

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL
E/CN.4/1429
28 January 1981
Original: ENGLISH/FRENCH



COMMISSION ON HUMAN RIGHTS
Thirty-seventh session
Item 6 of the provisional agenda

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA

REPORT OF THE AD HOC WORKING GROUP OF
EXPERTS PREPARED IN ACCORDANCE WITH
COMMISSION ON HUMAN RIGHTS RESOLUTION 6 (XXXIII)
AND ECONOMIC AND SOCIAL COUNCIL DECISION 1978/28

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction	1 - 46	6
A. Mandate and composition of the <u>Ad Hoc</u> Working Group	1 - 10	6
1. Historical background and present mandate of the <u>Ad Hoc</u> Working Group of Experts	1 - 9	6
2. Composition of the <u>Ad Hoc</u> Working Group of Experts	10	9
B. Organization of work and procedures adopted by the <u>Ad Hoc</u> Working Group of Experts	11 - 42	10
1. Meetings and mission inquiry	11 - 13	10
2. Conduct of the investigation	14 - 42	10
C. Basic international standards relevant to the matters falling within the mandate of the Group	43 - 46	21
<u>Chapter</u>		
I. SOUTH AFRICA	47 - 374	25
Introduction	47 - 57	25
A. Capital punishment	58 - 64	28
1. Reference to some relevant laws	58 - 59	28

	<u>Paragraphs</u>	<u>Page</u>
2. Summary of information and evidence received by the <u>Ad Hoc Working Group of Experts</u>	60 - 61	28
3. Case of James Mange	62 - 64	29
B. Violations of the right to life, including large-scale killings	65 - 72	30
C. Treatment of political prisoners, detainees and captured freedom fighters	73 - 112	33
1. Reference to some relevant laws	74 - 76	33
2. Summary of information and evidence received	77 - 112	34
D. Deaths of detainees	113 - 117	
E. Alleged responsibility of security police forces	118 - 120	56
F. Forced removals of population	121 - 148	57
1. Reference to relevant laws	125	58
2. Conditions in resettlement areas	126 - 132	58
3. Sufferings caused by resettlement schemes	133 - 134	62
4. Rural settlement	135 - 141	63
5. Urban removals	142 - 148	65
G. The Bantu homelands policy	149 - 218	68
1. Summary of relevant legislation	152 - 159	69
2. Violation of the right of all people to the exercise of sovereignty	160 - 163	70
3. Exploitation of black workers	164 - 177	71
4. Obstacles to the right to freely pursue economic development	178 - 198	74
5. Obstacles to the right to freely determine political status	199 - 206	79
6. Abuse of police powers by the "homeland" authorities	207 - 216	81
7. Attempts to disrupt national unity and to destroy the identity of the blacks ..	217 - 218	83

	<u>Paragraphs</u>	<u>Page</u>
H. Conditions of black workers	219 - 267	84
1. Conditions of workers in the agricultural sector	220 - 234	84
2. Conditions of workers in the urban (industrial and other) sector	235 - 267	88
I. Infringement of trade union rights	268 - 313	97
1. The suppression of the right to organize trade unions	270 - 302	97
2. The persecution of workers because of their activities, particularly as a consequence of strike action	303 - 313	107
J. Student movements	314 - 354	112
1. Relevant legislation	316 - 317	112
2. Student campaigns against the Govern- ment's policy of black education	318 - 333	113
3. Student movements in black universities	334 - 346	117
4. Blacks at "white" universities	347 - 348	121
5. Student movements in white universities	349 - 351	121
6. <u>Apartheid</u> in schools	352 - 354	122
K. Other serious violations of human rights resulting from the policy of <u>apartheid</u> and racial discrimination	355 - 374	123
1. Censorship and restrictions on the flow of information	355 - 362	123
2. Bannings	363 - 365	126
3. Denials of passports and visas	366 - 367	128
4. Violations of transit rights and of the integrity of neighbouring States ..	368 - 369	129
5. Pass laws	370 - 372	130
6. Health	373 - 374	130

	<u>Paragraphs</u>	<u>Page</u>
II. NAMIBIA	375 - 479	132
Introduction	375 - 405	132
A. Capital punishment	406 - 409	149
1. Reference to some relevant laws	406	149
2. Summary of evidence and information received	407 - 409	149
B. Violations of the right to life	410 - 415	151
C. Forced removals of population	416 - 418	156
D. Treatment of political prisoners and captured freedom fighters	419 - 454	157
1. Summary of some relevant laws	419 - 425	157
2. The Police forces: present structure and United Nations proposals	426 - 428	160
3. Summary of evidence and information received	429 - 454	161
E. Situation of the African black workers	455 - 460	178
1. Background information	455 - 456	178
2. Summary of evidence received	457 - 460	178
F. Conditions of Africans in the "homelands"	461 - 470	183
1. Background information	461	183
2. Summary of recent legislation	462 - 465	183
3. Summary of evidence and information received	466 - 470	184
G. Impediments to student movements	471 - 476	187
1. Relevant legislation	472	187
2. Summary of evidence received	473 - 476	187
H. Information concerning persons who have been guilty of the crime of <u>apartheid</u> or of a serious violation of human rights	477 - 479	190
III. CONCLUSIONS AND RECOMMENDATIONS	480	191
IV. ADOPTION OF THE REPORT	481	197

Annexes

- I. Letter from the South African Permanent Mission to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights
- II. Record of testimony taken at the 522nd meeting held at Dar-es-Salaam on 12 August 1980 - hearing of Andrew Ntuli
- III. Statement made by Mr. Sam Nujoma, President of SWAPO, before the Ad Hoc Working Group of Experts at its 529th meeting held at Luanda, Angola, on 20 August 1980
- IV. Notes on detention and imprisonment of children in South Africa since 1978, report submitted by the International Defence and Aid Fund.

INTRODUCTION

A. MANDATE AND COMPOSITION OF THE AD HOC WORKING GROUP OF EXPERTS

1. Historical background and present mandate of the Ad Hoc Working Group of Experts

1. The mandate of the Ad Hoc Working Group of Experts, established in 1967 under resolution 2 (XXIII) of the Commission on Human Rights, was to investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa. This mandate was subsequently extended and enlarged by various resolutions of the Commission on Human Rights and the Economic and Social Council. In accordance with its extended mandate, the Ad Hoc Working Group of Experts has carried out various investigations into violations of human rights in southern Africa and has submitted a number of reports to the Commission on Human Rights and the Economic and Social Council.

2. At its thirty-fifth session, the Commission on Human Rights decided, by resolution 12 (XXXV), adopted on 6 March 1979, that the Ad Hoc Working Group of Experts should continue to study the policies and practices which violate human rights in South Africa, Namibia and Zimbabwe.

3. Under the terms of paragraph 17 of the same resolution, the Commission requested the Group, in co-operation with the Special Committee against Apartheid, to investigate the cases of torture and murder of detainees in South Africa, contained in a report drawn up by the Special Committee against Apartheid ^{1/} and communicated to the Commission on Human Rights, and to submit a special report on that investigation to the Commission on Human

^{1/} See E/CN.4/1327/Add.2.

Rights at its thirty-sixth session in 1980. In accordance with that decision, the Group submitted a report entitled "Application of the International Convention on the Suppression and Punishment of the Crime of Apartheid" (E/CN.4/1366).

4. At its thirty-sixth session, the Commission on Human Rights, after considering that report (E/CN.4/1366), adopted resolution 12 (XXXVI) by which it entrusted the Group with two tasks connected with its mandate. In the first place, it requested the Ad Hoc Working Group of Experts to continue, in co-operation with the Special Committee against Apartheid as appropriate, its compilation of the list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention on the Suppression and Punishment of the Crime of Apartheid and of individuals, organizations, institutions, and representatives of States against whom or which legal proceedings had been undertaken (resolution 12 (XXXVI), paragraph 6).

5. It further requested the Ad Hoc Working Group of Experts, in co-operation with the Special Committee against Apartheid and in accordance with paragraph 20 of the annex to resolution 34/24 adopted by the General Assembly on 15 November 1979, to undertake a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention.

6. Lastly, the Commission decided that the Group should carry out a comprehensive study on the action taken to implement the recommendations made by the Group since its establishment, with a view to improved assessment of the further efforts needed in the struggle against the system of apartheid and against colonialism and racial discrimination in southern Africa (resolution 12 (XXXV), paragraph 15).

The Commission also requested the Group to continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia, of the crime

of apartheid or of a serious violation of human rights, and to bring the results of those inquiries to the attention of the Commission on Human Rights (resolution 12(XXXV), paragraph 5). In addition, the Commission requested the Group to submit a report on its findings to the Commission at the thirty-seventh session at the latest, and to submit a progress report to the Commission at the thirty-sixth session (resolution 12 (XXXV), paragraph 16).

7. In accordance with the latter provisions, the Ad Hoc Working Group of Experts submitted a progress report (E/CN.4/1365) to the thirty-sixth session of the Commission. After considering the Group's progress report, the Commission adopted, on 26 February 1980, resolution 9 (XXXVI) by which it requested the Group to continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights, and to bring the results of those inquiries to the attention of the Commission on Human Rights. The Commission further requested the Group to continue to study the policies and practices which violated human rights in South Africa, in Namibia and, as appropriate, in Zimbabwe, and immediately to bring to the attention of the Chairman of the Commission on Human Rights particularly serious violations of human rights of which it learned during that study, so that he might take whatever action he deemed appropriate.

8. It should also be noted that, in resolutions 1979/39 of 10 May 1979 and 1980/33 of 2 May 1980, the Economic and Social Council invited the Ad Hoc Working Group of Experts to continue to study the question of allegations regarding infringements of trade union rights in the Republic of South Africa and to report thereon to the Commission on Human Rights and the Economic and Social Council, as appropriate.

9. This report is submitted in accordance with the mandate conferred on the Ad Hoc Working Group of Experts by the Commission on Human Rights under the above-mentioned provisions of resolutions 12 (XXXV), 9 (XXXVI) and 12 (XXXVI), and by the Economic and Social Council in resolutions 1979/39 and 1980/33. It is based mainly on first-hand information which the Ad Hoc Working Group of Experts received in the form of testimony and written communications from individuals and organizations concerned during the mission of inquiry which it carried out from 4 to 29 August 1980. As in the past, the Group undertook a systematic analysis of the documents of the United Nations and specialized agencies, of official journals and reports of relevant parliamentary debates, of publications, newspapers and magazines in various countries, as well as of works dealing with matters relevant to the Group's mandate.

2. Composition of the Ad Hoc Working Group of Experts

10. In accordance with resolution 2 (XXIII) of the Commission on Human Rights which established the Ad Hoc Working Group of Experts, and resolution 12 (XXXV) which renewed its mandate, the Group is composed of the following members serving in their personal capacity:

Chairman-Rapporteur: Mr. Kéba M'Baye (Senegal), Chief Justice of the Supreme Court;

Vice-Chairman: Mr. Branimir Janković (Yugoslavia), Professor of International Law;

Mr. Annan Arkyin Cato (Ghana): Director, Organization of African Unity Affairs, Ministry of Foreign Affairs.

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

Mr. Felix Ermacora (Austria): Professor of Public Law, Member of Parliament;

Mr. Mulka Govinda Reddy (India): Member of Parliament.

B. ORGANIZATION OF WORK AND PROCEDURES ADOPTED BY THE
AD HOC WORKING GROUP OF EXPERTS

1. Meetings and mission of inquiry

11. Following the same practice as in the past and pursuant to its mandate, the Group agreed on the arrangements for the mission of inquiry, which it planned to undertake in Europe and Africa, at a series of meetings held from 14 to 25 January 1980 at the United Nations Office in Geneva.

12. In order to compile information and gather evidence about the further facts that had arisen in connection with the matters falling within its mandate, the Group heard witnesses in London from 4 to 8 August, at Dar-es-Salaam from 11 to 15 August, at Lusaka on 18 August, at Luanda from 19 to 22 August and at Geneva from 27 to 29 August 1980.

13. The Group met from 12 to 23 January 1981 in the United Nations Office at Geneva to consider and adopt this report.

2. Conduct of the investigation

14. Following the same procedure as in the past, the Group sought the co-operation of the Member States concerned, the African liberation movements and of interested organizations which, as well as individuals who, were able to furnish it with reliable information on the matters falling within its mandate. The procedure followed and measures adopted by the Group in connection with the organization of the mission of inquiry are set forth below:

(a) Relations with Governments of Member States

15. On 11 April 1980, the Director of the Division of Human Rights, acting at the request and on behalf of the Chairman of the Group, addressed a letter to the Ministers of Foreign Affairs of the United Kingdom of Great Britain and Northern Ireland, the Republic of South Africa, the United Republic of Tanzania and the People's Republic of Angola, drawing to their attention the mandate and

activities of the Working Group and inviting their Governments to co-operate with it in the fulfilment of its mandate. They were requested, in particular, to transmit any information relevant to matters falling within the Group's mandate including the names of persons or organizations willing to furnish such information, either orally or in writing.

16. The Governments of the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and the People's Republic of Angola agreed to co-operate with the Ad Hoc Working Group of Experts and the Group therefore visited those countries where it received full co-operation.

17. Responding to a communication from the Group on the subject, the Government of South Africa stated, in a letter dated 23 July 1980, that it was not in a position to accede to the request of the Group, its reply being similar in approach to that transmitted to the Group for the first time in 1978^{2/} (for the text of this letter, see annex I).

18. In this regard, the Group wishes to emphasize that it has consistently approached the task entrusted to it in a spirit of complete objectivity. Furthermore, the Group would point out that, in 1979, it requested the Government of South Africa to co-operate with it in the fulfilment of its mandate to investigate allegations of torture and murder of detainees in South Africa. In a letter dated 2 August 1979, the Government of South Africa then stated that it refused to collaborate with the Group to which it attached no credit.

19. Having noted the reply of the Government of South Africa, the Group had decided to transmit to it the results of its inquiry with the request that it submit its comments before 5 January 1980 so that they could be taken into account

^{2/} The text of the letter transmitted to the Working Group in 1978 is set forth in the annex to the Group's report contained in document E/CN.4/1311.

When the Group came to consider the final report during its meetings from 14 to 25 January 1980.^{3/} No reply has been received by the Group in this connection.

20. Lastly, during the mission of inquiry from 4 to 29 August 1980, the Group was informed of a certain number of particularly serious situations to which it considered that the attention of the Chairman of the Commission on Human Rights should be drawn in accordance with the provisions of paragraphs 18 and 6 of resolutions 12 (XXXV) and 9 (XXXVI) which provide that the Ad Hoc Working Group of Experts should immediately bring to the attention of the Chairman of the Commission any particularly serious violations of human rights of which it learns during its inquiries so that he may take whatever action he deems appropriate.

21. Accordingly, the Group drew the attention of the Chairman of the Commission on Human Rights to this matter in the following two telegrams:

(a) Telegram dated 8 August 1980: "... At its meeting in London from 4 to 8 August 1980, the Ad Hoc Working Group of Experts was informed of three facts which, in its view, come within the scope of the above-mentioned provisions of resolutions 12 (XXXV) and 9 (XXXVI). The facts are as follows:

(1) It became clear during the examination of several witnesses that the South African authorities are engaging with unusual ferocity in extremely serious acts of repression which spare neither the elderly, women or children. It is feared that this attitude will persist in view of the dread with which the said authorities are filled by the ever-increasing awareness of the blacks of South Africa and Namibia and the determination of their various organizations to fight apartheid and racial discrimination.

^{3/} The text of the letter was annexed to the report of the Ad Hoc Working Group of Experts contained in document E/CN.4/1366.

(2) It was confirmed during the Group's inquiries, that children, often of very tender age (8 to 10 years) are now being detained on Robben Island following trials the conduct of which is particularly open to criticism as regards both guarantees and the quality of the evidence accepted. The trial and conviction of under-age children must be regarded as a violation of the most elementary principles that govern criminal liability that derive from the very terms of the Universal Declaration of Human Rights and other relevant instruments.

(3) The Group has become convinced that, on the occasion of the raids on Angola carried out in 1978 in violation of the principle of the sovereignty of States, the South African army took prisoner at Cassinga a number of Namibians who were members of or sympathetic to SWAPO. It has come to the knowledge of the Group that these people have suffered ill-treatment and torture and that several of them are alleged to be in an extremely serious physical and moral state. Their total number is thought to be about 120 at the present time, but it is not possible to give an exact figure. In these three cases, the Ad Hoc Working Group of Experts, without wishing to suggest to you what measures should be taken, nonetheless considers that it would be advisable to inform the United Nations organs and to call upon the South African authorities for an end to police brutality and acts of repression generally, and for the immediate release of all detained or imprisoned children as well as of the prisoners captured at Cassinga and now being detained near Mariental to the south of Windhoek. It would also be useful, in the Group's view, if you could hold a press conference to inform the whole world of these facts which are, in our opinion, constituent elements of particularly serious violations of human rights. For the Ad Hoc Working Group of Experts, the Chairman Rapporteur Kéba M'Baye".

(b) Telegram dated 21 August 1980: "Further to the telegram which was sent to you from London on 8 August 1980, the Ad Hoc Working Group of Experts draws your attention in particular to the dramatic situation of the detainees at Hardap Dam Camp on the outskirts of Mariental, to the south of Windhoek (Namibia). The Group has had confirmation, through the concurring evidence of several witnesses, that Namibian prisoners removed from Cassinga Camp in May 1978 are now being held at Hardap Dam Camp in inhuman conditions. Some of them are alleged to have been ill-treated and even mutilated. The Group considers it extremely urgent to call by all appropriate means, including recourse to the Security Council, for the immediate release of these prisoners, many of whom are thought to have become invalids. Pending their release, the régime governing prisoners of war should be applied pursuant to the Third Geneva Convention of 12 August 1949.

Done at Luanda, 21 August 1980. Kéba M'Baye (Senegal); Branimir Janković (Yugoslavia); Humberto Díaz-Casanueva (Chile); Felix Ermacora (Austria); Annan Arkyin Cato (Ghana); Mulka Gopinda Reddy (India). The Group has also decided to transmit this message to the Secretary-General of the United Nations".

22. Further to these two telegrams, the Chairman of the Commission on Human Rights, sent the following message by telegram, dated 25 August 1980, to the Minister of Foreign Affairs of the Republic of South Africa:

"1. I am addressing myself to you pursuant to paragraph 6 of Commission on Human Rights resolution 9 (XXXVI) of 26 February 1980, which requested the Ad Hoc Working Group of Experts on southern Africa to continue to study the policies and practices which violate human rights in South Africa and Namibia, and immediately to bring to the attention of the Chairman of the Commission on Human Rights particularly serious violations of rights of which it learns during that study, so that he may take whatever action he deems appropriate.

2. The Ad Hoc Working Group of Experts is now conducting hearings to gather information in accordance with its mandate and after having received testimony at London and Luanda, the Ad Hoc Working Group communicated to me by cable the following three matters of urgent concern reported to the group and which fall within the terms of paragraph 6 of resolution 9 (XXXVI):

- (a) That the South African authorities are now carrying out with particular relentlessness acts of repression of extreme seriousness against the people of South Africa and Namibia sparing neither the aged, women nor children, and it is feared that this will continue.
- (b) That children, often of a very young age - 8 to 10 years old - are being imprisoned at Robben Island after trials which are subject to particular criticism due to lack of respect for the rights of the defendants. The conviction and sentencing of minors violates the most elementary principles of penal responsibility which have their bases in international human rights instruments.
- (c) That a large number of Namibian prisoners, which may be as high as 120, are being held in inhumane conditions at the detention camp at Hardap Dam, near Mariental, south of Windhoek, Namibia. These persons were taken prisoners by the South African army at Cassinga during raids into Angola carried out in May 1978. They have been ill-treated and tortured and some have been mutilated. Many are in a critical physical and moral state.

3. In the light of these very disturbing reports based on the evidence just received by the Ad Hoc Working Group of Experts, I respectfully request, in my capacity as Chairman of the Commission on Human Rights, that the Government of South Africa:

- (a) Halt immediately police brutality and all acts of repression against the people of South Africa and Namibia;
- (b) Release immediately the children detained in South African and Namibian prisons;
- (c) Release the Namibian prisoners detained at Hardap Dam Camp and, pending their release, to apply the provisions of the Geneva Convention relative to the treatment of prisoners of war of 12 August 1949.

4. Because of the urgency of these matters, I am also bringing them to the attention of the Secretary-General and other appropriate organs of the United Nations."

23. In answer to that message, the Minister of Foreign Affairs of the Republic of South Africa sent the following communication, by a letter dated 1 September 1980, to the Director of the Division of Human Rights:

"Compliments. Have honour to transmit following reply to message from Chairman of Commission on Human Rights conveyed in your telegram MSC 7406:

'Your message transmitted by the Director of the United Nations Division of Human Rights in telegram MSC 7406 of 25 August 1980 reached my office on the morning of 26 August after you had already released the contents to the media and they had formed the subject of radio broadcasts. Quite apart from the propriety of such action, it leaves the impression with me that you are more interested in deriving propaganda advantage from your communication than in resolving matters in which you purport to be interested.

I totally reject the accusations of the Ad Hoc Working Group of Experts and yourself on behalf of the Commission on Human Rights. The Working Group, following its usual practice, has fabricated a series of untruths and you have accepted them without any attempt to verify their accuracy. This confirms the Working Group's, the Commission's and your own total lack of impartiality and objectivity. While impugning my country's judicial system you in your capacity of Chairman are yourself guilty of violating an elementary legal principle by setting yourself up as a policeman, prosecutor and judge and rendering judgement without bothering to examine evidence that does not suit you. The Working Group and the Commission are clearly biased and are pursuing a vendetta against my country, relying on propaganda material generated by organizations whose raison d'etre is waging of a campaign of vilification of South Africa. Their ritualistic annual repetition of concocted accusations against South Africa, designed to heighten credibility through familiarity, in fact serves merely to underline the absence of any factual substance to the allegations.

Civilized legal practices are followed in South Africa and the Working Group's accusations in regard to the imprisonment of children are absurd. Our courts function openly and any departure from internationally accepted standards and norms of court procedure would be exposed and condemned domestically long before they could be carried abroad by political opportunists. Our prisons are periodically visited by representatives of the International Committee of the Red Cross and if the practices alleged by the Working Group and the Commission did in fact occur, they would undoubtedly be exposed. This has not happened. Furthermore evidence published by The Sunday Tribune in South Africa on 24 August 1980 suggests that the report regarding the alleged exploitation of black children as farm labourers is based on children's books published as literacy aids by a commercial printing concern in Johannesburg.

The Working Group and the Commission expresses concern for the welfare of children in South Africa and South West Africa/Namibia, yet they remain silent on the regular abduction by SWAPO of school children in Ovambo. You will undoubtedly know that 70 school pupils were abducted in Northern South West Africa by SWAPO terrorists within the past week. Latest reports

indicated that 53 of these pupils are still missing. Last year about 140 pupils, some of a very young age, were abducted from the same school. Does the plight of these children not merit the attention of the Commission and the Working Group?

I am arranging for this communication to be brought to the attention of the Secretary-General and the appropriate organs of the United Nations as an official document, as you did with regard to the contents of telegram MSC 7406. R.F. Botha, Minister of Foreign Affairs and Information."

24. The message sent by the Chairman of the Commission on Human Rights and the communication received from the Government of South Africa were circulated as official documents to the Sub-Commission on Elimination of Discrimination and Protection of Minorities, at its thirty-third session from 18 August to 12 September 1980. The same documents will also be brought to the attention of the Commission on Human Rights at its thirty-seventh session. In this connection, the Ad Hoc Working Group draws the attention of the Commission on Human Rights to a document transmitted by the Chairman of the Special Committee against Apartheid, containing information which the Working Group regards as a matter of the utmost importance on the detention and imprisonment of children in South Africa. The full text of this document is attached to the present report (annex IV).

(b) Relations with the Organization of African Unity

25. On 20 May 1980, the Director of the Division of Human Rights, on behalf of the Group, informed the Administrative Secretary-General of the Organization of African Unity of the field mission to be undertaken by the Group in Europe and Africa and invited the Organization to co-operate, as in the past, with the Group in the fulfilment of its mandate.

26. On 26 June 1980, the Division of Human Rights also communicated with the Executive Secretary of the Co-ordinating Committee for the Liberation of Africa, inviting the Committee to co-operate with the Group during its mission in Africa.

(c) Relations with African liberation movements, individuals and non-governmental organizations

27. On 19 May 1978, the Director of the Division of Human Rights, acting at the request and on behalf of the Chairman of the Ad Hoc Working Group of Experts, sent a letter drawing the mandate of the Group to the attention of various non-governmental organizations interested in matters relating to human rights in southern Africa, and in particular to a number of African liberation movements that had already co-operated with the Group during its previous missions of inquiry. Reminders were sent by telegram on 26 June 1980. The names of most

of the witnesses heard by the Group were communicated by the organizations and liberation movements contacted in that way. Moreover, during its mission, the Group and, on its instructions, the secretariat, maintained the closest contacts with those organizations and movements.

(d) Evidence received

28. In the course of its mission, the Ad Hoc Working Group of Experts heard forty-three witnesses, some of whom provided information concerning more than one country or territory. At the request of the persons giving evidence, nine witnesses were heard at closed meetings. Witnesses who gave evidence at public meetings are indicated below: they are listed according to the countries or territories to which their evidence related. The records of the evidence heard at public meetings are kept in the files of the secretariat of the Ad Hoc Working Group of Experts.

29. South Africa. Twenty-eight witnesses were heard, six, at their request, in camera. The twenty-two witnesses who were heard at public meetings were as follows: Mr. Stephen Dlamini (522nd meeting, Dar-es-Salaam); Mr. Thomas Viktor Asmund Hammarberg (521st meeting, London); Mr. John Jackson (520th meeting, London); Mr. Edmund Jiyane (523rd meeting, Dar-es-Salaam); Mr. Andrew Mtagwaba Kailembo (525th meeting, Dar-es-Salaam); Mr. Thuso Kebinelang (523rd meeting, Dar-es-Salaam); Mrs. Leah Sarah Levin (533rd meeting, Geneva); Mr. Jimmy Elias Mabaso (524th meeting, Dar-es-Salaam); Mr. Zolile Maqetuka (522nd meeting, Dar-es-Salaam); Mr. Cecil Msomi (523rd meeting, Dar-es-Salaam); Mr. Moorogiah Dhanabadhy Ma'doo (513th meeting, London); Mr. Alfred Ndawonde (523rd meeting, Dar-es-Salaam); Mr. Andrew Ntuli (522nd meeting, Dar-es-Salaam); Mr. Anthony Phala (523rd meeting, Dar-es-Salaam); Mrs. Nosidima Dimza Pityana (516th meeting, London); Mrs. Barbara Rogers (513th meeting, London);

Mr. Neville Rubin (533rd meeting, Geneva); Mr. Michael Terry (519th meeting, London); Mr. Antony Trew (517th meeting, London); Mr. George Twala (526th meeting, Lusaka); Mr. Velile Chief Twala (526th meeting, Lusaka); Mr. Eli Weinberg (522nd meeting, Dar-es-Salaam).

30. Namibia. The following seventeen witnesses were heard, three at their request in camera. The fourteen witnesses who were heard at public meetings were as follows: Mr. Simon Amushila (528th meeting, Luanda); Mr. Paavo Amwele (529th meeting, Luanda); Mr. Justin Ellis (520th meeting, London); Mr. Paul Fauvet (520th meeting, London); Mrs. Lucia Hamutenya (528th meeting, Luanda); Mr. Thomas Viktor Asmund Hammarberg (521st meeting, London); Mr. Festus Heita (529th meeting, Luanda); Mr. Kaveke Anthony Katamila (525th meeting, Dar-es-Salaam); Mr. Peter Robert Hanning (519th meeting, London); Mr. Peter Nehunga (528th meeting, Luanda); Mr. Sam Nujoma (529th meeting, Luanda); Mr. Guthrie Michael Scott (521st meeting, London); Mr. Michael Terry (519th meeting, London); Mr. Festus A. Thomas (529th meeting, Luanda).

31. According to the preference of each witness, testimony was given either under oath or by solemn declaration.^{4/}

32. After hearing a witness's direct statement, the members of the Group generally put questions to him. In the event that a witness was not able to testify in a working language of the United Nations, the Group used the services of a local interpreter, who was similarly required to swear or solemnly declare that he would interpret the testimony accurately.

^{4/} The two formulas proposed were the following:

"I swear to tell the truth, the whole truth, and nothing but the truth!"

or

"I solemnly declare, in all honour and conscience, that I will tell the truth, the whole truth, and nothing but the truth".

33. In addition to oral evidence, the Group received a number of written statements dealing with various matters falling within its mandate.

(e) Other activities of the Group during its mission

34. The Group met and had consultations with a number of leading figures and senior officials in the Governments of the People's Republic of Angola, the United Kingdom of Great Britain and Northern Ireland and the United Republic of Tanzania.

35. On 5 August 1980, the Group visited the Foreign and Commonwealth Office in London, where it had an exchange of views with the Under-Secretary of State, Mr. Richard Luce, particularly on the question of Namibia.

36. On 15 August 1980, the Group was received by Mr. Justice Francis Nyalali, Chief Justice of the Government of Tanzania.

37. During its visit to Angola, the Group had discussions on 22 August 1980, at Luanda, with Mr. Venâncio da Silva Moura, Vice-Minister for Foreign Affairs, who was accompanied by Mrs. Olga Lima, Director of Political Affairs at the Ministry of Foreign Affairs, and Mr. Paulo Dos Anjos, Chief of the Division of International Organizations at the Ministry of Foreign Affairs. The discussions dealt with the situation in South Africa and Namibia and, in particular, with the problems faced by the Government of Angola in connection with its struggle to assist the African liberation movements.

38. The representative of the Government of the People's Republic of Angola, Mrs. Olga Lima, also made a statement to the Ad Hoc Working Group of Experts at its 526th meeting on 18 August 1980.

39. On 20 August 1980, at the 529th meeting held at Luanda, the President of SWAPO, Mr. Sam Nujoma, made a statement to the Group, the text of which is reproduced in annex III to this report.

40. Lastly, during its stay in London, the Group had the opportunity of attending a showing of two films dealing with the situation of black workers in South Africa and with the question of the forced displacements of population. These films had been made by the services of the International Defence and Aid Fund.

41. With a view to informing world public opinion, to making the Group better known and to giving the maximum publicity, in suitable form, to its activities, the Group held press conferences whenever it deemed that advisable as part of its mission of inquiry.

42. At its 513th meeting, held in London on 6 August 1980, the Group was informed of a project of the South African authorities to create a park in an area located in the Bophuthatswana region. The creation of such a park would involve the displacement of about one hundred families from lands acquired since 1898.

According to information received, the World Wild-life Fund had agreed to the implementation of the project. With a view to verifying the allegations made against the Fund, the Group sent a telegram to the Fund inviting it to designate a representative who could provide any further information that the members of the Group might wish to receive. In a letter dated 14 August 1980, the Fund had provided a certain amount of information which it considered was adequate.

In the opinion of the Group, that information did not suffice to dispel doubts as to the truth of the facts alleged. It is awaiting further explanations and reserves the right to make its views known in due course.

C. BASIC INTERNATIONAL STANDARDS RELEVANT TO THE
MATTERS FALLING WITHIN THE MANDATE OF THE GROUP

43. In preparing its report the Group took account of the basic international standards relating to its activities. It should be noted that all the provisions embodied in these standards prohibit any form of racial discrimination. In particular, the Group took into account the international standards embodied in the following instruments:

The Charter of the United Nations;

The Universal Declaration of Human Rights;

The International Convention on the Elimination of All Forms of Racial Discrimination;

The International Covenant on Economic, Social and Cultural Rights;

The International Covenant on Civil and Political Rights;

The relevant provisions of the four Geneva Conventions of 12 August 1949 (See E/CN.4/1020, paras. 40, 41, 45, 46);

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide (in particular, articles I, II, III and IV);

The 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (articles I and II);

The principles set forth in article 6 of the Charter of the International Military Tribunal of Nuremberg, reaffirmed in General Assembly Resolution 96 (I);

The International Convention on the Suppression and Punishment of the Crime of Apartheid;

The 1951 Convention relating to the Status of Refugees;

The Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in resolution 663 C (XXIV) of 31 July 1957;

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in resolution 3452 (XXX) of 9 December 1975;

General Assembly resolution 2674 (XXV) and subsequent resolutions on respect for human rights in armed conflicts;

General Assembly resolution 1803 (XVII) on the permanent sovereignty of peoples over their natural resources;

ILO Convention No. 105 concerning the Abolition of Forced Labour;

ILO Convention No. 111 concerning Discrimination in respect of employment and Occupation;

The UNESCO Convention against Discrimination in Education.

44. Without prejudice to other provisions, the Group bore in mind the following resolutions adopted by the General Assembly at its thirty-fourth and thirty-fifth sessions, as well as those adopted by the Security Council: resolution 34/93 A. to Q. of 12 December 1979 concerning policies of apartheid of the Government of South Africa; resolution 34/24 of 15 November 1979 concerning implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination; resolution 34/26 and 34/27 of 15 November 1979 concerning the status of the International Convention on the Elimination of All Forms of Racial Discrimination; resolution 34/167 of 17 December 1979 concerning torture and other cruel, inhuman or degrading treatment or punishment; resolution 34/174 of 17 December 1979, concerning assistance to student refugees from Namibia, Zimbabwe and South Africa; resolution 35/206 of 16 December 1980 concerning policies of apartheid of the Government of South Africa, items A, C, G, I, J, K, N, O, R; resolution 35/32 of 14 November 1980 concerning adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa; resolution 35/33 of 14 November 1980 concerning the Decade for Action to Combat Racism and Racial Discrimination; resolution 35/39 of 25 November 1980 concerning the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid; resolution 35/117 of 10 December 1980 concerning co-operation between the United Nations and the Organization of African Unity; resolution 35/167 of 15 December 1980 concerning observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States; resolution 35/184 of 15 December 1980 concerning assistance to student refugees in southern Africa; and resolution 35/189 of 15 December 1980 concerning protection of human rights of categories of prisoners. The Group also paid special attention to the following resolutions, adopted by the Security Council during the period reviewed by the report: Resolution 447 (1979) of 28 March 1979 and resolution 454 (1979) of

2 November 1979 concerning a complaint by Angola relating to acts of aggression committed by South Africa against the People's Republic of Angola; resolution 466 (1980) of 11 April 1980 concerning the escalation of hostile and unprovoked acts by South Africa violating the sovereignty, airspace and territorial integrity of the Republic of Zambia; and resolution 473 (1980) of 13 June 1980 concerning the repression and killings of schoolchildren protesting against apartheid, as well as the repression against churchmen and workers.

45. In the following paragraphs, the Working Group sets out its report in accordance with the mandate contained in Commission on Human Rights resolutions 12 (XXXV), 9 (XXXVI) and 12 (XXXVI). Chapters I and II contain information as received by the Working Group on the situation of human rights in South Africa and Namibia, and chapters III and IV give the evaluation of this information by the Working Group, together with certain recommendations.

46. In view of the developments that took place during the period covered by the report, culminating in the independence of Zimbabwe, the present report does not contain any material on this country.

I. SOUTH AFRICA

Introduction

47. During the period covered by this report the Ad Hoc Working Group of Experts received considerable evidence indicating an intensification of resistance to apartheid. The developments that characterized the situation in the Republic of South Africa in recent years also continued during the period under review; these concerned political repression, detention, trials and implementation of the Government's policy of "independence" for the so-called "homelands"! This latter policy continued to involve large-scale deportation of people from their homes and workplaces.

48. This resistance has involved workers, in the persistent struggle to set up and defend black trade unions as well as to assert their right to take collective action, including strike action (see paras. 280-284 below); school and university students, in their struggle to put an end to Bantu Education (that is, separate and inferior education) through boycotts, strikes and other forms of collective action (see paras. 310-314 below); and solidarity action involving whole communities (for instance, in community boycotts in support of strikers, see para. 277 below).

49. Further, the period under review has shown increasing evidence of the effectiveness of guerrilla activity within the Republic, by black underground organizations. The witness Mr. Mike Terry (519th meeting) handed in on behalf of the British Anti-Apartheid Movement a document listing over 100 incidents involving armed resistance to apartheid in the period since March 1976, including skirmishes in border areas, armed attacks on police stations, bomb attacks on strategic installations and explosions of leaflet bombs.^{5/}

^{5/} The Battle for South Africa: Armed Resistance in South Africa, prepared for the Anti-Apartheid Movement National Action Conference, 31 May 1980.

50. It is in the light of these developments in resistance to apartheid that the Working Group views the allegedly "reforming" measures of the present South African Government. Of the main promises to review policy made by Mr. P.W. Botha's government in 1979 (see E/CN.3/1365, para. 16), only certain recommendations of the Wiehahn report have been implemented (see paras. 262-264 below), and witnesses appearing before the Working Group have stressed the essentially "cosmetic" nature of these: Mr. Terry in his evidence concluded that "in essence these changes in the law are designed to ensure greater control over African trade unionists". He went on to point out that other apparent relaxations of "pettyapartheid", such as selected permits for blacks to participate in "white" sporting events, involved no change in the law itself, but an effort to gain respectability internationally.

51. The Working Group has also taken note of increasingly aggressive military policies being pursued by the South African régime, including the development of a nuclear arms programme,^{6/} attacks across the border into the People's Republic of Angola (see Chapter II on Namibia); and allegations that South African military forces are training anti-government Mozambican and Zimbabwean rebel forces at a special base in the northern Transvaal.^{7/}

52. The Group noted in a previous report (E/CN.4/1270, para. 23) a constitutional plan put forward by Mr. P.W. Botha, at the time Minister of Defence, to set up a multiracial Presidential Council to represent non-white interests in an advisory capacity to the President. During the period under review, a Constitution Amendment Act was passed to establish the office of Vice State President; to abolish the Senate and add certain nominated members to the Assembly; and to establish a President's Council.^{8/} This Council is planned to include Coloured and Indian, but not black, members, who were offered a separate, segregated,

^{6/} Testimony of Mr. Mike Terry, supported by documentation for the United Nations Special Committee against Apartheid Seminar on Nuclear Collaboration with South Africa, February 1979.

^{7/} Guardian, 30 and 31 May 1980; see also verbal testimony of Mr. Conny Dlingea (528th meeting).

^{8/} Republic of South Africa Constitution Fifth Amendment Act, No. 101 of 1980.

black council which in turn would advise the President's Council. African "homeland" leaders have, however, rejected the segregated black council out of hand; the leading Coloured political party, the Labour Party, and the Indian leaders are expected to refuse to serve on the President's Council if blacks are excluded; and the verkrampste section of the Nationalist Party will not envisage blacks on the President's Council.^{9/} Mr. Alwyn Schlebusch, former Minister of Justice and head of the Schlebusch Commission whose report recommended the setting up of the Council, has been appointed Vice State President and chairman of the Council, charged with the task of "continuing the search for a constitutional alternative to the present Westminster-type constitution."^{10/}

53. Parallel with these developments, the Group has noted that the present South African cabinet is totally dominated by the white Nationalist secret society, the Broederbond;^{11/} and that the military appears to be increasing its grip upon the machinery of Government. The Prime Minister retained his former Ministry of Defence until August 1980, when he appointed his close colleague, General Magnus Malan, chief of the Defence Force, to the post.^{12/} 1980 also saw a 17 per cent increase in the defence budget, to R1,890 million;^{13/} and the "leaking" of a document revealing a secret army plan to intervene in politics.^{14/}

54. With this background in mind, the Working Group has during the period under review continued to pay special attention to the regime's implementation of its policies of territorial apartheid, through the granting of "independence" to black "homelands", the deporting of blacks from white areas and deprivation of their rights in these areas; and to the regime's continued repression of black resistance to apartheid through repressive laws, detentions and political trials, and acts of police brutality.

^{9/} Guardian, 11 August 1980.

^{10/} Guardian, 9 May 1980, 9 and 27 August 1980; Time, 9 May 1980.

^{11/} Guardian, 28 August 1980.

^{12/} Guardian, 27 August 1980.

^{13/} Guardian, 2 April 1980.

^{14/} International Herald Tribune, 25 March 1980.

55. It has again paid special attention to new allegations of torture used against opponents of the regime, and invited testimony to enable it to list individuals held to be guilty of the crime of apartheid.

56. The Working Group has been particularly struck by the evidence set before it, by testimony on the resistance of women, and of children to apartheid; and on the other hand by the brutality used by the South African regime against these sections of the population (see paras. 86-89 below).

57. Numerous witnesses before the Working Group drew the Group's special attention to the international campaign for the release of Nelson Mandela, African National Congress leader serving a life sentence on Robben Island. This demand was launched within the Republic by the black-edited newspaper, Sunday Post, and has been taken up internationally, including at the level of the United Nations General Assembly.

A. Capital punishment

1. Reference to some relevant laws

58. Previous reports of the Ad Hoc Working Group of Experts (notably E/CN.4/1020, paras. 75-81 and E/CN.4/1111, paras. 40-43) have described the laws in force providing for the death penalty. Particular attention has been drawn to the Sabotage Act (General Law Amendment Act, No. 76 of 1962) and the Terrorism Act (No. 83 of 1967) (see E/CN.4/1135, para. 13, and E/CN.4/1111, paras. 42-43).

59. No legislation has been enacted during the period under review to reduce or extend the circumstances in which the death penalty might apply in South Africa. In particular, no steps have been taken in any of the "independent homelands" to repeal any legislation involving the death penalty (see section G below).

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

60. The Report of the Commissioner of Prisons, published in 1980,^{15/} showed that of 67,146 sentenced prisoners in jail on 30 June 1979, 128 had been sentenced to the death penalty; and of 15,584 convicted prisoners admitted to jail in the period 1 July 1978 to 30 June 1979, 194 had received the death penalty. The report

^{15/} Report of the Commissioner of Prisons of the Republic of South Africa for the period 1 July 1978 to 30 June 1979, RP 36/1980, April 1980.

also included figures which showed that the annual total of death sentences had more than doubled over the past nine years, from 95 in 1969/70 to 145 in 1977/78 and 194 in 1978/79.

61. According to further information available to the Working Group, 148 people were executed in 1978/79 compared with 71 in 1977/78; and 133 in the calendar year 1979. The total of 132 persons executed in the year 1978 was the previous highest total ever executed over 12 months in South Africa (see E/CN.4/1365, para. 25).^{16/} Of the 133 persons hanged in 1979, 98 were black, 33 Coloured and two white. None were women.^{17/}

3. Case of James Mange

62. A number of witnesses drew the special attention of the Working Group to the case of James Mange, sentenced to death for "treason" on 15 November 1979, who, if executed, would be "the first person to be executed for treason in South Africa for more than 60 years", according to the witness Mr. Thomas Hammarburg of Amnesty International (521st meeting). Mr. Mike Terry of the British Anti-Apartheid Movement (519th meeting) told the Group that Mr. Mange had been one of 12 members of the African National Congress charged with treason, "the first time in over 20 years that such a charge has been brought against opponents of the regime". They appeared in court in August 1979 (see the Group's previous report, E/CN.4/1365, para. 74), in a specially constructed court to ensure maximum security, and the judge ordered that all evidence from state witnesses be held in camera. Defence counsel objected to this move on the ground that "excluding the public meant excluding the people affected by what the ANC seeks to achieve", and, when his objection was overruled, the accused dismissed their defence and stated that they would take no further part in the proceedings.

^{16/} Rand Daily Mail, 18 April 1980.

^{17/} Rand Daily Mail, 8 February 1980.

63. The witness stressed to the Group that Mr. Mange was alleged only to have reconnoitred a police station, magistrate's court and magistrate's house in Whittlesea, Cape; he was not accused of engaging in any skirmish with South African security forces nor of causing the death of anyone. "The sentence of death was imposed because of James Mange's political convictions, his unwavering opposition to the brutality of apartheid". Mr. Terry also quoted the ANC Treason Trial Defence Committee in alleging that, in imposing the death penalty, the regime was "in clear contravention of international law in terms of the recently adopted Protocols additional to Geneva Conventions of 12 August 1949"^{18/} (see para. 112).

64. According to further information available to the Group, the appeal against Mr. Mange's sentence was heard on 14 August 1980 and judgement reserved. The South African Council of Churches was among the South African organizations calling for a reversal of the sentence.^{19/} Twenty-six thousand people had signed a petition by the end of August 1980 to Lord Carrington, British Foreign Secretary, urging him to intervene on Mr. Mange's behalf.^{20/} In September 1980 the sentence was commuted to 20 years' imprisonment (see para. 112).

B. Violations of the right to life, including large-scale killings

65. During the period under review, the number of civilians shot and killed by police "in the execution of their duties" has once more caused the Working Group special concern. Although, according to figures given by the Minister of Police in the Assembly in February 1980, the total figure of such deaths in 1979 was lower than for the previous year (204 persons, see E/CN.4/1365, para. 39), the figure of 163 killed, of whom 133 were black and 10 were juveniles, continues deeply to concern the Group. In addition, 495 persons, including 33 juveniles, were injured in the same period; 241 policemen were convicted of common assault, assault with intent to do grievous bodily harm, culpable homicide and murder in 1979.^{21/}

^{18/} Stop the Apartheid Murder of James Mange, published by the ANC Treason Trial Defence Committee, London, 1980; handed in by witness Mr. Mike Terry.

^{19/} Members Newsletter, Anti Apartheid Movement, London September 1980.

^{20/} Anti-Apartheid News, October 1980.

^{21/} Assembly Debates, 19 February 1980; Rand Daily Mail, 20 February 1980.

66. The Working Group took note of a report in the Cape Times of a 15-year-old boy who was shot dead by a police reservist while fleeing from arrest for having stolen some grapes.^{22/} According to this report, the boy could be shot with impunity; this was possible because the Criminal Procedure Act 1977 (see E/CN.4/1365, paras. 33-34) authorizes the police to shoot a person trying to escape arrest when there is no other way of stopping him and the Indemnity Act 1977 (E/CN.4/1270, para. 49) bars all civil and criminal proceedings against the State or any person in the service of the State, or any person acting under the authority or approval of such a person for any act by such a person. Thus, in these circumstances the police reservist is able to undertake the triple functions of prosecutor, judge and executor.

67. According to reports before the Working Group during 1980, the number of citizens, particularly juveniles and students, shot by police has escalated, as police responded with increasing violence to student protests in schools and colleges.

The following paragraphs illustrate such incidents:

68. Two Coloured schoolchildren were killed and three injured when a police van was allegedly stoned by students at Elsie's River, Cape Town. The students were boycotting classes in protest against inferior educational standards (see paras. 334-346 below). No injuries were caused by the students.^{23/} The Minister of Police refused any inquiry into the incident.^{24/}

69. "At least " 42 people were killed by police action against demonstrators in Coloured townships around Cape Town on 15-18 June 1980,^{25/} protesting against poor educational facilities, the closing of Fort Hare University and a simultaneous increase in bus fares.^{26/} According to reports before the Working Group a high proportion of those killed were women, including mothers of young children,^{27/} and the

^{22/} Cape Times, 2 October 1979.

^{23/} Daily Telegraph, 29 May 1980.

^{24/} Guardian, 30 May 1980.

^{25/} Daily Dispatch, 19 June 1980.

^{26/} Financial Times, 19 June 1980; Cape Times, 24 July 1980.

^{27/} Cape Times, 25 June 1980.

total killed may have been "more than 100"^{28/}. Press reporters, who had been banned from the areas affected,^{29/} later claimed that police had provoked the riots by banning the memorial meetings planned to commemorate the dead in the Soweto uprising of 1976, and shot at random into crowds.^{30/} The Commissioner of Police was reported to have instructed his men to "shoot to kill".^{31/}

70. In this connection, an anonymous witness (530th meeting), who was present at the Soweto massacre in June 1976, made the point to the Group that the full facts about the deaths then are still not known. He described mass graves later discovered in cemeteries, where "students there were packed in one hole, just a big thing, still dressed in uniforms, with bullet wounds". He also said that some bodies were burned - "we don't know who burnt them, where, when".

71. Further killings took place in July. A 16-year old boy was shot in the Eastern Cape and two men were shot at his funeral the following week.^{32/} A mother of eight was shot by police in Grahamstown on 11 July.^{33/}

72. The Working Group is aware that only limited information has reached the press on these massacres, since police refused to publish casualty lists and the press were, as far as possible, kept out of the areas affected by the disturbances. A reporter for the Cape Times, Zubeida Jaffer, who conducted a personal investigation into the deaths and injuries, describing the murder of babies, young children and their mothers in police fire, all of them unarmed, was later detained by police^{34/} (cf para. 78 below).

^{28/} Anti-Apartheid News, July-August 1980.

^{29/} Guardian, 19 June 1980.

^{30/} Washington Post, 21 June 1980.

^{31/} Sunday Post, 22 June 1980.

^{32/} Guardian, 28 July 1980.

^{33/} Sunday Times, 10 August 1980.

^{34/} Cape Times, 24 July 1980.

C. Treatment of political prisoners, detainees
and captured freedom fighters

73. In this section, the Working Group gives information on treatment of persons while held in detention. It is divided into two parts: the first part describes certain laws involved in the detention of persons with or without trials and the second part gives a summary of the information received by the Working Group. This information is set out in three subdivisions. The first concerns information on treatment of persons detained without trials; the second part concerns treatment of persons serving sentences of imprisonment for political offences and the third part describes political trials that took place during the period covered by this report.

1. Reference to some relevant laws

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

75. In addition, individuals in the so-called "independent homelands" may be subject to detention without trial under special proclamations which have not been repealed since the "homelands" were granted "independence". During the period under review, the Minister of Justice of Venda told an opposition "MP" that Proclamation 276, which allows for detention without trial for 90 days and was proclaimed from Pretoria in 1977, "will never be repealed".^{35/}

^{35/} Post, 26 March 1980.

76 The Group in its previous report drew attention to amendments to the Inquest Act and the Police Act (E/CN.4/1365, paras. 36 and 37) limiting publication of allegations against the police and discussion of the subject of an inquest. During the period under review, a further Police Amendment Act was passed making it illegal to publish information on any detentions or arrests made in the course of anti-terrorist operations, or in terms of the Terrorism Act, without the specific authorization of the police.^{36/}

2. Summary of information and evidence received

(a) Treatment of detainees

77. According to the report of the Commissioner of Prisons for the year 1 July 1978 to 30 June 1979, there were 34 detainees held under section 6 of the Terrorism Act and section 10 of the Internal Security Act as of 30 June 1979; a total of 165 persons had been detained under the various laws enabling detention without trial during the year.^{37/} According to the Minister of Police, in reply to a question in the Assembly in February 1980, a total of 48 young people under the age of 18 had been detained under the security laws during 1979.^{38/}

78 The Working Group received information on a number of incidents occurring during 1980 which reflect a series of detentions as follows:

January 1980

Two leaders of the Port Elizabeth Civic Organisation (PEBCO), were detained including Mr. Thozamile Botha (see paras. 80, 134 and 284), and a leader of the Writers' Association of South Africa.^{39/}

^{36/} Second Police Amendment Act, No. 1306 of 1980.

^{37/} Report of the Commissioner of Prisons of the Republic of South Africa for the period 1 July 1978 to 30 June 1979, RP 36/1980, April 1980.

^{38/} Assembly Debates, 19 February 1980.

^{39/} Daily News, 11 January 1980.

April 1980

Nine people were detained in Johannesburg and Cape Town.^{40/}

Seven students were detained in Mamelodi, Pretoria.^{41/}

May 1980

Two University of the Western Cape students were detained in Cape Town.^{42/}

The Minister of Police confirmed that 21 people had been detained in connection with the schools boycotts.^{43/} Dr. Yusuf Variawa, senior physician and chairman of the Medical Staff Association of the Department of Medicine, Coronation Hospital, University of the Witwatersrand, was arrested on 2 May.^{44/}

At least 60 students were detained in the Eastern Cape.^{45/}

Dr. Neville Alexander, lecturer at University of Cape Town and former political prisoner on Robben Island for 10 years, was detained.^{46/}

Fifty-two clergymen, including two bishops, were arrested in a peaceful demonstration protesting at the arrest of Rev. John Throne, a supporter of the schools boycott.^{47/}

Sixty persons were detained in the Western Cape,^{48/} including seven members of the staff of the University of the Western Cape.^{49/}

Two hundred and seventy-five pupils were arrested at Uitenhage, Eastern Cape.^{50/}

^{40/} Rand Daily Mail, 25 April 1980.

^{41/} Post, 30 April 1980.

^{42/} Daily Despatch, 2 May 1980.

^{43/} Cape Times, 8 May 1980.

^{44/} Rand Daily Mail, 14 May 1980.

^{45/} Daily Despatch, 20 May 1980.

^{46/} Sunday Times, 25 May 1980.

^{47/} Daily Telegraph, 27 May 1980.

^{48/} Cape Times, 29 May 1980.

^{49/} Daily Despatch, 28 May 1980.

^{50/} Daily Despatch, 29 May 1980.

The President and Vice-President of Natal Medical School were detained.^{51/}

"At least" 56 university lecturers, school teachers and pupils were detained.^{52/}

June 1980

Six Fort Hare students were detained.^{53/}

Five lawyers, members of the Democratic Lawyers' Association, affiliated to the International Commission of Jurists, were detained.^{54/}

The Minister of Police confirmed that 156 persons had been detained under the General Law Amendment Act, but refused to disclose names.^{55/}

The South African Institute of Race Relations estimated that the total number of 393 persons had been detained since April.^{56/}

Two Western Province General Workers Union organizers detained, bringing the total of WPGWU organizers detained since 29 May to six.^{57/}

July 1980

Two pupils were detained outside Cape Town. They were members of the Committee of 81 running the schools boycott.^{58/} The Minister of Justice named 133 detainees arrested since May.^{59/}

August 1980

Ms. Zubeida Jaffer, Cape Times reporter of Cape Town massacres of demonstrators (see para. 72) was detained.^{60/}

^{51/} Guardian, 28 May 1980.

^{52/} Star, 31 May 1980.

^{53/} Post, 2 June 1980.

^{54/} International Commission of Jurists, Press Release, 17 June 1980.

^{55/} Cape Times, 7 June 1980.

^{56/} Cape Times, 24 June 1980.

^{57/} Ibid.

^{58/} Cape Times, 1 July 1980.

^{59/} Rand Daily Mail, 2 July 1980.

^{60/} Guardian, 12 September 1980.

September 1980

One hundred and twelve black teenagers were arrested in Kimberley (charged with public violence).^{61/}

Two members of the Black Parents' Action Committee were detained in Guguletu, Cape Town.^{62/}

79. The Working Group also notes that a feature of the detentions during the period under review has been the difficulty encountered by both press and relatives in obtaining information on the names, whereabouts and even the numbers of detainees.^{63/} Two legal associations, the Democratic Lawyers' Association and the Lawyers for Human Rights group, protested at the "cloak of secrecy" imposed on the detentions.^{64/}

80. The Working Group received detailed information on the ways in which detentions that were undertaken to destroy black political organizations and trade unions continued during the period under review. This information was communicated by Mr. Mike Terry in the course of his testimony and in a document presented by Mr. Anthony Trew (document prepared by the International Defence and Aid Fund).^{65/} The testimony made the point that the organizations themselves were legal and had not been declared illegal under any South African law, but that their activities were being consistently sabotaged by arrests and detentions of their leaders. Mr. Terry drew the attention of the Working Group to the example of the arrest of the

^{61/} Ibid.

^{62/} Ibid.

^{63/} Rand Daily Mail, 2 July 1980; Guardian, 12 July 1980.

^{64/} Daily Dispatch, 24 June 1980; Rand Daily Mail, 2 July 1980.

^{65/} Role of the Police and other Arms of the State in Recent Strikes and Demonstrations in South Africa to June 1980: evidence submitted to the Ad Hoc Working Group of Experts, London, August 1980, by the International Defence and Aid Fund for Southern Africa.

General Secretary of the Municipal Workers Union during the strike in Johannesburg in 1980 (see paras. 106 and 306) in the Supreme Court building, while the union's own case was being heard; and the detention of Mr. Thozamile Botha under the Terrorism Act after strike action at Ford's in the Eastern Cape had won his reinstatement there, following his dismissal by Ford management because he was active in a community organization resisting a government removal scheme (see paras. 78, 142 and 292). The document submitted by IDAF listed 36 persons detained between November 1979 and June 1980 who were members of two recently-formed African organizations: COSAS (the Congress of South African Students) and AZAPO (the Azanian People's Organization) (see E/CN.4/1365, para. 19).

81. A number of witnesses who gave evidence to the Working Group offered further information on the torture and inhuman treatment of political detainees, these included persons who themselves had been victims of torture. The following paragraphs describe the information received and include evidences of treatment of women detainees and children detainees.

82. Mr. John David Jackson (520th meeting) gave evidence to the Committee as an attorney who had defended a number of cases involving torture of detainees in the Eastern Cape during 1977 (E/CN.4/1311, paras. 69, 76, 77, 104, 108-112, 149). He stressed that the legal system itself permits the continuation of torture and brutality by the police in South Africa and that, "until there is equality under the law for all people in South Africa, black and white, and until the courts themselves do something about police brutality and violation of human rights, the position there is not going to improve at all". He described how evidence of whipping and assaults by police had been shown to him by his clients, over and over again; and how such allegations were put before magistrates daily and ignored. Magistrates, he said, were following the precedent of a judgment by the Judge President of the Eastern Cape, on 7 December 1977, who found that witnesses' allegations of brutality against the police were a direct attempt to besmear the

good work and good name of the South African police, and who had the witnesses who had made the allegations charged with perjury. On the other hand, the witness said that he had never, in 20 years' association with South African law, heard a magistrate or a judge in a political matter rule out a confession on the ground that it had been obtained by force.

83. The witness Mr. Murugai Naidoo (518th meeting), speaking on behalf of the African National Congress, pointed out that not only does South African law weight the case against the accused through the laws governing court procedure and police responsibility, but it is also becoming increasingly difficult to find competent defence for political cases. Such lawyers who may be found will tend to advise their clients not to make any allegations about torture, as this will tend to alienate the court, which is unsympathetic to any attack on the police, and may thus tend to disbelieve any other statement by the accused and even impose a heavier sentence than it might otherwise do. The net result is that fewer allegations are being made in court about torture, though all other evidence available to the witness suggests that torture is on the increase. The witness also drew attention to two laws passed in 1979: the Police Amendment Act and the Inquest Amendment Act (see E/CN.4/1365, paras. 35-37, 224), which have severely inhibited publication of evidence on torture by detainees. Mr. Naidoo added that in the same year a police public relations division was set up to "clear" press reports involving the police before they are published.

84. A series of young persons, who had until recently been students in South Africa, gave first-hand evidence of torture under detention. An anonymous witness (520th meeting) described two separate periods of detantion and interrogation in the period since 1975. He described himself as suffering from "uncontrollable hypertension" when he was released from jail and said he had not yet fully recovered.

This witness described, as well as his own experience, that of a colleague (whom he named to the Group) who was forced by police to witness the unloading of lorry-loads of corpses of young people shot during the Soweto uprisings and who is now a "mental wreck". He described the process whereby men under interrogation are stripped naked, have water thrown over them to wet the surface of their skin, then electrocuted until they pass out. He also said that, as the man came round, a policeman would grab his genitals and drag him along by them. Several men were, to his knowledge, impotent as a result of this treatment. He also knew of cases where young women had been raped by the police.

85. Mr. Cecil Msomi (523rd meeting) was a student at the University of Zululand when he was interrogated at Empangeni police station and made to stand on his head for three hours against a wall. He named an officer called Steenkamp among the torturers. Mr. Thuso Kebinelang (523rd meeting), another student arrested during the Soweto uprisings, described being thrown up in the air and being jumped on; and then being dragged naked by the genitals. Mr. Zolile Maqetuka (522nd meeting), formerly a member of the South African Student Movement, "was a punchbag, not for just one Boer but about five Boers". When he still refused to make "a satisfactory statement", he was given electric shocks and kept standing for five days and nights without food, drink or being allowed to go to a toilet. He named Captain Vosloo and Sergeant Groenewald at police headquarters at Oudtshoorn, Eastern Cape, as his torturers. Mr. Jimmy Elias Mabaso (524th meeting) was arrested by Vereeniging security police in 1977, was beaten, handcuffed and chained by the feet. He was left with a nervous problem, and in pain. He still has difficulty sleeping and cannot tolerate noise, nor has he recovered his memory. He also described the condition of Mr. Linda Mohale, accused with him in September 1978 on terrorism, arson and other charges, after interrogation. Two of his front teeth had been broken with a pair of pliers and he had been given electric shocks. The court had refused to accept medical evidence on Mr. Mohale's torture

and he was sentenced to $24\frac{1}{2}$ years' imprisonment. Another co-accused, Johnson Nyathi, also now serving a sentence on Robben Island, had been thrown out of a window and had his spinal cord broken. This allegation in court earned him a further year's sentence. The witness named a policeman called Venter as one of his torturers. He had punched him in the mouth so that he was unable to open his jaws for some time. Mr. Mohale's torturers included Captain van Coller, Warrant Officer Mathee, Lieutenant Struweg and a man whose name was given as Meya or Meyer. Another student, Mr. Velile Chief Twala (526th meeting), was beaten and kicked, had electrodes attached to his head behind his ears and two toenails removed with a pair of pliers. The last was done at Protea police station, Soweto, from where he was taken to John Vorster Square and regularly assaulted for several weeks. His torturers were Lieutenant Trollip, Captain Visser, Captain Cronwright and Sergeant Demeyer. He had seen a doctor while in prison, but only with a security policeman, so he was unable to complain of his treatment. Another student, George Twala (526th meeting), was arrested with a group of his colleagues under the Terrorism Act. He was handcuffed and made to kneel and beaten on the head by Lieutenant Kriel and Sergeant Jordaan. He was transferred to John Vorster Square and assaulted by Lieutenant Struweg. At one point a policeman called van der Merwe used a pair of pliers to pull at his penis until he broke down. A Dr. Jacobsen, Johannesburg District Surgeon, had examined him afterwards but did not give evidence on his behalf in court. The witness named four of his colleagues tortured at Krugersdorp, one of whom was aged only 17, and referred also to the case of Linda Mohale (see above), whose teeth were drawn by Lieutenant Spyker. He named Lieutenant Kriel and Sergeant Jordaan at Protea headquarters and Lieutenant de Waal, Captain Cronwright and van der Merwe at John Vorster Square.

86. Several women witnesses appeared before the Working Group to offer descriptions of their own treatment in detention. Mrs. Nosedima Dimza Pityana (516th meeting) described the persecution of her family after the banning and house arrest of her

husband, Barney Pityana, in 1973; the emotional disturbance of her 2 $\frac{1}{2}$ -year old daughter; and the isolation of the whole family. In 1977, she was herself house-arrested and detained under the Terrorism Act. She was made to stand through three days and nights, then for two days and nights a week later, and subsequently held for six months under preventive detention. She also referred to other women who had been detained, kept in isolation and assaulted: Mrs. Mohapi, widow of Mapetla Mohapi, and Miss Asha Rambally. Mrs. Pityana named Lieutenant Marais and Lieutenant Wilkins as responsible for her detention, and Colonel Goosen. A policeman called Snyman had interrogated her.

87. An anonymous witness (524th meeting) was a school student in Durban when six policeman arrested her at home and took her to Utrecht, where she was imprisoned in a filthy cell where she had sometimes to drink from the toilet. She could not eat for a week. A Captain Els came to threaten her; then two policemen, one named van Rensburg, took her to Newcastle where she was put into a cell full of drunken old women. Next day, van Rensburg took her to a sealed room in a building in the town and he and others pointed a gun at her forehead and threatened to shoot her if she did not make a statement. They punched her in the stomach, burnt her on the buttocks, beat her so that her teeth cracked, and kept her five days standing without sleep or food. A black Sergeant, Mdluli, made sexual advances to her while the others looked on. She also heard a boy crying in pain as he was assaulted in a nearby cell. The witness named Captain Els as in charge of the interrogation. She also told the Group that she had heard of pregnancies arising out of rape of women in detention but had not met anyone herself to whom this had happened.

88. One witness, also anonymous (524th meeting), described being raped while in detention in the Eastern Cape. She named the white policeman who raped her in her cell and the woman warden who apparently colluded in the offence. The witness said that it is well known that women are sexually assaulted in detention.

89. The Working Group heard evidence, as in previous years, about the arrest and detention of young people of school age. In particular, it heard the testimony of Mr. Andrew Ntuli,^{66/} aged 14 years, who described conditions in a "children's prison" near Durban. He was arrested outside a factory gate in Durban, where he was selling maize porridge to workers, and taken to "the children's prison" in Umlazi, where he was kept two days. He said:

"We slept in a room with no beds. There was only one blanket for five of us. We used to sleep and early in the morning when we woke up they told us we must go to the plantations and cultivate them, and take out the weeds. Because I was not used to that work, I didn't know anything, I was working very slowly, and they beat me. I said I can't do it because it's heavy work for me. They said, 'You must get used to it'. At home my family didn't know where I was. In the afternoon they came to the prison and asked what was the thing that I did that they took me to prison. The policeman answered that 'this child has committed a crime because he is selling maize and making the workers late for work'. They said, 'That is not a crime, because we sent him, he is just a child who is working for his mother so that the mother can get some money to buy them food and give them money to go to school.' They said I couldn't go home with my mother and my uncle because I had to stay one day more. When I stayed there we only ate once that day. The following day we didn't eat, and when we went to sleep there were insects that were biting. When they came in the following morning they took me back home. When I went home I had smallpox and that smallpox was passed to my brother. My brother got sick for one week and I was worried to see him that sick, because I had never seen him sick in that way."

^{66/} The record of testimony of Mr. Andrew Ntuli is reproduced in full in annex II.

The witness said that there were 70 children in the room in which he slept and altogether there were seven similar rooms, each sleeping 70 boys. The youngest boy in the prison was seven years old. Some were there because they had no mothers and were sleeping in the street. He was 12 years old at the time. He said that he was beaten with a "hippo" whip when working in the fields during his time in the prison.

90. According to further information available to the Working Group, a poet and exiled African National Congress member, "kidnapped" when his Lesotho Airways plane was forced to land at Bloemfontein because of engine trouble, was tortured under interrogation when he was held illegally in detention in South Africa for five months. Mr. Zinjiva Winston Nkondo (Victor Matlou) said that he was questioned at gunpoint and tortured while being held under the Terrorism Act (see para. 368 below).^{67/}

91. Additional information has been made available to the Working Group on allegations of torture made by persons accused in political trials, held as witnesses or under the Terrorism Act. In one case, a Botswana citizen, Mr. Gurnal Makuku, arrested in April 1979 and released in July, was alleged to have been "severely beaten and burned with cigarette ends". Four other Botswana citizens have not been heard of since they were arrested in Johannesburg in October 1977.^{68/} Other cases of torture involve Ms. Thenjiwe Mtintso;^{69/} Frederick B. Phillips, Roger A. Schroeder, J.V. Issel and C.W. Johnson;^{70/} Stenane Isaiah Gerald Segone;^{71/} Sechaba Mintsitsi,^{72/} Monty Archibale Mzinthayi;^{73/}

^{67/} Rand Daily Mail, 17 May 1980.

^{68/} Post, 13 July 1979.

^{69/} Daily Dispatch, 27 October 1979.

^{70/} Cape Times, 15 December 1979.

^{71/} Daily Dispatch, 12 January 1980.

^{72/} Post, 30 January 1980.

^{73/} Post, 13 February 1980.

Mr. Kedibone Christopher Mathabe;^{74/} Mr. Bingo Bentley;^{75/} Mrs. Cynthia Montwedi, who sued the police for assault and received an out of court settlement;^{76/} "a 17-year old youth" (unnamed);^{77/} and Dr. Renfrew Christie (see para. 111 below).^{78/}

(b) Treatment of Political Prisoners

92. According to information available to the Working Group, there were 81,009 sentenced prisoners in jail in South Africa on 30 June 1979, and a total of 274,001 convicted prisoners had been jailed during the period 1 July 1978 to 30 June 1979.^{79/} South African "official" figures give 498 as the total number of political prisoners in January 1980, 489 of these on Robben Island.^{80/}

93. Additional evidence before the Working Group, however, indicates that this figure covers only those prisoners convicted under security legislation; it does not include persons arrested during political demonstrations and convicted for arson, unlawful assembly or other "criminal" offences. Between July 1976 and June 1977 a total of 13,355 young persons were convicted of such offences and were not classified as political prisoners.^{81/}

94. Nine young persons under the age of 18 were among the political prisoners being held on Robben Island in 1979.^{82/} At least one of these was 13 years old when he began his sentence.^{83/}

^{74/} Post, 27 February 1980.

^{75/} Ibid.

^{76/} Sunday Post, 23 March 1980.

^{77/} Rand Daily Mail, 3 April 1980.

^{78/} Daily Dispatch, 21 May 1980.

^{79/} Report of the Commissioner of Prisons of the Republic of South Africa for the period 1 July 1978 to 30 June 1979, RP 36/1980, April 1980.

^{80/} Post, 29 January 1980.

^{81/} Southern Africa-The Imprisoned Society (SATIS), "Repression in South Africa", United Nations Centre Against Apartheid, Notes and Documents 6/80.

^{82/} United Nations Press Section, New York, GA/AP/1088, 26 March 1980.

^{83/} Sunday Post, 7 September 1980.

95. The witness John David Jackson (520th meeting) told the Group that, although under South African common law a child under 16 would be dealt with under the Juvenile Act and sent to a juvenile centre or place of safety if convicted of an offence, under the Sabotage Act this safeguard does not apply and a child between the ages of seven and 14, who is assumed to be able to distinguish right from wrong, must if convicted serve the full mandatory sentence.

96. According to further information available to the Working Group, large numbers of young people have been arrested and charged following the student boycotts and demonstrations in the Cape and elsewhere during 1980. Between 714 and 800 Coloured schoolchildren were brought before a single court at the end of April, in batches of 16. Their cases were dealt with according to numbers, not names, and each remand took about two minutes. Most were charged under the Riotous Assemblies Act^{84/} (see para. 322 below).

97. Previous reports of the Working Group have described in detail the conditions in which political prisoners are held, in particular those on Robben Island, where most black political prisoners are held (see particularly E/CN.4/1270, para. 91; E/CN.4/1311, paras. 91-100).

98. Political prisoners were still, during the period under review, denied access to current political news. An Appellate Division judgment of the South African Supreme Court decided against a petition from a number of political prisoners to be allowed access to newspapers and broadcasts, on the ground that the ban was a breach of their rights under the Prisons Act. The decision has been criticised in the South African Law Journal as "an extra type of punishment which cannot be justified".^{85/}

^{84/} Rand Daily Mail, 1 May 1980.

^{85/} Star, 16 February 1980.

99. The Minister of Prisons told the Assembly in the period under review that he would "make a note" of a request to investigate the question of parole for political prisoners, adding that "as far as I am concerned, there is no parole".^{86/}

100. According to further information available to the Working Group, many African families are too afraid to keep contact with a prisoner charged with a political offence. Others cannot afford to visit, or are moved a long way away under the influx control laws when the breadwinner is arrested. A prisoners' aid campaign launched by a group of black students in Johannesburg aims to trace relatives of convicted prisoners and assist them to visit and keep in touch with them.^{87/}

101. During the period under review, the right to study beyond the level of matriculation (school leaving), withdrawn in November 1977, has been restored to political prisoners.^{88/} According to information available to the Group, the ban is thought to have been directed against the hundreds of young black militants sent to Robben Island since 1976, nearly 250 of whom had completed their high school studies by February 1979. In January 1979, the Prisoners' Education Committee was formed in Durban, which collected 9,000 signatures to a petition demanding the reinstatement of study facilities.^{89/}

(c) Free Mandela Campaign

102. Following the launching of an appeal for the release of Nelson Mandela in the black-edited South African newspaper, Sunday Post, in February 1980, support has been growing for the campaign, all over the world as well as in South Africa itself. By 21 August 1980, Post had received 71,726 signatures in favour of

^{86/} Cape Times, 13 May 1980.

^{87/} Southern Africa-The Imprisoned Society (SATIS), Political Repression in South Africa, February 1980.

^{88/} Rand Daily Mail, 13 May 1980.

^{89/} Southern Africa-The Imprisoned Society (SATIS), op. cit.

releasing Mr. Mandela.^{90/} A former South African chief of security, General Hendrik van den Bergh, is among those who have expressed themselves in favour of freeing Mandela, who during the period under review has reached his 62nd birthday and his 16th year of imprisonment.^{91/} So have the South African Institute of Race Relations, Bishop Desmond Tutu, Secretary of the South African Council of churches, and Mr. Alan Paton, one of South Africa's best known novelists. The response of the Minister of Justice has been that "those who call for the release of Nelson Mandela want the release of a terrorist".^{92/} The Southern Africa Committee of the Commonwealth has "deplored ... the continued imprisonment of Nelson Mandela",^{93/} and a resolution which included a call for his release was passed in June 1980 by the United Nations Security Council. It may be recalled that in recognition of the contribution of Mr. Nelson Mandela in the struggle against the crime of Apartheid and against colonialism and racial discrimination, the Government of India awarded the Jawaharlal Nehru Award for international understanding and peace for 1979 to Mr. Nelson Mandela which was received by Mr. Oliver Thambo, the Acting President of the African National Congress on 14 November 1980 in New Delhi. The Working Group noted that the South African authorities refused to allow Mr. Mandela or Mrs. Mandela to proceed to New Delhi to receive the Award. While giving away the Award, the President of India appealed to the International Community to urge the South African Government to release Mr. Mandela immediately and promised all help on behalf of the Government of India and the people of India for the elimination of the scourge of Apartheid, colonialism and racial discrimination.

(d) Recent political trials

103. According to information before the Working Group, the number of political trials has increased dramatically during the period under review; in the first four months of 1980, at least 19 political trials took place, involving some 70 accused.^{94/} Some of the most important trials during the period under review are summarised below.

^{90/} Sunday Post, 31 August 1980.

^{91/} Times, 21 April 1980; International Herald Tribune, 22 May 1980; Sunday Post, 15 June 1980.

^{92/} Sunday Post, 15 and 29 June 1980.

^{93/} Rand Daily Mail, 16 July 1980.

^{94/} Sunday Post, 4 May 1980.

(i) Trial of Mogale and Mabaso (see E/CN.4/1365, para. 73)

104. Linda Mogale, aged 18, was sentenced to 24½ years' imprisonment on charges of terrorism and arson. Mr. Mogale is former chairman of the Soweto Students Representative Council and he complained during his trial of torture during interrogation (see para. 85 above). The judge accepted that Mr. Mogale had been assaulted but found that his "confession" had been made "voluntarily". He was found guilty of terrorism because he had been present when a letter from a former SSRC president, then in Swaziland, was read, urging the forming of a more militant political organization.^{95/}

(ii) Trial of Thandi Modise, Moses Knosi and Aaron Mogale

105. Three young people faced murder charges under the Terrorism and Sabotage Acts at Kempton Park Regional Court during the period under review. Ms. Modise described in court how a security policeman, Captain Heystek, handed her a gun and told her to shoot herself, and later placed the muzzle of the gun against her head because she did not obey his orders. She also said that she had been assaulted at John Vorster Square by Captain Heystek, Major Cronwright and Warrant Officer Jordaan. As she was pregnant, she had demanded to be taken to a doctor. She was taken to Dr. Jacobson, Johannesburg District Surgeon, who said he could do nothing for her.^{96/} Ms. Modise said she was abused as "the ANC bitch" and that she had become so depressed that she attempted to commit suicide, and only changed her mind when she felt the baby kicking.^{97/}

(iii) Trial of Black Allied Workers' Union leaders

106. Three executive members of the Black Allied Workers Union, Joseph Mavi (President), Philip Dlamini (Secretary) and Gatsby Mazwi (Deputy Secretary), appeared in Johannesburg Regional Court in August 1980 on charges under the

^{95/} Rand Daily Mail, 11 August 1980.

^{96/} Rand Daily Mail, 14 August 1980.

^{97/} Anti-Apartheid News, September 1980.

the Sabotage Act arising from the Johannesburg municipal workers' strike (see para. 306 below). Their case was remanded to 29 September.^{98/} The definition of sabotage under the Act includes disruption of supply or distribution of vital commodities such as food and electricity.^{99/}

(iv) Hermanus trial

107. Four men were tried in Hermanus, Western Cape, on terrorism charges, with alternate charges of arson. The men are alleged to have set fire to a Lutheran church hall in the small town of Worcester, Western Cape. The trial started in 1979 but was adjourned after defence counsel, Mr. B.M. Kies, collapsed and died in court after submitting that statements by two of the accused were inadmissible. The accused alleged that they had been assaulted during interrogation. In March 1980, two of the accused were acquitted and two, Frederick Phillips and Roger Schroeder, sentenced to three years' imprisonment on the alternative arson charge.^{100/}

(v) Supreme court bomb trial

108. An ANC freedom fighter, Mr. Bhekizitha Oliver Nqulebani, was sentenced to 20 years' imprisonment in Cape Town for planting a bomb in the Supreme Court there; undergoing military training in Botswana and Angola; being in possession of explosives; and attempting to incite others in a letter he wrote from prison.^{101/}

(vi) Port Elizabeth terrorism trial

109. Eight young people, charged with conspiring to leave the country for military training, were released after a year-long trial. State witnesses gave evidence during the trial of the brutal methods used by members of the security police

^{98/} Rand Daily Mail, 29 August 1980.

^{99/} Guardian, 15 August 1980.

^{100/} Rand Daily Mail, 11 March 1980; Sunday Post, 16 March 1980.

^{101/} Rand Daily Mail, 11 March 1980.

to extract "satisfactory statements", and some of them, whose names may not be published, broke down in tears during their evidence. The court found that it "was not satisfied that some form of duress had not been used in obtaining" the statements. 102/

(vii) Trial of Church leaders

110. Fifty-three church leaders, including the Anglican Bishop of Johannesburg, Rt Revd. Timothy Bavin, and the Secretary General of the South African Council of Churches, Bishop Desmond Tutu, appeared before a magistrate in Johannesburg in May 1980 charged under the Riotous Assemblies Act and with obstructing traffic with their procession through the centre of Johannesburg on 26 May in protest against the detention of the Revd. John Thorne. The churchmen were released after being charged. 103/

(viii) Christie "nuclear spy" trial

111. Dr. Renfrew Christie, a former official of the National Union of South African Students and currently engaged in a research programme on the coal-mining industry, appeared in court in April 1980 charged on seven counts under the Terrorism Act. He is alleged to have acquired information on South Africa's energy programme, in particular on its nuclear energy programme, and transmitted it to the African National Congress, the International University Exchange Fund (IUEF) and to Horst Kleinschmidt (of the banned South African Christian Institute). 104/ A principal state witness was Captain Craig Williamson, the officer of the South African security police who infiltrated the IUEF in Geneva. Dr. Christie told the court that his statement had been made under duress, following a night

102/ Voice, 7 May 1980.

103/ Times, 28 May 1980; International Herald Tribune, 28 May 1980.

104/ Daily Dispatch, 4 April 1980.

during which he was kept standing and not allowed to sleep. The court ruled that the statement was acceptable as evidence and Dr. Christie was sentenced to 10 years' imprisonment. ^{105/}

(ix) Treason trials

112. According to information available to the Working Group, a feature of the period under review has been the introduction of charges of high treason in political cases, for the first time since the famous Treason Trial of 1956-61. The Pietermaritzburg "Treason Trial" and the case of Hadebe and Mthetwa were referred to in the Group's previous report (E/CN.4/1365, paras. 72 and 74). During the period under review, two treason trials have been conducted: the Pietermaritzburg trial involving 12 accused (including Hadebe and Mthetwa); and the Silverton Bank trial with nine accused:

(a) The Pietermaritzburg treason trial. The witness Murugai Naidoo (513th meeting) drew the Group's attention to the significance of this case, not only on account of the pending death sentence passed on James Mange (see paras. 62-64 above), but also on account of what he described as "the extraordinary courage that this group of accused showed during the trial ... they challenged the procedure in court even though most of them were not legally represented, right through the trial, at every stage of the trial ... they had the courage and the knowledge to tell the court that they were being tried for apartheid, whereas apartheid itself is a crime against humanity". The accused were John Sekete, Moses Mofe, Jeffrey Legoabe, Thibe Ngobeni, Andrew Mapheto, Sydney Choma, Titus Maleka, Bennet Komane, Mandlenkosi Hadebe, Mandla Mthetwa, Vusumusi Zulu and James Daniel Mange. The first 11 were sentenced to a total of 184 years' imprisonment for high treason and James Mange to death, also for high treason. This was the first death sentence for high treason passed in South Africa for 40 years. During the course of the trial several of the accused were given additional sentences for contempt of court as a penalty for demonstrations

of defiance, dancing and singing in the dock. The accused announced that they did not accept the authority of the court and refused to take part in the trial. Mr. Mange was identified by the court as the leader of these demonstrations. The accused had no legal representation and were convicted on the evidence of 144 state witnesses, largely heard in camera, that the 12 were members of the ANC, that they had left the country for military training in 1978 and were committed to the violent overthrow of the government. The trial, conducted under armed guard, was later described in the press as "the most bizarre in South African history". ^{106/}
An appeal on behalf of James Mange and Vusumusi Zulu argued that the court had not taken into account the fact that the accused had no constitutional means of political and constitutional reform. ^{107/} Mr. Mange's sentence was commuted to 20 years' imprisonment following an international campaign on his behalf, in September 1980, ^{108/}

(b) The Silverton bank siege trial. Nine members of the African National Congress were charged with high treason, murder, attempted murder and participation in terrorist activities in Pretoria in April 1980, following a siege of a bank near Silverton, Pretoria, on 25 January 1980, when two hostages and three guerrillas were killed; and a raid on a police station at Soekmekaar on 4 January 1980. The men pleaded not guilty. ^{109/}

^{106/} Sunday Post, 30 September 1979; Daily News, 23 October 1979, 24 October 1979; Rand Daily Mail, 13 and 15 November 1979; Sunday Express, 18 November 1979.

^{107/} Natal Witness, 29 November 1979.

^{108/} Guardian, 12 September 1980.

^{109/} Daily Dispatch, 15 April 1980.

D. Deaths of detainees

113. The history of deaths in detention between 1955 and 1977 has been reviewed in the previous report of the Group (E/CN.4/1270, paras. 112-122). The total number of detainees held under security legislation known to have died while in detention during that period was 46, 24 of whom had died between August and September 1977. The Group's report E/CN.4/1366 analyses 18 cases of murder of detainees known to have died while in detention.

114. According to information before the Working Group, a total of 308 deaths took place in South African prisons in the period 1 July 1978 to 30 June 1979. Of these, 17 were unsentenced prisoners and 291 sentenced, and causes of death are listed as including assault by other prisoners, suicide, killed during escape (six) and natural causes.^{110/} No report has reached the Working Group of further deaths of political detainees in the hands of the South African security police during the period under review. The Group has, however, noted the death of a former "Minister" of the Transkei "homeland" who died in detention 10 days after being arrested by Transkei security police. He was Mr. Saul Ndzumo, former "Minister of the Interior", alleged to have taken part in a plot to overthrow the regime of Paramount Chief Kaiser Matanzima.^{111/} (see para. 212 below).

115. Further information available to the Group concerns the prosecution of 17 warders at Goedmoed jail for the culpable homicide of a prisoner, John Nkumkumba, who was recaptured after escaping from jail on 19 July 1980. The warders were described as having "scrumped around the prisoner" and beaten him with sticks and flat hands, then kicked his head. One warder was described as having aimed a blow at the prisoner with a piece of iron pipe.^{112/}

^{110/} Report of the Commissioner of Prisons of the Republic of South Africa for the period 1 July 1978 to 30 June 1979, RP 36/1980, April 1980

^{111/} Times, 11 September 1980

^{112/} Post, 31 January 1980

116. According to information available to the Working Group, a further investigation into the circumstances of the death of Steve Biko in detention took place during the period under review. This investigation was the South African Medical and Dental Council's investigation into the conduct of the three doctors who attended Mr. Biko while he was in detention: Port Elizabeth district surgeons Dr. J.W. Lang and Dr. B. Tucker, and specialist physician, Dr. Colin Hersch. A complaint had been laid by Mr. Eugene Roelofse, ombudsman of the South African Council of Churches.^{113/} The South African Medical Council's investigation was held in private by Professor Hennie Snyman, President of the Council, and found, on the basis of "secret" evidence, that no further action should be taken. The decision was described as "astonishing" and "a blow at the image of the medical profession in South Africa".^{114/} The medical faculty of the University of the Witwatersrand publicly dissociated itself from the report^{115/} and appeals were made to South African doctors to dissociate themselves from the Council personally.^{116/} The South African Council of Churches announced that it was considering further action.^{117/}

117. Mrs. Nohle Mohapi, widow of Mr. Mapetla Mohapi, sued the Minister of Police for R35,000 in compensation for the death of her husband in detention. In spite of evidence from an independent handwriting expert that Mohapi's "suicide note" was "a clumsy attempt" to fake his handwriting,^{118/} and evidence that the note was not "found" until the day after his death^{119/} the court found the note "genuine" and dismissed Mrs. Mohapi's claim.^{120/}

^{113/} Times, 22 April 1980

^{114/} Guardian, 28 April 1980; Cape Times, 25 June 1980

^{115/} Sunday Express, 27 July 1980

^{116/} Cape Times, 19 August 1980

^{117/} Sunday Post, 10 August 1980

^{118/} Cape Times, 17 October 1979

^{119/} Daily Dispatch, 27 February 1980

^{120/} Cape Times, 4 July 1980

E. Alleged responsibility of security police forces

118. The Group's special report (E/CN.4/1366) last year detailed the names of individuals named by witnesses before the Working Group as torturers and perpetrators of alleged brutalities against detainees. During the Group's hearings in 1980, numbers of witnesses offered testimony on their own personal experience of torture at the hands of the security police. The Working Group was particularly impressed by the consistency in the kind of testimony offered, both as regards the methods of torture and the names of individuals alleged to be responsible. A core of names of security police has emerged as apparently directing a systematic policy of torture as a method of interrogation. These repeatedly named individuals appear to act not only as a sort of "flying squad" of interrogators brought in to deal with detainees all over the country, but also as directors of a system that involves specialist interrogator/torturers on a very wide scale.

119. The Group has once more assembled a special report correlating the evidence as it affects the identification of individuals held to be guilty of the crime of apartheid, in accordance with resolution 12 (XXXV), paragraph 17, of the Commission on Human Rights.

120. The Group also takes note that during 1979 a total of 163 adults and juveniles were killed by police "in the execution of their duties" and 495 wounded (see para. 65 above). Of those shot, 103 were killed and 353 wounded "while attempting to escape", according to the Minister of Police. Also in 1979, 229 policemen were convicted of assault and murder, 19 of whom had previous convictions for such offences. Of these, six with previous convictions and 14 without were discharged from the service. Altogether, 171 policemen were convicted of common assault, 40 with intent to do grievous bodily harm, 16 of culpable homicide and two of murder.^{121/}

^{121/} Focus on Political Repression in Southern Africa, May-June 1980, International Defence and Aid Fund, quoting Cape Times, 20 February 1980.

F. Forced removals of population

121. The Group has studied in its previous reports the forced removals of population consequent on the policy of territorial apartheid and, in its last two reports (E/CN.3/1311, paras. 139-142; and E/CN.4/1365, paras. 89-90), noted that these removals have been accelerated in connection with the implementation of the "independent homeland" and migrant labour policies.

122. The Group has also noted that the conditions of people in the resettlement areas have continued to deteriorate (see E/CN.4/1365, paras. 91-98).

123. During the period under review, the attention of the Working Group has once more been drawn to the acceleration of mass removals and the human suffering that this involves. Several witnesses placed verbal and written testimony on this subject before the Group to indicate not only that mass removals are involving far more people than published figures indicate, but also that many groups of people are being moved twice and even three times (see paras. 137-138 below), while, in addition, the influx control laws are being rigorously enforced against individual Africans in urban areas (see paras. 147-148 below).

124. According to written evidence submitted by the International Defence and Aid Fund,^{122/} the total number of people resettled to April 1980 was three million.^{123/} The Black Sash calculated in February 1979 that 1,725,400 were still to be moved,^{124/} excluding those likely to be endorsed out of urban areas for pass law offences.

^{122/} IDAF (International Defence and Aid Fund), Resettlement of Africans in South Africa, 1978-80 (1980)

^{123/} Sechaba, April 1980, quoted in IDAF, Resettlement ..., op.cit.

^{124/} Black Sash, February 1979, quoted in IDAF, Resettlement ..., op. cit.

1. Reference to relevant laws

125. An amendment to the Prevention of Illegal Squatting Act of 1951 was enacted during the period under review, to extend the circumstances in which officials may demolish buildings without a court order and at the expense of the landowner. ^{125/}

2. Conditions in resettlement areas

126. The witness Ms. Barbara Rogers (518th meeting), in her oral testimony, and a comprehensive document handed in by Mr. Anthony Trew of the International Defence Aid Fund (517th meeting) ^{125/} categorized the resettlement areas into (a) dormitory towns - large Bantustan settlements, usually situated near a border with the Republic within what is calculated to be a "commuting" distance from an industrial centre (up to about 100 km); the document lists examples of such towns to which Africans applying for housing in various urban centres are currently being referred, showing that the dormitory town is between 11 and 1,000 km from the centre in which the applicant has been living and employed; ^{127/} and (b) resettlement camps - also in the Bantustans but too far from industrialized areas for the inhabitants to earn a living; in most cases people are not offered land for cultivation, nor are they allowed to keep livestock, so they have become "vast rural slums" where even pensions, welfare assistance or unemployment benefit are often impossible to obtain because of the distance people would have to travel to collect them. ^{126/}

127. Ms. Rogers drew the attention of the Group to two phenomena which had not previously been much noted in the international press. First, the emergence of what appeared in at least one case to be an "extermination camp", at

^{125/} Prevention of Illegal Squatting Amendment Act, No 33 of 1980

^{126/} IDAF, Resettlement ..., op cit.

^{127/} IDAF, Resettlement ..., op cit. section B1

^{128/} IDAF, Resettlement ..., op cit.

Phuthaditjhaba in the Qwaqwa "homeland", to which old people from all over the Republic are being sent, regardless of their tribal associations. It holds at present some 2,000 old people and a Sunday Post report quotes a Mr. Ras Motaung as expressing a consensus opinion: "We are here to wait for our deaths, all of us. You can see for yourself that this is a township for greyhairs only. 129/ Second, that there are now "strong rumours" that resettlement camps - "in effect concentration camps" - are also being set up in "white" South Africa (i.e. outside the "homelands") to accommodate the recent massive removals from white farms (see paras. 131-133 below). The witness said that these are allegedly temporary camps and often surrounded by barbed wire and guards; control over access may be so strict that they are "quite literally forgotten".

128. The written testimony prepared by IDAF confirmed previous evidence before the Group on unemployment, poverty, lack of basic amenities, including land, water, and power, health and education facilities, in the following resettlement camps:

"CISKEI
Around Whittlesea
75,000 plus
Sada - 30,000 plus - highest rate of TB in the Ciskei, 4-6 deaths per week from malnutrition and related diseases. 130/
Thornhill - 50,000
Oxton - living on "rations"
Dimbaza - 16,000
Elukhanyisweni - 15,000
Indawoy Enyembizi (village of tears) - 1,000 - no sanitation, electricity, school, shops, transport; communal water tap half mile away. 131/
Zweldinga - 2,000 families
Limehill
Glenmore - 3,000 - living on "rations"
Unnamed camp (20 km from Zwelitsha) - 50 families - living in shacks.

129/ Sunday Post, 25 November 1979; quoted in IDAF, Resettlement ..., op cit.
130/ Sechaba, October 1979, quoted in IDAF, Resettlement ..., op cit.
131/ Sunday People, 1 June 1980, quoted in IDAF, Resettlement ..., op cit.

KWAZULU

Nondweni (tin town) - 6,000 - 2-3 children dying daily; 132/
reports of typhoid and pellagra. 133/

Msinga - 20,000

Ekuvukeni (wake up) - 40,000

Kwavulamehlo (open your eyes) - 700

BOPHUTHATSWANA

Winterveldt

800,000

Boekenhoutfontein (or Mabopane) - 60,000 Ndebele

Hammanskraal - 63,000 Ndebele

Stinkwater - 25,000

Klippan (or Stakanong, meaning cramped together)

GA-RANKUWA

Shoshanguve (Mabopane East)

VENDA

Vleifontein - 450 families

Indermark - 1,200 families

LEBOWA

Steilloop - 100 families

GAZANKULU

Waterval - 200 families

QWAQWA

Phuthaditjhaba - 2,000 old people"

129. The Working Group has in previous reports in particular noted the conditions of the squatter camps in the Winterveld area (E/CN.4/1311, para. 145; E/CN.4/1365, para. 98). Further information available to the Group indicates that during the period under review these conditions have further deteriorated. Unemployment and police harassment, over-crowding and insanitary conditions combine with a high cost of living, since local landowners profit from the illegal status of the squatters by charging high rents, and through a monopoly of the retail trades in fuel, building materials and food. "Men and women shuttle hopelessly between the magistrate's office in Odi and Pretoria" in search of permits for a home, for work; "the brothels thrive as women find the only work to pay rent, school fees and water". 134/

132/ Drum, October 1979; quoted in IDAF, Resettlement ..., op cit.

133/ Rand Daily Mail, 13 March 1980, quoted in IDAF, Resettlement ..., op cit.

134/ Catholic Herald, 6 June 1980

130. The witness Ms. Barbara Rogers (518th meeting) drew the attention of the working Group to the plight of the inhabitants of Winterveld as victims of "a meaningless and petty squabble between the Bantustan leaders and the government", since the Bophuthatswana leaders refuse to accept responsibility for the squatters because they are not Tswana (mainly Ndebele) and the South African Government refuses to do anything except instruct them to take out Bantustan citizenship (an Ndebele "homeland" is planned but not yet put into effect). Meanwhile, local employers face a fine for employing anyone without such citizenship, so the squatters cannot find work.^{135/}

131. According to further information before the Group, a similar quarrel between the leadership of the Ciskei and the Government has arisen over the resettlement camps in the Ciskei. "Chief Minister" L.L. Sebe holds that the South African Government must be responsible for these and estimates that £25.9 million would be needed to develop Thornhill alone. No money has been granted.^{136/}

132. In written testimony submitted by the International Commission of Jurists (15 August 1980),^{137/} the Working Group notes that through its resettlement policy the South African Government is seen to be "exporting problems like unemployment, the housing and schools shortages and inadequate social and health services" to the Bantustans, so that "the haves are gradually being divested of their financial responsibilities to the have-nots"^{138/}

^{135/} Following recommendation from the Rickert Commission, Section 10 bis of the Blacks (Urban Areas) Consolidation Act was amended in 1979 to increase to R500 the fine payable by an employer who employs an African illegally (Laws on Plural Relations and Development Second Amendment Act): South African Institute of Race Relations (SAIRR), Annual Survey of Race Relations 1980.

^{136/} Daily Despatch, 21 January 1980, 20 February 1980, quoted in IDAF, Resettlement ..., op cit.

^{137/} Black Sash, February 1980

^{138/} John Kane Berman, in Black Sash, February 1980

3. Sufferings caused by resettlement schemes

133. In previous reports, the Working Group has categorized mass removals of population as "black spot" removals (of Africans in an area declared for white habitation); farm labour removals (removals of labour tenants and squatters as "redundant" labour from white farms); land consolidation removals (consequent on redrawing of borders of African reserves in pursuance of the "independent homeland" policy); and urban removals (covering removals of Africans from urban areas where they are "surplus to labour requirements") (E/CN.4/1311, para. 140). It has also covered removals of Asian and Coloured people under the Group Areas Act.

134. During the Group's 1980 hearings, the witness Ms. Barbara Rogers (518th meeting) drew attention to a further class of removals involving movements within Bantustans, following powers granted to "homeland governments" under the Black Homelands Constitution Amendment Act 1979 (see E/CN.4/1365, para 113a). The written submission from the International Defence and Aid Fund^{139/} described how 100 families of the Bakgatla tribe in Bophuthatswana were moved in terms of this Act in June 1980 from their village of Welgeval in the Pailanesberg mountains, where they had lived for nearly 400 years, to tents and shacks at Sandfontein, in order to make room for a 60,000 hectare game reserve.^{140/} The Working Group noted that this scheme was said to have been supported by the World Wildlife Fund.

^{139/} IDAF, Resettlement ..., op cit.

^{140/} IDAF, Resettlement ..., op cit.; Star, 5 July 1980; Sunday Times, 29 June 1980.

4. Rural resettlement

(a) "Black spot" removals

135. The written submission from the International Defence and Aid Fund reported a striking rise in "black spot" removals throughout the 1970s and particularly in the past couple of years: "The official figure of 108,476 for 1978-79 alone shows that there has been a dramatic increase in the last few years." A total of 171,393,254 hectares of land formerly classified as "black spots" had been acquired by the Department of Agricultural Credit and Land Tenure in 1978. 141/

136. The witness Ms. Barbara Rogers (518th meeting) pointed out in her testimony that the reasons for such removals may be varied and arbitrary: for instance, to make way for a dam or a road scheme, or, as in the case of the removals from St Lucia, near Ladysmith in Natal, because the Government wanted the area for a rocket site.

(b) Consolidation removals

137. The witness Ms. Rogers (518th meeting) told the Group that of more than 300,000 people so far removed for this reason, 60 per cent had been moved in the past three years. She pointed out that many such people are moved more than once, partly as a consequence of the Government's tactic of playing one "homeland government" against another: "If you will accept independence before your next door neighbour, then you will have some of his land."

141/ South African Institute of Race Relations, op cit; and Assembly Debates, 22 April 1980, quoted in IDAF, Resettlement ..., op cit.

138. In its previous report (E/CN.4/1365, para. 101) the Group noted the attempt to remove 66,000 Batlokwa people in the northern Transvaal district of Soekmekaar to Kromhoek, near Dendron, Lebowa. The area in which they lived had actually been excised from Lebowa in 1977, and this group had already been moved twice. A witness, Mr. Anthony Phala (523rd meeting), told the Working Group that he was present at one of these removals in 1977, when 700 children, of whom he was one, lost their school places as a result and more than 10 people lost their lives when police came with guns and dogs to force them on to trucks to go to Lebowa. According to further information before the Group, numbers of the people who resisted the move were eventually moved by force in October 1979; 15 people were arrested during the move, including four youths, one of whom was subsequently convicted of assault, and one of the men removed by force hanged himself on arrival at Kromhoek.^{142/}

(c) Removals from farms

139. Both the document submitted by the International Defence and Aid Fund and the personal testimony of Ms. Rogers (518th meeting) stressed the inadequacy of official figures on evictions of labour tenants and squatters from white farms, totalling 314,461 for the period 1960-70. Michael Morris, an expert at the University of Cape Town, calculated a total of some 400,000 labour tenants removed between 1971 and 1974 alone, and added that this in fact represented only a fraction of the total, since the figures referred to tenants only, not their dependants: that is, the total must have been over one million.

140. The same witnesses pointed out a total of nearly 40,000 labour tenants recorded in official figures as having been removed from the Transkei in

^{142/} Post, 3, 4 and 19 October 1979; Rand Daily Mail, 25 October 1979.

1977-78. These they said were evicted from farms being brought up by the Matanzima brothers and other senior Transkei government officials. Many of the evicted farm workers are now living in camps inside KwaZulu.

141. Ms. Rogers also reported that a crisis is developing in Natal because already half a million people have been deported there and 175,000 labour tenant contracts were due to expire in August 1980, many of which would not be renewed. She alleged that shortage of work forced evicted families into accepting even more repressive conditions as squatters and illegal tenants on white land, and that among the abuses to which this had given rise was an increase in child labour.

Former farm workers have now been removed to KwaZulu and the only work available is offered by farmers who send trucks daily to collect women and children, who are often paid only in kind.

5. Urban removals

142. The IDAF written submission listed 20,000 Africans from the "white" Northern Transvaal towns of Nylstroom, Naboomspruit, Ellisras, Vaalwater and Louis Trichardt; and 1,000 families moved from Huhudi township near Vryburg.

In addition, 4,000 residents of Stutterheim, Eastern Cape, were removed to Frankfort in the Ciskei, leaving them 32 km to commute to work daily; and 4,000 black residents of Walmer township, Port Elizabeth, to be moved to Zwide, 30 km away. A "Save Walmer Committee" has been set up and following the detention in January 1980 of Thozamile Botha a week of demonstrations led to confrontations with riot police. The move has been postponed from June 1980 to January 1981 and talks have been promised on the future of the township.^{143/}

^{143/} Sunday Post, 10 February 1980, quoted in IDAF, Resettlement ..., op.cit.

(a) Squatter removals

143. The case of the squatter camp outside Cape Town, at Crossroads, has been dealt with in previous reports of the Working Group (E/CN.4/1365, para 105). The fate of the camp is still unresolved and a meeting in May 1980 took place between the Crossroads Committee, representing the residents and Dr. Koornhof. The residents pointed out that the plans to rehouse them made provisions for only 2,575 houses, while the estimated population of the camp is between 23,000 and 40,000. The camp has now been officially designated a black township, not an emergency camp, so that the Western Cape Administration will have powers of administration in place of the committee.^{144/}

144. At Hout Bay, Cape Town, several squatter homes were demolished in July 1980 and the press was barred from the area,^{145/} and at Richmond Farm, near Durban, a total of 63 persons were arrested under the Prevention of Illegal squatting Act during 1979.^{146/}

(b) Group Areas removals

145. According to information available to the Group, the inhabitants of Fingo village, outside Grahamstown, are to lose their freehold title rights but to be allowed to stay.^{147/}

(c) Influx control

146. Information before the Working Group indicates that, in contrast to the many claims by the régime that it is "relaxing" the pass laws, influx control remains a major means by which Africans are deported from urban areas

^{144/} Financial Mail, 18 April 1980, quoted in IDAF, Resettlement ..., op cit.

^{145/}

^{146/} Cape Times, 15 May 1980, 26 June 1980, quoted in IDAF, Resettlement ..., op cit.; Black Sash National Conference Report, Housing Issues in Natal, March 1980, quoted in IDAF, Resettlement ..., op cit.

^{147/} Cape Times, 8 February 1980

to the "homelands". A study by Mr. Gerry Marc for the South African Institute of Race Relations, published during the period under review, claims that influx control has become "the most important single instrument in the control of the African population".^{148/} A total of 89,059 persons were imprisoned during 1979 for influx control offences, i.e. one-fifth of all black prisoners.^{149/}

147. The witness Mr. Andrew Kailembo (525th meeting) of the International Confederation of Free Trade Unions noted that the implementation of the Rickert Commission recommendations would mean only that "endorsement out" would be replaced by "repatriation" (i.e. to "homelands"), and "pass books" replaced by "citizenship" or "travel" documents. He said that although this move served to deceive the outside world, in his view it meant the export of unemployment to the Bantustans.

148. Several witnesses referred to their personal experience of hardship through the working of influx control. An anonymous witness (530th meeting), a Xhosa brought up in Natal, found that when the time came at the age of 16 to need a "pass" in order to remain with his family, he had to resort to bribery to obtain one - a measure which his very poor family could ill afford. Another anonymous witness (524th meeting) described how her father had tried to "pass" as Coloured in order to stay in an urban area and how, when he had died, her mother had to share her house with an old man as if she were his wife, in order to prevent the authorities from removing her and her family under Section 10 of the Black Urban Areas Act.

^{148/} Rand Daily Mail, 2 April 1980

^{149/} Financial Mail, 11 April 1980

G. The Bantu homelands policy

149. Previous reports of the Group (notably E/CN.4/1050 and E/CN.4/1187, paras. 93-97) have reviewed the historical background to the "Bantu homelands" policy. Recent reports of the Group (E/CN.4/1270, E/CN.4/1311 and E/CN.4/1365) have considered the question of the "homelands" specifically in relation to the rights of peoples to self-determination, as defined and developed by the United Nations, in the light of the South African Government's claims to be offering the "homelands" so-called "political independence".

150 During the period under review, no new "homeland" joined Transkei, Bophuthatswana and Venda as "independent". A number of black organizations have condemned the "homeland" system, among them the African Food and Canning Workers' Union which said that the "homeland" policy "... automatically deprives black workers of their birthright, when their white counterparts are not subject to the same law".^{150/} In addition, "homeland" leaders rejected the planned Black Advisory Council established with the purpose of acting in liaison with the South African President's Council on which whites, Coloureds, Indians and Chinese would serve.^{151/}

151. Black South Africans have continued to protest about the deprivation of their rights to live and work in "white" areas and their loss of South African citizenship as a result of the "homeland" policy. Recent suggestions that the South African Government might change its citizenship laws are described in paras. 204-206 above. Land and poverty, and the compulsory removal of "non-productive" Africans from "white" areas who are "dumped" in "resettlement" areas within the "homelands" (see paras. 126-141 above and paras. 179-190 and 201-203 below) were also issues which, as in previous years, have been brought before the Working Group. These and other questions are discussed below in the light of the principles of the rights of peoples to self-determination as incorporated in the Declaration of the Granting of Independence to Colonial Countries and Peoples (see E/CN.4/1222, para. 125).

^{150/} Rand Daily Mail, 16 April 1980.

^{151/} Rand Daily Mail, 20 June 1980.

1. Summary of relevant legislation

152. The laws relating to the setting up and development of the "homelands" have been described and analysed in previous reports of the Group. In particular, the legislation passed in relation to the so-called "independence" of the Transkei, Bophuthatswana and Venda is outlined in reports E/CN.4/1222, E/CN.4/1270 and E/CN.4/1365.

153. During the period under review a legislative assembly for a Ndebele "homeland" - KwaNdebele - was established, consisting of four chiefs and 42 members of the four tribal authorities. ^{152/}

154. A further Bill on the consolidation of the "homelands" was published, making provision for areas of 19 districts in South Africa to become parts of the Transkei, Bophuthatswana and Venda "homelands". ^{153/}

155. A South African Supreme Court opinion, announced in May 1980, declared that the Government had contravened the country's constitution in granting "independence" to Bophuthatswana and other "homelands". The ruling said that Section 114 of the Constitution, which states that boundaries can be changed only after petitioning every affected provincial council, had been ignored. ^{154/}

156. During the period under review, an amendment to the Transkei Constitution enacting that no Transkei Cabinet Minister may be sued as a result of any act undertaken in his official capacity was passed and made retrospective to Transkei's "independence" in 1976. ^{155/}

157. A "State of Emergency" was declared in the Transkei on 5 June 1980, specifically to restrict the movement of students, according to information before the Working Group. Declared under Section 44 of the Transkei's Public Security Act, the proclamation forbids all students from leaving home except to attend school or church. ^{156/}

^{152/} Government Gazette No. 6661, 14 September 1979.

^{153/} Times, 9 February 1980.

^{154/} Sunday Times, 25 May 1980.

^{155/} Sunday Express, 4 May 1980

^{156/} Focus, July-August 1980.

158. An amendment to the Transkei Public Security Act, which incorporates much of South Africa's security legislation (see E/CN.4/1270, para. 214), repealed the provision whereby people accused of sabotage or terrorism must be tried by the Supreme Court. ^{157/}

159. According to information before the Working Group, the Minister of Justice of Venda has told the Venda parliament that Proclamation 276, allowing for 90-day detention without trial, "will never be repealed" ^{158/} (see para. 31 above).

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

160 In its previous reports (particularly E/CN.4/1270, para. 219), the Group has detailed the grounds on which the "independence" of the "homelands" violates rights to sovereignty. During the period under review, the black majority has continued to be denied any right to sovereignty over 37 per cent of South Africa's land.

161. Information before the Group indicates that "independence" is being increasingly imposed on the people of the "homelands" against their will, and that black South Africans do not want to take part in the legislative process only inside the "homelands". The poll in the Pretoria area on the QwaQwa legislative assembly was 3.3 per cent: that is, only 110 of the 3,000 Sothos eligible to vote did so. ^{159/}

162. The Chief Minister of KaNgwane said of the Government's plan to amalgamate his territory with Swaziland that the amalgamation was a "contradiction of our fundamental belief in one undivided South Africa. What we want is a revision of the political system to give us some political say. We do not see ourselves as exercising full political authority here in KaNgwane..." ^{160/}

163. According to information available to the Group, there were indications that the "leadership" in the Ciskei would opt for "independence" in spite of the unfavourable report of the Quail Commission, appointed by the Ciskei "government" in 1978. ^{161/} During the period under review, it recommended against "independence"

^{157/} Rand Daily Mail, 1 May 1980.

^{158/} Post, 26 March 1980.

^{159/} Sunday Post, 30 March 1980.

^{160/} Rand Daily Mail, 11 October 1979.

^{161/} Sunday Times, 3 February 1980.

on the grounds that the terms of separation were not favourable; that the Ciskei would be one of the world's least endowed states; that it would receive no international recognition; that, according to a survey, two out of three Ciskeians opposed "independence"; and that the Ciskei would risk cutting itself off from the prospect of gaining its rightful shares of political and economic benefits. The Commission recommended applying for "independence" only if certain conditions were met.^{162/} The Ciskei "government" then said it rejected "independence" on the terms granted to the Transkei, Bophuthatswana and Venda, and asked that Ciskei citizens be allowed to retain South African citizenship, while asking for a degree of autonomy for the territory.^{163/} However, according to additional information available to the Group, Chief Sebe of the Ciskei was likely to opt for "independence" even if his demands were not met.^{164/} In March 1980, Chief Sebe said he would apply for "independence" if the South African Government undertook to buy and transfer all land referred to in the 1975 consolidation proposals, if Ciskeians could have associate citizenship in South Africa, and if there was a joint declaration that South Africans and Ciskeians would share the natural resources of the proposed confederation of South African States equally.^{165/}

In spite of the general opposition of the African population of South Africa and the members of the international community, a fourth "homeland", Ciskei, was given "independence" by the Pretoria Government on 17 December 1980 in circumstances which in the Ad Hoc Group's opinion are just as much to be condemned as those surrounding the so-called independence of Bophuthatswana, Transkei and Venda. In resolution 35/206 adopted on 16 December 1980, the General Assembly once again condemned the establishment of "homelands", whose purpose is to consolidate the inhuman policy of apartheid.

3. Exploitation of black workers

164. The exploitative nature of the policy of migrant labour, whereby black workers are forced to "migrate" to "white" areas to work under contract separate from their families, has been described in previous reports (E/CN.4/1270 and E/CN.4/1311). During

^{162/} Daily News, 13 February 1980.

^{163/} Daily Dispatch, 14 February 1980.

^{164/} Sunday Post, 17 February 1980.

^{165/} Rand Daily Mail, 31 March 1980.

the period under review, high unemployment has exacerbated hardship both in the "homelands" and in the urban areas.

165. Ms. Barbara Rogers (518th meeting), testified to the low wages being paid to labourers inside the "homelands". She told the Group about people living in camps inside KwaZulu who are forced to travel to farms each day. Those who want to be paid on a daily basis are paid only in food. Weekly paid work, which is paid in cash, is not available to the people who have been removed because they are not allowed to live on white farms (see para. 224 below).

166. According to the Quail Commission, which reported on conditions in the Ciskei, the only way to dismantle "the engine of impoverishment" in the "homelands" would be the "termination of the migratory labour system". The Commission went on to say that "while South Africa benefits from the labour services of the Ciskei's able-bodied men, she is able to shift the social costs of supporting their dependants, the unemployed, the aged and the sick, back to the homeland".^{166/}

167. The Commission said that South Africa had the most unequal income distribution among the 66 countries of the world for which data was available. The Commission said that the principal reason for the inequality was "the transfer of income from blacks to whites ... in combination with the overloaded homeland agriculture".^{167/}

168. According to the South African Minister of Co-operation and Development (Black Affairs), 5,250,000 additional jobs would have to be created in the next 20 years in the "homelands". In 1979, 27 factories which provided 4,095 jobs were set up.^{168/}

169. The South African Department of Co-operation and Development said that at the end of June 1978 there were more than half a million Transkeians and half a million Bophuthatswana citizens registered to work in South Africa. In addition, there were 2,655,657 South African blacks employed in industrial undertakings.^{169/}

170. According to a study published during the period under review, a 702.7 per cent improvement in living standards is possible for a worker from Ciskei who works illegally in Pietermaritzburg for nine months and spends three months in prison;

^{166/} Cape Times, 13 February 1980.

^{167/} Ibid.

^{168/} Times, 9 February 1980.

^{169/} Cape Times, 11 March 1980; Rand Daily Mail, 11 March 1980.

a 170 per cent improvement for a person from Lebowa who works six months in Johannesburg and spends six months in prison; and a 28.5 per cent improvement for a person from Bophuthatswana who works only three months in Pretoria and spends nine months in prison.^{170/}

171. The Quail Commission found massive unemployment in the Ciskei - estimated at 39 per cent. The Commission said that in 1975 the gross national product per head was R180, of which 65 per cent was attributable to wage earnings from South Africa. Only 23 per cent of Ciskei's consolidated land area would be completely free of soil erosion and 47 per cent was either moderately or severely eroded.^{171/}

172. According to information available to the Group, the Ciskei is trying to solve its growing internal unemployment problems by marketing a pre-trained and pre-disciplined contract labour force. A central computer will be used to monitor work records and labourers will be penalised and refused contracts if they had "bad" records. The Ciskei Secretary for Justice said that the labour force was the Ciskei's "main export" and that a disciplinary system, to be administered by chiefs, was being seriously considered. Chief Njokweni told the Ciskei Legislative Assembly that "To assist in marketing our labour force in South Africa, employees must ensure that desertions, walkouts, expulsions and insubordination are eliminated".^{172/}

173. A spokesperson for the Black Sash said that "if other homelands were to implement the same type of (labour discipline) policies to compete with the Ciskei's tame labour force, the extent to which the homelands are regarded only as labour reservoirs to serve the needs of white South Africa will increase still further".^{173/}

^{170/} Black Sash Emergency Report, November 1979.

^{171/} Cape Times, 13 February 1980.

^{172/} Rand Daily Mail, 30 May 1980.

^{173/} Ibid.

174. According to further information before the Group, workers at a coffee plantation owned by the Venda Development Corporation and the Sapekoe company are paid a maximum of R23 a month for men and R16.10 a month for women. In addition, the work conditions are extremely poor, and disease and injuries rife.^{174/}

175. During the period under review, the black-edited newspaper Post exposed the harsh working conditions of workers employed at the Phaswana Boerdery coffee plantation in Venda. The maximum monthly rates of pay were R23 for men and R16 for women. As a result of the article, the workers were given a wage rise of R6 a month. The Post has calculated that the new rates of pay mean that workers are getting little over one cent for each one-metre-deep pit they dig.^{175/}

176. In 1979, KwaZulu generated jobs for only 13.7 per cent of the 29,700 KwaZulu citizens who came onto the labour market.^{176/}

177. Relatives of striking Fattis and Monnis workers (see para. 290) in the Ciskei were living in "appalling" conditions. Four of them had died because of lack of money and inadequate medical facilities.^{177/}

4. Obstacles to the right to freely pursue economic development

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

179. Ms. Barbara Rogers (513th meeting) said that even inside the Bantustans the best land was sometimes worked by white farmers, growing crops for export. She also pointed out that the borders of the Bantustans could be arbitrarily changed by the South African Government - as, for instance, when the Republic found a strategic reason for excising a land corridor from the Ciskei or a coastline from the Transkei (cf. para. 195). Ms. Rogers said that no accurate records existed of economic resources in the Bantustans, such as water, soil content, etc. and even the best land was deteriorating through overpopulation, for example, in the KwaZulu "homeland".

^{174/} Post, 18 December 1979.

^{175/} Post, 15 February 1980.

^{176/} Cape Times, 9 April 1980.

^{177/} Cape Times, 27 October 1979.

180. The South African Minister of Statistics gave the following details of gross domestic and gross national product in some "homelands" in 1976. ^{178/}

	<u>GDP*</u> <u>Rm</u>	<u>% of GDP</u> <u>of SA</u>	<u>GNP</u> <u>Rm</u>	<u>% of GNP</u> <u>of SA</u>
Ciskei	61.6	0.2	153.2	0.6
KwaZulu	330.0	1.1	1 037.5	3.8
Lebowa	124.7	0.4	446.5	1.6
Gazankulu	26.6	0.1	136.9	0.5
KaNgwane	9.3	0.03	45.9	0.2
QwaQwa	8.3	0.03	24.3	0.1

*/ 1 Rand = \$US 1.00 approximately.

181. The Minister of Co-operation and Development gave the following figures for the gross national income per capita in various "homelands" in 1976. ^{179/}

Ciskei	R271	Lebowa	R285
KwaZulu	R361	Gazankulu	R343
QwaQwa	R214	KaNgwane	R299

182. According to information available to the Group, although the "homelands" per capita national income rose from R101 in 1970 to R254 in 1975, these figures are still well below the international poverty cut-off level. In addition, only R32 in 1970 and R73 in 1975 was income generated within the "homelands"; the rest came from the earnings of commuters and migrant labour. ^{180/}

183. One witness (530th meeting) related how people were forced to move to a "homeland", which the witness described as "the little island in South Africa ... referred to as your own country ... So when you go there ... you go and join that army of unemployment. The land is dry there, the people living there consist mainly of peasants, but even they cannot do a thing on the land, because it is barren land ...".

^{178/} Assembly Debates, 24 March 1980.

^{179/} Assembly Debates, 7 March 1980.

^{180/} Financial Mail, 25 October 1979.

184. The Minister of Co-operation and Development told the House of Assembly that R1,108.7 million had been spent during 1978/1979 on the socio-economic development of the black "states".^{181/}

185. The Financial Mail said that "the map of South Africa is ... not only a patchwork, but a cartographic nightmare. Nobody knows precisely how many chunks make up the homelands at any time, since their shape will continually change over the next few years as government steps up its consolidation plans.". At present Ciskei, Gazankulu, KaNgwane, KwaZulu, Lebowa and QwaQwa have 23 separated blocks of land between them.^{182/}

186. According to a source at the Bureau for Economic Research, "KwaNdebele is not identifiable as one area and there is no information about it at all".^{183/}

187. A survey conducted by the Bureau of Market Research found a wide gap between living standards in the "central economy" and those in the "homelands". The survey found that, while blacks make up 71.2 per cent of the total population, their share in total household expenditure was only 24.8 per cent. Household expenditure in the dependent and "independent homelands" represents as little as 8 per cent of the total household expenditure in South Africa.^{184/}

188. At the launching of the SAIRR's "Operation Hunger" in August 1980, figures from the South African Medical Journal, the United Nations and the SAIRR were published to show that the infant mortality rate for South Africa's black rural areas was higher than for the vast majority of Third World countries.

In the Transkei the infant mortality figure was 282 per thousand births; while for whites in South Africa the figure was 12 per thousand births.^{185/}

^{181/} Rand Daily Mail, 23 February 1980.

^{182/} Financial Mail, 29 February 1980.

^{183/} Ibid.

^{184/} Sunday Express, 15 June 1980.

^{185/} Rand Daily Mail, 14 August 1980.

189. In Ciskei, according to a survey conducted for the Ciskei "government", half of all two and three-year olds are malnourished.^{186/}

190. A survey conducted by the Hunger Concern Programme said that there was starvation in the "homelands". It was estimated that at least 50,000 children would die from malnutrition in the winter of 1980. The South African Department of Health has said that it will not assist financially to prevent the deaths.^{187/}

191. The South African Sugar Association warned during the period under review that further consolidation of the "homelands" would be disastrous for "white" South Africa. The Association said that consolidation would have a disruptive effect on sugar production and that production levels in KwaZulu were only half of those in white areas.^{188/}

192. The Working Group took note of the fact that educational expenditure per child in the "homelands" is decreasing.^{189/}

Ciskei

193. The Ciskei is the most overcrowded rural area in South Africa. According to information available to the Group, 100,000 people have been resettled in the Ciskei over the last year. "Frontier commuters" account for 59 per cent of the Ciskei's per capita income. Urban unemployment is anything between 25 and 35 per cent. Industries within the Ciskei are, according to officials of the Department of Manpower Development, providing jobs for only 0.0001 per cent of the Ciskeian labour force. Although the rural population is estimated at 357,000, only 27,000 people in the Ciskei have land rights. Only 23 per cent of

^{186/} Rand Daily Mail, 21 July 1980.

^{187/} Post, 26 May 1980.

^{188/} Daily News, 30 October 1979.

^{189/} Rand Daily Mail, 4 March 1980.

the Ciskei is completely free from soil erosion, with 47 per cent of the land classified as moderately or severely eroded. Some 40 per cent of the territory's pasturage is affected by over-grazing. During the period under review, the Ciskei experienced a severe drought and one estimate was that stock losses might eventually number 100,000.^{190/}

194. During the period under review, the Black Sash brought out a report which said that "the standards of living in the Ciskei are standards of such abysmal poverty that "living" is probably the wrong word to use about them". The report attributed the poverty to the extent of dumping of "superfluous" people from "white" areas.^{191/} (See section F above.)

Transkei

195. In her presentation to the Group, Ms Barbara Rogers (518th meeting) described how the Transkei had lost 20 per cent of its original territory to the South African Government. These are the coastal areas and ports which the Government decided, for strategic and economic reasons, were too valuable to be left in the "homeland".

196. During the period under review, there were reports that the Transkei was on the verge of bankruptcy. South Africa gave the Transkei R74 million in addition to the R113.5 statutory grant.^{192/}

197. According to information available to the Group, the South African Government was revising the basis of its aid to the Transkei. Instead of direct budgetary aid, the Government planned to fund the Transkei only for specific approved projects.^{193/}

198. The Times said that "Transkei's chronic economic problems are likely to reinforce the widely held view that Transkei and the other two "homelands" which have become independent, Bophuthatswana and Venda, are destined to remain client states of South Africa".^{194/}

^{190/} Rand Daily Mail, 29 May 1980.

^{191/} Daily Despatch, 17 November 1979.

^{192/} Daily Despatch, 10 October 1979.

^{193/} Sunday Times, 18 November 1979.

^{194/} Times, 5 December 1979.

5. Obstacles to the right to freely determine political status

199. Previous reports of the Group identified among the obstacles to freely determining political status (a) enforced removals to the Bantustans, and (b) the question of citizenship. During the period under review, further evidence was made available to the Group on these two issues.

200. Ms. Barbara Rogers (518th meeting) told the Group that despite massive internal resistance the scale of population removals to the Bantustans had increased in the period mid-1978 to 1980. She said that one of the most consistent features of statements from the legislative assemblies had been "protest, continual protest and attempted resistance to the resettlement of people from all over South Africa into their Bantustans because there is no space for them, it wrecks whatever hopes they might have of development and it means that they just have vast numbers of people whom they are expected to keep alive, and they really don't have the resources to feed them, or to house them, or to give them water". Ms. Rogers went on to say that despite this resistance, resettlements continue (see paras. 126 132 above).

201 Ms. Rogers also said that the Government was encouraging the Bantustan chiefs to opt for "independence" by offering further land for their personal use. She gave as an example Bophuthatswana, where the chiefs are trying to evict all non-Tswanas who have nowhere to go. The Bophuthatswana "government", she said, had been making use of the power granted to Bantustan "governments" by South Africa under the Bantu Homelands Constitution Amendments Act 1979 (see E/CN.4/1365, para. 113a) to resettle people within their own Bantustans. She described how one hundred families were forced to make way for a game reserve supported by the World Wildlife Fund (see para. 134 above).

202. Ms. Rogers said that the Ciskei had become "one vast resettlement area" and that overpopulation and over-grazing had reduced much of it to desert. Black farmers trying to sell their cattle before resettlement were cheated by white farmers, while those who brought their cattle with them only contributed to the over-grazing. Ms. Rogers said that only a few factories had been built in the Ciskei and that they paid "starvation wages" to only a fraction of the population.

203. Ms. Rogers told the Group of a camp reserved for the aged that had been set up in QwaQwa (see para. 127 above) and said that this was not an isolated case since the able-bodied tended to leave the Bantustans in their search for work and white farmers were anxious to get rid of the elderly. According to additional information available to the Group, the old people were often given no more than 24 hours' notice before being forced to leave their homes, and none of them regarded QwaQwa as their "homeland".^{195/}

204. On the question of citizenship, according to information available to the Group this aspect of policy continued to raise widespread protest. During the period under review, Mr. T.K. Mopeli, Chief Minister of QwaQwa, said that blacks should not be deprived of their citizenship and rights in the country of their birth.^{196/}

205. According to information available to the Group, the South African Government was thinking of modifying its policy of stripping blacks of South African citizenship. The South African Ambassador to Canada said in a speech that the concept of dual citizenship was an integral part of the confederation of states proposed by the South African Prime Minister.^{197/} And the Quail Commission said that the South African Government was rethinking its approach to the nationality and citizenship status of blacks in order to make the concept of the "homelands" more acceptable.^{198/} According to the Financial Mail, the South African Government may be veering away from the rigid "homeland" policy and moving towards a system where "homelands" will not be entities on their own but be seen in terms of economic regions that would include developed areas which are part of "white" South Africa.^{199/}

^{195/} Sunday Post, 2 November 1979.

^{196/} Post, 6 November 1979.

^{197/} Guardian, 22 February 1980.

^{198/} Financial Mail, 22 February 1980.

^{199/} Financial Mail, 9 May 1980.

206. During the period under review, a staff member of Rhodes University, Eastern Cape, was refused a passport to travel to the United States unless he took out citizenship of the Ciskei.^{200/}

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

207. The transfer of repressive powers by the South African Government has been referred to in previous reports of the Group. Information available to the Group indicates that these powers continue to be used. Para. 281 below refers to detentions and expulsions in the "homelands" as a result of schools boycotts.

Ciskei

208. During the period under review, a former Ciskei Cabinet Minister, Mr. L.F. Siyo, was detained in terms of the Ciskei's Proclamation R252, after he had been given indemnity from arrest by Chief Sebe.^{201/} The police refused to tell Mr. Siyo's relatives where he had been taken.^{202/}

209. An organiser for the South African Allied Workers' Union was refused permission to open a union office in the Ciskei.^{203/}

Transkei

210. A former Transkei Cabinet Minister, Mr. Saul Ndzumo, died in detention in Umtata in September 1980, ten days after being arrested by security police. No information was given on how Mr. Ndzumo died. The Minister had been dismissed from the Cabinet on the grounds of alleged involvement in a plot to overthrow Chief Matanzima's regime.^{204/} (see para. 114 above).

211. During the period under review, the Transkei banned 34 political, religious and journalistic organizations, of which only 12 are known to be banned in South Africa. Among those banned were the South African Society of Journalists, the South African Council of Churches, the Inkatha Movement, SWAPO and Bishop Muzorewa's United African National Council (Zimbabwe). A magistrate was

^{200/} Daily Despatch, 13 March 1980.

^{201/} Daily Despatch, 2 November 1979.

^{202/} Daily Despatch, 1 November 1979

^{203/} Daily Despatch, 22 February 1980.

^{204/} Times, 11 September 1980

appointed to liquidate the assets of the banned organizations, even though only two of these, the Black Community Programmes and Independent Churches of South Africa, are known to be officially represented in the Transkei. ^{205/}

212. Among people who were detained in the Transkei and then not charged were the former Transkei National Independence Party Chief Whip; a former Cape secretary of the African National Congress, who was held for 94 days; the Reverend Morgenthal Mdolo, who was held for 82 days and then banished to Tsomo, and a part-time student from the University of Transkei. Five Pan-Africanist Congress members had, in November 1979, been in prison for 12 months without trial. ^{206/} Eleven Transkei detainees, who had been held for nearly two years without trial, appealed to the United Nations and the OAU to intervene on their behalf in August 1980. ^{207/}

213. Paramount Chief Sabata Dalinyebo was arrested and charged under the Transkei Public Security Act and the Republic of Transkei Constitution Act. Chief Dalinyebo is an opponent of the "homeland" policy. ^{208/}

214. The son of the leader of the opposition Transkei Democratic Party was detained during the period under review for distributing pamphlets attacked the Transkei President and the head of the security policy. ^{209/}

215. Mr. Songezo Ndletyana, a former Transkei government official and a member of the opposition Democratic Progressive Party Youth League, was detained by Transkei security policy during the period under review. ^{210/}

^{205/} Rand Daily Mail, 26 November 1979.

^{206/} Daily Despatch, 6 November 1979.

^{207/} Sunday Post, 17 August 1980.

^{208/} Rand Daily Mail, 16 October 1979.

^{209/} Post, 27 November 1979.

^{210/} Daily Despatch, 17 July 1980.

216. A journalist for the Star was detained under the security laws and held incommunicado.^{211/} The 10-man press corps in Umata have protested about

"persistent police harassment" of journalists in the Transkei. Journalists have been detained under security laws and their offices have been raided.^{212/}

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

217. During the period under review, the "homeland" policy has continued to disrupt the national unity of black South Africans by dividing them according to their supposedly traditional tribal groups, by causing conflict between urban and "homeland" Africans, particularly through the enforcement of "homeland" citizenship, and between "homeland" Africans and Africans forcibly removed into "homeland" dumping grounds.

218. According to information available to the Group, poverty, the disintegration of families as a result of the migrant worker system, and the economic exploitation of the black community, combine with other factors to erode the black South African national identity.

^{211/} Star, 19 January 1980.

^{212/} Daily Despatch, 4 May 1980.

H. Conditions of Black Workers

219. Previous reports of the Group have reported extensively on the conditions of black workers. Evidence before the Group has consistently confirmed the conclusion of the International Labour Organisation that the policy of apartheid involves inequality of income and opportunities, which are determined more by race than by any other factor.

1. Conditions of workers in the agricultural sector

220. The plight of agricultural workers, as the most numerous and most heavily exploited sector of the South African labour force, and the farm labour system have been described in detail in previous reports of the Group (E/CN.4/1187, paras. 130-172; E/CN.4/1222, paras. 184-213; and E/CN.4/1270, paras. 139-154). According to information available to the Group, during the period under review agricultural workers continued to be heavily exploited, working under conditions of low pay, ill treatment and job insecurity.

(a) Recruitment of workers

221. Previous reports of the Group (E/CN.4/1187, paras. 134-144; E/CN.4/1222, paras. 186-191; and E/CN.4/1187, paras. 141-147) described the methods of recruitment of black agricultural workers. In particular, a previous report (E/CN.4/1311, para. 218) of the Group reported on the way unemployed Africans are forced into government institutions or deported to "homelands"; and on the way in which unemployment benefits are normally inaccessible to agricultural workers.

222. Information available to the Group describes incidents during the period under review, in which some farm labourers were given 30-days' notice to quit their homes and had their belongings burnt whilst seeking alternative accommodation; and others were forced to resort to bribes in order to stay on the farms on which they were living.^{213/}

^{213/} Natal Witness, 27 September 1979.

223. A number of cases concerning the employment of children are referred to in paragraphs 230-234 below. Reports before the Group indicate that some farmers have been making the work of young children a condition of permission to stay on the farms. ^{214/}

(b) Wages and working conditions

224. The witness Ms. Barbara Rogers (518th meeting) told the Group that black South Africans residing on white farmlands were often working only for food. The white farmers exploited the fact that the black labourers had no security and would work for nothing if they could keep their small plots of land. Ms. Rogers said that children working on the land were often not even fed, only transported to the fields and back to their homes, their "wages" being their families' continued permission to live on the land.

225. According to information available to the Group, agricultural wages remain the lowest in any sector. A report of the Church and Nation committee of the Presbyterian Church has likened farm labourers to serfs. A survey of farms in the Western Transvaal carried out by the committee found that Africans were earning an average of R16.67 per month which, when added to an annual maize bonus, totalled R34.45. ^{215/}

226. A sugar mill in the Eastern Transvaal pays ten workers aged over 60 only 65 cents a day. The workers receive no pension and have to continue working in order to stay on the farm. At the same farm it is reported that no facilities are provided for sick workers, who lose their meat ration if they miss a day's work. Cane cutters at the farm work twice as hard as the work rate set by the South African Cane Growers' Association. ^{216/}

^{214/} Ibid.

^{215/} Rand Daily Mail, 8 September 1979.

^{216/} Sunday Express, 2 March 1980.

227. An ombudsman for the South African Council of Churches reported during the period under review that labourers in the maize-growing area of the Western Transvaal were getting as little as R4 a month plus a bag of maize. The ombudsman's report said that "while the consumer pays more and more for less and less, the wages of black farm labourers remain static".^{217/} In the same report, the ombudsman referred to cases of ill-treatment of farm labourers

(c) Assaults on farm labourers

228. During the period under review, as in previous years, cases of assaults by farmers on farm labourers have again come to the Group's attention. The ombudsman for the South African Council of Churches, in an investigation of farm labour conditions, cited a number of cases of assault, including the thrashing of a 16-year old, suspected of stealing, who had to be hospitalized for several months; the murder of a farm labourer by a farmer who hit him with a monkey wrench; and the continual beating of a labourer who had been "paroled" for a pass offence and sent to work on a farm.^{218/}

229. According to further information before the Working Group, an African farm labourer sued a farmer for damages during the period under review, claiming that he had been assaulted by the farmer and that he and another labourer had been hung from a beam for almost four hours. The second labourer had died as a result of this treatment.^{219/}

(d) Child labour

230. Mrs. Leah Levin, a witness before the Group on behalf of the Anti-Slavery Society (533rd meeting), referred to an undated document entitled "Special Permit to Recruit Under-Age Bantu", which allows officially and formally the recruitment of African youths under 18, but of the "apparent age" of 16, for service under contract

^{217/} Rand Daily Mail, 7 May 1980.

^{218/} Voice, 30 April 1980.

^{219/} Sunday Times, 9 December 1979.

as agricultural labourers. Mrs. Levin pointed out that the stipulation of "apparent age" clearly lays itself open to abuse. She also said that most farms by-pass the official labour bureau system and send their own trucks into isolated districts in the "homelands" where they pick up unregistered women and under-age children who, because of the shortage of work, are prepared to work for little, and sometimes no, money.

231. Mrs. Levin told the Group about two studies which had been carried out by the Anti-Slavery Society in the Eastern Transvaal and Natal. The study found that in the Eastern Transvaal children were drawn from townships and made to work on farms, sometimes for 12 hours a day. Mrs. Levin described interviews with two boys, one aged about 15, the other no more than 10 years old. The older boy was paid R10 a month for working an eight-hour day - he brought his own meals to last him the day. Mrs. Levin also referred to four herders aged between 11 and 15: they earned R10 a month for a 12-hour day.

232. Mrs. Levin referred specifically to migrant child workers. She described the plight of 10 young girls who had been tricked into working in the fields on a poultry farm. Their wages were sent directly to their homes and they were not sure how much they earned. Mrs. Levin described how they lived in compounds without water or toilet facilities, and without lights. Mrs. Levin also told the Group about 21 Transkeian boys whose ages ranged from 10 to 16. They too claimed they had been tricked into working on a farm. They were given only porridge and soup to eat and lived in a single room with barred holes in the walls and sacking serving as windows.

233. Mrs. Levin told the Group that children would often disappear without the knowledge or consent of their parents. She said that the recruitment of children was organized - they were picked up by lorry and taken to a central depot, and then distributed to farms. They lived in atrocious accommodation and were rarely given any form of protein in their diet.

234. According to additional information available to the Group, children have been working up to 60 hours a week without pay in the Weenen district of Natal.^{220/}

Further, labourers have been sacked from their jobs for refusing to allow their children to work on the farms. Beating, extortion and child abuse are common on some Natal farms.^{221/}

In the Weenen area, described as "a window on rural South Africa", children begin work at the age of eight. In many farms they receive no pay or food but work merely for the right to live on white farms.^{222/}

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

(a) Wages and working conditions

235. Previous reports of the Group have shown the wide gap that exists between white and black earnings as expressed in cash terms. Additional information before the Group indicates that this gap has in no way narrowed during the period under review.

236. A witness before the Group, Mr. Neville Rubin (533rd meeting), said that "the general picture which emerges ... is one of substantial differentiation in remuneration in favour of the whites, with very little improvement, if any at all, in ... 1978 over the prior year (1977)".

237. According to the International Labour Organisation,^{223/} "information available on the position with regard to wages does not show any major change in the general pattern of racial inequality ... (in 1978) the gap continued to widen in percentage as well as in money terms, and ... only rarely do African wages amount on average to more than a third of those of Whites, while in gold-mining cash wages of Africans were less than one-eighth of those of Whites...".^{224/}

^{220/} Natal Witness, 27 September 1979.

^{221/} Natal Witness, 27 December 1979.

^{222/} Rand Daily Mail, 20 February 1980.

^{223/} 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).

^{224/} Ibid., p. 29.

238. According to a survey carried out during the period under review, black mineworkers are given low wages, live in cramped accommodation where 20 workers sleep on concrete bunks in one room and receive poor food. White mineworkers earn "at least seven times" more than their black counterparts.^{225/}

239. Mr. Ndawonde (523rd meeting) described working conditions in factories he had worked in. He said that workers sometimes do not eat enough breakfast and are forced to eat lunch on their feet, since they are not allowed to let the machines stop. They have no time even to wash before going home, because transport leaves too early. He said that workers are penalized for being late and often fined R1 for being 15 minutes late when they in fact only earn 23 cents an hour. Mr. Ndawonde also described how he worked overtime without knowing the rate of pay. He was dismissed from his factory job after he protested about the low rates of pay. He was getting R18 a week, of which R3 went in taxes.

240. The Group's last report (E/CN.4/1365, para. 160) gave figures for the gap between white and black wages in various sectors of employment.

The ILO report contains a table which demonstrates the gap for 1978.^{226/}

Category	Average white earnings per month	Average black earnings per month	Ratio white: black earnings	Absolute gap in earnings per month
Mining	R871	R128	6.8:1	R743
Manufacturing	R630	R177	3.6:1	R453
Central government	R514	R168	3.0:1	R346

241. A witness on behalf of the International Confederation of Free Trade Unions, Mr. Kailembo (525th meeting), told the Group that conditions for black workers

^{225/} Sunday Post, 3 February 1980.

^{226/} ILO, Sixteenth Special Report..., op. cit., p.28.

employed by the Frame Group in Natal had not improved since the starvation wages scandal in 1973, when textile mills were hit by strikes. In fact, he said, the buying power of Frame workers' wages had decreased over the six years.

242. According to further information available to the Group, men in a Willowtown factory were earning R15 a week for a 65-hour shift, while the women were getting R7 for a 50-hour shift.^{227/}

243. During the period under review, some workers in the Durban clothing industry were earning wages of R54 a month. The Household Subsistence Level was said to be R152.22 for a family of six.^{228/}

244. According to a report available to the Working Group, Johannesburg City Council employs an unregistered security company which pays its black employees as little as R40 and R50 a month. The workers are made to work 12 $\frac{1}{2}$ hours a day, seven days a week.²²⁹

(b) Job reservation

245. The Group's last report (E/CN.4/1365, paras. 163, 189, 193 and 194) reported on the recommendation by the Wiehahn Commission that job reservation be abolished and the five determinations in force under the legislation be "phased out". During the period under review, three of the determinations, those relating to the motor and building industries, were cancelled.

246. The witness Andrew Kailembo (525th meeting) said, however, that "it is hypocrisy ... to say that job reservation has been eliminated. For black people to be promoted, they have to be promoted through the council (i.e. factory works council) and on that council the majority are whites."

^{227/} Echo, 6 December 1979.

^{228/} Daily News, 5 October 1979.

^{229/} Sunday Express, 25 May 1980.

247. The 1980 International Labour Organisation report, too, stressed that despite the cancellation of the determinations substantial effective job reservation - statutory and through the remaining two job reservation determinations, as well as through the operation of closed shop agreements - continues to exist.^{230/}

248. The policy whereby Africans are in principle not recruited for employment in the Western Cape (since it is considered a preferential area reserved for Coloured labour) is still in force. The Riekert Commission had not queried this policy and considered it to be outside its terms of reference.^{231/} The Black Building Workers Act and the Motor Carrier Transportation Act had not been dealt with either in the Wiehahn or Riekert reports. Both enforced discrimination in employment. In addition, no proposal had been made to repeal the Mines and Works Act job reservation provisions.^{232/}

249. Again according to the ILO Report, no revision of legislation on the closed shop was considered during the period under review. The ILO has frequently pointed out that the closed shop system under apartheid is used as a means for the creation of job reservation on the basis of race.^{233/} In its paper on the outcome of the Wiehahn Commission (GB.211/CD/4/2, 211th session) the ILO says that, despite the recommendation of the Wiehahn Commission, there has been "a continuation of the status quo as regards closed shop agreements which at present serve to create job reservation on a racial basis, with a lack of clarity as to the manner in which policy with regard to future agreements of this kind is to be applied".

(c) Unemployment

250. Previous reports of the Group (E/CN.4/1311, para. 237; and E/CN.4/1365, paras. 172-175) reported on the high rate of unemployment amongst Africans in South Africa. According to information available to the Group, South Africa's

^{230/} ILO, Sixteenth Special Report ..., op. cit., p. 20.

^{231/} Ibid., p. 19.

^{232/} Ibid., pp. 19-20

^{233/} Ibid., p. 18.

unemployment remained chronically high during the period under review. The vice-president of the South African Manpower Commission said that black unemployment could be as high as 1.6 million, and that if the economy continued to grow at the current rate black unemployment would reach 1.8 million by 1982 and 2.4 million by 1987.^{234/} The Sunday Express estimated black unemployment as being between 1.5 and 2 million in 1979.^{235/}

251. The witness Mr. Eli Weinberg (522nd meeting), however, told the Group that there were over 2 million unemployed workers in South Africa, and that even this figure was not reliable, since the Government "repatriates" any black worker who is unemployed for more than three days.

252. Official unemployment figures for workers indicated a total of 500,000 unemployed blacks in May 1980. The Department of Statistics gave the unemployment rate at nine per cent and said that 42.1 per cent of African workers aged 20 to 49 were unemployed. Many sources have said that government figures were unreliable and underestimated;^{236/} and the definition of unemployed - anyone who has worked for less than five hours in the previous seven days - has been criticized as being totally unrealistic.^{237/}

253. According to information available to the Group, it is virtually impossible now for even skilled black workers to get jobs in urban areas. Skilled workers are forced to wait in the "homelands" until a recruiting officer comes and offers suitable employment. According to a Black Sash report, this rarely happens.^{238/}

^{234/} Rand Daily Mail, 8 July 1980.

^{235/} Sunday Express, 17 February 1980.

^{236/} Star, 24 May 1980.

^{237/} Rand Daily Mail, 8 July 1980.

^{238/} Sunday Post, 27 January 1980.

254. During the period under review, the West Rand Administration Board demanded that all black domestic servants should be registered as contract workers. Black workers will be forced to leave their jobs a year after registration and go "home" to obtain permission from their local Co-operation Commissioner to continue working in Johannesburg.^{239/} According to information available to the Group, large numbers of Africans were "endorsed out" of Johannesburg during the registration campaign.^{240/}

255. Mr. Alfred Ndawonde (523rd meeting) described to the Group how black people obtain work in South Africa. He told the Group how the unemployed are examined by a doctor who "doesn't touch you, he just looks all round your body" and then made to wait until their number is called. If a worker refuses a particular job, he is given seven days to find another and after that time is suspended from town for six months. Once out of the town, Mr. Ndawonde described how workers were forced to pay chiefs in order to obtain jobs.

(d) Inadequate training of black workers

256. During the period under review, a new policy, whereby Africans could be trained in "white" areas, was implemented in response to recommendations of the Wiehahn Commission. The ILO Report points to criticism of the training system: for instance, that the public in-service training centres had been under-utilized, that only employed Africans could use them and that the equipment and training were not sophisticated.^{241/}

^{239/} Sunday Times, 28 October 1979.

^{240/} Rand Daily Mail, 30 October 1979.

^{241/} ILO, Sixteenth Special Report ..., op. cit., p. 24.

257. Mr. Eli Weinberg (522nd meeting) told the Group that there had been no material change in the training of African workers. He said that the Wiehahn Commission had actually introduced recommendations effectively to prevent the trade union movement from giving its own members industrial relations training.

258. The ILO Report tabulates the distribution of black workers in various grades of employment in 1969 and 1977. According to the table, 99.5 per cent of unskilled labourers and 85 per cent of semi-skilled labourers were black in 1977. The ILO Report also points to projections for the demand for manpower in 1981. According to these figures, there will be a substantial growth in the absolute numbers of Africans in domestic service and agriculture, but only one per cent of Africans are expected to be in artisan or apprentice categories.^{242/}

259. The Report concludes that the pattern of skills distribution which emerges following the recommendations of the Wiehahn and Riekert Commissions will govern the extent to which the discriminatory pattern noted by the ILO will change after 1981.^{243/}

260. According to additional information available to the Group, black trained electricians may be expected to take out "homeland" citizenship before they can get their certificates: the electricians concerned were employed by the Johannesburg City Council and had completed the required five years' service.^{244/}

(c) Living conditions of black workers

261. Previous reports of the Group (E/CN.4/1270, paras. 177-179; E/CN.4/1311, para. 245; and E/CN.4/1365, para. 173) dealt with conditions in hostels for migrant

^{242/} Ibid., p. 26.

^{243/} Ibid., p. 27.

^{244/} Post, 11 October 1979.

labourers. According to additional information available to the Group, certain black contract employees are housed in the Western Cape in dormitories described as "pigsties".^{245/} The dormitories, in Langa, are provided by employers. According to a planning consultant, "The reason for ... (the) appalling conditions is the migrant labour system, influx control and the Coloured labour preference policy."^{246/} During the period under review, the owners of the dormitories were given notice by the health department to improve conditions in them.^{247/} Employers have been given 12 months to improve conditions further.^{248/}

262. Living conditions at men's hostels in Alberton are also described as "shocking". Inmates have only one basin out in the open which they have to use for washing themselves, clothes and dishes. There is no hot water; toilets are so distant that inmates cannot reach them at night; and some rooms have no light.^{249/} Sixteen men are crammed into one room which is separated into five compartments. In one section of a hostel there are no sinks and the men have to use water from the toilet to prepare their food.^{250/}

(f) Position of black women

263. A document on the position of women describes how apartheid affects African women.^{251/} The paper says that "robbed of their productive lands, burdened with numerous taxes, African men have been forced to sell their labour on farms, in mines

^{245/} Natal Witness, 19 January 1980.

^{246/} Financial Mail, 25 January 1980.

^{247/} Cape Times, 23 January 1980, 9 February 1980.

^{248/} Financial Mail, 29 February 1980.

^{249/} Post, 10 March 1980.

^{250/} Sunday Express, 30 March 1980.

^{251/} S.F. Carim, The Role of Women in the South African Trade Union Movement, United Nations Centre Against Apartheid, Notes and Documents 7/80.

and in factories of "white" South Africa: while their wives and children, regarded by law as 'superfluous appendages' are forced to remain in the barren and desolate bantustans... Women serving no purpose for the white economy are discarded, unable to see their husbands except during the annual two-week holiday allowed migrant workers... To maintain the subjugation of women in the bantustans, the apartheid regime has distorted African law and custom to serve its purpose."

264. The ILO Report paid special attention to the position of African women under apartheid. It states that women are doubly discriminated against and that in 240 job categories women receive pay rates which are only 75 to 80 per cent of that of their male counterparts for the same job.^{252/}

265. The ILO Report goes on to say that "the overall picture of the earnings of African women presents a situation far worse than that which emerges from the wage determinations."^{253/}

266. Mr. Kailembo (525th meeting) told the Group that on average African women receive less than half of what African men are paid and only eight per cent of the average earnings of white men.

267. During the period under review, 700 women who worked at the Sea Harvest fish factory at Saldanha Bay went on strike over their "slave" wages. The average take-home pay at the factory was R17 a week and some of the women earned as little as R9 a week.^{254/}

^{252/} ILO, Sixteenth Special Report ..., op. cit., p. 54

^{253/} Ibid., p. 56.

^{254/} Post, 20 December 1979.

I. Infringement of trade union rights

268. By resolution E/1980/33, the Economic and Social Council has requested the Group to continue to study the question of infringements of trade union rights under apartheid and to report thereon to the Commission on Human Rights and to the Economic and Social Council.

269. In accordance with this request, the Group in its 1980 field mission gathered testimony and information concerning: (1) the suppression of the right to organize trade unions; and (2) the persecution of workers because of their activities, especially as a consequence of strike action.

1. The suppression of the right to organize trade unions

(a) Wiehahn Commission

270. A previous report of the Group (E/CN.4/1311, paras. 253-262) referred to the setting up of the Wiehahn Commission to examine ways in which industrial relations in South Africa could be reformed. The Group's last report (E/CN.4/1365, paras. 185-195) detailed the most important recommendations of part one of the Wiehahn Report, the reaction to the report and the tabling of the Industrial Conciliation Act which, for the first time, gave black workers the right to join trade unions.

271. Mr. Mike Terry of the Anti-Apartheid Movement told the Group (519th meeting) that it was clear that the Nationalist Party were using these changes in the law to ensure greater control over African trade unionists. Mr. Terry said that the last 10 years had seen the development of independent, predominantly African, trade unions capable of organizing and mobilizing African workers. Now, Mr. Terry said, the Government was attempting to incorporate African unions into the system of legal control which exists for registered trade unions. Mr. Terry gave as an example of the way in which employers and Government reinforce each other in controlling African workers' organizations the case of Mr. Thozamile Botha, who was dismissed from his employment at Fords because of his involvement in a community organization. Mr. Terry told the Group that, after the workers had protested, Mr. Botha was reinstated but was

then promptly detained under the Terrorism Act, and, after international protest which led to his release, banned under the Internal Security Act (the Ford strike is covered in para. 306(b) below).

272. Mr. Eli Weinberg, a representative of the South African Congress of Trade Unions (SACTU), told the Group (522nd meeting) that the Government White Paper made it clear that "the major cosmetic changes which the Wiehahn Commission were recommending were being ignored" and that, on the whole, "legislation continues to be discriminatory, oppressive and designed chiefly to emasculate and weaken the trade union movement in South Africa".

273. Mr. Weinberg said that SACTU rejected the Wiehahn Commission report because it "continues on the basis of discrimination, on the basis of colour bars, on the basis of denigration of black workers, keeping them at a lower level, all the trappings of apartheid, all the trappings of racial discrimination continue within the law".

274. According to Mr. Andrew Kailembo (525th meeting), the new labour legislation introduced on the basis of the Wiehahn recommendations gave the State new and wide powers to register unions or not; increased control of industrial relations training and union finances; established an extended works committee system with negotiating powers "obviously intended to supplant trade union activities on the shop floor"; and restricted strike rights further.

275. The Committee on Discrimination of the International Labour Office produced a paper during the period under review on the effect of the first Report of the Wiehahn Committee.^{255/} The paper says that a number of factors suggest that recommendations for change made in the first part of the Wiehahn report, and the subsequent measures, should be treated with caution. The paper notes the differences

^{255/} ILO, "Further information on changes proposed or made in apartheid as regards labour matters in the Republic of South Africa", ref. GB.211/CD/4/2, Governing Body, 211th Session (Geneva, November 1979).

between the recommendations of the Commission on the one hand and the policy of the South African Government on the other. The ILO notes that the Government White Paper did not imply acceptance of all the Wiehahn Commission proposals, and that legislation enacted provides for the retention of the status quo in several important respects and neglects other recommendations, even where these are accepted.

276. Under the Industrial Conciliation Act, racially mixed unions have to obtain permission from the Minister before applying for registration. During the period under review, 17 unregistered black unions decided not to register unless they were allowed to remain non-racial in membership and control. In addition, the unions demanded that "provisional registration" be abolished in favour of final registration, and that existing unions be recognized.^{256/}

277. During the period under review, there were no significant changes in labour laws and, of five outstanding Wiehahn Commission reports, only one will be tabled in 1980. The Group's last report (E/CN.4/1365, para. 195) referred to the extension by proclamation of the right to join a trade union to all blacks, including migrant workers and commuters. Despite widespread criticism by black trade unionists, the right of black unions to register continued to operate by exemption and was not entrenched in law. By May 1980, only one of the 30 black unions had been registered. According to information available to the Group, the Government is considering compulsory registration.^{257/}

278. According to information available to the Group, six trade unions belonging to the Federation of South African Trade Unions (FOSATU) were granted permission to register as non-racial unions.^{258/}

^{256/} Financial Times, 5 November 1979.

^{257/} Rand Daily Mail, 5 May 1980.

^{258/} Star, 21 June 1980.

279. Chief George Matanzima of the Transkei has refused to extend trade union rights to workers in the Transkei. He said "Transkei is an undeveloped country where there is an urgent need to attract industrial investment. We would not like to destroy our industrial development in its infancy."^{259/}

280. More than 800 members of the African Food and Canning Workers' Union voted to reject the registration of black unions. They refused to register until there was an end to the pass laws, influx control, Group Areas Act, Section 3 of the Factory Control Act, the migratory labour system, the amended Industrial Conciliation Act and the liaison committee machinery.^{260/}

281. The International Confederation of Free Trade Unions (ICFTU) condemned the Government's pursuance of apartheid policies, opposed the cosmetic changes in legislation such as the Industrial Conciliation Act, and supported the black trade unions' condemnation of the Act.^{261/}

282. The Group's last report (E/CN.4/1365, para. 190) described white union opposition to the recognition of black trade unions. During the period under review, the white-dominated Trade Union Council of South Africa (TUCSA) refused the black Federation of South African Trade Unions' request not to organize in competition with the independent black unions. TUCSA continued to organize parallel unions and, according to information available to the Group, was co-operating with employers to stop the creation of independent black and non-racial trade unions.^{262/}

283. According to information available to the Group, the vice-president of TUCSA had begun to organize a parallel union in the brewing industry and planned to start one in the radio and electronics industry, during the period under review. Black unionists believe that the parallel structure essentially means domination of the black union by the white union.^{263/}

^{259/} Daily Despatch, 11 October 1979; Post, 12 October 1979.

^{260/} Rand Daily Mail, 16 April 1980.

^{261/} Voice, 4 December 1979.

^{262/} Sunday Post, 11, 18 and 25 November 1979.

^{263/} Sunday Express, 30 September 1979.

284. During the period under review, the two registered unions in the building industry, the Amalgamated Union of Building Workers and the Building Workers Union, protested against the Government's decision to allow black South Africans to do skilled building work in "white" areas. The unions said that they would work out ways to increase their own control over changes in employment by using the building industry's industrial council.^{264/}

(b) Struggle for the acquisition of trade union rights

285. Previous reports of the Group have detailed the continuing struggle by black trade unions for recognition. During the period under review, South Africa faced its most serious labour unrest since 1973. Large numbers of workers went on strike over issues involving union recognition, persecution of trade unionists and in support of wage claims.

286. Mr. Terry (519th meeting) told the Group of growing community support for trade union action. He gave as an example the refusal by Africans to buy or sell red meat during the meat strike (see para. 289 below) and the refusal by the community to buy textiles after striking women were sacked from a textile factory.

287. According to additional information available to the Group, there has been growing solidarity among both African and Coloured workers, who have gone on strike together and supported each other in strikes.^{265/}

288. According to information available to the Group, the Cape was increasingly a focus for industrial unrest during the period under review. In Durban and Cape Town, 500 textile workers struck in support of long-standing wage claims.^{266/} Over 3,500 workers from the Volkswagen plant at Uitenhage, an industrial town on the outskirts of Port Elizabeth, went on strike in support of pay claims;^{267/} strikes

^{264/} Rand Daily Mail, 11 April 1980.

^{265/} Financial Mail, 9 May 1980.

^{266/} Rand Daily Mail, 24 May 1980.

^{267/} Star, 21 June 1980; Times, 21 June 1980.

spread until some 10,000 workers from 16 car factories and other industrial plants in the Eastern Cape had come out.^{269/} Also during the period under review, there have been a number of cases where workers have gone on strike over dismissals and victimization. These include:

- the Karoo dispute where meat workers struck because management had dismissed a colleague without consulting the workers committee;^{269/}
- the strike at the Ceres Fruitgrowers' Co-operative where 750 workers walked out after the dismissal of a worker who was involved in wage negotiations;^{270/}
- the strike at the CIMM civil engineering site at Saldanha Bay fish factory, where 450 contract workers walked out in protest over the dismissal of eight colleagues; 280 of them finally rejected the management's offer and returned to the Transkei;^{271/}
- a strike of 120 workers at Ullman Bros. Carriage Contractors, who were protesting against their low pay, irregular working hours, underpaid overtime and non-registration of unions;^{272/}
- 650 workers at the Western Province Preserving Company walked out after management refused to recognize their trade union representative.^{273/}

269. Workers at the Table Bay Cold Storage company struck in protest against the company's refusal to recognize the unregistered workers committee.^{274/} Representatives from 14 Cape meat factories expressed support for the Table Bay workers and demanded that the management recognize the committee.^{275/} The workers were members of the non-racial Western Province General Workers Union (WPGWU) and said they would only accept committees on which Coloured and black workers served together.^{276/} Stevedores

^{269/} Morning Star, 24 June 1980.

^{269/} Financial Mail, 9 May 1980.

^{270/} Ibid.

^{271/} Ibid.

^{272/} Post, 14 May 1980.

^{273/} Cape Times, 14 June 1980.

^{274/} Rand Daily Mail, 10 May 1980.

^{275/} Ibid., 9 May 1980

^{276/} Daily Despatch, 12 May 1980.

of Cape Town docks threatened to refuse to load any Table Bay Cold Storage meat if management replaced striking workers.^{277/} Two weeks after the strike started, about 750 workers from 17 firms went on a one-day strike in support of the Table Bay workers,^{278/} while 250 Coloured and black workers from National Meat Suppliers (Pty) Ltd. began a separate strike for recognition of their workers' committee.^{279/} When the workers from the 17 firms returned to work, their employers locked them out.^{280/} The firms were surrounded by riot police.^{281/} Two hundred butchers in the Western Cape stopped selling red meat in support of the strikers.^{282/} Two officials of the Western Province General Workers Union were arrested and detained under Section 10 of the Internal Security Act,^{283/} two under Section 22 of the General Laws Amendment Act,^{284/} and 42 striking workers were arrested and charged with being in the Cape Town area illegally.^{285/} Police visited and questioned strikers and detained another union organizer for three hours for questioning.^{286/} The strike was eventually called off in the first week of August 1980. The WPGWU stated that it had called off the strike as a result of State intervention, which included arrest of union leaders, the conviction of the 42 strikers charged with being in the Cape Town area illegally, banning of union action and prohibition of meetings. Many of the striking workers became unemployed as the employers had filled their jobs.^{287/}

290. The Group's last report (E/CN.4/1365, para. 196) described the start of a strike at the Cape factory of the firm Fattis and Monis. The workers were protesting at the dismissal of 10 union members. The strike continued for seven months, finally

^{277/} Rand Daily Mail, 17 May 1980.

^{278/} Cape Times, 20 May 1980.

^{279/} Ibid.

^{280/} Rand Daily Mail, 21 May 1980.

^{281/} Cape Times, 24 May 1980.

^{282/} Cape Times, 31 May 1980.

^{283/} Rand Daily Mail, 12 June 1980.

^{284/} Rand Daily Mail, 21 June 1980.

^{285/} Rand Daily Mail, 13 June 1980.

^{286/} Cape Times, 5 June 1980.

^{287/} Cape Times, 8 August 1980.

ending in the period under review after the firm had negotiated with the African Food and Canning Workers Union - an unregistered union. According to information available to the Group, throughout the strike Administration Board officials conducted frequent raids on the homes of the strikers.^{288/}

291. About one-third of the 15,000 black municipal workers in Johannesburg went on strike in sympathy with 1,350 black power station workers and 200 black transport workers who were dismissed after going on strike for higher wages.^{289/}

292. Six hundred workers at Ford's Struandale plant in Port Elizabeth walked out after Mr. Thozamile Botha, a leader of the PE Black Civic Organization, was told to end his involvement in the civic organization or resign.^{290/}

293. A document on the role of women in the South African trade union movement was made available to the Group.^{291/} The paper describes the organizational development and strength of women in factories. It also outlines the history of women's struggles inside the textile industry and lists a number of prominent women in the movement, stressing the role that women have played in South African trade unions.

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

294. A previous report of the Group (E/CN.4/1311, para. 272) outlined the terms of the code of conduct recommended by the member governments of the EEC to national and multinational companies operating in South Africa. The code lays down that companies shall ensure that their employees are free to join a trade union of their choice; that racial discrimination shall not operate at the place of work; and that minimum wages be at least 30 per cent above the minimum level to supply basic needs.

^{288/} Cape Times, 16 November 1979.

^{289/} Guardian, 29 July 1980.

^{290/} Post, 1 November 1979.

^{291/} S.F. Carim, op. cit.

295. Mr. Eli Weinberg (522nd meeting) expressed the view that the codes of conduct are "being used to cover up open exploitation of the workers in the country ... these codes of conduct are an open swindle, a justification for remaining in South Africa, for continuing to invest in South Africa, a justification for supporting the apartheid régime".

296. Mr. Andrew Kailembo, from the International Confederation of Free Trade Unions, told the Group (525th meeting) that "foreign companies and multinationals in general are part and parcel of the exploitation of black workers in South Africa", and that the situation had worsened since 1978. He said that the ICFTU would like to see a monitoring body composed of employers, government and workers to check on whether the EEC codes of conduct are being adhered to. Mr. Kailembo said that the codes of conduct were progressive, but that they needed a sanction clause in order to function.

297. Mr. Rubin (533rd meeting) said that there in fact existed a number of separate codes of conduct, the most prominent being that of the European Community. He said that the codes themselves have been criticised in several respects by the ILO, in relation to the manner of reporting on them, the fact that they have no "teeth ... for ensuring ... their application", and in relation to the whole question of recognition of trade unions.

298. A document of the Economic and Social Council of the United Nations, on the activities of transnational corporations in southern Africa, was made available to the Group. The document states that several EEC countries have received reports from companies operating in South Africa on their conduct during 1979 and 1980.^{292/} It lists a number of European companies which operate in South Africa and gives information regarding their recognition and negotiation with African trade unions.^{293/}

^{292/} "Activities of Transnational Corporations in southern Africa and their collaboration with racist minority régimes in that area: in-depth analysis of the role of transnational corporations in the industrial military and nuclear sectors of South Africa" (E/C.10/66, 2 April 1980), p. 25.

^{293/} Ibid., pp. 27-42.

299. During the period under review, the Federation of South African Trade Unions named a number of British subsidiaries which gave misleading and inaccurate reports to the British Government in terms of the EEC code of employment. According to the Federation, companies were paying wages below those mentioned in the reports; training programmes were not what they were claimed to be; and workers pushing for the establishment of trade unions were being intimidated. For instance, Raleigh Cycles SA's claim that it operates no segregation of facilities is incorrect - there are in fact segregated toilet facilities, separate factory gates for blacks and whites, and segregated clocking stations and pay booths.^{294/}

300. The Federation also outlined several cases of companies refusing to recognize black trade unions. Among the firms named were Cadbury Schweppes, Eveready, Crabtree (Springs), Glacier Bearings, Henkel SA, ForboKrommenie, Revertex (SA), South African Fabrics, Sarmcol and Raleigh Cycles SA.^{295/}

301. According to information available to the Group, Ford is paying 80-95 per cent of its black workers below the Household Subsistence Level. A study on conditions in Ford factories found that black workers have education barriers to their promotion not experienced by white workers, that white workers earn more for equal work and that black workers are concentrated in the lowest-paid jobs.^{296/}

302. The International Seminar on the Role of Transnational Corporations in South Africa, organized by the British Anti-Apartheid Movement (November 1979), concluded that "transnational corporations bear a major share of responsibility for the maintenance of the system of apartheid, for the strengthening of the repressive and military power of the racist régime and for the undermining of international action to promote freedom and human dignity in South Africa".

^{294/} Sunday Post, 24 February 1980.

^{295/} Rand Daily Mail, 16 February 1980.

^{296/} Sunday Post, 2 March 1980.

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

303. One witness (517th meeting) gave detailed information about police action against striking workers, and handed in a paper by the International Defence and Aid Fund.^{297/} The witness told of arrests of strikers and bannings of workers' meetings. The IDAF paper described the way police action was used to crush protests about the detention of Ford workers: squads of riot police were flown to Port Elizabeth and moved into the township, bombarding the main streets with teargas.

304. Mr. Mike Terry (519th meeting) told the Group about cases of persecution of trade unionists as a result of strike action. The case of Mr. Thozamile Botha of Ford's is described in paragraph 292 above. Mr. Terry also told the Group about the detention of the General Secretary of the municipal workers' union in Johannesburg: he was arrested in the Supreme Court building while legal action regarding a strike was taking place.

305. Mr. Kailembo (525th meeting) told the Group that a union may lose its registration if it meets with the registrar's disapproval at any stage, and so may lose immediately its legal status as a bargaining party. The decision both to grant and to withdraw registration cannot be challenged by any appeal to law.

306. A large number of workers were persecuted as a result of strike action during the period under review. Among examples which came to the attention of the Group were:

(a) 150 workers dismissed from a paper mill at Port Elizabeth after striking.^{298/}

^{297/} IDAF, The Role of the Police and other Arms of the State in Recent Strikes and Demonstrations, August 1980.

^{298/} Post, 28 November 1979.

(b) Paragraph 271 above refers to the Ford strike which started after the dismissal of a leader of a civic organization. Initially 1,300 workers were sacked from their jobs for striking.^{299/} During the period under review, a number of the dismissed strikers were re-employed.^{300/} Twenty-four of the sacked workers were detained by Security Police under the clause of the Sabotage Act which allows for detention for up to 14 days.^{301/} The workers were charged under the Riotous Assemblies Act.^{302/} In addition, the civic leader whose dismissal sparked off the Ford strike was arrested, along with a Post journalist. A crowd gathered in protest at the arrests at the Walmer Township and were dispersed by riot police and heavily armed security police, who used teargas and fired into the crowd.^{303/} Protests continued and riot police were flown into Port Elizabeth to reinforce those already there.^{304/} The Ford workers, with the exception of the civic leader, Mr. Botha, who was imprisoned, were eventually reinstated. A number of the workers face charges under the Riotous Assemblies Act.^{305/}

(c) Workers dismissed by General Tire had "strike" written in by management as the reason for leaving employment. This would make it extremely difficult for the workers to find alternative employment.^{306/} One of the General Tire workers was told by management that he would not be re-employed as he was a "troublemaker".^{307/}

(d) According to information available to the Group, a Natal textile firm, OWPH, threatened Indian workers who attempted to join a non-racial union, the National Union of Textile Workers.^{308/}

^{299/} Post, 15, 22, 23, 27 and 28 November 1979.

^{300/} Post, 6 December 1979.

^{301/} Post, 7 and 11 December 1979.

^{302/} Post, 21 December 1979.

^{303/} Natal Witness, 12 January 1980.

^{304/} Sunday Times, 13 January 1980.

^{305/} Voice, 16 January 1980; Sunday Express, 24 February 1980.

^{306/} Post, 11 December 1979.

^{307/} Post, 7 December 1979.

^{308/} Daily Despatch, 12 July 1979.

(e) The Food, Beverage and Allied Workers Union have accused Unilever of dismissing a worker because of his involvement in the trade union. ^{309/}

(f) The Group's last report (E/CN.4/1365, para. 196) referred to a court order which was won by 24 workers at Nel's Dairy restraining their employer from wrongfully dismissing them. During the period under review, two more workers, who signed a petition calling for a works committee at the dairy, were laid off, bringing to 20 the number of persons dismissed under circumstances the workers described as "victimization". ^{310/}

(g) Contracts of 85 migrant workers at Grabouw apple co-operative were cancelled and the workers sent back to the Transkei, and 400 Coloured workers were turned out of their hostel belonging to the Kromriver Apple Co-op, after a strike for higher wages by about 1,000 Kromriver workers. ^{311/} According to additional information available to the Group, the Grabouw strike was successful after riot police had been called in. ^{312/}

(h) Fifty-five black workers were arrested after a work stoppage at Rely Precision Castings in Boksburg. They were charged with holding an illegal strike. ^{313/}

(i) Three representatives of the striking workers at Frame Group textile plants in Durban were arrested and charged with holding an illegal strike; ^{314/} and 117 workers were fired after they struck for higher pay. ^{315/}

(j) During the strikes which broke out in the Cape (see paras. 281-283 above), three days of violence left 29 officially dead (hospital sources gave the number as 42) and 141 wounded. ^{316/}

^{309/} Rand Daily Mail, 15 January 1980.

^{310/} Financial Mail, 10 March 1980.

^{311/} Cape Times, 1 May 1980.

^{312/} Rand Daily Mail, 9 May 1980.

^{313/} Rand Daily Mail, 27 May 1980.

^{314/} Rand Daily Mail, 29 May 1980.

^{315/} Rand Daily Mail, 4 June 1980.

^{316/} Guardian, 20 June 1980.

(k) Paragraph 244 above refers to the walk-out of workers from the Western Province Preserving Company. According to information available to the Group, two of the employees involved in the walk-out were detained by security police in East London.^{317/}

(l) Paragraph 245 above describes in detail the strike of meat workers in the Cape Town area. During the strike, organizers from the Western Province General Workers Union were questioned, arrested and, in the case of at least one organizer, held in solitary confinement for two months.^{318/} Forty-two strikers were convicted of being in the Cape Town area illegally,^{319/} and many of the 800 strikers lost their jobs.^{320/}

(m) Paragraph 231 above refers to the sympathy strike by black municipal workers in Johannesburg. Johannesburg City Council broke the strike by deporting 1,100 workers to the Transkei and Venda. The deportations were carried out while armed police stood by as workers were forced on to waiting buses. A bus driver, the President of the Black Municipal Workers Union, was arrested as a result of the strike.^{321/}

307. During the period under review, 19 workers who had been injured by baton-charging police in a dispute at an electrical appliance factory in 1976, were paid more than R21,000 in damages arising out of the police action.^{322/}

308. The director-general of Manpower Utilisation warned that if the wave of "illegal" strikes continued, his department might identify people "inciting" workers and point them out to the Department of Justice and Police.^{323/}

^{317/} Cape Times, 14 June 1980.

^{318/} Rand Daily Mail, 12 and 21 June 1980; Cape Times, 5 and 8 June 1980.

^{319/} Cape Times, 8 August 1980.

^{320/} Ibid.

^{321/} Sunday Times, 3 August 1980.

^{322/} Sunday Post, 21 October 1979.

^{323/} Rand Daily Mail, 24 May 1980.

309. Mr. Kailembo (525th meeting) described action taken against striking Frame Group workers. He said that a contingent of police was present at the factory when the strike began, and that management finally locked out the 9,000 workforce, re-employing workers on a selective basis. The chairman of the Black Independent National Union of Textile Workers, two members of the liaison committee and four other workers were arrested under the Riotous Assemblies Act. One hundred and seventeen workers were fired. Mr. Kailembo also told the group how police opened fire with birdshot on striking workers in Uitenhage on 20 June 1980 and wounded at least two people.

310. Mr. Kailembo also told the Group that there is an "obvious attempt by the South African Government to break the Western Province General Workers Union, which is one of the most active independent black unions in South Africa. Virtually all the unions' key people are under arrest".

311. Mr. Eli Weinberg (522nd meeting) also gave evidence on the use of force against striking workers. He said that in almost every large strike the police were brought out in force, equipped with vicious dogs and a new whip -- a plastic "sjambok". He also said that the army had been called out in Uitenhage.

312. Mr. Weinberg referred to the use of the Fund Raising Act to prevent the legal trade union organizations from raising funds. He said that this was having a detrimental effect on the trade union movement and that workers were, for lack of funds, unable effectively to resist the power of the employers.

313. According to further information available to the Working Group, during the period under review the Federation of South African Trade Unions was prohibited by the Government from collecting funds inside South Africa or abroad.^{324/}

^{324/} Rand Daily Mail, 19 June 1980; Financial Times, 11 June 1980.

J. Student movements

314. The segregation of university education by race and the rise of student movements among white and black students were analysed in a previous report of the Group (E/CN.4/1187). Two earlier reports of the Group described the boycotts and disturbances in schools and universities that followed the student uprisings in June 1976 and continued sporadically throughout 1977-1978 (E/CN.4/1270 and E/CN.4/1311).

315. The period under review saw a new surge of activity by pupils and students. School boycotts started in the Eastern Cape among Coloured children soon spread to all black South Africans throughout the country. Students at universities joined in the boycotts; despite massive police action, they continued throughout the first half of 1980. The progress of the boycotts is described in paras. 321-322 below.

1. Relevant Legislation

316. The legislation relevant to university education was summarized in a previous report of the Group (E/CN.4/1187, paras. 176-188), as were the provisions of the Government's policy on Bantu Education (later Black Education) as they applied in schools and colleges (ibid. paras. 302-305).

317. A Universities for Blacks Amendment Act, No. 52, was passed during the period under review. It provides for the opening of Port Hare, Zululand and Turfloop (University of the North) universities to "every person who is Black as defined in Section 1 of the Population Registration Act, 1950. Persons other than Blacks can be admitted to the universities provided they have permission from the Minister of Education." The Act was in line with a previous undertaking by the Minister of Bantu Education to do away with the legislative emphasis on ethnicity governing admission to African universities.^{325/}

^{325/} South African Institute of Race Relations, Annual Survey of Race Relations, 1980, p. 543.

2. Student campaigns against the Government's policy of black education

318. According to information available to the Group, boycotts in black schools were widespread. By March 1980 at least 40 black schools and thousands of pupils in the Eastern Cape had been affected. Pupils from various schools gathered in large numbers in the grounds of major high schools in Port Elizabeth and sang freedom songs. Hundreds of Soweto pupils stayed away from classes.^{326/} By May 1980 the boycotts had spread even further. In Bloemfontein there was an almost total boycott of schools.^{327/} Pupils from the East London High School resumed a boycott, 1,000 pupils at John Bisseker Senior Secondary School participated in the boycott, and in East London schools had only 50 per cent attendances after the primary schools joined in.^{328/} By June, schools in Natal started to close down as pupils joined the boycott.^{329/} According to information available to the Group, the three months' boycott was called off by the Committee of 81 in June 1980.^{330/} However, pupils continued to boycott classes in Cape Town and the Eastern Cape.^{331/} In the Ciskei, more than 700 pupils from Nompedulo Secondary School were baton-charged by police after they refused to attend classes.^{332/} At least 160 pupils were injured by police after they had walked out of their classrooms.^{333/}

319. According to additional information available to the Group, the pupils' and students' demands included the abolition of all racial education, the integration of all schools under one education department, parity for all teachers' remuneration, opening of the universities to all people, abolition of the "paternalistic ministerial consent for higher education", abolition of "Coloured, Indian and Bantu Affairs", the withdrawal of armed forces from schools and the establishment of Students Representative Councils in all schools.^{334/}

^{326/} Star, 12 March 1980.

^{327/} Rand Daily Mail, 23 April 1980.

^{328/} Daily Despatch, 30 May 1980.

^{329/} Post, 3 June 1980.

^{330/} Rand Daily Mail, 17 July 1980.

^{331/} Rand Daily Mail, 18 July 1980.

^{332/} Cape Times, 22 July 1980.

^{333/} Guardian, 23 July 1980.

^{334/} Voice, 7 May 1980.

320. Mr. Cecil Msomi (523rd meeting), said that strikes of students are "really just a continuation of a revolt that had long started during the introduction of Bantu education. It's one of the incidences in the process of liberating our education and our country generally."

321. One witness (517th meeting) gave evidence on the schools' boycott which began in the Eastern Cape. He said that a "Committee of 81" was set up representing the different educational institutions, to organize a boycott campaign. The witness told the Group how a wave of arrests, 20 in the first week, followed the boycott and how a meeting of the Committee of 81 was broken up by police with dogs and guns. By May 1980, the witness said, the schools boycott had widened and during a demonstration in Bloemfontein police killed one person. In June 1980, 393 people were arrested under the security laws, and only 65 subsequently released, as children boycotted schools and workers struck for the right to join trade unions. The witness said that eye-witness evidence suggests that police violence against schoolchildren was worse than reported in the South African press. The age of demonstrators shot by police appeared from press reports to range from 17 months to 46 years, but most were in the 15-26 age group.

322. The same witness submitted a paper written by the International Defence and Aid Fund for Southern Africa,^{335/} detailing the progress of the schools boycott and the police brutality which followed it. The campaign began with protests over conditions in a particular school in mid-March 1980 but soon developed into a broadly based campaign against the whole education system. Among incidents that occurred during the boycott, as reported by IDAF, were:

- Riot police used teargas and batons to disperse about 2,000 children at Westbury High School, and then charged 700 of them under the Riotous Assemblies Act. Witnesses had said that the demonstration was peaceful (cf. para. 96 above).

^{335/} IDAF, The Role of the Police ..., op. cit.

- On 1 May 1980 the South African Minister of Police banned all open air meetings (except sports meetings and those for which permission had been obtained). He explicitly addressed his statement to the heads of Coloured and Indian educational institutions and to all students and pupils.
- More than 70 principals who met the Minister of Coloured Relations told him that they would not act as government agents in trying to end the boycott.
- As the boycott spread, it reached every section of the black community. Batho, an African township, was ringed by armed police, while the whole of the northern Free State police command was set on full alert.
- By the end of May, a new wave of detentions involving students, trade unionists and political organizers began. Universities were closed, threats were made against student boycotters by Bantustan administrators, and the educational administration was induced to put pressure on students and to close institutions.
- Repressive measures increased as 16 June, the anniversary of the Soweto uprisings, approached.

323. The International Defence Aid Fund paper also details events on 16 June 1980, when police used teargas, baton charges and guns to disperse demonstrators throughout the country. On the following day, the Cape Flats was in virtual siege. Reports of what occurred are sparse since the press was banned from the area, but there are indications that there were many casualties, the majority of deaths being from gunshot wounds. Many of the victims were girls and women. (See para. 69 above.)

324. The International Defence Aid Fund paper reported on events after 16 June 1980: it points to a continuation of attacks on meetings of students and pupils, and the detention and arrest of expulsion, suspension, loss of bursaries and closure of institutions.

325. The paper also gives evidence of oppression of pupils in the "homelands", including a wave of detentions of school pupils in the Ciskei on 21 May, a threat by Chief Buthelezi to expel pupils from KwaZulu schools, and a declaration of a state of emergency in the Transkei, under which all students were confined to their schools or homes and any kind of support for the school campaign was outlawed.
326. The IDAF paper gives the names of 19 members of the Congress of South African Students (COSAS) who were detained or banned in the period November 1979 to June 1980, and 17 members of the Azanian People's Organization (AZAPO) who were similarly held.
327. Mrs. N. D. Pityana (516th meeting), described the banning and persecution of her husband, Barney, who had been involved with the South African Students Organization (SASO). She described frequent raids, harassing of her and her husband, as well as of neighbours, and the detention of both herself and her husband (cf. para. 86 above).
328. An anonymous witness (526th meeting), a former student at Jabulani Junior Secondary School in Soweto, described his detention and torture after his arrest in 1977. He testified to the fact that former detainees are not accepted back into school after detention - even if they are convicted of minor offences. He was given a suspended sentence after a total of 22 months in detention. After his release he was restricted from attending any meeting convened by students, and from attending any political rally. The police continually visited him and checked and detained people whom he had spent time with.
329. Another anonymous witness (526th meeting) gave evidence concerning his torture. He was arrested in June 1977 along with other students, and detained under Section 6 of the Terrorism Act. Eventually, after being tortured in prison, he was charged with sedition. He drew the Group's attention to the plight of Eph Moghalu, another student and President of COSAS, who is in detention and is being tortured; and to the case of Linda Mohale, President of the Soweto Students' League, who had his teeth broken while in detention (see para. 85 above).

330. Another witness (520th meeting), a former activist in SASO, testified to his arrest and interrogation and to his treatment during detention, when he was kept in a cramped cell for six months.

331. Mr. Jimmy Elias Mabaso (524th meeting) told the Group about his arrest after he helped establish a Students Representative Council. His detention is described in para. 41 above. The treatment of another witness, Mr. Zozile Maqueta, also a student, is described in para. 35 above (522nd meeting).

332. Mr. Thuso Kebinelang (523rd meeting) described the treatment of students during 1977 when they demonstrated against the arrest of the leaders of the Soweto Students Representative Council. He described how he and other students were beaten by police. His further treatment is described in para. 85 above.

333. Mr. Cecil Msomi (523rd meeting) told the Group about his "brushes" with the police while a student. He described how police would come to his school when he was in Form 4 and question him, and also would go home to question his younger brother. Mr. Msomi described how the same thing happened when he went to university, until his arrest. His treatment whilst in detention is described in para. 85 above.

3. Student movements in black universities

334. University students joined school students in their protests about the system of education and apartheid during the period under review.

335. The IDAF paper on the role of police in strikes and demonstrations details persecutions of university students. Included among the cases were:

- Students of the University of Durban-Westville who were sent home for 14 days after boycotting classes.
- The indefinite closure of the University of Fort Hare.
- Threats to the right of boycotting students to write exams at Turfloop, at the University of Natal Medical School, and the University of Zululand.
- The closure one week early of the University of Zululand.

- The early closure of several teacher training colleges by the Minister of Coloured Affairs, after rectors of the colleges refused to suspend students not back in classes.
- Over 600 students at two colleges lost their bursaries because of the boycotts.

336. During the period under review, the Azanian Students' Organization was founded. It was the first national black university students' organization to be formed since the SASO was banned in October 1977. Representatives from the Universities of Fort Hare, Zululand, Durban-Westville, Natal, Rhodes and the North took part in its establishment. ^{336/}

337. According to additional information available to the Group, actions taken by university students during the period under review included:

- A meeting of Soweto university students decided to stay at home until Bantu Education was scrapped; the meeting also decided to organize a nationwide school boycott. ^{337/}
- Four thousand students at the (overwhelmingly white) University of Cape Town boycotted lectures in protest against the educational system; ^{338/} and organized an International Day of Solidarity with the South African pupils' and students' class boycott. ^{339/}
- Four hundred students at Cicira Training College were sent home and the college closed after a boycott of classes around the demand for equal education for all races and the return of a colleague who had been arrested by police. ^{340/}
- Students at the University of Zululand boycotted their classes. ^{341/}

^{336/} Rand Daily Mail, 26 November 1979.

^{337/} Post, 9 June 1980.

^{338/} Cape Times, 1 May 1980.

^{339/} Rand Daily Mail, 9 May 1980.

^{340/} Daily Despatch, 29 May 1980.

^{341/} Post, 6 June 1980.

- Nine students were expelled from the University of Transkei after a week's boycott of classes. 342/
- The Students Representative Council at the University of Natal's black medical school decided to boycott lectures until the end of 1980. 343/
- Fourteen students were suspended from the Lennox Sebe Teacher Training College near Zwelitsha. 344/

338. The Government announced that all Coloured students at institutions of higher education who had not yet resumed their normal class attendance had been suspended and would only be re-admitted if they supplied reasons for why they did not attend classes. 345/

339. Detentions of people involved in boycotts and student actions included the arrest of seven University of the Western Cape staff and the Acting President there of AZAPO. 346/

University of Zululand

340. Mr. Edmund Jiyana (523rd meeting), a former student of the University of Zululand, told the Group how, when he was taking part in student protests at the university, the police waited constantly outside the campus, while the administration threatened the students with expulsion. Mr. Jiyana said that, after a protest about the expulsion of a lecturer, Dr. Peengu, from the university, all the members of the Students Representative Council were expelled. Mr. Jiyana said that his home was visited by the police and his mother and brother interrogated. He went underground and left the country.

342/ Sunday Post, 8 June 1980.

343/ Cape Times, 21 June 1980.

344/ Daily Dispatch, 28 June 1980.

345/ Post, 11 June 1980.

346/ Daily Despatch, 28 May 1980.

341. Mr. Jiyana said that conditions were so bad in the University of Zululand that it usually took six years to pass a course which was supposed to be three years' long. He told the Group that the lecturers in black universities were predominantly white, and that many students have been victimized for expressing their opinions.

342. An anonymous witness told the Group (524th meeting) about a protest in the university during the 1976 Soweto uprising. Her treatment during detention is described in para. 87 above. After her release, she went back to the university but was expelled. The witness also told the Group how the system under which black students were allocated to a "tribal" university limited their choice of courses to study. For instance, Zulus could not study pharmacy, since there was no such department at the University of Zululand, and Zulu students were not generally permitted to study elsewhere.

University of Fort Hare

343. Students at the University of Fort Hare boycotted classes in protest at the South African educational system.^{347/} As a result, the university was closed down and the 2,750 students ordered to leave.^{348/} After the closure, police detained students from nearly all towns where there were congregations of Fort Hare students.^{349/} By June 1980 only 10 per cent of Fort Hare students were attending classes.^{350/}

University of the North

344. According to additional information available to the Group, members of the Azanian Students' Organization were refused re-admission to the University of the North. One report gives the number refused admission as nearing 100.^{351/} The rector denied this and said that only seven had been refused admission. Two of the AZASO members were re-admitted after being initially refused.^{352/}

^{347/} Post, 8 May 1980.

^{348/} Daily Despatch, 20 May 1980; Post, 20 May 1980; International Herald Tribune, 20 May 1980.

^{349/} Post, 2 June 1980.

^{350/} Rand Daily Mail, 17 July 1980.

^{351/} Post, 20 February 1980.

^{352/} Post, 21 February 1980.

345. In February 1980, there was a sit-in by students in protest against the barring of fellow students from re-admission.^{353/} Mass meetings were banned and students ordered to return to classes or leave the campus, towards the end of February.^{354/} The students returned in the midst of patrols by police on the campus.^{355/} In March four more students were banned from attending classes.^{356/}

346. The first part of the University's coming-of-age celebrations were successfully disrupted by the students, who said that the University was a centre "designed to supply the black man with an inferior type of education aimed at frustrating the black man".^{357/} As 16 June approached, students at the University boycotted exams.^{358/}

4. Blacks at "white" universities

347. The South African Minister of National Education told the House of Assembly during the period under review that there was no possibility of allowing universities to open their doors to all races.^{359/}

348. Black students at the University of the Witwatersrand decided not to write exams on 16 June.^{360/}

5. Student movements in white universities

349. According to information available to the Group, a student at the Randse Afrikaanse Universiteit was suspended by the university after he had put up posters calling for equal rights for all racial groups in South Africa.^{361/}

350. According to a lecturer at Stellenbosch University, the majority of Afrikaans students have not changed their attitudes and the group which really fights the status quo remains in the minority.^{362/}

^{353/} Voice, 27 February 1980.

^{354/} Rand Daily Mail, 27 February 1980.

^{355/} Post, 20 February 1980.

^{356/} Post, 14 March 1980.

^{357/} Voice, 7 May 1980.

^{358/} Post, 11 June 1980; Rand Daily Mail, 14 June 1980.

^{359/} Cape Times, 23 May 1980.

^{360/} Rand Daily Mail, 14 June 1980.

^{361/} Post, 25 June 1980.

^{362/} Sunday Times, 22 June 1980.

351. However, a group of Afrikaans students at the University of Potchefstroom started a new organization called POLSTU, whose aims were full South African citizenship for all, equal economic and social opportunity, equal political say, freedom of association and peaceful but rapid change through negotiations.^{363/} The organization committed itself to a campaign for equal rights despite large-scale right-wing opposition from other students.^{364/} POLSTU leaders decided to meet black representatives from Fort Hare, Soweto and Atteridgeville.^{365/} The organization attacked the government's "rotten legislation" and "obsession with colour".^{366/}

6. Apartheid in schools

352. Comparative statistics on spending and pupil-teacher ratios in education were made available to the Group.^{367/}

- For 1977-78, total spending on education for the whole of South Africa came to R1,232,476 million. Only R176,650 million of this was spent on African education.

- Estimated average per capita spending on various racial groups during 1977-78 were:

White	R551
Coloured	R185.16
Asian	R236.17
Africans in "white areas"	R 54.08

- Pupil-teacher ratios for 1979 for primary, secondary and special classes were:

Whites	1 - 19.6
Coloureds	1 - 29.6
Asians	1 - 26.2
Africans	1 - 47.6

353. A witness before the Group who wished to remain anonymous (530th meeting) said that Bantu education was a tool used to brainwash people.

354. Mr. Cecil Msomi told the Group (523rd meeting) that the South African educational system for black people is that of a pyramid where only a handful reach the top.

^{363/} Sunday Express, 20 July 1980.

^{364/} Cape Times, 14 August 1980.

^{365/} Sunday Times, 17 August 1980.

^{366/} Student Argus, 30 August 1980.

^{367/} South African Institute of Race Relations, op. cit., pp. 485-87.

K. Other serious violations of human rights resulting from the policy of apartheid and racial discrimination

1. Censorship and restrictions on the flow of information

355. According to information before the Working Group, Professor J.D. van der Vyver, a Witwaersrand University professor of law, referred during the period under review to the "gradual abridgement of the right of the Press to publish reports dealing with the maladministration of the affairs of State by the Government". The Advocate-General Act, he said, was designed to keep knowledge of administrative corruption from the public. He also mentioned the 1957 Defence Act, the 1959 Prisons Act and the 1979 and 1980 amendments to the Police Act, all of which placed the onus on reporters to prove that they had taken all reasonable steps to verify their stories, as creating "a convenient method to stifle reporting". "By refusing to speak of the Press, the officials of the prison service, mental health institutions and the police force may make it impossible for a reporter to verify information at his disposal to safeguard himself and his newspaper against conviction, if it should appear that his information was not entirely true."^{368/}

356. According to further information available to the Group, a commission under the chairmanship of Mr. Justice M.T. Stein, into reporting on defence and police matters, reported in April and recommended that the Police Act be amended to prohibit press disclosure of methods used by the police to combat insurgency.^{369/} The Prime Minister, Mr. P.W. Botha, threatened soon afterwards to act against the press if it did not stop headlining radical and revolutionary activity.^{370/} When the Second Police Amendment Bill was published in May, it included a clause to ban newspapers from publishing the fact that people have been arrested or detained for interrogation in

^{368/} Rand Daily Mail, 23 April 1980.

^{369/} Guardian, 15 April 1980.

^{370/} Guardian, 1 May 1980.

connection with "terrorist" activities.^{371/} Following an outcry from the press, including the Afrikaans-language press,^{372/} this clause was dropped in its original form,^{373/} but other clauses, according to the understanding of the Group, remained, which have essentially similar effect: one clause prohibits publication of "any information in relation to the constitution, movements, deployment or methods" of the police "in any action for the prevention or combatting of terrorist activities"; and another forbids publication of information about "any person against whom, or group of persons against which" any action is taken to prevent "terroristic activities".^{374/} The Bill became law in June 1980.^{375/}

357. Information available to the Group indicates that another form of denial of public access to news increasingly being used in South Africa is the banning of press reporters from scenes of police activity. Reporters were excluded from the areas of unrest in the Cape during the period under review and from the black town of Soweto in June 1980 around the anniversary of the Soweto uprising (see paras. 26 and 29 above). The police commissioner, General Geldenhuys, complained that "certain journalists, especially those attached to foreign corps and television networks, were inciting black youths in Soweto and other parts of the country to stone-throwing".^{376/}

358. Among publications banned during the period under review were three student papers - SRC News, National Student and Bona Fide,^{377/} and a NUSAS (National Union of South Africa Students) study entitled Exposing Total Strategy.^{378/}

^{371/} Star, 17 May 1980.

^{372/} Post, 20 May 1980; Sunday Express, 18 May 1980.

^{373/} Guardian, 20 May 1980.

^{374/} Rand Daily Mail, 22 May 1980.

^{375/} Post, 26 June 1980.

^{376/} Guardian, 17 June 1980.

^{377/} Cape Times, 15 March 1980.

^{377/} Rand Daily Mail, 5 June 1980.

359. A book published abroad, Olive Schreiner, a Biography, by Ruth First and Ann Scott, was banned from importation into South Africa, apparently because one of the authors, Ms. First, is a named "Communist" under South African law, and nothing she says or writes may be published in the country. ^{379/}

360. Among books by South African black writers published in the country but banned as undesirable by the Publications Control Board are: Forced Landing, a book of short stories by Mothobi Motloatse; Africa My Beginning, by Ingoapele Madingoane; Muriel at Metropolitan and Just the Two of Us, by Miriam Tlali; and Call Me Not a Man, by Mtutuseleli Matshoba. ^{380/}

361. A strike by black journalists, joined by the editor, Mr. Percy Qoboza, took place on the white-owned Post and Sunday Post during the period under review. The two papers, though run by black journalists and aimed at black readers, are owned by the powerful Argus newspaper group. The strike, supported by the black Writers Association of South Africa (the union that emerged after the banning of the Union of Black Journalists in 1977), was centred on a demand for a written contract and revised salary structure for workers on the paper. WASA, which represents 90 per cent of South Africa's 180 black journalists, alleges that black journalists are discriminated against by white-owned newspapers, especially with regard to pay and promotion. ^{381/}

362. The Transkei "homeland" government banned the liberal east London newspaper, the Daily Dispatch, in April 1980, after the paper had published news of the arrest of 300 Transkeians for allegedly plotting to assassinate the "President", Chief Kaiser Matanzima. The ban was lifted a month later. ^{382/}

^{379/} Rand Daily Mail, 5 June 1980, 18 August 1980.

^{380/} Rand Daily Mail, 23 April 1980.

^{381/} Guardian, 4 August 1980.

^{382/} Guardian, 15 April 1980, 10 May 1980.

2. Bannings

363. The witness Thomas Viktor Hammarberg, Secretary General of Amnesty International (521st meeting), drew the Working Group's attention once more to the South African Government's use of administrative measures to silence opposition. He reminded the Group that in June 1979 a senior cabinet minister, Dr. Piet Koornhof, had been reported as telling the United States National Press Club that the Government was "reviewing" its use of banning orders. Yet during the period under review the Government had been continuing to use "banning" orders to restrict and silence its opponents, many of them former political prisoners who were banned immediately on their release from gaol after serving their full sentences. The witness names Mrs. Albertina Sisulu, wife of Walter Sisulu, banned for two years in July 1979 immediately the third of three successive five year banning orders expired; Priscilla Jana, a prominent defence attorney, banned in August 1979; Leading members of the Port Elizabeth Black Civic Organisation (PEBCO), including Thozamile Botha (see para. 365 (iii) below), Phalo Tshume and Mono Badela, all banned immediately on their release from detention;^{385/} political prisoner Andrew Mashaba, banned on his release after 15 years on Robben Island, in September 1979; Eddie Daniels, also released after 15 years on Robben Island, in November 1979; Mogami Moeng, released in April 1980 after eight years on Robben Island; Curtis Nkondo, Chairman of the Soweto Teachers Action Committee and leader of the Azanian People's Organisation (AZAPC), banned after a month in detention in April 1980; Fanyana Mazibuko, assistant director of the South African Council for Higher Education (SACHED),^{384/} banned in July 1980; and Helen Joseph, 75-year old former leader of the women's movement in South Africa and the first person to have been house arrested under a banning order in the early 1960s, once more banned in July 1980.

^{385/} Daily Dispatch, 28 February 1980.

^{384/} Sunday Post, 13 July 1980.

364. According to information available to the Working Group, 166 persons were reported to be restricted under banning orders on 31 May 1980,^{385/} and 155 on 30 June 1980.^{386/}

365. The Group has before it further information on the following banned persons:

(a) Revd David Russell, well-known for his struggle on behalf of victims of forced removals in resettlement areas of the Eastern Cape and for his defence of "squatters" in Crossroads, Cape Town, was sentenced to 12 months' in gaol in February 1980 for contravening a banning order served on him in October 1977. Mr. Russell had defied the order by attending an Anglican Church Synod in Grahamstown in December 1979.^{387/} He was released on £500 bail in March, pending an appeal.^{388/}

(b) Dr. Mamphela Ramphele who, until her banning in April 1977 and banishment to the rural area of Menyenye, was superintendent of a Black Community Programmes clinic in Kingwilliamstown, Eastern Cape, was in March 1980 refused permission to take up a place at the University of the Witwatersrand to study tropical medicine. Mrs. Helen Suzman MP, in support of her application for relaxation of her banning order, said that the course would be of value to Dr. Ramphele's work in the area to which she was banished. No reason for the refusal was given by the Minister of Justice.^{389/} The Medical Association of South Africa also took up her request but their request, too, was turned down in April 1980.^{390/}

(c) Mr. Thozamile Botha applied in March 1980 for his ban to be relaxed in order for him to be able to work at Ford's Port Elizabeth plant, where he had been a shop steward, and was rejected. Mrs. Fezeka Botha, wife of the banned man, was also unemployed.^{391/} Mr. Botha escaped the country into Lesotho in May 1980,^{392/} and in the

^{385/} Rand Daily Mail, 31 May 1980.

^{386/} Government Gazette, July 1980, reported in Rand Daily Mail, 25 July 1980.

^{387/} Cape Times, 28 February 1980.

^{388/} Cape Times, 4 March 1980.

^{389/} Daily Dispatch, 6 March 1980.

^{390/} Rand Daily Mail, 29 April 1980.

^{391/} Post, 28 March 1980.

^{392/} Times, 7 May 1980.

same month Mrs. Botha made an urgent application to the Supreme Court for an order restraining the police from assaulting her. She alleged that she had been beaten and kicked during interrogation by a Captain du Plessis and a Lieutenant Moolman, after her husband's escape.^{393/} The application was granted.^{394/}

(d) Numbers of students at black universities have been subjected to bannings from attending student meetings by the university authorities. Among cases known to the Working Group are those of four students at the University of the North (Turfloop) served with notices by the acting rector, Professor Steenkamp, in March 1980, and that of Mr. Blessing Mphela, chairman of the Catholic Students Association at the same university, who was ordered to report to Professor Steenkamp every Monday, to bring his parents to sign a declaration that he will behave, to abstain from any meeting on or off campus, and to resign from any position that he holds on the campus.^{395/}

(e) Police stopped a meeting in August 1980 between Mrs. Helen Suzman MP and Mrs. Winnie Mandela, wife of Nelson Mandela, who is restricted to a small town, Brandfort, in the Orange Free State.^{396/}

(f) Two leaders of the Black-run Media Workers' Association, President Mr. Zwelalehe Sisulu, and Vice-President of the Associations Natal branch, Mr. Murimothu Subramoney of Durban, were banned following a protracted strike of MWASA. Mr. Sisulu is the son of former African National Congress leader Mr. Walter Sisulu, a life prisoner on Robben Island. The two journalists are confined to the area where they live. They may not attend meetings, cannot be quoted, must remain at home from 6 p.m. to 6 a.m. and during the weekends, and cannot do any newspaper or trade union work. The banning order also stops them from entering educational institutions.^{397/}

3. Denials of passports and visas

366. Among the individuals denied passports and facilities to travel during the period under review are: Mrs. Ilona Kleinschmidt, former secretary of lawyer Mr. Shun Chetty,

^{393/} Post, 16 May 1980.

^{394/} Rand Daily Mail, 17 May 1980.

^{395/} Post, 14 March 1980.

^{396/} Guardian, 28 August 1980.

^{397/} The Star, 3 January 1981; The Citizen, 30 December 1980; Economist, 10 January 1981; Le Monde, 31 December 1980 and 6 January 1981.

now in political exile, who had her passport withdrawn in September 1979;^{398/}
Mr. Philip Mtimkhulu, secretary of the Writers Association of South Africa, who was refused the necessary endorsement on his passport to enable him to attend an international conference in Spain;^{399/} Professor Ezekiel Mphahlele and Mr. Fanyana Mazibuko (see para. 363 above) were refused passports to visit the United States, to which they had been invited to discuss educational needs of black South Africans studying there;^{400/} Ms. Priscilla Jana (see para. 363 above) who had her passport seized by police;^{401/} Mr. Johan Maree, senior lecturer in industrial sociology at the University of Cape Town, was refused a passport in January 1980 to visit the United States at the invitation of the United States Ambassador to South Africa - Mr. Maree put the refusal down to his involvement with African trade unions;^{402/} and Bishop Desmond Tutu (see para. 119 above), General Secretary of the South African Council of Churches, had his passport seized in March 1980.^{403/}
367. A delegation of 12 United States churchmen was refused visas to enter South Africa in August 1980.^{404/}

4. Violations of transit rights and of the integrity of neighbouring States

368. A case of serious violation of transit rights involving a passenger on board an aircraft belonging to Lesotho Airways has been brought to the attention of the Working Group during the period under review. It concerned the poet and leader of the African National Congress, Jinjiva Nkondo (Victor Matlou), whose aircraft, in transit for Maseru, was diverted to Bloemfontein in December 1979. Mr. Nkondo was arrested, held for five months and charged under the Terrorism Act before being released in May 1980 (see para. 90 above). The Lesotho Government protested against the action as an unprecedented violation of international law and of the provisions of the International Convention on Air Travel.^{405/}

^{398/} Post, 18 September 1980.

^{399/} Rand Daily Mail, 25 October 1979.

^{400/} Post, 14 December 1980.

^{401/} Post, 10 December 1979.

^{402/} Rand Daily Mail, 29 January 1980.

^{403/} Rand Daily Mail, 5 March 1980.

^{404/} Rand Daily Mail, 1 August 1980.

^{405/} Rand Daily Mail, 18 December 1979; Post, 16 May 1980; Press Release of the African National Congress, 28 February 1980.

369. The witness Jimmy Elias Mabaso (524th meeting) also complained to the Group of activities of South African security police in neighbouring territories, in particular in Swaziland, where he had felt himself in serious danger of being kidnapped and taken back into the Republic.

5. Pass Laws

370. According to information before the Working Group, influx control is being more strictly enforced in South Africa than ever, despite claims by the Botha Government that it is relaxing apartheid. This intensification is "part of the Government's aim to intensify control over migrant workers. The pass laws are being stringently enforced, with officials sticking to the rules and regulations as never before." Migrants are reported to be refused registration for jobs unless these have been given them by labour bureaux; they are finding it impossible to transfer a one-year contract from one employer to another after being dismissed by the first; and many are being refused right of appeal after being "endorsed out" of an urban area.^{406/}

371. Among the cases known to the Working Group is one of a man who had lived in Johannesburg for 34 years and worked continuously in one job for 29 years, then been "endorsed out" and given 72 hours to leave the area.^{407/}

372. According to further information before the Group, however, a "loophole" has been opened in the pass laws by a ruling of the Appeal Court that a regulation requiring blacks to have lodgers' permits was in conflict with the law relating to blacks in urban areas. This would mean that the wife of any man who qualified to live in an urban area could live with him as of right. The next parliamentary session will have the option of amending the Urban Areas Act to close the loophole again.^{408/}

6. Health

373. According to information before the Working Group, apartheid in medical services continues to cause unnecessary suffering to black patients, because of overcrowding in black hospitals while in white hospitals there are empty beds. A recent report

^{406/} Sunday Post, 17 August 1980.

^{407/} Rand Daily Mail, 29 November 1979, 1 December 1979.

^{408/} Guardian, 21 August 1980.

stated that "there have been numerous reported cases of people who have died because they had to be transported a long distance to a black hospital because white hospitals could not treat them". Similarly, "we know of cases where human beings have died because a white-only ambulance could not pick them up".^{409/}

374. During the period under review, there have been numerous reports of starvation in rural areas, exacerbated by a period of drought in KwaZulu, the Ciskei and elsewhere. The Government's policy of "giving a better deal to urban blacks" by giving them preference in employment and thus shifting unemployment to the "homelands" (see paras. 147 and 166 above) is further exacerbating what is largely seen as a poverty problem.^{410/} In a single clinic outside Johannesburg, 40 cases of "third grade malnutrition" and three of kwashiorkor in babies were diagnosed in a single month, and in another month 21 cases of "mild" malnutrition, 45 of "third grade" malnutrition, two of marasmus and four of pellagra were diagnosed. Eighteen-month old babies are being brought to the clinics weighing only 6 kg. - the weight of a six-month old child.^{411/}

^{409/} Voice, 9 July 1980.

^{410/} Guardian, 26 August 1980.

^{411/} Sunday Times, 24 August 1980.

II. NAMIBIA

INTRODUCTION

375. In its previous report, the Working Group had described the illegal measures by which South Africa had steadily extended its jurisdiction over Namibia (E/CN.4/1365, paras. 235-310). The Group had referred to the efforts by the international community to implement the proposal for a peaceful settlement as provided for in Security Council resolutions 385 (1976), 431 (1978), 435 (1978) and 439 (1978). The Group described the actions of the Secretary-General and his Special Representative in carrying out the Security Council mandate through discussions with all interested parties, including SWAPO, the South African Government, the African Front Line States and the Western 'contact group' of Five (Britain, Canada, France, Germany, Federal Republic of and the United States). The report also described the parallel moves by South Africa to consolidate internal, purportedly autonomous government structures in Namibia. These moves included the transformation of the Constituent Assembly elected as a result of the unilateral election of December 1978, into a so-called 'National Assembly' with legislative powers; the strengthened South African military occupation of the territory; the launching of attacks, under the guise of counter-insurgency 'hot pursuit' operations, on the neighbouring states of Angola and Zambia; the adoption of further measures to establish the basis for a separate defence force in the territory; the widespread arrest, detention, torture and murder of civilians in the northern 'security districts' by the South African Defence Force; the use of draconian security laws, including Proclamation AG.26, which provides for indefinite detention incommunicado of suspects, against SWAPO members, as well as the harassment and intimidation of SWAPO members and supporters by the security police.

376. Other reports of the Group have discussed the Development of Self-Government for Native Nations in South West Africa, Amendment Act, No. 20 of 1973, which enables the South African State President to grant 'self government' to any of six proclaimed 'homelands' (Ovamboland, Kavangoland, Eastern Caprivi, Damaraland, Hereroland, Namaland). These had been established as a result of the Development of Native Nations in South West Africa Act, No. 54 of 1968. The South West African Affairs Act, No. 25 of 1969 had increased the illegal incorporation of Namibia into South Africa by greatly extending the area over which the South West African Administration in Windhoek had no jurisdiction (E/CN.4/1155, paras. 196, 198-201, 245-250; E/CN.4/1020/Add.1, paras. 1.2). Despite the establishment in August 1977 of a revised administrative structure under the aegis of the South African-appointed Administrator-General, and

the transfer of government functions from Ministries in South Africa to so-called 'Directorates' acting under the authority of the Administrator-General, many areas of internal policy where issues of human rights are involved - the judicial system, police, internal security and prisons - remain subject to decisions taken in Pretoria and not in Windhoek, SWA (see paras. 588-589 below).

377. The most significant developments considered by the Group in the period under review have been the attempts to establish a Demilitarized Zone (DMZ) in northern Namibia, and in parts of Angola and Zambia, as a basis for the implementation of the proposal for a peaceful settlement, and the continued obstruction of these moves by the South African Government by means such as the imposition by the Administrator-General of internal government structure providing for a so-called 'Council of Ministers' with executive powers and a division of legislative powers between the 'first tier' National Assembly and 'second tier' so-called 'representative (ethnic) authorities' for each 'population group'; the establishment of a separate 'South West African Territory Force'; the escalation of attacks by the SADF on civilian and refugee centres in Angola; the intensification of measures of arrest, intimidation, torture and murder of SWAPO members, supporters and other individuals, including members of the Namibian churches, by the SADF and South African Police; the detention of Namibian freedom fighters captured in the raid on the Cassinga camp in May 1978 in an open-air camp at Marienthal and infliction of grave mistreatment; the harassment of SWAPO political meetings and attacks on SWAPO supporters in urban areas.

378. The Secretary-General issued a supplementary report on 20 November 1979 concerning the implementation of Security Council resolution 435 (1978) and 439 (1978). The report dealt with a number of contacts the Secretary-General had initiated on Namibia, in particular the concept of a DMZ on either side of the Namibia/Angola and Namibia/Zambia frontiers. The idea had been suggested to Dr. Waldheim by the late President of Angola, Dr. Neto, when the former visited Angola in July 1979. In his report, the Secretary-General stated that in August he had been informed that the Summit Meeting of Front Line States, held in Lusaka, had endorsed the proposal and that on 1 October a working paper concerning the monitoring and establishment of a DMZ, aimed at facilitating the implementation of the United Nations proposal, had been submitted for consideration by the neighbouring states as well as the Government of South Africa. At his suggestion, simultaneous high-level consultations, under the auspices of the United Nations, to clarify aspects of the working paper, took place in Geneva between 12 and 16 November 1979. All aspects of the DMZ concept were discussed, as well as the functions of UNTAG (the United Nations Transitional Assistance Group), and further views exchanged on the relevant paragraphs of the previous report by the Secretary-General of 26 February 1979. At the conclusion of the consultations, the

Front Line States and SWAPO accepted the concept of the DMZ and it was indicated that, provided South Africa also accepted the concept, detailed technical discussions could follow. The proposal involves the establishment of a zone 1,400 km long and 100 km wide (50 km on each side of the Namibian border with Angola and Zambia), which would come into effect 14 days after the commencement of a ceasefire; any SWAPO base within the zone would be closed and its personnel transferred to Angola or Zambia, while PLAN (People's Liberation Army of Namibia) units agreeing to disarm would be able to return, along with exiles, to participate in the elections, via UNHCR reception centres. The Angolan and Zambian Governments would ensure the observance of the ceasefire and restriction in base of SWAPO armed forces in co-operation with UNTAG in respect of their parts of the DMZ. Certain so-called 'selected locations', including a military base, supporting airfields and population centres, and the immediate environment (defined as a distance not generally greater than 5 km from the perimeter of the installation or population centre) would be excluded from the DMZ. The South African Defence Force units within such locations would be restricted to base and, after 12 weeks, reduced to 1,500 at Grootfontein and Oshivello, in accordance with the original settlement proposal, with UNTAG monitoring the withdrawal, logistic resupply and authorized movement of personnel.^{412/}

379. On 5 December 1979, the Foreign Minister of South Africa informed the Secretary-General of the United Nations that the South African Government accepted the concept of a demilitarized zone, provided agreement was reached, inter alia, on the number of South African bases to remain in the zone, arrangements for the disarming of SWAPO personnel, the deployment of an 'acceptable' percentage of UNTAG within the DMZ and the exclusion of any claim by SWAPO for bases inside Namibia. Mr. Peter Mueshahange, SWAPO Secretary for Foreign Relations, speaking in the General Assembly debate on the question of Namibia on 6 December, said that SWAPO was opposed to the disarming of its freedom fighters in Namibia or removing them into neighbouring countries, while allowing foreign military forces to remain armed on Namibian soil, and rejected South Africa's conditional acceptance as a challenge to the authority of the Security Council. He called on the Assembly to urge the Security Council to impose comprehensive economic sanctions under Chapter VII of the Charter to force South Africa to comply with the United Nations proposal.^{413/}

^{412/} Security Council, S/13634, 20 November 1979.

^{413/} Namibia Bulletin, December 1979, p. 3.

380. On 12 December 1979, the General Assembly adopted seven resolutions on Namibia: in its resolution A/34/92G (Situation in Namibia resulting from the illegal occupation of the Territory by South Africa), the Assembly asked the Security Council to act in order to ensure South Africa's immediate compliance with United Nations decisions on Namibia by imposing comprehensive mandatory sanctions. Mr. Martti Ahtisaari was reappointed by the Assembly as Commissioner for Namibia on 20 December 1979 up to 31 December 1980, while on 26 December 1979 the United Nations Council for Namibia re-elected unanimously Mr. Paul J.F. Lusaka, Permanent Representative of Zambia to the United Nations, as its President for 1980.^{414/}

381. In a further report to the Security Council on 31 March 1980, the Secretary-General outlined the measures taken to implement the DMZ concept. Lieutenant-General Prem Chand of India was appointed Commander-designate of the military component of UNTAG, on 12 December 1979. The Secretary-General reported on the activities of the Commander-designate which covered all the practical issues involved and which thus left the political decisions that were necessary to move to the stage of implementation.^{415/}

382. In a letter dated 12 May 1980 from the South African Foreign Minister, the South African Government raised questions about the military aspects of the DMZ concept and about the impartiality of the United Nations. The Secretary-General replied by way of a letter of 23 June 1980 to the Foreign Minister, in which he clarified his position on the remaining points in dispute and pledged that UNTAG would act with complete impartiality in overseeing the transitional period between a ceasefire and elections leading to independence, adding that it was expected that South African officials involved in the process would do the same. He emphasized that the settlement plan would be carried out under the auspices of the Security Council, which had not given SWAPO an exclusive status, and that the United Nations would deal only with parties involved originally in the negotiations on the settlement

^{414/} Ibid., pp. 6, 9.

^{415/} Security Council, S/13862, 31 March 1980.

proposal. He also said that the proposal specified that every adult Namibian, without discrimination or fear of intimidation from any source, will be able to vote, campaign and stand for election to the constituent assembly, and that it provided for full freedom of speech, assembly, movement and press. The reply from South Africa, in a letter dated 29 August 1980 from the Foreign Minister of South Africa, welcomed the assurances with respect to the issue of bases inside the DMZ, confirmed that logistical aspects of UNTAG's presence in Namibia as previously discussed were accepted, but demanded an end to 'preferential treatment' of SWAPO and said that impartiality of the South African Government and its officials was not to be construed as 'inconsistent with measures which may be necessary for the maintenance of law and order'. The letter accused the United Nations of lack of good faith on this issue, and SWAPO of 'doing everything in its power' to obstruct the proposal. The South African Government was, however, ready to discuss the composition of UNTAG, the status of the forces agreement, and 'the setting in motion' of the implementation of resolution 435 (1978), provided that all parties were henceforward treated on an equal basis, with the inclusion of the 'leadership in the Territory' in all future consultations on implementation.^{416/}

383. At the 35th Ordinary Session of the OAU Council of Ministers, 18-28 June 1980, in Freetown, Sierra Leone, a resolution on Namibia was adopted reaffirming unequivocal support for SWAPO as the sole legitimate and genuine representative of the people of Namibia, and mandated the African Group at the United Nations, in the event of a negative response or obstruction from South Africa, to call for an urgent convening of the Security Council to take effective enforcement measures, including comprehensive and mandatory economic sanctions against South Africa, and, in the event of a failure to convene, for an extraordinary session of the OAU Council of Ministers to be convened to consider the new situation.^{417/}

^{416/} Security Council, S/14011, 20 June 1980; S/14139, 29 August 1980.

^{417/} Information and Comment, 9 July 1980, SWAPO Observer Mission to the United Nations.

384. Sanctions against South Africa were also called for in the Declaration adopted by the International Conference in Solidarity with the Struggle of the People of Namibia, held in Paris from 11-13 September 1980. It urged the Security Council to meet not later than 15 October 1980 to impose sanctions, including an oil embargo against South Africa, in order to force its compliance with Security Council resolutions 385 (1976) and 435 (1978). The Council was also urged to declare categorically that Walvis Bay and all the off-shore islands of Namibia are integral and incontestable parts of the Territory.^{418/}

385. According to information available to the Group, there have been widespread reports of moves to convene a Lancaster House-style conference, involving direct negotiations between SWAPO and South Africa, under United Nations auspices. An offer to host a conference was made by Prime Minister Robert Mugabe of Zimbabwe in his message to the International Conference in Solidarity with the Struggle of the People of Namibia, and possible modalities for such a conference were reported being discussed at a high diplomatic level as of October 1980.^{419/}

386. Previous reports of the Group (E/CN.4/1311, paras. 336, 348-351; E/CN.4/1365, paras. 252-253) have described the measures taken by South Africa to implement 'independence' for Namibia on a unilateral basis by the process of so-called 'internal constitutional development'. The Group has paid particular attention in its current report to this process since it is relevant to an understanding of the pattern of human rights violations during the period under review.

387. On 1 August 1979, Professor Gerrit Viljoen, rector of the Rand Afrikaans University and chairman of the Afrikaner Broederbond, was named as the new Administrator-General, replacing Justice Marthinus Steyn, who had been appointed in August 1977. The decision was a unilateral move by South Africa, without consultation with the United Nations or the Western 'contact group' which had initially agreed to the creation of the post as a means of ensuring South African co-operation over the implementation of the proposal for a settlement.

388. According to information available to the Group, Dr. Viljoen's main policies since taking up office have involved establishing an internal constitutional structure along the lines of the original Turnhalle conference constitutional proposals of 1977.

Dr. Viljoen first elaborated this step-by-step strategy in an interview with the Rand Daily Mail in October 1979, in which he said that the internal political process should run parallel with international arrangements for a settlement, and that while

^{418/} Declaration of the International Conference in Solidarity with the Struggle of the People of Namibia, Paris, 11-13 September 1980.

^{419/} Christian Science Monitor, 25 September 1980; Telex received from Comrade Robert Mugabe by Comrade President Sam Mujoma, 8 September 1980.

this need not pre-empt the authority of a future constituent assembly, the next step in the process would be to grant executive powers to the existing Advisory Council nominated by the Democratic Turnhalle Alliance (DTA)-controlled National Assembly. These would cover those areas of government already transferred to the aegis of the Administrator-General, and the development, according to Dr. Viljoen, could go to the extent where as with British colonial history, there was 'responsible government' before independence, with the head of State no longer acting at his own discretion or on the advice of ministers of the controlling country, but on the advice of the local powers. Proposals along these lines were tabled by the Administrator-General and debated by the National Assembly, which adopted them without amendment in November 1979. They provided for the establishment of second tier authorities in respect of the existing 'homelands' with entrenched legislative powers in respect of agriculture, land tenure, education, health services, social welfare and pensions. The National Assembly was specifically barred from passing legislation impinging on the second tier authorities in these spheres, unless a second tier authority requested that the National Assembly act as its agent in any of these matters, and the structure gave the white second tier authority (the existing Legislative Assembly in Windhoek) powers to continue racial discrimination for the 'white area'. Second tier authorities could not pass legislation conflicting with the National Assembly on matters outside their jurisdiction; the Administrator-General is authorized to promulgate legislation on request by any second tier authority. A Directorate of constitutional development was established in December to prepare the proposals: in the budget for the 1980/81 financial year, one-third of total expenditure of R520m was allocated to constitutional development.^{420/}

389. In May 1980 Dr. Viljoen announced that a proclamation was to be issued in June bestowing executive powers on the National Assembly, and that the constitution of the 11 second tier authorities would be put into operation in early July. A 'cabinet' for the territory was proclaimed on 12 June in terms of Proclamation AG.19, 'Establishment and Powers of a Council of Ministers for South West Africa'.^{421/} A 12-member Council of Ministers replaced the previous Advisory Council, but was composed of the same 12 DTA members representing each population group which comprised the Advisory Council. Dirk Nudge, the DTA Chairman, was nominated as Chairman of the Council of Ministers, with effective prime ministerial status, a title he immediately began to be referred by in the broadcasts of the state-controlled SABC. The other 11 Council members included known leaders such as Dr. B.J. Africa (Baster representative), E.H.L. Christie (Damara representative and Chief Riruaiko (Herero...

^{420/} Windhoek Advertiser, 28-29 November 1979, 12 March 1980.

^{421/} Official Gazette Extraordinary, No. 4174, 12 June 1980.

representative). The Council is empowered to administer any affairs vested in the Administrator-General by the South African State president or a cabinet minister, although the Administrator-General retains power to legislate over matters of a 'constitutional nature' and to make laws, other than regulations or rules, i.e. by proclamation. As head of the executive authority, the Administrator-General can veto legislation drafted in the National Assembly, and executive decisions taken by the Ministers' Council, by referring such matters back to each body with recommendations, although he is required to carry out 'directions, directives or policy' of the Council. Agendas of meetings, as well as all resolutions, have to be submitted to the Administrator-General, who may attend meetings but has no vote; he has discretion to act without consulting the Ministers' Council - in times of national emergency for example - and can intervene at any moment in the executive and legislative process. For the time being South Africa retained over-all control over the police force and security, foreign affairs and railways and harbours, and operational command over defence (qv). The SWA Division of the Supreme Court remained under the control of the South African Minister of Justice, but other matters previously transferred to the aegis of the Administrator-General were placed under the control of the Ministers' Council, with 'directors' appointed by the Administrator-General in charge of 'directorates' responsible of these functions. As of March 1980 there existed 10 directorates dealing with various functions, amongst them, Agriculture and Forestry, Civic Affairs, Constitutional Development, Community Services and Manpower, Economic Affairs, Finance, National Education and National Health. In terms of the Government Service Act, No. 2 of 1980, which came into effect on 1 July, the existing directorates were retitled government departments, with a secretary at the head of each department. The Act provided for the establishment and administration of a separate government service for the territory.^{422/}

390. Provisions for the establishment of constitutions for the second tier authorities were contained in a series of proclamations issued by the Administrator-General between 30 May and 30 June 1980, which formalized the cosmetic change. For example the 'homeland governments' no longer have 'cabinet ministers' and a 'chief minister' but an 'executive committee' (see F, paras. 462-465 below). On 1 August, Dr. Viljoen announced that elections for the second tier authorities were to take place early in November 1980. The election would be held over three days for all ethnic groups with the exception of the Ovambos (nearly half of Namibia's total population) the Rehoboth Basters and the Bushmen. The reasons given by Dr. Viljoen for these exceptions

^{422/} Rand Daily Mail, 18 June 1980; Economist Intelligence Unit, Quarterly Economic Review of Southern Africa, 3rd Quarter 1980, p. 18.

were that the scale of military operations in Northern Namibia might lead to criticism that psychological influence had been exerted; that a Rehoboth legislative assembly had been elected in 1979; and that for the Bushmen it had been decided to proceed with a nominated body to look after their interests. A Proclamation AG.46 (Divisional Election Proclamation) of 29 August 1980 set out regulations for the holding of elections for members of second tier authorities and amended provisions relating to voters' lists, previously set out in Proclamation AG.22 (Voters' Lists for Legislative Authorities Proclamation, 1980).^{423/}

391. According to the information available to the Group, the main items of legislation promulgated by the National Assembly with the approval of the Administrator-General which came into effect during the period under review, were the Identification of Persons Act, 1979 (see E/CN.4/1365, para. 271) and the Abolition of Racial Discrimination (Urban Areas and Public Amenities Act), 1979 (see E/CN.4/1365, para. 253). The former made it compulsory for every Namibian over 16 years of age to carry an identity document, but actual distribution of cards, necessary to qualify for inclusion on voters' lists, only began in April 1980, and the distribution was expected to take about four to five weeks. The Administrator-General said it would not be necessary to register for elections, since all the information required was contained on the cards, which would have to be shown before a person was allowed to vote. The anti-discrimination law came into effect in July 1979, but was ineffective in practice as it was decided that the sections dealing with the opening of public amenities, and a penalty clause providing for a fine of R300 or three months imprisonment for refusal to obey the law, were not to come into effect unless a further proclamation was issued. In June, a proclamation providing for the coming into operation of the said sections 3 and 4 of the Act as of 1 July 1980 was published, but the provision for a prison sentence had been dropped, with provision, instead for the suspension of the licence of an owner of a public amenity. The new provisions were criticized as inadequate by the Namibia National Front, and Andreas Shipanga, President of the SWAPO-Democrats, said that Hospitals, schools, higher education and health institutions were still segregated, and job reservation and discrimination were still being applied in the private and public sectors, while some hotel owners indicated that they would continue to bar blacks despite the penalties. Even in the case where discrimination is proved, offenders can still save having their licences revoked by declaring they

^{423/} Focus, No. 30, September-October 1980, p. 8; Official Gazette Extraordinary, No. 4248, 29 August 1980.

were no longer contravening the Act within the warning period of 14 days. Owners of hotels, restaurants and other amenities are permitted under the Act to protect 'civilized standards' by retaining the right of admission; it was reported that hotel and restaurant owners had been seeking to evade the legislation by converting their premises into takeaway-only cafes, while at the Apollo whites-only restaurant in Windhoek, a system of screening prospective customers had been introduced. In July 1980 a white businessman and his Malaysian wife were reported to have been refused admission to the Windhoek public library on the grounds that she was Coloured. The Windhoek town clerk commented later that the library and swimming pool were two very delicate issues and the opening of both to all races could mean their closure.^{424/}

392. Previous reports of the Group (E/CN.4/1311, paras. 338-347; E/CN.4/1365, paras. 254-259) referred to South Africa's growing military presence in Namibia, the militarization of much of northern Namibia, and the measures by South Africa to involve Namibians in its military campaign against SWAPO and create the basis for a separate defence force for the territory. The aim has been to make the SWA Command of the SADF the nucleus for a separate army, and it is reported that troops from the SWA Command comprise one-third of the forces in the 'operational area' of northern Namibia. At a press briefing in September 1979, General Geldenhuys, Officer Commanding SWA, introduced uniforms specially designed for the new SWA Defence Force, and said that the existing SWA Command comprised members of the SADF and other defence units within Namibia and people who were either native to or served in a permanent capacity in the territory. General Geldenhuys subsequently announced plans significantly to reduce within two years the number of South African troops doing border duty, even without an international settlement and an end to the war. He suggested the cutback could be as high as 50 per cent and that the replacements would be locally-recruited black and white personnel. He predicted a 40 per cent increase in the number of Namibians engaged in operational duties during 1980, and said several companies had been put into operational service during 1979. The major emphasis has been the integrated 41 Battalion, which is made up of five companies consisting of Damaras, Hereros, Tswanas, Namas, Ovambos, Bushmen, Coloureds, Basters and Whites; ethnic units comprised 31 Battalion (Bushmen), 33 Battalion (Capriviian), 34 Battalion (Kavango) and 35 Battalion (Ovambo) as well as Coloured, Baster and Ovambo Commandos, and the Rietfontein (Herero) Commando in the east.^{425/}

^{424/} Focus, No. 23, May-June 1980, p. 10; Official Gazette Extraordinary, No. 4179, 17 June 1980; Rand Daily Mail, 18 June 1980; Windhoek Advertiser, 25 June, 18 July 1980.

^{425/} Focus, No. 25, November-December 1979, p. 6.

393. Dr. Viljoen announced that control of the SWA Command would be transferred to the authorities in Windhoek on 14 May 1980, in Cape Town, where he was meeting the South African Prime Minister - the statement came two days after South Africa's reply to the Secretary-General. At a later press conference he said that this would be a prelude to introducing compulsory military service in the territory for members of all population groups, which was a matter of priority, and could be introduced early in 1981. It was reported that commando training for Damaras was to start in May 1980, in terms of plans tabled in the Legislative Assembly of the Damara representative authority in Khorixas.^{426/}

394. On 1 July the Administrator-General announced the establishment of a separate Defence Department for Namibia, which was formally proclaimed on 1 August, when more than 90 South African Defence Force (SADF) units were transferred to the authority of the Administrator-General and the National Assembly. These specified units were organized in and as the 'South West African Territory Force' with effect from 1 August, together with defence units established previously specifically for the territory. Units transferred to the South West African Territory Force (SWATF) included headquarters units, battalions, field regiments, local area force units, and logistical units. According to information available to the Group, the SWATF remained part of the SADF until such time as Namibia became independent, with the SADF in control of defence and over-all territorial security, and the Officer Commanding the SWATF acting also as officer-in-charge of the SADF in Namibia. Executive control would rest with the Administrator-General and the Ministers' Council, which had to be consulted about operations, particularly raids into neighbouring states. But in matters of operational command the Officer Commanding the SWATF would be responsible to the chief of the SADF rather than the Administrator-General. The latter obtained powers to buy military equipment and establish facilities in Namibia. The main components of the SWATF, according to General Geldenhuys, were a 'reaction force' and 'area forces'; old established citizen force units had been included in the reaction force, which was trained mainly for conventional warfare. Established commando units had been taken into area forces, and the 112 Commando Squadron had now become 1 SWA Squadron. A citizen air force unit would form the nucleus of a future SWA airforce but maritime defence functions would continue to be performed by the South African Navy; the air force would for operational purposes remain under the SADF.^{427/}

^{426/} Guardian, 15 May 1980; Windhoek Advertiser, 3 June 1980; BBC, 13 May 1980.

^{427/} Official Gazette Extraordinary, No. 4236, 1 August 1980, Proclamation R. 131 Defence Matters in South West Africa; No. 4237, 1 August 1980, Government Notice AG.105 Establishment of South West African Territory Force; Windhoek Advertiser, 4 August 1980.

395. The first 30 paratroops, eight of them black, received their wings from Major-General Charles Lloyd, the new Officer Commanding of the SWATF, who was appointed to succeed General Geldenhuys in August, on the latter's appointment as Chief of the Army of the SADF. Six SWATF officers were commissioned at the parade at Windhoek's Eros military air force. ^{428/}

396. The South African Prime Minister stated that the creation of the SWATF did not mean that any South African troops would be withdrawn from Namibia as a result, while General Geldenhuys said that as the SWATF consisted of 'Southwesters' who were permanent residents of the territory they could not be expected to withdraw as required by resolution 435, in which there was no mention of the need for withdrawal or disbanding of a 'territorial' force. ^{429/}

397. The Ministers' Council, with the exception of the special branch, and intelligence services, was due to take over responsibility of the police force with effect from 1 September. Plans for the establishment of an indigenous police force could involve in practice the reconstitution of the previous SWA Police Force which was merged into the South African Police in 1959. ^{430/}

398. The previous report of the Group drew attention to South Africa's military build-up in Namibia and the launching of attacks by SADF troops based in Namibia against neighbouring States. These attacks have escalated during the period under review. In July 1979 the Angolan Government submitted to the Secretary-General a comprehensive report on 'the Human Casualties and other Damage resulting from the Repeated Act of Aggression by Racist Régime against the People's Republic of Angola', which outlined in detail a series of attacks on Angolan territory between 27 March 1976 and 11 June 1979. During this 27-month period the SADF were responsible for 94 air space violations, 21 ground infiltrations, 21 border provocations, seven artillery bombardments, 193 armed mine-laying operations, 25 attacks by ground forces, 24 aerial bombardments and one large combined operation involving ground and air forces. As a result of these attacks 1,503 people were killed and 1,800 wounded, including 612, and 611 Namibians respectively, the largest single category (other were Angolan nationals, South African refugees and Zimbabweans). The names of the Namibians killed although known were withheld for fear that their families might become the target for reprisals. According to the report these South African attacks involved large areas of

^{428/} Star, 13 September 1980.

^{429/} Times, 2 August 1980; To the Point, 15 August 1980.

^{430/} BBC, 4 August 1980; To the Point, 15 August 1980.

Angolan territory, containing over one million inhabitants, together with thousands of refugees. South African forces launched new attacks during October: on 2 November, the Security Council adopted resolution 454 (1979), which called on South Africa to cease immediately all acts of aggression and provocation against Angola, and to desist from the use of Namibia for launching attacks on Angola and other neighbouring states.^{431/}

399. Mr. Peter Mueshihange, SWAPO Secretary of Foreign Affairs stated in his speech to the thirty-fourth session of the General Assembly on 6 December 1979, that South Africa had opted for a military solution to the conflict in the territory. He cited as examples of the increased South African military presence, the occupation of vacant farms and purchasing of others to transform them into military bases; the construction of new bases in the so-called operational area, including Kamanjab and Omavni in the northwest, Omupindi east of Ondangua, Andara east of Runtu (Kavangoland), and Ngwezi near Katima Mulilo. Existing bases at Grootfontein, Windhoek, Walvis Bay and Ondangua were being enlarged, while there was a constant movement of troops and equipment by rail, road and air throughout Namibia.^{432/}

400. According to the information available to the Group there were a series of massive attacks by South Africa on Angola and Zambia during 1980. In a declaration issued on 26 February the Angolan Deputy Minister of Defence stated that between the start of the year up to 25 February South African planes or troops had violated the frontier about 50 times; the most important was the shelling on 1 January of the frontier post of Oshikango, the bombing of a co-operative at Kangongo on 17 January, and the over-flying and bombing of vehicles on the roads near the southern frontier. In another communique issued on 26 April the Defence Ministry outlined the deteriorating security situation on the southern border, and stated that since the beginning of March, the South African Air Force had launched terrorist actions aimed at causing panic among the inhabitants of Cunene province through constant bombing and machine-gunning of all vehicles travelling on roads in the province, while since 15 April there had been a build-up of South African mechanized troops on the border. The Ministry accused South Africa of facilitating the infiltration of UNITA troops based in military bases in northern Namibia, who had repeatedly launched attacks on the southern towns of Cuangar and Calais.^{433/}

^{431/} Focus, No. 24, September-October 1979, p. 14, Security Council, S/Res/454 (1979).

^{432/} Namibia Bulletin, December 1979, p. 4.

^{433/} Focus, No. 28, May-June 1980, p. 9.

401. President Kaunda of Zambia presented evidence of South African attacks on Zambians in the country's western province at a press conference in March 1980. On 10 February, South African Aircraft had bombed an area near the Namibian border, killing several people, and South African troops were also said to have warned local people that they would bomb any Zambian town suspected of harbouring SWAPO guerrillas. Mr. Reuben Kamanga, Chairman of the Political Committee of the Central Committee of UNIP, the governing party, presented a statement to the Security Council on 'Act of Aggression Committed by Racist South Africa against the Republic of Zambia' on 10 April, in which he listed 17 separate acts of aggression in the period 12 January-28 March 1980, mainly in the Sesheke District of the western province. The Council met to consider the matter at its 2211th meeting and unanimously adopted resolution 446 (1980) of 11 April, which condemned South Africa for its 'continued, intensified and unprovoked acts' against Zambia and called on South Africa to withdraw forthwith all its military forces from Zambian territory, warning that any further armed incursions against Zambia would lead to a convening of the Council to discuss appropriate action under Article VII of the Charter. ^{434/}

402. The most serious attacks against Angola since the 1975-1976 civil war were made in the May-July 1980 period. Over 260 Angolans were killed, dozens wounded and unknown number taken hostage in a series of cross-border raids in May. Fighter bombers, helicopter gunships, heavy artillery and ground forces in armoured cars were used by South Africa in attacks on the town of Chiede, 12 miles north of the border in Cuene province, and Cuando Cubango province, where South African forces penetrated 45 miles north of the border to Savate. On 13 June the South African Prime Minister disclosed in parliament details of a major raid of SWAPO's 'operational headquarters' in Angola, in which 13 well camouflaged camps spread over an area of 50 square miles were attacked in a joint ground and air operation with more than 200 SWAPO guerrillas and 16 SADF soldiers killed, the highest casualty rate suffered by South Africa since the start of the war. Mr. Botha admitted for the first time that Angolan nationals might have been killed in the operation, since he claimed some bases were operated jointly by SWAPO and stated that the targets were Angolan villages and towns close to the proposed demilitarized zone. According to some reports, more than 300 Angolan civilians were killed in the course of an operation carried out in Angola by some

^{434/} Focus, No. 28, May-June 1980, p. 9; Permanent Mission of Zambia to the United Nations, New York, Statement by R.C. Kamanga, Security Council S/4184, 11 April 1980.

2,000 South African Defence Force troops, with the support of armoured vehicles, transport planes and helicopters, and three squadrons of Mirage fighter bombers. On 26 June the SADF command admitted the shooting down of a helicopter inside Angola, and by the end of June logistic support was still being supplied to invading forces fanning out across the entire Cunene province. Phase two of the invasion, described by South Africa as 'Operation Smoloshell', was started on 13 June. A meeting of the Security Council on 27 June condemned the invasion and demanded an immediate withdrawal. On 1 July further details of the continuing attacks were given by the Angolan Defence Ministry which said 22 civilians and 29 soldiers had been killed, and the incursion extended to Cuando Cubango province. A further attack on the town of Chitudo, 20 miles inside Angola took place on 28 July and a total of 27 Angolan and SWAPO soldiers killed in an attack by helicopter-borne assault troops, who occupied the town for 10 hours. The town was said by South Africa to be used as a transit camp for attacks on the northwest Kaokoveld region, in which the first clashes between SWAPO and SADF forces had occurred in January, and the raid was allegedly in response to a SWAPO attack on Ruacana. Concurrent with the start of the South African invasion on 7 June, a squadron of six South African Mirages were reported to have bombed a Namibian refugee camp, housing 400 Namibian refugees. The President of SWAPO who visited the camp said the raid had involved the dropping of 20 bombs; the aircraft were chased away by Angolan anti-aircraft fire and the Defence Ministry stated three Mirages had been shot down. In a statement at the beginning of August by the Political Bureau of the MPLA Central Committee, South Africa was accused of an invasion of Angola's sovereign territory; according to figures released by the Angolan Government, South Africa had mounted 529 incursions of various kinds into the provinces of Cunene, Cuando Cubango, Huila and Mossemedes in the six-month period January-July 1980, with 27 bombing attacks on Angolan targets. Although by the end of July, South Africa had started to withdraw its troops, its territorial violations continued, and on 12 July South African troops had attacked the head office of the Calai municipality near Namibian border by a marine assault across the Cubango river.^{435/}

403. According to information available to the Group, news reports have confirmed an escalation in the level of fighting inside Namibia with the growing resort to massive militarization by South Africa in an attempt to contain SWAPO's guerrilla campaign. The Guardian of London in a three-part feature said the impression at Oshakati, the SADF headquarters in Ovamboland, the central war zone, was one of a 'foreign army in a foreign land', with every white inhabitant either working with the army or as

seconded police officers. The South African operation in Namibia was different to that of the Rhodesian illegal régime, which used a mainly white citizen army. In Namibia most soldiers were national service conscripts who spent only three months on the border. The infantry could cordon off an area with helicopter gunships or motorbike units had according to an army spokesman become more 'aggressive' in patrolling in Ovamboland kraals. Calculating a battalion of 600 men at each of the admitted 40 bases in the operational area as well as the several thousand men at the major bases of Grootfontein, Windhoek and Walvis Bay, indicated a total of 30,000 plus troops altogether, although the army would only admit off-the-record to about 20,000. Another secret was the frequency and extent of penetration into Angola; if a skirmish developed on the border an officer would take the action necessary to protect his men. While hot pursuit up to 10 km inside Angola was described as 'routine' no one would admit to pre-emptive strikes. Law and order had virtually broken down in Ovamboland, with both sides accusing the other of an assassination policy and for placing landmines, which were taking an increasing number of civilian lives.^{436/}

404. There has been an increasing involvement of mercenaries by South Africa. As of June 1980 some 500 foreign soldiers, mainly British, Israeli and Chilean were reported to be fighting in Namibia as 'volunteers', and had been identified at the main South African base of Grootfontein. Many were said to be former members of the Rhodesian security forces who had left the country since it became independent. The SADF was reported to be recruiting large numbers of former members of the Selous Scouts and Special Air Service, who were specially trained in counter-insurgency and tracking operations, for use on the Angolan border. These included British, American and West Europeans serving with the Rhodesian army before independence. Members were being recruited on an individual basis for service with existing SADF units, and there was no question of them being deployed under a unit under Rhodesian former officers. About half of the 350 SAS unit were said to be interested in one year contracts with the SADF.

405. South African troops are also providing security at sensitive installations such as the Rossing Uranium mine. According to a five page document obtained by SWAPO, and dated 29 November 1978, the plan to defend the mine against 'civil, labour or terrorist attack' involves co-operation between three armed units comprising the Swakopmund Commando-Industrial Protection Unit, Rossing Security Department Auxiliaries with three successive action stages of Alert, Alarm and Attack. At the second stage, with mine

^{436/} Guardian, 12/13/14 June 1980.

and plant operations at reduced levels, the commando-industrial protection unit of the SADF was to be called in from Swakopmund, while the 15 men of the Rossing security department and 30 auxiliaries would join in defending the mine and personnel 'as the situation dictated' at the third stage. Arms, provided from two armouries in the mine compound, included tear gas grenades and semi-automatic shotguns. The document was presented at the United Nations for Namibia Hearings on Namibian Uranium from 8-11 July 1980, by Mr. Theo Ben Gurirab, Permanent Observer of SWAPO to the United Nations. 437/

437/ Sunday Telegraph, 15 June 1980, Sunday Times (Johannesburg), 11 May 1980; United Nations Council for Namibia, Conference Room Paper No. 8, July 1980.

A. Capital Punishment

1. Reference to some relevant laws

406. As stated in the previous reports, the various South African laws providing for the death penalty have been made applicable to Namibia. These include the Terrorism Act, No. 83 of 1967 (made retroactive to 1962 when introduced) which provides the death penalty for a wide definition of "terroristic activities", the Sabotage Act (General Law Amendment Act, No. 76 of 1962) and the Internal Security Act, 1950 (formerly known as the Suppression of Communism Act, 1950) as amended in 1976 are used in Namibia to the exclusion of all other legislation in this sphere (see E/CN.4/1270, para. 296). No additional legislation has been applicable to Namibia reducing or extending the circumstances in which the death penalty may be applied during the period under review.

2. Summary of evidence and information received

407. The South African Government publishes no separate figures with respect to the executions of any convicted Namibian prisoners and there have been no reports of the execution of Namibians via the judicial process in this period. However as noted in the previous report relatively few SWAPO guerrillas captured have actually been tried for participation in guerrilla activities, which strongly suggests that many are being held at undisclosed locations or tried and executed in secret.

408. Several witnesses, Mr. Manning (519th meeting), Mr. Ellis (520th meeting), Mr. Hammerberg and Mr. Mart (521st meeting) and Mr. Nujoma (529th meeting) referred to the capture of Namibian refugees by South African soldiers when the soldiers attacked the refugee camp at Cassinga, Angola on 4 May 1978, and the subsequent removal of the refugees to Namibia as so-called terrorists. The refugees were being held at an outdoor detention camp at the Hardap Dam near Marienthal in southern Namibia under very poor conditions. According to Mr. Manning, SWAPO information officer for the United Kingdom and Europe, SWAPO had issued a list of 127 names of detainees, confirmed by two released prisoners who also spoke of torture and mutilation, while one escaped prisoner (later recaptured and who has subsequently disappeared) spoke of seeing a man decapitated. SWAPO requested the International Committee of the Red Cross, Amnesty International and the International Commission of Jurists to investigate the situation and publish their findings. In June a South African newspaper, the Star, reported a visit by Red Cross officials to the camp where there were 118 detainees; Mr. Manning said that the discrepancy in numbers should be investigated, and Mr. Mart said that Amnesty International understood that 118 was the official South African figure given by the Administrator-General for the number of detainees at Hardap, whether other people were accounted for, and might have

been tortured to death for example, was not clear. Since the Cassinga raid there have been other South African raids into Angola but it was not known if these raids resulted in the capture and secret imprisonment of Namibians. According to the information available to the Group, Mr. R. Satschy, head of the Red Cross Mission in Pretoria and Mr. P. Ltoif, a deputy, visited Hardap on 8 June and confirmed that 118 detainees were being held. South Africa had previously denied it was holding the detainees. (See paras. 443-444 below).^{438/}

409. According to the information available to the Group a major campaign called Southern Africa - the Imprisoned Society, was launched in the United Kingdom in October 1980 to stop the execution of Makus Keteka, a 40 year-old Namibian farmworker sentenced to death under the Terrorism Act on 13 October. He was sentenced to death for allegedly assisting SWAPO guerrillas who attacked the farm of his employer, Jacobus Louw in February, although no-one was killed or injured in the attack. Mr. Keteka was accused of "harbouring, aiding and abetting" SWAPO guerrillas in a trial in the Windhoek Supreme Court. It was claimed he had drawn a map in the sand of the farm and gave food to the guerrillas.

^{438/} The Star, 15 June 1980.

B. Violations of the right to life

410. Mr. Fauvet (520th meeting), Ms Hamutenya (528th meeting) and Mr. Nujoma (529th meeting), referred to the killing of Namibians as a result of terrorist activities by South Africa, including attacks on Namibian refugee centres in Angola, such as the refugee settlement at Cassinga on 4 May 1978, where 294 women, 300 children and 165 old and handicapped men at Cassinga and other transit camps in southern Angola were killed. According to Mr. Nujoma the attacking troops were paratroopers who dropped poison gas bombs making people unconscious, so that when they landed they were able to shoot people at point blank range. Other Namibians who fled inside Angola early in 1980 were murdered at transit camps in Angola which the South Africans claimed were SWAPO guerrilla headquarters. On 12 June 1980, South African troops based in the Okavango district of Namibia, attacked the residents of Savate, in the Cuando Cubango province of Angola. On the same day another column of troops crossed from north-western Namibia and occupied Chiede in Angola's Cunene province. Mr. Fauvet described the full-scale attack on the province of Cunene, which lasted from 7 June to 4 July, during which a great deal of damage was done to civilian installations, including schools and hospitals, by heavy bombing; jet fighters and helicopter gunships preceded the ground attack by bombarding the hamlets, villages, settlements and livestock of the Angolans. Attacks were also directed at Namibian refugee camps, such as one near Lubango, where two Namibian refugees were killed. A temporary transit centre for Namibian refugees was attacked, and this was the one the South Africans falsely claimed was the SWAPO command headquarters. Vehicles moving along roads were strafed including those carrying food supplies, and in early July an Angolan Health Ministry ambulance was fired on. At least 300 were killed in these attacks and the South Africans claimed the capture of 200 Namibians, although the Angolan Government believed that many of those captured were in fact Angolan citizens. Mr. Fauvet further stated that heavy fighting had taken place at Mongua, during which much of the town had been destroyed, however resistance by the Angolan armed forces prevented the capture of the town.

411. Mr. Manning (519th meeting) stated that SWAPO had received information from Oshibombo in Ovamboland of alleged murders by South African security forces; victims had been taken into "no-go" areas and shot and there were reports of detainees with missing limbs who claimed to have been shot in their homes and subsequently taken into detention. According to his written evidence (SWAPO Informations and Comments, July 1980, Vo. 2 No. 5) South African soldiers were killing Namibians crossing the no-go area, as well as abducting Namibians from their homes and killing them, such as Kangula Kaula (abducted on 1 February 1977), Ndetala Shokudya and his brother Mbokoto Ndilishange (murdered on 12 February 1977) and Danile Ngoshi and his wife (killed on 16 February 1977). The witness also said that UNITA armed bandits in

southern Angola burned houses, destroyed property and killed people in this area. In 1979 an air raid was conducted on the small town of Fort Locades, as a result of which, 50 school children were killed and 86 others injured. Evidence of these events was obtained by an enemy agent, the late Levi Amadhila, who claimed at Oshakati, that all people of standing in the community, including businessmen, church leaders and teachers, would be killed before SWAPO could take over in Namibia.

412. Mr. Nujoma (529th meeting) referred to the abduction of SWAPO supporters and activists as a technique of repression. Johannes Nakawa had been taken from his home on the night of 1 June 1979 by eight South African soldiers and never seen again. A South African soldier at Oshakati military base once admitted Nakawa was at the base, but later denied it. Festus Nakawa, brother of Johannes was also abducted from his home at Esheshete. Mathias Ashipembe, Mattheus Nahanga and a third unidentified man were seized in the same way at Oshivello.

413. Several witnesses referred to the activities of a trained South African murder squad with licence to assassinate SWAPO supporters. Mr. Ellis (520th meeting) said the authorities resorted to clandestine means of eliminating their opponents when their use of torture was exposed. This development had appeared in the guise of a special death squad with the code name of "Koevoet" ("Sickle") and "One-Way", which had first been mentioned in June 1980; the allegations were published in a Church newspaper in northern Namibia. A senior community leader had been killed by the group; his wife had survived and been able to give substantial evidence. The Finnish Missionary Society, which had missionaries working in northern Namibia decided to offer repatriation to all its missionaries because of the prevailing situation; the danger created by the licenced death squad was a major part of the reason for the decision. Mr. Nujoma (529th meeting) said the squads had caused the death of well-known SWAPO activists, such as David Sheehama, a prominent businessman who had been detained before under several repressive laws, including the Terrorism Act, and Mattheus Elago, a baker. As reported by Mr. Sheehama's brother, Mr. Nehunga, Sheehama's house was surrounded by police demanding money, which Mrs. Sheehama gave them. They then said they were killers and shot Mr. Sheehama in his house before the eyes of his wife and youngest child on 14 March of this year. As his assassins fired, his wife, Mrs. Jakomina Sheehama, was shot through the shoulder and neck, but survived the attack. That night, in the precincts of the Ovambo-speaking region's administrative centre, Mr. Sheehama's property was set on fire. Mr. Elago was also killed by a mine planted under his car in the garage. Both men were at the top of the assassination list which was found in the possession of one of the squad ringleaders, Levy Amadhila, who died in a car accident. Mr. Nujoma cited a report from the Windhoek Observer of 7 June 1980 from which he quoted as follows:

"Ominous hints about a death squad are made in one of the later editions of the publication Omukweto, edited and published at Oniipa, not far from here (Ondangua). The report states that from time to time during the course of 1979, 90 trained thugs had been organized by the South African Government with the aim to kill certain people.

Apparently there is a list in existence of those who have to be killed, and although Omukweto did not publish the names, inquiries made by this newspaper resulted in a list being handed to us. The shocking statement is made that already a number of prominent Ovambo-speaking citizens had been killed by this death squad, consisting of 40 white and 50 black members. The article states that many residents are currently living in great fear. People told of how they had been warned by those having contact with the killer squad. According to Omukweto the whisper campaign here in the north has it that these murders must be committed before an internationally-supervised election. The aim is to wipe out all prominent and leading figures. It was brought to the attention of the Working Group that the death list allegations were reported in the Omukweto of 30 April 1980 which stated that talk about assassinating people had already begun in 1978 (10 January 1978, Windhoek Advertiser) although the list had been somewhat changed since then.

Omukweto writes that the names are many and some had already been killed, such as Mr. David Sheehama.

According to Omukweto, more than 50 people are still on the list. The Observer approached a number of sources here who said that the 'death list' was indeed a topic of discussion. These sources say that the killings will not only be confined to the Ovambo region, but are to spread to Kaokoland and the Eastern Caprivi. They refer to a list which was distributed in the north and is said to contain names of people to be killed by SWAPO insurgents, but they discount SWAPO as the responsible party for this document. These sources, to which access was gained by courtesy of Omukweto ... say that the intended victims and those who have already been killed were questioned by the authorities on their views on the Zimbabwe election results. They refer to an incident which occurred on the premises of Mr. Eliakim Shiimi, commonly known in this area as 'prince'. His name is also on the death list and a powerful landmine was placed where he used to park his car. On 2 March of this year, the bomb was found by children and the landmine was subsequently identified as being of South African origin, according to these sources."

The names on the death list were: the Rt Reverend Cleopas Dumeni, Bishop of the Evangelical Lutheran Ovambokavango Church (ELOC); Reverend Josephat Shanala (ELOC pastor); Evangelist Josua Nghatanga (ELOC); Reverend Tobia Amakali (Seventh Day Adventist Church); Reverend Edmund Kandume (Baptist Church); Frans Lindongo, Ovambo Economics Minister; Rudolph Ngondo, Kavango Government Minister; Malakia Maluumba and Amutenya Shimwoeththeleni, members of the Ovambo legislature; and the following businessmen: Leonard Mukwiilongo; Simon Nambili; Epafras Paulius; Erastus Shiimi; Rasmus Nafuka; Frans Namupolo; Johannes Kweyo; Petrus Nehunga; Silvanus Vatuva; Johannes Hamutumwa; Samuel Ambunda; Jacob Vilho; Jacob Stephanus; Jason Nangombe; Eliakim Mumundjembo; Israel Ncumbo; Solomon Kandjolomba.

414. The publication of names on the list by the Observer was reported to have terrified scores of prominent citizens of Ovamboland, and the Ovambo Minister of Education, Peter Kalangula, was telephoned by several anxious people inquiring about the list. The Observer also printed a photograph of the recently bombed house of a businessman, Simon Nambili, one of those on the list, who was under arrest, with the caption "Strange that SWAPO sappers would bomb the house of a man detained by the security police". It was also reported that police in Namibia were "cracking down" on a group of wealthy Ovambo businessmen, who were suspected of funding and aiding SWAPO by paying "protection" money in amounts of R1,000 a month. This operation began in June, with some 20 prominent Ovambo figures detained. Twelve or 15 others who were in hiding or had fled were still being sought; the flight of several businessmen to Katutura, Windhoek's black township, coincided with the death squad report. One of the wealthiest black businessmen, Eliakim Namunjebo, also on the death list, was arrested in his suite at the Kalahari Sands Hotel in Windhoek. His wife referred to the disregard for human life, and destruction of property running into tens of thousands of Rand in Ovamboland. The Chief of the Secret Police in Namibia, Colonel Johan van der Merwe, confirmed that he had received two statements from Mrs. Sheehama, in which she reported that the Sheehama home, a flat above the Pick and Pay Supermarket, which her husband owned, was bombed shortly before the attack in which he was killed. The bombing was reported to the police, and footprints which Mrs. Sheehama claimed were caused by South African soldiers pointed out, but the police had not investigated any further. It was reported that Mr. Ambrosius Amutenya, the editor of Omukweto had disappeared. The police wanted to question him in connection with the article alleging the existence of the death squad.^{439/} The Administrator-General, Dr. Viljoen, issued a statement in which he called the reports "malicious rumours" emanating directly from SWAPO and repeated by certain news media. The aim was to

^{439/} Guardian, 9 June 1980, Star, 21 June 1980, Windhoek Observer, 14/21 June 1980.

put the guilt for murders committed by SWAPO onto its opponents, Dr. Viljoen said. He was challenged by the Windhoek Observer to call a news conference, at which the heads of the army and police would attend, and the sources in Ovamboland publicly cited.

415. Among other reports is one from a witness resident in the operational area, where he was a PLAN soldier, who was captured by the South Africans in April 1979 and taken to Ongwediva, and forced to co-operate with members of the "Koevert" group; the camp at Ongwediva had recently been established by the security police. The unit comprised whites, Namibians and UNITA members who camouflaged themselves in SWAPO battledress and carried the same weapons as SWAPO. They harassed people in the villages, and went to cuca (beer) shops where they said they were SWAPO soldiers looking for Boers, and when someone responded, he was blindfolded and taken to the Oshakati military base, where he was accused of co-operating with SWAPO. Among other acts of harassment, the owner of a house was ordered to leave, and his house was then burnt.

C. Forced removals of population

416. The Group previously reported the establishment of a one kilometre wide no-go zone along the northern border, its depopulation and the forcible removal of an estimated 50,000 civilians from their homes (see E/CN.4/1311, paras. 369-370).

417. A witness (521st meeting) referred to the forced closure of the Holy Spirit Anglican Mission. The priest and his family had left, and the South African soldiers had taken all the mission material, leaving only the church. At St. Mary's Anglican Mission, where the witness stayed, a group of armed people forced the closure of the mission school, and, as a result, the teachers and their families had to leave the mission. The mission hospital was also closed because the South Africans claimed it was being used for the treatment of freedom fighters. When the South Africans, looking for SWAPO guerrillas, find any traces such as footmarks, the people in the area are harassed and beaten, and the younger people arrested.

418. Mr. Ellis (520th meeting) said that it was part of the South African strategy to close down hospitals and clinics staffed by the churches, so as to force the local population to seek the services of the SADF when they were ill. The church services had been forcibly dismantled, resulting in suffering by many people from ordinary diseases with no recourse to medical services other than what they were able to get from SWAPO.

D. Treatment of political prisoners and captured freedom fighters

1. Summary of some relevant laws

419. The Working Group has noted in previous reports that the South African security laws providing severe penalties of detention and imprisonment for "political offences" as well as legislation governing the situation of prisoners in gaol, have been made applicable to Namibia and are still applied (see E/CN.4/1030/Add.1, para. 9, E/CN.4/1222, paras. 332-333, and E/CN.4/1311, paras. 372-376). These include the Prisons Act, No. 8 of 1959, and the General Law Amendment Acts, Nos. 76 of 1962, 101 of 1969, and 94 of 1974; Act No. 76 was applied to Namibia with retroactive effect in 1966 but has since been largely superceded in usage by the Terrorism Act. The provisions of the Riotous Assemblies Act of 1956 were applied for the first time to Namibia during 1976 under the terms of the Internal Security Act of 1976, providing for indefinite preventive detention and the banning of any persons deemed likely to endanger the maintenance of public order.

420. In addition, a number of laws and emergency proclamations have been specifically designed for Namibia and enacted by the Administrator-General. These include the Security Districts Proclamation, AG.9 of 1 November 1977, which replaced the emergency measures in force in northern Namibia, Proclamation R17 of February 1972 and its successor R89 of May 1976; Proclamation AG.26, Provision for the Detention of Persons in order to prevent Political Violence and Intimidation, of April 1978; Proclamation AG.50 of July 1978 which amended the Undesirables Removal Proclamation No.50 of 1920 so as to transfer the power to expel such persons to the Administrator-General, and the various amendments to these laws (see E/CN.4/1311, paras. 372-377, E/CN.4/1365, paras. 268-270). Of particular note is a clause of Proclamation AG.9 which protects any government or public official (including the police) and any member of the armed forces from being prosecuted for injuries inflicted through actions taken under the Proclamation. This reinforces the South African Indemnity Act, No. 13 of 1977, which indemnifies the state or its servants against civil or criminal proceedings in connection with the prevention or suppression of civil disorder, and which has been made applicable to Namibia.^{440/}

^{440/} Repression in Namibia, Conference Paper 2, One-Day Conference on Repression and Resistance in southern Africa, London, February 1980, organized by southern Africa - The Imprisoned Society.

421. During the period under review further stringent regulations relating to the imposition of martial law and security matters were declared by the Administrator-General. According to the information available to the Group, certain sections of AG.9 were extended to the area of Kaokoland in north-western Namibia on 19 December 1979. Section 3(1) authorizes the Administrator-General to control or direct any movement in a security district; section 4 gives wide power to officers of the military forces to arrest people without a warrant; section 5 requires 24 hours notice to the authorities of all meetings. Further security measures introduced were a military escort from Okatijura to Opuwa, the administrative centre of Kaokoland, and on a road section from Okatijura to Ruacana (armed escorts were already operating). The new security measures were introduced after the SADF admitted that SWAPO guerrillas had become active there. In the early part of 1980 there were reports of repeated attacks by SWAPO on electricity pylons carrying the powerline south of the Ruacana hydro-electric station, and in April there was a temporary black-out of Windhoek and 90 per cent of the rest of the country as well. More than 50 per cent of Namibia's land area and 80 per cent of its population were subject to de facto martial law during the period under review.^{441/}

422. An amendment to AG.9 was published on 6 February 1980, stipulating further restrictions on movement in Ovamboland. It empowered the Officer Commanding of the SADF or his representatives to prohibit travel on any road in Ovamboland at times they might specify, or without an escort provided by the security forces. It also prohibited any person from selling merchandise from one half-hour after sunset until one half-hour before sunrise in Ovamboland, without the permission of the military authorities, who might grant consent after consultation with the Cabinet of Ovamboland. The Administrator-General announced on 12 January, that following the death of Mr. Thomas Shilongo, former Ovambo Minister of Works, in a landmine explosion near his home, a number of measures would be implemented, including the extension of the existing police programme in Ovamboland, so that special police could protect headmen more effectively. Headmen would be given more power to maintain law and order in their villages, and aid might be provided to the heads of villages to purchase arms.^{442/}

^{441/} Focus, No. 27 March-April 1980 p.1.

^{442/} Official Gazette, No. 4080, 6 February 1980, Focus, Ibid.

423. A further amendment to AG.9 was published on 28 May, amending the conditions under which a detainee could be re-arrested, so that such a person could be detained until the Administrator-General ordered his release in writing.^{443/}

424. In a move to further restrict political activities, on 26 January 1980, the Administrator-General announced that political prisoners detained under AG.26 could in the future be released under "certain conditions". The released detainees would be: restricted to a municipal town or area; prohibited from attending meetings of more than five people; restricted from receiving visitors; restricted in their movements from sunrise to sunset. In addition, restrictions on certain occupational activities were being considered. The Administrator-General warned that serious measures would be taken against political prisoners who abused these conditions or who were a security risk to the State. This represented a new development in the curtailment of political and personal freedom in the territory. In contrast to South Africa, banning orders have not been widely used in the past. The only Namibian to have been banned under the Internal Security Act is the Acting President of SWAPO, Nathaniel Maxuilili, who has been under house arrest in Walvis Bay since 1972. His ban, which was renewed in 1977 and is due to expire on 31 May 1982, restricts him to the Walvis Bay magistral district, prohibits him from entering factories or schools, or from attending any social or political gathering, and bars him from any kind of involvement in writing or publishing.^{444/}

425. Further relevant laws include a proclamation published on 23 January 1980 by the Administrator-General, offering a conditional amnesty to SWAPO guerrillas (AG.3, Granting of Amnesty to Certain Persons). Under the terms of the proposal, persons who had been involved in "terrorist activities" directed against "any authority" in Namibia and who voluntarily surrendered to the military, police or other government authority would be granted an indemnity certificate, protecting him from criminal or civil proceedings in any court of law, or arrest in terms of any detention order, as regards acts performed with intent to further any political aim or cause prior to the date of the surrender. Persons surrendering had to agree to be held in custody for a period up to 30 days, for purposes of identification,

^{443/} Official Gazette Extraordinary, No. 4149, 28 May 1980.

^{444/} Focus, No. 27, March-April 1980, p.4; Political Prisoners and Detainees in Namibia, prepared by research and information department of the International Defence and Aid Fund, Paris International Conference, 11-13 September 1980, op.cit.

health measures and the completion of arrangements for settlement in society. Those who had caused death or grievous bodily harm to any person other than in the course of armed combat with the security forces, were excluded from the amnesty. According to the information available to the Group, Dr. Viljoen announced that the amnesty period would extend to 30 April 1980, and that a regional court magistrate had been appointed as the director of the amnesty programme. Two reception points were established, one in Ovamboland and the other in Caprivi, with preliminary arrangements for receiving 100 returning guerrillas. As an extra inducement, surrendering guerrillas were to be paid for arms and ammunition handed over to the authorities; leaflets were distributed and broadcasts were made announcing the amnesty. However by mid-February 1980, only three guerrillas had given themselves up. SWAPO spokesmen inside Namibia rejected the amnesty offer, and stated the Administrator-General would first have to demonstrate his sincerity by releasing SWAPO members from detention. The poor response led to an extension of the deadline to the end of August 1980; as of May, only seven persons had surrendered. ^{445/}

2. The Police forces: present structure and United Nations Proposals

426. A previous report of the Group described the incorporation of the SWA Police Force into the South African Police, the entire body now authorized by South Africa to exercise the powers for mercy entrusted to the former under the laws of the mandated territory (see E/CN.4/1050, paras. 264-267). The Commissioner of the South African Police exercises the command, superintendence and control of the force in Namibia, through the Divisional Commissioner of Police in Windhoek, subject to the directions of the South African Ministry of Justice, Police and Prisons. During the period under review the two principal South African police officials in Namibia were Brigadier Dolf Gouws, Divisional Commissioner of Police, and Lieutenant Colonel van der Merwe, head of the Security Police.

427. It can be said that four types of police currently operate in Namibia: (a) the South African police units stationed in, or seconded to, Namibia furnished with military vehicles, jeeps and helicopters and involved in so-called counter-insurgency operations jointly with the SADF; (b) the security police, with a large detachment of men on permanent duty in Namibia, particularly concerned with the detention and interrogation of political prisoners; (c) municipal police, including African constables under white officers, mainly responsible for enforcing

^{445/} Official Gazette Extraordinary, No. 4073, 23 January 1980, Focus, No. 27, March-April 1980, No. 28, May-June 1980, p.11.

pass laws and influx controls, registration of workers at employment bureaux, patrol of labour compounds, issuing of permits etc; (d) so-called tribal police, which are in fact various forces operating under the direct control of the tribal authorities and "homeland" governments of Ovamboland, Kavangoland and East Caprivi, and not subject to South African departmental regulations or any form of public scrutiny or accountability (see E/CN.4/1135, para. 210; E/CN.4/1159, paras. 243-244; E/CN.4/1187, para. 360). According to information available to the Group, the largest of these forces is the Ovambo Home Guard, which it is alleged, carries out regular intimidation of local residents (see para. 466 below).

428. Under the Proposal for a Settlement of the Namibian Situation transmitted to the Security Council on 10 April 1978 by the Western "contact group" and incorporated in resolution 435 (1978), primary responsibility for maintaining law and order during the transition period leading to elections would rest with the existing regular police force, with the Administrator-General to ensure the "good conduct" of the police force. The proposal also involved the demobilization of the citizen forces, commando and ethnic forces and the dismantling of their command structure which SWAPO understood to include the tribal police. The Group previously described the United Nations proposal for inclusion of a 360-strong police element in the civilian component of UNTAG, and the subsequent rejection of this by South Africa (see E/CN.4/1311, paras. 380-381).

3. Summary of evidence and information received

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

(a) Political Prisoners and some recent arrests

430. South African authorities have always exercised close control over information relating to "security matters" in Namibia, particularly in the north of the territory. This makes it difficult to give an exact figure for the number of people detained without charge at any one time, particularly those held under martial law regulations, as well as precise details of political trials taking place in local and regional courts in northern Namibia. From time to time figures are issued by the South African authorities for the numbers of detainees held without charge or trial under Proclamation AG.26 of 1978. The largest group of

Namibian political prisoners convicted and sentenced to prison terms are on Robben Island, off Cape Town; it is believed that other Namibian political prisoners are held at prisons elsewhere in South Africa, while others are serving prison terms in Namibian prisons, such as Swakopmund and Windhoek.^{446/}

431. Mr. Manning (519th meeting) and Mr. Hammarberg (521st meeting) referred to the large numbers of arrests under the provisions of Proclamation AG.9 and AG.26. Proclamation AG.9 covered both the northern and central regions of Namibia, including Windhoek, and permitted detention for up to 30 days without trial, but some detainees had been held for more than two years since April 1978. Various sources, including the churches of the area, estimated that approximately 5,000 people were being held under this proclamation. At first, the maximum permissible period of incommunicado detention without trial under AG.9 was limited to 96 hours, and this had been seen as something of a reform, as the emergency regulations it replaced had authorized the use of indefinite incommunicado detention. But in May 1979 AG.9 had been amended in such a way as to extend the period to 30 days, although the duration of the detention could be extended indefinitely at the Administrator-General's discretion. No official figures as to the number of those detained under AG.9 has ever been provided by South Africa. Reference was made to the arrest of 70 members of SWAPO, almost its entire leadership, under AG.26 in April 1979; the detainees were for the most part held incommunicado, although not in solitary confinement, and were not permitted reading material other than the bible. There was no pretence that they were being held under any charge. A number of those detainees were still being held at Bobabis prison; one of them was Axel Johannes, SWAPO Administrative Secretary in Namibia, who had spent a total of four years in prison since 1974 although he had yet to be convicted of a serious political offence (see E/CN.4/1365, paras. 283-284). Some of the detainees were released after spending three months in detention; however, most were not released until the end of 1979 and the first two months of 1980. Even then some 20 or so were at the time of their release, served with restriction orders (para. 425 above), officially termed release warrants. Several detainees were restricted to areas far from their homes; for example, Dr. Thomas Ihuhua, one of the few black medical doctors practising in Ovamboland, was not permitted to return to Onandjokwe mission hospital, but was restricted to Katutura township. Unlike banning orders in South Africa, normally imposed for two or five year periods, the restrictions imposed on former detainees were of unlimited duration.

^{446/} Political Prisoners and Detainees in Namibia, op.cit.

432. Mr. Terry (519th meeting) provided a list of the detainees held under AG.26 as of November 1979, together with their place of origin, as obtained by SWAPO. They were Christoph Aukongo, Windhoek; Hewat Beukes, Rehoboth; Hans Booys, Khorixas; Laurentius Davids, Gibeon; Thomas Drotsky, Windhoek; August Gaeb, Windhoek; Engelhardt Gariseb, Grootfontein; Abisai Hampolo, Luderitz; Marco Hausiku, Windhoek; Edward Heuva, Otjiwarongo; Jona Hitula Oranjemund; Aaron Ipinge, Luderitz; Filemon Itula, Windhoek; Festus Kadhikwa, Luderitz; Rahimasa Kahimise, Windhoek; Israel Kalenga, Oranjemund; Wilbardt Kalili, Ondangua; Frans Kambangula, Windhoek; Rehabeam Kamehozu, Grootfontein; Melankton Kaukungwa; Oukwanyama; Adolf Kaure, Tsumeb; Francis Kgosimang, Khorixas; Gregorius Mangone, Windhoek; Efraim Mukapuli, Luderitz; Immanuel Mwatara, Windhoek; Urbanus Ndjavera, Okoairara; Jeremiah Maminga, Windhoek; John Shaetonhodi, Oranjemund; Leonard Shongolo, Ondangua; Charles Sihani, Windhoek; Philip Tjerije, Windhoek; Charles Tjijenda, Windhoek; Rev. Erwin Tjirmuije, Windhoek; Jeramias Tjizo, Tsumeb; Philippus Tobias, Luderitz; Ezekial Uirab, Khorixas; Gabriel Xoagub, Windhoek (excluding detainees referred to in para. 431 above).

433. It can be noted that there were conflicting reports about the numbers of detainees still in detention under AG.26 and those who had been released. On 29 September 1979 the Cape Times of South Africa reported the arrest of two more SWAPO members, bringing the number of SWAPO detainees to 43, but stated that since the beginning of the month, 31 SWAPO members had been released. The Lutheran World Federation reported in mid-October that at least 45 SWAPO members were still being held; those said to have been released without being charged included Pastor Nashunga and Joshua Hoebeb, vice-principal of a Lutheran church. Tommy Drotsky, the chairman of the Windhoek branch of SWAPO, was detained at the beginning of October, when he was preparing to re-open the SWAPO administrative headquarters. Seven detainees were reported released on 26 January 1980, under the restrictions announced by the Administrator-General; they were not identified. In early February, four SWAPO detainees, Philip Tjerije, Filemon Itula, Charles Tjijenda, and Christoph Aukongo, were reported to have been released, with Mr. Tjerije and Mr. Tjijenda restricted to the Windhoek municipal area, and Mr. Itula to Katutura. Before these releases the number of those reported to still be detained was 23. ^{447/}

434. Mrs. Erica Beukes, wife of Hewat Beukes, a SWAPO supporter detained under AG.26, made an application in September 1979 challenging the legality of his detention and demanding his release, in a motion served on the Administrator-General and governor of Gobabis prison. The application, which was heard in the Windhoek Supreme Court, sought to prove that Mr. Beukes' detention was unlawful, because AG.26 was invalid, and the Administrator-General had been acting beyond his powers in issuing the proclamation. Mrs. Beukes stated that whereas AG.26 contained a provision for a review committee to which a detainee might make representations, she had been unable to establish whether such a committee had been appointed, as the Administrator-General's office was unable to supply her with the names of its members. She had been able to visit her husband only once since his detention in April 1979, after a written application had been filed by the detainee's father. The case was dismissed with costs by F.H. Badenhorst, Judge President of the Supreme Court, in December and Mr. Beukes was later released. ^{448/}

435. It was reported that an urgent application was brought before the Windhoek Supreme Court on 27 October 1979 seeking the immediate release of three men from detention in Ovamboland; Johannes Nakawa, Mathias Ashipembe and Matheus Nahanga. The action was brought by the wives of the three detainees in the form of an interdict against the South African Ministers of Justice and Defence; it alleged that the three men had disappeared without trace after being arrested in Ovamboland. The sworn affidavits presented alleged that Mr. Nakawa had been taken away on 2 June by armed police, and it had later been confirmed that he was being held by the SADF at Oshakati camp and was in good health, but a week later his wife was told he had not been arrested and was not being held; since this time there had been no news of his whereabouts. Mr. Ashipembe was last seen on 14 May when he left Oluna in Ovamboland for Windhoek; his wife and his sister were subsequently detained under AG.9 for a month at Oshakati after they had inquired as to his whereabouts. Mr. Nahanga disappeared on 4 May when he set out from his home in Ondombe to fetch work references from his employer in Tsumeb; he was said to have been detained on 14 May at the Oshivello border post. Mr. Sam Naritz, lawyer for the respondents said the police and SADF authorities had informed the applicants they had not detained the men and did not know of their whereabouts. ^{449/}

^{448/} Focus, No. 25, November-December 1979, p.7.

^{449/} Focus, *op.cit.*, p.7.

436. It was reported that a group of 22 men and five women, mainly SWAPO members, had been detained by the Bophuthatswana security forces on or around 20 August 1979 for entering without valid travel documents. The group included Johannes Konjore, SWAPO Secretary for Youth, Karel Gowaseb, and Johannes Paulus, detained as they were trying to cross the border in Botswana. The group were later deported to Namibia where they were held in detention under Section 6 of the Terrorism Act. It was reported on 29 September that all 27 had been released and had not been brought to trial; however, Mr. Konjore was subsequently detained.^{450/}

437. A witness (521st meeting) referred to the attempts by the police to keep the SWAPO office in Windhoek closed and to intimidation designed to prevent the holding of public meetings by SWAPO. One witness had been resident in Okahandja, where a South African military base was located, and where illiterate soldiers from Ovamboland and Hereroland were being trained. On weekends they would regularly visit the black locations at Okahandja, and on one occasion around the end of January 1980 the soldiers had gone, armed, to the migrant workers compound, where they started a fight with the inmates, wounding some with their guns. Since the witness was also chairman of the local SWAPO branch, the incident was reported to him, and after visiting the compound to check out the allegations he consulted the SWAPO Secretary for Labour, Jason Angula, and legal advice was given. Later the same week Mr. Angula was arrested, as were all the SWAPO office runners in Windhoek, and the office keys, as well as the files containing photographs and details of the incident were taken by the security police. The witness tried to organize a public meeting on 8 June in Windhoek; the previous night the police cordoned off the area and arrested a large number of people, and the witness heard there were 30 people crowded into one cell. The meeting was held; however afterwards the police arrested supposed SWAPO activists. As the police have detained all SWAPO members since the beginning of the year, the witness believed he might be arrested on 4 January after a message was left telling him to go to the police station, but he, instead, hid himself from the police. According to information available to the Group, Tommy Drotsky, chairman of the SWAPO Windhoek branch, and Johannes Konjore, SWAPO Youth League Secretary, were arrested in October 1979, when trying to reopen the SWAPO office in Windhoek. On the order of Colonel van der Merwe, Security

^{450/} Ibid.

police carried out a raid on the SWAPO Windhoek office on 7 February, arresting five SWAPO members, Mr. D. Diamanus, Mr. J. Ouseb, Mr. B. Simon, Mr. M. Boois, and Mr. H. Beukes. Mr. Ouseb had previously been detained in June 1979, and Mr. Beukes had only just been released following the court case brought by his wife. It was reported that the five men were released on 14 March, although whether Mr. Beukes was among them was not clear, since another man, whose arrest was not known about, Josephat Uhaa, was amongst those released.^{451/}

438. It was reported on 15 June 1980 that Colonel van der Merwe had stated there were a total of 11 people being detained under AG.26, while 15 detainees had been conditionally released in the past few months, and that there had been no further detentions. Those still held included Axel Johannes, SWAPO Administrative Secretary, Skinny Hilundwa, Chairman of SWAPO's northern region, Johannes Konjore and Jason Angula. Others detained included Rev. Titus Ngula, a Lutheran pastor from Ovamboland, Rev. Mika Ilonga, Lutheran pastor from Okahao, and three businessmen, Nangolo Jacob, Kefas Shipuata and Sylvanus Vature, detained on 27 May, and Amon Kalombo, a headman from Onamutayi. In a letter to the Windhoek Observer, Hans Booys, who had been conditionally released from detention under AG.26 and restricted to the municipal area of Khorixas, described how he had been beaten and insulted when shopping in the town centre of Khorixas on 12 July by members of the Damara Commando and white troops, who had been alerted to his presence by a local DTA organizer. Basie Saayman, a Coloured member of SWAPO, was reported to have been fined R175 or a sentence of 75 days in prison by the Windhoek Magistrate's Court on 18 July for being in possession of illegal publications, including SWAPO posters. At the time of his trial Mr. Saayman had been working in the SWAPO office in Windhoek, which had been re-opened in May 1980 by a group of SWAPO Youth members. Following his conviction, the SWAPO offices were once again deserted.^{452/}

439. Mr. Ellis (520th meeting) and another witness (520th meeting) referred to the action taken by the South African authorities against the churches, because of their involvement in exposing cases of torture against detainees. The churches had been singled out for attention by the successor to the Bureau of State Security, BOSS, now under the guise of an information department. As Mr. Wilders, appointed by the South African Information Services as a specialist in church affairs, had openly approached church leaders and informed them they were under surveillance. In August 1979, the Archdeacon of St. Mary's, Father Philip Shilongo, was arrested under AG.9; he was subsequently released but was rearrested by the

^{451/} Focus, No. 27, March-April 1980, p.4.

^{452/} Focus, No. 30, September-October, 1980, p.9.

security police on 17 June 1980. According to information available to the Group, Rev. Shilongo was one of several church staff whose release from detention under AG.26 was announced on 18 August 1980 by the Evangelical Lutheran Ovambokavango Church at Oniipa. Others released were Rev. Mika Ilonga, Rev. Titus Ngula, Rev. Matti Endjala, parish pastor at Engolo, Rev. Malaikia Aulugongo, pastor at Ongongo. Lay persons released were Eneas Amuteny, a school inspector, Ruben Kashea, a teacher, Silvanus Vatuva and Frans Mvula, businessmen, Ester Nghiwewelekwa, a nurse, Malakia Kakongo and Abisai Ihuhua, ELOC evangelists, and Sakeus Kaula a teacher. Those still in detention were said to include Elia Haupinge, a retired pastor, Rev. Kristian Shipunda, pastor at Omundaungilo, Dr. Naftalia Hamhata, head of the Lutheran medical mission at Onandjokwe Lutheran hospital, Hilja Namupala, a nurse, Kefas Shipwata, a teacher, Rauha Shimhanda, a nursing assistant, Rev. Natanael Shinana, an ELOC evangelist, Jeremiah Kangongo, a church journalist, and seven businessmen, Nangalo Jacob, Frieda Paulus, Eliakim Namundjembo, Johannes Kwego, Kaufiweta Shingege, Pollykarpus Hango, and Erasmus Kamati.^{453/}

440. The Group further learned that members of other anti-South African Namibian political parties had been harassed and detained during the period under review. Four officials of the Namibia National Front, NNF, an umbrella organization for various political groups, including the South West Africa National Union, SWANU, and Damara Council, which had recently transformed itself into a political party, were briefly arrested at Windhoek's J.G. Strydom airport at the end of March on their return from Botswana. The police confiscated documents, tape recorders and the constitution of the new party. Two NNF members, Lazarus Munuhe and Adolphus Kanguooti, were arrested in July under AG.9. On 15 September, Reinhard Rukiro, NNF Publicity and Information Secretary, and three other NNF officials, Ms Nora Chase, David Kasume and Tjeripo Ngariringombe, appeared in the Windhoek Regional Court on charges of fraud arising out of the detention of Albertus Kanguooti. At a press conference at its Windhoek office on 22 July, the NNF alleged that Mr Kanguooti had been subjected to torture and assault while in detention, after being arrested on 11 July. The fraud charges, which alleged that the accused had by false pretences sought to induce the Administrator-General to believe the allegation, were withdrawn after the appearance of the four defendants. Mr. Rukoro was then charged with publishing

false information in contravention of the Police Act No. 7 of 1958 in respect of the allegations made at his press conference to which he pleaded not guilty. The three other officials were discharged (see para. 453 below). It was reported that Willipard Kandjinomuini, an NNF member, had been sentenced to a R1000 fine or a year's imprisonment by Gobabis Regional Court on 28 July 1980. Half his sentence was conditionally suspended for three years. He was alleged to have helped a group of nine NNF-SWANU members across the border to Botswana on 11 July. Similar charges against Albertus Kanguativi, a staff member at the NNF's Windhoek office, were withdrawn after Kanguativi turned state witness.^{454/}

441. Mr. Ellis (520th meeting) and Mr. Nujoma (529th meeting) urged increased pressure for the release of political prisoners on Robben Island. Mr. Ellis, who had been involved in arranging for visits by relatives, felt that the prisoners should be transferred to Namibia to be closer to their families, if South Africa was not prepared to release them prior to United Nations organized elections. Mr. Terry (519th meeting) presented documentation compiled by the Namibia Support Group, London, listing Namibian political prisoners, 57 of which were held on Robben Island as of February 1980, with others being held elsewhere in South Africa. Almost all were members or supporters of SWAPO; the largest number were those arrested in 1966-1967 (including Herman ja Toivo, co-founder of SWAPO) and tried under the Terrorism Act in Pretoria, September 1967-February 1968. There were also an unknown number convicted in secret trials, and held in prisons in South Africa or Namibia, whose names were not known. Of those listed, all were held on Robben Island, or presumed to be held there, unless otherwise indicated. The full list included: Sacharius Alfeus, sentenced in 1978 to 8 years imprisonment; Naftalie Amungulu, tried with others in the Pretoria Terrorism Trial, sentenced to life imprisonment, reduced to 20 years on appeal; Willem Biwa, sentenced in the Windhoek Supreme Court in November 1978 to 6 years; Eino Ekandjo, Pretoria Terrorism Trial, sentenced to life; Jeremiah Ekandjo, Chairman Windhoek SWAPO branch, sentenced in November 1973 under Sabotage Act to 8 years; Moses Elias, Pretoria Terrorism Trial, sentenced to life; Lazarus Guiteb, Secretary Otjiwarongo SWAPO branch, sentenced in June 1977 by Windhoek Supreme Court to 8 years; Justus Haiti, sentenced August 1969 to life; Solomon Haiti, as above; Abel Haluteni, Pretoria Terrorism Trial, sentenced to life;

^{454/} Rand Daily Mail, 1 April 1980, Focus, September-October 1980, p.11, Windhoek Advertiser, 15 July 1980.

Simeon Hamulemo, Pretoria Terrorism Trial, sentenced to life, reduced on appeal to 20 years; K.M. Hanghuwo, sentenced in 1978 to 5 years; Nghidipo Haufiku, Pretoria Terrorism Trial, sentenced to 20 years; Petrus Lilongo, sentenced November 1978 by the Windhoek Supreme Court to 18 years, after trial under the Terrorism Act; Naboth Imene, a Lutheran evangelist, sentenced in July 1977 by the Windhoek Supreme Court to 5 years for aiding and abetting guerrillas in Ovamboland; Joseph Ipanguela, sentenced in July 1969 to life, reduced on appeal to 20 years, after trial in Windhoek Supreme Court under the Terrorism Act; Ruben Itengula, sentenced in June 1977 to 12 years after trial in Windhoek for participating in "terrorist" activities; Sakeus Itika, Pretoria Terrorism Trial, sentenced to life, reduced to 20 years on appeal; Rudolph Kadhikwa, Pretoria Terrorism Trial, sentenced to life, reported to be seriously ill; Julius Kamati, Pretoria Terrorism Trial, sentenced to life; Petrus Kamati, Pretoria Terrorism Trial, sentenced to life; Matheus Kanyele, Pretoria Terrorism Trial, sentenced to life; Martin Kapawasha, Chairman, SWAPO Youth League, sentenced in Swakopmund under Sabotage Act in November 1973 to 8 years; Andjengo Kapulo, sentenced to 8 years by Ondangua Regional Court in August 1978 for participating in guerrilla activities; Kambua Kashikola, Pretoria Terrorism Trial, sentence not known; Marius Melcheor, sentenced to 8 years in October 1976 in Windhoek under Section 3 of the Terrorism Act for involvement in murder of four whites; Michael Moses, Pretoria Terrorism Trial, sentenced to life; Shinema Nailenge, Pretoria Terrorism Trial, sentenced to life; reduced to 20 years on appeal; Rehabeam Nambinga, Pretoria Terrorism Trial, sentenced to life; Karel Nampala, sentenced in October 1976 to 7 years, suspended, in Windhoek under Section 3 of the Terrorism Act; Johannes Nankudhu, Pretoria Terrorism Trial, sentenced to life; Jacob Nghiduna, Vice Chairman, SWAPO Youth League, sentenced to 8 years after trial in Windhoek under the Sabotage Act, November 1975; Manfika Nghidipo, sentenced to 20 years in 1968, place of detention unknown; Betuel Nunjango, Pretoria Terrorism Trial, sentenced to life; Johannes Pandeni, sentenced by the Windhoek Supreme Court to 18 years after trial under Terrorism Act; Ndjaula Shiningwa, sentenced to life, 1968; Immanuel Shifidi, Pretoria Terrorism Trial, sentenced to life; David Shikomba, Secretary, SWAPO Youth League, sentenced in March 1974 to 6 years under Sabotage Act for inciting people to violence; Gaus Shikomba, sentenced to 20 years in August 1969 in Windhoek; Michael Shikongo, sentenced July 1977 in Windhoek Supreme Court to 5 years for participating in "terrorist" activities; Nakali Shilengelua, sentenced by Ondangua Regional Court in August 1978 to 8 years for encouraging civilians to go for "military"

training; Heilkie Shililifa, sentenced September 1978 in Otjiwarongo Regional Court to 5 years for helping people to leave Namibia for training; Julius Shilongo, Pretoria Terrorism Trial, sentenced to life; David Shimuefeleni, Pretoria Terrorism Trial, sentenced to 20 years; Jonus Shimuefeleni, sentenced under Terrorism Act in August 1969 to 18 years; Johannes Shiponeni, Pretoria Terrorism Trial, sentenced to life, leg wounded on capture and subsequently amputated without his consent; Philemon Shitilifa, Pretoria Terrorism Trial, sentenced to life, reduced on appeal to 20 years; Joseph Shityuvete, Pretoria Terrorism Trial, sentenced to 20 years; Brendan Simbwaye, Vice-President SWAPO, reported charged with "terrorist" activities in secret trial, Pretoria 1970, whereabouts unknown since 1972; Kaleb Tjipahura, Pretoria Terrorism Trial, sentenced to life; Herman ja Toivo, Pretoria Terrorism Trial, sentenced to 20 years; Njabula Tshaningau, Pretoria Terrorism Trial, sentenced to life, reduced to 20 years on appeal, reported to be nearly blind from trachoma; Elizar Tuhadeleni, Pretoria Terrorism Trial, sentenced to life; Malakia Ushona, Pretoria Terrorism Trial, sentenced to life; Benjamin Uulenga, sentenced to 15 years by Windhoek Supreme Court in May 1977 under Terrorism Act for having undergone military training overseas; Messah Victory, sentenced August 1969 in Windhoek Supreme Court to life imprisonment under Terrorism Act; Gabriel Willem, sentenced to 7 years, three suspended in May 1976 by Windhoek Supreme Court for involvement in five murders, possibly held in Pretoria Central prison; Lazarus Zachariah, Pretoria Terrorism Trial, sentenced to 20 years.

442. According to information available to the Group, the Progressive Federal Party (South Africa) spokesperson on civil liberties, Helen Suzman, paid a three hour visit to Robben Island in May 1980, during which she had discussions with Herman ja Toivo for about half an hour. This was the first time in seven years that Mrs. Suzman had been given permission to visit the island by the Department of Prisons. She told the South African press that the SWAPO co-founder had made a deep impression on her, and was not the type of man to change his beliefs, even after 12 years imprisonment. He remained extremely hostile to the South African Government, but was more concerned about the problems facing the people of Namibia than about himself. He was also anxious that his fellow Namibian prisoners should be able to continue their studies. She reported that there had been an improvement in conditions since her last visit, with prisoners now able to sleep in beds, rather than on mats. ^{455/}

^{455/} Windhoek Advertiser, 16 May 1980, Star, 17 May 1980.

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

443. Reference has already been made (see paras. 408-409 above) to the situation of the prisoners captured at Cassinga during the South African raid on a SWAPO refugee camp in May 1978. Mr. Torry (519th meeting) provided a list of 127 people known to have been kidnapped and who were still held in a detention camp at the Hardap Dam, 20 km west of Marienthal. Five of 63 Cassinga prisoners released at the end of May 1978 alleged that they and others had been tortured by South African soldiers and security police for information about who had helped them cross the border into Angola. Two detainees released in mid-1979 had reported severe cases of mutilation among the remaining detainees, with ears, lips and fingers missing, and eyes gouged out. Mr. Ellis (520th meeting) said that some detainees were being used as convict labour for white farmers on an irrigation scheme in the area. Heinz Hunke, a Catholic priest, and co-author with the witness of a booklet on torture, Torture -- a Cancer in our Society (see E/CN.4/1311, paras. 406-407) drew attention to the torture of the detainees in July 1978; the churches had asked to visit the detainees, but were refused. Mr. Mart (521st meeting) said the Cassinga detainees released by Justice Steyn, the then Administrator-General, had been staged for the media; some detainees were subsequently interviewed by Father Hunke, who was later deported, before there could be an effective investigation. Mr. Nujoma (529th meeting) said the prisoners were held in what amounted to a concentration camp. An employer looking for his shepherd, and not aware of the camp, followed his footprints into the camp where the shepherd had been detained as a suspected "terrorist". The farmer later told other farmers that the people he had seen seemed to have lost their human dignity and were, for example, still wearing the same clothes as when they were captured. Some had their lower limbs amputated and were without medical treatment, others were without eyes or ears. SWAPO informed the International Committee of the Red Cross of the existence of the camp and reports, and a representative of the organization visited the camp and later told the witness that the detainees were "in a horrible state". Mr. Nujoma said that SWAPO held South African prisoners of war but treated them in accordance with the Geneva Convention, while the South African Government treated captured SWAPO freedom fighters as criminals.

444. The detainees were reportedly held under the provision of AG.9, incommunicado, and were denied access to lawyers. Many had their eyes and ears removed, while

others bore scars and burn marks from torture. They were required to do hard labour, such as digging and road construction, while during the December 1978 elections, some detainees were brought out of the camp temporarily and forced to denounce SWAPO and urge people to vote. The Administrator-General, Dr. Viljoen, denied that during his visit to London in April 1980 he had admitted South Africa was illegally holding the refugees, as claimed in a SWAPO statement, although he confirmed that the security forces were holding SWAPO guerrillas captured in military operations. Two officials of the Red Cross mission in Pretoria, who visited the Hardap camp on 8 June, while able to confirm the holding of 118 detainees, did not publish further details, in line with Red Cross policy. The Red Cross visit was especially significant as it proved the denials of the camp's existence untrue and also threw further doubt on South African denials of torture.^{456/}

445. Mr. Ellis (520th meeting) gave a church point of view of events; he had been on the staff of the Christian Centre in Windhoek, an ecumenical organization concerned with educational and social work, until April 1978, when he was expelled. In his experience it had become a matter of course for Namibians to be tortured on arrest. The only slight improvement was that, due to adverse publicity, the South African Government no longer tortured identified and well-known leaders. As both the police and the military had wide powers of detention in areas inaccessible to the press, the practice of torture had spread and was now considered the normal way of obtaining information. With respect to the churches' intervention in cases of torture, in 1967, after the first SWAPO raid on a police post, the churches addressed a joint letter to the Namibian Commissioner of Police in Ondangua, informing him that their hospitals were treating former prisoners who bore marks of torture. In 1971, 1972 and 1973 the churches had raised the question of torture of detainees with the South African Prime Minister, B.J. Vorster, who said he would investigate; at a second meeting the churches presented a list of 30 people prepared to give evidence to a Commission of Inquiry. However, no investigation was carried out, and a year later the Prime Minister simply wrote to the churches saying the allegations had been investigated but had been found groundless; this was not surprising for any investigation would have been conducted by those responsible for the torture in the first place. In 1977 the churches issued a pastoral letter to their congregations detailing the forms of torture known about, analysing the laws which made torture possible, and listing information designed to help Namibians avoid being tortured. Although the letter was banned it had already been fairly widely distributed (see E/CN.4/1270, para. 322). The only church to approve of South African policy was the white Dutch Reformed Church.

^{456/} Focus, No. 24, September-October 1979, p.7, No. 28, May-June 1980, p.11.

446. Mr. Nujoma (529th meeting) and Ms Hamutenya (528th meeting) mentioned that the most common forms of torture used in Namibia were electric shocks while the victim was suspended; physical assault with the victim hung up; beating with rifle butts; the burying alive of victims and exhuming them later; and pushing sticks full-length into the victim's rectum. Mental torture was administered by use of ultrasonics; narcotics; playing of monotonous sounds over a long period; mock shootings; incommunicado and solitary confinement for long periods.

447. Mr. Amushila (520th meeting) described his arrest in September 1979 in Windhoek and his subsequent torture. He had been taken to various prisons in Windhoek, where he spent entire nights handcuffed to iron bars in a suspended position, with just a piece of bread at 8 a.m. for his daily meal. He had then been transferred to Ondangua where he was stripped and placed in a bag which covered half of his body from his head down. He was kept blindfolded in this way, except when receiving the daily bread ration, for almost a month. During his interrogation he was tortured by electric shock which involved the removal of the sack, gagging with a wet cloth, blindfolding, and lying on the cement floor of the cell, with arms and legs handcuffed so tightly that his wrists were still discoloured. He was repeatedly shocked, by wires attached to the ears and waist until a doctor examined him and reported he was near death, after which he was given water twice a day. He was taken to a clinic within the prison, and blood clots removed from his ears, but the wounds on his arms and legs caused by the handcuffs were untreated. He was then flown to a detention camp in South Africa with about 30 other prisoners, some of them from other countries, where for the first time he was given food. He and the other detainees were regularly beaten, especially on weekends when the white policemen were drunk. Several weeks later they were taken to a firing range, given AK type rifles and ordered to fire them in order to see if they had received training, and were beaten when they claimed they could not handle the weapons. He was subsequently returned to the prison in Ondangua where the torture and interrogation were resumed, usually by the same three men; finally he was taken out of the camp in an army truck, blindfolded, and left in a forest with two white soldiers, from where he managed to escape to Angola.

448. Mr. Nehunga (523th meeting) described his capture by South African troops when they attacked a transit camp for refugees in Angola at the end of April 1979. He and others captured had been taken to Oshakati, where they were split into small groups; he was interrogated by a white policeman who accused him of transporting people out of the country. The next day he was collected by two black policemen,

taken to a tent, blindfolded, gagged, tied to the tentpole, beaten, soaked with water, and given electric shocks through the ears. He was then taken to another camp, where prisoners said he had helped them to leave Namibia; he asked for medical treatment, but when he told the doctor it was for torture, the doctor refused to give any treatment. He was taken to a tent and interrogated and beaten again while blindfolded; he had been visited by a priest who promised to try and get him treatment, but once the priest had left, the police began beating him again. A month later he was taken to a camp near Otjiwarongo, after refusing to sign a statement, and was acquitted in a trial after legal defence prepared by SWAPO.

449. Mr. Hamvele (529th meeting) said he had been arrested by armed black and white policemen in April 1980 in Okapu, Ondangua province. He and his companions had tried to run away, but one of them, Christophe Martin, was shot dead without warning by the police, who warned the others that this would happen to them, as anyone running away in Ovamboland was regarded as likely to be a "terrorist". The witness was told that the police would like to see him and on 7 April four policemen entered his house, awakened the witness and his wife, whom they assaulted, and arrested and hit the witness when he protested. He was taken to Ondangua military camp, where he was thrown into a deep trench, about 4 metres deep and left there all day. In the evening he was beaten with batons by two white policemen, then taken out of the trench at the request of a black policeman so they could all beat him; he was held against some corrugated iron which cut his back deeply. He was then taken to a tent where salt was rubbed into the wound, and the cut was stitched up without any anaesthetic, after which he was thrown into the trench again. At midnight another man was put in the trench, he did not speak and was bleeding due to the fact that all his teeth were out and his face badly swollen. The next night his companion died and was left in the trench all night. The witness was taken to court and warned that if he mentioned the death of his colleague, he would be killed himself; he was released with a verdict of not guilty by the magistrate. He tried to obtain the return of his car, taken at the time of his arrest, but was told he would only get it back if he provided information about SWAPO, and was warned his house might be burned down like others if he refused. The magistrate in his trial never inquired as to the origin of his injuries, which were still visible, or asked about his experiences with the police.

450. Mr. Heita (529th meeting) described his torture by South African soldiers at Onayeruka village, in the Okualuthi district of Ovamboland. The witness, who was 69 years old, was interrogated in February 1980 and accused of allowing

SWAPO people to stay in his house; he was forced to go with the soldiers, wearing only his underpants, to Okualuthi prison, where he was kept for a week without water, and with food only once a day. He was released, but in July, soldiers came to his house again, bringing with them a neighbour who had been beaten up. The witness was beaten on his face with batons, and taken blindfolded with his neighbour, to a chief's house in the same district. They were forced to lie on the ground and were flogged by black soldiers, who put their feet on their victim's bodies to prevent them struggling; after this they were taken to the white police office, where they were kicked when they tried to lie down or sit. They were dumped in a very weak condition at Ombalantu, and were taken to hospital by a friend, where the witness remained 12 days, and his neighbour two days.

451. Mr. Thomas (529th meeting) described his torture after his arrest in April 1978; a statement on his torture was also provided by Mr. Terry (519th meeting). His interrogation centred on the assassination of Chief Clemens Kapuuo, and his alleged involvement in the killing of a tribal chief. During his detention in Windhoek he had not been allowed to wear any clothes, was forced to sleep without a blanket on a cold cement floor, although it was winter, blindfolded, beaten, suspended, and given electric shocks with the wires connected to his genitals. Sometimes he was taken out of his cell at night to a river north of Windhoek where he was forced into the water until he was frozen with cold, and forced to stand on the bank for beatings. A chain was tied around his wrist to keep him upright. His head was submerged in a pool of stagnant water, he was then revived and the water pumped out of his lungs by the police jumping on his back. The treatment lasted three days, each time he was taken he was blindfolded, and in the boot of a car. One day he was taken to an area between Windhoek and Aris where he had been given a spade and told to dig a grave to his own measurements, six feet deep. There were small heaps of ashes nearby, and the police told him not to dig anywhere else, as he might uncover the bones of other people. He was forced to stand on some rocks holding cans of beer, which the police used for target practice; then he was made to lie in the grave, while the police reported over the police radio that they were burying him. He was covered over with earth and rocks, with a piece of card protecting his mouth and nostrils. They left him for some time, before digging him out; he was told to clean up the grave, which he was too weak to do, then put back into it, this time without the piece of card, buried completely, and only regained consciousness later in a dark room in the prison kept for critically wounded and ill prisoners. He was taken to the white hospital at night, but later was detained in prison where he was treated

with yellow tablets. When the swelling of his face subsided, he was tortured again in a similar way to before. The witness had complained of this treatment to a magistrate who promised he would receive medical treatment, but the doctor did not come for two weeks, and after examining his penis, which had become infected because of application of electricity, alleged this had been caused by venereal disease and not torture. He was beaten each time the magistrate visited him to inquire about his treatment. Since his release the witness required regular medical treatment. He has also suffered from considerable loss of memory.

452. A witness (530th meeting) who had been captured by South African soldiers in April 1979 described his mistreatment at Oshakati camp, where he was left in hospital for five days without treatment of his broken legs. Later he was taken by a white doctor to Ondangua, and whilst in hospital was interrogated before being taken to Grootfontein hospital for two weeks of treatment. He was then taken back to Ondangua military base where he was tortured by UNITA soldiers who applied electric shocks to his genitals and forced him to drink his own urine every night for a month.

453. Reference has been made to the allegations by the NNF of the torture of Adolphus Kanguooti (para. 440 above). At its press conference of 22 July 1980, the NNF alleged that Kanguooti had been rushed to Katutura hospital on 15 July, a few days after being detained; he claimed he had been brutally assaulted whilst in detention, to the extent of incurring paralysis of his left side, including the loss of his left arm and leg, had been deprived of food and drink by his interrogators, and left in poor mental shape. The allegations were contained in a sworn affidavit to the Administrator-General's office, implicating the security police in torture and assault. A medical report was also sent, while Kanguooti himself was removed to Pretoria for medical tests in the Voortrekkerhoogte military hospital. In a press release the Administrator-General said he viewed such allegations extremely seriously, and would not tolerate such a situation without having the allegations tested in court; fraud charges were subsequently issued against the NNF leaders on the grounds that if the Administrator-General had believed the allegations he would have taken action which would have implicated the police and officials concerned.^{457/}

^{457/} Focus, No. 30, September-October 1980, p.11.

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

454. No direct evidence was received by the Group for the period under review as to violations of the right of accused persons during court hearings and trials. The South African Government appears not to seek prosecution of prominent SWAPO members for alleged political offences as in the past. However on the basis of past trials in which duress has been used to obtain confessions the pattern of systematic violations of the rights of the accused appears to continue (see E/CN.4/1311, para. 414; E/CN.4/1270, paras. 323-324).

B. Situation of the African black workers

1. Background information

455. In its previous reports the Group has examined the effects of the labour system in Namibia, including the system of recruitment of migrant workers; the denial of trade union rights; the disparity in wages between black and white workers; and the low wages and resulting poverty (see E/CN.4/1222, paras. 385-390; E/CN.4/1187, paras. 376-379; E/CN.4/1135, paras. 280-299; E/5622, paras. 117-136; E/CN.4/1270, paras. 325-337; E/CN.4/1311, paras. 415-424).

456. The previous report of the Group described the effects of the meagre income available to the African population from the migrant labour system and subsistence agriculture, and surveyed the available information as to the numbers of economically active persons, and employment by economic sector.

2. Summary of evidence received

457. Mr. Manning (519th meeting) and Rev. Scott (521st meeting) referred to the position of workers at the Rossing uranium mine. There were reports of ill-treatment of workers, although the mine authorities denied this. Evidence had been given to the Hearings of Namibian Uranium conducted by the Council for Namibia in July 1980, relating to wages, safety matters and the disposal of uranium waste. Rev. Scott had received a draft reply from the public relations officer of the Rio Tinto-Zinc Corporation, a Mr. Hughes, denying the accuracy of some of the statements made to the Council and referring to information contained on these matters in the company fact sheets. At the Uranium Hearings, witnesses quoted a statement of 7 December 1979 by workers at Rossing which claimed discrimination between white and black workers with respect to accommodations and medical facilities. The black workers said they were not provided with treatment and that there was no hospital at the mine, only an understaffed clinic. The nearest hospital was 130 km away at Swakolmund; and it was difficult to be absent from work for medical purposes, especially as there was no available transport from the mine, where all African workers lived. Whites automatically became members of Medical Aid and were given constant checks while blacks were not admitted to the scheme unless they held senior positions or had worked on the mine for at least a year, which condition virtually excluded most of them from regular medical care. The workers described their bodies as "cracking and sore". Mr. Manning provided a further statement of May 1980 by an anonymous Namibian who had worked at the Rossing mine. It was claimed that while white workers lived in Swakolmund or suburbs along the coast, black workers lived in the

Arandis township adjacent to the mine in small houses, with a high housing density. Most of the workers there were Damaras with their families, but single workers lived in two compounds on either side of the road leading into the mine complex. These were overcrowded and uncomfortable, with the food provided of poor quality and small in quantity. There was a separate compound for Namibian workers, and for black workers from Malawi and South Africa. The mine complex contained open pits, crushing plants, and chemical treatment plants where chemicals were added to the ore, and waste water pumped out. Although all workers had respirators, they were required to wear them only in the dustiest areas or when one of the chemical plants broke down and emitted toxic fumes. All workers, even those indoors, were constantly exposed to dust from the mine, and labourers wore their work clothes in the barracks. When the chemical plants broke down, as they did from time to time, a thick acrid smoke covered everything, and even those wearing respirators, would feel sick. The ground was not sandy but rocky; however, there was always pulverized rock dust in the air, which was blown east to west by hot winds over the compounds and houses in Arandis. However the employees housed in Swakopmund did not suffer from this, since although the dust blew for many miles to the west, at Swakopmund the cold Benguela current produced a cool breeze from the shore which caused the hot wind from the interior to rise, carrying the pollutants up and out over the sea. Despite the fact that the white workers did not suffer from pollution, they were given thorough medical checks several times a year, including X-rays and blood tests. Waste water used in the ore treatment process was pumped into the desert some kilometres from the mine complex where it was allowed to evaporate and sink into the ground.^{458/}

458. Reference was also made at the Uranium Hearings to the fact that no formally constituted trade union for African workers themselves was allowed to exist. Attempts to establish a union had been put down by Rossing Uranium Ltd., the operating company of the mine, in which RTZ has a 46.5 per cent equity interest. The other shareholders included the Industrial Development Corporation of South Africa, a para-statal company, General Mining of South Africa, Minatome of France, Rio Algom, the Canadian affiliate of RTZ, and Metallgesellschaft of West Germany. According to the information available to the Group, SWAPO trade unionists involved in the establishment of the

National Union of Namibian Workers, NUMW, which is active at the Rossing mine, have been detained and restricted in their activities. The NUMW had been established in secret in 1971 and come into the open in 1978; its main field of concern was mining and many of the trade unionists active in the NUMW were employed at Rossing. In July 1979 a branch of the NUMW had been formed at Rossing. Arthur Pickering, the General Secretary of the NUMW and a SWAPO member was arrested on 14 January 1980 and detained under AG.26. He was released after three months and is now restricted to the Windhoek municipal area and banned from taking employment, which meant he lost his job at Rossing. He was previously detained in January 1979 following a labour dispute at the mine, and is the first Coloured lawyer to have been admitted to the bar at Windhoek. Henry Boonzaaier, Assistant General Secretary of the NUMW and a SWAPO member, was arrested on 11 January 1980 and released three months later and restricted under the same conditions as Mr-Pickering. It was alleged he was in possession of banned literature, he had been arrested previously in January 1979. Gerson Kapuka, the Chairman of the NUMW was similarly detained for three months and when released restricted on the same terms. Prior to their arrest, the three trade union officials had taken part in a seminar in Botswana where the holding of an inaugural congress of the NUMW by the end of 1980 was discussed with exiled SWAPO leaders. The South African authorities are also reported to be encouraging the formation of African trade union organizations sympathetic to the DTA, and allowing those involved freedom to organize. In 1978 the Administrator-General stated that Africans were free to join or to form trade unions as long as they had no connections with political parties - this was aimed at SWAPO and the NUMW.^{459/}

459. According to information published by RIZ in its fact sheet of May 1978, there were 3,144 employees at Rossing, 1,637 black, 886 white, and 621 Coloured. The company followed a non-racial policy, with equal opportunity for advancement and living conditions in accordance with their level of employment. The so-called Paterson system of job evaluation, with grading on the level of decision-making involved in each job was introduced during 1978. As of 1 January 1980, there were 18 grades; grade 1 to 6 (wage scales) were from a minimum of R202 to a maximum of R225 a month for grade 1, and a minimum of R374 and a maximum of R429 a month for grade 6. In these six grades, 1,552, or over 90 per cent of the black workforce were employed, with the largest number (306) in grade 4 (from R290-R330 a month). Almost all

^{459/} Focus, No. 50, September-October 1980, p.10; unpublished notes of a meeting with John Otto, SWAPO Secretary for Labour, London, September 1980.

white employees were in grades 7-18 (salary scales) ranging from a minimum of R450 to a maximum of R514 per month for grade 7, and a minimum of R1,507 to R1,475 a month for grade 19. The largest number were employed in grade 10, with a minimum of R710 and a maximum of R801 a month. There was only one African in this grade, and only one in the next grade, the highest grade for any African employee. The largest number of Coloured employees, 145, were in grade 7, with a minimum of R450 and a maximum of R514 per month. The figures represent the rate paid for working a basic 178.75 hours per calendar month. It was claimed that company policy was to provide housing for all married employees at Arandis, Tamarickia, the Coloured suburb of Swakopmund, and Venetia, the white suburb. Single hourly-paid employees were housed at Rossing village "A" and "E". With respect to industrial relations there existed a two-tier elected Employee Representative Committee which met on a regular basis with the management, with the lower tier composed of five divisional committees and a residential committee. A formal system of downward communication by means of briefing groups operated at all levels of mine management at monthly intervals. With respect to medical aid there was a fully equipped medical and dental centre at Swakopmund with daily visits to the Arandis clinic. Medical examinations were said to be carried out annually on all employees. An environmental control programme covered four areas of risk; monitoring and control of dust, potential toxic gases, possible water pollution and radiation arising from the presence of uranium, were carried out in terms of a written code of practice. A witness at the Uranium Hearings commented in this context that such codes of practice needed to be fully disclosed so that they could be subjected to independent review. In-depth studies by the United States Public Health Service over 20 years had shown there existed considerable adverse health effects associated with the mining, milling and waste-disposal of uranium-bearing ores, which included increased risk of lung cancer, and genetic risks to the offspring of those involved in mining or living near uranium waste tailings.^{460/}

460. At Consolidated Diamond Mines, a 100 per cent subsidiary of De Beers Consolidated Mines, the monthly average cash earnings for Africans were reported by the company to be R208, and a similar non-racial wage policy has been introduced. An anonymous letter from a CDM worker claimed that it was not true that employees received the

^{460/} Some Aspects of Rossing Uranium Ltd., Fact Sheet No. 2; Mining in the Environment, Fact Sheet No. 4; Council for Namibia, *op.cit.*, 11 July 1980, p.41-71.

same wage irrespective of race, provided qualifications were the same, but that a salary of a black employee was about a quarter that of a white employee. There was discriminatory training, with black workers obliged to undergo a nine month course for training as a mine supervisor, compared to two weeks for a white employee. When black workers had finished their contracts and their possessions were being checked, they were harassed and manhandled by the security guards at the mine, and searched for diamonds, while white workers were not.^{461/}

^{461/} Annual report 1979, De Beers Consolidated Mines; Windhoek Advertiser, 26 April 1980.

F. Conditions of Africans in the "homelands"

1. Background information

461. The implications of the "homelands" policy as established pursuant to the recommendations of the official "Odendaal Commission" of 1964 were described in a previous report of the Group (see E/CN.4/1020, paras. 29-30). Other reports of the Group have summarized the legislation enacted in the period since February 1973 in relation to the setting-up of "homelands" for occupation exclusively by so-called "Native Nations" in accordance with the provisions of the Self-Government for Native Nations in South West Africa Act, No. 54 of 1968, and the Amendment Act, No. 20 of 1973 (see E/CN.4/1135, paras. 245-252, E/CN.4/1159, paras. 237 et. seq.). The 1979 report of the Group referred to the continued establishment of "homelands" structures in the guise of so-called second-tier "representative authorities" as provided for in the draft Turnhalle constitution of March 1977. This provided for "existing legally constituted bodies" to be accepted as representative authorities for the different "ethnic groups", and marked a significant switch of emphasis in a bid to counter international criticism that South Africa was preparing to "balkanize" Namibia, from the geographical definition of a "homeland" in terms of land area, to a demographic concept to cover all members of a so-called "ethnic group" whether or not actually resident in the area of a "homeland".

2. Summary of recent legislation

462. Reference has been made above (para. 390) to the provisions for establishment of constitutions for the representative authorities. After a hiatus in 1979, due to the negotiations with the United Nations, the "homelands" policy was actively resumed once more during the period under review. General provision for the establishment of representative authorities was made in terms of AG.8, the Representative Authorities Proclamation, 1980. Proclamation AG.1 of 1980, Postponement of Certain Elections, provided for the postponement of general elections or by-elections for members of the Ovambo and Kavango Legislative Councils, and of general elections for the Mbanderu Community Authority and the Advisory Board for the Bushman Nation until a date or dates not later than 31 December 1980 as determined by the Administrator-General. ^{462/}

463. Proclamation AG.12, Establishment of a Representative Authority for the Whites, provided for the transformation of the existing SWA Legislative Assembly into a representative Authority, with an assembly and an executive committee. Similar

^{462/} Official Gazette Extraordinary, No. 4067, 4 January 1980.

proclamations provided for the establishment of representative authorities for the Coloureds (AG.14), Ovambos (AG.23), Kavangos (AG.26), Caprivians (AG.29), Damaras (AG.32), and Namas (AG.35). These proclamations were due to come into effect on 1 June or 1 July 1980.^{463/}

464. There were no provisions for the establishment of so-called third-tier local authorities, and municipal elections scheduled for March 1980 were postponed. The appointment of a committee to investigate the further dispensation for local government was announced in February 1980.^{464/}

465. The main effect of the various proclamations formally establishing the representative authorities was to entrench the five main functions allotted to the second-tier authorities - agriculture, land tenure, health, education, social welfare and pensions - and prevent the National Assembly impinging on these functions in relation to any specified population group by passing legislation. However, ethnic groups which did not institute representative authorities would transfer their second-tier functions to the central government which would provide such services as education, health and welfare. This duplication of functions was also reflected in the fact that although the established representative authorities were responsible for local health services, they had no control over the registration of medical staff, while hospitals and clinics had to comply with standards laid down by the National Assembly.

3. Summary of evidence and information received

(a) Political rights and personal freedoms

466. Mr. Nujoma (529th meeting) said that in northern Namibia destruction of food and property was the order of the day, especially in the villages close to the border, where houses were burned down, food destroyed and livestock killed or stolen. The house of Axel Johannes's father, one of the SWAPO leaders still in the detention, had been burned down after he and his family had been ordered to leave without being able to take any of their possessions, with them. According to the information available to the Group, it was reported that the house in Ukwamibi had been burned down by Ovambo Home Guards. Local residents confirmed that this was routine

^{463/} Official Gazette Extraordinary, Nos. 4152, 30 May 1980, 4154, 30 May 1980, 4195, 30 June 1980, 4198, 30 June 1980, 4201, 30 June 1980, 4204, 30 June 1980, 4207, 30 June 1980.

^{464/} Focus, No. 27, March-April 1980, p.6.

intimidation. In one letter to a local newspaper the writer alleged that it had become common for the Home Guard to break into people's houses, to do whatever they liked, causing destruction to personal property. Most of the Home Guards were said to be soldiers who had defected from UNITA, and who treated people in an inhuman manner, including the beating and raping of women. On 18 January 1980, two women returning from a wedding were forced to accompany Home Guards to a house and were raped at gunpoint, and when they reported the matter to the local chief, were told to go to the police at Oshakati, who took no action.^{465/}

467. Witnesses (521st meeting) stated that permits had to be obtained for any political activity, while South African authorities also insisted on the population carrying identity cards. In the northern operational area, the civilian population suffered from the conflict between SWAPO's freedom fighters and the South Africans. If a landmine went off, the South Africans arrested the inhabitants of the nearest kraal, on the grounds that they must have been responsible for planting the mine.

468. It was reported that at the end of December 1979 the Nama Council issued a form, in which people had to state under which chief they preferred to be placed. This was an attempt to break up SWAPO support in the South, where they had strong support from the traditional chiefs. Pastor Hendrik Witbooi, re-elected leader of the Witbooi group while in detention, was not recognized by the Nama Council and the South African authorities; he and other traditional chiefs could only get official recognition of their status by joining the DTA-composed Nama Council. Objection to the inauguration of an acting paramount chief of the Damaras, by the Damara Council, part of the NMF, was reported to have been overruled by the Administrator-General. Headman Filemon Conteb was installed as chief in terms of a decision taken by the Damara representative authority, controlled by the Damara faction of the DTA. The Secretary-General of the Council, Mr. S. Gobs, claimed that his organization represented 80 per cent of the Damaras and accused the Damara DTA leader Dr. Engelhard Christie of intimidating people at random and blackmailing workers in government employ.^{466/}

(b) Personal freedoms: freedom of movement

469. According to the information available to the Group, a number of church officials were expelled from the territory during the period under review. It was reported that the executive committee of the Evangelical Lutheran Ovambokavango Church issued

^{465/} Focus, No. 27, March-April 1980, p.7.

^{466/} Windhoek Observer, 8 December 1979; Rand Daily Mail, 14 December 1979.

a statement protesting the authorities' refusal to renew entry visas for seven Finnish missionaries at a meeting of 5 March 1980. The statement said that two missionaries, Helka Yonkanen, BLOC secretary since 1961, and Keth Saino, a nurse at the Lutheran medical mission since 1966, had been asked to leave the country. Five missionaries were refused entry visas in 1979, while previously the authorities had routinely renewed residence permits, visas or re-entry permits. Although there had been past incidents of refusals of visas, it was claimed a new policy was being applied to the detriment of the church, which still needed expatriate staff where local staff was not available. It was reported that a staff member of the Council of Churches in Namibia, Kelwyn Sole, a South African citizen, had been served with a deportation order on 14 March giving him seven days to leave the country, with no reasons given. The Council President, Rev. James Kaluma, subsequently wrote to the Administrator-General calling for a rescinding of these expulsions - in reply Dr. Viljoen said the missionaries could remain until May while an investigation was carried out. ^{467/}

(c) Health

470. Reference has been made above (para.418) to the South African policy of closing down schools and hospitals staffed by the churches. Subsidies received from the Health Branch of the SWA Administration have been reduced, and two hospitals run by the Anglican Church in Ovamboland, at Odibo and Ondudu, have been closed. ^{468/}

^{467/} LMF Information, 10/80, 13/80, Focus, No. 27, March-April 1980, p.7.

^{468/} Background Paper on Education, Health, Housing and Labour, Planning Workshop of Namibia Nationhood Programme, Arusha, 25-29 August 1980, p.26.

G. Impediments to student movements

471. The question of student movements has been examined in previous reports of the Group (see E/CN.4/1222, paras. 396-407; E/CN.4/1270, paras. 356-365; E/CN.4/1365, paras 304-306). It was found that education in Namibia is restrictive and authoritarian. There is no university in Namibia, only a number of technical and vocational training centres, theological seminaries and segregated high schools. Only a very limited number of African students have been able to attend 'Bantu' universities in the republic; a few managed to obtain scholarships abroad. The primary and secondary educational levels were characterised by progressively higher drop-out rates in respect to Africans.

1. Relevant legislation

472. Previous reports of the Group have summarized the South African legislation affecting the education of Africans (see E/CN.4/1187, paras. 388-389). The general policy has been to regulate the pattern of black education in conformity with that of the Republic. African education was transferred to the Department of Bantu Administration and Development, while white education remained the responsibility of the SWA Administration.

Black education is now controlled by the Department of Education and Training, one of the functions transferred to the aegis of the Administrator-General. Teaching methods are based on the 'Bantu Education' syllabus calling for instruction in the mother tongue according to tribal group and Afrikaans, although at the secondary level English and German could be taken as additional languages. The Bantu education syllabus was dropped for government secondary schools in 1977 and replaced by the Cape Province white secondary schools curriculum; the strength of student opposition was reflected in an announcement by the Ovambo Minister of Education in May 1980 that English was to replace Afrikaans as the main medium of instruction. The African educational system is administered by a Regional Office in Windhoek, which controls all institutions offering primary and secondary education and has the power to close down schools, expel students, and dismiss teachers for not adhering to regulations (see E/CN.4/1311, para. 438).^{469/}

2. Summary of evidence received

473. Mr. Ellis (520th meeting) said that most of the State secondary schools in northern Namibia were now dependent on personnel from the SADF, who appeared in classrooms in uniform, carrying firearms. The church schools resisted and

^{469/} Background Paper on Education, etc., op.cit., p. 12.

consequently were being closed because the authorities wanted education controlled by the security forces. With the escalation of the war, fewer white teachers were willing to work in black schools, and now, as a part of the army's 'hearts and minds' strategy, the few remaining white teachers had been replaced by army teachers; these were not conscientious objectors, but serving conscripts of the SADF. Although most of the teachers at Augustineum High School in Windhoek were still civilians, the government closely observes the teaching staff, and two of the witness's friends had been transferred to a school in a distant area, because they were thought to be too friendly with the black pupils. The Martin Luther High School which was run by the Lutheran Church at Okambahe had changed to the English language medium, and the government allowed its students to study for the Cambridge University 'O' level examinations, although there had been harassment of scholars graduating from the school, who were accused by employers of being pro-SWAPO, and told to go and look for a job with SWAPO and not with them.

474. There was one major high school in each of the 'homelands', and more secondary schools were being built in Ovamboland to keep children there. All schools were co-educational, and people were not encouraged to learn English. There was a backlog of demand for teacher training places and the government was not providing sufficient facilities; many of the black teachers were those most critical of the 'Bantu educational' system. The government provided very little opportunity for vocational training, and this can be seen in the context of the labour situation as a whole, and the desire of the government not to threaten white artisans, which was why little encouragement to blacks to become artisans through technical training was given. To become an artisan required five years of full-time study, or an apprenticeship. In Namibia three-year courses were offered in brick-laying, motor mechanics and carpentry at very few centres. The drop-out rate for these courses was very high, as even when students had completed their training, they found it very difficult to find employment. Only about 30 completed their courses each year, and most found employment in the informal economic sector. South Africa discouraged students from going overseas to study, although some fifty students wrote a university entrance examination each year. Many of the students studying in South Africa had given up. The churches had organized a correspondence course scheme with about 30 students. Students wanting to go overseas to study English were told to apply to a South African university, and if they did not accept this, did not receive a passport. Students wishing to study abroad were required to pay a deposit of R400 in advance, and then had to argue at length with the authorities to obtain the passport, which was withheld if there was an unfavourable report from the security police.

475. Mr. Heita (529th meeting) said that black soldiers in northern Namibia were beating school children, and as a result of this harassment, children no longer wished to attend school. Mr. Katalili (525th meeting) said that the Namibian students movement had been banned and its leaders were all abroad as a result of being hunted by the régime.

476. It was reported that some 650 students of the Dr. Lemmer High School in Windhoek had boycotted classes for two days in June 1980, in protest of poor hostel facilities, unfairness in granting scholarships, and the fact that students had to attend South African universities. The boycott ended after a meeting of parents and adoption of a constitution for a student council at the school by the Students Action Committee. ^{470/}

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

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

478. After studying the relevant information received, and in the light of the mandate entrusted to it, the Group has already drawn up three lists of persons who, in its view, were considered to be guilty of the crime of apartheid or of a serious violation of human rights (see E/CN.4/1311, para. 444, and E/CN.4/1365, paras. 307-310).

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

Case No. 1. Brigadier Dolf Gouws, Divisional Commissioner of Police, for the gross neglect of the conditions of detainees arrested during the period under review (see paras. 443-453 above).

Case No. 2. Lieutenant Colonel van der Merwe, Head of the South African Security Police, responsibility for arbitrary arrests and brutality towards detainees as above.

Case No. 3. The Administrator-General, Dr. Gerrit Viljoen, as the responsible official for ordering detentions under AG.9 and AG.26, and for attempts to cover-up the mistreatment of Cassinga detainees at Hardap Dam (see paras. 443-445 above).

Case No. 4. Captains Koffee and Nel, Sergeant Botha, David Low, Joseph Angula, in connection with the torture of Festus Thomas (para. 451 above).

Case No. 5. Lieutenant de Kock, Captain George Steyn, Lieutenant Sacki, Colonel Janni, Thomas Kandove, Johannes Kahwadi, Joseph Indongo, for the torture of a witness (530th meeting, para. 452 above).

Case No. 6. Security police officers Colonel Schoon, Captain Badenhorst, Captains Visser and Koffee were named by Mr. Ellis (520th meeting) as amongst those responsible for practising torture.

III. CONCLUSIONS AND RECOMMENDATIONS

480. The Ad Hoc Working Group of Experts adopted the following conclusions and recommendations:

A. South Africa

1. Conclusions

1. The Group finds that apartheid has remained the policy of the South African Government and that the attempt to ensure its survival has led the minority régime to continue with its repressive measures against all those, mostly blacks, who have sought to eliminate apartheid. Political repression, detentions without trial, mass removals of populations, tortures of political prisoners and detainees - sometimes their mysterious deaths in prison - harassment of trade union leaders and of students and the exploitation of large numbers of the South African black labour force have been noticeable features of the South African situation during the period under review.

2. The Group focussed attention on the new allegations of torture employed by the régime and the terrible consequences of that régime's pursuance of the policy of territorial apartheid, that is to say, the granting of so-called independence to the Black Homelands.

3. However, the Group has noted that some minor changes have taken place such as the opportunity, which is now provided for some blacks to participate in so-called white sporting events. But such changes as can be identified involve changes of form not of substance and the overwhelming evidence brought to the attention of the Group is one of a system which continues to be not only vicious and degrading but also thoroughly absurd.

4. The numbers of persons sentenced to death increased during the period. No new legislation was enacted either to reduce or extend the circumstances in which the death penalty might apply. In particular no steps were taken in any of the so-called independent homelands to repeal any of the laws involving the death penalty. The consequence of this is that in 1980 the total of death sentences more than doubled compared with the figure for the last nine years. In 1969 for example there were 95 death sentences while in 1979-80 there were 194. One hundred and forty eight persons were executed in 1978-79 compared with 71 for 1977-78. Most of those executed were blacks.

5. The Group found that persons held in detention are still subjected to cruel indignities involving, inter alia, assaults, whipping, electrocutions and sexual molestation of women.

6. Every form of resistance has been met with cruel methods of suppression through resort to South Africa's huge arsenal of weapons. South Africa has continued to militarize and the country's budget for 1980 shows a staggering 17 per cent increase for defence purposes. When one considers that South Africa is also suspected to have acquired the capability of manufacturing nuclear weapons, then the Group comes to the conclusion that more than at any time previously, the situation in South Africa poses a real threat to international peace and security.

7. A new Police Amendment Act was passed making it illegal, without police authorization, to publish information on any detentions or arrests made in the course of the so-called anti-terrorist operations.

8. In keeping with its policy of apartheid, the régime of South Africa continued with the mass removals of blacks from the traditional homes and this brought about untold suffering on those affected. A new feature involves similar forceful removals within the Bantustans following powers granted to the "homeland governments". In one particular case, one hundred families of the Bakpasha tribe of Bophuthatswana were moved away from their village in Welgeval in order to make room for a 60,000 hectare game reserve supported by the World Wildlife Fund.

9. The Group finds that the Bantu Homelands policy continues to be at variance with internationally recognized norms of the rights of people to self-determination and independence. The Group shares the view that the homelands policy therefore deprives the black population of their birthright.

10. The conditions of black workers, particularly agricultural workers, continues to be precarious. They have suffered from unmitigated exploitation, low pay, ill-treatment and job insecurity. Their attempts to organize themselves are still stifled. The Wiehahn proposals on reforms of industrial relations in South Africa appear to have failed. Contrary to their stated objectives, the proposals have had the effect of enabling the South African Government to exercise greater control over African Trade Union organizations.

11. Nor has the EEC Code of Conduct brought about much appreciable change. The Code has been characterized as having provided the Transnational Corporations in particular with justification for continuing to operate in South Africa where they have made huge profits at the expense of the African workers.

12. The period under review saw a new surge of activity by pupils and students. School boycotts on a wide scale were some of the major features of the period. The grievances of the pupils revolved around the racial character of education, the disparity in the remuneration of black and white teachers and the "paternalistic ministerial consent required for higher education".

13. The Working Group concluded therefore that the situation in South Africa has not changed during the period under consideration. The Group has noted nevertheless that far from capitulating to the cruelty of police methods, the opponents of the apartheid system - mostly the blacks and coloured populations - have stood up courageously to the challenge and sacrifice involved in their redemption.

2. Recommendations

14. The Ad Hoc Working Group of Experts reiterates all its previous recommendations to the Commission on Human Rights and urges the Commission to issue an urgent appeal to the international community, particularly countries which maintain relations with South Africa, honestly to join the United Nations in its efforts to bring an early end to the inhuman system of apartheid.

15. The Group suggests that the Commission should renew its request that the Security Council should take action against South Africa for its defiance of the Council's decisions regarding apartheid and that such action should not exclude resort to chapter VII of the United Nations Charter.

16. The Group reiterates its suggestion that the Commission on Human Rights should ask the United Nations General Assembly to have a study made of the problem of the South African Government's legitimacy in view of its policy of apartheid and in particular its systematic refusal to apply the principles of the Charter of the United Nations, of international law and of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, and then to draw from that study all appropriate conclusions of law and of fact.

17. The Group recommends to the Commission on Human Rights to urge the General Assembly to reaffirm the struggle against apartheid as legitimate requiring the political, material and other forms of assistance by the United Nations for those involved in the struggle. In particular persons within South Africa who refuse to comply with that country's unlawful and inhuman policies and escape that country's jurisdiction should be entitled to special consideration as refugees.

18. The Group recommends to the Commission on Human Rights to request the Special Committee against Apartheid to continue to co-operate with it, having regard, in particular, to the decision of the General Assembly requesting the Special Committee against Apartheid to take measures to promote international campaigns against apartheid through the promotion of seminars and colloquia on the activities and role of the mass media.

19. The Group recommends to the Commission on Human Rights to urge those countries which maintain political, economic, cultural and other forms of collaboration with South Africa to terminate such relations in view of that country's policy of apartheid which the international community recognizes as a crime against humanity.

20. The Group recommends to the Commission on Human Rights to authorize the Group to continue to study the situation of human rights violations in South Africa with particular regard to the ill-treatment of women and children, in accordance with resolution 35/206N adopted by the General Assembly on 16 December 1980.

21. The Group recommends to the Commission on Human Rights to reiterate its invitation to States Parties to the Convention for their comments and/or views on the interim Report and Statutes of the International Court envisaged by the International Convention on the Suppression and Punishment of the Crime of Apartheid. Such views and comments should reach the Ad Hoc Working Group in time to enable it to submit a final draft Report on the Statutes to the Commission at its thirty-ninth session.

B. Namibia

1. Conclusions

22. The Group notes that the basic measures taken by the South African régime in Namibia were to facilitate the accession to power of the Democratic Turnhalle Alliance, which goes against the wishes expressed by the United Nations bodies legally responsible for administering the territory of Namibia and contravenes the proposals endorsed by the Security Council.

23. The major development which has taken place in Namibia during the period under review is the extensive military presence of South Africa and the military incursions into border towns and villages of Angola and Zambia which have caused massacres and the deaths of hundreds of civilians. These attacks have escalated during the period under review.

24. According to information available to the Group, the number of persons detained in prisons has increased. The Group draws the Commission's attention to the capture by South African soldiers at Cassinga in May 1978 of Namibian refugees who were being held at an outdoor detention camp at the Hardap Dam near Marienthal under very poor conditions; some were reported to have been mutilated.

25. The Ad Hoc Working Group of Experts finds that the Government of South Africa is continuing to consolidate both its jurisdiction and its military occupation in Namibia. Its intransigence at the international level and the measures it is applying in the territory which it is illegally occupying make it clear that South Africa's aim is to keep Namibia as a sort of "homeland" which the authorities in Pretoria would hold under strict administrative and military control.

26. The Group points out that during the period under consideration, the South African military presence in Namibia has increased, and that Namibians are forced to enrol in a so-called "South West African Territory Force" (SWATF) which would continue to be part of the "South African Defence Force".

27. South Africa has intensified its war-like attacks both on Angola and on Zambia. The Group was able to obtain figures - especially during its visit to Angola - showing that large numbers of Namibians and Angolans had been killed and wounded by South African troops in the course of incursions across the border when they bombed and machine-gunned Namibians in refugee centres.

28. The Group found an increase in the number of Namibian political prisoners, nearly all of them SWAPO members or sympathizers, against whom arbitrary action of every kind is committed. Torture has come to be an everyday occurrence. The Group was told of serious cases of mutilation.

29. During the period under consideration, the black workers have continued to suffer as a result of discrimination, reduction and inequality in wages, wretched working conditions, especially in the mines, lack of medical care and the ban on trade union activities.

30. The Group maintains that, during the period under consideration, the shortcomings of a system of education, already described as discriminatory, have been aggravated. There is not a single university in Namibia; vocational training is deficient; the school dropout rate is very high; and student movements are prohibited.

31. Further to the information provided to the Commission on Human Rights concerning persons who have been guilty in Namibia of the crime of apartheid (document E/CN.4/1466) the Ad Hoc Working Group drew up a supplementary list which is included in the present report.

32. The Group has been informed for the first time of the existence of trained South African squads with licence to assassinate SWAPO supporters.

33. The Group notes that the South African security laws, providing severe penalties of detention and imprisonment for "political offences", as well as legislation governing the situation of prisoners in jail, have been, and are still, applied to Namibia.

34. The period under consideration was marked by new regulations stipulating further restrictions on movement in Ovamboland.

2. Recommendations

35. The Group reiterates all its previous recommendations in particular that concerning the right of the Namibians to self-determination and independence and that concerning the enjoyment of all the rights recognized in the various relevant international instruments relating to human rights.

36. Since the South African Government has not reacted to the recommendations previously submitted by the Group, the Government of South Africa should be requested to submit its comments on this report which includes conclusions and recommendations to the Commission on Human Rights, through its Ad Hoc Working Group of Experts.

37. In the light of the latest developments and on the basis of the analysis of information received on the situation in Namibia, the Group declares once again, that the right of the Namibian people to self-determination and independence can only legally be exercised in accordance with the guidelines laid down by the competent United Nations bodies and under the United Nations supervision in accordance with Security Council resolutions 435 (1978) and 439 (1978).

38. Having carefully followed the recent developments in the situation prevailing in Namibia and with a view to putting an end to the South African's illegal occupation of Namibia, the Group recommends that the Economic and Social Council should draw the attention of the General Assembly and the Security Council to the urgent need for adopting appropriate measures provided for under Chapter VII of the Charter of the United Nations.

39. The Group recommends that the Commission should call on South Africa to cease all acts of aggression and provocation against Angola, and to desist from the use of Namibia for launching attacks on Angola, Zambia and other neighbouring States. The Commission on Human Rights should strongly condemn the violations of the territorial integrity of Angola which are causing massacres of the civilian population.

40. The Commission on Human Rights should call upon the Government of the Republic of South Africa to conform to the international standard minimum rules for the treatment of prisoners and to other relevant international instruments. In that connection, the Group recommends that the Commission on Human Rights should authorize it to continue to study the cases of torture and mutilation of refugees captured at Cassinga Camp and detained at the Hardap Dam Camp near Marienthal in southern Namibia.

41. In the light of the information received, the Group recommends that a study should be undertaken to reveal the harmful effects of the policy of apartheid on women and children in accordance with General Assembly resolution 35/206N adopted on 16 December 1980.

42. The Group reiterates the need for the Commission on Human Rights to make an effort to persuade those States which have not yet done so to ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid.

43. The Group recommends to the Commission on Human Rights that it continues to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights, and to bring the results of those inquiries to the attention of the Commission on Human Rights.

IV. ADOPTION OF THE REPORT

481. The present report has been approved and signed by the members of the Ad Hoc Working Group of Experts, namely:

Mr. Kéba M'Baye

Chairman-Rapporteur

Mr. Branimir Janković

Vice-Chairman

Mr. Annan Arkyin Cato

Mr. Humberto Díaz-Casanueva

Mr. Felix Ermacora

Mr. Mulka Govinda Reddy.

ANNEX I

LETTER FROM THE SOUTH AFRICAN PERMANENT MISSION TO THE UNITED NATIONS OFFICE
AT GENEVA ADDRESSED TO THE DIRECTOR OF THE DIVISION OF HUMAN RIGHTS

23 July 1980

Sir,

I have the honour to refer to your letter of the 20th May 1980, addressed to the Honourable the Minister of Foreign Affairs of the Republic of South Africa, in which you invite the Government of the Republic of South Africa to extend its co-operation to the Ad Hoc Working Group of Experts on southern Africa, established under resolution 2 (XXIII) of the Commission on Human Rights, in order to facilitate the accomplishment of its mandate.

I am directed to inform you that the Honourable the Minister of Foreign Affairs is unable to accede to your request. In response to a similar approach last year, you were informed as follows:

"It is clear that the Working Group accepts as a fact that detainees were tortured and murdered. The South African Government is not aware that any attempt was made to establish whether or not the detainees were in fact tortured or murdered. Had this been done it would have been established that these allegations are completely unfounded. Instead these allegations by the self-proclaimed detractors of South Africa were simply accepted.

The present enquiry by the Working Group, to judge from the documentation made available to the South African Government, is designed simply to gather so-called testimony in support of what it and the other bodies which have involved themselves in this matter wish to believe. The South African Government cannot possibly assist the Working Group in an enquiry which has as its point of departure a finding based on allegations and preconceptions which were never judged impartially and objectively and which it in any event rejects as totally unfounded. The South African Government refuses to lend credibility to the enquiry of the Working Group by being party to its prejudiced activities. It sees no reason why South Africa should be selected for special attention in this enquiry while flagrant violations of human rights occur elsewhere in the world and also in areas of southern Africa not included in the Working Group's mandate, which are conveniently ignored by the Working Group and other United Nations bodies."

Nothing that the Ad Hoc Working Group has done or said since then could possibly serve as encouragement for believing that it might have departed from its established position of preconception, prejudice and partiality. In these circumstances my Government is unable to extend its co-operation to the Working Group.

E/CN.4/1428

Annex I

page 2

I should be glad if the foregoing be brought to the attention of the members of the Commission and included in due course in the report of the Ad Hoc Working Group.

Please accept, Sir, the assurances of my highest consideration.

(signed) J. Marx

J. Marx
Counsellor
for Permanent Representative

RECORD OF TESTIMONY TAKEN AT THE 522nd MEETING
HELD AT DAR-ES-SALAAM ON 12 AUGUST 1980

HEARING OF ANDREW NTULI

Andrew NTULI (solemn declaration), 14 years, South African, student, Solomon Mahlangu Memorial College, Morogoro.

The Chairman: When did you leave South Africa?

Andrew Ntuli: In 1979.

The Chairman: Where are your parents?

Andrew Ntuli: My mother is in Mozambique with my younger brother. I don't know where my father is.

The Chairman: When was the last time you saw your father or had news of him?

Andrew Ntuli: I have never seen him but my mother has told me he is in South Africa.

The Chairman: Thank you, you may go ahead.

Andrew Ntuli: I have been staying in Durban since I was born, with my two grandmothers, eight uncles and eight aunts. We were occupying three houses in the location in Umlazi. There were more than 16 children, and my mother was working, all the uncles were working. The houses were four-roomed houses. My uncles were supplying money for the whole family, and my mother. Once because my family had not paid the money for one house, the police came and asked us why we didn't pay for the house for three months. So we were forced to go to the farm in (?) Tongaat, where my grandfather bought land to grow sugar cane. Next to that house we had a house of cement and five huts. The house of cement was used as store, and it was just our room, and a five roomed house.

In 1974 my mother again applied for another house in that location we were staying in at Umlazi, and she got it after six months. So we stayed under abnormal conditions, as my father was not there. I didn't know where my father was. My mother applied for a document to travel outside South Africa. She went to Swaziland with us, me and my younger brother. When we lived in Swaziland my grandmother was seriously sick so we went back to South Africa, and when we went back she was not working at home and we went to stay with my uncle. She stayed in another location in Lamontville. When we were staying with my uncle, he used to sell some maize and he didn't have the money to supply us. He only used to sell maize. My mother said we could help him by selling maize. Every day in the morning, at five o'clock we used to wake up and go and sell some maize with him. One time we went very late,

about seven o'clock, and some workers were late because of buying food, the maize we were selling. A policeman came and he wanted to chase me away from the gate. He said I was making the workers be late for work. He told me to go away. The workers said, "No, this child is here selling this food so that we can go to work not feeling hungry" but the policeman refused to hear what they were saying. The policeman went to phone to other city police. After a few minutes the police came to take me. I saw a van of police. I wanted to run but there was not any chance to run. They took me to a prison in Umlazi where I stayed. They asked the other police if they knew my family. They said, yes, but they no longer live in Umlazi, they lived here last year. They said they didn't know where I was living. They took me to the children's prison in Umlazi, and I stayed there for two days. We slept in a room with no beds. There was only one blanket for five of us. We used to sleep and early in the morning when we woke up they told us we must go to the plantations and cultivate them, and take out the weeds. Because I was not used to that work, I didn't know anything, I was working very slowly, and they beat me. I said I can't do it because it's heavy work for me. They said, "You must get used to it". At home my family didn't know where I was. In the afternoon they came to the prison and asked what was the thing that I did that they took me to prison. The policeman answered that "This child has committed a crime because he is selling maize and making the workers late for work". They said, "That is not a crime, because we sent him, he is just a child who is working for his mother so that the mother can get some money to buy them food and give them money to go to school". They said I couldn't go home with my mother and my uncle because I had to stay one day more. When I stayed there we only ate once that day. The following day we didn't eat, and when we went to sleep there were insects that were biting. When they came in the following morning they took me back home. When I went home I had smallpox and that smallpox was passed to my brother. My brother got sick for one week and I was worried to see him that sick, because I had never seen him sick in that way.

The police came another day to my home to ask my aunt to go with them because she had not been working and she used to go and demonstrate in the street with other women. They took her away for a month, with no news of her. My uncle went to the women's prison to ask why they wouldn't bring my aunt back. They said they can't bring her back because she was always going to demonstrate in the streets. When they brought my aunt back, she was mentally disturbed. They didn't tell what had happened to her. They just said she had been there, knocking at the door with her head. She didn't know what had happened to her because they drugged her first before they did what they did.

The next time they came to fetch my uncle. My uncle went to prison. He stayed there for two weeks. They brought him back, because he didn't talk. They were trying by all means to get him to talk but he couldn't talk. When they came back they took the other children of my uncle to the prison also. One of them didn't come back; even now he is not back. When the others came back they were also injured in their bodies.

After that time my mother decided to go away because they could come and take her after they have brought the children. We went to the passport office and they asked where we wanted to go. My mother applied for a passport to go to Swaziland, and in February of last year we got our passport. Then we could come outside South Africa by getting a lift, because she hadn't money to buy a ticket because the ticket was very expensive. By a lift we went to Swaziland. In Swaziland were the ANC and we were taken to Mozambique. We stayed there until in March they took me to the school of the ANC.

The Chairman: You said that one of your cousins, the son of your uncle, was taken to prison and has still not come back. How do you know that he has not come back from prison?

Andrew Ntuli: Because my mother always receives letters from my uncle. He writes that he is not back there, and my mother wrote to me that he is not yet back, when I was still in the camp at Maputo.

The Chairman: Before you came to the Morogoro school, had you been to school in South Africa?

Andrew Ntuli: Yes, in South Africa I have been to school, but it was very difficult for me to be learning at the same time because my mother hadn't got money to buy the books. The books are very expensive, and always you must have more than 13 books to buy, and those books are only for Bantu education, which is always inferior to the white education that they get.

The Chairman: I suppose you were going to the primary school, is that right?

Andrew Ntuli: Yes, I was going to a primary school.

The Chairman: And books are not given free of charge to you?

Andrew Ntuli: No, they are not given free of charge because in the primary school, the teachers don't give us books, and we must buy for ourselves the books.

Mr. Cato: I should like to know how many children you saw when you were taken to prison. Can you remember how many other children were there at the time you were taken in?

Andrew Ntuli: In the room we used to sleep seventy. In other rooms, I don't know, because there were more than seven rooms and in each room seventy children.

Mr. Cato: Seventy children?

Andrew Ntuli: Yes.

Mr. Cato: How large was that room? Is it possible to give a description?

Andrew Ntuli: I can't tell.

Mr. Cato: You can't? I suppose that is difficult. You said five children shared one blanket?

Andrew Ntuli: Yes.

Mr. Cato: What was the food like?

Andrew Ntuli: Just mealie meal and gravy, we don't know what gravy, because there was no meat, just mealie meal and gravy.

Mr. Cato: And who looked after you, the warders?

Andrew Ntuli: No, nobody was looking after us. When it was time for bed we were just moved inside the room.

Mr. Cato: How young was the youngest boy in the prison?

Andrew Ntuli: Seven years old, the youngest.

Mr. Cato: Seven years? You are sure about that?

Andrew Ntuli: Yes.

Mr. Cato: How do you know?

Andrew Ntuli: Because he told me, he asked me, because when you arrive there they introduced others, and themselves they tell other people how old they are, and when they are telling me, I found that the youngest boy was seven years old.

Mr. Cato: Did they also tell you why they had been taken to prison?

Andrew Ntuli: Yes.

Mr. Cato: What were some of the things they told you?

Andrew Ntuli: Others they had no mothers and they were sleeping in the street. When people were going inside the shops, they used to go inside the shops and steal some food, so that they can get something for eating.

Mr. Cato: So in South Africa it is possible even for a young child like yourself to understand the meaning of apartheid?

Andrew Ntuli: Yes, it is, because they ill-treat the children, and the children can understand what is apartheid when they have been ill-treated.

Mr. Cato: Were there young girls there too?

Andrew Ntuli: There were only boys.

Mr. Cato: You were taken there in 1978? When were you imprisoned?

Andrew Ntuli: Yes, 1978.

Mr. Cato: So you were 12 then?

Andrew Ntuli: Yes, 12 years old.

Mr. Diaz-Casanueva: You said that they beat you. How did they beat you?

With what?

Andrew Ntuli: With a (?) hippo.

Mr. Diaz-Casanueva: Did they undress you, or did they not? Did they take your clothes off to beat you?

Andrew Ntuli: No, because it was in the fields. We were working and I stopped. Then they beat me with the hippo.

Mr. Diaz-Casanueva: How did the white children treat you? How do the white children in general treat the black children at your age?

Andrew Ntuli: Where, in the prison, or in towns?

Mr. Diaz-Casanueva: In general, in towns or elsewhere, on the streets, for instance, or in the fields or in the prison. How do the white children treat the black children?

Andrew Ntuli: When we are in town - we only meet when we are in town, going with our mothers, because in the locations they don't go, because they are separated, the white children and they live only in towns, and we live in the locations. When they see us in town they just spit saliva to us and start insulting. When they are in their flats at home they throw tomatoes and glasses full of water.

Mr. Ermacora: In this prison were there also white boys?

Andrew Ntuli: No, there are no white children, there are only African children.

Mr. Ermacora: And what was the real reason you were brought into this prison?

Andrew Ntuli: At home, there is no big reason to go to jail. For a small thing you go to jail because they just want to oppress the black people.

Mr. Ermacora: But what did they say to your mother and to your uncles when they took you?

Andrew Ntuli: They said I was making the workers go late to work.

Mr. Jankovic: Mr. Chairman, I have no questions to ask of the witness, but I should like to state that this is a very clear example of apartheid, but at the same time it is a proof, it is an element of the crime of genocide, in an extraordinary manner. It is not just separation of the family, but at the same time children are being imprisoned, so I think we should analyse these facts.

Mr. Cato: Mr. Chairman, Professor Jankovic has literally taken the words out of my mouth. The young man sitting there symbolizes the ugly face of apartheid, but he also symbolizes the resolve of the African to free himself. I think that this testimony is important and I suggest to you that we should have a verbatim extract of the testimony in whatever report we submit, for the international community to see. I support the point that he has made.

Mr. Ermacora: What were the circumstances of your release from this prison? What happened? Did the policeman and the warder come and say you could go home?

Andrew Ntuli: They said to me I must go and fetch some water, outside the door. They gave me a bucket, and they said I must go and fetch some water, so that the children inside would not understand that I was going home, they said I must go and fetch water. When I go I see the door is open and there is a car outside, waiting for me. That is when I went home.

Mr. Ermacora: Was it the will of the police, that you should go home, or was this your own decision?

Andrew Ntuli: No, the two days were for just a small thing, because my uncle explained to them that they needed me at home because I must do this, that I am the only one, they didn't say there are more children who are doing this. Then they decided to keep me only two days to stay there.

Mr. Ermacora: What did the children do the whole day in this prison, from the morning to the evening?

Andrew Ntuli: To me?

Mr. Ermacora: No, what were they doing, what were you doing in this prison the whole day?

Andrew Ntuli: At five o'clock we go to work in the fields, and when we come back they give us some bags for us to sew them, I don't know for what they use them. We take two hours doing them. Then at twelve o'clock we go for our lunch. After lunch we go again to the fields, and then after the fields we wash the blankets for everyone, if some other group thinks that their blankets are dirty, all of us must wash their blankets. Many blankets were washed. After that time, they come and interrogate us from two o'clock to four o'clock. From four, after the interrogation we go to the rooms and prepare the place to sleep. But I don't understand what is the place we are going to prepare because we just sleep on the floor and put a blanket on top. They say to us we must go and prepare the place to sleep.

Mr. Ermacora: Do you know the place? Where did this happen? What is the name of the place?

Andrew Ntuli: In Durban, a location in Durban called Umlazi.

Mr. Ermacora: And this was just a prison, was it a former school? What was this building?

Andrew Ntuli: It's a prison for small boys.

Mr. Reddy: It is evident from the deposition of this young witness how inhuman this régime is, how heartless and how obnoxious. It should arouse the conscience of the world to put an end to this. I do not want to inflict any punishment on him by putting some questions to him. We believe that what he has said is true.

Mr. Diaz-Casanueva: We should like to tell you that we think you are very intelligent, very mature, very brave and that there are many children throughout the world who have a lot of sympathy for you and for what you have done. We shall do all we can to see to it that injustice is brought to an end in your country so that children can live as children and become free men.

The Chairman: What do you intend to do later on? What do you wish to become?

Andrew Ntuli: I shall be a pilot.

The Chairman: Thank you for having given evidence and for having come here.

ANNEX III

STATEMENT MADE BY MR. SAM NUJOMA, PRESIDENT OF SWAPO, BEFORE
THE AD HOC WORKING GROUP OF EXPERTS AT ITS 529TH MEETING
HELD AT LUANDA, ANGOLA, ON 20 AUGUST 1980

On behalf of the Central Committee of the SWAPO of Namibia, and in the name of the fighting Namibian people, I should like to express our sincere thanks and our appreciation to Comrade President Jose dos Santos of the MPLA Workers' Party and of the People's Republic of Angola and, indeed, to the revolutionary Angolan people for their continued comradely material assistance and for the political and diplomatic support they have rendered to the cause of liberation of the oppressed people of southern Africa in general and in Namibia in particular.

At the same time, I should like to extend a revolutionary warm welcome to you, Mr. Chairman, and the distinguished members of the Ad Hoc Working Group of Experts of the Human Rights Commission, for having taken the trouble to travel all the way from your respective responsibilities in your countries to hear stories of torture and oppression from the oppressed people of southern Africa. I must say this is indeed a source of overwhelming encouragement to us who are engaged in the bitter struggle for freedom and for human dignity in our respective countries, particularly in South Africa and Namibia, where the minority white settlers are daily oppressing the African majority, denying them all basic fundamental human rights and above all employing them as cheap slave labour for the benefit of the minority white settlers themselves. The African majority are starved to death, although producing the profits that these minority white settlers are making in the mining industry and other white-owned commercial businesses. All the wealth is exclusively in the hands of the minority white settlers while the Africans are suffering from hunger, disease and ignorance. These are the daily activities of the minority white settlers in Namibia and South Africa.

The political situation in Namibia is indeed very explosive and dangerous because people are daily subjected there to torture, or are shot on sight by the racist South African troops and so-called security police if they are suspected of being terrorists or of withholding information on the whereabouts of terrorists. Certainly, if there are terrorists in Namibia, it is the racist minority of white settlers who have armed themselves to the teeth in order to perpetuate white supremacy and economic exploitation jointly with the multinational corporations belonging mainly to Britain, the United States of America, West Germany, France and other EEC countries. The multinational corporations are daily committing crimes against the African majority

in South Africa and Namibia. We have time and again called on the international community and in particular those countries which have vast investments in Namibia and South Africa to withdraw their investments. Unfortunately we are told that, in the view of those investors and their Governments, their investments in South Africa are beneficial to the Africans. The reality is to the contrary. Those multinational corporations, exploiting the mineral wealth in Namibia and South Africa, are paying taxes and royalties to the minority racist régime, with which it purchases arms and ammunition for human destruction with a view to suppressing the political aspirations and demands of our people for self-determination and national independence.

It is very important to note that this inquiry is taking place at a time when repression by the last vestiges of colonialism, racism and apartheid on the African continent has reached astronomical proportions in a bid to reverse the historical tide which is in favour of the liberation movements. A classic example of this repression is to be found in various forms of laws and regulations imposed on the people of Namibia by the fascist régime of South Africa. These include, among other things, the pass laws; legal restrictions; balkanization of the territory into reserves, homelands or bantustans; detentions without trial, institutionalized unrestricted forms of torture, and so on. Thousands of the SWAPO freedom fighters who heroically resisted and still continue to resist inhuman treatment, colonialism and oppression, are still being subjected to appalling forms of brutality day after day under these laws and regulations. Many Namibians have died as a result of the racist régime's terrorist activities. The most glaring example of this is the pointless cold-blooded mass murder of 294 women, 300 children and 165 old and handicapped men in the refugee settlement of Cassinga and other transit camps in the south of the People's Republic of Angola. When the Pretoria racist régime invaded and attacked Cassinga refugee camp on 4 May 1978, the racist troops who landed there were paratroopers, and the first bomb the enemy troops dropped contained poison gas. So many people, including children, actually fell unconscious as a result of the poison gas. So when the paratroopers landed they were shooting people at point blank range and also picked up some people and took them to Namibia, arrested them there as so-called terrorists. Of these people, many up to now are in a concentration camp at Hardap Dam near Mariental in the southern part of Namibia. We have heard stories which came mysteriously to our ears through a servant who was working on a nearby farm as a shepherd. He was looking after sheep, and as he was moving nearby he was seen by the soldiers who were guarding the prisoners and they also captured him. Now the farm owner was surprised that his servant did not return, so he started to trace the footprints of the shepherd up to the camp. The farmer was not aware that there was a concentration camp in the vicinity.

He was seen by the soldiers who asked him what he was doing there and he said this was his farm and they had no right to be there. He said he was looking for his shepherd who had disappeared, but his footprints came in this direction. "Yes," they said, "he is one of the terrorists whom we have captured". The farmer started to argue that his servant was not a terrorist. So in the final analysis the soldiers allowed him to go in and fetch him. So this farmer saw the people who were captured at Cassinga and who have completely lost their human value. Some of them, their lower limbs had been amputated and they have not received any medical treatment whatsoever. They still wear the same clothing that they had on the day when the South African racist troops attacked Cassinga on 4 May 1978. This farmer took his shepherd back to the farm, but when he went to the other farmers in the country, they met and were happily drinking and he revealed to those other farmers that he had seen horrible things, people who were called terrorists, without eyes, ears, lower limbs, and so on. This information leaked out as the farmers told their stories, and we finally received this information. We informed the International Committee of the Red Cross about this concentration camp at Hardap Dam near Mariental in the southern part of Namibia. The representative of the International Committee of the Red Cross went there and he discovered this concentration camp. I met him last month and he told me that he was there and that these people are looking horrible, but he said they have spoken to the South African racist authorities to rectify this situation.

In Namibia, the people of Namibia are at war, resisting the illegal occupation by racist South Africa, and this war has reached overwhelming dimensions. We are now in a position to control certain areas in our country. We also have captured South African prisoners of war. We have them in our hands, but we treat them in accordance with the Geneva Convention. We have a white South African prisoner here and we extend an invitation to the members of the United Nations Working Group on human rights to see this prisoner and see how he is treated. Of course, you will make your own judgment. But the racist South African régime, when it captures SWAPO freedom fighters, it treats them as criminals. This is the régime which claims to represent a so-called Western Christian civilization.

We demand that the Human Rights Commission make a strong representation to the Secretary-General of the United Nations to set up, perhaps, a special group or to give you a further mandate, to demand the immediate release of SWAPO freedom fighters or that SWAPO freedom fighters be fully accorded treatment as prisoners of war, in accordance with the Geneva Convention.

Other Namibian sons and daughters who fled the repression in the country earlier this year were murdered in cold blood in our transit camps which the Boers call SWAPO guerrilla headquarters. Cassinga is an example of the enemy's extension of terror and violence beyond Namibian territory. This belligerent attitude of violence and terror of racist South Africa has, during the last five years, been extended to neighbouring independent African States, especially the People's Republic of Angola, the Republic of Zambia and the Republic of Botswana. This aggression is characterized by killing of people, the destruction of major social institutions and important economic infrastructure such as bridges, roads, railways, factories, and so on.

On 12 June 1980, racist South African troops, using the Okavango district of Namibia as a staging base, unleashed death and destruction on the peaceful residents of Savate in the Cuando Cubango province of the People's Republic of Angola. On the same day, another column of racist troops crossed from north-western Namibia and occupied Chiede inside Angola, in Cunene province. On 7 June 1980, three infantry brigades from Namibia again attacked the Cuando Cubango and Cunene provinces of Angola. Jet fighters and helicopter gunships precede the ground attack by bombarding hamlets, villages, settlements and livestock of the peaceful citizens of the People's Republic of Angola. Attacks were also directed on Namibian refugee camps, such as one near Lubango, where two Namibian refugees were killed; a temporary transit centre for Namibian refugees who recently fled the fascist terror in Namibia was also attacked; a temporary transit centre which was located in the Cunene province is the one which the Goebbels of racist South Africa described a SWAPO command headquarters.

In Namibia a reign of terror has been unleashed, especially in the northern part of the country where murder squads have been trained by the ever-panicking racists in South Africa. These squads, code-named "Koevoet" or "One Way", have been the cause of the death of well known SWAPO activists such as David Sheehama - a man who had been detained under several repressive laws, including the anti-SWAPO act, or the notorious Terrorism Act - and Mattheus Elago. Both men were at the top of the assassination list found in the possession of one of the squads' ringleaders, Levy Amadhila, who died in a car accident. This list contains the names of church leaders, businessmen and teachers.

Another horrifying element in the enemy's technique of repression is the abduction of staunch SWAPO supporters and activists. Johannes Nakawa, who was taken from his house on the night of 1 June 1979 by eight armed men - South African soldiers - has never been seen again. A racist soldier at Oshakati Military Camp once admitted that comrade Nakawa was in their base, but denied this later on. Mathias Ashipembe, Mattheus Nahanga and another man whose name we could not ascertain,

were seized at Oshivelo on 14 May 1979. They also disappeared without trace. Festus Nakawa, the brother of the already mentioned Johannes, was also abducted, seized in fact from his house in Esheshete. Since the beginning of last year up to this very day, the illegal racist administration has repressed and committed wanton acts of brutality. Hundreds of Namibian men and women spend their precious time in detention without trial and under continuous interrogation and harassment. As a result of detention without trial, many prisons are filled to capacity and the other people are detained in trenches, even women and children. Manyoya Manyo, who is now studying at the United Nations Institute for Namibia, has given a statement to this effect to our information department, and Rauna Nambinga, a nurse in northern Namibia, also gave a statement to the same effect in June last year. Destruction of food and property is the order of the day, especially in the villages close to the borders, where houses are burned down, food destroyed and livestock killed or stolen. People and even small children are questioned at gun point. The house of comrade Johannes, father of Axel Johannes, one of many SWAPO leaders still in the racist prisons, was burned down after he and his family were ordered to leave without taking any of their property from the house.

The worst forms of torture employed by the racists are electric shocks while suspended; physical assault when the victim is hung up; beating with the rifle butts; burying of victims alive and then exhuming them later on; pushing sticks full length into the victim's rectum. Mental torture is administered by use of ultrasonics, narcotics, playing of monotonous sounds over a long period; psychological torture when victims are made to lie flat on the ground and shots are fired a few inches over their bodies; verbal threats; detaining the victim naked; and holding a detainee incommunicado for long months and in solitary confinement.

In giving you all this information, it is our hope that your Commission will not only agree to disseminate this information, but will also take effective measures to bring pressure to bear on the Pretoria racists to cease the flagrant violation of human rights in Namibia. We are looking forward to the implementation of the resolution taken earlier this year, whereby the United Nations Human Rights Commission is empowered to call upon any State to provide information about disappeared persons within 24 hours. Since the list of abducted people in Namibia is growing, we should like you to go further than merely obtaining information about such people, to the act of securing the presence of such disappeared persons to their next of kin. We also expect that this Commission will secure the release of political prisoners in Namibia and on Robben Island, as well as a special inquiry into the death of people whose name once appeared on the assassination list here before you.

I will present later on to you the names of the people who are listed to be physically liquidated by the South African racist soldiers. However, it is important to mention here that even the Observer, the local newspaper in Windhoek of 7 June 1980, has this to say:-

"Ominous hints about a death squad of 90 are made in one of the later editions of the publication Omukwetu, edited and published at Oniipa, not far from here. The report states that from time to time there were reports during the course of 1979, that 90 trained thugs had been organized by the South African Government with the aim to kill certain people.

"Apparently there is a list in existence of those who have to be killed, and although Omukwetu did not publish the names, inquiries made by this newspaper resulted in a list being handed to us. The shocking statement is made that already a number of prominent Ovambo-speaking citizens had been killed by this death squad, consisting of 40 white and 50 black members and operating under such code names as "Koevoet" and "One Way".

"The article in Omukwetu is rather brief, stating that at all places where people congregate, in South West Africa's Ovambo-speaking regions, such as bus terminals, cafes and shops, there is a whisper about the list which contains the names of those who have to be slaughtered.

"The article states that many residents of the region of South West Africa are currently living in great fear. People were telling others, the article states, that they were warned by people who have contact with the killer squad.

"According to Omukwetu, the whisper campaign here in the north has it that these murders must be committed before an internationally-supervised election. The aim is to wipe out all prominent and leading figures, indeed an appalling statement.

"Omukwetu writes that the names are many and some, the article goes on, had already been killed, such as Mr. David Sheehama. And Mr. Sheehama, a prominent businessman, was mowed down in his house before the very eyes of his wife and youngest child on March 14 of this year. As the firearms of his assassins started to spurt bullets, his wife, Mrs. Jakomina Sheehama, also went to the floor with three bullets through the shoulder and neck, but survived the attack. That very night and in the very precincts of the Ovambo-speaking region's administrative centre, Mr. Sheehama's property was set on fire. His vehicles were also gutted by fire.

"Mr. Mateus Elago was a baker and, believe it or not, a landmine explosion killed him, the mine being planted under his car in his garage.

"According to the Omu kwetu article, more than 50 people are still on the list. In view of the article, the Observer approached a number of sources here who said that the 'death list' was indeed a topic of discussion. These sources say that the killings will not only be confined to the Ovambo region, but are to spread to Kavango, Kaokoland and the Eastern Caprivi.

"They refer to a list which was distributed in the north and which purports to contain names of people to be killed by SWAPO insurgents, but they discount SWAPO as the responsible party for this document.

"These sources, to which access was gained by courtesy of Omu kwetu, made a number of other appalling statements. They say that the intended victims and those who have been killed were questioned by the authorities on their views on the Zimbabwe election results.

"They refer to an incident which occurred on the premises of Mr. Eliakim Shiimi, commonly known in this area as 'prince'. His name is also on the death list and a powerful landmine was placed where he used to park his car. On March 2 of this year, the bomb was found by children and the landmine was subsequently identified as of South African origin according to these sources."

Methods of torture and police brutality, beating or throwing people from high buildings, are deployed in South Africa itself. The late Steve Biko died as a result of the same methods used against those who oppose white supremacy, oppression and exploitation of the African majority in both South Africa and Namibia. There are numerous methods of killing. Sometimes they bury people alive, they just dig a ditch - as the comrade here was explaining - then they start to bury somebody alive, and sometimes they complete it too, and they go. These are methods of brutality and torture similar to those of Hitler's S.S. Nazi squad murders. It is therefore important that the Commission on Human Rights should without delay set up a court and, upon the concrete evidence of those who have physically suffered this torture, those who are responsible for this torture and violation of human rights should be sentenced to death, even in their absence. They must be sized by any Member State of the United Nations, wherever they land. If Botha should go to England, the British Government must be responsible for arresting Botha on arrival at the airport, so that he is tried by the International Court.

This situation cannot be allowed to continue. The régime, with the support of the NATO countries, is arming itself to the teeth. It is reported that South Africa is now in possession of nuclear weapons, with assistance from the United States of America, West Germany and France. Those are the countries being mentioned. South Africa is threatening, not only those under its horrible rule in South Africa and Namibia, but the neighbouring independent African countries, all of them, including

the People's Republic of Angola. Even now, South African jet fighters are flying all over this country, bombing every vehicle that travels on the roads in Cuando Cubango, in Cunene province, Huila province and Moçamedes province. Every day women and children are lost in this country, property is being destroyed by South African jet fighters. We have shot down some of these jet fighters. Some are of French origin, Mirage jet fighters; there are Buccaneer jet bombers of British manufacture; and the Impala, which is fitted with a Rolls Royce engine with some parts made in Italy, and the electronics system made in Holland and Switzerland. The Western countries are contributing to a threat of war, an effective threat to international peace and security not only in Africa, because this could encompass the whole international community.

It is therefore important that the statements you are gathering here should be exposed to international public opinion. The United Nations is there to prevent a war, but a war is building up here in southern Africa by one fascist régime supported by the Western countries because of their economic interests. This must be pointed out. You have facts, on those who are providing arms for human destruction because they want the diamonds, they want the gold and uranium which is basically in Namibia and South Africa. This situation, Mr. Chairman, is threatening and should be arrested before it gets out of hand. The Western European countries, who are the supporters of racist South Africa with its armaments of human destruction, were ruled or occupied by Nazi Hitler. We, the Africans, shed our blood to liberate France, to liberate all these European countries, we participated in the war, many African died. After the war we were demobilized by the British and the French, and they said we were fighting for the freedom of men. But after the war they reoccupied our country, colonized us, and are giving the same armaments which Hitler used against them to the racist régime of South Africa, to kill our people in order for them to continue to exploit the gold, diamonds and uranium in Namibia and South Africa.

This situation is serious and it must be counteracted effectively by exposing to public opinion those who are behind these warmongers. It is the work of the Western countries who claim to be the champions of human rights.

Thank you very much, Mr. Chairman.

ANNEX IV

NOTES ON DETENTION AND IMPRISONMENT OF CHILDREN IN SOUTH AFRICA
SINCE 1978, REPORT SUBMITTED BY THE INTERNATIONAL DEFENCE AND
AID FUND

These notes contain information about the detentions and imprisonment of children in South Africa after the period covered by a report prepared by the International Commission of Jurists. ("Detention of Children in South Africa", A special report prepared by the International Commission of Jurists. Published by the United Nations Centre Against Apartheid, Document 16/78, July 1978). That report covered the period nearly to the end of 1977.

1. SOURCES

The ICJ report noted the difficulty of obtaining complete information because of the refusal of the official government sources to reveal this information. These difficulties have increased. During 1980 in particular the Government has used the powers it has under various laws to withhold the names, and numbers of people detained, only giving such information when it suited its purposes. For example, although in July 1980 the Minister of Justice gave a list of 133 people detained under Section 10 of the Internal Security Act, this included people who had been detained in April, three months earlier. In addition no list was given of those detained under the other security laws. In addition the Department of Justice refused to give a list of those released. (RDM 2/29.7.80 cited in FOCUS 30, p. 6.) In addition, new legislation increased the powers of the Government to withhold information about detainees or to prevent the press publishing such information.

The Second Police Amendment Act of 1980 prohibits the publication without police permission of the names of persons arrested under the Terrorism Act. Although a clause explicitly preventing the publication without exception of the names of detainees under the General Law Amendment Act and the Terrorism Act was dropped from the bill, the Minister confirmed that information on Terrorism Act detainees can only be published with police permission. This is because it comes under a clause preventing publication without permission of details of police action against 'terrorist activities', and this includes arrests. In effect this means that if, for example, the press learns of a detention from a friend or family member, they must apply to the police for permission to print the name. Only in cases where the police disclose that the person is being held under the General Law Amendment Act provisions will it be possible to print the name without special permission. (RDM 17.5.80; Star 24.5.80; CT 24.5.80, cited in FOCUS 29, p. 3.)

For these reasons information about detentions and in particular about the detention of children, that is of persons under 18 years of age, is necessarily incomplete. There are also restrictions on information about the imprisonment of children, but because there are fewer people involved and because imprisonment is preceded by trials and often detention, there are slightly more opportunities for the press to report cases. The press coverage is also incomplete because of the structure of the press and the relatively limited nature of its links with the black majority of South Africa, amongst whom most detentions occur.

The information in this report is therefore based on incomplete press reporting, and very partial disclosures by the Minister of Justice in reply to Parliamentary questions.

2. THE LAWS CONFERRING POWERS TO DETAIN AND IMPRISON PERSONS UNDER 18

Although the Childrens Act states that offenders under 18 should be sent to reformatories and not to prison, juveniles convicted of security laws and certain other offences are specifically excluded from these provisions of the Children's Act. (GN 17.9.80, cited in FOCUS 32, p. 11.). As reported below this has been used to imprison children on Robben Island.

The powers of detention apply without qualification of age to all people, including persons under 18, and many persons under that age have been detained. This is detailed in the ICJ report for the period up to 1977, and in these notes for the period from 1978.

There are four laws which are principally used to detain people, including children.

Terrorism Act No. 83 of 1967: Section 6 of the Terrorism Act provides for the "detention of terrorists and certain other persons for interrogation". The period of detention is indefinite and applies to any person in the Republic who is "a terrorist or who is withholding ... any information relating to terrorists", or to offences under the Act. The person may be detained by any commissioned officer of or above the rank of Lieutenant-Colonel for interrogation until the "Commissioner orders his/her release when satisfied that he/she has satisfactorily replied to all questions ... or that no useful purpose will be served by his/her further detention", or until his/her detention is ordered by the Minister. No court of law shall pronounce upon the validity of any action taken under Section 6 of the Act, or order the release of any detainee. No person, other than the Minister or an officer in the service of the State acting in the performance of his official duties, has access to any detainee, or is entitled to any official information relating to or obtained from any detainee.

Internal Security Amendment Act No. 79 of 1976

Section 10 of the Act provides for the indefinite "preventive" detention of persons engaging in the activities which the Minister deems "endanger or are calculated to endanger the security of the state or the maintenance of public order". The Minister may direct that any such person be detained in custody in a prison area for a specified period. A "Review Committee" investigates the Minister's action not later than two months after the commencement of the custody and thereafter at intervals of not more than six months. The committee considers all facts and written and oral representations made to it and submits its recommendations to the Minister. The Minister need not give effect to any recommendation by the review committee. Meetings of this review committee are not open to the public and its deliberations and recommendations are not disclosed to the public. No court of law has jurisdiction to pronounce upon its functions or recommendations. Detention under this Act may be extended for an indefinite period.

Section 12 of the Act provides for the detention of potential State witnesses. Whenever, in the opinion of an attorney-general, any person might provide material evidence as a witness for the State, such person will not be released on bail, if in detention, or issued with a warrant of arrest. Such person will also not be released until the criminal proceedings are concluded, or for a period of six months, whichever period is shorter.

No-one has access to a detained person except a State official acting in the performance of his duties and a magistrate, who will visit the person in private at least once a week. No court has the power to release a detainee or allow other persons to visit him/her.

General Law Amendment Act No. 62 of 1966

Section 22 of the Act provides that any commissioned officer of the police of or above the rank of Lieutenant-Colonel may arrest any person without warrant on the ground that the person was a "terrorist", favoured terrorist activities, had undergone training outside the Republic (or had attempted or encouraged others to do so) which could be of use in committing sabotage or in furthering the aims of an organization declared unlawful, had obtained information which could be of use in furthering the objects of communism or of an organization declared unlawful, had committed sabotage, or conspired with others to do so, was found in the illegal possession of explosives or intended to commit any of these offences.

Persons arrested under the Act are detained for a period not exceeding 14 days. The Commissioner of Police can apply to a Supreme Court judge for an extension of the detention. Usually, however, after the 14 day period of detention under the Act has expired those detained have their detention extended under the legislation of the

Terrorism Act. No court of law is competent to order the release of a detainee but the detainee may submit in writing reasons why he should not be detained. This could result in an alteration of the conditions of detention.

Criminal Procedure Amendment Act No. 62 of 1979

In terms of Section 50 of the Act persons may be detained for a period not exceeding 48 hours if after arrest he/she has not been released because no charge has been brought against him/her and adjudication has to be made upon the cause of the arrest.

3. DETENTION OF CHILDREN

Annual Statistics 1977-1979

Numbers detained under Security Laws

These statistics were given in the Minister of Justice's replies to questions in Parliament asked in February of each year. Since the questions and the answers varied with respect to the categories of detainees involved, direct comparisons between one year and another cannot be made on the basis of the statistics below:

	No. of persons under 18 detained	Male / Female	Laws under which they were detained	Sources of Information
1977	259	236 23	Security Laws	Minister's Reply reported RDM 11.2.78; Focus 15/78
1978	252	227 25	Terrorism and Internal Security Acts	<u>Hansard 21.2.79</u>
1979	48	42 6	Terrorism and General Law Amendment Acts	<u>Hansard 19.2.80</u>

Length of Detentions

According to the South African Institute of Race Relations, in July 1978 there were 169 school pupils between 13 and 25 years old known to be in detention out of 359 known detainees. Ninety-nine of the pupils had been in detention over 18 months. Of the pupils, at least 31 were under 18. (RDM 2.8.78)

In his reply to questions about detentions during 1979, the Minister gave the following information about lengths of detention:

Detentions during 1979 under:	Persons under 18	Days in detention
General Laws Amendment Act Section 22 (1)	1	4
	2	8
	5	12
	9	14
Terrorism Act Section 6	1	2
	1	5
	10	28
	1	46
	5	60
	1	62
	1	73
	2	77
	1	87
	1	96
	1	106
	3	131
	2	132
1	186	

(Hansard 19.2.80)

Detainees charged and convicted

When given these figures each year the Minister generally adds that all those detained were "one way or the other involved in acts of Sabotage, arson, public violence or incitement to public violence". (RDM 11.2.78; Hansard 21.2.79). The actual figures, when given, indicate that only a small proportion are either convicted or appear as state witnesses.

During 1977-78 for example, of some 500 persons under 18 detained under security laws, 224 were released without being charged and 87 were called as state witnesses. One hundred and eighty-nine were charged with offences ranging from attending a prohibited gathering and intimidation of scholars to sabotage, arson and murder. Of those prosecuted 70 were acquitted and 119 convicted. The sentences ranged through corporal punishment, suspended sentences and varying terms of imprisonment. (Hansard 6.6.79, cited in FOCUS 24, p. 6).

pupils who have been held for a short while and released without charge. For example, 130 pupils were arrested in Grahamstown on a march to the police station to demand the release of fellow pupils, while 275 pupils were arrested on a similar march to Uitenhage and released without being charged. (CT 25.5.80; Star 17.5.80; Sunday Times 1.6.80, cited in Focus 29, p. 1).

More recently in the Ciskei arrests of school pupils have been taking place on such a large scale that police have had to use trucks to cart away the pupils (DD 4.9.80).

More than 500 pupils were rounded up by police in Mdantsane and Zwelitsha on 24 September 1980. The Secretary of the Ciskei Intelligence Service, Brig. Charles Sebe, said it was decided to "sweep" Mdantsane and Zwelitsha after the closure of schools in the urban areas. During the "clean up" a number of pupils were taken to the charge offices in both townships, so that those who have come from the urban areas and were "operating" in the Ciskei could be identified. A house-to-house search was conducted by the police and those detained were held under Proclamation R252 of the Ciskei Emergency Regulations until their parents came to fetch them (DD 26.9.80; Post 26.9.80).

The following day police raids in Mdantsane were intensified. Every available police van was used and police off duty were recalled. Another 400 people, including pupils, were held for questioning. (DD 27.9.80).

Early in October the Secretary for the Ciskei Central Intelligence Agency appealed to parents whose children were detained as a result of the school boycott to contact him, saying "We are releasing most of the students detained and others are still in detention because we want to hand them over to their parents and the parents have not come forward yet." He added that some pupils would be charged. (DD 10.10.80). There do not appear to be reports that the names of detained pupils were published so that their parents would know if their children were detained.

The number of people under 18 facing charges of public violence in connection with the school boycott appears to be very large, especially in the Eastern Cape where cases involving at least 1,100 school pupils are taking place. (Focus 32, p.11).

In the case of one trial children on bail had the bail withdrawn on the grounds that they had broken a condition of the granting of bail, namely that they return to school and attend classes. (Focus 32, p. 11).

Besides these measures of detention and trial, children taking action against apartheid have been subjected during 1980 to physical assault on a massive scale. Police attacks on gatherings and demonstrations with teargas, irritant powder, batons, and dogs have occurred on very many occasions, and there have been frequent incidents of use of guns against children with resulting deaths. (Focus 28-32)

5. IMPRISONMENT OF CHILDREN

It is clear from figures cited earlier that children under 18 have been charged with and convicted of sabotage. As noted in Section 2, South African law excludes children convicted of sabotage and other offences against security laws, as well as certain other offences, from the provisions of the Children's Act which states that offenders under 18 should be sent to reformatory rather than prison. (GN 17.9.80) Currently a number of juveniles are facing charges of sabotage. In the Eastern Cape 10 pupils of Khulani High School are appearing in Mdantsane Magistrate's Court on charges of sabotage (Focus 32, p. 8). If convicted these children will be liable to serve sentences in prison.

The question of children in prison received some publicity recently. In August 1980 the Chairman of the United Nations Human Rights Commission, Mr. W. Sadi of Jordan, sent a telegram to the South African Minister of Foreign Affairs detailing a number of violations of human rights in South Africa and Namibia. Among these was the allegation that children as young as eight to ten years were being imprisoned on Robben Island. (Tel. 27.8.80)

The South African Foreign Minister, Mr. R.F. Botha replied by denying all the allegations in the telegram saying that the UNHCR working group of experts had "fabricated a series of untruths" against South Africa, and that there were no children on Robben Island (RDM 3.9.80).

At the same time the South African Prisons Department issued a statement saying that there are currently six juvenile prisoners sentenced for "security" offences on Robben Island. Four are aged 17 and two aged 16 (Tel. 27.8.80). A week later the Prisons Department was quoted as giving the number as five - two aged 16 and three aged 17 (SP 7.9.80). One may have reached the age of 18 in the intervening period.

In addition there are eight other juveniles imprisoned on Robben Island for "non-security" offences. It is not disclosed whether these were connected with political demonstrations; a large number of young Africans were jailed in 1977-78 for alleged public violence, arson, etc., which are not classified as "security" offences.

Mrs. Helen Suzman visited Robben Island in May (see Focus 29, p. 9) and met the young prisoners. According to the Prisons Department, juveniles on Robben Island are segregated from adult prisoners and have access to "sporting facilities like tennis, volleyball, soccer and indoor recreation". Reports made no mention of educational provision (SP 7.9.80). Of the six "security" cases involved, four were aged 14-15 years on conviction and had only a rudimentary level of education. It is thought that at least two of these young prisoners were released on appeal later in September (see POLITICAL TRIALS: APPEALS).

It is clear that the South African courts have sent children as young as 14 years to Robben Island. The following is the text of a letter (dated 13.4.78) sent from Sydenham Prison, Port Elizabeth, to the mother of one boy after he was convicted of Sabotage as quoted in the book Justice in South Africa (1980) by John Jackson: "re: Prisoner 5463875 Mamli Masikane (14 years) I must advise that the above-mentioned prisoner has been removed from my prison and will serve 5-year sentence in Robben Island. His removal has already been effected, in terms of our instructions received from Pretoria."

It is not known that any children as young as eight or ten (below the age of criminal responsibility) have been imprisoned in South Africa. However, many youngsters of that age were arrested in connection with demonstrations in 1976-77 (see Brooks and Brickhill, Whirlwind Before the Storm, IDAF, 1980, p. 259) and held in police custody for several days or weeks (see also Focus 10, p. 12).

6. CONCLUSION

There is every reason to believe that there are currently a number of children in detention and in prison in South Africa, and that the South African Government will continue its practice of recent years in using its powers of detention and imprisonment against people under 18.