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APARTHEID AS A COLLECTIVE FORM OF SLAVERY

Report of the Secretary-General

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION.....	1 - 23	4
1. The Secretary-General's mandate.....	1 - 7	4
2. The relationship between <u>apartheid</u> , colonialism and slavery.....	8 - 19	5
3. Approach to the topic.....	20 - 23	8
II. THE HISTORICAL DEVELOPMENT OF <u>APARTHEID</u> AS A FORM OF SLAVERY.....	24 - 57	10
1. The period of early colonial settlement, commercial agriculture and slavery.....	26 - 38	11
2. The period of primary industrialization and political unification.....	39 - 50	13
3. The period of secondary industrialization and the establishment of the <u>apartheid</u> system.....	51 - 57	16

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
III. DENIAL OF FREEDOM OF RESIDENCE, MOVEMENT AND EMPLOYMENT.....	58 - 86	18
1. General.....	58 - 61	18
2. The reference book.....	62 - 65	18
3. Restrictions on Africans.....	66 - 74	20
4. Restrictions on Coloureds and Asians.....	75 - 81	22
5. Forced population removals.....	82 - 86	23
IV. THE MIGRANT LABOUR SYSTEM.....	87 - 109	26
1. General.....	87 - 92	26
2. The labour bureaux.....	93 - 101	27
3. Wages and working conditions.....	102 - 109	29
V. EXPLOITATION OF WORKERS IN URBAN AREAS.....	110 - 143	31
1. General.....	110 - 114	31
2. The colour bar in employment.....	115 - 131	32
(a) The statutory colour bar.....	116 - 123	32
(b) Colour bar agreements.....	124 - 128	34
(c) Colour bar in apprenticeship.....	129 - 131	34
3. Adjustments within the system.....	132 - 136	35
4. Wages and conditions of work.....	137 - 143	36
VI. EXPLOITATION OF FARM LABOUR.....	144 - 181	39
1. General.....	144 - 146	39
2. The changing structure of African farm labour.....	147 - 158	40
3. Convict labour.....	159 - 165	42
4. Conditions of employment.....	166 - 181	44
(a) Methods of control.....	166 - 169	44
(b) Wages and conditions of work.....	170 - 181	45

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
VII. REPRESSION OF WORKERS' ORGANIZATIONS.....	182 - 229	48
1. General.....	182 - 189	48
2. Denial of trade union rights.....	190 - 215	49
3. Suppression of African trade unions and of trade union organizers.....	216 - 229	55
VIII. CONCLUSIONS AND OBSERVATIONS.....	230 - 240	59

I. INTRODUCTION

1. The Secretary-General's mandate

1. In resolution 1126 (XLI) of 26 July 1966, the Economic and Social Council referred to the Commission on Human Rights "the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism".
2. In paragraph 2 of resolution 13 (XXIII) of 21 March 1967, the Commission on Human Rights requested the Sub-Commission, inter alia, "to undertake regular consideration of the question of slavery in all its forms, including the slavery-like practices of apartheid and colonialism".
3. By resolution 11 (XXVII) of 21 August 1974, the Sub-Commission, upon authorization by the Commission on Human Rights and the Economic and Social Council, appointed a group of five of its members "to review developments in the field of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, the traffic in persons and the exploitation of the prostitution of others as they are defined in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949".
4. By paragraph 16 of resolution 6 B (XXXI) of 13 September 1978, adopted on the recommendation of the Working Group, the Sub-Commission requested the Secretary-General "to carry out, as a matter of priority, a study of apartheid and colonialism as collective forms of slavery".
5. In order to carry out his mandate, it was first necessary for the Secretary-General to interpret the meaning of the phrase "apartheid and colonialism as collective forms of slavery". In order to do so, the Secretary-General has carefully studied the debates and decisions of the Economic and Social Council, the Commission on Human Rights, the Sub-Commission and the Working Group on Slavery concerning the relationship between slavery and slavery-like practices and the practices of apartheid and colonialism. In addition, the Secretary-General has examined the relevant resolutions of the General Assembly as well as the reports and conclusions reached by the United Nations organs and agencies which have been seized with the question of apartheid, namely, the Ad Hoc Working Group of Experts established under resolution 2 (XXIII) of the Commission on Human Rights, the Special Committee against Apartheid, and the International Labour Organisation.
6. The Secretary-General's interpretation of his mandate in the preparation of the present report is based on the conclusions formulated by those United Nations organs, and whose main elements are indicated in the next section.

7. A preliminary version of this report was submitted to the Working Group at its fifth session, in August 1979. The comments and observations of the members of the Group are reflected in the Group's report on its session (E/CN.4/Sub.2/434) and have been taken into account, to the extent possible, in the final version of this report.

2. The relationship between apartheid, colonialism and slavery

8. In the past decades, a general consensus has developed in the international community that the essence of apartheid and colonial rule in southern Africa lies in the dispossession and oppression by the white ruling minority of the entire black population for the purpose of exploiting its labour. According to this general consensus, apartheid and colonialism in southern Africa are therefore practices similar to slavery and forced labour which rely increasingly on indirect compulsion exercised through discriminatory and repressive legislation, but which have developed out of, and co-exist with, historical forms of direct compulsion.

9. This definition is clearly broader than the definitions of slavery and slavery-like practices and of forced labour contained in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, and the Forced Labour Convention (No. 29) of 1930. It emphasizes the indirect nature of the coercion exercised on the black population and its historical roots in colonial conquest and expropriation.

10. An analysis of apartheid as a system similar to forced labour was contained in the 1953 report of the United Nations - ILO Ad Hoc Committee on Forced Labour, which stated:

.....

"the Committee is convinced of the existence in the Union of South Africa of a legislative system applied only to the indigenous population and designed to maintain an insuperable barrier between these people and the inhabitants of European origin. The indirect effect of this legislation is to channel the bulk of the indigenous inhabitants into agricultural and manual work and thus to create a permanent, abundant and cheap labour force.

"Industry and agriculture in the Union depend to a large extent on the existence of this indigenous labour force whose members are obliged to live under the strict supervision and control of the State authorities.

"The ultimate consequences of the system is to compel the Native population to contribute, by their labour, to the implementation of the economic policies of the country, but the compulsory and involuntary nature of this contribution results from the particular status and situation created by special legislation applicable to the indigenous inhabitants alone, rather than from direct coercive measures designed to compel them to work, although such measures, which are the inevitable consequence of this status, were also found to exist.

"It is in this indirect sense therefore that, in the Committee's view, a system of forced labour of significance to the national economy appears to exist in the Union of South Africa." 1/

11. At the forty-first and forty-second sessions of the Economic and Social Council, there was considerable debate concerning a proposal by the representative of the United Republic of Tanzania that the international instruments relating to slavery should be revised to include such slavery-like practices as apartheid and colonialism, and that consideration of "the question of slavery and the slave trade in all their practices and manifestations" by the Council and its subsidiary bodies should henceforth include "the slavery-like practices of apartheid and colonialism". He argued that the system of apartheid as practised in South Africa and in the colonial territories of southern Africa was "the most pernicious form assumed by slavery in the modern age". 2/

12. Some delegations rejected this position, arguing that apartheid and colonialism were different from the historical forms of slavery which involved the right of ownership by one person over another.

13. However, the proposals made by the representative of the United Republic of Tanzania were supported by large majorities both in the Economic and Social Council and in the Commission on Human Rights. Accordingly, consideration of the item relating to slavery and slavery-like practices by the Economic and Social Council and its subordinate organs has included apartheid and colonialism since 1966. Council resolution 1232 (XLIII) of 6 June 1967, adopted by 22 votes to none, with one abstention, inter alia, affirmed "that the racist policies of apartheid and colonialism constitute slavery-like practices and should be eradicated completely and immediately" and recognized "that both the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery should be reconsidered in order to embrace the contemporary manifestations of slavery exemplified by apartheid and colonialism".

14. This consensus was reiterated in a number of recent international instruments and decisions.

15. In particular, the International Convention on the Suppression and Punishment of the Crime of Apartheid, which entered into force on 18 July 1976, declares apartheid "a crime against humanity" and defines the crime of apartheid, inter alia, as "exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour". (Art. II (e)).

1/ Report of the Ad Hoc Committee on Forced Labour (E/2431), paras. 372-375.

2/ For the relevant debates in the Social Committee of the Economic and Social Council, see E/AC.7/SR. 534-536, 538, 540-1 (forty-first session); and E/AC.7/SR.562 (forty-second session). A similar debate was held in the Commission on Human Rights at its twenty-third session (E/CH.4/SR.932, 935-7).

16. A definition of apartheid as a form of exploitation of labour based on the dispossession and oppression of an entire people was given in the Lagos Declaration adopted by the World Conference for Action against Apartheid in August 1977, subsequently endorsed by the General Assembly in resolution 32/105 of 14 December 1977:

"Apartheid, the policy of institutionalized racist domination and exploitation imposed by a minority régime in South Africa is a flagrant violation of the Charter of the United Nations and the Universal Declaration of Human Rights. It rests on the dispossession, plunder, exploitation and social deprivation of the African people since 1652 by colonial settlers and their descendants. It is a crime against the conscience and dignity of mankind. It has resulted in immense suffering and involved the forcible moving of millions of Africans under special laws restricting their freedom of movement, and the denial of elementary human rights to the great majority of the population, as well as the isolation of the inalienable right to self-determination of all the people of South Africa. This inhuman policy has been enforced by ruthless measures of repression and has led to escalating tension and conflict."

17. This view was reaffirmed in the course of the United Nations Symposium on the Exploitation of Blacks in South Africa and Namibia and on Prison Conditions in South African Jails, held at Maseru, Lesotho, in July 1978. The report on the Symposium noted that: "There was general agreement that the exploitation of black labour was the heart of apartheid economic policy ...". Participants agreed that "the Bantu homelands policy masked a system of virtual slavery." 3/

18. In its conclusions, the Symposium noted that "the economic exploitation of blacks in South Africa and Namibia is the direct result of the system of apartheid and the laws and regulations enacted to control the daily life of the African in order to dehumanize him and to restrict him solely to the role of providing his labour .." It further noted that "the denial of trade union rights, the application of the migrant labour and job reservation system, the differential wage structures for whites and blacks and the poor conditions of work, result inevitably in the exploitation of the African and the destruction of the family structure." 4/

3/ ST/HR/SER.A/1, paras. 41 and 43.
4/ Ibid., paras. 66 (4) and (5)

19. The interpretation of the nature of apartheid in southern Africa formulated by the above-mentioned United Nations organs and conferences has been reflected in the reports of the Special Committee against Apartheid, the Ad Hoc Working Group of Experts, and other reports on the question prepared by other organs and agencies of the United Nations. Since such interpretation reflects an overwhelming international consensus, it has been used by the Secretary-General as the basis for his work in the present report.

3. Approach to the topic

20. Since the apartheid system - as pointed out by the above-mentioned Lagos Declaration - has developed out of policies and practices dating back to the times of colonial conquest, the Secretary-General has deemed it useful to include an historical approach in the present study. At the same time, since apartheid is found in South Africa in its most complex form, and South Africa is the colonial power in Namibia (to which much of South Africa's legislation has been extended), it has been decided to concentrate, in the present study, on an analysis of the apartheid system as it has developed in South Africa. 5/

21. The historical development of apartheid as a slavery-like practice will be examined in the next chapter of the report. The subsequent chapters will deal with the dynamics of the system as it has developed after 1948, and its recent adjustments to meet changed circumstances. In the third chapter, the basis of the apartheid system is identified in the inequitable distribution of land and the restrictions on African rights of movement, residence and employment in "white" areas, resulting in mass population removals and the establishment of the "bantustans" as permanent reservoirs of cheap labour. The fourth chapter analyses the migrant labour system whereby Africans forced out of white areas and into the reserves are allowed back on a temporary basis to the extent that their labour is needed, and under strict controls. In the fifth and sixth chapter, the forms of exploitation of labour in industry and farming, and their effects on wages and living standards, are examined. The seventh chapter deals with the ways in which the entire system is enforced, and in particular the violent repression of strikes and workers' organizations.

22. This is the first report prepared for the United Nations which attempts to spell out the various elements of the apartheid system as a slavery-like practice. Given the vastness of the theme, this report does not claim to be exhaustive or even comprehensive. Instead, an effort has been made to identify the principal mechanisms of the system in order to grasp its historical development and its dynamic as a coercive form of labour exploitation.

5/ For recent and extensive studies of the labour situation in Namibia, see International Labour Office, Labour and Discrimination in Namibia (Geneva, 1977) and Gillian and Suzanne Cronje, The Workers of Namibia, International Defence and Aid Fund for Southern Africa (London, February 1979).

23. In this undertaking, the Secretary-General has relied on a wealth of material already existent and describing in detail the various elements of the system. In particular, the reports and studies produced by and for the United Nations organs and agencies mentioned above have proved useful. In addition, studies prepared by academic institutions, individual scholars, and organizations co-operating with the United Nations, have been used, along with sources of South African origin, both governmental and non-governmental.

II. THE HISTORICAL DEVELOPMENT OF APARTHEID AS A FORM OF SLAVERY

24. The international consensus which holds that apartheid is a slavery-like practice is supported by a variety of recent historical studies which have analysed the development of apartheid as a system of forced labour based on the dispossession and exploitation of the black people of South Africa. These studies have shown the historical relationship between colonial conquest and settlement, slavery, and modern forms of control of black labour. 6/ From this perspective, South African history since the beginning of European settlement can be divided into three periods, according to the stages of colonial penetration of South Africa, its incorporation into the world economy, and the development of the productive forces. Each stage was accompanied by specific forms of control and repression of the labour force. The three periods are as follows:

(a) The period of initial settlement, slavery, and the development of commercial agriculture based on forced labour (1650s - 1860s);

(b) The period of gold-based industrialization, final colonial conquest and unification of the country, and the organization of a country-wide system of labour coercion (1870s - 1930s);

(c) The period of secondary industrialization, the establishment of the apartheid system, and the intensification of labour coercion and repression (1940s - present).

25. Each of these periods will be briefly sketched in its main elements in the following sections.

6/ See, in particular, H.J. Simons and R.E. Simons, Class and Colour in South Africa, 1850-1950, (Penguin Books, London 1969); Alex Hepple, South Africa: A Political and Economic History, (Frederick A. Praeger, New York, 1966); Stanley Trapido, "South Africa in a Comparative Study of Industrialization," The Journal of Development Studies, Vol. 7, No. 3, April 1971; Martin Legassick, "South Africa: Forced Labour, Industrialization, and Racial Differentiation" in Richard Harris, ed. The Political Economy of Africa (Schenkman Publishing Co., Inc., Cambridge, Mass., 1975); and "Legislation, Ideology and Economy in Post-1948 South Africa", Journal of Southern African Studies, Vol. I, No. 1, October 1974; Harold Wolpe, "Capitalism and Cheap Labour - Power in South Africa: from Segregation to Apartheid", Economy and Society, Vol. I, No. 4, November 1972, Food and Agriculture Organization of the United Nations, Land Tenure Conditions in South Africa, (Centre against Apartheid, Notes and Documents, No. 37/76, December 1976); Bernard Magubane, The Politics of History in South Africa, (Centre Against Apartheid, Notes and Documents, No. 11/7 July 1976).

1. The period of early colonial settlement,
commercial agriculture and slavery

26. European settlement in South Africa began as a private venture, with the establishment of a seaport and refreshment station at the Cape by the Dutch East India Company in 1652. The local inhabitants having been either exterminated or pushed beyond the settlement's borders, the main source of labour at the colony were slaves brought from Mozambique, Madagascar and the East.

27. It has been pointed out that "before the emancipation of slaves, all menial work was performed by the slaves, and the white men were in the position of a more or less non-labouring aristocracy. This tradition as to the place of the white man has persisted more or less ever since ..." 7/ By December 1854, when slavery was formally abolished, there were almost 40,000 slaves in the colony, as many as the white settlers. 8/

28. The Dutch settlers in the seventeenth century had thus already succeeded "in laying the foundations of modern South African society - a capitalist, racial autocracy." 9/

29. However, Dutch occupation, being based on a private commercial venture and the activities of individual adventurers, remained sporadic and had only limited impact beyond the Cape area. Large parts of the country remained in the hands of independent and well-organized African peoples. It was only with the British takeover of the Cape in 1806 that an official policy of systematic colonization and settlement of the entire region began. As the white settlers gradually moved north and east along the coast, they set the basis for a plantation economy requiring large inputs of cheap labour. The occupation of large tracts of land was accompanied by raiding for slaves, pillage, and policies of cultural and physical genocide against the local peoples aimed at forcing the survivors into the service of the conquerors. During the course of the nineteenth century, South Africa was gradually incorporated into the economy of the British colonial empire and the African peoples were integrated into this economy as a permanent labouring class. 10/

30. As part of this general process of integration into the British colonial empire, the British legal system was extended to the Cape colony after 1806. Under British rule, laws were enacted to end slavery and the slave trade and to replace them with wage labour obtained through a variety of coercive mechanisms, in particular expropriation of land and the establishment of state control over the movement of labour.

7/ Evidence before the Transvaal Indigency Commission, 1907, quoted in Monica Wilson and Leonard Thompson, The Oxford History of South Africa, (hereinafter referred to as Oxford History) (Oxford Clarendon Press, 1971, Vol.II. pp. 110-1.

8/ Simons and Simons, op. cit., p. 17

9/ FAO, op. cit., p. 9.

10/ See Ibid., pp. 10-11, and Magubane, op. cit., pp. 7-11 and 19-20.

31. The importation of slaves was prohibited in 1807. In 1809, the British Governor adopted the first measure aimed at pressing free Blacks into the service of the whites, i.e., a proclamation laying down an obligation for Africans to have a fixed place of residence, abolishing black land ownership outside of mission stations, and applying penalties for "vagrancy". 11/

32. Proclamations issued in 1812 and 1819 allowed settlers to "apprentice" and employ without remuneration a free African child from the age of eight to 18 years, if it was an orphan, or destitute, or born while its parents were in service. The "apprenticeship" system has been called "a legalized form of forced or slave labour", which continued long after the formal abolition of slavery in 1834 and the emancipation of slaves in 1838, and which lent itself to widespread abuses 12/

33. Further legislation to tighten control over the movement of black labour following the emancipation of slaves was enacted with the Masters and Servants Ordinance of 1841, subsequently strengthened with the Masters and Servants Act of 1856. This law, which with amendments remained on the statute books of South Africa until 1974, was "designed to enforce discipline on ex-slaves, peasants, pastoralists and a rural proletariat". by providing severe penalties for breach of contract, indiscipline, and injury to property. 13/

34. Slavery and the slave trade continued further in the northern republics, set up by Afrikaner farmers who trekked with their slaves to escape British rule (the Great Trek, starting in 1836). However, they had been abolished there by 1858 and by the third quarter of the nineteenth century, Master and Servant laws, pass laws and other legislation modelled on the British pattern had been adopted in these parts of South Africa also. 14/

35. In addition to legislation specifically aimed at controlling and disciplining Black labour the white settlers relied on a variety of coercive mechanisms to recruit African workers. Methods varied according to local needs and circumstances, but they all had in common the reliance on non-economic coercion.

36. The most important method of ensuring a continuous labour supply after the emancipation of slaves was the so-called "squatter" system whereby the white settlers allowed the dispossessed indigenous inhabitants and the emancipated serfs and slaves to continue living on the land in return for their labour, cash rent, or a share of the crops. 15/ Africans not squatting on white farms were forced into "locations" administered by government-appointed chiefs and headmen and conveniently situated near the farms so that they could be used as a ready pool of labour. Through the imposition of cash taxes and the requirement that chiefs provide manpower on demand, the settlers ensured that Africans living in the "locations" would be compelled to work in the white economy. 16/

11/ Hepple, op. cit., pp. 179-80; Legassick (1975), op. cit., pp.238-9.

12/ Hepple, op. cit., p. 181; Simons and Simons, op. cit., p. 16; Oxford History, op. cit., Vol. I, p. 304.

13/ Simons and Simons, op. cit., pp. 23-24.

14/ Hepple, op. cit., pp. 181-2.

15/ Oxford History, op. cit., Vol. II, p. 117.

16/ Ibid, Vol. I, p. 456.

37. Where local conditions rendered these methods imperative, the settlers resorted to compulsive recruitment from other parts of the colonial empire. In Natal, the existence of self-sufficient African farming communities reluctant to work on the white-owned sugar plantations led the farmers to import large numbers of indentured labourers from India. 17/ In the Western Cape, the settlers sought to solve labour shortages caused by under-population through the systematic recruitment of workers from the Portuguese colonies and South West Africa. 18/

38. These mechanisms, although not always sufficient to satisfy the requirements of individual settlers, were adequate to meet the needs of an agrarian economy. The situation, however, changed drastically with the diamond and gold discoveries in the late nineteenth century, which led to a total restructuring of the economic and political system of the country.

2. The period of primary industrialization and political unification

39. The discovery of diamonds near Kimberley in 1867 and, even more importantly, of gold on the Witwatersrand in 1886 revolutionized the political and economic structure of South Africa. The confirmation that the region contained enormous mineral wealth greatly increased its strategic importance for the British Empire. It accelerated penetration into the interior and the annexation of large territories which had hitherto escaped colonial rule. In the fourth quarter of the century, the British army waged a series of wars against the independent African kingdoms situated between the Cape colony and the new mining fields of the Transvaal and Griqualand. African resistance was finally defeated in 1898 with the victory over the Venda. 19/

40. In the "Boer War", 1899 - 1902, the British defeated the Afrikaner republics, where most of the mining fields were located, and completed the political unification of the country and its final incorporation into the British Empire.

41. The FAO report mentioned above has noted how the establishment of British colonial rule over the entire region following the mining discoveries was "a deliberate political imposition so as to ensure accumulation through extractive investment." In this interpretation, which has found support among several scholars, the Act of Union (1910) "marked the consolidation of the capitalist revolution that had occurred in the last quarter of the nineteenth century. Pre-capitalist social formations, as first represented by the African tribes and second by the Afrikaner semi-pastoral patrimonialism [were] subordinated." 20/

17/ Frene Ginwala, Indian South Africans, (Minority Rights Group, Report No. 34, London, 1977).

18/ Oxford History, op. cit., Vol. II, p. 119.

19/ Oxford History, op. cit., Vol. II, Chapter V.

20/ FAO, op. cit., pp. 19 and 23; see also Trapido, op. cit.; Legassick (1975), op. cit.

42. This period thus marked the transition from an agrarian to an industrial economy, and was characterized by the organization of production and of productive relations to serve the needs of industrial capitalism. Industrialization at this stage was concentrated around the mining of gold and the patterns set in that industry provided the model for much of the subsequent legislation adopted in South Africa. 21/

43. This economic boom generated a growing demand for cheap black labour for the gold mines and for the industrial activities associated with them such as coal mining for fuel, rail and harbour construction, building of housing and the first light manufacturing industries. The techniques of labour coercion inherited from the previous period were now increasingly rationalized and extended to the whole country. 22/

44. Land policies and labour policies went hand in hand. As a scholar has observed, "Land laws largely ratified the conquests of the nineteenth century, displaced many Africans from their traditional societies, and transformed them inter alia into a landless and exploitable proletariat." 23/

45. While African "reserves" and "locations" had existed in white-ruled parts of the country at least since the time of the Great Trek, a national network of African reserves was established in 1894. The dispossession of the African people was sanctioned in the Land Acts of 1913 and 1936, which demarcated areas for African occupation and ownership and forbade Africans to purchase land outside of these areas. The total allocation of land for Africans, when completed, is to amount to only 13.7 per cent of the country (while Africans represent 70 per cent of the population). This land consists of hundreds of separate pieces, mostly in remote rural areas, and excludes all of the cities, ports, mining and industrial areas. It is these same reserves which were later given the status of "homelands" or "bantustans" under the apartheid policy.

46. By restricting Africans to insufficient and impoverished land, the Land Acts aimed at ensuring that a certain proportion of the African population would be forced out of the subsistence economy and into wage labour as migrants in the mines and in industry. At the same time, the low cost of reproduction of labour in the reserves meant that wages could be kept low. 24/ The Land Acts also included other measures aimed at directing black labour into the mines, in particular by restricting and prohibiting certain forms of settled labour on white farms. The imposition of taxes on all African males living in the reserves was also meant to ensure that they be forced to work in the white areas in order to earn the necessary amount. 25/

21/ See Ben Turok, The Gold Industry in the South African Economy, (United Nations Unit on Apartheid, Notes and Documents, No. 26/74, September, 1974).

22/ Trapido, op. cit., p. 310.

23/ C.M. de Kiewiet, A History of South Africa, Social and Economic, quoted in Oxford History, op. cit., Vol. II, p. 438.

24/ See Legassick (1974), op. cit., p. 7.

25/ Oxford History, op. cit., Vol. II, pp. 119-128; Hepple, op. cit., pp. 93-94, 198.

47. At the same time that black workers were thus increasingly forced into the industrial economy, measures were taken to control their presence in the "white" areas of the country and to prevent them from becoming a settled urban proletariat which might in time organize itself and acquire economic and political power. The gold and diamond mines, economically the most important industries in the country, set a pattern of labour control and repression which was later to be extended to other sectors of the economy. They relied almost exclusively on migrant labour, housed in tightly controlled compounds, subject to quasi-military discipline and easily repressed in time of unrest. The mines, and all South African Governments since the time of Union, have pursued a policy of opposition to, and repression of, any attempts by African workers to organize themselves in trade unions and to strike for improved conditions. 26/ The provisions of the Masters and Servants laws, enacted prior to Union, were strengthened through the Native Labour Regulation Act of 1911; the Masters and Servants Amendment Act of 1926; and the Native Service Contract Act of 1932. 27/

48. The first colour bar legislation was also enacted in the mining industry. Regulations under the Mines and Works Act of 1911, and later under the Mines and Works Amendment Act of 1926, barred Africans from a number of skilled occupations. Discriminatory provisions in the Apprenticeship Act of 1922, the Industrial Conciliation Act of 1924, and the Wage Act of 1925, effectively extended the colour bar to the manufacturing industry. Moreover, a "civilized labour" policy was initiated by the Government to ensure that all whites would be guaranteed skilled employment. 28/

49. At the same time, measures were taken to strengthen already existing restrictions on Africans working and living in areas designated for white occupation. As already mentioned, pass laws had existed in one form or another in various parts of the country since the days following the end of the slave trade. The system of control was intensified and extended to the whole country with the Natives (Urban Areas) Act (1923), the Native Administration Act (1927) and the Native Service Contract Act (1932), which conferred the Government extensive powers for the regulation of African movement, residence, and employment. 29/ This legislation was based on the principle that

"The Native should only be allowed to enter the urban areas, which are essentially the whiteman's creation, when he is willing to enter and to minister to the needs of the white man, and should depart therefrom when he ceases so to minister." 30/

50. Territorial segregation was further reinforced by the gradual dis-enfranchisement of Africans in the white areas and the establishment of institutions of "native representation" under white control. 31/

26/ Hepple op. cit., p. 227.

27/ Legassick (1975), op. cit., p. 243

28/ Oxford History, op. cit., Vol. II, p. 438.

29/ Ibid

30/ Report of the Transvaal Local Government Commission (Stallard Commission). 1922, quoted in Barbara Rogers, Divide and Rule: South Africa's Bantustans, International Defence and Aid Fund, for Southern Africa (London, March 1976), p.10.

31/ See Oxford History, op. cit., pp. 84-93.

3. The period of secondary industrialization and the establishment of the apartheid system

51. As the preceding section has shown, a system of coercion of African Labour based on land expropriation, the creation of reserves, restrictions on freedom of movement, employment and residence, and the denial of the right to organize, was gradually established during the period of industrialization and consolidated after the political unification of the country. Several scholars have therefore argued that the apartheid system does not represent a new structure imposed on the country after 1943 by a backward-looking and racist Government in conflict with the imperatives of modernization and economic development. Rather, apartheid is an "elaboration of the existing system" in order to maintain a high rate of profit in the changed economic conditions of the post-war period. In this view, "apartheid . . . has meant merely tightening the loopholes, ironing out the informalities, eliminating the evasions, modernizing and rationalizing the inter-war structures of "segregationist" labour control. Or, to put it another way, apartheid has meant the extension to the manufacturing economy of the structures of the gold-mining industry." The conclusion which follows from this analysis is that apartheid is a labour-repressive system which has been functional to the model of economic growth adopted by South Africa. 32/

52. In the period between the two world wars, South Africa had embarked on a major programme of industrial growth both to secure skilled employment for the rapidly increasing number of white settlers and to lessen its dependence on extractive industry. This programme was intensified during and after the war, and with the aid of a massive influx of foreign capital and technological expertise, rapid industrial growth was achieved in engineering, armaments, and chemicals. 33/

53. The great expansion of the manufacturing industry created a rapidly growing demand for black labour to fill the new positions which were being created in the urban centres. Under a different system, the development of manufacturing might have led to the permanent urbanization of the black work-force engaged in manufacturing, to an increasing level of skills with a corresponding rise in wages, and to the development of black trade unions and political organizations. As the rest of this study will show, however, the reverse has been true under the apartheid system.

32/ Legassick (1975), op. cit., p. 261, see the other works cited in foot-note 6 above for supporting views. Contrary views have been summarized by Legassick (1974), op. cit., p. 5; and Gervasi, op. cit.

33/ The crucial and growing role of foreign investment in South Africa has been analysed in a number of recent studies and has been the object of particular attention by United Nations organs concerned with the question of apartheid. See, in particular, Ruth First et al., The South African Connection Western Investment in Apartheid (Temple and Smith, London, 1972; Barbara Rogers, White Wealth and Black Poverty (Greenwood Press, Westport, Conn., 1976); Ann and Neva Seidman, South Africa and US Multinational Corporations (Laurence Hill and Co., Westport, Conn., 1978). Among the main reports prepared by the United Nations, see the report by the Special Committee against Apartheid on Implementation by States of United Nations Resolutions on Apartheid (A/9163); and by its Sub-Committee on Involvement of Foreign Economic Interests in South Africa's Industrial Development Projects (Unit on Apartheid, Notes and Documents, No. 35/75, November 1975); and the report prepared by Ahmed H. Khalifa, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/383/Rev.1). The Special Committee against Apartheid follows developments in foreign investment annually in its reports to the General Assembly.

54. State controls were intensified to stem and reverse the flow of black urbanization. Large numbers of people were deported to the reserves, and an increasing proportion of the work-force was turned into migrant labour, following the pattern adopted earlier in the century by the mining industry. A programme of decentralization of labour-intensive industry to the borders of the reserves was initiated to facilitate the implementation of the migrant-labour pattern. This policy was aimed, on the one hand, at maintaining a constantly mobile labour pool which could be directed to any sector of the economy according to requirements and at the lowest possible wages; and, on the other, at preventing the growth of a unified black working class in the manufacturing centres which might in time pose a threat to the entire system. 34/ Black advancement to the new semi-skilled positions created by manufacturing industry thus took place under conditions of growing exploitation and repression.

55. At the same time, this process was accompanied by an intensification of the role of the African reserves not only as reservoirs of cheap and easily controlled labour, but also as areas to which the state could shift the costs of the reproduction of labour, and the growing problem of unemployment. Increasingly, housing, education and health facilities, pensions and other benefits necessary to maintain the black work-force as a whole were to be made available in the reserves at sub-standard levels and thus at much lower cost for the state. The reserves were also to fulfil a role of social and political control through the partial devolution of powers to black authorities. Ultimately, the process was to be completed with a grant of "independence" which, it has been maintained, would make Africans responsible for the administration of their own oppression. 35/ This view has been endorsed by the General Assembly, which has rejected the validity of the "independence" granted so far to three "bantustans", the Transkei, Bophutatswana and Venda, in resolutions 31/6A of 26 October 1976, 32/105 N of 14 December 1977, and 34/93 G of 12 December 1979.

56. The implementation of a policy of direction and control of black labour on such a vast scale has required ever-increasing levels of repression and a huge military and police build-up. As the internal contradictions of the apartheid system have intensified, in particular since the Soweto rebellion of 1976, the Government has further accelerated the implementation of its policy at every level, while bringing some marginal adjustments at the points of greatest friction. At the same time, it has intensified the repression of all opponents and has proceeded to a general mobilization against insurrection. 36/

57. The rest of this study will concentrate on an analysis of the current operation of the apartheid system as a system of labour repression and control. While the political and military aspects of apartheid will not be included in this analysis, the general context of violence and repression within which the system operates should be kept in mind.

34/ Legassick (1975), op. cit., p. 261

35/ This point was made repeatedly in evidence before the Ad Hoc Working Group of Experts (see E/CN.4/1137; E/CN.4/1222; E/CN.4/1270). See also Barbara Rogers, op. cit.; Patrick Laurence, The Transkei, South Africa's Politics of Partition (Ravan Press, Johannesburg, 1976); Anti-Apartheid Movement, London, The South African Bantustan Programme: Its Domestic and International Implications, Unit on Apartheid, Notes and Documents, No. 36/75 November 1975.

36/ These developments have been followed closely by the Special Committee Against Apartheid, which has detailed them in its annual reports to the General Assembly. See also the papers presented at the seminar on South Africa's militarization, organized by the Special Committee in May 1978, and published by the Centre Against Apartheid in the Notes and Documents series (No. 24/78 to 30/78).

III. DENIAL OF FREEDOM OF RESIDENCE, MOVEMENT AND EMPLOYMENT

1. General

58. Apartheid as a slavery-like system relies in the first place on the exercise of control over the conditions under which African labour is made available to white employers.

59. Since at least the 1920s, South African Governments have pursued a policy of allowing Africans to reside in areas designated as "white" (i.e., 87 per cent of the country) only to the extent that their labour is needed by white employers. To this effect, a complex machinery has been developed over the years "to control the influx of Africans into the urban areas; to set apart areas for their accommodation; to direct their labour; and to impose strict regulations for their control and movement." This machinery "aims at providing whites with black labour without allowing the blacks to acquire residential, social and other rights in the areas where they are employed." 37/

60. At the same time, all those considered "unproductive" and "superfluous" to the needs of the economy, such as the unemployed, the aged, the chronically sick, women and children, are deported from white areas to the "bantustans." This policy has been consistently intensified since the coming to power of the National Party Government in 1948, resulting in large-scale population removals and the growing conversion of the African work-force into migratory labour.

61. The present section will deal with the machinery of control of the African presence in "white" urban areas (rural areas will be dealt with in Chapter VI, on farm labour). It was estimated that, in 1975, a total of 6,240,000 Africans were living and working in urban areas, and were therefore directly affected by those restrictions. There were, in addition, 1,850,000 Coloureds and 648,000 Asians in urban areas, who were also the object of a variety of restrictions. 38/

2. The reference book

62. The main instrument to control and regulate African presence in white areas is the reference book. Under the Natives (later Bantu) Abolition of Passes and Co-ordination of Documents Act of 1952, every African above the age of 16 is required to carry such a book (or "pass"), containing personal details, ethnic classification, official authorization to be in an urban area, labour bureau permit to be employed or to seek work, monthly signature of the employer, tax record, and various other particulars. Failure to produce the book on demand by a

37/ Alex Hepple, South Africa: Workers under Apartheid, International Defence and Aid Fund for Southern Africa, Second edition, (London, 1971), pp. 16-17.

38/ South African Institute of Race Relations (S.A.I.R.R.), A survey of Race Relations in South Africa, 1977, (Johannesburg, February 1978), p. 51.

policeman or other authorized person is an offence resulting in immediate arrest. The onus is always on the African to ensure that the required documentation is in his possession and kept up to date. The African's presence in a white area, his employment, in fact his right to be anywhere in South Africa, depend on the correct documentary proof. 39/

63. Offences connected with the pass laws have resulted in a large number of prosecutions each year; offenders are "endorsed out" to the "bantustans", gaoled or compelled to accept low-paying jobs. Available figures indicate that, by the early 1970's, over 600,000 such cases come before the courts each year, resulting in over 35,000 endorsements out of the prescribed areas. 40/

64. In recent years, the Government has brought some adjustments in the operation of the system to meet changed circumstances. "Aid centres" were set up in urban areas in 1971, with the aim, it is reported, of relieving the courts and the prisons of some of the burden created by pass offenders. Under the new system, a person arrested for a pass offence might be referred to an aid centre. The local Bantu Affairs Commissioner would then decide whether to put the person in question in employment; issue him the requisite permission and/or documents; or to send him to a "bantustan" or "rehabilitation centre". 41/ The "aid centres" have been criticized by observers as a way of making the management of the pass laws more efficient. 42/ Recent figures show that while the number of people actually gaoled has been reduced, the total number of persons caught in the administrative network relating to pass law enforcement has remained extremely high. During 1978, a total of 193,082 persons were referred to "aid centres", of whom 36,325 were subsequently "repatriated" to the "bantustans". The Director-General of the ILO observed in his sixteenth report that "such aid centres thus remain a means for relocating labour and at the same time reducing the number of convictions for infringements of the pass system as related to labour". 43/

65. The government-appointed Commission of Inquiry into Legislation Affecting the Utilization of Manpower (known as the Rickert Commission), recently reaffirmed the need for continued influx control measures, although suggesting some changes to make the system more effective. 44/

39/ Black Sash, Memorandum on the Pass Laws and Influx Control, Vol. 16, No. 8, (Johannesburg, February 1974); Africa Publications Trust, The Section Ten People: A Study of the Urban Africans in South Africa (London, 1975).

40/ Africa Publications Trust, op. cit., p.11. See Chapter VI, section 3, for forms of forced labour imposed on pass law violators.

41/ Ibid., p. 17

42/ Ibid. Black Sash, op. cit., pp. 48-49

43/ ILO, Sixteenth Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa (Geneva, 1980), p. 33.

44/ Ibid., p. 30

3. Restrictions on Africans

66. Residence and employment of Africans in urban areas are controlled by a complex set of laws. Over the years, the Government has gradually whittled away African rights to remain in urban areas in conformity with its twin policy of turning workers as far as possible into migrants, and of removing from the white areas those who are considered redundant to the needs of the economy. 45/

67. The Bantu (Urban Areas) Consolidation Act of 1945, as amended in 1964 and 1977, is the law which governs the residence of Africans in the towns. In terms of Section 10 (1) of the Act, no African can remain for more than 72 hours in a "prescribed area" (i.e. a white urban area) unless he can show proof that:

- (a) he has resided in such area continuously since birth;
- (b) he has worked in such area continuously for one employer for not less than 10 years or has resided there lawfully for not less than fifteen years;
- (c) is the wife, unmarried daughter or son under age of an African entitled to reside in the area;
- (d) has been granted permission to reside there by a labour bureau in terms of the Native Labour Regulation Act of 1911.

68. Africans in the first category have the most security in an urban area. They can be the lawful tenants of a house (recently, they have been granted limited home ownership rights, although they cannot own the land on which the house is built). They are also allowed to change jobs within the prescribed area; and, generally speaking, they can live with their families.

69. Africans in the second category must provide proof of "continuous" employment or residence in the area for specified periods. The term "continuous" is strictly applied. If a man's employment with one employer has been at all interrupted within ten years it is not regarded as continuous. Those in this category must also prove that they are not employed outside that particular area; and that at no time in the periods mentioned they have been convicted of an offence involving a fine of over one hundred Rand or imprisonment of over six months.

70. The third category refers to wives and children of men in the first two categories. The right of the families to remain with the men is hedged in by a number of restrictions which make their presence in urban areas very precarious and renders them vulnerable to deportation measures. Moreover, since May 1964, a complete embargo was imposed on any woman newly entering a prescribed area, so that it has become practically impossible for a woman to live with her husband legally or to take up legal employment in an urban area. As a result, African women find themselves in a situation of great hardship and insecurity. 46/

45/ See Africa Publications Trust, op. cit., p. 11.

46/ The situation of African women in South Africa has been the object of increased attention by United Nations organs. See, in particular, the papers prepared for the World Conference of the United Nations Decade for Women on this question (A/CONF.24/6 and Add.1 and A/CONF.94/7) and for the International Seminar on Women and Apartheid, Helsinki, 19-21 May 1980 (to be published by the United Nations Centre against Apartheid).

71. Africans in the fourth category may remain in the prescribed area only on permission from the Labour Office, i.e. while their labour is required. Most workers in this category are migrants on fixed-term contracts (for a maximum of one year) from the "bantustans." In the past, ten years' working with one employer would qualify these people for permanent residence. However, with the passing of the Bantu Labour Regulations of 1968 all migrants have to return home at the end of their contract, thus preventing them from fulfilling the "continuous employment" requirement. In this way, all labour newly entering the prescribed areas is on a migrant basis. Workers in this category cannot be the tenants of a house and cannot bring their families to live with them. In effect they are forced into "single" hostel accommodations.

72. In addition to the restrictions briefly outlined above, it must be pointed out that the status of even those categories which have acquired residence rights in the urban areas is threatened by several provisions which give the Government considerable scope to reduce further the number of permanently settled African workers. For example, Africans who were born in an urban area may be removed by Government order if it is Government policy to reduce the number of Africans in that area. 47/ Africans who have lived or worked continuously in an area for the specified periods may be declared "redundant" and may be deported if, in the opinion of the Minister of Bantu Administration (now Plural Relations) and Development, the number of Africans in that area is "in excess of its reasonable labour requirements." The area in question is always deemed to be a specified area, so that Africans who want to leave the area for which they have a permit because their employer has moved, or to take up a different employment, may lose all residence rights if they cannot secure a permit to live elsewhere. The law does not permit them to live in one area and work in another. 48/

73. Africans, regardless of their acquired rights, can also be deported if they are declared "idle" or "undesirable" in terms of the Bantu Laws Amendment Act of 1964, as amended in 1978. 49/ A person is defined as "idle" if he is unemployed for more than 122 days in any year; if he refuses to accept a job offered by a labour bureau without giving adequate reasons within three days; if he has left a job more than twice in six months; or if he has been dismissed from his employment, more than three times in a year for his own "misconduct". "Undesirable" refers mainly to those convicted of an offence involving violence, or "of any offence involving violence to any officer entrusted with the administration of Bantu affairs" carrying a sentence of more than 14 days. In addition, township superintendents have the power to evict residents for a variety of reasons, thus in effect terminating their residence rights.

47/ For example, Africans living in several townships in the Western Cape were simply removed from the area, regardless of their acquired rights, following a Government decision to reduce the number of Africans in the province (See "A Land Divided Against Itself: A Map of South Africa", compiled by Barbara Waite for the Black Sash, Johannesburg, 1977).

48/ Leslie Rubin, Universal Declaration of Human Rights in South Africa: The Anatomy of a Racist Society, (International University Exchange Fund, Geneva, 1978), p. 35; Hepple (1971), op. cit., p. 17.

49/ See E/CN.4/1311, para. 143.

74. The Rickert Commission recently recommended some easing of restrictions affecting Africans who have acquired residence rights in urban areas. These recommendations, even if implemented, would remain minimal and affect only a small percentage of the African population, namely, those who have satisfied the stringent requirements laid down in the above-mentioned legislation. For the time being, however, the Government has declared itself unwilling to implement the reforms, while accepting other recommendations by the Commission aimed at tightening control over Africans living and working in the urban areas illegally or as migrant workers. 50/

4. Restrictions on Coloureds and Asians

75. The main instrument placing restrictions on the freedom of residence and movement of Coloureds and Asians is the Group Areas Act of 1950, as amended, in particular in 1966. The Act strengthened and systematized previous measures aimed at residential segregation, and brought the Coloureds for the first time within such provisions.

76. The Act provides for the zoning of all towns and villages into areas for the exclusive ownership and/or occupation of particular groups. Areas that are proclaimed for occupation by a specified group must be vacated by disqualified persons not less than one year after a stipulated date. Failure to move is a criminal offence.

77. It has been observed that in the large majority of cases, despite official assertions to the contrary, the more desirable areas have been proclaimed white areas. The length of occupation of an area by a particular group, or the fact that they were the original inhabitants, is not decisive. Under the Act, hundreds of thousands of Coloureds and Asians have been forced to move, but only a few hundred whites. 51/

78. Once an area has been proclaimed a group area it becomes illegal for persons other than members of the appropriate racial group to occupy land or to acquire property in the area, except by permit. As the Act is progressively implemented, each racial group will only be able to live within their own group areas. 52/ While influx control provisions have not been applied to Coloureds and Asians in the same way as to Africans, the provisions of the Group Areas Act obviously severely limit their freedom of movement and residence.

50/ ILO, Sixteenth Special Report ... op. cit., pp. 34-40; South African Institute of Race Relations, Race Relations News, January 1980.

51/ Oxford History, op. cit., Vol. II, pp.239-240. See below, para. 85(d), concerning removals of Coloureds and Asians.

52/ E/CN.4/949, para. 38 and para. 164. The following total number of group areas had been proclaimed as of 31 December 1976:

	<u>Number</u>	<u>Total area</u>
White	807	753,521 ha.
Coloured	492	87,998 ha.
Indian	202	39,640 ha.

(S.A.I.R.R. op. cit., p. 435)

79. According to recent reports, the Government has embarked on the construction of a number of townships for Coloureds situated outside of white urban areas and linked to places of employment by commuter rail (such as Ennerdale, scheduled to accommodate 300,000 Coloureds 30 km south of Johannesburg; Atlantis, planned to house 500,000 Coloureds 45 km north of Cape Town; and others). Coloured leaders have expressed the fear that these townships are planned by the Government as part of a piecemeal "Colouredstan" policy. 53/

80. A form of indirect influx control for Coloured people was introduced in terms of a notice issued in 1977 by the Minister of Community Development under the Prevention of Illegal Squatting Act. The notice declared it necessary for any person who intends bringing into the Cape Peninsula area a Coloured person for purposes of employment to obtain a certificate from the local authority in the area stating that proper housing is available for the prospective employee. The Minister reportedly stated that the measures in terms of the notice would curb the flow of Coloured people to urban areas. 54/

81. Asians are subjected to a form of influx control under the Immigrants Regulation Act of 1913, which requires a permit for settling in another province of the Republic than the one in which they are domiciled, and for travelling outside of their province. 55/

5. Forced population removals

82. Having drastically restricted the rights of residence of all black groups in the white areas of the country, the Government has embarked on a programme of mass removals of persons disqualified from remaining in such areas, and their resettlement in "bantustans" or "group areas".

83. According to recent figures, a total number of 1,820,000 Africans were moved out of white areas and into the "bantustans" between 1960 and 1970. An unknown number has been moved since then: it has been estimated that the Government programme, if fully carried out, would involve a total figure of 4 million people, or one African in five. Similar estimates for the other population groups indicate that one out of every six Coloureds and one out of every four Asians would also be affected. 56/

53/ S.A.I.R.R., Op. cit., pp. 444, 446.

54/ Ibid., p. 430

55/ E/CN.4/949, paras. 165, 188; Ginwala, op. cit., p.8

56/ Africa Publications Trust, Uprooting a Nation: The Study of 3 Million Evictions in South Africa, (London, March 1974).

84. The removals scheme must be seen as not only a means to implement a policy of racial segregation, but also a way of exercising control over the conditions under which black labour is made available and is employed in white areas. It has also been pointed out that resettlement offers the Government the possibility to exercise political and military control over large masses of people, an element of great significance for the future. 57/

85. A variety of black groups have been the object of the removals programme:

(a) The bulk of the removals was formed of tenants and squatters on white farms (up to 1.4 million people by 1973) and "black spot" communities in white rural areas (over 258,000 people by 1976). These will be dealt with below (Chapter VI, on farm labour).

(b) Entire African townships located near white cities have been removed to the "bantustans". The Government policy has been described as follows: 58/

"The traditional pattern in South Africa was one of racially segregated residential areas with squalid black townships situated outside the white towns. The new pattern, under the 'grand plan of Separate Development' is to move these black areas away from that discrete distance into the nearest Homeland 'appropriate in terms of ethnic links'. This terminology allows for the rationalisation that people are being returned from whence they came: this can mean moving anything from a few to several hundred miles. There are few areas of South Africa that are not yet set in the direction of this policy".

In terms of a circular from the Department of Bantu Administration and Development to local authorities in June 1969, townships would be moved to the ethnically appropriate "bantustan" and African workers would be accommodated there with their families if they can commute to work on a daily basis. If the distance is too great, workers would be accommodated in hostels near their work place while their families would be moved to the "bantustans." A total of 327,000 people were reported moved in this way between 1960 and 1970. 59/ There are no current figures for the entire country; however, observers have pointed out that this aspect of the Government's removal programme has been greatly intensified in recent years. For example, the Prevention of Illegal Squatting Act was enacted in 1976 (amended in 1977) to facilitate the removal of 40,000 Africans from the Western Cape to the Ciskei and Transkei "bantustans". Another 120,000 people are in the process of being deported from the Cape. 60/ In the large urban areas of the Witwatersrand

57/ See testimony of Mr. Ennals, E/CN.4/1111, para. 122; and of Mr. Desmond, E/CN.4/1311, paras. 142 and 146; and FAO, op. cit., p.50.

58/ Africa Publications Trust, (1974) op. cit.

59/ Ibid., p.10.

60/ International Defence and Aid Fund for Southern Africa, Forced Removals in South Africa: 1977-78, (Centre against Apartheid, Notes and Documents, No. 44/78, October 1978, pp. 6-11; E/CN.4/1270, paras. 132-6; E/CN.4/1311, para. 153.

and the Vaal Triangle, such as Alexandra outside Johannesburg, townships are being broken up and replaced by huge hostels scheduled to accommodate tens of thousands of migrants. 61/ A study of removals from urban areas indicated that hundreds of thousands of Africans were being moved or were scheduled to be moved from most towns and cities in all provinces of South Africa. 62/

(c) Individuals caught in violation of influx control laws may be removed from urban areas (see above, para. 63-64). A total of at least 400,000 persons were reported to have been so removed in the 1960-1970 period. 63/ Recent figures indicate that an annual number of about 56,000 people are evicted. 64/

(d) Finally, a large proportion of Coloureds and Asians have been moved under the Group Areas Act. According to evidence submitted to the Ad Hoc Working Group of Experts in 1976, a total number of 305,739 Coloureds and 153,230 Asians had been moved, and another 93,929 and 44,598 persons, respectively, were scheduled for removal. 65/ It has been indicated that people expropriated and moved under the Act received very inadequate compensation and were given vastly inferior land and facilities, thus sustaining great losses. 66/

86. Most of the Africans affected by these removals have no family or place to go in the "bantustans". Unless they are moved to an already established township, they are therefore sent to so-called "resettlement camps". It appears, however, that very often little or no provision is made for the newcomers, and the "camps" are little more than a bare place in the countryside where minimal rations and facilities are provided to enable uprooted communities make a new start. According to a number of reports, most of these camps have no electricity, sewerage or fresh water; they are far from towns, shops, schools or employment opportunities; farming land is badly inadequate or unavailable; the rations supplied are insufficient, medical attention scarce or non-existent. It has been charged repeatedly that conditions at the camps have resulted in a high incidence of malnutrition, disease and infant mortality. People are dependent on meagre rations supplied by the Government (if at all) for their subsistence, and on whatever employment they can obtain as migrants or cheap labour for "border" industries. 67/

61/ Francis Wilson, Migrant Labour in South Africa, (Report to the South African Council of Churches, Johannesburg, 1972), pp. 40-43; E/CN.4/1311, para. 15.

62/ Africa Publications Trust, (1974) op. cit., pp. 20-28. Details for various areas of the country were also given by the Ad Hoc Working Group of Experts, E/CN.4/1311, para. 153; E/CN.4/1365, paras. 102-105.

63/ Africa Publications Trust, (1974) op. cit.

64/ S.A.I.R.R. op. cit., pp. 385-7.

65/ Testimony of Mr. John Gaetsewe, quoting Government figures, at the 418th meeting of the Ad Hoc Working Group of Experts (E/CN.4/1222, para. 58).

66/ Oxford History, op. cit., Vol. II, p. 239; Frene Ginwala, op. cit.

67/ Outrage at conditions in the "resettlement camps" has found expression in a vast literature on the topic. Among the best-known studies are the following: Cosmas Desmond, The Discarded People: An Account of African Resettlement in South Africa, (Penguin African Library, 1970) and Limehill Revisited; A Case Study of the Longer-term Effects of African Resettlement, (University of Natal, 1977); Africa Publications Trust, A Place Called Dimbaza, London, January 1974. Conditions in the camps have also been periodically surveyed by the Ad Hoc Working Group of Experts (E/CN.4/1020/Add.2, paras. 65-105; E/CN.4/1135, paras. 97-114; E/CN.4/1270, paras. 131; E/CN.4/1311, paras. 144-9; E/CN.4/1365, paras. 91.101).

IV. THE MIGRANT LABOUR SYSTEM

1. General

87. The migrant labour system has been essentially devised to enable the white economy to draw black labour out of the "bantustans" and into the white areas on a selective and temporary basis, and only to the extent that it is needed by the white economy and under conditions in which it is easily controlled. For these reasons, the analogy between the migrant labour system and a modern form of slavery has often been drawn. 68/ Migrant workers have no freedom to choose their field of employment; they have no security of contract and no accumulated seniority or other benefits; they are required to leave their families behind in the "bantustans"; they have no freedom of residence, being forced to live in single-sex hostels or compounds where they are often subjected to prison-like conditions; and they usually have to accept whatever wages and conditions of employment are offered them, because of the impoverishment and starvation in the "bantustans" to which they have been confined.

88. Observers agree that the incidence of migratory labour has increased with the intensification of the Government's efforts in this direction. It has also been pointed out that the employment of migrants, traditionally concentrated in the mining industry, has spread to most sectors of the economy. 69/ It is interesting to note that, for a system which is so central to the policy of the Government, there are very few official data available. The figures contained in this section are based on estimates made by a number of scholars.

89. According to a recent study, the number of migrants increased between 1970 and 1976 as follows: 70/

	<u>1970</u>	<u>1971</u>	<u>1972</u>	1,000's <u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Oscillating migrants	1 007	1 042	1 007	1 112	1 147	1 182	1 218
Commuters	291	331	377	429	489	557	634

90. The 1976 total represents about 48 per cent of the total number of registered (i.e., legally employed) African workers (3,842,915). 71/ Other estimates are considerably higher: for example, in his pioneering work on migrant labour, Francis Wilson indicated that 51 per cent of the registered workers were "oscillating migrants" in 1972 (i.e., excluding "commuters"), and that the proportion was

68/ See E/CN.4/1159; E/CN.4/1222; E/CN.4/1270; E/CN.4/1311 and ST/HR/SER.4/1.

69/ Wilson, op. cit., p. 5.

70/ Lieb Loots, "Alternative Approaches to the Estimation of Unemployment", unpublished paper, March 1977, quoted in S.A.I.R.R. op. cit., p. 223. The term "oscillating migrants" refers to people on annual contracts who return home only at the end of their contract, or on leave; while "commuters" are people who travel daily to their jobs. Official planners have laid down that it is possible for workers to commute up to 113 km each way on a daily basis and up to 650 km each way on a weekend basis (E/CN.4/1311, para. 152).

71/ S.A.I.R.R., op. cit., p. 223.

growing. It also appears that in some urban areas, in particular, the Western Cape where most African residence rights have been eliminated, the proportion of migrants is as high as 85 per cent. 72/

91. According to available figures, mining is still the largest single employer of migrant workers. As of 30 June 1976, the total number of South Africans registered in employment in "mining and quarrying" was 377,058. About half of these were employed in the gold mining industry. 73/ A vast proportion of these are migrants. By law, no more than 3 per cent of the South African labour force on the gold mines can be housed in married quarters. All the other labourers are accommodated in compounds, i.e., they have to leave their families in the "bantustans". The rest of the mining industry follows the pattern set by the gold industry. Some coal mines in Natal were reported to have traditionally employed men living with their families in nearby squatter villages: however, as these settlements are eliminated from white rural areas, it would appear that migratory labour will become the almost exclusive form of labour in all mining industry. 74/

92. Although figures about the distribution of migrant workers in urban centres are not available, it appears that migratory labour is employed in all sectors of the economy, by State, municipal and private employers. In his study, Wilson indicated that migrants were working in such widely different areas as the South African Railways; the Electricity Supply Commission; the Post Office; the police; rubbish collection; building contractors; heavy industries; hospitals and schools, including private church schools; and as domestic workers to city dwellers. Migratory labour is also increasingly employed by white farmers as Africans are evicted from rural areas under the Government's policy (see below, Chapter VI).

2. The labour bureaux

93. The machinery established by the South African Government to implement its policy of intensifying the migrant labour system is a network of labour bureaux which allows the State to exercise control over the movement of African labour. Set up in the early 1950s, these bureaux were initially charged with regulating the influx of African labour into urban areas. With the promulgation of the Bantu Labour Regulations (Bantu Areas) in 1968, however, the Government shifted its emphasis to the control of the efflux of Africans out of the "bantustans". The Regulations set up tribal labour bureaux directly in the "bantustans" with the task of ensuring that workseekers would leave the "bantustans" only to the extent that they are needed in the white economy. From 1960, the Government has also encouraged the establishment of "border" industries near the "bantustans" to make use of local labour, thus further checking the efflux of Africans toward the cities.

94. The labour bureau system is to be strengthened and made more efficient in terms of the recommendations recently formulated by the Riekert Commission. In particular, the Commission emphasized that no African should be employed without the permission of the labour bureau concerned, and that authorization should be subject to compliance with stringent requirements. 75/

72/ Wilson, op. cit., pp. 75-77.

73/ S.A.I.R.R., op. cit., pp. 223 and 258.

74/ Wilson, op. cit., pp. 10-11.

75/ ILO, Sixteenth Special Report ... op. cit., pp. 31-2.

95. The Bantu Labour Regulations stipulate that every African domiciled in a "bantustan" who is dependent on employment for his livelihood, shall within one month of becoming unemployed or within one month of reaching the age of 15 years or ceasing to be a full-time pupil or student, register as a workseeker with the tribal labour bureau in his area. The only persons exempted from this requirement are: women, unless they wish to work; men over 65 years of age; any owner of land on which he lives lawfully and which he cultivates regularly; physically or mentally incapable people; casual labourers or independent contractors. It is an offence for an African to leave his "bantustan" to seek work on his own. Employers must register all contracts with the labour bureau, and notify it of any vacancy within two weeks. 76/

96. Africans registered at the labour bureaux have no freedom to choose their employment. They are registered by the Tribal Labour Officer in one of 17 categories with little regard to their wishes, skills or educational background. For example, it has been reported that men born in white rural areas are usually classified as farmworkers; sons of miners as mineworkers, and the like. 77/ Once registered in a category, a worker cannot change it (other than to mining or farming, the two least desirable categories of work) except by specific permission of the Tribal Labour Officer. It has been pointed out that "a man who is classified as a domestic worker, a cleaner or garbage collector, stays in that work for the rest of his life". 78/

97. Another means by which freedom of choice of employment is eliminated is by declaring a given Labour Bureau "closed" to all recruitment except to a certain area (such as a farming or a "border" industry area) or category of work (such as mining). In this way, workers living under the jurisdiction of that Bureau have no possibility of obtaining legal employment except by accepting work in that particular area or category. Similarly, a Bureau may be declared "closed" to recruitment for a certain area which may be considered particularly desirable by workers (such as the Witwatersrand), thus forcing workers into other areas. In this way, workers are channeled into the sectors of the white economy where their labour is needed, and forced to accept whatever wages and working conditions prevail in that sector.

98. In addition, under the Physical Planning and Utilization of Resources Act of 1967, as amended in 1974 by the Environment Planning Act, the Government placed a freeze on an increase in African employment in "controlled areas" unless specifically authorized by the Minister of Planning. The ratio of African to white workers was set at 2.5:1 for new industries or extensions to existing industries. The Minister has discretionary powers to define which areas are to be "controlled", and since industries in "border" areas have been exempted from those provisions, the Act has been used in practice as a further way to channel African labour away from urban areas and toward "border" industries. 79/

99. The growing impoverishment of the "bantustans" ensures that workseekers have no choice but to accept the employment offered, at whatever conditions. It has been pointed out that the need for work is so great that when recruiting agents come to the "bantustans", men will take any jobs offered to them, at any rate of pay. They cannot risk bargaining or holding out for better contract terms, since the alternative is starvation. 80/

76/ Black Sash, op. cit., pp. 7-14.

77/ David Davis, African Workers and Apartheid, (International Defence and Aid Fund for southern Africa, Fact Paper on southern Africa No. 5, London, March 1978), p. 10.

78/ Ibid.

79/ Ibid., p. 19.

80/ Ibid., pp. 10-11.

100. Recruitment of contract workers is done by category of labour, and not by individual workseeker, since all workers are considered undifferentiated labour units. In fact, it is an extremely difficult and cumbersome procedure for an employer to apply for a specific individual, exceptions being made only in the case of domestic servant (and again, this is impossible if the prospective employee is a woman). 81/ However, an employer can requisition the same individual for successive one-year contracts by using the "call-in card" system, whereby a worker can be booked for another period when he returns to his "bantustan" at the end of his contract. The system was devised essentially to make it worthwhile for employers to invest in some form of training for their workforce, and does not grant the worker any seniority, residence rights or other benefits.

101. At the end of the contract period the employment must be terminated and the worker must return to his "bantustan" and report to the tribal labour bureau. He must then wait for at least one month before he can enter a new contract. The worker cannot enter a new employment unless his passbook has been properly signed at the end of his contract, and unless he returns to the "bantustan". In its report, the Riekert Commission recently emphasized that "provision for the compulsory repatriation of workers by employers on the completion of their contract is essential" and made recommendations to the Government for the strengthening of the labour bureau system. 82/

3. Wages and working conditions

102. By channeling African labourers to the areas of the economy where their labour is needed, the labour bureaux ensure that all employers dispose of a steady supply of workers regardless of wages and conditions of work. Not surprisingly, therefore, wages of contract workers are reported to be considerably lower and their living and working conditions harsher than those of settled workers in the cities. 83/

103/104. In "border" industries, which have been set up especially to draw on the labour pool in the "bantustans", the Government has waived wage determinations and Industrial Council agreements as an incentive to employers to relocate in "border" areas. Where such areas were created simply by redrawing boundaries, without affecting the physical location of existing industries, the Government has cancelled any agreements or determinations that were in effect. As a result, wages in those industries were reported to be considerably lower than those in nearby urban areas: estimates by the Department of Planning for 1974 indicated an average wage of about R40 per month, considerably below the poverty datum line. 84/

105. In addition to providing a vast mass of cheap labour to all sectors of the economy, the migrant labour system affords both the authorities and the employers extraordinary possibilities of control over the lives and activities of workers, including their leisure time.

81/ Black Sash, op. cit., p. 8.

82/ ILO, Sixteenth Special Report ... op. cit., p. 31.

83/ Davis, op. cit., pp. 11-12.

84/ Hepple, op. cit., pp. 53-59; S.A.I.R.R., op. cit., p. 250.

106. Several observers have pointed out that since influx control laws make a migrant worker's residence in urban areas dependent on legal employment there, workers are extremely vulnerable to retaliation by employers and the police if they complain about wages and conditions of work, or try to organize to improve the situation. 85/

107. The living conditions of migrant workers are also designed to allow maximum control. This is exemplified by the "compound" system, first used in the mining industry; workers are crowded together in barracks, with no privacy and very few comforts, directly at their place of work. 86/ While the standards of accommodation vary, they have in common the subjection of workers to strict rules, administered by a "compound manager" who can punish or evict workers for non-compliance. Some compounds are reported to be equipped with cells in which workers who have disobeyed the laws of the compound may be locked up. In the diamond mines, the compounds are "closed", i.e., workers are kept under strict surveillance and isolated from the outside world for the duration of their contract. At other mines, workers may go to town on weekends and evenings after work; however, curfew regulations and the fact that workers must often rely on transportation provided by the employer greatly diminish even this limited degree of freedom.

108. The compound system was extended from the mining industry to other industries and firms employing more than 50 migrant workers. Employers reportedly prefer a system whereby their migrant workforce is housed directly on their premises, since it allows for tighter control in times of unrest.

109. Migrants who cannot be accommodated directly on the employer's premises are usually housed in prison-like hostels, specially built for this purpose in urban areas. Hostels, such as those built at Alexandra township, which will eventually house 60,000 men and women migrants, 87/ are reportedly to set the pattern for other areas of the country. A visitor to the hostels described them as follows:

"Amongst the administrative offices outside the gates of the hostel are three rooms: a police charge office; a thickly-walled cell; and a control room. Inside the latter is a switchboard. From this switchboard go wires to all corners of the hostel where they are connected to steel doors which are fitted in every corridor in such a way that they can roll down from the ceiling to seal off the corridor from the staircase that leads to the courtyard. Thus, at the touch of a button, any group of rooms in the building can be locked off and the men incarcerated. Strikes or riots will, it is believed, be more easily contained by such methods." 88/

85/ Wilson, op. cit., p. 172; Hepple, op. cit., p. 20.

86/ The following description of compounds and hostels is drawn from Wilson, op. cit. See also E/CN.4/1270, paras. 176-179.

87/ See above, para. 85 (b).

88/ Wilson, op. cit., p. 43.

V. EXPLOITATION OF WORKERS IN URBAN AREAS

1. General

110. The preceding chapters have pointed out how apartheid as a slavery-like system rests on the dispossession of the black people of South Africa and their restriction to impoverished reserves and on a network of controls which confine them to the role of a cheap and easily suppressed labour force. African workers are thus forced into the lowest-skilled, least paid job categories and into the least desirable sectors of the economy. In addition, a number of legislative and other measures maintain African workers in this situation by preventing or controlling their advancement through the imposition of a "colour-bar".

111. The low position of black workers in the apartheid economy has been shown by a number of studies. 89/ Figures recently published by the ILO show that, in 1977, in a total black workforce of 3.78 million 85 per cent were in semi-skilled or unskilled work categories. 90/ The following table indicates the number and percentage of blacks in each category:

Distribution of Black workers in various grades of employment, 1977 91/

Category	1977	
	Number of Blacks	Blacks as % of total
Executive and administrative	4 842	3.40
Professional and technical	170 873	38.70
Clerical and sales	291 798	20.90
Artisans	46 575	21.10
Semi-skilled	2 060 121	85.00
Unskilled	1 206 897	99.50

112. It has also been shown that, even when they are employed at a higher level of skills, Africans are confined to the lowest salary groups because of wage discrimination. 92/

113. As a result, African wages are the lowest in the country in all sectors of the economy, in most cases reaching barely above subsistence levels. African workers and their families are the most vulnerable to economic fluctuations, inflation and unemployment, and are kept in a situation of constant insecurity which is used as an additional form of control. 93/

89/ See, for example, Diana Ellis and Julian R. Friedman, The Depressed State of the African Population under Apartheid in the Republic of South Africa, (Centre against Apartheid, Notes and Documents, No. 24/76, December 1976); Hepple (1971), op. cit.; Davis, op. cit.

90/ ILO, Sixteenth Special Report ... op. cit., p. 25.

91/ Ibid.

92/ Ellis and Friedman, op. cit., p. 18.

93/ See Hepple (1971), op. cit., pp. 57-58.

114. The present section will analyse the mechanisms by which a colour bar is applied and enforced; the limits to change so long as the system continues; and the wages and conditions of work of Africans in industrial areas.

2. The colour bar in employment

115. Africans have up to now been excluded from skilled and even semi-skilled jobs by three basic methods:

- (a) by legislation;
- (b) by private colour bar agreements concluded between employers and the white trade unions;
- (c) by the apprenticeship system.

(a) The statutory colour bar

116. Legislation imposing a colour bar in the mining industry (through the Mines and Works Act of 1911) was extended to the manufacturing industry from the early 1950s. In terms of the Bantu Building Workers Act, (1951) Africans were prohibited from doing skilled building work in white areas and their employment in such jobs was limited to African townships and reserves. Under the Nursing Act of 1957, employment of blacks in positions where they would supervise or control white staff was forbidden.

117. The Industrial Conciliation Act, enacted in 1956, contained measures which empowered the Minister of Labour to extend a colour bar to any branch of any industry, by issuing a determination which might: prohibit the replacement of workers of one race by those of another race; compel employers to maintain a fixed percentage of workers of a particular race; reserve any class of work or specific jobs or work generally for members of a specified race; fix the numbers or percentages of persons of a specified race who may be employed in any undertaking.

118. It has been observed that the Government has up to now made little use of its powers under the Act, preferring instead to rely on other methods, in particular voluntary agreements between employers and the registered unions, to maintain Africans in low-skilled and low-paying positions. ^{94/} In effect, a limited number of job reservation determinations had been in force, affecting about 2.3 per cent of the African workforce.

119. Studies have pointed out that the job reservation provisions under this Act were used mainly as an instrument of control. The Minister of Labour was in fact empowered to grant exemptions from reservation determinations for certain categories of work. In times of economic expansion, where shortages of skilled white workers could damage the economy, blacks could be drawn into skilled positions (at lower rates of pay) to fill the gap. In times of recession, when white jobs were threatened, the exemptions were withdrawn and blacks confined again to unskilled work. In

^{94/} Davis, op. cit., p. 14.

addition to enabling the Government to adjust the skilled labour supply to the needs of the economy, it was said, the job reservation legislation "armed the Government with a powerful instrument of intimidation". 95/

120. The relevant section of the Industrial Conciliation Act was repealed in 1979 through the Industrial Conciliation Amendment Act, following the recommendation of the Government-appointed Commission of Inquiry into labour legislation (known as the Wiehahn Commission), which stated that the measure "cannot be justified in present times despite any validity which it may have had historically". Observers, however, have pointed out that the effect of the repeal on the whole question of job reservation would be limited. Two job reservation determinations would remain in effect through an exemption provision in the Act. Moreover, the repeal was accompanied by a number of safeguards to protect the entrenched privileges of white workers through other means. Finally, no action has been taken on the job reservation provisions contained in the Mines and Works Act and the Bantu Building Workers Act, which affect the greatest number of black workers. 96/

121. In addition, a number of job reservation provisions are contained in legislation regulating the movement of black workers, in particular the Bantu Labour Act, 1964; the Group Areas Act, 1966; and the Environment Planning Act, 1967. Under the first of these, the Minister of Labour is empowered to prohibit the employment of a black worker in a specified area, a specified class of employment, a specified trade or in the service of a specified employer or class of employer. 97/

122. In terms of a series of proclamations issued in 1968 under the Group Areas Act, members of one population group are prohibited, except under authority of a permit, from working in a variety of jobs for a member of another population group in an area reserved for the occupation of the latter. Finally, under the Environment Planning Act, the access of Africans to jobs is restricted through the requirement of written approval of the Minister for the establishment or extension of a factory in over 40 areas, "extension" being defined as an increase in the number of African workers employed at that factory. 98/

123. Although the Riekert Commission has recommended the repeal of some of the above-mentioned provisions, no legislation in this respect has been introduced by the Government. It must also be pointed out that additional forms of job reservation through the control of labour mobility, such as the Government policy of barring Africans from employment in the Western Cape, also remain in effect. Consequently, the ILO Director-General has concluded that, despite limited reforms, "a substantial amount of job reservation ... continues to exist". 99/

95/ Hepple, op. cit., pp. 40-41; see also Legassick (1974), op. cit., p. 13; E/CN.4/1270, paras. 163-173.

96/ ILO, Sixteenth Report ... op. cit., pp. 16-18; E/CN.4/1365, paras. 163-170.

97/ ILO, Sixteenth Report ... op. cit., p. 18; Hepple, op. cit., p. 49.

98/ S.A.I.R.R., op. cit., pp. 228, 238; ILO, Sixteenth Special Report ... op. cit., p. 19.

99/ ILO, Sixteenth Special Report ... op. cit., p. 20.

(b) Colour bar agreements

124. Industrial Council agreements are reported to be the main mechanism by which the colour bar in industry is implemented. 100/

125. Under the Industrial Conciliation Act of 1956, collective bargaining agreements for an industry as a whole may be negotiated between registered unions and employers' associations. These agreements are subsequently given legal force by the Minister of Labour and are binding on all employers and workers in the industry concerned. African workers are also covered by the agreements even though under the Act, they are excluded from membership in registered unions and cannot therefore participate in the negotiations. The agreements usually block African workers from skilled employment in a variety of ways. They may also set the maximum number of African workers to be employed. As the Minister of Labour has pointed out, discriminatory provisions included in the agreements represent "a voluntary application of the principle of job reservation" by employers and registered unions. 101/

126. Certain agreements, such as the Supplementary Agreement for the Iron, Steel, Engineering and Metallurgical Industries, and the Agreement for the Transvaal Furniture Manufacturing Industry, reserve skilled occupations only to workers who are members of unions parties to the Agreement. Africans are automatically excluded since, by law, they cannot belong to such unions. 102/

127. Other agreements, such as the Main Agreement for the Motor Industry, impose a "closed shop" in favour of the union party to the agreement throughout the industry, and then exempt the lowest grades of work from the necessity of complying with the requirement. Africans in the motor industry may accordingly be employed only as cleaners, labourers and watchmen. 103/

128. Finally, agreements and wage determinations often contain a ratio clause restricting the number of semi-skilled workers who may be employed for each skilled worker, thus further restricting the number of Africans who may be employed in semi-skilled position. 104/

(c) Colour bar in apprenticeship

129. Racial discrimination in controlling entrance to the skilled trades has effectively barred Africans from acquiring training for a variety of skilled work. The numbers of Coloured and Indian apprentices has also remained severely limited.

100/ Davis, op. cit., p. 11; S.A.I.R.R., op. cit., p. 227.

101/ Quoted in Hepple, op. cit., p. 41.

102/ Davis, op. cit., p. 15.

103/ Davis, op. cit., p. 15.

104/ Ibid., S.A.I.R.R., op. cit., p. 228.

130. According to official figures, the new apprentices registered in terms of the Apprenticeship Act in 1976 included 9,368 whites, 1,385 Coloureds and 464 Indians. No Africans were admitted as apprentices; Coloureds were admitted in only 10 of 17 categories of work and Indians in only 9. 105/

131. Although the Apprenticeship Act does not discriminate on the basis of race, Africans are reported to be excluded by a long-established practice among employers not to indenture African apprentices. The opposition of white trade unions and the lack of educational opportunities which prevents Africans from meeting eligibility requirements have been mentioned as additional factors. 106/ It must also be mentioned that since technical colleges for Africans exist only in the "bantustans" and "border" areas, opportunities for training are linked to the over-all Government policy of reducing the number of black people in urban areas. In line with the recommendations formulated by both the Wiehahn and Riekert Commission, the Government is reported to have moved in the direction of increased apprenticeship training for Africans, while maintaining its emphasis, however, on training for service outside of the "white" areas. 107/

3. Adjustments within the system

132. As several authors have pointed out, an important function of the apartheid system has been to enable employers to fill the new semi-skilled roles created by the manufacturing industry under conditions which enabled them to retain maximum profits. Adjustments in the colour bar have therefore to be interpreted with this over-all purpose in mind. 108/ One author has described the process as follows:

"Work roles in a constantly changing, modernizing, rationalizing structure of production were to be racially allocated ... Given the population distribution this implied a gradual upgrading of black work-roles over time, and simultaneously a cheapening of each new black work-level, but this in no way represents a breakdown of apartheid, as conventional wisdom has argued: rather the institutions of apartheid are specifically designed to encourage this trend in a regulated manner." 109/

133. Adjustments in the colour bar have taken place in a variety of ways. In a number of industries, the colour bar has been shifted upward, with white employees moving a few steps up the occupational ladder and blacks allowed into some positions previously occupied by whites. Such a movement is usually accompanied by conditions aimed at ensuring that blacks will remain within the limits of the newly established bar, such as that no white would be ousted from his/her job by a black and would be given preference in the event of a recession or lay-off; that no white person should work under a black; that whites and blacks should not work together in the same employment situation. 110/

105/ S.A.I.R.R., op. cit., p. 232.

106/ Hepple, op. cit., p. 37; S.A.I.R.R. op. cit., p. 233.

107/ ILO, Sixteenth Special Report ... op. cit., p. 23.

108/ See foot-note 6, p.10 above.

109/ Legassick (1974), p. 13.

110/ See, for example, the Supplementary Agreement for the iron, steel, engineering and metallurgical industry of September 1977 (Davis, op. cit., p. 17).

134. The raising of the colour bar is usually accompanied by the fragmentation of the skilled jobs thus vacated. This operation has been described as follows:

"A white artisan's job is broken down into several semi-skilled operative jobs. Blacks are then employed as operatives while the white artisan moves up into a supervisory position. Financially, the white benefits by being paid more for less work, while the black operatives are paid less than the white artisan for performing the same work. The employer obtains an increase in production for a smaller wage bill." 111/

135. A further way in which Africans are advanced to skilled positions under discriminatory conditions is the "border areas" decentralization plan. Since "border" industries are exempt from statutory limits on the employment of black labour, (see above, para. 104), they can employ Africans in skilled positions, but at far lower rates of pay and worse conditions of employment than they would elsewhere. 112/

136. In 1977, the Government took measures to bring further adjustments to the colour bar through the appointment of two complementary Commissions charged with reviewing labour legislation, namely, the already mentioned Wiehahn Commission and Rickert Commission. Many observers have pointed out that the recommendations formulated by the two Commissions as of 1979 do not go beyond limited adjustments in the established apartheid policy which were made necessary by changed circumstances. 113/ Some aspects of the work of these Commissions have already been commented upon; further information will be given later in this study.

4. Wages and conditions of work

137. The effects of the labour-repressive system of apartheid on African workers are shown by an examination of black wages and the black share in the country's wealth. Despite wage increases granted from the early 1970s, largely as a result of widespread strikes by black workers, no redistribution of the country's resources has taken place and the income gap between whites and blacks has continued to increase. The modest gains made by black workers have been obliterated by inflation and growing unemployment.

138. According to a recent estimate by a South African group called Market Research Africa, whites, who are 16.9 per cent of the population, account for 67 per cent of Gross National Product (GNP). Africans are 70.6 per cent of the population and account for 23 per cent of GNP. The other black groups occupy middle positions. 114/ This would appear to represent a slight improvement over estimates made by the same group in 1969, when Africans (then 70.2 per cent of the population) received less than 20 per cent, and whites (then 17.5 per cent) received 74 per cent of GNP. 115/

139. At the same time, however, in absolute terms the wage gap between the richest and the poorest groups continued to increase rapidly, as is shown by the following table, based on Government figures for the period 1965-1977. Figures published by the ILO for 1978 confirm the same trend. 116/

111/ Davis, op. cit., p. 18.

112/ Ibid., p. 19.

113/ S.A.I.R.R., op. cit., pp. 302-305; E/CN.4/1311, paras. 253-262; E/CN.4/1365, paras. 184-195; ILO, Sixteenth Special Report ... op. cit.

114/ S.A.I.R.R., op. cit., p. 207.

115/ Quoted in Gervasi, op. cit., p. 8.

116/ ILO, Sixteenth Special Report ... op. cit., p. 28.

Black/White Wage Gap, 1965-1977

Category	Year	Average White earnings per annum	Average African earnings per annum	Ratio White:African earnings	Absolute gap in earnings per annum
Mining and Quarrying (Feb.)	1965	R2909	R176	16.5 : 1	R2733
	1970	R4253	R216	19.7 : 1	R4037
	1975	R7793	R957	8.1 : 1	R6836
	1977	R8927	R1093	8.2 : 1	R7834
Manufacturing (Nov.)	1965	R2695	R508	5.3 : 1	R2187
	1970	R3817	R660	5.8 : 1	R3157
	1975	R5081	R1219	4.8 : 1	R4662
	1976	R7088	R1638	4.3 : 1	R5450
Construction (Nov.)	1965	R2982	R541	5.5 : 1	R2441
	1970	R4063	R639	6.4 : 1	R3424
	1975	R5863	R1168	5 : 1	R4695
	1976	R7036	R1380	5.1 : 1	R5656
Central Government (Feb.)	1965	R1978	R453	4.4 : 1	R1525
	1970	R3337	R566	5.9 : 1	R2771
	1975	R5238	R1328	3.9 : 1	R3910
	1977	R5278	R1679	3.1 : 1	R3599

Source: Republic of South Africa, Bulletin of Statistics (Compiled by Davis, op. cit., p. 20.)

140. Several observers have pointed out that the rises in African wages have been practically wiped out by rises in the cost of the basic necessities of life, such as staple foods, rents, and transport. The prices of these items are controlled by the Government. Recent estimates by the Johannesburg Chamber of Commerce indicate that the cost of living for Africans has increased much more rapidly than for whites. 117/

141. There are various unofficial estimates of cost-of-living figures for Africans (the Government does not publish consumer price index figures for them as it does for whites). The most commonly used measures are the Poverty Datum Line (DPL), a bare subsistence measure, and the Minimum Effective Level (MEL), a higher estimate which makes some provision for personal care, amusement, and emergency savings. (In using such estimates, it must be kept in mind that they are based on present levels and patterns of consumption, i.e., they rest on the premise that African expenditure and expectations are necessarily much lower than those of whites). 118/

117/ S.A.I.R.R. op.cit., p. 204; see also Ellis and Friedman, op. cit.

118/ See Legassick, (1974), op. cit., p. 20, and E/CN.4/1135, paras. 161, 168, on this point.

142. Studies of African standards of living carried out during the past 15 years by a variety of organizations in South Africa have continued to show that there is a large gap between the wages paid to African workers and what are considered to be minimum levels of subsistence in industrial areas. The situation of Africans living in rural areas and the "bantustans" is considerably worse. 119/

143. Estimates published in the 1977 Survey of Race Relations indicate that the situation has hardly improved even after the wage increases of the 1973-75 period. For example, the Institute for Planning Research of the University of Port Elizabeth estimated the minimum subsistence level for an African family of six for the period October 1976 - October 1977 in a variety of urban centres at between R 117.94 and R 147.57 per month. At the same time estimates by the Government-sponsored Afrikaanse Handelsinstituut indicated that average earnings in the non-agricultural sector were R 105 a month, well below even the minimum subsistence level. 120/ According to a country-wide study of 200 companies and 100,000 semi-skilled and skilled positions, more than half of the African workers earned less than the Household Effective level. 121/ This situation is likely to deteriorate; since inflation has continued to advance while the rate of increase in African wages diminished after 1976. It has been reported that the Government policy is to discourage new wage increases as far as possible in all sectors. The Government has refused a recommendation by the Trade Union Council of South Africa, the country's largest federation of registered unions, for the establishment of a basic minimum wage nation-wide. 122/

119/ For summaries of the evidence contained in these studies see Hepple (1971), op. cit., pp. 56-57; Ellis and Friedman, op. cit., pp. 43-44. See also E/CN.4/1270, paras. 155-162; E/CN.4/1311, paras. 224-234.

120/ S.A.I.R.R., op. cit., p. 202 and 206.

121/ Ibid., p. 210-211.

122/ Ibid., p. 212.

VI. EXPLOITATION OF FARM LABOUR

1. General

144. The situation of black farmworkers in South Africa has often been described as slavery-like and involving practices verging on serfdom, including serious forms of physical abuse and repression. 123/ This is borne out by an examination of the historical development of the condition of black labour in white rural areas since the beginning of colonial settlement, and of the situation applying under the apartheid system.

145. There is a close historical link between present forms of exploitation of black labour on white farms and the times of colonial conquest and penetration. As mentioned earlier, all agricultural work was done initially by slaves and serfs. After emancipation, many of these people remained on the farms as squatters or salaried labourers, in near-slavery conditions. As colonial expansion advanced, the dispossessed African groups were also forced to remain on the land and to cultivate it for the new owners. They were subjected to rigid forms of control, in particular the Master and Servant laws and other legislation which placed them in a position similar to that of feudal serfs tied to the landlord. 124/ In addition, black convict labour was also used increasingly on white farms from the 1860s.

146. These earlier forms of exploitation of black labour began to change in the period between the two world wars, and increasingly after the coming to power of the Nationalist Government in 1948. Measures aimed at rationalizing and intensifying the system of control over the movement and distribution of black labour were extended to the rural areas. Large masses of people were forcibly evicted and deported to the "bantustans", to the extent that they were not needed by the white economy. Those whose labour was required were forced to become salaried workers at minimal wages, and subjected to a new system of control regulated by a network of labour bureaux. An increasing proportion of those workers, as in the rest of the economy, were migrant labourers on contract from the "bantustans". Black farmworkers, whether migrant or not, remained the poorest, most oppressed and most isolated group of workers in South Africa. They even had less rights and benefits than non-agricultural workers, and were often subjected to physical coercion and abuse, and to deplorable working and living conditions. To the extent that they were still allowed to live with their families, family members including children, were often forced to work for no additional pay. 125/ In addition, a substantial number of farms in certain parts of the country still employed convict labour.

123/ Charges of this nature have often been made in testimony before the Ad Hoc Working Group of Experts. See, among some recent reports, E/CN.4/1135, para. 175; E/CN.4/1159, para. 169; E/CN.4/1187, paras. 130-172; E/CN.4/1222, paras. 184-213; E/CN.4/1311, paras. 216-223.

124/ See, in particular, Rosalynde Ainslie, Masters and Serfs - Farm Labour in South Africa (International Defence and Aid Fund for Southern Africa, London, revised edition January 1977); and the United Nations reports mentioned in the footnote above.

125/ E/5622, paras. 113-115; E/CN.4/1187, para. 157.

2. The changing structure of African farm labour

147. The prevalent form of black labour on white farms until the early 1960s were "labour tenants" and "squatters", descendants of the African peoples displaced by colonial conquest.

148. Labour tenants were defined as follows by the Bantu Trust and Land Act of 1936:

"'labour tenant' means in relation to land or the owner thereof, a native male adult (other than a servant) the services of whom or of whose family are actually and bona fide required by the owner for domestic services in, or about farming operations carried on by the owner on such land or any other land held by him, or in any industry, trade, business or handicraft carried on by him on the land where such labour tenant resides and who, or any member of whose family dependent upon him is obliged to serve the owner in terms of a contract ...". 126/

149. The duration of the contract was usually set at six months. In return, the tenant was given the use of a certain amount of the farmer's arable and grazing land. Breach of the labour tenancy agreement was held to be a criminal offence under the "master and servant" laws. 127/

150. Squatters find themselves in a similar position, but without formal agreement. They are permitted use of land in return for the labour of any members of the family as required by the landlord. 128/

151. The similarity between the status of labour tenants and squatters, and that of serfs as defined in Article 1 (a) of the Supplementary Convention of 1956 has been pointed out by several studies. 129/ The fact that the relationship between landlord and labourer, whether contractual or not, involves no cash wages for work also creates situations of bondage to the white farmer not dissimilar from those contemplated under Article 1 (b) of the said Convention. 130/ In addition, the system has traditionally involved the exploitation of child labour. There have been recurrent allegations that farmers had forced parents to compel their children to work for them or for other farmers. 131/

152. Another source of black labour for the white farms until comparatively recently were the black communities living and farming independently on land purchased before it became illegal for Africans to do so (the so-called "black spots"). These provided a ready pool of labourers, to be drawn upon according to the requirements of the nearby white farms. Many members of these village communities were only partially integrated into the white economy. 132/

126/ Quoted in E/4459, para. 111.

127/ Ibid., para. 110.

128/ Ainslie, op. cit., p. 20.

129/ E/CN.4/949, para. 243; E/4459, para. 147; See also FAO, op. cit., p. 46.

130/ Ainslie, op. cit., p. 34.

131/ E/CN.4/1187, para. 144, 155.

132/ Rosalynde Ainslie, op. cit., pp. 20-21; Michael Morris, "State Intervention and the Agricultural Labour Supply Post 1948", paper prepared for the Conference on Farm Labour in South Africa convened by the Southern Africa Labour and Development Research Unit (Saldru) of the University of Cape Town in September 1976 (hereinafter referred to as "Saldru Conference"); Oxford History, op. cit., Vol. II, Chapter III.

153. These forms of labour, permanently settled in white rural areas, began to be increasingly considered as "wasteful" in the 1930s, when industrialization created a growing demand for cheap black labour in the urban areas. Measures were taken to extend full control over the labour supply and to redistribute it more efficiently between farming and industrial areas, and between farming areas in different parts of the country, as well as to draw into the white economy all potential labourers. At the same time, "unproductive" family members living on white farms were seen increasingly as a drain on the farmers' resources, which should be eliminated. Moreover, the increasing mechanization and commercialization of agricultural production created pressures from white farmers for the integration of all black-farmed land outside of the reserves into white capitalist production. 133/

154. After the coming to power of the Nationalist Government in 1948, the existing trends toward the elimination of black settlements in white rural areas were institutionalized and intensified as part of the Government's over-all policy of turning the entire labour force into migrant workers, of eliminating residence rights in white areas and relocating all non-productive Africans in the "bantustans".

155. Under the Bantu Laws Amendment Act of 1964, Bantu Labour Control Boards were set up having jurisdiction over all farm labourers, domestic servants, squatters and labour tenants, and empowered to decide the number of Africans to be employed on any farm. The Act provided penalties for the presence of unauthorized squatters and labour tenants on white land, and made provision for the removal of surplus persons. 134/ As a result, between 1.3 and 1.4 million tenants and squatters and their families have been deported from white farms to resettlement villages in the "bantustans" up to 1973. 135/ Those who remained were forced to accept labour contracts as full-time salaried workers at minimal wages, or face eviction with the loss of their livestock and other property. 136/

156. It is not clear to what extent these forms of labour still exist in South Africa. In its 1976 report, the Ad Hoc Working Group of Experts indicated that tenants had been eliminated from all parts of the Republic except Natal, but that substantial numbers of squatters remained. 137/ There have been several recent reports concerning the continued presence of numbers of tenants in Natal and squatters in various areas of the Republic, and of continued evictions and deportations. 138/

157. Moreover, "black spot" communities were also forcibly evicted to make room for white farmers. To those must be added what the Government considers "badly situated" parts of "bantustans" which are being exchanged for other areas of land as part of the "bantustans" consolidation programme. In both cases, long-established

133/ Morris, op. cit.

134/ Ainslie, op. cit., p. 37; Morris, op. cit.; E/CN.4/949, para. 179.

135/ Africa Publications Trust (1974), op. cit.

136/ Ainslie, op. cit., p. 38.

137/ E/CN.4/1187, paras. 139-140.

138/ Tim Muil, "The tenant labourer system in Natal seen by a journalist", paper submitted to the Saldru Conference; E/CN.4/1270, paras. 145-6, E/CN.4/1311, para. 150.

communities have been removed and forced to leave homes, schools, churches and cultivated land, often with no or inadequate compensation. ^{139/} Recent figures released by the Minister of Bantu Administration and Development indicated that a total of 258,652 Africans had been removed by 1976. ^{140/} It has been estimated that the implementation of this programme would involve the deportation of over 670,000 people. ^{141/}

158. Gradually, therefore, the black labour force in white rural areas is being turned into full-time salaried workers. Reports indicate that a certain number of these are still allowed to live with their families; however, Government policy is eventually to remove all family members who are not employed on the farms (for example, as domestics) to the "bantustans", while the workers will enter the white areas as migrants and only for the duration of their contract. ^{142/} Although no official information is available on the number of migrant workers in agriculture, observers have pointed out that migratory labour is increasing, particularly in areas of the country where Coloured workers (who are not tied by influx control measures) have moved to industry and African labour is scarce. ^{143/}

3. Convict labour

159. The use of prison labour for the profit of private employers is a practice which goes back to the second half of the nineteenth century. The system became fully established and widespread only after the Second World War, when rapidly rising labour requirements in the post-war economy and the government's policy to terminate all forms of settled agricultural labour made it appear as a feasible option.

160. Under the system, gaols have been built on farms by the local farmers themselves, each of whom buys shares and is able to draw labour according to his proportion of the total share capital. The gaols are run by the Department of Prisons which meets the running expenses, including the salaries of wardens and the cost of food, and which charges a set amount a day for each prisoner hired to a shareholder. By 1966 there were reportedly no less than 23 such prison outstations with total accommodation for more than 6,000 long-term prisoners. ^{144/}

161. The system of farm gaols has often been likened to slavery. In fact, by virtue of their status, prisoners are deprived of any kind of choice; they receive no pay for their work; and in addition, convict "shares" can be bought and sold like any

^{139/} See, for example, information given by the Ad Hoc Working Group of Experts in E/CN.4/1159, para. 156; E/CN.4/1270, para. 138; E/CN.4/1311, paras. 149-150.

^{140/} S.A.I.R.R. op. cit., p. 315.

^{141/} Africa Publications Trust (1974), op. cit.

^{142/} Ainslie, op. cit., pp. 38-39.

^{143/} Wilson, op. cit., pp. 18-19.

^{144/} Oxford History op. cit., Vol. II, pp. 147-48. The system is also described extensively by Joel Carlson, No Neutral Ground, (T.Y. Crowell, 1973).

other asset. In fact, it was reported that the right to use convict labour had considerably increased the value of the farms concerned, and it was not uncommon to read notices advertising a farm for sale "including convicts". 145/

162. Despite repeated protests both inside South Africa and abroad, and recurrent indications that the system might be abolished, recent statistics show that the use of convict labour is still an important, and probably even growing, factor in the South African economy. According to information disclosed recently by the Minister of Prisons in the House of Assembly, in the period 1 July 1975 to 30 June 1976, 4,233,800 workdays were spent by long-term prisoners "on hire to private persons, including farmers". The Minister stated that "the practice occurred at all prisons where 'suitable' black prisoners were available, excluding security prisons". Tariffs charged ranged from R 0.42 a day for country areas and R 0.70 a day for urban areas if the employer provided his own guards, to R 1.50 and R 1.90 respectively, for prisoners furnished with guards. The Minister confirmed that the prisoners themselves received no pay for their work. 146/ While the Minister gave no further details, the figures are significant since they show that the use of prison labour has spread to urban areas; and that at least 13,526 prisoners were involved (assuming that each of them worked 313 days, i.e. every day of the year not counting Sundays). The actual number of prisoners is probably much higher, since it is likely that convict labour is used mostly to meet seasonal requirements. It must be concluded, therefore, that the use of convict labour has increased substantially since the 1966 figures mentioned above.

163. In addition to the farm gaols housing long-term offenders, successive Governments have experimented with a variety of schemes for exploiting the labour of short-term prisoners, in particular, those convicted for violations of the "pass laws". These schemes, the last of which was officially terminated in 1959, gave rise to a variety of abuses which have been repeatedly condemned as slavery-like practices. 147/

164. Witnesses before the Ad Hoc Working Group have pointed out that pass law violators are subject to pressures to work on white farms rather than be sentenced for a pass offence, and that such workers are an important element in agriculture. Such pressures are reportedly exercised both by the labour bureaux in the "bantustans" and the "aid centres" in the urban areas. 148/

165. Another form of compulsion aimed at pass law offenders are the so-called "rehabilitation institutions" set up in the "bantustans" after 1975, to which pass law offenders can be committed for up to three years. At such institutions Africans are reported to be required to do such work as is ordered by the superintendent. 149/

145/ Ibid., p. 148; Ainslie, op. cit., p. 67; Wages Commission of the Students Representative Council, University of Cape Town, Prison Labour on Farms, United Nations, Unit on Apartheid, Notes and Documents, No. 25/74, August 1974.

146/ Quoted in S.A.I.R.R., op. cit., p. 117.

147/ These were the so-called "sixpenny scheme" (1954-1947) whereby short-term prisoners could be compelled to spend their sentences working for farmers who paid sixpence a day to the Department of Prisons; and the "volunteer scheme" (1947-1959) whereby pass law offenders had the option to work, on parole, as farm labourers, (see Oxford History, op. cit., Joel Carlson, op. cit.).

148/ E/CN.4/1222, para. 211; E/5622, paras. 76-78.

149/ E/CN.4/1222, paras. 64 and 65.

4. Conditions of employment

(a) Methods of control

166. Historically, the principal method of control of African agricultural workers were the so-called "Master and Servant Laws" enacted in all parts of South Africa from 1841, shortly after the emancipation of slaves. In terms of these provisions, it was a criminal offence for an African: (a) having signed a contract of employment to refuse or fail to enter into service under it; (b) without lawful cause to leave his employment or fail to carry out the terms of his contract; (c) wilfully to do anything which, or the omission of which, is likely to cause injury to persons or property; (d) to neglect to perform his duty; (e) to render himself unfit for work through drink or drugs; (f) to refuse to obey a lawful order of, or to use insulting or abusive language to, his employer or supervisor; (g) to take steps to change his job before the expiry of his contract. Conviction of an offence under these laws did not terminate the contract of employment except by court order, and on payment of fine or completion of sentence the worker was compelled to return to his employer and complete the contract on pain of renewed criminal proceedings. 150/

167. In recent years, the "Master and Servant Laws" led to an average number of between 23,000 and 25,000 prosecutions annually. 151/ These laws were on the statute books of South Africa with minor amendments until 1974, when they were repealed under threat of an international boycott of South African products made under conditions akin to forced labour. According to recent information submitted to the Ad Hoc Group of Experts, however, it appears that the repeal of the laws has made little difference, and many African workers and their families remain virtually "captive" on the white farms.

168. According to a study prepared by the South African Institute of Race Relations for a farm labour conference organized by the University of Cape Town in September 1976, a number of mechanisms used by white farmers rendered African and Coloured farmworkers totally dependent on their employers, and effectively prevented them from leaving the farms. 152/ In particular, workers are reported to be kept in a form of debt bondage by having to buy at farm shops where credit is freely available, but their earnings are "so low that they cannot earn enough to repay" their debt. Some farmers told the researcher that they "intentionally let a worker get into debt in order to tie him to their employment". The practice of paying part of the wages in kind gives the farmers "control over parts of their workers' lives" and further reduces the amount of cash available to them to satisfy their needs independently. Since the breadwinner's pay is so low, other members of the family are forced to accept casual work, but without the farmer's permission they may not seek it on any farm but his own. This also applies to children, who are expected to work on the farm from at least the age of 13 or 14, though they are too young to seek work elsewhere.

169. Further mechanisms mentioned were the refusal of the farmers to provide training or education, so that agricultural labourers were denied alternative employment opportunities. By refusing to endorse the passbook of a worker who wants to move, the employer can keep the worker tied to his farm. Legal recourse is beyond the means of

150/ E/4459, para. 108, 109.

151/ E/4953, para. 79.

152/ Quoted in E/CN.4/1270, paras. 143-145.

most farm employees. 153/ According to another report submitted to the Cape Town conference on farm labour, tenants evicted from farms were denied permission to seek alternative employment and were turned into salaried labourers at minimal wages, with no right to plough and keep stock. 154/

(b) Wages and conditions of work

170. Several reports have observed that agricultural wages for black workers are the lowest in the South African economy, and their working conditions the harshest.

171. After the repeal of the "Master and Servant Laws", no other legislation has reportedly been enacted specifically aimed at regulating farm labour. The ILO representative, speaking before the Ad Hoc Working Group of Experts on 15 June 1976 observed that, for all their harshness, the "Master and Servant Laws" at least provided in theory for some form of legal redress, while at present farmworkers are excluded from all legislation applying to labour relations. 155/ They are specifically excluded from the Industrial Conciliation Act, the Wages Act and the Bantu Labour (Settlement of Disputes) Act, so that no machinery, even of a discriminatory nature, exists for reviewing wages, expressing wage demands or complaints, or settling disputes. 156/ In addition, the Unemployment Insurance Act and the Workmen's Compensation Act do not apply to agricultural workers. They are protected by no minimum wage legislation or insurance provisions, nor by any agreements on wages and conditions of work. 157/

172. As a result, wages of farmworkers have remained extremely low and conditions of work abusive. Several witnesses before the Ad Hoc Group of Experts expressed the view that the situation of African farmworkers has remained practically unchanged since the beginning of the century, and that it is unlikely to change under the present system. 158/

173. According to recently published statistics, average cash earnings per annum of regular farmworkers of different races were as follows in the period 1963-1974: 159/

	Whites	Coloured	Asians	Africans
1963	1 511.23	152.00	189.76	72.09
1964	1 285.38	154.66	194.24	83.07
1965	1 305.76	153.86	245.53	77.50
1969	1 727.62	199.03	339.40	94.11
1971	2 332.10	244.78	416.81	119.49
1972	2 634.82	262.10	526.69	130.59
1973	2 930.76	304.48	637.07	152.11
1974	3 459.07	346.09	902.70	185.32
% of white earnings		10.1	26.3	5.4

153/ Ibid., para. 143.

154/ Mail, op. cit.

155/ E/CN.4/1222, para. 193.

156/ E/CN.4/1187, para. 158.

157/ Ibid., para. 157; Ainslie, op. cit., p. 26.

158/ E/CN.4/1222, para. 202.

159/ S.A.I.R.R., op. cit., p. 256.

174. The table clearly shows that, while black cash wages increased in the 10 year period, white wages increased much more rapidly, so that even the better-paid black group (the Asian workers) were worse off relative to whites in 1974 than they were in 1963. In particular, the gap between whites and the most disadvantaged group, the African workers, was of the staggering proportion of 18.5:1. 160/

175. Wages of casual farm employees are even lower: according to a study carried out in 1972/73 by the Natal Mercury, African casual workers in Natal were being paid an average of 15 cents a day, or R 3.60 per month, with no food provided. 161/

176. Conditions of life and work of farmworkers were qualified as "feudal" by many authors and by witnesses before the Ad Hoc Working Group. Agricultural labourers, reportedly work by the sun and not by the clock, so that workdays of 14 hours and longer are common, even for young children. 162/ It has been pointed out that living conditions of farmworkers have changed little in a century, and the majority of African workers live in wattle and daub huts, in corrugated iron shacks and, if they are on contract without their families, in compounds. Most of these accommodations have no electric light and no running water (which in most cases has to be fetched from a distance), and lavatories, if they exist, are of a pit type. 163/

177. It has also been charged that unhygienic living conditions, insufficient food and clothing and lack of proper medical attention result in a high incidence of malnutrition and disease, in particular tuberculosis, among farmworkers and their families. 164/

178. Education is minimal (reportedly reaching only 30 per cent of African and 49 per cent of Coloured children aged 5-14), and children are usually taken out of school as soon as they are old enough to work. In addition, in terms of a 1959 ruling by the Minister of Bantu Education, part of the curriculum must be in farming activities. The Ad Hoc Working Group has concluded that "the Government's failure to encourage schooling for children of African farmworkers is part of a deliberate policy to ensure that education shall not be a means of escape from farm labour". 165/

179. In its report on conditions in agriculture, the Ad Hoc Group of Experts pointed out that the evidence submitted to it showed "a tradition of physical brutality by employers against black farm workers". The Group stated that for over 20 years, the

160/ These figures do not include wages paid in kind, which appear to average about half the cash wages. However, it has been often pointed out that wages in kind are a form of control, since they are often used to force workers to become indebted to the farmer; moreover, they often include wine, which has no food value and is used to keep the worker in a state of submission. It has also been pointed out that wages in kind lose their usefulness as a means of supporting the worker's family once the family is left behind in the homeland. (E/CN.4/1222, paras. 196, 204).

161/ E/CN.4/1222, para. 197.

162/ Ibid., para. 198; E/CN.4/1270, para. 153.

163/ Oxford History, op. cit., p. 158; Jill Joubert, Down on the farm, (Black Sash, Johannesburg, August 1975).

164/ E/CN.4/1222, para. 198; Ainslie, op. cit., p. 48.

165/ E/CN.4/1187, paras. 152-3.

courts had been seized with cases of brutality against African labourers, and such cases did not show any sign of disappearing from court registers. 166/

180. The isolation of rural areas, the strict control exercised by farmers over their workers, and the distrust which blacks have of white courts probably ensure that only a minority of the actual instances of brutality ever come before the courts. Since no official information is available, the actual extent of violence is not known. However, observers are unanimous concerning the existence of instances of brutality against workers. Francis Wilson has pointed out that "Although it was by no means typical, the extent of sjambokking, or whipping farm labourers, sometimes even to death, remained horrifying" by the late 1960s. 167/ Ainslie's report and Carlson's book detailed the periodic scandals, at least since the 1920s, involving the prosecution of farmers for assault and murder, usually arising out of beatings for disobeying orders, or attempted desertion; exposures of brutality by indunas (African overseers or boss-boys); and cases of workers imprisoned in locked compounds and guarded in the fields by boss-boys with sjamboks and dogs. 168/

181. In recent years, the Ad Hoc Group of Experts has continued to detail instances of abuse which have come to light, such as children being required to work late at night, sometimes resulting in fatal injuries, and being whipped for "laziness" when they refused to do so, and instances of wanton beatings, torture and murder. 169/

166/ E/CN.4/1187, para. 154.

167/ Oxford History, op. cit., Vol. II, p. 163.

168/ Ainslie, op. cit., pp. 31-34; Carlson op. cit.

169/ E/CN.4/1187, para. 155; E/CN.4/1311, paras. 222-3.

VII. REPRESSION OF WORKERS' ORGANIZATIONS

1. General

182. As the ILO has pointed out, the apartheid system "has been imposed with all the powers at the disposal of the Government, and with considerable force against sustained opposition, particularly by blacks. 170/

183. The repression of opposition to apartheid, whether by legislative means, court trials, detentions, bannings, torture, killings and police brutality, has been documented in a number of reports prepared by United Nations organs, and in other studies. 171/

184. Since this study has been mainly concerned with analysing the apartheid system as a system of labour exploitation similar to slavery and forced labour, the present section will deal mainly with the repression exercised against black workers and their organizations. It has been pointed out that because of the essential role played by black workers in the apartheid economy, their organization and mobilization is "essential in the struggle for racial change in South Africa", in order to "destroy the apartheid system, and secure democratic rights for all".172/ For this reason, successive Governments have pursued a policy of repression of black workers' movements and denial of trade union rights which has remained substantially unchanged despite some recent adjustments.

185. It must be pointed out at the outset that attempts by Black workers to demonstrate for better wages and working conditions have very often been repressed through armed action, leading to a high number of deaths. For example, a witness before the Ad Hoc Working Group of Experts reported that between September 1973 and June 1976, a total of 115 African mineworkers had been killed and another 773 injured by the police in the course of strike actions. 173/ A partial list of police killings of African workers during demonstrations and strikes in the period 1917-1976 submitted to the Centre against Apartheid by the South African Congress of Trade Unions (Sactu) shows that armed repression has been the constant policy of South African Governments. 174/

186. In addition to reliance on police action, South African Governments have continued to deny trade union rights to African workers, setting up a separate and racially discriminatory system under Government control whose main aim is to undermine existing workers' organizations. Even recent reform measures have been accompanied by a tightening of controls and increased repression of workers' movements.

170/ The ILO and Apartheid (ILO, Geneva, 1978).

171/ See, in particular, the relevant parts of the annual reports of the Special Committee against Apartheid to the General Assembly; the reports of the Ad Hoc Working Group of Experts; and the papers published by the United Nations Centre against Apartheid in the Notes and Documents series. Among some recent studies are Allen Cook, South Africa: The Imprisoned Society, (International Defence and Aid Fund for Southern Africa, London, 1974); Amnesty International, Political Imprisonment in South Africa (London, 1978).

172/ Davis, op. cit., p. 40.

173/ E/CN.4/1270, para. 198.

174/ John Gaetsewe, Trade Unions and the Struggle for Liberation in South Africa, (Centre against Apartheid, Notes and Documents, No. 15/77, June 1977).

187. The Government has also made full use of its pervasive security legislation to further thwart African trade unions and to repress individual militants. Whenever African workers have succeeded in developing some organizational strength despite police repression and legislative restrictions, their leadership has been eliminated through arrests, detentions and bannings.

188. In a complaint lodged with the International Labour Organisation on 3 March 1966, the World Federation of Trade Unions stated:

"This policy of suppressing the democratic freedoms - of which trade union freedom is an essential part - of African workers carried out by the racist Government of South Africa is intended to reduce African labour to slavery ... These attacks on democratic and social freedom are becoming even more serious as a result of the revolting racial discrimination of which South African workers are the victims." 175/

189. The rest of this chapter will be devoted to an analysis of repression of trade unions and trade union militants, and of the legislation enacted for this purpose.

2. Denial of trade union rights

190. Legislation enacted by successive South African Governments since the 1920's to regulate industrial labour relations has consistently discriminated against Africans. The pattern of racial discrimination was set by the Industrial Conciliation Act of 1924, which excluded pass-bearing Africans from the definition of "employee" and thus from the system of collective bargaining and settlement of disputes through statutory Industrial Councils provided for under the Act. 176/ The Act was further strengthened in 1936 to close loopholes through which African women generally and many African men in the Cape Province and Orange Free State fell within the definition of "employee" and could therefore join registered unions. 177/ Some unions allowed their African members to remain but in 1945 the Department of Labour threatened to cancel their registration unless Africans were excluded. 178/

191. In 1948, the growing strength of black unions and the increasing militancy of black workers, including several large-scale strikes, led the National Party Government to take a number of measures to break up the multi-racial trade unions and establish separate machinery for Africans operating under Government control. 179/

175/ E/4459, paragraph 4.

176/ Hepple (1966), op. cit., p. 232.

177/ Simons and Simons, op. cit., p. 335.

178/ Hepple (1971), op. cit., p. 72.

179/ There were 304 strikes, involving 58,000 black workers, in the 1939-45 period (as compared with 197 strikes from 1924 to 1938). In 1946, the African mineworkers' strike drew 70,000 workers and shut down mining operations for several days. The Non-European Trade Council, set up in 1942 with the purpose of obtaining registration for African unions, represented 119 unions with a membership of 158,000 workers. (Simons and Simons, op. cit., pp. 554-5).

192. The Government's attitude towards black unions was clearly spelled out in statements of the time. A Government Commission argued that the total racial separation of trade unions was necessary because multi-racial workers' organizations would lead to "solidarity of labour irrespective of race" and to the "complete social and political equality of all races". 180/

193. On the other hand, the Government opposed recognition of existing African trade unions, even under the apartheid constraints, because, in the words of the Minister of Labour, "whatever form of control is introduced you will not be able to prevent them being used as a political weapon". 181/ He also stated:

"It is obvious that the stronger the native trade union movement should become, the more dangerous it would be to the Europeans in South Africa ... we would probably be committing race suicide if we give them that incentive." 182/

194. The Minister of Labour indicated that if the alternative machinery which the Government intended to set up for Africans was "effective and successful, the Natives would have no interest in trade unions, and trade unions would probably die a natural death". 183/

195. The labour legislation subsequently enacted by the South African Government has been analysed in a number of reports prepared by the Ad Hoc Working Group of Experts and the International Labour Office, and has been held to be in violation of existing international standards in the field of labour relations. 184/

196. In terms of the Industrial Conciliation Act of 1956, only separate unions of white or Coloured persons (including Asians) may be registered. "Mixed" unions (i.e., composed of both whites and Coloureds) registered before 1956, can continue to exist at the discretion of the Minister of Labour, but must segregate members in separate racial branches and hold separate meetings of their white and Coloured members. Their executive committees must consist of white persons only. In addition, they are pegged to their 1956 scope and cannot extend their interests or their area of operation except in respect of one race only. While a number of "mixed" unions have continued to function, it was reported that many had been split under the Act. 185/

180/ Quoted in Simons and Simons, op. cit., p. 561.

181/ Quoted in Dudley Horner, "African Labour Representation and the Draft Bill to Amend the Bantu Labour Relations Regulation Act (No. 48 of 1953)", South African Labour Bulletin (Durban), Vol. 2, No. 9/10, May/June 1976.

182/ House of Assembly Debates (Hansard), 4 August 1953.

183/ Quoted in Horner, op. cit., p. 12.

184/ The Ad Hoc Working Group of Experts has submitted reports regarding allegations of infringements of trade union rights in South Africa to the Economic and Social Council subsequent to South Africa's withdrawal from the International Labour Organisation (see E/4459; E/4646; E/4791; E/4953; E/5622; E/5767; E/1978/21). Concerning action by the International Labour Organisation, see Apartheid in Labour Matters: I.L.O. Policy Statements and Reports Concerning "Apartheid" in Labour Matters in the Republic of South Africa, 1964 to 1966 (ILO, Geneva, 1966); and the annual Special Report of the Director-General on the Application of the Declaration Concerning the Policy of Apartheid of the Republic of South Africa.

185/ Horner, op. cit., p. 12; Hopple (1971), op. cit., pp. 64-65.

197. Until 1979, African workers were excluded by definition from the provisions of the Act. African trade unions, while not prohibited by law, could play no part in the collective bargaining machinery established under the Act, since only registered trade unions were represented on the industrial councils and conciliation boards established by the Act to negotiate terms of employment and settle disputes. (The provisions of the Industrial Conciliation Amendment Act, 1979, will be described below.)

198. The alternative machinery for African workers was provided for in the Native (later Bantu) Labour (Settlement of Disputes) Act of 1953. Contrary to the Industrial Conciliation Act, which embodies the concept of collective bargaining as generally understood, the Act provides only for grievance procedures and a method of settling disputes through largely consultative machinery, consisting of factory-level African "works committees" under the control of a white labour officer, regional Bantu Labour Committees, chaired by the labour officer for the region, and a white-only Central Bantu Labour Board appointed by the Minister of Labour. The final decision in a dispute rested with the Minister of Labour. The Ad Hoc Working Group of Experts condemned this system as "a procedure in which African trade unions are entirely unrepresented"; indeed, no elected Africans take part in the procedure at all, and all decisions are made by "white" persons only. 186/

199. The separate machinery established for African workers discriminates against them in yet other ways. In fact, it does not contain clauses to protect workers against victimization for trade union activity; neither the works committees nor the unregistered unions have any legal standing and cannot therefore go to court on behalf of the workers they represent. African workers are thus given no recourse under the law against retaliatory action taken by employers. 187/

200. In addition, while white and Coloured workers enjoy a limited right to strike, the provisions of the Bantu Labour (Settlement of Disputes) Act outlawed all strikes by African workers, imposing a maximum penalty of £500 and three years' imprisonment. The Act defined strikes extensively to cover stoppages, go-slows, refusals to work and similar action. 188/

201. It has been pointed out that during the 1950s and 1960s, two decades of political strife and repression, during which the security apparatus of the apartheid system was strengthened, the Government and employers made little use of the machinery set up under the Bantu Labour (Settlement of Disputes) Act, the other means of control of African labour being sufficient. By 1973, there were only 24 works committees, 12 regional Bantu Labour Committees and seven Bantu Labour Officers for a total African population employed in industry of over 818,000. 189/

186/ E/4459, paragraph 63.

187/ Peter Galt, "Security of Employment and Victimization in South African Law," South African Labour Bulletin, Vol. 5, No. 1, July 1976; E/CN.4/1365, paragraph 183.

188/ Hepple (1971), op. cit., pp. 28-29.

189/ Horner, op. cit., pp. 15-19.

202. By 1969, repression had led to a grave decline in the number of African trade unions: only 13 unions with 16,040 members were known to be in existence. 190/

203. The year 1973, however, marked a sudden increase in action by African workers: the strikes of Durban and Port Elizabeth, and confrontation on the mines ushered in a new period in which African struggles have continued to intensify despite ever-growing repression. The organizational strength of African trade unions also increased, leading to renewed demands for recognition of African trade union rights.

204. In response, the Government attempted to overhaul the system of labour control and to make it more effective by enacting the Bantu Labour Relations Regulation Act of 1973. The Minister of Labour made it clear that the new Act continued the policy of offering government-controlled "representation" for African workers with the aim of undermining their own autonomous organizations:

"If we had wanted to prohibit these trade unions, (the Minister of Labour) would already have done so in 1953. This has never been done; we felt that they could simply struggle on like that. I think the establishment of these works committees will really deprive these Bantu trade unions of their life's blood and any necessity for existence. I therefore think that such a prohibition is unnecessary." 191/

205. The new Act introduced, at the lower end of the pyramid, a dual system of works and liaison committees. The liaison committees, which under the Act take precedence over the works committees, consist of representatives appointed by the employer and others elected by the African employees. The committee chairman may be designated by the employer and need not be a member of the committee. The functions of the committee are limited to making recommendations to the employer concerning conditions of employment and other matters affecting the employees. A recent survey of existing liaison committees concluded that they were preferred by employers because of their extremely limited functions and the degree of control afforded management. The survey showed that in 91 per cent of the cases studied, the committee had been established at the initiative of management; in 81.9 per cent of the cases, African members had not participated in selecting the chairman of the committee; and in 84.4 per cent of the cases, management had placed some form of restriction on the eligibility of Africans to serve on the committee. 192/ Recent figures indicate that 2,503 liaison committees were in operation as of 31 December 1977. 193/

206. Under the Act, works committees may be established in factories employing more than 20 African workers, if no liaison committee exists. While the works committee consists of wholly elected African workers, elections must take place at a meeting

190/ Horner, op. cit., p. 14.

191/ House of Assembly Debates (Hansard), 11 June 1973.

192/ Ryno Verster, Liaison Committees in the South African Industry, Bloemfontein University of Orange Free State, 1974.

193/ S.A.I.R.R., op. cit., p. 302.

chaired by management, thus leaving considerable scope for intimidation. 194/ The works committee's functions include "to communicate the wishes, aspirations and requirements of the employees ... to their employers and to represent the said employees in any negotiations with their employer ...". While limited negotiating rights are thus recognized to African workers, these are confined to in-plant bargaining and thus fall far short of collective bargaining as it is generally understood. As of 31 December 1977, there were only 301 works committees, a clear indication of the reluctance of employers to accept even a controlled form of worker organization. 195/

207. The Act also introduced a limited right to strike. However, the restrictions imposed on the right are such that, in the years between 1974 and 1976, there were 430 illegal strikes by Africans and no lawful strikes. Some of these strikes were considered unlawful even though the workers went through all the procedural requirements for a legal strike. 196/

208. The system was further adjusted with the enactment of the Bantu Labour Relations Regulations Amendment Act of 1977. The main thrust of the Act is to extend the liaison committee system by granting these committees the right to negotiate wage agreements and other conditions of employment, by allowing more than one committee to be set up in large establishments. Observers noted that the new Act, although purporting to give Africans negotiating rights, continued to discriminate against them by setting up an inferior system of bargaining and by continuing to fail to provide adequate protection to workers against victimization by employers. 197/ A number of recent cases brought before the Ad Hoc Group of Experts showed how companies used the system to deny recognition to trade unions, or unilaterally abrogate agreements reached with the unions, and how organizers were victimized through dismissals and subsequent removal to the "bantustans". 198/

209. Another step to adjust the system further was taken by the Government in 1977 with the establishment of the Commission of Enquiry into Labour Legislation and Other Related Matters, chaired by Prof. N. Wichahn. The Commission's mandate was to review existing labour legislation, including the Acts reviewed here, "with the object of making it provide more effectively for the needs of South Africa's changing times". In its first report, submitted in 1979, the Commission made clear its concern that the existing labour relations system was being undermined by the rise and increasing militancy of independent African unions, and by the support they were receiving from abroad; it accordingly recommended the adoption of a

194/ Horner, op. cit., p. 22.

195/ S.A.I.R.R., op. cit., p. 302.

196/ S.A.I.R.R., op. cit., pp. 305-308; E/CN.4/1222, paras. 286-294; E/CN.4/1270, para. 194 (b).

197/ S.A.I.R.R., op. cit., pp. 300-1; ILO, Fourteenth Special Report ..., pp. 14-15; E/CN.4/1270, para. 189.

198/ E/CN.4/1222, paras. 278-280; E/CN.4/1270, para. 203; E/CN.4/1311, paras. 263-271; E/CN.4/1365, para. 196.

number of measures which, while granting limited legal recognition to the unions, had for effect the extension of Government control over their activities. The Commission's report and the legislation subsequently adopted by the Government were therefore widely criticized both in and outside South Africa as an additional step toward the elimination of independent black trade unionism. 199/

210. The Industrial Conciliation Amendment Act, 1979, section 1 (c), modified the definition of "employee" so as to include Africans for the first time. African workers could therefore be admitted to membership of registered unions and to the existing industrial negotiating machinery; however, this apparent concession was hedged in by a number of restrictions. 200/ The inclusion of Africans in the definition of "employee" was made dependent on two criteria, namely, fixed employment and legal residence in South Africa. Thus eligibility for membership in a registered trade union was tied to the influx control measures of the apartheid system, in particular the Bantu (Urban Areas) Consolidation Act, 1945 (see above, paras. 67-74), excluding in particular migrant workers and commuters from "bantustans". Following widespread opposition to this restrictive definition, the Minister of Labour made use of the discretionary powers granted him under the Act to include other categories in the definition, and issued a proclamation to the effect that the two groups of workers mentioned above would also be admitted to membership of registered unions. Their continued inclusion, however, remains at the discretion of the Minister; in addition, it may be pointed out that the largest categories of African workers, namely, domestic and agricultural workers, remain outside of the purview of the Act. Foreign African workers are also excluded.

211. Secondly, observers have pointed out that the Amendment Act contains a number of provisions extending Government Control over African unions, namely: (a) registration may be granted only provisionally, on conditions to be determined by the Registrar, and may be withdrawn at any time; (b) it will be an offence, punishable by a fine of R 500, for a registered union to admit as a member anyone who is not an "employee" (as defined); (c) there is a total prohibition on political activity, including funding of political organizations, and on the registration of any trade union which is affiliated to a political party. It is also reported that the control and surveillance capacity of the Government will be improved through the operation of the National Manpower Commission and the Industrial Court, recently established under the Amendment Act.

212. Thirdly, registration of an African union under the Amendment Act does not mean automatic participation in the existing conciliation machinery, since under section 10 of the Act, no additional parties may be admitted to an industrial council unless all existing parties have agreed in writing. In practice, this means that white workers and employers are given veto power over the admission of newly registered unions. Critics of the new legislation have charged that this power is being used by white unions and companies to blackmail African workers into accepting "paper unions" under white control which would find it easier to obtain registration.

199/ See ILO, Sixteenth Special Report ..., op. cit.; South African Labour Bulletin, Vol. 5, No. 2, August 1979; Michael Shaefer, "A New Attack on the Trade Union Movement in South Africa", United Nations Centre against Apartheid, Notes and Documents, No. 25/79, September 1979.

200/ The rest of this section is based on ILO, Sixteenth Special Report ..., op. cit.; E/CN.4/1365, paragraphs 184-195.

213. An additional feature of the Amendment Act is that the ban on registration of "mixed" trade unions (i.e. comprising white, coloured and Asian workers) was retained, along with existing racial provisions in respect of trade union structures and eligibility for office of members of different racial groups.

214. Finally, it should be pointed out that the separate system for Africans involving works and liaison committees under the Bantu Labour Relations Regulation Act, 1953, continues to exist. Although the Wiehahn Commission recommended that the two systems should be integrated, the Government has warned that measures would be taken to prevent the merger from weakening the position of white workers. No legislation in this respect has yet been introduced, and observers have pointed out that it is clear from the Government's attitude that it prefers that matters concerning African workers continue to be handled by the separate machinery of the Bantu Labour Relations Regulation Act.

215. To this brief analysis of the limits of the changes introduced by the Government and of their dangers for independent African workers' organizations must be added the consideration that the repressive legislation of the apartheid state continues to operate and in fact is being increasingly used to suppress the efforts of workers to organize themselves, as described in the next section.

3. Suppression of African trade unions and of trade union organizers

216. Since its coming to power in 1948, the National Party Government has enacted a number of laws to guarantee the security of the apartheid system against any form of dissent. 201/ Several of these laws have been used in particular to repress the African trade unions and trade union organizers, as well as other groups involved in workers' education and support activities.

217. Among the most important pieces of legislation used by the Government to suppress trade unionists have been the Suppression of Communism Act of 1950 and the Unlawful Organizations Act of 1960. 202/ This legislation empowers the State President to declare an organization to be unlawful if he is satisfied that it had been established to carry on the activities of an organization already declared unlawful (i.e., the Communist Party, the African National Congress and the Pan-Africanist Congress); that its purpose is to propagate the principles of "communism" or it engages in activities calculated to further the goals of "communism"; or it is controlled by an organization liable to be declared unlawful. "Communism" is defined in extremely broad terms which can be easily used to repress trade unions, since they include "any doctrine or scheme ... which aims at bringing about any political, industrial, social or economic change within

201/ On this question see United Nations, Department of Political and Security Council Affairs, Repressive legislation of the Republic of South Africa (ST/PSCA/SER.A/7).

202/ This Act was examined in detail by the Ad Hoc Working Group of Experts in E/4459, paras. 76-78.

the Republic by the promotion of disturbance or disorder, by unlawful acts or omissions or by the threat of such acts or omissions ..." and "in co-operation with any foreign government or foreign or international institution whose purpose ... is to promote the establishment within the Republic of" communism; and "which aims at the encouragement of feelings of hostility between the European and the non-European races ...".

218. The Suppression of Communism Act also granted the Minister of Justice broad powers to issue banning orders restricting the activities of persons listed as members of an unlawful organization or as "communists", or persons who the Minister is satisfied engaged in activities calculated to further the aims of "communism" or advocated such aims, or are likely to do so. Banning orders may, and usually do, include prohibition on being a member or officer of any organization; on attending any gathering, or on entering or leaving any specified place or area, and prohibitions on communicating with any specified persons or on performing any specified acts. Banning orders may be imposed without prior warning, and without explanation by the Minister of Justice, and are not subject to appeal.

219. In addition the Act empowers the Minister of Justice to prohibit any gathering "if he deems it to be necessary in order to combat the achievement of any of the objects of communism". The Suppression of Communism Act was superseded by the Internal Security Act of 1976, which extended its scope. 203/ An important insertion in the Act was the increase in the number of circumstances authorizing unchallengeable action by the Minister, so as to include under the broad definition of "communism" activities "which endanger or are calculated to endanger the security of the State or the maintenance of public order". The Act further granted the Minister of Justice broad powers to detain any persons for an indefinite period without reference to the courts; and to prohibit publications and gatherings, and to impose banning orders.

220. In addition, the Parliamentary Internal Security Commission Act, also of 1976, established a permanent Parliamentary Commission to inquire into activities considered to be a threat to internal security. The Commission is empowered to summon and examine witnesses, and to call for the production of books, documents and other objects. Failure to co-operate with the Commission is punishable by a fine of R 600 or six months' imprisonment; false statements are punishable by a fine of R 1,200 or 12 months' imprisonment. 204/

221. The Minister of Justice was reported to have stated that the two 1976 Acts would be used, among others, against the unregistered trade unions. 205/

222. The Terrorism Act of 1967 206/ creates a crime of "terrorism" with which a person may be charged retroactively, and makes it possible for any person suspected of any link whatsoever with "terrorism" to be held incommunicado for an indefinite period. Under the Act, a person may be found to be guilty of terrorism if he

203/ This Act was analysed in E/1978/21, paras. 32-33. ILO, Thirteenth Special Report ..., p. 11.

204/ E/1978/21, para. 31; ILO, Thirteenth Special Report ... op. cit., p. 11.

205/ ICFTU communication of 4 January 1977, quoted in E/1978/21, para. 16.

206/ See E/1978/21, paras. 36-41.

"with intent to endanger the maintenance of law and order in the Republic or in any portion thereof, in the Republic or elsewhere commits any act or attempts to commit ... any act". Conspiracy for, incitement to or instigation of such an act, whether by commanding, aiding, advising, encouraging or procuring any other person to commit such an act, with the requisite intent, is also included in the definition of "terrorism". The Ad Hoc Working Group of Experts remarked that "thus 'terrorism' is an undefined act which corresponds to too large and vague an intention. Indeed, participation in a peaceful demonstration which violates the traffic regulations is a crime; according to the definition...". 207/

223. Under the Act, the police were granted broad powers of arrest and detention for interrogation of any person suspected to be a "terrorist", without reference to the courts, and without any obligation to release information about the fact of detention and the whereabouts of the detainee.

224. Under the Riotous Assemblies Act of 1956, as amended in 1974, a magistrate may prohibit any public gathering or a specified gathering during any period or during a specified period anywhere in his district if he has reason to believe that such gathering would seriously endanger the public peace; if he deems it necessary or expedient for the maintenance of the public peace; or if he has reason to believe that feelings of hostility would be engendered between the whites and another racial group of the population. To organize, encourage, preside at or address a gathering prohibited under the Act, or to publicize it in any manner constitutes an offence. Mere attendance at a prohibited gathering is also an offence punishable by a fine of R 100 or imprisonment for a period of up to six months. 208/ The Act has often been used against strikers since it also makes it an offence for any person to "trespass on property in order to induce any worker thereon to unlawfully leave work or to refrain from returning to work" and for any person employed in an "essential service" wilfully and maliciously to "break his contract of employment, knowing or having reasonable cause to believe that the probable consequences will be to deprive the community of these services". 209/

225. After having examined the relevant legislation and its application by the South African authorities, the Ad Hoc Working Group of Experts concluded that "the repressive laws adopted in South Africa and the practices by which they are enforced are in flagrant contradiction of international standards and that South Africa had deliberately violated trade union freedoms ...". It also concluded that "the combined effects of several acts, in particular the Terrorism Act of 1969, the Suppression of Communism Act of 1950, and the Riotous Assemblies Act of 1956, was aimed at and resulted in the persecution, prosecution and detention without trial of workers and trade unionists because of their ideas and activities". 210/

207/ Ibid., paragraph 38.

208/ See E/5767, paragraphs 32-34.

209/ E/CN.4/1270, paragraph 194 (c)

210/ E/CN.4/1222, paragraph 266.

226. In addition to the security legislation, the State has made full use of its repressive power against trade unions and their officials. As Hopple describes:

"Union offices are kept under surveillance and frequently raided by the Special Branch; officials are searched, organizers shadowed and their contacts interrogated; employers are warned to have no dealings with African unions and are informed of 'dangerous elements' who should be dismissed; landlords are advised to evict trade union tenants." 211/

227. Another author has emphasized "the insidious presence of the ubiquitous unknown informers" as a powerful inhibiting factor in workers' organizations. 212/

228. Witnesses before the Ad Hoc Working Group of Experts have described how the power of the State was used against the South African Congress of Trade Unions (Sactu), a multi-racial organization affiliated with the African National Congress. Sactu militants were detained and tortured, some of them to death; they were banned, house arrested, dismissed from their jobs and "endorsed out" to the "bantustans"; Sactu offices were raided, and its publications banned. The headquarters of the organization were forced into exile, but it continues to operate under constant harassment. 213/

229. As mentioned earlier, the general political repression of the 1950s and early 1960s stifled the African trade union movement until the early 1970s, when the Durban and Port Elizabeth strikes were accompanied by a resurgence of trade unions and workers' support organizations. Evidence before the Ad Hoc Working Group of Experts has shown that this renewed activity by African workers has been met with intensified repression and a tightening of the security laws. The representative of the International Confederation of Free Trade Unions (ICFTU) charged that African trade unionists and those helping African workers to organize had become prime targets of an intensified wave of repression following the strikes. For example, all leading officials of the Black Allied Workers' Union were removed by Government action in 1975. 214/ Between 1976 and 1978 some 30 trade union leaders were placed under house arrest, banned or otherwise restricted. 215/ A number of others were arrested and charged under the various security laws, and one died while in detention. 216/ The Union of Black Journalists was banned under the Internal Security Act in October 1977. 217/ Members of most of the newly established African trade unions and workers' support organizations were adversely affected by the Government measures. 218/

211/ Hopple (1971), op. cit., p. 74.

212/ Johann Marce, "Seeing strikes in perspective"; South African Labour Bulletin, May-June 1976, p. 95.

213/ See E/4646, Annex; E/4791, para. 53; E/4953, para. 43. See also Hopple (1971), op. cit., pp. 72-73.

214/ E/CN.4/1222, para. 272.

215/ E/CN.4/1311, para. 280.

216/ E/1978/21.

217/ S.A.I.R.R., op. cit., p. 285.

218/ Among those mentioned in evidence before the Ad Hoc Working Group of Experts were, in addition to the Black Allied Workers' Union, the Glass and Allied Workers' Union, the Metal and Allied Workers' Union, the National Union of Textile Workers, the South African Railways and Harbours Workers' Union, the African Transport Workers' Union; and the Trade Union Advisory and Co-ordinating Council, the Urban Training Project, the Industrial Aid Society, the Institute for Industrial Education, the Western Province Workers' Advice Bureau, the General Factory Workers Benefit Fund.

VIII. CONCLUSIONS AND OBSERVATIONS

230. The present study, as requested by the Sub-Commission, has analysed the apartheid system of South Africa as "a collective form of slavery". For his definition of the problem, the Secretary-General has relied on the interpretation of apartheid contained in the resolutions of the policy-making organs of the United Nations, in particular the General Assembly and the Economic and Social Council; in the Convention on the Suppression and Punishment of the Crime of Apartheid; and in a number of recent decisions adopted by United Nations organs and international meetings sponsored by the United Nations.

231. On the basis of these instruments and decisions, the Secretary-General has noted that the international community has recognized that the apartheid system in South Africa is not simply a racial discrimination problem to be solved through education and political and social reforms. Rather, it has been increasingly understood that the essence of apartheid lies in the dispossession of the black population through the imposition of quasi-colonial rule, and in the harnessing of the labour of the vanquished indigenous people through a variety of coercive measures for the profit of white investors, both South African and foreign. The international community has therefore described the apartheid system as a slavery-like practice imposed on an entire collectivity, which can be eradicated only through a complete restructuring of the existing political and economic relationships.

232. In this study, the Secretary-General has first analysed the historical development of the apartheid system in terms of the different phases of colonial penetration and economic development. It has been seen that, at the root of the "bantustan" policy of the present Government, lie the inequitable distribution of land imposed through colonial conquest and the establishment of African "reserves" with the main function of serving as reservoirs of cheap labour for the white areas of the country. The Africans and other black people have been increasingly denied any political or other rights in the country as a whole, with the ultimate aim of making them foreigners in the country of their birth.

233. The study has shown how colonial penetration and settlement were accompanied by measures aimed at forcing the black population into the service of the settlers. Initially, this was accomplished through the imposition of slavery. After the emancipation of the slaves, legislative and other measures were adopted to exercise control over the movement of black labour and to direct it into the areas of the economy where it was needed, at wages and conditions imposed by the white employers. The Secretary-General has found that while these indirect forms of compulsion changed with the changing requirements of the economy, the system remained essentially based on coercion. Thus the evidence shows that the apartheid policy, introduced as official Government policy after 1948, represented a systematization and formalization of the pre-existing network of legislative and other controls over the black population, and its extension to the entire country, with the same goal of maintaining the black people in the role of a cheap and suppressed labour force.

234. The Secretary-General has sought to identify the main elements of the apartheid system, understood as a slavery-like system of labour control and exploitation, as it has developed after 1948 and as it applies today.

235. Firstly, it has been shown that Africans are subjected to strict and constant controls through a system of identity documents enforced by penal sanctions. Africans and, to varying degrees, other black people, are denied freedom of residence

in areas scheduled for white occupation and freedom of movement between, as well as within, black and white areas. This, in turn, severely restricts their freedom to choose their employment, forcing them into the least paid, lowest skilled occupations.

236. Secondly, the study has shown that vast numbers of blacks who, for one reason or another, do not qualify to remain in white areas, especially those who are unemployed, or are considered "redundant" because of their age, health, or sex, have been forcibly removed to the "reserves" and "group areas" earmarked for their occupation, where they face starvation conditions. Others have been moved from one black area to another in terms of the Government policy to keep the various ethnic groups separate and thus more easily controlled. The study has shown that this policy results from the need of the white ruling minority to eliminate from the white areas the political problems and the social and other costs inherent in the presence of a large and suppressed black labour force permanently residing there, and to transfer them to black areas, which would eventually become responsible for the administration of this labour force through a grant of "independence".

237. Thirdly, the study has shown that the Government policy is to enforce gradually a migratory labour system on the entire black population, which would eventually enter white areas only for the periods and in the sectors where their work is required. It has been seen that the migrant labour system, directly derived from forms of forced labour applied in the mining industry in the nineteenth century, is being extended to all sectors of the economy. The study has shown that migrant labourers drawn from the "bantustans" are denied choice of employment through a variety of coercive measures administered by the labour bureaux. They are denied any freedom of residence while employed, being required to live in compounds and barracks under the strict control of their employers; and are forced to return to the "bantustans" at the end of their contract as a pre-requisite for the granting of another contract. The starvation conditions prevailing in the "bantustans", where only a few people have access to cultivable land, ensure that Africans forced to live there do not have the choice to withdraw their labour from the white economy and therefore have to accept whatever wages and conditions are offered them.

238. Fourthly, the study has investigated the conditions of exploitation of workers in industry and agriculture resulting from the apartheid system. It has been seen that, in addition to the web of restrictions on freedom of residence, movement and employment, workers in industry are kept in the lowest paid positions through the application of a colour bar resulting both from legislation and from agreements between employers and white employees. The study has shown that the colour bar is enforced in such a way as to permit adjustments whenever needed by the economy, but without changing the basic conditions of exploitation of the black workers. The wages of these workers have remained a fraction of those earned by white workers, and the income gap between the two groups has continued to increase.

239. In agriculture, the Secretary-General has found that conditions of exploitation of black workers similar to those indicated in the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and in the Forced Labour Convention of 1930,

continue to exist on white farms, along with new forms of coercion similar to those applied in the rest of the economy. The study has found a large extent of physical repression and abusive conditions of work of black workers in agriculture, including the exploitation of child labour. It has also found that wages in agriculture are the lowest in the country, resulting in cases of malnutrition and disease.

240. Fifthly, the Secretary-General has studied the way in which the apartheid system as a slavery-like practice is imposed on the black population despite continuing, indeed growing, resistance. The study has shown that, within a pattern of consistent repression of opposition to apartheid, including the banning of several organizations and of individual militants, court trials, and violent police action, the Government has pursued a policy of suppression of black workers' organizations. After examining the relevant labour legislation, the study has concluded that a discriminatory and inferior system of labour relations has been established for Africans, with the goal of undermining autonomous workers' organizations and exercising Government control over the workers' movement. It has been seen that recent changes in this legislation have not introduced basic reforms, but have rather extended Government control over the system. Further, the study has shown that the security laws introduced by the Government after 1948 have been repeatedly used against trade union organizers in order to decapitate the leadership of the unions. Strikes have often been violently suppressed, causing the deaths of many workers. Because the apartheid system as a slavery-like practice rests on the exploitation and control of the black workers, black workers' organizations can play a crucial role in bringing about the end of apartheid. For this reason, they have been, and continue to be, the object of Government repression.
