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VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA

REPORT PREPARED IN ACCORDANCE WITH RESOLUTION 5 (XXXVII)  
OF THE COMMISSION ON HUMAN RIGHTS (PARAGRAPH 17)

Note by the Secretariat

At its thirty-seventh session, on 23 February 1981, the Commission on Human Rights adopted resolution 5 (XXXVII) by which it decided that the Ad Hoc Working Group of Experts should examine in particular the report of the Secretary-General on apartheid as a collective form of slavery and the report on child labour in South Africa submitted to the Working Group on Slavery at its sixth session by the Anti-Slavery Society for the Protection of Human Rights and to propose in due course such measures as the Group deems appropriate.

In accordance with the above-mentioned decision the Ad Hoc Working Group of Experts submits the present report for consideration to the Commission on Human Rights.

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## BACKGROUND

1. At its thirty-first session, in 1978, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted, on the recommendation of its Working Group on Slavery, 1/ resolution 6 B (XXXI) of 13 September 1978, by which it requested the Secretary-General "to carry out, as a matter of priority, a study of apartheid and colonization as collective forms of slavery". In preparing his report (E/CN.4/Sub.2/449), which was submitted to the Sub-Commission at its thirty-third session in 1980, the Secretary-General examined, among other sources, the reports of the Ad Hoc Working Group of Experts on Southern Africa.
2. At its sixth session, in 1980, the Working Group on Slavery, having examined a report on child labour in South Africa submitted to it by the Anti-Slavery Society for the Protection of Human Rights, recommended that the Sub-Commission should bring it to the attention of the Ad Hoc Working Group of Experts, the United Nations Special Committee against Apartheid and the Director-General of the International Labour Organisation.
3. On the basis of that recommendation and of its consideration of the Secretary-General's report (E/CN.4/Sub.2/449), the Sub-Commission adopted resolution 8 (XXXIII) of 10 September 1980, by which it decided to bring the report of the Secretary-General on "apartheid as a collective form of slavery" and the report "on child labour in South Africa" to the attention of the Ad Hoc Working Group of Experts, the United Nations Special Committee against Apartheid and the Director-General of the ILO for their consideration and such actions as they may consider to be appropriate.
4. Subsequently, the Commission on Human Rights, at its thirty-seventh session, adopted resolution 5 (XXXVII) on 23 February 1981 by which it decided that the Ad Hoc Working Group of Experts should examine in particular the report of the Secretary-General on apartheid as a collective form of slavery and the report on child labour in South Africa submitted to the Working Group on Slavery at its sixth session by the Anti-Slavery Society for the Protection of Human Rights and to propose in due course such measures as the Group deems appropriate.
5. In compliance with that mandate the Ad Hoc Working Group of Experts has prepared the following paper, which provides a very brief summary of the substance of the reports referred to in Commission on Human Rights resolution 5 (XXXVII) and which refers to documents considered to be relevant to the subject.

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1/ Established by the Sub-Commission at its twenty-seventh session. See Sub-Commission resolution 11 (XXVII) of 21 August 1974.

## I. APARTHEID AS A COLLECTIVE FORM OF SLAVERY

### A. Brief summary of the report of the Secretary-General

6. In his report (E/CN.4/Sub.2/449) the Secretary-General attempted to spell out the various elements of the apartheid system which can be construed as slave-like practices. The report did not claim to be exhaustive or comprehensive. It did however attempt to identify the principal mechanisms of apartheid, to place the system in its historical perspective and to give an account of modern day practices.

7. As indicated in the conclusions, the situation in South Africa was seen as one in which the black population was dispossessed through the imposition of quasi-colonial rule, and the labour of the vanquished indigenous people was harnessed through a variety of coercive measures for the profit of white visitors, both South African and foreign.

8. It was seen that, at the root of the "Bantustan" policy of the present Government, lies the inequitable distribution of land imposed through colonial conquest and the establishment of African "reserves" with the main function of serving as reservoirs of cheap labour for the whites in the area concerned.

9. The study showed how initially colonial penetration was accomplished through the imposition of slavery. After the emancipation of the slaves at the beginning of the nineteenth century the policy of apartheid, introduced as official Government policy after 1948, represented a systematization and formalization of controls over the black population with the goal of maintaining the black people in the role of a cheap and suppressed labour force.

10. The Secretary-General concluded that apartheid as a slavery-like system could not be reformed but had to be totally eradicated through a complete restructuring of the political, economic and social relations in South Africa.

11. In his report the Secretary-General stated:

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

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

12. The Secretary-General added that in an analysis of apartheid as a system similar to forced labour (contained in the report of the United Nations - ILO Ad Hoc Committee on Forced Labour (E/2431)), it had been stated that:

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

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

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

13. The Secretary-General also mentioned that in 1973 the International Convention on the Suppression and Punishment of the Crime of Apartheid, had defined the crime of apartheid as "exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour". (Art. II (e)).

B. Conclusions and observations submitted by the Secretary-General

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

15. Firstly, it was shown in the study that Africans are subjected to strict and constant controls through a system of identity documents enforced by penal sanctions introduced by the Natives Abolition of Passes and Co-ordination of Documents Act of 1952. Africans and, to varying degrees, other black people, are denied freedom of residence in areas scheduled for white occupation and freedom of movement between, as well as within, black and white areas. This, in turn, severely restricts their freedom to choose their employment, forcing them into the least paid, lowest skilled occupations.

16. Secondly, the study showed that vast numbers of blacks who, for one reason or another, do not qualify to remain in white areas, especially those who are unemployed, or are considered "redundant" because of their age, health, or sex, have been forcibly removed to the "reserves" and "group areas" earmarked for their occupation, where they face starvation conditions. Others have been moved from one black area to another in terms of the Government policy to keep the various ethnic groups separate and thus more easily controlled.

17. Thirdly, the study showed that the Government policy is to enforce gradually a migratory labour system on the entire black population, which would eventually enter white areas only for the periods and in the sectors where their work is required.

18. Fourthly, the study investigated the conditions of exploitation of workers in industry and agriculture as well as in urban and rural areas resulting from the apartheid system. The study showed that the colour bar is enforced in such a way as to permit adjustments whenever needed by the economy, but without changing the basic conditions of exploitation of the black workers. Salaries and working conditions are not only a result of the economic structure but of the apartheid system.

19. In agriculture, the Secretary-General found that conditions of exploitation of black workers similar to those indicated in the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and in the Forced Labour Convention of 1930, continue to exist on white farms, along with new forms of coercion similar to those applied in the rest of the economy. The study found a large degree of physical repression and abusive conditions of work of black workers in agriculture, including the exploitation of child labour. It also found that wages for blacks in agriculture are the lowest in the country; as a consequence of this cases of malnutrition and diseases are common.

20. Fifthly, the Secretary-General studied the way in which the apartheid system as a slavery-like practice is imposed on the black population despite continuing, indeed growing, resistance. After examining the relevant labour legislation, the study concluded that a discriminatory and inferior system of labour relations has been established for Africans, with the goal of undermining autonomous workers' organizations and exercising Government control over the workers' movement. Strikes have often been violently suppressed, causing the deaths of many workers. Because the apartheid system as a slavery-like practice rests on the exploitation and control of the black workers, black workers' organizations can play a crucial role in bringing about the end of apartheid. For this reason, they have been, and continue to be, the object of Government repression. Moreover, it should also be mentioned that the trade union rights are denied.

## II. CHILD LABOUR IN SOUTH AFRICA

A. Brief summary of the report submitted by the Anti-Slavery Society for the Protection of Human Rights 2/

21. The report indicated that child labour was widespread throughout South Africa but the scale and manner in which it occurred remained largely hidden. The majority of working children, all of them black, were to be found in agriculture; they were generally the offspring of farmworkers more or less permanently resident on white farms or of migrant workers recruited from the "bantustans" or the so-called "black spots". Child labour in agriculture, which dated back to the days of slavery, was an integral feature of the apartheid system since black children came under the barrage of laws confining them and their families from birth to the "bantustans" and limiting their freedom of movement within South Africa. Because of the resulting poverty and deprivation, children were forced to accept whatever work was available, usually on white farms at extremely low wages, under unsatisfactory conditions and with practically no legal protection. Some children managed to escape to the cities and were found work as traders, newspaper vendors, supermarket and garage attendants and domestic workers and gardeners, but their presence in urban areas was illegal and they were subject to deportation and again recruitment for farmwork, so that they were locked in a vicious circle which could not be broken so long as the apartheid system continued.

B. Recommendations formulated by the Anti-Slavery Society for the Protection of Human Rights

22. In its recommendations to the Working Group on Slavery, the Anti-Slavery Society stated that the Government of South Africa should be urged to appoint a Commission to examine legislation affecting children and the administrative machinery for its implementation with a view to adopting measures necessary to ensure proper and efficient protection of children, and to put a stop to this pernicious system.

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2/ The report of the Anti-Slavery Society for the Protection of Human Rights is annexed to the working paper.

III. RECOMMENDATIONS FORMULATED BY THE WORKING GROUP  
ON SLAVERY SINCE 1980 <sup>3/</sup>

A. Recommendations of the Working Group on Slavery on its sixth session  
(E/CN.4/Sub.2/447, August 1980)

23. The Sub-Commission should bring the report on Child Labour in South Africa submitted by the Anti-Slavery Society to the attention of the Ad Hoc Working Group of Experts on Southern Africa, the United Nations Special Committee against Apartheid and the Director-General of the International Labour Organisation, for consideration and appropriate action.

24. The Sub-Commission should call on all Governments to ratify the ILO Convention on Minimum Age for Admission to Employment 1973 (No. 138) and implement the relevant Recommendation, No. 146, and ensure that adequate legislation to protect the rights of working children is enacted.

B. Recommendations of the Working Group on Slavery on its seventh session  
(E/CN.4/Sub.2/486, August 1981)

25. The Sub-Commission on Prevention of Discrimination and Protection of Minorities should request the Commission on Human Rights to endorse the call for mandatory economic sanctions against South Africa and to appeal to member States of the Security Council to support proposals to this effect.

C. Recommendations of the Working Group on Slavery on its eighth session  
(E/CN.4/Sub.2/1982/21, August 1982)

26. With regard to apartheid and colonialism, the Working Group is of the view that the process of decolonization should continue and that more concrete measures should be taken to combat the apartheid regime of South Africa. Therefore the Working Group urges the total isolation of the Government of South Africa. It is convinced that total economic, commercial, political and diplomatic sanctions are measures which should be taken, if the elimination of that system is to be achieved.

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<sup>3/</sup> It was at its sixth session in 1980 that the Working Group on Slavery formulated the recommendation as a result of which the Commission submitted to the Ad Hoc Working Group of Experts, for consideration and appropriate action, the report of the Secretary-General on apartheid as a collective form of slavery and the Anti-Slavery Society's report on child labour in South Africa.



IV. INFORMATION GATHERED BY THE AD HOC WORKING GROUP OF EXPERTS  
ON SOUTHERN AFRICA DEMONSTRATING THE EXISTENCE OF PRACTICES  
SIMILAR TO SLAVERY IN SOUTH AFRICA AND NAMIBIA

27. Among the activities of the Ad Hoc Working Group of Experts concerned specifically with the question of exploitation of blacks in southern Africa because of the policy of apartheid, mention should be made of the following:

(a) The symposium on the exploitation of blacks in South Africa and Namibia, and on prison conditions in South African jails held at Naseru (Lesotho) in 1978,<sup>4/</sup> which concluded, inter alia, that "the exploitation of black labour was the heart of apartheid economic policy" and that "the Bantu homelands policy masked a system of virtual slavery". It was further noted that "the economic exploitation of the blacks in South Africa and Namibia is the direct result of the system of apartheid and the laws and regulations enacted to control the daily life of the African in order to dehumanize him and to restrict him solely to the role of providing his labour".<sup>5/</sup>

(b) The various reports of the Group in which the attention of the Commission on Human Rights was drawn to:

- (i) The forcible removal of whole communities from areas declared "black spots";
- (ii) The fact that the victims of the removals were those considered to be redundant on the labour market;
- (iii) The plight of people dumped without services in the resettlement areas.

28. In view of its findings and conclusions, the Ad Hoc Working Group of Experts, in fulfilling its mandate, focused its attention on:

- (a) The forced removals of populations consequent on the policy of apartheid;
- (b) The homelands policy, specifically in relation to the rights of peoples to self-determination;
- (c) The exploitation of black workers in urban areas and in the agricultural sector, and the exploitative nature of the policy of migrant labour, whereby black workers are forced to "migrate" to "white" areas.
- (d) Suppression of the rights of the workers.

29. Although official slavery in South Africa was abolished soon after the British took over the Cape Province from the Dutch in 1806 at the beginning of the 19th Century, South Africa began, as from 1910, to develop a number of slavery-like practices affecting the black population throughout South Africa and later, Namibia.

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<sup>4/</sup> This symposium was held in July 1978 pursuant to a recommendation made by the Ad Hoc Working Group of Experts in its report (E/CN.4/1159), chap. V, para. 20, submitted to the Commission on Human Rights at its thirty-first session.

<sup>5/</sup> See the report of the symposium (ST/HR/SER.A/1), paras. 41, 43 and 66 (4).

30. In testimony submitted in 1973,<sup>6/</sup> Mr. Martin Ennals, Secretary-General of Amnesty International, stated that although resettlement was not imprisonment as such, nevertheless it constituted a very severe form of restriction and of coercion. A policy of mass resettlement inflicted on the sick, the aged, on widows and women with dependent children constitutes inhuman and degrading treatment and is contrary to the provisions of article 9 of the Universal Declaration of Human Rights.

31. In evidence submitted to the Ad Hoc Working Group, the question of forced removals of populations was also raised in terms of article II of the United Nations Convention on Genocide. It was stated that the geographical separation of people is not an end in itself, but a means to the end of maintaining political power, having a complete political control, and economic privilege in the hands of whites. The resettlement policy is an essential part of this control and the destruction of people an inevitable consequence. <sup>7/</sup> In this connection, the Group received a great deal of information indicating that hundreds of thousands of Africans were being moved from urban areas to Bantustans. According to a survey made in 1972 by the South African Institute of Race Relations, 1,820,000 people had been moved under the Government's plans between 1960 and 1970. The removal of Africans to Bantustans was part of the policy of confining people to economically non-viable areas so they would submit to recruitment as cheap labour for the mines and industry. <sup>8/</sup>

32. According to information gathered by the Group, <sup>9/</sup> the migrant labour system is a modern form of slavery. This system is considered worse than slavery. "A slave was at least regarded as an asset and was preserved, but a migrant worker is not regarded as an asset; when he gets sick he is simply dismissed and replaced by somebody else".

33. The attention of the Group was drawn to proclamation No. 133 of 6 June 1975, which made special provision for the creation of "rehabilitation centres" for the reception, treatment and training of persons committed to these centres in terms of the Bantu (Urban Areas) Consolidation Act, 1945 and the Bantu Labour Act 1964, under which people could be removed from various parts of the country to these institutions within the homelands. <sup>10/</sup>

34. The situation of black farm workers has also been described as slaverylike and involving practices verging on serfdom, including serious forms of physical abuse and repression. In a report submitted by the Group to the Commission on Human Rights at its thirty-second session, in 1977, the question of private gaol and farm gaol systems as well as the farm labour system were treated in detail for the first time at the specific request of the Commission in its resolution 5 (XXXI) of 14 February 1975. <sup>11/</sup> Several testimonies referred to the "semi-slave" condition of black labour in white farms. All this is substantiated by reliable testimony and documentation.

<sup>6/</sup> E/CN.4/1111, para. 122.

<sup>7/</sup> E/CN.4/1311, para. 142.

<sup>8/</sup> E/CN.4/1020, Add.2, paras. 65-105; E/CN.4/1135, paras. 97-114;  
E/CN.4/1270, para. 131; E/CN.4/1311, para. 153 and 155; E/CN.4/1365, paras. 91-105.

<sup>9/</sup> E/CN.4/1159, paras. 165-169; E/CN.4/1222; E/CN.4/1270; E/CN.4/1311;  
ST/HR/SER.A/1.

<sup>10/</sup> E/CN.4/1222, para. 64.

<sup>11/</sup> E/CN.4/1187, paras. 138-172; E/CN.4/1222, paras. 188-213.

35. In this connection, it was recalled that under the Bantu Service Contract Act of 1932 a farmer may call on the wife and children (from eight years of age) of a labourer to work for him without extra payment; and parents may not contract their children to work for another farmer without the consent of their landlord.

36. The system of farm gangs has also been likened to slavery. By virtue of their status, prisoners are deprived of any kind of choice. It was reported to the Group that the right to use convict labour had considerably increased the value of the farms concerned and it was not uncommon to read notices advertising a farm for sale "including convicts". As observed by a witness "the migrant labour and prison farm labour system is the most sophisticated and most firmly established slave labour system in existence today". 12/

37. Since its establishment, the Ad Hoc Working Group has given consideration to the question of whether apartheid contained elements which may render the systems as a Crime of Genocide. On the basis of first-hand testimonies presented to it, the Ad Hoc Working Group has identified the following elements as indicating that apartheid constitutes a crime synonymous with the Crime of Genocide: 13/

(a) The institution of group areas ("Bantustan policies"), which affected the African population by crowding them together in small areas where they could not earn decent or adequate livelihood, or the Indian population by banning them to areas which were totally devoid of the conditions necessary for the exercise of their traditional professions;

(b) The regulations concerning the movement of Africans in urban areas and especially the forcible separation of Africans from their wives for long periods, thereby preventing African births;

(c) The population policies in general, which were said to include deliberate malnutrition of large population sectors and the imposition of birth control methods for the non-white sectors in order to reduce their numbers; against this was the official policy to encourage white immigration into South Africa;

(d) The imprisonment and ill-treatment of non-white political (group) leaders and of non-white prisoners in general, sometimes leading to their death in prison;

(e) The killing of the non-white population through a system of slave or tied labour, especially in so-called transit camps.

38. It appears from testimonies that thousands of persons have died after having been tortured. A witness spoke of mental torture of the prisoner, of the deliberate infliction on a group of non-white people of conditions of life calculated to bring about their physical destruction in whole or in part. He spoke of measures intended to bring about death within a group of non-white people (which would include the laws governing the movement of Africans in urban areas and preventing the wives from visiting their husbands in those areas). He further spoke of measures to transfer forcibly persons of one group to another group (those reaching the age of 18 were obliged to leave their parents).

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12/ E/CN.4/1187, para. 172.

13/ E/CN.4/984/Add.19, para. 4.

39. It should be noted that many of the witnesses did not unhesitatingly draw the conclusion that the acts described by them constituted genocide. Although it is true that they could not anyway be held to be competent to decide the legal question whether certain acts constitute the crime of genocide the witnesses nevertheless drew the attention of the Ad Hoc Working Group to certain factual circumstances which are certainly of relevance for the consideration of the question whether apartheid constitutes genocide.

40. Analysing the situation in South Africa, a witness stated that the apartheid system was "not designed to kill off people" but did, "in fact, kill them off". When comparing apartheid with the practices of Nazism, the witness said that there was "no openly declared aim of exterminating people" as in the German case, but it was rather South Africa's claim "that by forcing people into Bantustans, it will be giving them a greater measure of freedom than they have now". 14/

41. The testimony received by the Ad Hoc Working Group in 1974 15/ contained evidence of grave manifestations of apartheid, especially in relation to the migrant labour system, which destroys family life, removes the worker's dignity as a human being, keeps wages at poverty level and discards the weak, the sick and the old as "unproductive labour units". Another witness described the system as a "most effective method of genocide without gas chamber".

42. Several factors such as the maintenance of the labour force in a state of poverty and the resettlement schemes, revealed basic elements of the crime of genocide as defined in the 1948 Convention on Genocide. In this connection, witnesses cited the deportation of whole populations and the denial of rights to certain population groups.

43. However, according to other witnesses, the aim of apartheid could not be seen as extermination. The main objective of apartheid is to keep the black population alive but to maintain them as a working population to service the South African economy. According to some testimonies the essential element of apartheid is the forced labour rather than genocide.

44. In a draft study on apartheid from the point of view of international penal law, it was stated: "If it is recognized that South Africa is under the obligation under customary international law not to commit genocide and if it is true, as the Group has established it in its report E/CN.4/984/Add.18, that the meaning of genocide in general international law is not more restricted than in the context of the Genocide Convention, and if the definition of genocide contained in the Convention may also be used in regard to a non-party State, then the Republic of South Africa is bound by the precepts of general international law to prevent and punish that crime". 16/

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14/ Ibid., para. 5.

15/ E/CN.4/1159, para. 165.

16/ E/CN.4/1075, para. 149.

V. CONCLUSIONS AND/OR RECOMMENDATIONS FORMULATED BY THE  
AD HOC WORKING GROUP OF EXPERTS

45. Among the conclusions and recommendations formulated by the Ad Hoc Working Group of Experts since 1967 several have related to apartheid as a collective form of slavery. It would be appropriate to note the following:

(1) The conditions of black workers, particularly agricultural workers, continue 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.

(2) The homelands policy continues to be practised with the same resoluteness. The so-called independence granted to Transkei and Bophuthatswana reveal (if there was need for revelation) the true motives of the South African Government which, by attempting to destroy the cultural identity of the black people and breaking up their unity, is endeavouring to confine them within puppet states and maintain them in conditions of slavery, in the service of a white state which would not include a single black person.

This is the gravest imaginable violation of the principle of the right to self-determination.

(3) Having carefully examined the system of employment in agriculture and having noted that in 1977 the 1,505,820 African workers employed in this sector have no trade union and are not protected by any law, although the so-called "Masters and Servants' Laws" have been repealed, the Ad Hoc Working Group has come to the conclusion that the agricultural workers and their families are entirely at the mercy of the white farmers. In addition, agricultural workers have not benefited at all from the increase in black workers' wages which has occurred since 1973 in other sectors.

(4) The school system for children of farm workers may be described as deplorable; child labour is widespread and children from farms are separated from their families to work in urban areas.

(5) The abhorrent system of farm gaols and private gaols still exists. The Minister of Prisons has stated that during 1975 a total of 87,543 persons were "released on parole and placed in employment with various employers". In this connection, he gave a figure of 22,287 as the average daily total of prisoners working for government, local authorities, institutions and private persons, compared with 24,000 in 1973.

(6) By the very nature of the apartheid system, decent family existence is all but impossible for the African, whether he is a South African or a Namibian. The single main disintegrating factor for the family is the "contract labour system". For the period under review the Group found that this system had been operated with every force and accounted for the large numbers of broken families. This situation has also created additional economic, social and psychological problems for the African family.

(7) The "private" or the "farm gaols" in which labourers at the farms are placed for disciplinary reasons are widespread and are inhuman places, far away from any control; they are as slave-like institutions.

(8) Transit camps have been enlarged and form the most inhuman method of population movement and freedom of movement in modern times. The Group found that the following groups of persons are brought into these camps: (a) landless African families from the reserves; (b) Africans who have been cleared from the "black spots"; (c) Africans who have been elected from the white farms, when too old or infirm to work; (d) men, women and children "endorsed out" of the urban areas as unproductive; (e) wives and families of men serving prison sentences; and (f) former political prisoners, after serving their sentences.

(9) Thousands of Africans are put under the forced removal schemes; family disruption is one of the inhuman consequences of this scheme. Part of the South African Press reports quite openly on the inhuman conditions of forced removals.

(10) The policy of transferring African workers is being intensified; the workers are transferred under inhuman conditions, and the result of this policy is the prolonged separation of African workers from their families.

(11) The system of migrant workers is one of the grave manifestations of apartheid; it has repercussions on family life and on the behaviour of individuals.

(12) The Group recommends the abolition of all transit and resettlement camps.

(13) The Group recommends that the policy of transferring African workers and the policy of separating workers from their families should be discontinued forthwith.

(14) Under the Development of Self-Government for Native Nations in South West African Act, No. 54 of 1968, new measures have been adopted since the end of 1970 with a view to the establishment of so-called "homelands", namely:

(a) The Namaland Consolidation and Administration Act, No. 79 of 1972;

(b) The Bantu Laws Amendment Act, No. 23 of 1972.

(15) Schemes for the removal of populations are under way; for example, the Hereros are to be settled in the Kalahari desert. Regions are being broken up without regard to the unity of their inhabitants; the Kaokoveld is an example.

(16) The reason behind the Bantustan policy is that a pool of African labour should be kept in semi-barren areas which can barely support the inhabitants confined there; furthermore this policy tends to destroy the unity of the Namibian people, to create clans, to perpetuate tribalism and to prevent any improvement in the lot of the population divided in this way.

(17) The Group recommends that the policy of removing populations and the policy of splitting up regions of Namibia should be discontinued forthwith in order to safeguard the unity of the Namibian people.

- (18) The Group repeats its recommendation that the Commission on Human Rights should make specific proposals concerning a revision of the Genocide Convention, in particular to make "inhuman acts resulting from the policies of apartheid" punishable under that Convention.
- (19) Another grave manifestation of apartheid is the Bantu Law Amendment Act of 19 January 1970, which allows unconditionally the destruction of African villages.
- (20) The economic conditions in the reserves of Bantu "homelands" compel Africans to seek work outside the reserves (40 per cent are reported to be absent from the "homeland" at any one time); this makes it impossible for the "homelands" to sustain themselves economically. There are mainly women and children left in the reserves or Bantu "homelands" and these persons can be of no assistance to the economy of the reserves or "homelands".
- (21) Africans from "black spots" have been removed to so-called resettlement villages. This removal is in fact deportation.
- (22) The cleaning-up of the Caprivi Strip and the forced removal of the African population are elements of genocide.
- (23) A full and thorough investigation should be undertaken into the cleaning-up of the Caprivi Strip as an element of genocide.
- (24) The Group is of the opinion that an investigation should be made to determine whether elements of the crime of genocide exist in the present situation in Namibia.
- (25) The Ad Hoc Working Group renewed its recommendation that the Commission should make specific proposals concerning revision of the Genocide Convention with a view, in particular, to making "inhuman acts resulting from the policies of apartheid" punishable under that Convention. This recommendation was reiterated by the Group in 1972 (E/CN.4/1075, para. 161). Mention should also be made of a recommendation by the Group in 1972 concerning the organization of an international seminar to study in greater depth the present state of international penal law (E/CN.4/1075, para. 168).
- (26) The Group recommends that a thorough study be undertaken to ascertain whether the elements of the crime of genocide exist in the system at present prevailing in South Africa.
- (27) The Ad Hoc Working Group of Experts having examined the report of the Secretary-General on apartheid as a collective form of slavery and the report on child labour in South Africa by the Anti-Slavery Society for the Protection of Human Rights and on the basis of its own investigations has come to the conclusion that the policy of apartheid, because of its exploitative and country wide character may be described as a collective form of slavery. The Ad Hoc Working Group of Experts also finds that child labour in South Africa is widespread. For these reasons the Ad Hoc Working Group reiterates the relevance of the conclusions and recommendations which it has made since 1967 on apartheid as a collective form of slavery.
- (28) In referring these conclusions and recommendations to the Commission on Human Rights, the Ad Hoc Working Group also wishes to support the recommendation by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities that all Governments, particularly the Government of South Africa should ratify the ILO Convention on Minimum Age for Admission to Employment 1973 (No. 138) and implement the relevant Recommendation No. 146 and ensure that adequate legislation to protect the rights of working children is enacted. The Ad Hoc Working Group of Experts also recommends that the Commission on Human Rights should entrust the Group during its inquiry to pay attention to the elements of genocide arising out of the policy of apartheid.

## VI. RELEVANT LEGISLATION

1. The Native Urban and Areas Act, 1923
2. The Native Service Contract Act, 1932  
Made a breach of contract of employment by any black a criminal offence.
3. The Native Administration Act, 1927  
Together with the two above-mentioned laws conferred on the Government extensive powers for the regulation of African movements, residence, and employment.
4. Masters and Servants Amendment Act, 1926  
Served to deny the blacks any right to strike.
5. Immorality Act, 1927  
Prohibiting extra-marital sexual intercourse between whites and blacks.
6. The Native Urban Areas Amendment Act, 1930 and the Native Trust and Land Act, 1936  
Reduced blacks in both territories to a position of serfdom.
7. The Prohibition of Mixed Marriages Act, 1949  
Forbade - and still does forbid - marriages between blacks and whites. It made the Immorality Act more stringent in their 1950 and 1957 amendments, which imposed the punishment of whipping and up to seven years imprisonment.
8. The Group Areas Act, 1951 (as amended in 1955, 1957 and 1966)  
Provided for the establishment of segregated residential areas for each race and for the mass removal and expropriation of members of the so-called "wrong" skin colour in any given area. Once an area had been proclaimed a Group Area it became illegal for persons other than members of the appropriate racial group to occupy land or to acquire property in the area.
9. The Bantu Authorities Act, 1951  
One of the main progenitors of apartheid, and by which the Government envisaged the creation of independent Bantustans in the so-called "Native Reserves".
10. The Native Building Workers Act, 1951 and the National Labour (Settlement of Disputes) Act, 1953  
Subjected blacks to very low wages.
11. The Procurement of Bantu Self-Government Act, 1959  
Established the Bantustans forced citizenship with loss of South African citizenship which was imposed later by the Bantu Homelands Citizenship Act of 1970.



12. The Bantu (Urban Areas) Consolidation Act, 1945 as amended in 1964 and 1977

The law which governs the residence of Africans in the towns. In terms of its section 10 (1), no African can remain for more than 72 hours in a "prescribed area" (i.e. a white urban area) unless he can show proof that:

- (a) He has resided in such an area continuously since birth;
- (b) He has worked in such an area continuously <sup>17/</sup> for one employer for not less than 10 years or has resided there lawfully for not less than 15 years;
- (c) Is the wife, unmarried daughter or son under age of an African entitled to reside in this area;
- (d) Has been granted permission to reside there by a labour bureau in terms of the Native Labour Regulation Act of 1911.

In this connection a new regulation, which is to be enforced sometime in October 1982, the Orderly Movement and Settlement of Black Persons Bill, <sup>18/</sup> will exclude from such qualification urban born infants whose father is a contract labourer or whose father's legal status is unknown.

The Bill will also reduce the number of blacks qualifying for permanent residence by making it absolutely dependent on their having approval accommodation. It will further introduce another impediment to qualification for permanent sites. At present blacks from so-called "independent homelands" can qualify under section 10 (1) b of the above-mentioned Bantu Urban Areas Act. In practice the new Bill will abolish section 10 (1) b and will limit the right to qualify to South African citizens who lived lawfully in an urban area for 10 years continuously.

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<sup>17/</sup> The term "continuously" is strictly applied. If a man's employment with an employer has been at all interrupted within 10 years, it is not regarded as continuous. In practice it has been difficult for contract workers from "independent homelands" to qualify because they are required to return to their homes for a month once a year.

<sup>18/</sup> Rand Daily Mail, 16 and 22 September 1982.

VII. ADOPTION OF THE REPORT

46. The present report has been approved and signed on 12 January 1983 by the members of the Ad Hoc Working Group of Experts, namely:

Mr. Annan Arkyin Cato  
Chairman-Rapporteur

Mr. Branimir Janković  
Vice-Chairman

Mr. Mikuin Leliel Balanda

Mr. Humberto Díaz-Casanueva

Mr. Felix Ermacora

Mr. Mulka Govinda Reddy

Annex

ANTI-SLAVERY SOCIETY FOR THE PROTECTION OF HUMAN RIGHTS

REPORT FOR 1980 TO THE UNITED NATIONS WORKING GROUP  
ON EXPERTS ON SLAVERY

CHILD LABOUR IN SOUTH AFRICA

The Yearbook of Statistics of the International Labour Organisation for 1978 shows the economically active population under 15 years of age in the Republic of South Africa (RSA) as 0.6 per cent of the total population of that age group which numbers 10,088,000 - that is to say some 60,500 working children.

No systematic study has yet been made of working children in the RSA and there are no independent data from which to verify this figure, which is surprisingly low.

Research undertaken by the Anti-Slavery Society in 1979/80 confirmed that child labour is widespread throughout the Republic but the scale and manner in which it occurs remain largely hidden. The majority of children employed are found in the agricultural sector.

Child farm workers are generally the offspring of farm workers more or less permanently resident on farms or seasonal migrant workers recruited from the Bantustans or from the so-called "black spots". These seasonal migrants, casual workers, constitute an estimated 43 per cent of the agricultural workforce and are mainly women and children.

There are children working in the urban areas, too, as traders, newspaper vendors, supermarket and garage attendants and domestic workers and gardeners in white homes. But it is in the agricultural sector, where child labour has a history dating from the period of slavery, that it is most widespread, hidden and abused.

Farmers in South Africa have been using child labour since the earliest days of European settlement. As slaves in Cape Colony during the seventeenth century, children served the household in its varied agricultural, pastoral and domestic activities. Among the captives taken in Boer raids children worked, as apprentices to farmers, as herdsmen, voorleiers (ox-waggon leaders), diggers of irrigation canals and farm labourers. The purchase of children and the "apprenticing" of captives continued until late in the nineteenth century despite being officially illegal. Attitudes are slow to change: in the Republic discrimination is oppressive against black people in general: it is not surprising that black children still work unprotected from exploitation.

There are two distinct features of child labour in South Africa. One is that all children working for the maintenance and survival of their families, and not merely for pocket-money, are black. The second is that the use of black children as farmworkers is an integral feature of apartheid which creates poverty and deprivation. White children are free from the imperatives forcing black children out to work at an early age. Most black children, in contrast, inherit the barrage of laws confining them and their families from birth to the so-called homelands, and inhibiting their movement within South Africa.

The pattern of child recruitment for farm work stems from the existence of the Bantustan system and depends on it. Bantustans act as dumping-grounds for the unemployed and as reservoirs of cheap labour for farmers and industrialists. It is

from them that a great many children are recruited. Recruitment is controlled by law through the labour bureau system. A provision in the Black Labour Act (1968) prohibits "the recruitment of children under the age of eighteen". A circular addressed to local magistrates amends this provision by "permitting the recruitment of under-aged Bantu," that is those between the ages of 16 and 18. However, the phraseology is sufficiently vague as to amount to sanctioning child labour on white farms. Nonetheless, child labour on farms is officially prohibited under the age of 16. The child recruit is not to be misled as to the nature of his work and written parental consent must be obtained and witnessed by a "person of standing" if an "under-aged Bantu" is recruited. There is a factor which militates against the effective implementation of this provision, namely that farmers have hitherto been given a free hand in recruitment. They are not required to use the labour bureau system and merely need a permit to recruit. This means that there is no way of ensuring that they do not recruit under-aged children. It is clear that they do indeed do this on a massive scale, that parental consent is frequently not obtained and that children are often misled as to the nature of their work.

Furthermore, there is no protection for these children either on their way to work or at work. They remain unprotected in an absolute sense, trapped in farm work for most of their lives. As farm workers, they are excluded from all South Africa's industrial conciliation legislation, imperfect and limited as it is, and as child migrant workers they receive little if any schooling at all during their entire lives. Farm schools do exist, but they are specially for the children of resident farm workers and the education they provide is, moreover, rudimentary. Children from the Bantustans are denied access to these schools and the children of resident farm workers are denied access to a wider world by the nature of the schools.

The farm school system differs in significant respects from urban black schools in the way it is controlled and financed. First, the responsibility for farm schools is in the hands of private citizens: black children are provided with education at the whim of white farmers. Second, farm schools qualify for registration and therefore a government subsidy only if they belong to bona fide farmers: church schools or independent schools cannot be registered. Third, schools can be closed on the slightest pretext -- if the neighbours object or if the manager loses interest, for example. The distribution of farm schools is thus irregular and unplanned and it is not surprising that on farms fewer children than one in 20 complete their primary education. 1/ There is not much encouragement by the State, nor motivation among the farmers, to provide adequate schools for children who, in their view, will and should become farm labourers as soon as possible. Many children try to escape this cycle by leaving for the urban areas as soon as they can, but there they are considered illegal and often become involved in work in the informal sector or are again recruited by farmers for work. So, in part, "the migration from farms into the urban areas is turned back and, for some of them, into a cycle from the gutters of the city into the fields and back again". 2/ For many others again, it is a continuous oscillation between the barren wastes of the homelands and the fields of the farmers.

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1/ Tim PLAUT, "Farm Schools for African and Coloured Children in South Africa", South African Labour and Development Research Unit (SALDRU) Paper No. 17, 1976.

2/ Unpublished research. The author's name is in the possession of the Anti-Slavery Society.

The Eastern Transvaal and Natal are two areas in South Africa where these patterns can be seen in all their aspects. Children under 16 are employed by farmers who simply drive their trucks into Bantustans and pick up however much labour they need. In some cases children have been promised work on a poultry-farm but have been taken to a potato farm. Here they live in barns or stone compounds, have their passes removed so that they cannot desert and often do not know how much they are to be paid. Where parents have consented to their children's employment, it is because they have no option, being themselves unemployed, and because they have no other income. Children taken for work frequently disappear for long periods.

The area of Masinga in the KwaZulu Bantustan around the magisterial district of Weenen in Natal, is one which clearly demonstrates the system at work. Every day the trucks of white farmers cruise along the banks of the Tugela River picking up children within the Bantustan for work on cotton and orange plantations and on potato farms. The families from which these children come are destitute, some of them having recently been removed by government edict from white farms, where they lived and worked as labour tenants, to small strips of barren land a few miles away in KwaZulu. It is estimated that between 1969 and 1979, 10,000 to 20,000 people were removed in this way to half acre plots in KwaZulu. <sup>3/</sup> Fathers went to the towns and cities to find work in white employ: women, infants and the old fought for a living on desolate land: the children went to work on white farms. Schools do exist in the area but these are attended only by the children of those who can afford this luxury. The poverty of most families prevents children from being sent to school in two ways. Parents need whatever wage their child can get, even if it is a tray of damaged tomatoes, and they cannot afford the material demands the school makes on them - money for books, uniforms, outings and other extras.

A number of case-histories are available from the area largely because of the "barefoot learning centre" which is part of the Christian Aid Project farm, "Emdukatshani (the Place of Dry Grasses). One of the worker-teachers has obtained autobiographies from children who have been involved in work on the farms and has had them printed by Ravan Press, Johannesburg. This, for example, is Mbona Dladla's story:

"One day the farmer said we must move off his farm at the end of the month. He said we must live on the other side of the Tugela River. We could not move because we had no homes to go to. The farmer was angry and the police burned our homes down. They forced us to move across the river. We made shelter from leaves and branches. Later we made new huts. I went to school in Sahlumbe. It was a two-hour walk. If we arrived late the teacher hit us and made us stay at school until five o'clock. There was no water at school, and we had to take water from home ... After a year I left, because my grandfather needed my help at home.

"When I was 10, I went to work on an orange farm near Weenen. I had to work because there was no more food at home. I stayed on the orange farm and went home on Sundays. We slept in a shed and brought our own plates and blankets. The beds were very close together. The bunks in the girls' shed were so narrow that the girls fell off. The food was good - porridge,

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<sup>3/</sup> Unpublished research. The author's name is in the possession of the Anti-Slavery Society.

cabbage, beans and sometimes meat but there was very little of it, so we were often hungry. Our work was to pick and sort oranges. While we worked the white men would drive up and down on motorbikes, shouting at us in English, and hitting us if we were lazy. Cattle grazed among the orange trees and sometimes chased us. We earned R12 a month. It was difficult work.

I left after a year."

There is also Sensalubi's story:

"When I was eight I went to work on the farm where my sisters work. The farmer sent his lorry to fetch us every morning and to take us back. We got home at about six. We had to bring our own food. I earned R6 a month. I left after a year. The white farmers send their lorries to Msinga, to find children to work for them. I went on a lorry to Mooi River. Many children worked there, lifting potatoes. The farmer kicked us to make us work hard. We slept on sacks on the floor of a long shed. It was very cold, I had no blankets, only an old coat. We ate porridge, and cabbage, but there was not much food, because there were so many children. We earned R5-10 a month. It was a bad farm, so I went home."

Stories like this can be repeated over the breadth of South Africa. They are confirmed by the press.

On 20 February 1979, Agence France Presse, reporting from Johannesburg on "faction fighting" between groups of blacks, said "frustration at lack of employment and overcrowding" were thought locally to be partly to blame for the violence.

At Msinga, 20,000 people were crammed into quarter hectare plots on a strip of land eight to nine and half kilometres long by about 400 metres wide. The then current edition of the South African Financial Mail wrote:

"Stripped eight years ago of both adequate land and cattle when they were forced to move into the area, families had to depend on money sent home by migrant workers in Johannesburg. But two years ago, the bottom of the migrant labour market fell out."

The Financial Mail also quoted agricultural expert, Neil Alcock, as saying that, as a result, children were being sent by their parents to work on white farms. Some of the children were nine or 10 years old and were paid daily in potatoes.

As a reserve of docile, unprotected labour, children are powerless in the hands of the employer and in the condition of poverty to which apartheid has condemned them. For most of these children, whether the children of permanent farm workers called in at any time of the year for casual work or child migrants working seasonally, there is no choice. They will remain without protection, without security of employment and without possibility of change.

#### RECOMMENDATION

The Anti-Slavery Society recommends that the Government of the Republic of South Africa be invited to appoint a commission to examine the legislation affecting all children of whatever colour as concerning their education, labour and welfare, and the administrative machinery for implementing that legislation. The Commission should be requested to recommend any measures it may consider necessary to ensure proper and efficient protection of children, having special regard to the circumstances of their migration, movement or resettlement, their recruitment and their removal for employment particularly from the Bantustans.