his Government would go ahead with "independence" for the impoverished "homeland" of KwaNdebele. Opening the South African Parliament, President Botha restated the Government's commitment to racial classification and to the maintenance of security. On reform, there was yet another restatement of plans to negotiate black political representation through a "national council", a proposal which was reportedly regarded with scepticism by most political commentators. Interpreting President Botha's speech, Mr. van der Merwe, the Deputy Minister of Information, explained that a declaration by the President that "contempt for the laws of the land cannot be permitted" could be taken to refer to breaches of the Group Areas Act which controlled residential segregation.

168. It was reported that a black couple had been imprisoned overnight and fined R100 each for the offence of sitting on the grass in a whites-only park. On 24 May 1987, Mr. Robert Mneulwana and his wife Elka, a domestic, were reportedly arrested in a park in Germiston, near Johannesburg, kept overnight in a police cell and given a choice between spending a month in prison or paying the fine. Allegedly, Mrs. Mneulwana was refused the right to use a telephone at the police station. The couple appeared the next day in the Germiston Magistrate's Court and were charged with trespass, under the Trespass Act of 1969 related to the racial segregation of public amenities.

169. On 11 June 1987 and about 24 hours before the expiry of the year-old emergency decree in force, President Botha announced its renewal to Parliament. According to press reports, the President acknowledged that it was an infringement of rights normally enjoyed by South Africans, but defended it as being necessary to curtail revolutionary violence such as the recent bomb attack in Johannesburg in which four white policemen had been killed. On that occasion, President Botha was reported to have delivered one of his strongest attacks on ANC, rejecting any idea of negotiating with "a guerrilla organization". He also stated that the renewed state of emergency would help the Government to change apartheid. The Bureau for Information had earlier released a 14-page statement claiming that the state of emergency had reduced violence in black townships; the Minister of Law and Order declared to foreign reporters that violent incidents had declined by 70 per cent since June 1986, adding that the "revolutionary climate" in the country was still too high to permit the lifting of the state of emergency. Subsequent to President Botha's announcement, the following reactions were recorded:

(a) On 10 June 1987, Mrs. Helen Suzman, PFP spokesman, said, "It is my guess that a state of emergency will from now on be more or less a permanent feature of our lives";

(b) UDF called for two weeks of protest against the state of emergency starting on 12 June 1987;

(c) On 11 June 1987, Archbishop Desmond Tutu called on parishes to toll church bells for 10 minutes at noon as a mark of deep concern and a call for prayers to end the state of emergency;

(d) Other extra-parliamentary groups, such as Black Sash, called for the wearing of black armbands.

170. On 12 June 1987, the South African Government issued new state of emergency regulations reported to be identical to, although in some respects more onerous than, those of 1986; they widened and strengthened the curtailment of civil liberties imposed under the 1986 emergency. Detainees held under the previous emergency ought technically to be "released" and then immediately rearrested if they were to remain in prison; their exact number was unknown as the Government refused to give figures, but it was thought to be between 3,000 and 3,500. The new regulations also increased from 14 to 30 days the period for which any policeman or soldier is empowered to detain any person before the Minister of Law and Order authorizes the detention in writing. With regard to education, the text of the regulations published in the Government Gazette incorporated all the 1986 provisions, such as prohibition of access to schools and other petty anti-apartheid manifestations (slogans, T-shirts, documents or stickers considered subversive) and made any infringement punishable by up to two years' imprisonment. The ban on publication of any advertisement "defining, praising, or endeavouring to justify ... campaigns, projects, programmes, actions or policies of violence or resistance" of any illegal organization was also reinstated.

171. Coloured and Indian Members of Parliament were reported to have adopted a tough stand on apartheid at the provincial level and set the scheme for clashes with the National Party in the joint standing committees on provincial affairs which were created in 1986. In this connection, according to information received by the Group, the Natal, Cape and Transvaal committees reports called for:

(a) The outlawing of apartheid in the services and functions of the three administrations;

(b) Faster progress towards the administration's stated goal of parity in salaries and services on a non-racial basis;

(c) The opening of public facilities, including libraries and museums, to all races and, in the case of the Natal committee, consideration of the right to withhold subsidies and grants from local authorities that enforce apartheid in libraries and museums;

(d) The development by the administrations of more non-racial holiday resorts;

(e) The opening of Natal and Cape beaches to all races.

## 2. Group Areas Act

172. As stated in the previous report of the Group, the Group Areas Act of 1950, which divides all urban residential land into areas set aside for whites, Coloureds, Indians and Africans, remains in full force. The concept and application of The Act are central to statutory apartheid. Thus, since

March 1987 and prior to the whites-only election, the Government announced a crack-down on offenders of the Group Areas Act, in an attempt to obtain more votes from the Conservative Party, which has become the official opposition in the white Parliament.

173. During the period March-June 1987, group area evictions and threats of removal have emerged in city centres - areas reserved for whites and where thousands of people of other races were living illegally owing to the shortage of housing.

174. Moreover, in spite of the abolition of the Immorality Amendment Act of 1957 and the Mixed Marriages Act of 1949, the Group Areas Act still prevents couples living together across the colour line without government permission.

175. On 6 May 1987, President P.W. Botha sent out a notice to the residents of black townships in which he referred, inter alia, to the abolition by Parliament of 67 laws, as part of what he termed "meaningful reform". However, it would appear that the recent move by the Government to put aside the blatant manifestations of apartheid through what were said to be repealed or amended laws did not imply any alteration of the very principle of exclusive economic and political power of the white minority. The basic rigid structure of apartheid remains untouched.

176. In this respect, a witness (693rd meeting) expressed the following view: "... the will of the ruling minority to retain power seems undiminished ... the Government is faced with a dilemma, in that it wishes to maintain minority rule and can only do so by means of a strategy of severe repression in which the rule of law and respect for human rights necessarily have low priority. At the same time ... there is a strong desire to maintain the forms and appearance of legality for at least two reasons. One reason is that South Africa is concerned to maintain commercial relationships with Western countries in South Africa - and it feels the need to maintain a legal system at least which has the confidence of outside businessmen in its independence for the purpose of resolving commercial disputes, employment disputes ... Secondly, it appears to feel the need for a strong degree of freedom and protection for human rights of the white population - which is accustomed to regarding itself as living in a liberal democracy".

177. According to several reports, a 252-page President's Council report on the Group Areas Act and related legislation was tabled in Parliament in Cape Town on 17 September 1987. The report was believed to have been shelved, since the proposal was made in Parliament in 1984. For the first time, the report from the advisory President's Council proposed opening willing "white" neighbourhoods to non-whites and giving the upholders of new neighbourhoods the choice of making them "open". The Council reportedly said it opposed any change in the law which could lead to "forced integration"; requests for open areas must come from local residents and local government leaders and must be approved by the administrator.

178. Among other major recommendations it was proposed that children in open areas would attend their own schools in the area, but joint education could be provided by private schools; town planning should act as the control mechanism to protect own residential areas; local authorities should "give particular attention to creating open residential areas in or near central business districts"; South African Transport Services should be guided by business and profit motives in their dealings with the public.



179. On 5 October 1987, President P.W. Botha announced in Parliament that the South African Government had agreed in principle to allow some residential areas to be "open" to all population groups and would establish a board of experts to consider applications. However, the Government rejected the President's Council recommendation that the Separate Amenities Act should be repealed. Instead, the matter would be further investigated by the Government.

180. It was reported that President Botha told the House of Assembly that legislation to "adjust and amend" both the Group Areas Act and the Separate Amenities Act would require complex amendments to the law, which could not be dealt with during the October parliamentary session. Preparatory work would be initiated to bring the proposals to Parliament in 1988.

181. In a related development, The Times reported on 5 November 1987 that about 50 black and Coloured families have been evicted during the night from their flats in a "mixed area" of central Johannesburg. The Government sources reportedly denied they were involved. According to the report, the evictions in Hillbrow came after a company which owned the block of flats obtained a court order against another company responsible for collecting rent. The source said the authorities would not intervene in disputes between landlords and tenants.

182. A witness who appeared before the Group at its 694th meeting, referred to the abolition of "influx control", pointing out that:

"The abolition of pass laws was presented by the Government as a great measure of liberalization and proof of its abandonment of apartheid. It is true that the spectacle of hundreds of thousands of black people being brought before courts charged with offences relating to the pass laws has now ceased. There are no more 'pass courts'. But what has happened is that ... people still do not have freedom of movement ... for the reason that, if they haven't got a job or a home, they are not going to be allowed to move, and the ability to move home is governed not only by economic factors but also by group areas. There is legislation which prevents black people from moving to certain areas."

183. The South African Government reportedly indicated that it was to crack down on offenders of the Group Areas Act even in the Johannesburg suburbs of Hillbrow and Mayfair, which were reserved for whites but where thousands of people of other races were living illegally. Deputy Minister of Constitutional Development, Mr. Piet Badenhorst, denied speculation in the nationalist press that the Government planned to relax the Act in certain areas which had become integrated by declaring them "grey" or "open" areas. He said the law made no provision for "grey" or "open" areas. A number of academic and other prominent people have reportedly broken from the Nationalist Party because of their opposition to its commitment to segregated residential areas. Referring to Mayfair and Hillbrow, Mr. Badenhorst said the Government intended taking tougher action against offenders, particularly landlords who allowed their premises to be occupied illegally, including possible confiscation of the properties.

184. On 10 May 1987, the South African Government was reported to be preparing to crack down throughout the country on violations of the Group Areas Act, which reserved residential areas and facilities, such as State-subsidized hospitals and schools for the exclusive use of a particular race group. The

Government confirmed that 100 warnings had been sent to property owners to evict blacks tenants in white areas, while another 50 were being processed. Warnings have also been given given to American corporations breaching the Act and openly flouting the legislation on residential segregation. Reportedly, the confrontation was only developing between the authorities and the Anglican Church which had been stressing that it had no intention of applying for exemption from the Group Areas Act for Archbishop Desmond Tutu whose home is situated in a "white" area.

185. On 15 May 1987, it was reported that the American Chamber of Commerce announced that its member companies in South Africa would continue to house non-whites in whites-only neighbourhoods, despite warning of a Government crack-down. The Chamber, representing about 200 United States companies operating in South Africa, issued its statement after South African officials said that the Government would no longer tolerate corporate defiance of the Group Areas Act of 1950. In its statement, the United States business group pointed out that it would continue to seek housing for employees "appropriate to their economic status and social standing". The group also reiterated its call for abolition of all racially discriminatory legislation and its opposition to the disinvestment campaign that had prompted many United States corporations to withdraw from South Africa in the past two years.

186. It was reported that as a result of the Government's ongoing Group Areas Act crack-down, about 200 families (some 1,000 people) were faced with eviction by the end of June or July 1987. According to a central Durban residents' association official, their door-to-door visit to a city block of flats zoned for white residents under the Act revealed that, of 34 flats rented, 26 were occupied by Indian or Coloured families. The landlords, in handing out their eviction notices, told tenants that the State had warned them that if "wrong" Coloured tenants were not evicted, they would forfeit their property to the State.

### 3. The question of citizenship

187. The racial segregation policy based on the principle of geographical distribution of the black people in the "homelands" of their ethnic origin has resulted not only in their being deprived of a minimum of vital areas to live (13 per cent of the country under the Land Act of 1913), but also in their denationalization.

188. In a document submitted by Black Sash, entitled "The freedom to move - but no freedom to stop moving", issued in March 1987, it is stated that "as each homeland became 'independent', all those black South Africans deemed to belong there lost their South African citizenship and the rights flowing from it". The "legal" restrictions on identity documents and the enforced deprivation of citizenship are among the most flagrant violations of the black people's basic freedom of movement and residence in their own country. The presence of those consigned to the so-called "independent homelands" outside these areas is illegal without an established "permanent residence" which appears to be a rather difficult administrative procedure.

189. The Restoration of South African Citizenship Act, enacted on 1 July 1986, provided that, "subject to certain stringent conditions, citizenship of South Africa is to be granted on application, to certain citizens of the Transkei, Venda, Bophutatswana and Ciskei homelands".

190. In this regard, the measures of so-called restoration of citizenship were referred to by an anonymous witness (694th meeting) as "an attempt to make a virtue out of necessity ...". According to that witness, on the grounds that "the needs of industry and commerce were such that it was just impossible to parcel up the country in such a way as to have all the black people living in some areas and all the white people living in others." In a different development the witness pointed out that:

"... the reality seems to be that it is far from easy for people to recover South African citizenship who have lost it and been given homeland citizenship, because in general they can only obtain South African citizenship if they had residence rights in a place in South Africa, as distinct from the homelands, and those residence rights are extremely difficult to obtain and to prove. There seems to be a kind of 'catch-22' situation in that you can't move to a place unless you have a job, but you can't get a job unless you have already moved to the place. So it is likely to be found that the number of people who are able to recover South African citizenship under the recent legislation is very small".

191. A thorough examination of official announcements indicates that the application of the Act offers in reality a limited perspective of restoration of citizenship for the so-called "homelanders". Only those among them who had exemption and could be in urban areas under former section 10, (1) (a), (b) or (c) of the 1945 Urban Areas Act are likely to become eligible for restoration of their South African citizenship subject to bureaucratic discretion. According to the Minister of Home Affairs, this would involve a maximum of 2 million people, while a further 7 million will be permanently excluded.

192. In a statement related to this matter, a resident of one of the "independent homelands" deemed that:

"It seems impossible to regain the nationality at the moment. That is in spite of the fact that the State President, among his 'reforms', said that those who wanted to regain their South African nationality, even if they were in homelands which had adopted independence, would be free to exercise their choice. But in spite of that we have seen that many more people are being driven from South Africa. People are being uprooted from the farms and they are sent to resettlement camps within the homelands. Now they are forced to be citizens of the homeland. Those who do not want to stay (there), run to the cities. But in the cities they are arrested for illegal squatting. Hence, the World Council of Churches, which assists people who are victimized by the apartheid régime, has started an organization which they call the 'Surplus People Project'. So if you are removed by the white farmers in South Africa and dumped in the homelands, if you run to the city, you can be given some assistance as 'surplus people'. So you see, it would be very difficult for people in the Ciskei, being Ciskeian or homelanders, to regain their citizenship, legally or in whatever manner. The language you speak determines to which homeland you must be sent. If you speak Sesotho you cannot be sent to Ciskei or Transkei: you will be sent to Bophuthatswana."

The witness then repeated:

"Under existing circumstances it would be difficult to regain your South African citizenship."

193. Referring to the condition of obtaining a residence and work in order to acquire South African citizenship, the witness pointed out that, "in terms of section 10, if you stay for 10 years in a place, in the urban areas, thereafter you can apply for citizenship."

194. In this regard, a statement made by Black Sash stressed that the Restoration of Citizenship Act of 1986, together with the scrapping of the Urban Areas Act, made life worse for the residents of the "homelands":

"Whereas previously people could assimilate the right to be in an urban area working for the same person or living in the same place for 10 to 15 years under section 10 (1) (b) of the Urban Areas Act, now, unless they have a unique skill to offer South Africa, they are unlikely to be able to fulfil jobs no 'South Africans' could fill. This puts them in the same category of immigration as Europeans or Americans."

195. However, according to information received by the Group, in February 1987, the Minister of Home Affairs, Mr. Stoffel Botha, stated in a reply to a question in Parliament that a total of 2,099 blacks from the "homelands" had reportedly regained their South African citizenship in 1986. Furthermore, in a Parliament session of 23 June 1987, Mr. Botha stated that 1,751,400 "homeland citizens" were reportedly resident in South Africa and would be affected by the act.

196. In reply to a question related to his own citizenship, a witness from the Ciskei "homeland" stated, in his testimony before the Group at its 695th meeting, that:

"The question was put to me by a member of the security police who was leading the investigation recently: whether I accepted that I was a Ciskeian or a South African. In that case, I said, no, I was a Ciskeian, because I knew that it would mean more brutality to me. I would be taken out of the Ciskei, I wouldn't have access to my home or to the business. They would have an excuse for closing the business, as they have done to Mr. ... and other people, because they said they were running their business in order to support the organizations which do not want the Government. Then in that case I said, no, I am a Ciskeian. But today I feel in a rather different situation. I can just tell the truth that I do not regard myself as a Ciskeian, more as a South African."

#### B. Forced removals and incorporation in "homelands"

197. In the light of information received, the Group will deal in this section with forced population removals and resistance thereto, as well as with the continuing policy of incorporating certain areas into the "homelands".

##### 1. Forced removals

198. According to Black Sash, there are two major categories of removals. The single biggest category of removals is that of farm workers and their

families. Some one million people have been displaced off the white-owned farms. The next largest category of removal is that under the Group Areas Act of 1950. The Government has moved more than 860,000 people under this Act since 1960. They had completed 96 per cent of their planned removals by 1983. Between 1960 and 1983 there were more than 3.5 million forced removals in South Africa. Some people have been moved more than once. Up to 2 million people are still threatened with removals.

199. An anonymous witness (694th meeting) referred to this question noting that:

"There are also large-scale removals, compulsorily, of black people from areas ... there are many instances where whole towns have been demolished and the inhabitants moved to temporary encampments. That is something that has been going on over many years and covering many thousands, or even hundreds of thousands of people, because of the changing of the 'group area' position of different towns. The general strategy seems to be as much as possible to carry out these policies of restricting and controlling the movement of black people and the residence of black people, not through legislation but through administrative discretion."

200. In a recent statement which was referred to previously, President P.W. Botha stressed that "forced resettlements have been stopped". Yet the Group has received regular information from many regional organizations, such as the National Committee against Removals, the Transvaal Rural Action Committee and the Surplus People Project, on communities in various areas that are threatened with removal.

201. They include Lawaaikamp at George in the southern Cape, where a Supreme Court judgement is awaited on a challenge to the statute which controls "illegal squatting", and Kleinskool in Port Elizabeth, where the authorities wish to declare this mixed-race area a place for coloureds only.

202. Under a different category, removals are extended with a view to incorporating the population into "homelands" later; that appears to be the case of Botshabelo. This is the largest black settlement outside Soweto. In 1979, it was first used as a relocation area for South Sotho people fleeing newly "independent" Bophuthatswana. The Government plans to incorporate it into the tiny overcrowded Qwaqwa "homeland", 300 km away on the northern Lesotho border. Moreover, according to information which has come to the Group's attention, 12,000 persons in the Ekangala township north of Pretoria will henceforward come under the authority of the KwaNdebele administration.

203. Areas where removals are taking place or about to take place include Oukasie at Brits (a township north-west of Johannesburg), and those under threat of incorporation into the nearest "homeland" include Onverwacht, Machakaneng, Geweerfontein, Bloedfontein, Braaklaagte and Leeuwfontein. Except for Onverwacht, the given areas are all going to be incorporated into Bophuthatswana.

204. Several reports forwarded to the Working Group also expressed South African's concern about the forthcoming independence plans for KwaNdebele.

205. Under the new strategy of "orderly urbanization", the Government pursues its policy of arbitrary population displacement and relocation for development reasons. Since the scrapping of the influx control, several national groups which deal with the question of forced population removal have noted the Government's new trend to "embark on old plans to move people under new guises, example 'upgrade'."

206. A number of communities which have successfully resisted entire physical removal such as Crossroads outside Cape Town, Duncan Village outside East London and Walmer in Port Elizabeth are to be "upgraded", which means that the officials intend to remove up to three quarters of the present population because the area is "overcrowded, a health hazard and uncontrollable".

207. This was stressed by Black Sash in the following statement:

"A further category of removals affected hundreds of thousands of people who thought they had seen the end of relocation once they found themselves in the bantustans. These removals are generally presented by officials as necessary for 'development', 'planning' being seen as a 'good thing'. South African officials frequently justify relocation as both 'voluntary' and 'for the good/development of the people'."

208. Representatives of various communities threatened with resettlement in Oukasie, Brits, met in order to discuss forced removals. Delegates from Driefontein, Kwamokgopa, Crossroads and other areas were expected to attend. Reverend O. KmoKgopela, a spokesman for the organizers, said the occasion was called a "Covenant project" and was meant to bring together those with common problems. He also added that Oukasie residents would get a chance to learn and share with other communities which had also been victims of resettlement.

209. In a written reply to a parliamentary question, Mr. Chris Heunis, the Minister of Constitutional Development and Planning reportedly stated that a total of 64,180 blacks were uprooted and resettled in South Africa in 1986. Further removals, Mr. Heunis added, would be undertaken on merit and in line with the Government's policy of "orderly urbanization". According to him, at least 21,973 more blacks in seven townships or communities, six of them in Transvaal, and one in the Cape, were in the process of being resettled. Referring to the 10,000 blacks at the Oukasie black township outside Brits, north-west of Pretoria, whom the Government wanted to move to a new settlement on the border of Bophuthatswana, Mr. Heunis stated that voluntary relocation at Oukasie had been "gaining momentum" over the years and was still taking place daily. The 10,000 residents of Oukasie had to be resettled because of poor health conditions and because upgrading of the area would cost more than relocation. Conceding that there might be "a few" who would not move voluntarily, Mr. Heunis also stated: "if this turns out to be the case, it will be to their advantage to force them to relocate. It will not be feasible to upgrade Oukasie for the sake of a few persons".

210. On 16 March 1987, the Soweto City Council reportedly demolished 10 shacks and ordered more than 150 families staying in a shack settlement in Nancefield to leave the area within seven days. According to eyewitnesses, the demolition was carried out by government officials. The Soweto Council, in notices served to squatter families, warned the dwellers failing to heed its ultimatum that they would be prosecuted under the Prevention of Illegal

Squatting Act No. 52 of 1951. In a related development, it was further reported that at least 10 shacks were demolished at Wielers Farm, north of Evaton in the Vaal Triangle, on 17 March 1987, when the 800-family squatter settlement was raided.

211. On 25 June 1987, a delegation from two Cape shanty town communities threatened with removal met the Minister of Agriculture, Local Government and Housing to seek assurance they would not be resettled. The meeting was reportedly attended by delegates from Lawaaiikamp near George and Kleinskool near Port Elizabeth. Both communities were threatened by authorities to conform with group area demarcations. Lawaaiikamp residents had been ordered to move to the new Sandkraal township, while residents of Kleinskool (a black and Coloured community) faced relocation in Motherwell near Uitenhage; Kleinskool was soon to be declared a Coloured area.

212. On 24 June 1987, a South African court ordered a white town council in Cape Province to rebuild two black shanty homes it had demolished, a ruling which was held by civil rights workers to be a breakthrough for the country's squatters. Anti-squatting laws were reported to give the authorities unlimited rights to knock down shanty towns which had multiplied due to the shortage of land and housing zones for blacks under apartheid.

## 2. Incorporation into "homelands"

213. According to the information available to the Group, the policy of incorporation into the "homelands" continues to be based on the principle of absorbing black areas adjacent to the "homelands" and on forced population removals.

214. The residents of two settlements in Nooitgedacht, a farm in Bophuthatswana across from Mabopane, consisting of 1,400 families belonging to various ethnic groups, including a few Tswanas, were allegedly subjected to systematic removal after having lived there for more than 20 years.

215. On 25 February 1987, it was reported that non-Venda-speaking priests of the Lutheran Church who worked in Venda had been ordered to apply for work permits by the "homeland's" Department of Internal Affairs. The priests were reportedly informed that they should apply for work permits which were renewable every year or become permanent residents without acceptance of "Venda citizenship". The move to have them apply for work permits was seen by many as an attempt to force the Church to negotiate and recognize the "government" of Venda. It was also feared that the measure could give the Venda "government" an opportunity to refuse permits to some of the priests, forcing them to leave the area. Reportedly, this came soon after the banning by Pretoria of Dean Farisani, a former President of the banned Black People's Convention (BPC), from entering South Africa without a visa. The banning order letter addressed to Dean Farisani by the Department of Home Affairs in Pretoria was dated two days prior to his release a month earlier, after 70 days in detention. On 23 February 1987, Ms. Beth Ann Burris, an American Church worker who had been working in Dean Farisani's circuit, had been ordered to leave Venda that day.

3. Resistance in the "homelands" to the policy of apartheid

216. According to information transmitted to the Group, popular resistance to the policy of apartheid has often been severely repressed by the police and security forces. Moreover, a number of cases of opponents being ill-treated when being arrested have been brought to the Group's attention.

217. The KwaNdebele Legislative Assembly reportedly faced another motion aimed at making the territory "independent". The sources pointed out that the likelihood of strong opposition remained slight, as many of those who opposed independence at the 1986 session were in detention, including Prince Cornelius Mahlangu, brother of Prince James, the former Minister of Health, Pensions and Social Welfare.

218. On 6 May 1987, it was reported that the Legislative Assembly of KwaNdebele, the fifth of ten of South Africa's self-governing tribal "homelands", to accept ostensible independence, voted in favour of becoming an independent republic. With a population of 465,000, KwaNdebele was the last of 10 tribal "homelands" created by the South African Government as part of a plan to compartmentalize the country's 23 million blacks by tribe and remove them from white-dominated areas. It became self-governing in 1981. The decision reportedly came soon after the expulsion from the Legislative Assembly of opponents of independence. After outlining the background of KwaNdebele's call for independence and the internal difficulties that caused its postponement, Mr. Chris Heunis, Minister of Constitutional Development and Planning, stated that "the Government is prepared to consider the wishes of the people of the territories ... ". He added that "retroactive independence, however, is not possible".

219. It was reported that violence was brewing again in KwaNdebele, as the territory's "Government" prepared to go ahead with independence plans for the second time in less than a year. Reportedly, schools in the territory have been closed and two set afire, the royal kraal of Chief David Mabhogo, was razed in a petrol bomb attack and some civil servants went on strike in protest against the new independence plans. The new Chief Minister of the "homeland", Mr. George Mahlangu, was believed to be seeking a meeting with the South African President to gain Pretoria's approval for the new independence plan. Reports circulating in KwaNdebele said that the Administration had chosen 12 August 1987 as the date for independence, the anniversary of the day on which the original independence plans were abandoned.

220. It was reported that the Chief Minister and prospective President of South Africa's tribal "homeland" of KwaNdebele, Mr. George Mahlangu, might be charged in court with abduction and torturing of youths. The South African Attorney-General in Pretoria, Mr. Don Brunette, has confirmed that he was in possession of a docket containing allegations that Mr. Mahlangu, together with the former KwaNdebele Interior Minister, Mr. Piet Ntuli, kidnapped and assaulted youths at the height of the 1986 rebellion against the decision by KwaNdebele's rulers to opt for independence. Mr. Brunette confirmed that he had received another docket on a police investigation into allegations of murder against Mr. Mahlangu and Mr. Ntuli. It reportedly focused on their alleged role in the death of a youth. The youth, one of a trio who were allegedly attacked by Mr. Mahlangu and Mr. Ntuli, was said to have died from bullet wounds. Mr. Brunette described the evidence against Mr. Mahlangu and Mr. Ntuli as "unconvincing". According to a Pretoria official, the two men



were also involved in a second murder. They were alleged to have driven in a car from which shots were fired at youths killing eight of them. Mr. Brunette stated that, after Mr. Ntuli's death, four dockets involving charges against him were withdrawn - "the second murder docket may have been one of those withdrawn after Mr. Ntuli's death".

221. On 24 May 1987, three journalists from the South African daily The Star reportedly witnessed brutal police assaults on detainees in the Kwaggafontein police station in KwaNdebele. The three black journalists, who were themselves held in the police station from 13 to 16 May 1987, reported having seen "at least seven detainees being beaten". According to their affidavit, the beatings were administered by black policemen, but a white warrant-officer, the acting station commander, was present during at least one beating and did nothing to prevent it. Allegedly the policemen wanted one of the detainees to admit he was involved in organizing school boycotts. The three journalists also provided details of torture and ill-treatment. Colonel Andries Kühn, a senior white policeman seconded to the KwaNdebele administration, stated that these allegations would be investigated in depth and, if there was any truth in them, appropriate steps would be taken.

#### 4. Resettlement measures in urban areas

222. Allegedly bowing to popular pressure, the South African Government was reported to have shelved a plan to build a vast new segregated township for some 250,000 blacks about 20 miles north-west of Johannesburg. The Minister of Constitutional Development and Planning, said that no further consideration would be given to the plan "at this stage", and that consultants had been appointed to evaluate alternative sites "in a wider regional context". The proposed township, "Norweto" (short for north west township), by analogy with Soweto, is reportedly opposed by almost every conceivable political and ethnic grouping. For the ultra-right Conservative Party, the home of diehard white defenders of apartheid, Norweto would represent a further intrusion by impoverished rural blacks into areas near big cities which they consider should be reserved for whites. Militant black organizations like UDF see Norweto as yet another black ghetto, which they fear could be used, as Soweto was, to resettle blacks living in slum areas closer to Johannesburg. Groups like the Progressive Federal Party, the opposition in the white Chamber of Parliament and Black Sash, the civil rights organization, run by white women, oppose Norweto as an "extension of apartheid thinking". According to them, the problem of black housing could only be tackled fairly once the Group Areas Act, which enforces the racial segregation of residential areas, had been abolished, and housing schemes no longer had to conform to the ideological requirements of apartheid.

223. According to the Sowetan, about 800 families living at Wielers' Farm, about 20 km north of Evaton in the Vaal Triangle faced removal and would reportedly be relocated at a new township. The 800 families lived in shacks that had been springing up since the early 1970s. About 2,000 residents heard of that decision at an open-air meeting addressed by Mr. V.C. Milne, the Director-General of the new Department of Community Services. Mr. Milne told the residents that black housing and squatter control fell under the provincial administration of Transvaal with effect from 1 February 1987.

224. On 21 May 1987, dozens of people were reportedly evicted from their homes in Soweto as its black Council stepped up efforts to break the 11-month campaign for a rent boycott. Most of the evictions were in the Mofolo North

district, one of the poorest areas of the township. No action appeared to have been taken against Mrs. Winnie Mandela and three other prominent community leaders, despite the expiry of a seven-day deadline issued by the Council warning them to pay their rent and electricity arrears or be evicted from their homes.

225. The South African Government proposed drastic measures aimed at recovering the nearly R 300 million owed in rents and services in black townships. The Promotion of Local Government Affairs Amendment Bill tabled in Parliament around mid-June 1987 provided for the effective by-passing of the courts and compelled employers to hand over to local authorities wages and salaries, including arrears, in lieu of arrears of rent and services. A similar move to break the rent boycott in 1986 - by forcing the employers to seize the wages and salaries of black employees - had been called off after a massive outcry from both unions and organized business. The new Bill provides for a local authority to give written notice of 14 days by registered mail to a rents and service charges debtor to settle. If he does not do so, a statement can be filed with the clerk of a magistrates' court which will have the effect of a civil judgement in favour of the local authority. A second application could be made by the local authority for the obtention of an order if the debtors were still in default with the due amount 14 days after receipt of the written "judgement" notice. The end result of this procedure would be an "emoluments attachment order".

226. [It was further reported that the Bill obliged the debtor to inform a local authority whether he was employed and if so the name and address of his employer. Failure to comply could lead to a fine of R 1,000 or six months' imprisonment. Also employers who failed to comply with the "emoluments attachment order" would face a fine of R 2,000 or a year's imprisonment. All fine money would be given to the local authority in favour of which the "judgement" was deemed to have been given. The Legal Resources Centre Director pointed out that the Bill gave sweeping powers to local authorities to attach wages and confiscate property without going through the courts. It allowed local authorities to act as judges in their own case. "It thus denied offenders the opportunity to fight what might be a mistake on the part of the local authority".]

227. The South African Government was reported to be contemplating measures to break black political protests consisting of the widespread refusal of residents in the country's segregated black townships to pay rent or government service charges. Following the unsuccessful attempt to end the protest by evicting defaulters or by setting up payment offices in white areas to counter alleged intimidation by black militants, government officials reportedly hoped to get employers to seize pay-cheques equal to the amounts owed for rent and service charges. Legislation to enforce this plan was revealed in Parliament; if put to vote, it would be passed because of the Government's majority in the white Chamber. It was feared that such a measure would lead to an unprecedented show-down and walk-outs by black labour unions, a development described by Mrs. Albertine Sisulu of UDF as inevitable. So far the townships authorities were expanding their efforts to break the boycott. In Soweto, the black local council warned anti-Government leaders that they faced possible eviction if rent remained unpaid. The targeted leaders included Archbishop Desmond Tutu and Mrs. Winnie Mandela. According to a press report, some urban blacks who generally earn between \$175 and \$250 a month owed the Government up to \$1,500 each.

228. On 18 November 1987, South African army troops and security police reportedly moved into the black township of Soweto in order to back up moves by the Town Council designed to break the 17-month-long rent boycott.

229. An estimated half of the township's 110,000 households refused to pay rent and service charges at various times, but the Council had evicted few of them. The rent boycott which was begun to protest the imposition of the national state of emergency on 12 June 1986, allegedly resulted in a loss to the Government of an estimated \$200 million. The Soweto Civic Association said that the boycott would continue until the Government-supported township Council resigned and rents were lowered.

230. There were no reports of clashes as armoured vehicles patrolled the streets of the Orlando West section of the sprawling townships on the outskirts of Johannesburg. Officials went from door to door warning residents to pay their rent arrears or face forcible eviction as early as 20 November 1987.

231. In addition to violent incidents and assassinations, it is reported that large numbers of people are being displaced - with a constant increase in the youth category who are reported to be fleeing their homes and communities as a result of attacks or threats of attacks on individuals or property.

232. "Vigilantes" groups have become particularly active in areas where community organizations have succeeded in mobilizing the communities. Thus, the harsh repression has forced the progressive anti-apartheid groups to operate underground and many of their leaders have been driven into exile.

233. At the 695th meeting, a witness gave a clear explanation of the way the "vigilantes" tried to penetrate the suspected organized communities:

"... there is this pattern of 'vigilante' people whom they hire, ordinary people. They go to a location and ask if they want work. Then once they take them, they offer them money ... the 'vigilantes' go around and look for the activists. If they know you are a member of a progressive organization, then you are likely to be killed by those people. In the Ciskei this is happening in Zwelitsha. Those are 'vigilantes'. In the Western Cape, they call them 'Witdoekes'. You cannot sue them, you can't take them to court. You don't know them. They keep on changing the people who are doing that kind of work. By the time you get used to these people, then you see other faces, so you are not able to dodge them thoroughly".

III. RIGHT TO EDUCATION, FREEDOM OF EXPRESSION AND FREEDOM OF MOVEMENT \*/

A. Right to education

234. In its previous report, the Group described the massive unrest in various institutions resulting from the deterioration in the educational system in South Africa. It also noted that the root causes of unrest in black schools lie with the apartheid system, which dictates that black education and training must be separate, a policy which has for generations led to black education being inferior (E/CN.4/AC.22/1987/1, paras. 149-151).

235. With regard to the disparity in the quality of the education imparted to whites and to blacks, the Group has pointed out that nearly three quarters of black teachers are underqualified, contrary to white teachers, and that less than 50 per cent of black students receive high school diplomas. The Group considers this situation to be due to the inherent inequalities of the apartheid system.

236. In the 1986/87 emergency, DPSC calculated that about 10,000 people of the age of 18 and under had been detained - 40 per cent of the total. If youths (age 25 and under) were included, then the figure for youths and children encompassed 79 per cent of the detainees, or 18,750 people.

237. The classifications made by DPSC (see table 2 above) demonstrate that the scholars, students and teachers group is the second highest target of all the categories with regard to detention under the current emergency. This group represents 33 per cent of the total of detainees by comparison to 25 per cent under the previous emergency. In the repressive system of apartheid, this appears to be due to the growing militancy of schools.

238. Referring to student harassment, a witness who appeared before the Group at its 695th meeting, observed that "they (the security police) used to arrest students at their homes but now it is no longer the case; they go and arrest them at school".

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\*/ This chapter is based in part on information drawn from: Detainees Parents' Support Committee, "Report on human rights in South Africa", August 1987; International Commission of Jurists, Fact-Finding Mission Report, March 1987; Lawyers Committee for Human Rights, "Alert: The press under the state of emergency", May 1987; The Star, 31 January, 14 February and 14 March 1987; The Times, 13 and 14 and 25 February, 11 and 12 March, 13 April, 4, 16 and 22 May and 12 June 1987; International Herald Tribune, 14 and 15 February, 11 March, 13, 24, 28 and 29 April, 2-3 May and 26 June 1987; Le Monde, 15 and 16 February, 14 and 29 April, 4, 16 and 23 May and 13 and 19 June 1987; The Guardian, 16 February, 11 March, 13 and 28 April, 5-6 and 19 May and 12 June 1987; Sowetan, 20, 24 and 26 February 1987 and 25 March 1987; The Citizen, 13 and 19 March, 1, 2 and 7 May 1987; The Weekly Mail, 16 March, 30 April-7 May, 15, 21 and 22-28 May, 26 June, 2 July and 16-22 October 1987; The Christina Science Monitor, 4-10 May 1987; Reader's Digest, 19 June 1987.

239. At the 690th meeting, the representative of ANC expressed his concern about the discriminatory structure of the educational system, with separate and inferior schools provided for black children in South Africa:

"The Bantu Education Act makes provision for a special type of education, a quality of education which must be received by the oppressed people in South Africa. That is resented by the schoolchildren. Hence, there are slogans written by children at home: 'liberation now, education tomorrow', and they are revolting against Bantu education. Their energies are directed at destroying the State institutions, the schools and other government structures that supervise and administer those Bantu schools. What is happening is that in future it seems we shall be having a high rate of illiteracy in our country because the children do not attend schools. Apart from the general revolt against Bantu education, unemployment in South Africa has reached such alarming proportions that many parents cannot afford even to send children to school, they cannot afford to finance the education of their children."

240. In his statement pertaining to what he termed the "vicious repression of children in South Africa", the representative of ANC pointed out that:

"... ANC has made one of its objects the development of a certain complex in a place like Mazimbo where it hopes to accommodate all the children who have left the country, to provide education for all the children who have run away from the vicious system of education. At the present moment we are helping more than 4,000 children, some without parents, at such centres as the Solomon Mahlangu Freedom College in Mazimbo, United Republic of Tanzania".

241. According to several reports appearing in February 1987, a big political row had occurred in Johannesburg over the exclusion of a black Natal schoolboy from an annual inter-schools athletics meeting at a Pretoria high school on 14 February 1987. At least 100 of the 340 athletes from Natal schools who were due to take part in the games at the Menlo Park Hoerskool, a segregated State school for Afrikaans-speaking whites in Pretoria, were reported to have withdrawn in protest a day earlier. The Minister of Home Affairs and leader of the ruling National Party in Natal, Mr. Stoffel Botha, reportedly said that he sincerely regretted the action taken by the Menlo Park School, and that the Government was not opposed to racially-mixed school sports events. The white Department of Education and Culture maintained, however, that nothing could be done because individual schools were free to decide their own policy on racially-mixed sport. It was further reported that a whites-only school in Boksburg, east of Johannesburg, barred pupils from competing against blacks in sports events.

242. Information related to academic freedom was transmitted to the Group through different channels: DPSC, the Kairos group, the End Conspiracy Campaign, the South African Council of Churches, Black Sash, the National Education Crisis Committee and the National Union of South African Students. On 5 August 1987, the Minister of Education, Mr. F.W. de Klerk, reportedly made proposals to impose certain conditions on the granting of subsidies to the South African universities. He gave the vice-chancellors of the South African universities until 31 August 1987 to respond to his proposals.

243. In a related development, on 15 October 1987, the Government reportedly cracked down on universities imposing strict conditions to be met by 19 October 1987, in order to qualify for State subsidies. According to a statement released by the Minister of National Education, Mr. F.W. de Klerk, university councils would be required to take steps to prevent, inter alia, unlawful gatherings, the promotion of boycotts, support for or promotion of unlawful organizations, encouragement of members of the public to strike or to stay away from work and support for civil disobedience. Mr. de Klerk stated that the Government had decided to take steps to compel universities to enforce stricter discipline, because of the "unacceptable situation" which had developed over the past few years. The Government had found unacceptable the "intimidation of students ... disruption of academic activities and the infringement of the rights of lawful organizations to hold meetings and invite speakers". Under the conditions, incidents alleged to be in these categories must be reported to the Minister in writing within 21 days, with an explanation of the steps that would be taken. Mr. de Klerk reportedly indicated that "managerial autonomy" of the universities and academic freedom of students, staff and universities "will not be substantially affected" by the crack-down.

244. On 23 April 1987, tens of thousands of blacks reportedly stayed away from jobs and schools in the Johannesburg area in a demonstration that the South African Government called an attempt to create a "revolutionary climate" before the May elections.

245. On 27 April 1987, police reportedly used whips and fired tear-gas and birdshot in running battles with hundred of students, both blacks and whites, in an anti-Government protest at the university of Cape Town. Trouble started after students staged a midday rally in protest against the raid and the use of police on the campus a week earlier to break up another demonstration against the killing of six railway strikers on the Witwatersrand. There were no immediate official reports of injuries, but a journalist who was at the campus stated that at least four students were hit by birdshot and others injured by whips. Some students were also arrested. According to the Government's Bureau of Information, police fired tear-gas and used whips on students after they and private vehicles were stoned. In a related development, it was reported that 400 students were also dispersed by police forces firing tear-gas at them at the University of Witwatersrand in Johannesburg on 29 April 1987. They allegedly threw stones at police and civilian vehicles. According to the Government Bureau of Information no one was injured and no arrests were made.

246. On 4 May 1987, the South African police reportedly invaded the University of Witwatersrand in Johannesburg, to break up a meeting that was to be addressed by Mrs. Winnie Mandela, and arrested scores of students and several journalists. They also fired tear-gas at university lecturers. The first raid allegedly came minutes after the meeting was prohibited by the Chief Magistrate of Johannesburg acting under the Internal Security Act of 1982. The meeting was organized to express the students rejection of the whites-only election. It was later reported that the university campus would be shut on 6 June 1987, in protest against attacks on students by riot police.

247. A confidential report entitled "Confidential: steps and measures for campus control - interim report", has allegedly recommended that the security forces be given unlimited access to the university. The nine-page report on the University of the North (Turfloop), recommended access for security forces

on the campus to "monitor radical and disruptive elements" and the establishment of communication channels "to enable management and experts from outside to inform staff about revolutionary activities, target groups being the Executive Committee of Senate (ECS), the Senate and faculty boards, departmental staff and the administrative management committee". The report stated that commemorations of so-called national days on campus would not be permitted and that disciplinary steps would be taken against staff or student members "who launch politically motivated action or activities on campus ...". On campus control, it was also stated that "high fencing should be erected between campus and campus staff residential areas". Class attendance registers were also to be introduced and both staff members and students "should carry on themselves visible university identity cards during any academic activities". Strict control of copying and typing machines was also recommended to curb reproduction of political material. In addition the report stated that: violent and disruptive protests and demonstrations would not be allowed; prior approval for any mass marches and meetings should be obtained from the Rectorate; petitions must be properly signed by a majority of students giving adequate particulars of the petitioners; and slogans that might be offensive to any group on campus would not be allowed.

248. According to the information available to the Group, some of the above measures have already been implemented during the current year and over 500 students are said to have been refused readmission this year on the basis of rule A19 (which deals with readmission of older students: the new recommendations apparently suggested that students who were refused readmission would have to wait two years before being readmitted). In a related development, it was later reported that the Senate of the University of the North held an emergency meeting to discuss the disclosure of the controversial and confidential report.

249. A 20-year-old student, Mr. Peter Newman, was reportedly sentenced to one year's imprisonment for having maligned Mr. Botha through slogans he painted on walls.

250. According to a statement made in Parliament by the Minister of Education and Development Aid, Mr. Berrit Viljoen, a total of 147 teachers were unable to perform their duties over the 12-month period from June 1986 to June 1987 because they were detained.

#### B. Right to freedom of expression

251. In its previous reports (E/CN.4/1958/8, E/CN.4/1986/9 and E/CN.4/1987/1) the Group referred to a number of legislative provisions designed to give the police increased powers of press censorship and noted that the proclamation of an emergency had brought about a virtual ban on the reporting of protests and police and army actions in the areas under a state of emergency.

252. The report of a fact-finding mission released by the International Commission of Jurists in March 1987 pointed out that "the Internal Security Act of 1982 empowers any magistrates to ban any meeting within his area or to impose conditions on the holding of meetings. Since the state of emergency was declared, meetings have been routinely prevented for any groups having a remotely political purpose. The United Democratic Front (UDF) in particular has been unable to hold public meetings.

253. Censorship clauses imposed by President P.W. Botha on 11 December 1986 were extended to all sections of the media. They included restrictions on the reporting or photographing of actions by the security forces to quell political unrest and the reporting of gatherings of outlawed organizations.

254. The latest in a series of Government decrees restricting free speech - since the current state of emergency was declared on 12 June 1986 - was signed on 10 April 1987 by General Johan Coetzee, Commissioner of the South African police. It prohibits participation "in any campaign, project or action aimed at accomplishing the release of persons" detained under certain sections of the Internal Security Act of 1982.

255. Since 11 June 1987, the Government has imposed new curbs on the media, particularly newspapers, in order to put an end to a series of judicial decisions which challenged the validity of the emergency regulations or orders issued under them.

256. Speaking of the suffering of the black people in South Africa and the public information system under the state of emergency, an anonymous witness made the following assessment before the Group at its 694th meeting:

"One has to bear in mind that a lot of people there perhaps know rather less of the facts of the situation than people outside, because there is a great shortage of public information in South Africa, other than that which emanates from the Government itself which, of course, controls the only broadcasting or television in South Africa, so all the news bulletins on television and on radio reflect the Government's point of view. There are some very good newspapers which have a great struggle to survive because a lot of pressure is put on them, and very few people feel safe in reading them".

257. The main effect of the restrictions on the press and the control of the broadcasting system according to the witness, "is on the information that gets to people who are living there and on the attitude of white people who are living in South Africa".

258. Gatherings of political nature remain restricted as do artistic, cultural and sporting events organized by black people, particularly in the so-called "independent homelands".

259. A witness who appeared before the Group at its 695th meeting, referred to the following incident as a significant example of cultural restrictions imposed by the South African authorities:

"We were busy organizing a fund-raising show. It was a concert which was going to be held in a nearby hall. Since we are prohibited from using the hall, we were required to make an application to the magistrate for the use of the hall. The magistrate gave permission. In fact, when we went to collect the reply to our letter of application, he showed us a letter from the security police which said that they had no objection to our using the hall. Then we paid for the hall, and we were given a receipt for the booking. While we were arranging the hall before the show started the police arrived in several vehicles. We suspected that they were going to disrupt it, but we relied on the papers we had, on the permission, on the letter and the receipt which were issued by the



magistrate. They asked us whether we were permitted to use the hall. We showed them these receipts and the letter of permission, but they said no, these papers are not valid, we could have forged those documents. They said they forbade us to use the hall. Since it was already dark, I asked those who did not have their transport available to come with me and wait at home. While we were at home, the police arrived. Without asking any question, they fired tear-gas canisters. This tear-smoke was so strong at home, inside the house, I felt that the children were going to die. I grabbed the child who was having very great difficulty in breathing and we went outside. As I went out of the door the police took me with the child. Then I was loaded into the police vehicle and taken to the police station. I was not told why I was arrested."

260. The Commissioner of Police was reported to have been given even wider powers with regard to censorship in South Africa. The new powers which were set out in the Government Gazette were reportedly given to him in reaction to a court ruling on 30 January 1987 that he had exceeded his powers under the emergency regulations when he sought to "muzzle the press". The Argus and South African Associated Newspaper Press groups had reportedly won a Rand Supreme Court action in which the judge declared a wide-ranging order by the Commissioner to be invalid. The order had restricted what could be published about banned organizations. The sweeping powers conferred by the State President on the Commissioner of Police authorize him to impose publication control in respect of any matter which he may determine. It was reported that the Commissioner used his latest powers, three hours after the decision was taken, to prohibit the publication of any advertisements in connection with any unlawful organization, defending, praising or endeavouring to justify any of such organizations' campaigns and acts of violence or resistance against the State.

261. On 12 February 1987, President Botha of South Africa reportedly said that his Government had to maintain press restrictions imposed under the state of emergency because the media had failed to establish "effective procedures to regulate themselves". It was also reported that a meeting between the Newspaper Press Union, to which the four main English Afrikaans newspaper groups belong, and a special Cabinet committee had been cancelled.

262. On 19 February 1987, an application for a passport for the news editor of the Sowetan, Mr. Thami Mazawi, was reportedly refused by the Department of Home Affairs. Mr. Mazawi, who is also the African representative of the International Federation of Journalists (IFJ), was due to leave for Hong Kong for an IFJ executive meeting. A statement from the Media Workers Association (MWASA) said that "the decision by the Government once more to deny Sowetan news editor and MWASA member Mr. Thami Mazawi a passport to go overseas is another manifestation of the government's harrassment of the media".

263. On 10 March 1987, the South African Supreme Court reportedly ordered the police to refrain from seizing all copies of The Star, Johannesburg's evening newspaper, which carried an advertisement publicizing the plight of people detained without trial. An urgent application for an injunction was submitted to the Court by the paper after two security policemen visited its premises on 10 March 1987, armed with a warrant for "the seizure of any edition" of the newspaper in which the advertisement appeared. The Commissioner of Police, General Johan Coetzee, subsequently announced that the police would oppose the Supreme Court order ruling that they could not seize copies of the DPSC

advertisement. However, General Coetzee stated that police legal advisers believed that the amended advertisement published by The Star on 10 March 1987 had not contravened the emergency regulations. In a related development, it was further reported that the "seizure case" was finally settled in the Rand Supreme Court when The Star agreed that the temporary order, which prevented the seizure of the newspaper on 10 March 1986, be withdrawn with costs, including the costs of two counsel.

264. It was reported that a banning order prohibiting a UDF gathering in Cape Town was set aside at the last minute on 15 March 1987, almost one hour before the meeting was due to start. The Cape Town Supreme Court which overturned the ban granted the order with costs, but did not give judgement.

265. A representative of DPSC and a Star reporter, Jo-Ann Richards, have reportedly been subpoenaed to give information to a magistrate about certain reports on the treatment of detainees. According to the Commissioner of Police, General Johan Coetzee, the subpoena in respect of DPSC was issued because of allegations made to the World Council of Churches at a recent meeting in Harare. Reportedly, the police were seeking information concerning allegations made about the treatment of two children. General Coetzee said that the representative of DPSC had been subpoenaed under section 205 of the Criminal Procedure Act to appear in court on 23 March 1987. Mrs. Richards had been subpoenaed to disclose her sources of information on a report which had appeared in The Star about six months earlier, detailing alleged physical abuses of detainees after their release.

266. It was reported that political and Church leaders were threatening outright defiance of South Africa's latest restriction on freedom of speech which prohibited actions in support of detainees, "possibly including the saying of prayers on their behalf". The new emergency regulations promulgated on 11 April 1987 by the country's police chief, General Johan Coetzee made it a crime punishable by up to 10 years' imprisonment or a fine of R20,000 (£6,150) to join a call for the release of detainees or to perform "any act as a symbolic token of solidarity with or in honour of" a detainee. The announcement was reportedly immediately challenged by the Anglican primate, Archbishop Desmond Tutu, who announced plans to hold a service at his cathedral in Cape Town on 13 April 1987 at which prayers would be offered for the release of detainees - to test whether the restrictions interfered with freedom of worship.

267. A provincial supreme court in Natal reportedly declared null and void some key Government emergency powers that severely restricted first-hand reporting of political violence in South Africa. The judgement handed down in Pietermaritzburg on 24 April 1987 set aside several clauses in censorship decrees imposed by President Peter Botha on 11 December 1986, under a national state of emergency. The clauses included restrictions on reporting or photographing of actions by security forces to quell racial unrest and reporting of gatherings of unlawful organizations. Lawyers representing the State gave notice that they intended to lodge an appeal against the judgement with the Appellate Division of the Supreme Court in Bloemfontein (South Africa's highest court) in the Orange Free State. Although by giving the Government permission to appeal the Natal Supreme Court had effectively frozen the court's ruling, the ruling in itself appeared to represent a serious challenge to the Government's interpretation of the sweeping emergency powers it granted itself on 12 June 1986. In a related development, a

provincial supreme court in Cape Town reportedly reserved judgement on an appeal by the opposition PFP seeking to overturn a ban on calls for the release of persons detained without charge on suspicion of subversion or even opposing such detentions.

268. According to the information received by the Group, on 28 April 1987, the Natal Supreme Court reportedly declared null and void the emergency regulation that prohibited protests and appeals on behalf of persons detained without charge. The regulations rejected by Justice Leon were earlier imposed on 10 April 1987 by Police Commissioner, General Johan Coetzee, and had prompted protests and threats of defiance from opposition politicians and clergymen. The rules banned any public appeals for the release of detainees. Subsequent outcry by opposition politicians and the clergy had prompted General Coetzee to issue a clarification saying that prayers for detainees were permitted. The court challenge of the regulations was filed by three anti-apartheid groups - the Release Mandela Campaign, DPSC and Black Sash. In ruling that the regulations were no longer in force, Justice Leon reportedly gave the Government permission to appeal the court's ruling, and lawyers have advised that, in the mean time, the prohibitions against reporters being at the scene of unrest and on photographers taking pictures of unrest were nullified.

269. On 29 April 1987, two journalists, together with eight students were arrested at the University of the Western Cape. On 1 May 1987, five journalists, including one American CBS television and two British-based ITN journalists, were reportedly arrested in Port Elizabeth after a mass COSATU rally. According to several reports, the South African Government was concerned over the actions of certain foreign television crewmen covering unrest in the country. The correspondents of both BBC television and ITN were reportedly summoned to a meeting twice with Mr. Stofeel Botha, the Minister of Home Affairs. In fact, journalists returned to the scenes of police actions against demonstrations after the Natal Supreme Court ruling overturned key elements of the Government's sweeping press restrictions. Subsequently, the Government appealed against the court ruling; it also held the view that the Natal judgement was binding only in that Province. All journalists were later released; those arrested at the University of the Western Cape together with eight students were released on bail.

270. On 6 May 1987, the Minister of Home Affairs reportedly withdrew the work permits of two Australian television journalists for alleged biased reporting on South Africa. The Director-General of Home Affairs, Mr. Gerrie Van Zyl said the action was taken "on account of reports containing gross untruths about South Africa which they wanted to send to Australia". The two journalists were requested to leave South Africa by midnight on 6 May 1987. In a related development, it was later reported that two other journalists of the BBC and ITN had been ordered to leave the country by 24 May 1987 after expiry of their permits. The Director-General of Home Affairs, Mr. Van Zyl, said no reason had been given for the other decision issued on 14 May 1987. A Government decision was also issued against the American Business Week correspondent, Mr. Mufson, who had been requested to leave South Africa within several days. It was later reported that the South African Government had rejected a British appeal against the expulsion of the two international television reporters working for the BBC and ITN.

271. On 21 May 1987, at a briefing for foreign correspondents in South Africa, Dr. Stoffel van der Merwe, Deputy Minister of Information, stated that Pretoria would introduce new press curbs to replace those found invalid the month before by the Natal division of the Supreme Court, in case the Government's appeal against the judgement failed. The Minister of Law and Order, Mr. Adriaan Vlok, reportedly announced the restriction in issuing what the Government termed "unrest reports". In his statement Mr. Vlok pointed out that it was no longer necessary to issue daily statements on incidents of political violence in the country. Reportedly, the police had recently resumed the task of issuing unrest reports, which for a time had been released by the Government's Bureau for Information.

272. Deputy News Editor of the Cape Times, Mr. Tony Weaver, appeared before the Cape Town Regional Court on charges of publishing untrue information on a shooting incident in 1986. The State alleged that Mr. Weaver had contravened section 27 (B) of the Police Act by falsely stating in a BBC interview that some of the men had been shot in cold blood and that police had planted weapons on their bodies. The weapons had been planted, Mr. Weaver reported, so police could claim that the men were ANC guerrillas. Mr. Weaver, who has pleaded not guilty, must prove he had "reasonable grounds" to believe the statements of three men who claimed seeing the shootings and who formed part of Mr. Weaver's BBC interview.

273. It was reported that Mr. Botha's Government had given notice to the English-speaking world that it would tolerate criticism of its affairs still less than before. The immediate cause of Pretoria's displeasure was said to have been foreign correspondents' coverage of student unrest at the universities of Cape Town and Witwatersrand. Reportedly, there was a widely held suspicion among white South Africans that foreign television coverage of events in South Africa had played a key role in exacerbating the unrest. Hostile criticism of foreign correspondents had also been voiced by many other South Africans who shared neither the aims of ANC nor its perceived need to portray the country as being on the verge of bloody revolution.

274. On 12 June 1987, new emergency regulations contained in five separate proclamations came into force, thus restoring the original curbs on press coverage of political violence. The reworded clauses nullified the Natal Supreme Court judgement of April 1987 which had declared parts of the original regulations unlawful and the ban on press, television and radio reporting of unrest and security forces action invalid due to vagueness in the definition of "unrest" and "security forces action". The new definitions were reported to be more concrete and specific.

275. An independent French journalist was reportedly requested by the South African authorities to leave the country by 29 June 1987. No reason was given for the decision. On 17 June 1987, his appeal against the authorities refusal of his application for a work and residence permit was rejected. Mr. Olivier Baube was the ninth foreign correspondent to be denied a work permit since the declaration of the state of emergency on 12 June 1987.

276. At a press conference in Cape Town, the Deputy Minister of Information and Constitutional Planning, Mr. C.J. van der Merwe stated that the emergency regulations proclaimed on 11 June 1987 were basically the same as those in existence the previous year, although minor refinements had been made where necessary in the light of the previous year's experience. A memorandum

released by the Bureau for Information emphasized that fact by pointing out the result of the media's conscious or unconscious role in promoting the objectives of the instigators of unrest. Thus, within the context of emergency, the freedom of the media was limited with regard to reports on a range of topics, particularly on certain incidents of unrest and various matters affecting the security of the State.

C. Freedom of movement

277. On 17 May 1987, the Rev. Leon Sullivan, author of an equal rights code for corporate conduct in South Africa, was reportedly denied permission to visit that country to examine the apartheid situation. Allegedly, the denial of his visa came two weeks before a deadline Mr. Sullivan had set for a decision on whether to call for an economic embargo of South Africa. Rev. Sullivan stated that he was apparently barred because of his success in getting companies to break apartheid laws in such ways as buying houses for black workers in all-white areas.

278. According to a written communication transmitted to the Group by the National Union of Journalists (Syndicat National des Journalists), Paris Branch, and by the annual congress of the National Union of Journalists, in October 1987, Mr. Subry Govender, South African Correspondent for Radio France International, has allegedly been denied the right to travel for the last eight years. Reportedly, the South African authorities again refused to issue him with a passport on 8 September 1987, in spite of an undertaking by Mr. Govender that he would neither do nor say anything to prejudice the South African authorities while abroad. Mr. Govender, who is currently a member of the Association of Democratic Journalists, has reportedly been a member of other unions for the past 15 years. According to the same source, Mr. Govender has been detained several times and was banned and put under house arrest for three years in 1980. His office has been raided several times since the proclamation of the last state of emergency.

IV. RIGHT TO WORK, THE SITUATION OF BLACK WORKERS AND TRADE-UNION RIGHTS \*/

279. In accordance with Economic and Social Council resolution 1987/63, the Group continued to consider the situation of trade-union rights in South Africa.

280. The Group has reviewed in its previous reports the developments in South Africa concerning the right to work and trade-union rights, including the situation of trade unions formed by black workers, and has examined the relevant information received. In its final report to the Commission on Human Rights at its forty-fifth session, the Group will report in greater detail on other aspects concerning black workers within the context of its terms of reference.

281. During the period under review, information has become available to the Group which is set out in this chapter in four parts, as follows:

- (a) Right to work;
- (b) Situation of black workers;
- (c) Trade-union activities;
- (d) Action against trade-union movements.

282. The Working Group received considerable evidence and reports on the question of trade unions, their action with regard to the freedom of association as well as the conditions of black workers under the security laws and emergency regulations currently in force.

283. Several witnesses referred to the matters under consideration, and most notably the representatives of two specialized organizations: the International Labour Office, represented by Mr. Neville Rubin, and the International Confederation of Free Trade Unions (ICFTU), represented by Mr. Oscar de Vries Reilingh, Director of the ICFTU office in Geneva.

284. In addition, the Group examined with great interest the information contained in both the Special Report of the Director-General (of ILO) on the Application of the Declaration concerning the Policy of Apartheid in South Africa and the report of the Committee on Apartheid of the International Labour Conference, which took place in June 1987.

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\*/ This chapter is based on information drawn from: Focus, No. 71, July-August 1987; Detainees Parents' Support Committee, Report, August 1987; The Citizen, 5 February, 17 and 25 March and 29 April 1987; Sowetan, 5, 12, 20 and 26 February and 20-27 March 1987; Financial Mail, 6 and 13 March and 19 June 1987; The Christian Science Monitor, 9-15 March and 13-19 April 1987; The Weekly Mail, 16-20 March, 15-20 May, 26 June - 2 July and 9-15 October 1987; The Times, 25 and 28 March, 21, 22 and 29 April and 9 and 13 June 1987; International Herald Tribune, 28-29 March, 4-5 April and 4 and 26 May 1987; The Guardian, 10, 21 and 29 April, 9 and 16 June and 20 August 1987; Le Monde, 23 June 1987; South African Digest, 21 August 1987.

A. Right to work

285. As far as the economic situation was concerned, Mr. Rubin (ILO) who appeared before the Group at its 691st meeting, drew attention to the conclusions of the Special Report of the Director-General for 1987, which highlighted "the effect of a combination of an economic recession which has now been continuing for some years in South Africa, and the impact of the slow growth in the economy over a period again of several years on rising unemployment in the country".

286. At the same meeting, Mr. Rubin underlined how difficult it was to obtain exact figures in that regard, since the South African Government tended to exclude from national data the so-called "independent homelands". None the less, the official unemployment was given as approximately 8.4 per cent, contradicting the estimates of 25 per cent, and rising, based on the ILO survey in that area:

"which gives something like 4.5 million people unemployed, with a very high growth rate in black unemployment, among other things, of course, by a very high population growth rate. One has noted among the things worth drawing attention to the attempt by the South African Government to advocate or to urge various forms of birth control as a structural solution to structural unemployment, rather than the eradication of apartheid and the more equitable distribution of employment opportunity."

287. Moreover, limited access of the black population to employment remains, according to the same statement, tightly linked to the lack of improvement of education and training facilities in South Africa, due to the imbalance in spending on white and black education, a proportion of seven to one.

B. Situation of black workers

288. Black workers' conditions were outlined by the representative of ANC, who appeared before the Group at its 690th meeting, as follows:

"The workers in South Africa suffer double oppression, as members of the oppressed national groups and as members of the working class. They are denied freedom of movement through various pass laws, denied the right to work through job reservation practices, denied the right to housing through migratory laws and influx laws. The workers' right to work and the freedom of association are frustrated, stifled and made meaningless by various security laws of the country, like the Internal Security Act, the Public Safety Act, the emergency regulations and the Riotous Assembly Act, to mention only a few."

289. In a resolution adopted at its Fifth Annual Congress, which took place in March 1987, the National Union of Mineworkers (NUM) reportedly declared war on the migrant labour system and the practice of accommodating black miners in compounds. The Union demanded that the mining industry should, by 30 March 1987, make a clear statement of intent to dismantle the migrant labour system and compounds. The demand reportedly arose out of a joint NUM Anglo-American investigation into the causes of violence in the mines. The study along ethnic lines concluded that violence was primarily caused by the system of migrant labour and conditions in the single-sex hostels where workers were housed.

290. Union officials reported that about 250 wives and children of black miners have moved into men-only hostels at coal mines owned by the Anglo-American Corporation in an effort to break the system of migrant labour. Mr. Cyril Ramaphosa, General Secretary of NUM, stated that the protest would be extended to gold and diamond mines and to other companies. He added that the move had proceeded peacefully. According to Mr. Peter Gush, Chairman of Anglo-American Gold and Uranium Division, the company was increasingly concerned about the effects of the migrant labour system.

291. After striking black railway workers set fire to some commuter coaches in the Transvaal industrial city of Springs (east of Johannesburg). Mr. Piet Coetzer reportedly made a statement in which he said "if we don't do something to accommodate the blacks, the black trade unions will become more and more politicized . . . . They will use the trade unions to get the revolution going". According to Mr. Coetzer, the local National Party Member of Parliament who was considered as a liberal, "the blacks have no Member of Parliament to whom they can take their grievances", he added "and until they have the same thing we have, the unions will become politicized".

292. It was reported that many employers sidestepped commemorating the 16 June 1976 Soweto uprising by simply declaring a unilateral holiday. According to estimates based on a survey by labour lawyer Andrew Levy and his associates, about 60 per cent of companies conceded 16 June as a paid holiday for workers and more were regularly joining the list. Reportedly the Coloured House of Representatives decided as a "gesture of sympathy" not to work on that day.

### C. Trade-union activities

293. The entire economic context on the one hand and the continuing policy of labour exploitation and deplorable employment practices on the other are the most important factors in the accelerated growth and development of the trade-union movement, despite the seriousness of the situation under the state of emergency and the unremitting repression by the security forces.

294. It is important to recall that the trade unions formed by black workers have developed tremendously over the last five years. Two major federations have emerged since 1987. A confederation of independent black, non-racial trade unions was established at the end of 1985, under the name of the Congress of South African Trade Unions (COSATU) with almost 800,000 members in 34 unions. The second largest is the National Council of Trade Unions (NACTU), which was formed in October 1986 through a combination of the Council of Unions of South Africa (CUSA), and the Azanian Association of Trade Unions (AZATU). Membership of NACTU is at present about 250,000 to 300,000 in 23 unions. In addition, there are almost 800,000 workers registered in some 200 other unions which are not affiliated to any federation.

295. At the 689th meeting of the Working Group, Mr. de Vries (ICFTU) noted that there was another major development in the trade-union movement in South Africa, namely "the trend to merge unions per industry. For example, in April 1987, some 60 textile, clothing and leather workers unions merged and formed a new organization representing 165,000 members, which is more than 60 per cent of the organized workers in that very important sector".



296. It was reported that union-backed demands for labour reform had finally reached the South African farms. Country-wide, farmers were reported to have reluctantly accepted the need for some reforms in working conditions. Thus, the central issue for the South African Allied Workers' Union (SAAWU) representatives acting on behalf of 800 seasonal cane cutters in the north, appeared to be the formal recognition of the Farm Workers Union, an associate of SAAWU. So far farm workers had been excluded from the provisions of the Labour Regulations Act (LRA) which meant that they could not use the machinery for collective bargaining or the resolution of disputes provided by the Act. According to the press report, farm workers were also excluded from protection afforded under the Basic Conditions of Employment Act; their conditions of employment were governed only by common law. Unionists attribute the huge wage differential between urban and rural workers mainly to this lack of protection. Reportedly, the South African Agricultural Union (SAAU) stated that reform in agriculture employment practice was inevitable and that it was negotiating for government amendments to the Basic Conditions of Employment Act but believed that farmers were not ready to accept the Labour Relations Act (LRA) in any form.

297. As stated by Mr. Rubin (ILO) "the question of the growth of the trade-union movement and its consolidation immediately focuses attention on the significant increase in the number of industrial disputes which have occurred over the last several years".

298. In the course of 1987, trade unions have become very active in promoting improvement of the labour situation through a hard and determined struggle against apartheid. Violence, tension and conflicting claims characterized a series of strikes from December 1986 to February 1987, by the Commercial, Catering and Allied Workers Union of South Africa (CCAWUSA) against the OK Bazaar retail chain. Over 10,000 workers took part in a six-week strike.

299. In general terms, the trade unions' demands over the past 10 months were outlined during the so-called Living-wage Campaign launched by COSATU. The main focus was: a 40-hour working week without loss of pay and a ban on overtime, paid holidays for 21 March, 1 May and 16 June, as commemoration days, an end to the hostel and migrant labour system and provision of decent housing for all, near places of employment and the right to decent education, including acceptance of the concept of people's education.

300. In his statement in Parliament, the Minister of Manpower, Mr. Pietie du Plessis, indicated that in the first seven months of 1987, 332 strikes had been reported. According to the estimates of Andrew Levy and his associates, over 5.5 million working days were lost through strikes during the first eight months of 1987, compared to 1.3 million for the whole previous year.

301. According to the information received by the Group in this regard the 10,000 OK Bazaar workers reportedly demanded an across-the-board increase of R 160 a month and a R 450 minimum wage. COSATU convened an urgent meeting on 8 February 1987 during which members of CCAWUSA alleged that five OK Bazaar workers in Pietersburg had been detained during the first week of February bringing the total of strikers held until that time to nearly 1,000, that 10 CCAWUSA officers in various parts of the country had been raided since the beginning of the strike, and that a total of 551 workers had been dismissed by the OK Bazaar management since December 1986. The Conference was also told

that two CCAWUSA officials, Mr. Ledwaba and Mr. Sidlay, were to leave on a fund-raising trip overseas later in February. The funds would be used to provide relief to the striking workers.

302. According to information, the OK Bazaar strike ended on 25 February 1987, when CCAWUSA officials and OK management signed an agreement at a Johannesburg hotel.

303. According to several sources, a transport workers strike entered a crucial phase around mid-March 1987. The Regional Manager of the South African Transport Services (SATS), Mr. Braam le Roux, reportedly told a press conference that 2,549 SATS workers were on strike in Johannesburg. Meanwhile, the South African Railways and Harbour Workers Union (SARHWU) insisted that 5,500 workers had been on strike the previous week in protest against the dismissal of a driver, Mr. Andrew Nendzamba, fired for allegedly delivering an article late, and that 5,000 went on strike a week later in support of them. According to SARHWU, the management "forced" the issue of recognition of SARHWU to the forefront of the dispute (the Black Trade Union (BLATU) was reported to be the recognized union for blacks at SATS) and, on 24 March 1987, the strike at SATS reportedly escalated dramatically as more than 8,400 workers across the Witwatersrand joined the strike. It was then considered the biggest strike in the public sector in seven years. A notice published in a special Government Gazette on 23 March 1987, empowered the General Manager of SATS, which employed some 100,000 blacks country-wide, to sack the strikers without notice. The General Secretary of BLATU, Mr. Martin Matloha, and BLATU Chairman, Mr. Daniel Phiri, appealed in vain to strikers to return to work after SATS spokesman, Mr. Tinie van den Berg, said there was a "possibility" that the General Manager, Dr. E. Grohle, could use his gazetted powers to fire the striking workers (15,000 at the time) without notice.

304. Mr. Rubin (ILO) referred to this strike which involved some 15,000 workers as being particularly significant because:

"it occurred in the public sector which does not normally fall within the area of the industrial legislation in South Africa, but also because it involved the employment on a temporary basis of substitute white workers in that case, secondly, and most significantly, because it finally resulted in the acceptance by the employer of all the workers, whom it had threatened to dismiss, back into employment".

305. According to information received by the Group, the workers demanded the re-engagement of the entire work-force with the same conditions and rates as before the strike, and the return at SATS expense, of evicted workers who had been repatriated to the "homelands", as well as the release of all detained workers and the dropping of charges for trespassing and strike offences. According to the press report, 400 SARHWU members and officials were being held.

306. In a related development Mr. de Vries (ICFTU) stated before the Group at the 689th meeting that:

"there are administrative problems which black trade unions still have vis-à-vis the employers or the authorities: registration, recognition ... The major cause of the strike against the South African Transport

Services was a recognition problem. The reason for this is that the public sector is not covered by the Labour Relations Act which was adopted following the Wiehahn Commission report. In the public sector, in fact, there is no possibility of recognition for black independent trade unions, and it was in order to obtain such recognition that the strike took place".

307. On 16 March 1987, NUM reported that 7,000 workers had gone on strike at two mines in the Transvaal. Six thousand workers at the Grootvlei gold mine in the East Rand reportedly remained underground in a sit-in protest at the transfer of colleagues to different grades of work.

308. Mr. Rubin, who appeared before the Group at its 691st meeting, referred to another significant strike involving the metal workers' union in July 1987.

"It was scheduled to involve an industry-wide strike on wages, following the breakdown of negotiations on wage increases. But on the day on which it was scheduled to take place a proclamation was issued by the Government which had the effect of making it necessary for further negotiation to take place, and therefore for the proposed strike to be illegal. As a result, the union decided not to persist with the strike on that occasion and to recommence the process of collective bargaining".

309. On 10 August 1987, a very large and important strike took place in the mining industry, involving between 230,000 and 340,000 coal- and gold-miners, including 220,000 NUM members. The strike reportedly followed a breakdown of wage negotiations between NUM and the mining corporations. The trade unions' demands were for a 30 per cent wage increase, an increase in paid vacation from 14 to 30 days, 16 June as a paid holiday, danger pay, and an increase in compensation payment for accidents resulting in death from two years' earnings to five.

310. The 21-day conflict was finally settled at the end of August 1987 with partial satisfaction of the miners' requirements. The Chamber of Mines reportedly agreed upon a 10 per cent increase in paid vacation and compensation payment for death accidents was brought up to three years' earnings instead of two. Concessions with regard to a salary increase were limited. The mining sector offered 15 to 23.4 per cent, depending on the task category, instead of the 30 per cent initially demanded by the miners.

311. Parallel to this strike, on 19 August 1987, the Government allegedly started the dismissal of more than 14,000 postal workers who took part in country-wide strikes following a breakdown of the negotiations involving the Minister of Home Affairs and Communications, Mr. Stoffel Botha, a week earlier.

312. In the so-called "independent homelands", trade unions are only occasionally allowed to operate. In some "homelands" they are totally banned, for example, the South African Allied Workers Union is banned in Transkei and Bophutatswana, while in others, they are not allowed to organize, for example in Libowa. It is worth mentioning that wage determination and the Labour Relations Act do not apply in the "homelands". In Transkei, both COSATU and NUM are proscribed.

313. In April 1987, it was reported that four of the 75 Transvaal-based members of NUM appeared before the Umtata Magistrates' Court in Transkei on charges of furthering the aims of banned organizations. They had attended the funeral of a colleague in the "homeland".

314. On 25 May 1987, trade-union officials reported that a black anti-apartheid member, Mr. Moses Mayekiso, who was in prison awaiting trial on charges of high treason, had been elected to head South Africa's second largest labour union, the National Union of Metal Workers (NUMW) (130,000 members). Mr. Mayekiso was allegedly imprisoned and charged with high treason after a violent anti-Government demonstration in Johannesburg's black township of Alexandra in 1986. He was a former General Secretary of the Metal and Allied Workers Union.

#### D. Action against trade-union movements

315. At the 694th meeting, an anonymous witness referred to trade unions in his statement as being

"the most powerful focus of opposition to the Government within South Africa (...). There is a real power in the organized workers because the Government and the economy is dependent on the work of black people in South Africa: the growth and development of COSATU seems to reflect (...) an increased confidence and determination among the black people of South Africa not to put up with the repression and inequality which now exist."

316. Since the beginning of 1987, unions have continued to suffer severe harassment, thousands of unionists have been detained or banned under security legislation (see table 4 below) and many of them remain in detention. In some areas they were even killed. The figures which appear in the tables below were recently disclosed by DPSC. Although they refer to the situation of trade-unionists in detention in 1986, they nevertheless provide a significant indication of the severity of police action against trade unions.

Table 4. Individual, known trade-union detentions in 1986

Union	Number	% of known trade-union detainees	% of all detainees
COSATU	373	78	1.3
AZACTU	13	3	0.05
CUSA	48	10	0.19
Unaffiliated	45	9	0.18
Total	479	100	1.72

317. From the above figures, it appears clearly that the majority (78 per cent) of detainees belong to COSATU, according to the individual, named detainees, known to the Labour Monitoring Group. The figure reveals the severity of police action against COSATU; the combination of AZACTU/CUSA under the present NACTU suffered far fewer detentions. That could be explained, according to DPSC reports, by a "far lower membership and less

militant and organized shop-floors". In this connection it should be noted that unionists and workers only accounted for 9 per cent of all detainees under the state of emergency in 1986, according to the DPSC figures for that period.

Table 5. Fate of known trade-unionists detained in 1986

	No.	%
Released without charge	241	46
Charged	4	1
Released and restricted	4	1
Held under section 29 ISA	1	-
Still held	279	52
Total	529	100

318. In his testimony before the Group (689th meeting), Mr. de Vries offered several examples of measures of repression and intimidation applied by the security forces in order to tackle the situation during workers' strikes.

319. According to Mr. de Vries (689th meeting) "... over 600 were arrested, and some 700 strikers were dismissed. The South African railway strike resulted in the dismissal and ejection of a great number of striking workers from the premises of the firm. The strikers were subjected to threat and intimidation and hundreds of them were detained. On 22 April 1987, in the framework of the strike action, at least six strikers - and other sources say eight strikers - were shot dead by the South African police (...). The headquarters of the Congress of South African Trade Unions (COSATU), the major trade-union centre in South Africa, was raided by the police (...). During the raid on the COSATU headquarters, the telephone and telex machines were cut off, which made it particularly difficult for the organization to communicate with its affiliates. The army was deployed to put metal barricades around the headquarters".

320. In this connection, it was reported that, on 28 April 1987, South Africa's main anti-apartheid and trade-union organizations, UDF and COSATU called for a two-day general strike to protest against police killing of six black railwaymen and against the approaching white-only elections. The stay-away was called for 5 and 6 May 1987, 6 May being election day.

321. On 28 April 1987, COSATU was reportedly granted a temporary court order restraining the police from unlawfully assaulting, harassing or intimidating union members. Affidavits to support the order claimed that the police were out of control and their actions were threatening to disrupt the entire structure of labour relations. The application launched against the Minister of Law and Order and the Divisional Commissioner of Police in Witwatersrand was reportedly postponed until 19 May 1987, however the Commissioner gave an undertaking that the police would continue to act lawfully.

322. It was reported that the Chairman of the Diepkloof Civic Association, Mr. Isaac Mogase, was detained on 19 February 1987, under regulation 3 of the emergency regulations.

323. Mr. Moses Mayekiso, former General Secretary of MAWU was reportedly charged with high treason, along with four other Alexandra community leaders. They were due to appear in the Rand Supreme Court on 3 August 1987. A 160-page indictment containing the allegations was presented to the accused at the Randburg Magistrate's Court on 15 March 1987 by Magistrate R. Mandelstam. According to the charge sheet, the five were alleged to have tried to "overthrow, usurp or endanger the authority of the State". They were believed to be the first people in South Africa to be charged with treason for running people's courts, street, block and area committees and for forming an action committee.

324. The South African Government reportedly banned a rally which COSATU had planned to hold in Soweto on 29 March 1987, to launch a campaign in support of a "living wage" and a call to employers not to deduct tax from workers' pay. Union officials said they would appeal to the Supreme Court for a restraining order against the ban, which was issued by the Minister for Law and Order, Mr. Adriaan Vlok.

325. On 9 April 1987, the South African Government Bureau for Information reported that more than 300 members of a striking black transport workers' union were arrested by police for allegedly gathering illegally, but the Bureau failed to provide further information on the 305 arrests which occurred in the city of Springs in eastern Transvaal. The workers were reportedly arrested on their way to the union office. Mr. Roussos, spokesman for SARHWU later stated that they had been released after paying the equivalent of £14 each.

326. On 8 June 1987, it was reported that Mr. Sydney Mufamadi, the Assistant General Director of COSATU was arrested at his home in Soweto a few hours after UDF was asked to contribute to the debate on constitutional reform. Mr. Mufamadi was later released after being questioned about COSATU links with UDF, the bombing of COSATU House a month earlier and the six-week strike by black railway workers in April 1987. It was also reported that UDF rejected an invitation from President Botha's ruling National Party to take part in talks on the composition and function of the President's Council, an advisory body currently limited to whites, Indians and Coloureds.

327. On 20 June 1987, three COSATU officials were allegedly chased out of Queenstown by security police. Mr. Mkalipi, Regional Vice-Chairman of COSATU in the Eastern Cape, together with Mr. Ketteldas, the Acting Regional Secretary and Mr. Mlonguzi, the Regional Treasurer, were followed by three persons belonging to the security police as they arrived at the premises of the SAAWU office. They were then taken to the police station and photographs were taken of Mr. Mkalipi in his COSATU T-shirt found in his bag; under the new emergency regulations some T-shirts could be considered subversive, an offence which could lead to a two-year imprisonment. Mr. Mkalipi declared that he was also questioned about a trip to London in 1983. After their release, the policemen allegedly ordered the three unionists to leave the town immediately "without even stopping at a shop".

328. According to the figures available to the Group, incidents during the miners' strike in August 1987 claimed nine lives. Between 350 and 400 people were injured, 200 to 300 were arrested and 37,000 to 44,000 were dismissed.

329. Another type of intimidation consists of the dismissal of strikers without notice and their replacement in many cases by migrant workers or by redundant whites.

330. According to several reports appearing in April 1987, the Government-administered South African Transport Services (SATS) threatened to replace striking black workers involved in the six-week long strike with redundant whites. The ultimatum was reportedly one of several tough decisions taken by white managers at SATS which included the deployment of security forces - soldiers and policemen - at key depots and installations along the rail network in and around Johannesburg.

331. With regard to migrant workers, the information disclosed by the South Africa Digest on 21 August 1987 indicated that a total of 378,125 foreign workers were in registered employment in South Africa, while an additional 1.3 million were estimated to be employed illegally. The report further stressed that the later estimates seemed high in the light of official control measures. However, it is believed that large numbers of foreign workers from all the nearby countries have merged more or less permanently into the indigenous South African population.

332. In this respect, at the 690th meeting, the representative of ANC confirmed:

"in Bantustans, as you all know are just reservoirs of migrant labour. The white employers in the towns always look to the Bantustans for migrant labour. Those who cannot be taken at the labour centres will be reserved for 'scab' labour. That means that, if a white employer decides to sack all the employees as a result of a strike, he knows he can always go to the Bantustans to get other workers to replace those who have been dismissed as the result of a strike".

Part Two

NAMIBIA

Introduction

333. In its previous report (E/CN.4/AC.22/1987/1), submitted to the Commission on Human Rights at its forty-third session, the Ad Hoc Working Group of Experts, in reviewing political developments in Namibia, drew attention more particularly to the South African Government's decision to install an "interim government" in Namibia. In the same context, it noted that the South African Government had not only changed the Territory's administrative structures but had also introduced measures such as control over access to six districts in northern Namibia, the establishment of "manpower bureaux" and, lastly, the application of more severe penalties against persons travelling without an identity card.

334. The Group further recalled the position of the international community and, more particularly, that of the Security Council, which in resolution 566 (1985) had condemned South Africa for installing a so-called interim government in Windhoek and declared that that action constituted a direct affront to the Council and a clear defiance of its resolutions, particularly resolutions 435 (1978) and 439 (1978).

335. It should be noted that, following the extraordinary plenary meetings organized by the United Nations Council for Namibia at Luanda (Angola) from 18 to 22 May 1987, the Council adopted a Programme of Action containing measures designed to ensure the implementation of Security Council resolution 435 (1978), strengthen international support for the Namibian people, implement the Council's mandate in Namibia and strengthen co-operation and consultation with the South West Africa People's Organization (SWAPO). The Council once again denounced the so-called interim government installed by South Africa in Namibia on 17 June 1985 and firmly condemned all the fraudulent constitutional and political manoeuvres by which the South African Government was attempting to perpetuate its illegal occupation of the Territory, in violation of Security Council resolutions 385 (1976), 435 (1978), 439 (1978), 539 (1983) and 566 (1985).

336. In his message to the opening ceremony of the Luanda meetings, the Secretary-General stated that, notwithstanding the considerable diplomatic efforts made to ensure the implementation of Security Council resolution 435 (1978) carefully taking account of the positions of each party, he could only regret that, after nine years of painstaking negotiations, it had still not been possible to proceed to the implementation stage. A deadlock had arisen because of South Africa's persistence in linking the implementation process with an issue extraneous to the Namibian question.

337. The Programme of Action containing measures designed to ensure the implementation of Security Council resolution 435 (1978) also mandated the President of the Council for Namibia to undertake consultations on convening a meeting of the Council for Namibia in New York at the level of ministers for foreign affairs at the beginning of the forty-second session of the General Assembly. Accordingly, a special ministerial meeting of the United Nations Council for Namibia was held at New York on 2 October 1987.



The meeting decided to recommend that the General Assembly request the Security Council to advance the date for commencing implementation of resolution 435 (1978) to 31 December 1987 at the latest. In addition, the Security Council should commit itself to applying the relevant provisions of the Charter, including the application of sanctions under Chapter VII thereof, in the event that the South African Government continued to defy the Security Council. In his statement to the special ministerial meeting of the United Nations Council for Namibia, the Secretary-General observed that the existence of a universally accepted plan for Namibian independence, endorsed by the Security Council in its resolution 435 (1978), had long held out hope of a peaceful settlement in accordance with the principles of the Charter. However, that hope had been dashed by South Africa's obstinacy in linking independence for Namibia to a completely extraneous issue, namely the presence of Cuban troops in Angola. It was therefore imperative for South Africa to review its position so as to permit prompt implementation of the United Nations plan.

338. Lastly, as already pointed out by the Group in its previous reports, the South African Government has extended the application of South African legislation to Namibia. Under Proclamation AG.9 of 1985, the Government of South Africa extended to Namibian territory the application of the Intimidation Act, the Demonstrations in or near Court Buildings Prohibition Act and the Protection of Information Act. In addition, it should be noted that the Territory of Namibia continues to be administered on the basis of Proclamation AG.8 of 1980, which has permitted the establishment of a so-called "ethnic" or second-tier administrative system dividing Namibia into 10 zones on an ethnic basis.

339. This part of the report begins with an analysis of violations of human rights affecting individuals (chap. I); this is a description of the situation obtaining in Namibia in the period under review, with more particular reference to violations of the right to life and physical integrity, atrocities committed by the "Koevoet", deaths of detainees, torture and ill-treatment inflicted on the population of Namibia, and recent cases of detentions and a number of recent political trials. Chapter II, entitled "Consequences of the militarization in the Territory", focuses on the scale of military expenditure and the aims pursued by South Africa, as demonstrated more particularly by its continuing acts of aggression against the Namibian people and the front-line States. Chapter III, dealing with the right to work, describes discriminatory practices in regard to employment and the exercise of trade-union rights. Chapter IV analyses information concerning the right to education and the right to health. Lastly, Chapter V describes a number of cases of individuals suspected of being guilty of the crime of apartheid or of a serious violation of human rights in Namibia.

V. VIOLATIONS OF HUMAN RIGHTS AFFECTING INDIVIDUALS

340. During the period under review, the Group once again gathered evidence and received information describing atrocities committed by the "Koevoet", cases of torture and ill-treatment of captured freedom-fighters and civilians, and various cases of arbitrary arrests, as well as a number of political trials.

341. As indicated by the Group in its previous reports, various South African laws prescribing the death penalty have been made applicable in Namibia. Proclamation AG.9 of 1977, as amended in 1985, establishing "security districts" continues in force. This law prohibits anyone not residing in the six districts concerned from entering them without prior authorization from the police and contains provisions debarring Namibians and all foreigners from admission to the security districts without a prior travel permit. Moreover, according to information transmitted to the Group, three South African laws were extended to Namibia by Proclamation AG.9 a few days before the official ceremonies installing the "interim government". They are the Intimidation Act, the Protection of Information Act and the Demonstrations in or near Court Buildings Prohibition Act, all three of which entered into force in South Africa in 1982. The Intimidation Act is designed to counter election boycotts; the Demonstrations in or near Court Buildings Prohibition Act is aimed at prohibiting demonstrations during political trials; and the Protection of Information Act introduced a whole series of measures designed to restrict the flow of information on the activities of the police, the armed forces and government organs.

342. At the latest session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the representative of SWAPO reported that Proclamation AG.9 and the South African Defence Act of 1957 were the two principal pillars of the security legislation in Namibia. In that context, he also recalled that a commission of inquiry responsible for making recommendations on security legislation in Namibia (the Van Dyk Commission) had been established in September 1983 with a mandate to inquire into, report on and make recommendations as to the adequacy, fairness and efficacy of legislation pertaining to the internal security of the Territory. The Commission's final recommendations seemed more to reflect arguments presented by the police, the Security Branch and the South African Defence Forces. The recommendations called for the strengthening of existing legislation, in particular of the powers to extend the detention of individuals without seeking the intervention of a judge or an official or an executive authority. While recognizing that the security legislation in Namibia contained some provisions which could seriously infringe human rights, the Commission considered that such measures were essential to counter the revolutionary movement. In the light of such a conclusion, the SWAPO representative stated, it was not surprising that the Commission had recommended prosecution for civilians refusing to provide information about SWAPO fighters in the war zones. Certain legal experts and political analysts had seen a parallel between the results of the Van Dyk Commission and those of the Rabie Commission whose recommendations had resulted in the promulgation of the Internal Security Act of 1982, which had had the effect of strengthening the repressive legislation in South Africa.

343. In the light of the reports received and the evidence given at its latest meeting in August 1987, the Group noted that arrests, detention without trial, and torture and atrocities committed against the civilian population as well as various ecclesiastical dignitaries of different denominations belonging to churches in Namibia and abroad continued to be features of daily life in Namibia.

A. Capital punishment

344. As noted above, various South African laws prescribing the death penalty have been made applicable in Namibia. No new law limiting or extending the scope of the death penalty was made applicable in Namibia during the period under review.

345. As already indicated by the Group in its previous reports, the Government of South Africa publishes no separate figures on executions of Namibian prisoners sentenced to death. Hence, it was not possible for the Group to obtain information of any death sentence during the period under review.

B. Violations of the right to life and to physical integrity

346. Among the cases most frequently mentioned, the Group noted more particularly, during the period under review, the atrocities committed by the "Koevoet", deaths of detainees, torture and ill-treatment of combatants and civilians, a growing number of arrests and detentions, and a number of recent political trials.

1. Atrocities committed by the "Koevoet"

347. During the period under review, the Group once again gathered testimony and information on atrocities against the civilian population attributed to elements of the Counter-Insurgency Unit of the South West African Police (COIN), formerly known as the "Koevoet".

348. In her testimony to the Group at the 692nd meeting, the representative of the World Council of Churches stated that the "Koevoet" was mainly composed of former Rhodesians, recruits from "homelands" and Namibians, including some ex-combatants, who, like South African military personnel, were placed under the authority of the South African Minister of Defence. As a result, the "Koevoet" was an integral part of the army. Since the South African authorities claimed that Namibia was independent, they would no doubt assert that the Namibian battalions were part of the police force. At the time of the establishment of the Multi-Party Conference, South Africa had stated that the police would be formed by Namibians, but most white policemen had chosen to remain in their posts. Consequently, Namibians who were enlisted in the army were assigned to any service, including insurgency units.

349. The same witness referred to an incident in the black township of Katutura on the outskirts of Windhoek during which a member of the "Koevoet" is said to have thrown a hand-grenade into a house, in which he was trying to gatecrash a party. The witness added that proceedings had been instituted against this member of the "Koevoet" and his trial was in progress. At the time it adopted its report, the Group had not received any further information.

350. Although it is particularly difficult to obtain reliable information from Namibia, the Group has received a number of concordant reports of continued massacres by "Koevoet" counter-insurgency units. The incidents described below, which reveal the scale of the atrocities committed by these units, were brought to the Group's attention during the period under review by various sources, in particular the International Defence and Aid Fund (IDAF):

(a) In January 1987, 50-year-old Paulus Ekandjo died after being assaulted by a "Koevoet" unit. It is reported that the incident occurred in the village of Ouma, near Ombalantu and that the unit, identified as being from the Omahenene base, assaulted five other civilians on the same occasion;

(b) In March 1987, three women were reportedly killed in the Onamtai region by soldiers of the South African defence forces who suspected them of contacts with SWAPO. It was claimed that they have been killed during a clash between the South African armed forces and SWAPO elements. However, according to evidence given by residents of the village, members of the "Koevoet" shot these women in cold blood, in retaliation for the help given to SWAPO elements by part of the village population;

(c) In a particularly horrifying incident said to have occurred in March 1987, soldiers from the Winela base in the Caprivi region reportedly poured petrol into the Zambezi River where several children were bathing and then set light to it, with the result that two children were very seriously burned.

## 2. Deaths of detainees

351. During the period under review, a case of death in detention was brought to the Group's attention: it involved Imanuel Schifidi, a member of SWAPO, who reportedly died after being arrested by a group of armed soldiers when he was participating in a demonstration to mark the International Year of Peace. According to this report, the inquest concluded that Mr. Schifidi had been killed by one or more unknown persons.

352. In this connection, the Group notes the continuing difficulty in obtaining information concerning cases of death in detention. According to information transmitted by IDAF, Captain Pat King, the officer who was found guilty of participating in the torture which brought about the death of Mr. Kakuva, was sentenced by the Supreme Court of Windhoek in June 1987 to pay R 1,000 and was due to make a further appearance before the Supreme Court of Windhoek on 19 August 1987. It should be noted that this sentence was imposed as a result of sharp international reaction. The Group mentioned the specific case of Mr. Kakuva in an earlier report (see E/CN.4/1985/8, paras. 458-460).

## 3. Cases of torture and ill-treatment

353. The Group noted in previous reports that South African laws providing for long periods of detention and imprisonment for "political offences", as well as legislation covering detainees, had been made applicable to Namibia and were still being applied (see E/CN.4/1020/Add.1, para. 9; E/CN.4/1311, paras. 371-376). In addition, many laws and emergency proclamations, principally Proclamation AG.9, were drafted especially for Namibia and implemented chiefly by the Administrator-General on behalf of the South African authorities and are still applied.

354. During the period under review, the Group received information about cases of torture and ill-treatment of Namibians.

355. According to an Amnesty International report of 10 April 1987, a political trial at the Windhoek Supreme Court provided new and substantial evidence of torture inflicted in Namibia on political prisoners held without charge. Under cross-examination by lawyers representing eight detainees, members of the security police are said to have admitted that they used violence against some of the accused in order to extract confessions. Several of them were hit with pipes, thrown to the ground and seriously beaten up. According to some allegations, contested by the police, one of the accused, Mr. Andreas Johnny Heita, was tortured with electric shocks and another person was beaten in the genitals.

356. Members of the counter-insurgency unit stated on the witness stand that they had beaten up some of the accused because they had had to use a "maximum of violence" in order to obtain "satisfactory information". In March 1987, the Chief of the Namibian police, Major-General A.J.C. Gouws, announced that the police would conduct inquiries into the torture and ill-treatment reported during the trial. However, it was not known whether the results of the inquiry would be made public and whether those responsible for the torture and acts of violence inflicted on the prisoners would be punished.

357. Information supplied by the Namibia Communications Centre indicates that an 18-year-old student, Miss Wilka Tobias Mule, accused the "Koevoet" of beating her up on 2 July 1987 at her home in the Ombalantu region in northern Namibia. After being beaten unconscious, she was subjected to electric shocks for one and a half hours, after which the soldiers completely looted her home. Miss Mule was a member of the Evangelical Lutheran Church of Namibia.

358. In a similar incident, 37-year-old Mrs. Jacobina Amukuhu, from Okapanda, stated that she was beaten up by "Koevoet" soldiers, who noticed bicycles they thought belonged to SWAPO members and accused her of having taken such persons into her home.

359. Lastly, the Group was informed of the death of 44-year-old Mr. Philemon Lilomen Kalangula, on 7 July 1987 as a result of a beating by the security police which caused a cerebral haemorrhage. The incident is said to have taken place in a compound for black workers at Benana in the region of Okwanyama, in northern Namibia. According to the autopsy report, Mr. Kalangula died of a cerebral haemorrhage and concordant reports indicate that it was the beating by the police which caused Mr. Kalangula's death.

360. The most glaring instance of torture inflicted on a Namibian is the case of Andreas Heita, 22 years old (see para. 355 above), who was arrested under the Terrorism Act of 1967, which has been abolished in South Africa but is still in effect in Namibia. Proof of torture and ill-treatment emerged during the proceedings to determine the admissibility of statements made by the accused while he was in detention. The lawyers refuted the statements on two grounds: first, that they had been obtained through violence, and second, that they had not been taken down in accordance with legal procedure. Mr. Heita, who had been arrested with other SWAPO members, was interrogated immediately after being savagely battered by Captain Ballach, a member of the "Koevoet". According to statements by three police officers, Captain Ballach

removed the drip-feed from Mr. Heita's arm and hit him with a pipe during the three hours of interrogation. During the proceedings, Mr. Heita showed scars covering his body to the waist. The police are said to have admitted that the wounds on his back, head and ears were all due to the torture and ill-treatment he received after his arrest. During the proceedings, Captain Ballach allegedly stated that the acts of violence had been justified and that their purpose had been to force Mr. Heita to give information.

361. It is reported that on 11 March 1987 Olivia Kashipua, from the Ondangua region, had her head forced into the sand by the police, who threatened to kill her six-month-old child.

362. On 17 March 1987, three women were killed and three men seriously wounded by South African troops who opened fire from their vehicle on the inhabitants of farms in the Onamtai region, destroying everything in their way.

363. On 10 April 1987, two women from the Oluno region were raped by three soldiers from the 101st Battalion, who burst into their home. The same soldiers are said to have stolen a number of objects from other houses in the region.

364. On 11 May 1987, a clinic at Ewaneno run by the Evangelical Lutheran Church was destroyed as a result of an act qualified as sabotage.

365. On 10 June 1987, a man and his two-year-old child were killed in the Ombalantu region by a truck driven by members of the "Koevoet", which destroyed their farm.

366. On 19 June 1987, "Koevoet" soldiers seriously burned Johannes Elia's hand by forcing him to hold on to the burning-hot exhaust pipe of a military truck. The incident is said to have taken place at the village of Oshikweyo, in northern Namibia, where "Koevoet" members were questioning villagers about SWAPO actions.

367. On 9 July 1987, a schoolgirl, Laina Taapopi, from Valombola, was killed and her young friend, Israel Mwandingi, seriously wounded by shots fired from a security forces vehicle. According to the authorities, the incident took place during the curfew; however, inhabitants of the town of Valombola, in the Ongwediva region, are reported to have said that it was a long time since the curfew had been in force in that region.

368. On 20 September 1987, South African troops in Namibia reportedly blew up a Roman Catholic church at Omulukila in the Ombalantu District of northern Namibia.

#### 4. Recent cases of detention and political trials

369. In the light of information received about the period under review, the Group notes once again that detentions without trial of persons suspected of opposition are still taking place, pursuant to the provisions of Proclamation AG.9 of 1977 in particular but also of the Internal Security Act of 1950 and the Terrorism Act of 1967.

370. According to concordant testimony communicated to the Group, the number of detentions rose during the period under review, and persons are still being held, as shown by the cases described above. It should be noted, however, that during the same period a certain number of Namibians were released.

371. According to concordant information communicated to the Group, the Windhoek Supreme Court authorized six of the eight SWAPO members sentenced to prison terms ranging from 3 to 18 years to appeal the judgement handed down on 22 May 1987. Those involved are Andreas Johnny Heita, sentenced to 18 years (see para. 360), Salomon Paulus, sentenced to seven years, Martin Akweenda, sentenced to 10 years, (all three having been tried under sect. 2 of the Terrorism Act), Gabriel Mathews, sentenced to eight years, Johannes Nangolo to 12 years, and Sagarias Balakius Shipanga Namwandi to 18 months (who were found guilty of committing certain acts with the intention of endangering law and order and of being in possession of explosives). Two other accused persons, however, Mr. Petrus Kakede Nangombe and Andreas Gideon Tongeni, were acquitted.

372. Besides the cases mentioned above, a new element drew the Group's attention: Mr. Joseph Katofa, as the Group indicated in its report to the Commission in 1986 (E/CN.4/1986/9, para. 375), had been released but is now reported to have been arrested again. According to information transmitted by the Namibia Communications Centre, Mr. Katofa was arrested in July and seriously injured in the face as a result of blows he received during detention.

373. According to information supplied to the Group by Amnesty International, Mr. Jason Angula was arrested on 7 October 1987 and is currently being held under Proclamation AG.9 of 1977. According to the same source, Mr. Angula's place of detention is still unknown.

374. The Group also received reports of arrests of a number of trade-unionists and clergymen. In July 1987 the following persons were detained without trial: Martin Mulondo, project director in the Caprivi region for the Council of Churches of Namibia and Sara Lukas and Sara Teofilus, both members of the Eloo Lutheran Congregation in the Ontangwa region. The following seven trade-union members, arrested in July under the Terrorism Act, were released in September by order of the Windhoek Supreme Court: Daniel Tjongarero, Pastor Henrick Witbooi, Nico Bessinger, Anton Lubowski, John Pandeni, Asser Kapere and Ben Ulenga. These seven persons, reportedly held in solitary confinement, were released in September 1987, according to the latest information communicated to the Group.

375. Lastly, the list below, which is not exhaustive, contains the names of persons who are still said to be in detention. The second list contains the names of persons who were probably released during the period under review:

LIST OF PERSONS DETAINED IN NAMIBIA

<u>Name of detainee</u>	<u>Occupation</u>	<u>Place of origin or principal residence</u>	<u>Date of detention</u>
Samuel Andreas	Bus driver in the Oshakati region		28 February 1987
Amutenya Ashipala	Oranjemund, worker at Consolidated Diamond Mines (CDM)	Okatana	1985
Ananias Katofa		Ombalantu	7-8 July 1987
Joseph Katofa	Shopkeeper	Ombalantu	Rearrested 7-8 July 1987
Fillemon Katsimine	Migrant worker at Windhoek	Oshamuhenyé	First week of March 1987
Leonard Katsimine	Migrant worker at Windhoek	Oshamuhenyé	First week of March 1987
Abner Khikesho	Headmaster of the Okamule Combined School		3 July 1987
Sara Lukas	Member of the Eloolo Lutheran Congregation	Eloolo	March 1987
Martin Mulondo	Employee of the Council of Churches of Namibia	Okatimamulilo	3 April 1987
Sara Teofilus	Member of the Eloolo Lutheran Congregation	Eloolo, near Ondangwa	March 1987



LIST OF PERSONS SAID TO HAVE BEEN RELEASED

<u>Name of detainee</u>	<u>Occupation</u>	<u>Place of origin or principal residence</u>
Martin Abakus	Assistant teacher	Onquiila
Elizabeth Amukwaya		Okapanda
Miriam Amungwa		Ombalantu
Taimi Endjala	Teacher	Etilyasa
Junias Kaapanda	Pastor (Lutheran)	Tsandi
Knongonua Katofa		Ombalantu
Abner Lukas (Iyambo)	Businessman	Onquiila
Frans Nangombe		
Absolom Nuugulu		Onquiila
Julia Nuulimba	School bursar	Onquiila
Mirjam Philippus		Okapanda, Ombalantu
Titus Shalimba		Onakayale
Wilika Ainama Shalimba		Onakayale
Baby Wilika (3 months old)		
Eva Shaningi	Teacher	Onquiila
Thomas Shetwaadha	School cook	Onquiila
Abner Shivute		
Konis Shoombe		
Nestor Tobias		

## VI. CONSEQUENCES OF THE MILITARIZATION IN THE TERRITORY

376. In its previous report (E/CN.4/AC.22/1987/1), the Ad Hoc Working Group of Experts pointed to the massive presence of the South African army throughout the entire territory of Namibia and more particularly in the north. It noted the increased spending on defence and security, which reflected South Africa's objective, manifested in the policy of aggression against the Namibian people and the front-line States, in particular Angola. In this respect, the situation has not changed. According to information transmitted to the Group by IDAF (Focus, No. 72, September-October 1987), in June 1987 the South African Government announced a 30 per cent increase in military spending for the 1987/88 budget. For example, according to the same source, approximately R 6.7 billion were allocated to South African security forces; according to estimates made by the United Nations Council for Namibia, 33 per cent of total expenditure by the South African military, police and security forces is used for South Africa's military operations in Namibia, Angola and other front-line States. The gross cost of maintaining Namibia is calculated to be 10 per cent of South Africa's State budget, representing about half of its annual external borrowing (A/AC.131/241).

377. One of the consequences of the increased militarization in Namibia is said to be the South African Government's intention to separate the Caprivi Strip from the rest of Namibia. As the Group stated in its latest report (E/CN.4/AC.22/1987/1, para. 301), there is every indication that during the period under review the South African Government has continued setting up a plan to separate the Caprivi Strip from the rest of Namibia.

378. According to concordant reports, the Caprivi Strip has been officially classified a "security zone", together with a large part of northern Namibia. The South African army created an 8,000 square kilometre military zone, called Western Caprivi Game Park, between Bagani and Kongola, in the western part of Caprivi.

379. Besides a huge military air base at Mpacha, in East Caprivi (see E/CN.4/AC.22/1987/1, para. 301), the main garrisons in the northern part of the Territory are at Ruacana, Oshakati and the Ondangwa air base.

380. During the period under review, the Group was informed of a number of acts of aggression by South Africa against neighbouring States. This information, from varied and concordant sources, is corroborated by the United Nations Council for Namibia (A/42/24, part I).

381. In January 1987, South African armed forces and UNITA units attacked Angolan army positions near the town of Mongua. During the same period, other attacks against Angolan military bases were launched in Cunene province. As is customary, the South African Defence Forces stated that such operations were directed against SWAPO elements based in Angola.

382. In February 1987, a commando attacked a village in Huila province, causing the death of a number of civilians.

383. On 25 April 1987, South African commandos launched attacks against the town of Livingstone in Zambia and one month later against the capital of Mozambique, Maputo. During the Livingstone raid, four civilians were killed;

on 29 May 1987, during the attack against Maputo, three persons are said to have died. The Group has, in the past, referred to similar acts of aggression against Mozambique. However, this was the first major direct attack since the signing of the Nkomati Agreement in 1984.

384. In May 1987, several series of attacks were reported at Harare (Zimbabwe); the aim seems to have been to destroy ANC offices set up at Harare. In another incident, also in Zimbabwe, Mr. Tsitsi Chiliza, a Zimbabwean national, is said to have been killed by a booby-trapped package containing a television set intended for the ANC representative at Harare.

385. In a letter dated 10 June 1987, addressed to the Secretary-General of the United Nations, the Government of Botswana confirmed that the findings of an inquiry into a bomb explosion at Gaborone on 8 April 1987 had revealed that the device had been placed by an agent of the South African police. This incident resulted in the death of four civilians and the destruction of several dwellings.

386. According to concordant information, various acts of aggression were committed by South African troops in Angolan territory. The Group was particularly struck by the recent aerial and ground bombings carried out in Angolan territory by the South African armed forces in October 1987. A letter of 18 November 1987 addressed to the Secretary-General by the President of Angola described bombings in the provinces of Kuando-Kubango, Cunene and Namibia.

387. Having discussed the matter, the Security Council adopted resolution 602 (1987) of 25 November 1987, in which it demanded the immediate withdrawal of South African troops occupying Angolan territory. The Security Council strongly condemned the illegal entry into Angolan territory by the Head of the South African State and some of his Ministers, in flagrant violation of Angola's territorial integrity and sovereignty. Lastly, the Council mandated the Secretary-General to monitor the withdrawal of the military forces from Angola and to report to it on the implementation of the resolution not later than 10 December 1987. By the time it adopted its report, the Group had received no information concerning the action taken on this request.

388. According to reports received by the Group, the members of the European Community issued an extremely severe condemnation of the South African incursion into Angola, describing the visit to South African troops in Angola by President P.W. Botha and some of his Ministers as a provocative act. The statement stipulates that the invasion of Angola was a serious violation of international law.

389. On 2 November 1987, more than 160 persons are said to have been killed during an operation carried out by the South African forces in northern Ovamboland, a region on the Angolan border. According to the authorities, the action was a "preventive strike" to stop infiltrations by SWAPO members at the beginning of the rainy season.

## VII. RIGHT TO WORK

390. In its previous reports, the Group examined employment policy in Namibia and the precarious living conditions caused by segregation and unequal opportunities in regard to wages and working and living conditions. Moreover, the Group noted in particular the restrictions designed to prevent independent trade unions in South Africa from extending their activities to Namibia and assisting in the formation of new unions in Namibia.

391. In this connection, according to information from the International Labour Office a number of developments point to a re-emergence of trade-unionism in Namibia, where the trade-union movement is said to have moved ahead considerably.

392. In his annual report for 1987, the Director-General of ILO notes that, in the period under review, a steering committee of the National Union of Namibian Workers (NUNW) decided to merge with some unions in the food and allied industries to form the Namibian Food and Allied Workers' Union (NAPAWU), representing approximately 6,000 workers. In this regard, the report points out that the most significant development was probably the establishment of the Mineworkers' Union of Namibia (MUN), with more than 10,000 workers from the various mining companies in Namibia, an event which, the report goes on to point out, is significant not only for the mining industry but also for the example it, together with NAPAWU, provides for workers in other sectors.

393. With reference to the problem of respect for trade-union rights in Namibia, the representative of the World Council of Churches (692nd meeting) said that most of the Namibian work-force was grouped in compounds, which made it easier for the authorities to keep control over them. She added that, in recent months, the "Koevoet" had carried out at least four raids on workers' compounds in which a number of people had been shot and killed. In Luderitz, in southern Namibia, an autopsy on one victim revealed that she had died from internal injuries as a result of being beaten up. Trade-union meetings were broken up and trade-union leaders were arrested. The witness said that even the Chairman of the Rössing Mine had protested about the arrest of trade-unionists to the Minister of Justice of the Multi-Party Conference Government.

394. In this regard, the Group's attention was drawn to a number of incidents in which trade-unionists were said to have been arrested. Similarly, the Group received reports of a number of strikes.

395. For example, on 1 May 1987, thousands of black workers reportedly gathered in Shifidi Square in Katutura for a demonstration called by three unions affiliated to SWAPO. Strikes were also held that day in a number of shops and hotels in Windhoek.

396. In May 1987, a strike in Namibian slaughterhouses and meat-canning factories brought the country's meat industry to a halt. The dispute took place at the Swavleis factory in Windhoek, when about 150 to 200 workers decided to stop working overtime. The strike was caused by two grievances: a demand for the factory management to clarify the rates of pay for overtime, and a demand for transport to be supplied for workers obliged to leave their place of work at night after overtime, when there was no alternative transport available. The factory management, faced with the persistent refusal to work

overtime, reportedly dismissed 12 workers on 15 May for "not filling their work quota". The workers at both the Windhoek and the Okahandja factories, demanded reinstatement of their 12 co-workers, and went on strike. The management reacted by dismissing 597 strikers in Windhoek and Okahandja and recruited workers from Cape Town to keep up production at the slaughterhouses. However, according to information reaching the Group, the situation at the factory became more and more disturbing and the management agreed to talks and to renegotiate the wages issue, but refused to reinstate the 12 workers dismissed earlier.

397. In early July 1987, 1,500 workers at the Tsumeb Corporation Ltd. copper mine close to Tsumeb are said to have launched a boycott of white shops in the town. The boycott, ordered by the local branch of MUN, was directed against tax increases on a number of consumer items and its organizers called for higher wages and an end to the South African army's activities in northern Namibia, where most of the mineworkers' families live.

398. On 4 June 1987, the army and the police reportedly burst into a compound of huts in Katutura in which 10,000 migrant workers were living. According to concordant information reaching the Group, 74 people suffered injuries from truncheons, wooden sticks and rubber bullets used by troops and policemen. In addition, 46 people were arrested.

399. In early June 1987, 1,600 workers living in the compound in Luderitz, a seaport in southern Namibia, are said to have been savagely assaulted and searched by police and army personnel. Approximately 200 people were arrested, including a number who were seriously injured during the raid on the compound. According to information supplied by the IDAF (Focus, No. 72, September-October 1987), this action, along with many others, was part of a campaign to prevent workers from organizing themselves effectively and to force the strikers to return to work.

400. In his statement to the Group, the ILO representative (691st meeting) said that the workers in at least three copper mines in Namibia had gone on strike and there had been clashes between the police and union leaders and strikers. ILO, which is regularly informed of the situation in Namibia, had noted increased tension during the latter months of the period under review.

401. According to information transmitted by the Office of the United Nations Commissioner for Namibia, the South African security police arrested Mr. MacDonald Ntalabathi, president of NAFWU, on 18 June 1987.

402. The representative of ICFTU (689th meeting) confirmed this trend in the trade-union movement in Namibia. He said that, apart from the trade unions mentioned above, a number of other small unions had been established in the past year: the Building Workers' Union, with 380 members; the Namibia Fisherman's Union, which has only 220 members, but in the view of ICFTU, is carrying out genuine trade-union work; the South West Africa Municipal Staff Association, which has some 300 members, but operates within the administration and thus cannot be regarded as a free trade union; and lastly, the National Federation of Trade Unions, which is also a part of the system. In addition, there is a National Labour Council, a tripartite body made up chiefly of whites, but the fact that it is sponsored by the administration means that it cannot be regarded as a representative body to deal with labour disputes. The witness concluded that there were a large number of trade

unions in Namibia, but the situation was very fluid and further development of the trade-union movement depended on the evolution of the political situation. In Namibia, he added, trade-union legislation was under the control of the Administrator-General appointed by the South African Government and by the "transitional government", which was not representative of the population as a whole. In this connection, the witness mentioned the appointment of a Minister of Social Affairs by the "transitional government", which was trying to show that it had the welfare of the workers at heart.

403. With reference to strikes in Namibia, the witness said that he had no record of a widespread strike movement in the Territory, except in the mines, perhaps because the trade unions were still embryonic. In any event, he concluded, there had definitely been no organized strike action.

404. According to a communication transmitted to the Group by ICFTU, Mr. Ben Ulunga, General Secretary of MUN, was arrested under the Terrorism Act following the wave of repression of the workers who went on strike in the copper mines of the Tsumeb Corporation Ltd. (TCL), a British firm. The workers were demanding an increased wage of R 230 (the current wage is R 195) and were calling for an end to the system of migrant labour so that families could live together. In this respect, the Group pointed out in a previous report (E/CN.4/1986/9, para. 400) that such a practice, combined with other social and economic factors, contributed to the failure to develop a stable, permanent labour force. The migrant labour system compels workers to leave their families for periods of up to 30 months, living conditions are catastrophic and there is some reason to think that the régime is using the system as a way of impeding any trade-union activities.

405. In addition to the oppression of trade-union representatives in Namibia, the Group also received concordant reports of incidents in which members of church circles in Namibia were the target of acts of violence. According to information from the Namibia Communications Centre, on 4 August 1987 nearly 300 policemen used the pretext of searching for weapons to raid the Georg-Kroenlein Sentrum, a Lutheran church in the southern part of the town of Berseba. In an earlier incident on 19 July 1987, South African troops used tear-gas and rubber bullets to disperse a crowd which had met at the Georg-Kroenlien Sentrum to celebrate the opening of a new secondary school run by the Lutheran, Roman Catholic and Methodist Churches and intended to provide suitable education to replace the system of education introduced under the apartheid régime.

406. In this regard, the Group can do no more than note, as it did in a previous report (E/CN.4/1986/9, para. 370), the increasing tendency of the South African authorities to attack the property and staff of the churches in Namibia, and more particularly the Lutheran and Anglican Churches.

407. Describing working conditions in a report entitled Working under South African Occupation: Labour in Namibia, IDAF says that, despite some improvement in working conditions in the mining sector, "workers in commerce or in the public sector also face discriminatory treatment". Moreover, little information is available on the working conditions of the majority of Namibian workers in the primary sector and in particular "farm workers in the south and centre of the country".

VIII. OTHER MANIFESTATIONS OF POLICIES AND PRACTICES OF APARTHEID  
WHICH CONSTITUTE VIOLATIONS OF HUMAN RIGHTS

A. Right to education

408. As the Group has already pointed out in many reports, general education policy has always been to structure the sector around the ideology of apartheid by allocating different resources to the education of the white, black and Coloured pupils. A report by the United Nations Council for Namibia (A/AC.131/242) notes that discrimination in education is obvious, since education is compulsory for whites but not for black or Coloured children, who are not only racially separated from services for whites but also assigned to different schools on an ethnic basis. Such discrimination is also evident in the amount of money spent on education for the different races. Furthermore, the growing dissatisfaction with the Namibian education system is reflected in continual conflicts in schools and other educational institutions.

409. This analysis of the situation is confirmed by ILO, which states in the 1987 report that education in Namibia basically follows the pattern of education in South Africa, but in addition to being separated along racial lines, the system is also divided ethnically for "second-tier administration" purposes. The report confirms that education is free of charge and compulsory for whites from 6 to 16 years of age; for blacks, on the other hand, the starting age is 7, school attendance is not compulsory and school fees have to be paid. Moreover, per capita spending on education for whites is six times higher than for blacks. The report also reaches the conclusion that the discriminatory characteristics of the education system in Namibia are directly responsible for the gross imbalance between blacks and whites in the manpower pattern, as described earlier by the Group.

410. A report by the IDAF (Working under South African Occupation: Labour in Namibia) states that, with the exception of school establishments run by the churches, discriminatory practices are still applied in schools. Since education means school fees, few parents can afford to send their children to school. As the Group pointed out in its previous report, there are 13 pupils for every teacher in white schools, 44 in schools under the control of the Ovambo administration and 31 in schools under the control of the Hereroland administration. Again, while there is one class-room for every 11 pupils in white schools, there is one for every 59 pupils in the Ovambo "homeland" and one for every 38 pupils in the Hereroland "homeland". Nation-wide, less than 1 per cent of all Namibians complete secondary education. There are reportedly three agricultural schools in Namibia. Moreover, nursing and teaching are traditionally the only fields in which Namibians have been allowed the opportunity to advance beyond the level of unskilled or semi-skilled labour.

411. In her statement to the Group, the representative of the World Council of Churches (692nd meeting) said in regard to education that there appeared to be a shift from Bantu education to ethnic education, which was subdivided into 12 groups - the whites and 11 other ethnic groups, so that there were now 12 "ministers of education". There was a steady increase in illiteracy: 84 per cent of the school population entered secondary school, but only 14 per cent finished secondary education, i.e. 1 per 1,000. Moreover, heads of schools were required by law to communicate the names of pupils of conscription age to the authorities. Some 70 per cent of black teachers were

underqualified or unqualified. The witness also reported a number of cases of school boycotts. In that connection, she drew the Group's attention to the Government's refusal to recognize the parents' association in one of the oldest schools in the country, the Augustineum in Windhoek, arguing that the association's members belonged to SWAPO or to other organizations in favour of the implementation of Security Council resolution 435 (1978). Following a walk-out by the pupils, the school was occupied by the South African army and some pupils were expelled or moved to a community-based school. Referring to yet another case, she said that, in June 1987, children had been expelled from the Keetmanshoop school, a community school for which the Lutheran Church had provided premises.

412. During the period under review, it was reported to the Group that some schools, particularly in the north of the country, were targets for attacks by South African troops, in particular schools run by some Namibian churches. Moreover, the police intervened at the Okakarara secondary school in March 1987 following protests against the inequality and the segregation of the education system in Namibia.

413. Lastly, according to concordant reports from various sources, education is being seriously disrupted in the war areas, where military activities are such that pupils are fleeing from the schools because they are unsafe.

#### B. Right to health

414. As in the past, the Group received little information on the state of health of the population and the existing infrastructure. However, according to the representative of the World Council of Churches (692nd meeting), there are no health services other than the government services and the authorities are striving to set up "mirror image" organizations to compete with those established by the opposition. The Government, taking the view that the churches were the religious branch of SWAPO, reportedly established an institute of theology intended for non-SWAPO trainees.

415. In his statement to the World Health Assembly in May 1987 (A/AC.131/255), the representative of the United Nations Council for Namibia mentioned the fact that medical care in Namibia took into account only the needs of the white population and relegated and subjected the black population to marginal care. As an example, he cited the case of a hospital, one of the most expensive in the world, which had been built in southern Namibia but was used only for the white population. Similarly, he mentioned the Keetmanshoop Hospital, for whites, which had never had more than 23 patients at a time, while the Onandoke Hospital at Ovambo, for the Coloured population, had 250 beds but more than 400 patients. He also stated that, for example, the mortality rate of the Coloured population was 163 deaths per 1,000 live births, compared with 21 per 1,000 for whites. The life expectancy of the black population was only 42 to 52 years, while that of the whites was 68 to 72 years.



IX. INFORMATION CONCERNING PERSONS SUSPECTED OF BEING GUILTY OF THE  
CRIME OF APARTHEID OR OF A SERIOUS VIOLATION OF HUMAN RIGHTS

416. In previous reports, the Group mentioned cases of persons suspected of being guilty of the crime of apartheid or of a serious violation of human rights in Namibia (E/CN.4/1985/8, paras. 511-513, and E/CN.4/1986/9, para. 416). It should be remembered that this list is prepared pursuant to the request made in 1977 by the Commission on Human Rights in resolution 6 A (XXXIII), for the purpose of instituting an inquiry in respect of any person suspected of being guilty in Namibia of the crime of apartheid or of a violation of human rights under the terms of article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

417. During the period under review, the Group received the following information enabling it to determine the responsibility of persons suspected of being guilty of the crime of apartheid or of a serious violation of human rights under the terms of articles II and III of the Convention:

Case No. 1: Captain Pat King, found guilty of taking part in torture that led to the death of Mr. Kakuva (para. 352);

Case No. 2: Captain Ballach, a member of the "Koevoet", found guilty of torturing Mr. Heita during interrogation (para. 360).