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REPORT OF THE SPECIAL COMMITTEE ON THE POLICIES OF APARTHEID  
OF THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA\*

Rapporteur: Mr. Ram C. Malhotra (Nepal)

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LETTER OF TRANSMITTAL

23 March 1964

Your Excellency,

I have the honour to transmit herewith an urgent report adopted unanimously on 23 March 1964 by the Special Committee on the Policies of apartheid of the Government of the Republic of South Africa. This report is submitted in pursuance of operative paragraph 5 (b) of resolution 1761 (XVII) adopted by the General Assembly on 6 November 1962 and of operative paragraph 2 of resolution 1978 A (XVIII) adopted by the General Assembly on 16 December 1963.

The Special Committee considers it indispensable that the Security Council should consider this report as soon as possible and take the measures called for by the grave new developments in the Republic of South Africa, in particular death sentences already pronounced and the menace of death sentences to and execution of political prisoners opposed to apartheid.

The Special Committee is convinced that positive and dynamic action by the Security Council is essential to prevent a violent conflict in South Africa, which might have serious international consequences and which the United Nations is in duty bound to prevent by every means available to it under the Charter.

Accept, Sir, the assurances of my highest consideration.

(Signed) DIALLO Telli  
Chairman

Special Committee on the Policies of Apartheid of  
the Government of the Republic of South Africa

His Excellency Mr. Liu Chieh  
President of the Security Council

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REPORT OF THE SPECIAL COMMITTEE

1. By resolution 1978 A (XVIII) of 16 December 1963, the General Assembly strengthened the terms of reference of the Special Committee and requested it to continue to follow constantly the various aspects of the policies of apartheid of the Government of the Republic of South Africa.
2. In accordance with this new mandate, the Special Committee has carefully reviewed the developments since its last report of 13 September 1963.<sup>1/</sup> It heard several petitioners<sup>2/</sup> and studied a large number of memoranda from individuals and from various organizations. It has also taken note of the recommendations of the Governing Body of the International Labour Office on questions concerning South Africa, as well as various initiatives and decisions taken against the Government of the Republic of South Africa by the World Health Organization, the Food and Agriculture Organization of the United Nations and the Economic Commission for Africa, and finally the resolution adopted by the Council of Foreign Ministers of the Organization of African Unity at its session held at Lagos in February 1964.
3. The Special Committee recalls that, since its last report, the General Assembly has adopted two resolutions - resolution 1881 (XVIII) of 11 October 1963 and resolution 1978 (XVIII) of 16 December 1963 - on the policies of apartheid of the Government of the Republic of South Africa. On 4 December 1963, the Security Council adopted a resolution on the same question.<sup>3/</sup>
4. In these resolutions, the General Assembly and the Security Council called on the South African Government urgently: (a) to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; and (b) to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of

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<sup>1/</sup> A/5497/Add.1, S/5426 and Add.1.

<sup>2/</sup> Miss Miriam Makeba at the 26th meeting, on 9 March,  
Miss Mary Benson at the 28th meeting, on 11 March,  
Mr. Oliver Tambo and Mr. Tennyson Makiwane at the 29th meeting, on  
12 March 1964.

<sup>3/</sup> S/5471.

apartheid. The General Assembly and the Security Council also called on all States to take effective measures and intensify their efforts to dissuade the South African Government from pursuing its policies of apartheid. The Special Committee attached great significance to the most encouraging fact that these resolutions were approved unanimously, or almost unanimously,<sup>4/</sup> and thus represented the will of all the Member States so effectively that they should not give rise to any hesitancy, on the part of the United Nations or Member States, with regard to their implementation.

5. By its resolution of 4 December 1963, the Security Council established a group of experts to examine methods of resolving the present situation in South Africa through peaceful means and invited the South African Government to avail itself of the assistance of this group. By this step, whole-heartedly supported by the traditional friends of South Africa, the United Nations offered one more opportunity to the South African Government to bring its policies into conformity with its obligations under the United Nations Charter.

6. The Government of the Republic of South Africa, however, has again defied the insistent demands of the competent organs of the United Nations, ignoring its obligations, particularly under Article 25 of the Charter. It rejected any form of co-operation, even with the group of experts established under the Security Council resolution of 4 December 1963.

7. Moreover, the South African Government has vigorously pursued its policies of racial discrimination. It has introduced serious new legislative measures, and taken various administrative actions, to undermine the elementary rights of the non-White people. It has announced new plans which would further undermine the rights of the people of the Mandated Territory of South West Africa, in renewed open defiance of the authority of the United Nations.<sup>2/</sup>

8. The South African Government, moreover, has intensified its ruthless repression of all political activity in favour of racial equality and the legitimate rights of the non-White people. Thousands of persons have been subjected to severe and brutal punishments and many respected leaders of the

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<sup>4/</sup> Only South Africa voted against General Assembly resolution 1881 (XVIII); only South Africa and Portugal voted against resolution 1978 (XVIII).

<sup>2/</sup> See annex II.



people have been charged under arbitrary laws which provide for the death sentence.<sup>6/</sup>

9. The Special Committee notes with the utmost concern that the actions of the Government of the Republic of South Africa have greatly aggravated the situation in that country and are likely to have disastrous consequences. These actions and the attitude of the South African Government represent an open challenge to the authority of the United Nations, to which the Organization and its Member States must respond forcefully, since otherwise the threat to peace and security in Africa and throughout the world will be gravely increased and the prestige of the United Nations seriously undermined.

10. The Special Committee is giving particular attention to the implementation of effective measures to prevent the military and police build-up in South Africa by an embargo on the shipment of all materials which can directly or indirectly be used for military and police purposes, as recommended in previous reports of the Special Committee and already urged on all States in the resolutions of the General Assembly and the Security Council.

11. The Special Committee is also giving particular attention to the embargo on petroleum and petroleum products which was suggested in the Special Committee's report of 13 September 1963 and urged on all States in General Assembly resolution 1899 (XVIII) of 13 November 1963 on the question of South West Africa.

12. It is also carefully examining the question of international economic sanctions, especially in the fields of investment, trade and transport, recommended in its report of 13 September, as well as in General Assembly resolution 1761 (XVII) of 6 November 1962 and the resolutions adopted at Addis Ababa, Dakar and Lagos by the various organs of the Organization of African Unity.

13. While continuing to review the situation in South Africa and constantly seeking an adequate solution, the Special Committee has reached the conclusion that it is indispensable to make an urgent report to the Security Council and the General Assembly in view of grave new developments in the Republic of South Africa, namely, that some political prisoners opposed to apartheid have just received death sentences, others are threatened with the same penalty, and all of them risk being hanged.

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<sup>6/</sup> See Annex I.

14. The Special Committee, being convinced that effective mandatory measures must be taken urgently to meet this grave situation and to prevent irrevocable consequences, recommends, as a first step, that the Security Council should demand that the South African Government should:

(a) Refrain from the execution of persons sentenced to death under arbitrary laws providing the death sentence for offences arising from opposition to the Government's racial policies;

(b) End immediately trials now proceeding under these arbitrary laws, and grant an amnesty to all political prisoners whose only crime is their opposition to the Government's racial policies;

(c) Desist immediately from taking further discriminatory measures;

(d) Refrain from all other actions likely to aggravate the present situation.

15. The Special Committee recommends that, unless the South African Government complies within a brief time-limit with the aforementioned minimum, but vital, demands, the Security Council, in conformity with the terms of Chapter VII of the Charter and on the basis of the recommendations of the General Assembly and the Special Committee, should take new mandatory steps to compel the South African Government to comply with the decisions of the Council.

16. The Special Committee considers it essential that the Security Council should set a time-limit for the South African Government to take necessary steps to prevent the situation from becoming disastrous. The Council would, in this way, be making clear its determination to secure compliance, by effective international measures, with that Government's obligations under the resolutions of the Council and the Charter of the United Nations.

17. The Special Committee further recommends that the Security Council should specially request all the main States which maintain close relations with the South African Government, and thus bear an important responsibility in this connexion, to do all in their power, separately and collectively, to oblige the South African Government immediately to comply with the minimum, but vital, demands contained in paragraph 14 above.

18. The Special Committee reaffirms that the willingness of the major trading partners of South Africa, and of other States which maintain close political and

economic relations with that country, to implement fully the measures recommended by the General Assembly and the Security Council is the most effective means to dissuade the South African Government from pursuing its policies of apartheid. It is essential that these Powers should urgently use all their influence to save the lives of persons facing death in South Africa for their opposition to apartheid, to secure an amnesty in conformity with the decisions of the General Assembly and the Security Council, and to induce the South African Government to fulfil its international obligations with a view to resolving peacefully the present grave situation in the Republic of South Africa.

19. Finally, the Special Committee wishes to emphasize again the extreme gravity of the situation in South Africa and the imperative need for effective action in order to prevent a catastrophe in that country. Such action offers the only hope of a peaceful solution to the situation, which is deteriorating daily. The Special Committee believes that mandatory measures are essential to prevent irrevocable consequences and to strengthen the efforts of the United Nations to achieve its objectives, which are to bring about the abandonment of the policies of apartheid and to ensure the full enjoyment of human rights and fundamental freedoms by all the inhabitants of South Africa.

20. The Special Committee feels that the Security Council, as a principal organ of the United Nations endowed with effective enforcement powers under the Charter, should assume its decisive responsibilities in connexion with the situation in South Africa. The Special Committee is convinced that positive and dynamic action by the Security Council is essential to prevent a violent conflict in South Africa, which might have serious international consequences and which the United Nations is in duty bound to prevent by every means available to it under the Charter.

21. The Special Committee is submitting, together with the present report, three annexes providing relevant information to assist the Security Council and the General Assembly in their study of the question:

- (a) Note on repressive measures against the opponents of the policies of apartheid in the Republic of South Africa;
- (b) Note on developments in South Africa since the Special Committee's report of 13 September 1963 to the General Assembly and the Security Council;
- (c) Resolution adopted by the Council of Foreign Ministers of the Organization of African Unity at its session held at Lagos in February 1964.

ANNEX I

NOTE ON REPRESSIVE MEASURES AGAINST THE OPPONENTS OF THE POLICIES  
OF APARTHEID IN THE REPUBLIC OF SOUTH AFRICA

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Appendix: Political trials and convictions in 1963.

## I. INTRODUCTION

The General Assembly and the Security Council have repeatedly recognized that the regime of ruthless repression against the opponents of the policy of apartheid in the Republic of South Africa has greatly increased tension in South Africa and, by denying all avenues for peaceful change, aggravated the danger of a violent conflict. They have called for an end to such repression as an essential step towards resolving the present situation in the Republic of South Africa and eliminating the danger to international peace and security.

In its resolution of 7 August 1963, the Security Council called on the South African Government "to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid". On 11 October 1963 the General Assembly, with only South Africa voting against, adopted resolution 1881 (XVIII). Noting reports that the South African Government was "arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence" and considering that "such a trial will inevitably lead to a further deterioration in the already explosive situation in South Africa, thereby further disturbing international peace and security," the Assembly called on the South African Government to abandon the trial and "forthwith to grant unconditional release to all political prisoners and to all persons imprisoned, interned, or subjected to other restrictions for having opposed the policy of apartheid". On 4 December 1963, the Security Council unanimously reaffirmed its previous resolution and again called on the South African Government "to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid".

Despite the unanimous demands of the principal organs of the United Nations, the South African Government has proceeded to employ ever more stringent repressive measures against an increasing number of persons and organizations.

The reports of the Special Committee in 1963 gave an account of the mass of repressive legislation in South Africa and its implementation.<sup>1/</sup> The present document covers the developments in the period of less than six months since the last report on 13 September 1963.

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<sup>1/</sup> A/5497 and Add.1, S/5426 and Add.1.

During this period, the Government has made extensive use of section 17 of the General Law Amendment Act of 1963 which authorizes it to detain any person without trial for periods of ninety days at a time. Charges of torture of political prisoners have become wide-spread. The Government has also launched a series of mass trials under the General Law Amendment Act of 1962, especially its provisions on "sabotage" which provide for death sentences. These detentions and trials, added to the continued and intensive use of earlier repressive legislation, have caused serious alarm in South Africa and abroad.

The extent of repressive measures by the South African Government is indicated by some figures given by the Minister of Justice, Mr. B.J. Vorster, in reply to questions in the House of Assembly on 21 and 24 January 1964. He stated that 3,355 persons had been detained under security legislation in 1963. Of these, 592 persons had been detained without trial under Proclamation 400 of 1960 which is in force in the Transkei; 594 persons, including two pregnant African women had been detained under the ninety-day detention without trial clause of the General Law Amendment Act of 1963.<sup>2/</sup> Of the 2,169 others, 1,213 adults and 64 juveniles had been detained under the Suppression of Communism Act of 1950; nine adults under the Riotous Assemblies Act of 1956; 500 adults and forty-three juveniles under the Unlawful Organizations Act of 1960; and 285 and fifty-five juveniles under Section 21 of the General Law Amendment Act of 1962. Of the above 2,169 persons, 722 had been released, 1,447 brought to trial and 922 convicted; 421 had been found not guilty and 104 were awaiting trial. The average period during which these persons had been detained before being brought to trial was forty-eight hours, but the longest period was seven months. The Minister added that as of 24 January 1964, one person was detained under Proclamation 400,<sup>3/</sup> that forty-six persons detained under the ninety-day clause had given evidence for the State after being promised an indemnity from prosecution and that thirty-six of these had received indemnity after giving evidence.<sup>4/</sup> Nineteen persons had been placed under "house arrest" since 15 February 1963. On 24 January 1964, twelve persons were under twenty-four hour house arrest and twenty-one under twelve-hour or night

<sup>2/</sup> House of Assembly Debates, 21 January 1964, col. 14.

<sup>3/</sup> Ibid., 24 January 1964, cols. 263-64.

<sup>4/</sup> Ibid., col. 235.

house arrest.<sup>5/</sup> He also said that two African women were pregnant when they were detained under the ninety-day clause. The first was arrested on 25 June 1963 and charged on 11 November 1963; the other was arrested on 2 August 1963 and charged on 5 September 1963.<sup>6/</sup>

On 4 February 1964 the Minister of the Interior, Senator J. De Klerk, stated in the Senate that 354 cases involving 1,727 persons had been brought to trial in 1963 on charges of sabotage and offences under the Suppression of Communism Act. Of these 1,727 persons, 1,316 had been convicted and 411 acquitted. He added that fifty-six cases involving an unspecified number of persons were awaiting trial. Of the accused, 530 had been remanded in custody for periods in excess of three months before having been brought to trial, and in 129 cases charges had been withdrawn after the accused had been detained for periods exceeding three months.<sup>7/</sup>

Sentences in all the security trials have been extremely severe. According to the information compiled by the monthly Forward (see annex), covering eighty political trials involving 1,105 persons concluded in 1963, forty persons had been sentenced to death; six to life imprisonment; and 743 to a total of 4,724 years' imprisonment or an average of over six years and four months. Three hundred and fifteen had been acquitted or had the charges withdrawn, while sentence was not passed on one accused.

The severity of sentences is particularly striking as a majority of the accused were charged merely with belonging to or furthering the objectives of banned organizations, such as the African National Congress or the Pan-Africanist Congress.

A number of executions have been carried out since the adoption of General Assembly resolution 1881 (XVIII). One person was executed on 14 October 1963 and three others on 1 November for alleged offences during the Paarl riot of 20 November 1962; four were executed on 8 November for planning to murder Chief Kaiser Matanzima; four others were executed on 11 February 1964 on charges of sabotage and murder at Queenstown.<sup>8/</sup>

<sup>5/</sup> Ibid., cols. 264-65.

<sup>6/</sup> Ibid., col. 268.

<sup>7/</sup> Senate Debates, 4 February 1964, cols. 418-19.

<sup>8/</sup> It may be noted, in this connexion, that the laws enacted since 1962 have extended the crimes for which death sentences may be imposed.

A serious source of concern is the evidence of secret trials, despite official assertions that trials were open to the public. In September 1963, when seven Africans were sentenced to twenty years' imprisonment each for allegedly receiving military training in Ethiopia, the press reported that "until sentence was passed, the nature of the charges and the evidence were heard behind locked doors". The accused had not been represented by counsel even though the charges carried the death penalty.<sup>9/</sup>

Many of the trials are apparently not reported in the press.<sup>10/</sup> In others, testimony is often taken in camera.

The large number of acquittals, when the accused were able to obtain counsel or allowed to appeal, seem to indicate that many persons had been convicted due to their inability to procure legal assistance.<sup>11/</sup> Frequently, however, persons acquitted by the courts have been re-arrested under legislation providing for detention without trial.

The repressive measures are directed mainly at the leaders and members of the African National Congress and the Pan-Africanist Congress, as well as other organizations opposed to apartheid such as the South Indian Congress, Congress of Democrats, South African Congress of Trade Unions, and the Liberal Party.

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<sup>9/</sup> Cape Argus, 1 October 1963.

<sup>10/</sup> Mr. O.A.S. Maree, a prosecutor in the Johannesburg Regional Court, stated on 30 September 1963 that there had been only two prosecutors to handle 360 political trials in the previous six months. The press had reported only a small fraction of that number (Contact, Cape Town, 24 January 1964).

<sup>11/</sup> Concern has been expressed in South Africa over the announcement that a bill would be introduced at the current session of Parliament to prohibit listed Communists from practising at the Bar. Particularly in view of the wide definition of Communism, this law may make it difficult for many of the accused to obtain counsel.

Mr. John Arnold, Q.C., who visited South Africa on behalf of the International Commission of Jurists, stated at a press conference on 16 December 1963 that three of about twenty African attorneys in the country, all active in defending accused persons in security cases, had been prevented from practice by imprisonment and bans.



The jailings and other repressive measures indicated above have caused enormous human suffering. Innocent men are jailed for long periods and when released find it hard to find employment. Charges of ill-treatment and torture of prisoners have frequently been made in the courts and published in the press. Bans and house arrests have deprived many families of their livelihood or otherwise caused serious distress.<sup>12/</sup>

Persecution of opponents of apartheid does not seem to have stopped resistance. Incidents of sabotage and other forms of protest continue to be reported. Contact (13 November 1963) stated, for instance, that a rash of posters appeared in Johannesburg protesting against the recent trials, despite severe legal penalties for persons affixing such posters.

Many observers have stated that the intensification of repression has, in fact, increased the danger of a violent conflict. Illustrative is the statement in January 1964 by Dr. Jooste de Blank, until recently Anglican Archbishop of Cape Town, that there may be a "blow-up" in South Africa unless the Government changed its policy. He stated: "Repressive legislation leads to more violence and more repressive legislation until such time as it reaches a pitch when it will have to blow."<sup>13/</sup>

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<sup>12/</sup> The South African press recently printed the story of Mr. Hubert Makuto of Wattville Location, Johannesburg, who could not visit his six-month old son who died in a hospital two miles away, as his movements had been restricted (Sunday Times, Johannesburg, 19 January 1964).

<sup>13/</sup> Spotlight on South Africa, Dar-es-Salaam, 25 January 1964.

## II. TRIALS AND CONVICTIONS OF OPPONENTS OF APARTHEID

A large number of persons have been tried and convicted under security laws since the adoption of the last report of the Special Committee on 13 September 1963 and the General Assembly resolution 1881 (XVIII) on 11 October 1963. The accused involve many of the prominent leaders of the non-White organizations and other opponents of apartheid. These trials and convictions are briefly reviewed below.

### (1) The "Rivonia Trial" in Pretoria

It may be recalled that General Assembly resolution 1881 (XVIII), referred to above, followed the charging of eleven prominent leaders of the people and other opponents of apartheid on 9 October 1963 with sabotage and other offences. Most of the accused had been arrested on 11 July 1963 in a raid on the Goldreich farm in Rivonia and kept under solitary confinement. The indictment alleged that Nelson Mandela, Walter Sisulu, Denis Goldberg, Govan Mbeki, Armed Kathrada, Lionel Bernstein, Raymond Mhlaba, James Kantor, Elias Matscoledi, Andrew Mlangeni and Bob Alexander Hepple had committed 222 acts of sabotage throughout the country against railway, post office and radio installations and the offices of the Bantu Affairs Commissioner between 10 August 1961 and 5 August 1963 in preparation for guerilla warfare. Two organizations, one variously referred to as the National High Command, the National Executive Committee of the National Liberation Movement and Umkonto We Sizwe, and the legal firm of James Kantor and partners, were also charged. The first seven accused were named as the National High Command and joined as members of an association under the Criminal Procedure Act, in addition to being charged in their personal capacities. James Kantor was listed in his personal capacity and as a partner in an association with Harold Wolpe, absent, allegedly a member of the National High Command.<sup>14/</sup>

The defendants were accused of acting in concert, conspiring and making common purpose with Vivian Ezra, Arthur Goldreich, Michael Karmel, Percy Hodgson, Joe Slovo, Harold Strachan, Harold Wolpe, Moses Kotane, Oliver Tambo,

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<sup>14/</sup> Mr. Harold Wolpe, an attorney was arrested and placed under ninety-day detention on 17 June 1963. He escaped from police headquarters, Johannesburg, on 11 August 1963 and subsequently from South Africa. On 23 September 1963 he was granted temporary permission to remain in the United Kingdom.

Tennyson Makiwana, John Joseph Marks, Johannes Modise, Dume Nokwe, James Radabe, Robert Resha, the Communist Party of South Africa and the African National Congress in committing acts of sabotage as defined by the General Law Amendment Act of 1962.

The second count alleged conspiracy to perform and the performance of acts which were calculated to further the achievement of one or more or all the objects of communism as defined in the Suppression of Communism Act.

The third count, under the Criminal Law Amendment Act, alleged that the accused had conspired to organize a campaign against some of the laws of the Republic, or seek their repeal or modification, or the limitation of their application.

On 30 October 1963 Justice Quartus de Wet upheld defence objections, quashed the indictment as "fatally defective" and reprimanded the prosecutor for lack of specific allegations against the accused. He said it was most improper, when the accused asked for particulars of the charges, to tell them that this was a matter they knew all about.

Ten of the accused were immediately re-arrested,<sup>15/</sup> (prior to the quashing of the indictment, charges were withdrawn against Mr. B.E. Hepple who, it was announced, would serve as a State witness).<sup>16/</sup>

A new indictment was served on 12 November 1963 on the ten prisoners charging two counts of sabotage and two other counts. The indictment alleged that the accused, in their individual capacities and as members of the organizations listed in the previous indictment, all conspired with the Communist Party of South Africa, the African National Congress and Umkonto We Sizwe to commit 193 acts of sabotage. It listed twenty-six other members of the alleged conspiracy, one dead and twenty-five in exile.

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<sup>15/</sup> The prisoners were denied bail, except for Mr. James Kantor who was granted bail of R10,000 on 20 December 1963 after two previous applications. Bail for Mr. Kantor was cancelled on 17 February 1964.

<sup>16/</sup> Mr. Hepple subsequently fled South Africa and stated in Dar-es-Salaam that he had escaped "because I am not prepared to testify for the State in a political prosecution of this kind". (The Star, weekly, Johannesburg, 30 November 1963).

The first count of sabotage alleged that the accused, between 27 June 1962 and 11 July 1963, recruited people for instruction and training, both within and outside South Africa, in the manufacture and use of explosives for the purpose of committing acts of violence and destruction; and instructed 200-300 persons in the act of warfare, including guerilla warfare, for the purpose of causing a violent revolution in South Africa. These acts, the indictment alleged, enabled the accused to injure, damage, destroy or render useless the health or safety of the public, the maintenance of law and order, the supply and distribution of light, power or fuel, postal, telephone or telegraph services or installations, the free movement of traffic, and the property of other persons or the State.

The second count of sabotage alleged similar acts and stated that the accused procured persons to assist military units of foreign countries when invading South Africa and to commit acts of participation in a violent revolution.

The third count alleged that such acts were calculated to further the achievement of one or more of the objects of Communism. The fourth count alleged that the accused solicited, accepted, received and paid out money to various persons to enable or assist them to commit sabotage.<sup>17/</sup>

When the trial began on 25 November, defence lawyers asked that the indictment be quashed because of a "want of particularity" which, they stated, made it "no better than the previous ones". Justice de Vet dismissed the motion and denied the request of defence counsel for a two months' postponement to allow preparation of the defence. He allowed only six days.<sup>18/</sup>

When the trial reopened on 3 December 1963, the prosecutor stated that the State would present evidence that the accused had plotted to commit sabotage, violence and destruction as a prelude to guerilla warfare, armed invasion of South Africa and the violent overthrow of the Government in a war of liberation planned for 1963. The plot was the work of the African National Congress which, by the latter half of 1961, had decided on a policy of violence, and for that purpose formed a military wing, Umkonto We Sizwe. The headquarters of the organization were at Lilliesleaf Farm, Rivonia, the home of Mr. Arthur Goldreich. The leaders, the prosecutor alleged, adopted the "M-plan" (mandela plan) in which a central authority at Rivonia controlled regional and sub-regional committees throughout South Africa.

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17/ The Star, weekly, Johannesburg, 16 November 1963; The Star, daily, Johannesburg, 26 November 1963.

18/ The Star, daily, Johannesburg, 25-27 November 1963.

He said the National High Command intended to produce or obtain within six months 210,000 hand grenades, 48,000 anti-personnel mines, 1,500 time devices, 144 tons of ammonium nitrate, 21.6 tons of aluminium powder and 15 tons of black powder. Also to be manufactured were petrol bombs, pipe bombs, syringe bombs, thermite bombs and bottle bombs, known as Molotov cocktails.

The prosecutor alleged that for the manufacture of explosives, arms and weapons, Mr. Denis Goldberg had bought a 7 1/2 acre property at Krugersdorp in June 1963. He added that Percy Hodgson and Harold Strachan (in exile) toured the country to teach and train men to be placed in charge of local "technical committees" to manufacture and use the explosives.

The next step, he said, was to recruit young men for training in sabotage and guerilla warfare, especially outside South Africa. The prosecutor said that Mr. Elias Matscoledi and Mr. Andrew Mlangeni had played a prominent part in the recruiting campaign.<sup>19/</sup>

He alleged that the firm of James Kantor and partners had acted as a "conduit pipe" for the receipt and disbursement of funds to further the campaign by which the accused planned to overthrow the Government.<sup>20/</sup>

The prosecutor said that sabotage began in August 1961. "The whole purpose of this, the first stage of their campaign, was to produce chaos, disorder and turmoil, and so pave the way for the second stage." The second stage was the plotting and waging of guerilla warfare "for which purpose the accused once again fully and thoroughly prepared themselves by studying in great detail the tactics of guerilla warfare as waged in Algeria, China, Cuba and other countries". Thousands of guerilla units were to be deployed throughout the country to "accentuate a state of chaos, disorder and turmoil and so facilitate acts of assistance to military units of foreign countries when invading South Africa. They were promised military and financial aid from several African States and even by countries across the seas". The final stage of the second phase would come when the Government had been brought to its knees and the accused could set up a provisional revolutionary Government to take over the country.

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<sup>19/</sup> The Star, daily, Johannesburg, 3 December 1963.

<sup>20/</sup> Cape Times, 7 December 1963.

The prosecutor stated that selected documents and the oral testimony of 200 witnesses would be presented, all of which would reveal that "the present year - 1963 - was to be the year of their liberation from the so-called yoke of the White man's domination".

The charges were put to each of the accused. Mr. Mandela said: "The Government should be in the dock. I plead not guilty". Mr. Sisula said: "The Government is responsible for what has happened in this country. I plead not guilty". The Judge intervened and declared: "I do not want any political speeches". The other accused, however, made similar short statements.

Some of the developments in the trial, indicating the extraordinary methods employed by the Government, are briefly noted below.

The second witness, Miss Edith Kogane, housemaid to Mr. Goldreich, stated under cross-examination that she had been detained since 11 July 1963 and told by police interrogators on 8 October that she would soon be released if police were satisfied with her answers.<sup>21/</sup>

The prosecutor stated that the next witness, Mr. Thomas Mashifane, a former employee on the farm, and several other witnesses were being detained in ninety-day detention as protective custody. He added: "I am sure if we release Thomas (Mashifane) he won't be here Monday".

Mr. Mashifane alleged that he had been assaulted and beaten by the police during the interrogation. He said he was still suffering the effect in his right ear and a top front tooth was loose. On 5 December the Judge ordered the prosecutor to investigate the allegation. Later in the day, however, the prosecutor reported that Mr. Mashifane had requested that the allegation be dropped. Mr. Mashifane told the Judge that his treatment did not alter his evidence, thought "when a person is being 'killed', then he can't speak as he would have wanted to speak if he had not been suffering pain". The matter was dropped.<sup>22/</sup>

A principal witness of the prosecution, Mr. X, gave five days of testimony from 10 December 1963 against most of the accused. Evidence was given in camera

<sup>21/</sup> The Star, daily, Johannesburg, 3 December 1963.

<sup>22/</sup> The Star, daily, Johannesburg, 5 December 1963; New Republic, Washington, 28 December 1963.

and the witness was unidentified as the prosecutor claimed that he was in mortal danger. Mr. X had been warned that he could be regarded as an accomplice to the National High Command but if he gave evidence properly he would be free from prosecution.

Mr. X said that he had joined the African National Congress in 1957, the South African Congress of Trade Unions in 1960 and the Communist Party in 1961. He claimed that he had blown up a power pylon, an electric light standard and a municipal office, and had stolen dynamite.<sup>23/</sup> As a saboteur he acted on instructions of the Durban Regional Command which was in turn instructed by the National High Command at Rivonia.

Mr. X testified that a campaign of violence throughout the country was planned to begin on 16 December 1961 to signal a change in the policy of the African National Congress from non-violence to violence. The targets in the Durban area were the municipal Bantu registration offices, the Bantu Commissioner's Office and the Coloured Affairs Office. The bombs used had been wrapped in Christmas wrapping to prevent police detection.<sup>24/</sup>

Mr. X claimed that he had supplied the bomb which blew up the Bantu Administration offices and had himself successfully bombed power pylons and an electric light standard. He added that he had carried out and sponsored numerous acts of sabotage at the instance of the High Command.<sup>25/</sup>

He said he became disillusioned with Umkonto on 13 August 1963, when he had been arrested and detained without trial under the ninety-day clause of the General Law Amendment Act of 1963 and had decided to tell everything to the police immediately. He ended his evidence denying that he had been threatened or tortured by police.<sup>26/</sup>

<sup>23/</sup> The Star, weekly, Johannesburg, 14 December 1963.

<sup>24/</sup> Cape Times, 11-12 December 1963.

<sup>25/</sup> Cape Times, 13-14 December 1963.

<sup>26/</sup> The Star, weekly, Johannesburg, 21 December 1963, Under cross-examination on 15 January 1964, Mr. X said that he had joined the African National Congress because it had been "struggling for something that was right and for the aspirations of the Black people", and that its objects could be attained only through violence. However, he had come to realize while undergoing detention that the decision to adopt a policy of violence had been wrong, and that the leaders were Communists. Asked by defence counsel why his evidence differed from his evidence-in-chief, he said that his mind had become tired since serving ninety-day detention. (Cape Times, 16 January 1964; Reuters, 15 January 1964.

An unidentified Coloured witness, Mr. Y, who had been under detention without trial from May to September 1963, said he liked being detained. He testified that he had been a lecturer at a camp for training young non-White guerillas at Mamre, Cape Province, and that Mr. Denis Goldberg, an accused, and Mr. Lookmart Solwandle Ngudle, who had been found dead by hanging while under detention without trial, had been the Commandant and Sergeant respectively.<sup>27/</sup>

On cross-examination, Mr. Y said he had decided, towards the end of his ninety-day detention, to tell the truth because he preferred a long prison term to indefinite detention without trial. He was still in custody but had been told that he would be released after he had given evidence.

Another witness was Mr. English Mashiloane, a cousin of Mr. Elias Matsoaledi, an accused, who testified that his house had been used as an assembly point for recruits on their way to training bases. He said he had already been locked up for six months and had no idea when he would be released. He thought that he too was an accused person and was on trial as well. The prosecutor announced that he was being held in protective custody and was not regarded as an accomplice. After discussion with the prosecutor, the Judge informed the witness that if he gave satisfactory evidence he would be released. Mr. Mashiloane was asked: "At first you denied you knew anything about soldiers and dynamite and that sort of thing. What made you change your mind?" "Jail", he replied.<sup>28/</sup>

Another witness, Mr. Essop Ahmed Suliman, a taxi operator, testified that he had taken African recruits to the Bechuanaland border for military training abroad. He admitted that he had been detained for sixty-five days before police had taken a preliminary statement from him, then had been kept in custody a further fifty-five days before police agreed to take the final portion of his statement which took only a few minutes to give. He stated that he had not been threatened with assault by police on his arrest on 10 June 1963, but that when he did not tell the truth to the policeman who arrested him, the latter had said: "Do you know that with one punch I can knock you down?"

On 14 January 1964, Mr. Cuswell Nkoxolo, a twenty-one-year-old African, testified that he had been invited to a "Christmas picnic" in 1962 but had found himself at a guerilla training camp at Mamre, where there were about thirty men under the direction of Mr. Denis Goldberg and Mr. Lookmart Ngudle. Asked about

<sup>27/</sup> Cape Times, 13 December 1963.

<sup>28/</sup> The Star, weekly, Johannesburg, 21 December 1963.



the lectures, Mr. Nboxele said: "I wasn't listening. I had come for a picnic."<sup>29/</sup>

Mr. Harry Bambane, who was serving a two-year sentence for leaving South Africa without a passport, testified that he had been recruited in early 1963 by a friend to go to school in Tanganyika, and had travelled to Livingstone, Northern Rhodesia, with some other persons under false names. The group, then thirty-seven persons, had been told on the way that they were to receive military training in Tanganyika. They had been arrested in Livingstone and handed over to the South African police.<sup>30/</sup>

A third unidentified witness, Mr. Z, testified on 22 January 1964 that he had lost thirty pounds while under detention, but had received excellent food at all times. He stated that he had been aware that if he did not make a statement to the police, he could be held for successive periods of ninety days for the rest of his life.<sup>31/</sup>

When asked why he was giving evidence against the organization he had served since 1951, Mr. Z said that senior officials of the A.N.C. had been arrested before him and had apparently made statements to the police. As identifying other persons these officials had thus indicated that others should "talk" also, he felt he could not be described as a traitor.<sup>32/</sup>

On 4 March 1964 Justice Quartus De Wet acquitted Mr. James Kantor on the ground that there was no case against him. The case against the remaining nine defendants was adjourned to 7 April 1964.<sup>33/</sup>

(2) Trial of Dr. Alexander and others in Cape Town

Ten Coloureds and one African were charged in the Cape division of the Supreme Court on 1 November 1963 with a plot to overthrow the Government by violent revolution, guerrilla warfare and sabotage. The accused are: Dr. Neville Alexander, Miss Dorothy Alexander, Mr. Fikile Bam, Mr. Lionel Davis, Miss Dulcie September,

<sup>29/</sup> Cape Times, 14-15 January 1964; Reuters, 14 January 1964.

<sup>30/</sup> The Star, weekly, Johannesburg, 18 January 1964.

<sup>31/</sup> Cape Times, 23 January 1964.

<sup>32/</sup> Cape Times, 30 January 1964.

<sup>33/</sup> New York Times, 5 March 1964.

Miss Doris van der Heyden, Mr. Leslie van der Heyden, Miss Elizabeth van der Heyden, Rev. Don Davis, Mr. Marcus Solomons and Mr. Gordon Hendricks. The principal charge alleged that the accused committed sabotage by means of a conspiracy to commit certain wrongful acts between 1 April 1962 and 12 July 1963. The second charge alleged that they committed sabotage by inciting, instigating, commanding, advising or encouraging other persons to commit wrongful and wilful acts. Two further charges alleged that they contravened the Suppression of Communism Act by supporting or advocating support of a doctrine which aimed at bringing about a political, social or economic change in South Africa by promoting disturbance or disorder, and with being members of the Yu Chi Chan Club known as the National Liberation Front.<sup>34/</sup>

Trial began on 4 November 1963. On 8 November, the judge dismissed the defence application that the indictment to be quashed as "vague, embarrassing and calculated to prejudice."<sup>35/</sup> The accused were refused bail.

The first witness, Police Lt. S.I. Sauerma, stated on 8 November 1963 that he had arrested Dr. Alexander on 12 July 1963 on finding certain documents in his possession. Between 8 and 16 November, the prosecution read "more than fifty documents" to the court as evidence of sabotage, including: Mao Tse-tung, Strategic Problems of the Anti-Japanese Guerrilla War; V.I. Lenin, The Paris Commune; and issues of Liberation, alleged organ of the National Liberation Front.<sup>36/</sup>

On 18 November, Mr. Harold van Rooyen testified that Don Davis, an accused, "gave me a book on guerrilla warfare ... He said I must read it so I would know what to do when the time came to stand up for our rights." Under cross-examination, Mr. van Rooyen said that all Coloured people spoke about standing up for their rights.

Mr. Andrew Pitt testified that Mr. Davis gave him a book on guerrilla warfare: "He said I must read it so I would know what to do when the time came to stand up for our rights. I read only the heading and then burnt it." Counsel for the defence asked: "You spoke to Davis about laws of the land and discussed dissatisfaction among the Coloured people against certain laws?" The witness

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<sup>34/</sup> Reuters, 5 November 1963.

<sup>35/</sup> Reuters, 8 November 1963.

<sup>36/</sup> Capetown Times, 9-16 November 1963.

stated: "Yes, such as apartheid, job reservation, ninety-day detention clause, immorality laws and lots of others. Davis said we must be ready for the day when we would stand up for our rights." Defence asked: "Many Coloured people say these things?" The witness said: "Everybody says it."<sup>37/</sup>

On 19 November 1963, two witnesses described alleged preparations for an attack on South African Whites in January 1964 by a "Coloured army". One witness was a Coloured policeman, Constable Jacobus Kotzee, disguised as an insurance agent, the other a paid police informer, Mr. Cecil Dempster.<sup>38/</sup> On 21 November, the judge reprimanded Mr. Dempster after he admitted he had not told the truth in evidence because the police had instructed him to "keep secret" certain facts.<sup>39/</sup>

On 24 November, Mr. Reginald Francke, a State witness and an alleged accomplice, refused to give evidence despite the assurance of the judge that if he answered questions to the satisfaction of the court he would be granted an indemnity.<sup>40/</sup>

Mr. Francke testified, however, from 26 November and subsequent days. He described an N.L.F. cell which held weekly meetings at Dr. Alexander's home and included four of the accused. He stated that the N.L.F. was a military organization which planned to take over South Africa using guerrilla warfare and violent methods. He admitted that police had promised to release him from ninety-day detention as soon as he had made a satisfactory statement.

Mr. Brian Landers, a student at the Western Cape University College, testified that when he approached Dr. Alexander for a bursary to study overseas, he was introduced to the N.L.F. Dr. Alexander had stated it was "a new group to fight to liberate the oppressed peoples - the non-Whites ... The name of the organization was the N.L.F. whose letters were taken from the Algerian F.L.N."<sup>41/</sup>

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<sup>37/</sup> Cape Times, 19 November 1963.

<sup>38/</sup> Cape Times, 20 November 1963.

<sup>39/</sup> Cape Times, 22 November 1963.

<sup>40/</sup> Cape Times, 25 November 1963.

<sup>41/</sup> Cape Times, 27-29 November 1963.

Three State witnesses refused to give evidence on 2 December 1963. These included Mr. Cyril Jacobs, who refused despite the judge's warning that he was regarded as an accomplice but would be "absolutely free" if he gave evidence. On 3 December, Miss Dorothy Adams, broke into tears and refused to give evidence against the accused.<sup>42/</sup>

On 10 December, Mr. Marcus Solomons, an accused primary school teacher, stated that he had been hit in the face five times, kneed in the stomach about seven times and then painfully sat on by the Detective-Sergeant, while under ninety-day detention.<sup>43/</sup>

The trial adjourned on 12 December 1963 and resumed on 3 February 1964 when the prosecution presented technical evidence on the use of a certain typewriter to type documents. The rest of the month of February was set aside for the presentation of the defence case.<sup>44/</sup>

On 5 February 1964 the defence said the "basis of a fair trial" might have collapsed:

"While the accused were being held at Robben Island ... it was impossible to take instructions by word of mouth and I asked the accused to prepare statements. These statements were read by an agent of the State - the prison warden - and signed by him as being read. The law says that the agent of the State must be within sight but not sound of a legal adviser taking instructions from his client. Our submission is that these statements should have been treated as a word of mouth statement ... If this is so then a basis of a fair trial collapses ... This is a grave irregularity calculated to cause serious prejudice to the accused ... Furthermore ... it is an irregularity that cannot be remedied."

On 6 February the defence informed the judge it would apply for a special entry into the trial record concerning the alleged breach of privilege. The judge said he saw no need for it to be recorded.<sup>45/</sup>

The defence closed its case on 24 February 1964.<sup>46/</sup>

<sup>42/</sup> Cape Times, 3-4 December 1963; on 17 December, three witnesses who refused to give evidence were charged with sabotage. (Cape Times, 18 December 1963).

<sup>43/</sup> Cape Times, 11 December 1963; Spotlight on South Africa, Dar-es-Salaam, 10 January 1964.

<sup>44/</sup> Cape Times, 4 February 1964.

<sup>45/</sup> Cape Times, 6-7 February 1964.

<sup>46/</sup> Cape Times, 25 February 1964.

### (3) Pietermaritzburg Trial

In Pietermaritzburg nineteen defendants were accused on 12 November 1963 of twenty-seven acts of sabotage, including the blowing up of rail lines, several houses of persons accused of collaborating with the Government, telephone poles, signal boxes and the printing works of the Natalier an Afrikaans newspaper in Durban.<sup>47/</sup> The nineteen defendants, including ten Africans and nine Indians, had been detained in June, July and August. Soon after being charged, they went on a five-day hunger strike to protest a Government ban which prohibited one of their attorneys, Mr. Roley Arenstein of Durban, from attending the trial.<sup>48/</sup>

An alleged accomplice of the accused gave evidence for the State and described the organization of Umkonto We Sizwe in the Durban area and some of its sabotage activities. Under cross-examination, he stated that he felt no moral guilt for the part he had played and could not disagree with Umkonto. He had been arrested on 3 August 1963. His wife had been detained earlier in an attempt to get hold of him. He had denied knowledge of Umkonto after his arrest but later changed his mind when he thought of his parents and children.<sup>49/</sup>

On 28 February 1964, Mr. Billy Nair and Mr. Cernick Ndhlovu were each sentenced to twenty years' imprisonment. Mr. N. Barbenia was sentenced to sixteen years' imprisonment; Mr. Ebrahim Ismail to fifteen years; and Mr. Kisten Moonsammy and Mr. George Naicker to fourteen years each. One of the accused was sentenced to twelve years' imprisonment, five to ten years each, five to eight years each, and one to five years. Leave to appeal was granted to eight of the eighteen persons convicted.<sup>50/</sup>

### Other Trials

A list of trials concluded in 1963 of persons for belonging to organizations opposed to apartheid or for actions arising from such opposition is annexed. The

<sup>47/</sup> The accused are Ebrahim Ismail, Girja Singh, N. Barbenia, Billy Nair, K. Doornammy, Kisten Moonsammy, George Naicker, R. Kistensammy, Siva Pillay, Cernick Ndhlovu, Riot Mkwanazi, Alfred Duma, M. Kapumalo, Bennet Mkozi, Z. Mkhulose, Mathews Meyiwa, Joshua Zulu, M.D. Mkize and David Ndawonde. (Spotlight on South Africa, Dur-es-Salaam, 10 January 1964).

<sup>48/</sup> Reuters, 12 November 1963.

<sup>49/</sup> Reissues of the Natal Mercury, condensed in Spotlight on South Africa, Dur-es-Salaam, 3 January 1964.

<sup>50/</sup> The Star, daily, Johannesburg, 28 February 1964.

more recent among the numerous trials, since 9 September 1963, are briefly indicated below.

They show that political trials and convictions have increased since the Special Committee reported to the eighteenth session of the General Assembly on the deterioration of the situation.

On 9 September 1963 in Port Elizabeth, fourteen Africans were found guilty of being office-bearers or members of the banned African National Congress and sentenced to eighteen to twenty-four months' imprisonment each.<sup>21/</sup>

On 10 September 1963 in Cape Town, two Africans were sentenced to three years' imprisonment for promoting the aims of the banned Pan-Africanist Congress.<sup>22/</sup>

On 13 September 1963 in Cape Town, two African women were found guilty of membership in the Pan-Africanist Congress and sentenced to eighteen months' imprisonment. Four African men were also found guilty of the same offence and sentenced to three years' imprisonment.<sup>23/</sup>

On 16 September 1963 in Umtata, forty-eight Africans were sentenced to a total of 116 years' imprisonment after being found guilty on a number of charges, including membership in the Pan-Africanist Congress. Forty of the accused were sentenced to two years' imprisonment, two to three years', and six to five years on charges of continuing to be members of the P.A.C. after it had been banned, soliciting subscriptions and furthering the activities of the P.A.C.<sup>24/</sup>

On 17 September 1963 in Bellville, twenty-three Africans were sentenced to three years' imprisonment on charges of sabotage. They were found guilty of belonging to the Pan-Africanist Congress or "Poqo".<sup>25/</sup>

On 1 October 1963 seven Africans were each sentenced to twenty years' imprisonment after a secret trial by the Transvaal Supreme Court. They were found guilty of undergoing military training in Ethiopia on behalf of the African National Congress.<sup>26/</sup>

<sup>21/</sup> Cape Times, 10 September 1963.

<sup>22/</sup> The Star, daily, Johannesburg, 10 September 1963.

<sup>23/</sup> Cape Times, 14 September 1963.

<sup>24/</sup> Cape Times, 17 September 1963.

<sup>25/</sup> Cape Times, 18 September 1963.

<sup>26/</sup> Reuters, 1 October 1963.

On 1 October 1963 in Johannesburg, four Africans, allegedly members of the Pan-Africanist Congress, were sentenced to death. Mr. Richard Matsapahae, Josia Moomi, Thomas Molathlegi and Petrus Mtshole were found guilty of murder in the death of Mr. Johannes Mokoena, an African Special Branch detective, on 18 March 1963.<sup>57/</sup>

On 7 October 1963 in Pretoria, seventy-four Africans were charged with unspecified acts of sabotage. The judge prohibited publication of the names of the accused, many of whom were reported to be juveniles.<sup>58/</sup>

On 9 October 1963 in Grahamstown, Mr. Hector Ntshanyana was sentenced to twenty-five years' imprisonment on charges of sabotage in connexion with an attack on the King Williams' Town police station on 8 April 1963. Two others were each sentenced to twenty years' imprisonment, four to twelve years, and three to eight years.<sup>59/</sup>

On 15 October 1963 in Johannesburg, The Rev. Arthur Blaxall, a seventy-two year-old retired Anglican minister, was found guilty on two counts of aiding banned organizations and two of possessing banned publications. He had pleaded guilty to charges of taking part in the activities of the Pan-Africanist Congress and the African National Congress, administering funds for the Pan-Africanist Congress and arranging secret meetings between Mr. Potlako Leballo and other persons. The Minister of Justice suspended his sentence.<sup>60/</sup>

On 15 October 1963 in Johannesburg, Mr. Leon Michael Kreeel and his wife, Maureen Kreeel, were charged with harbouring Arthur Goldreich and Harold Wolpe following their escape from Johannesburg police headquarters on 11 August 1963, and with contravening the Suppression of Communism Act.<sup>61/</sup>

On 22 October 1963 in Johannesburg, Dr. Hilliard Festenstein, a research pathologist, was charged with furthering the aims of communism and possessing banned publications.<sup>62/</sup> On 28 January 1964, he was sentenced to fifteen months'

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<sup>57/</sup> Cape Times, 2 October 1963.

<sup>58/</sup> The Star, weekly, Johannesburg, 12 October 1963.

<sup>59/</sup> Cape Times, 10 October 1963.

<sup>60/</sup> Reuters, 15 October 1963; The Star, weekly, Johannesburg, 12 and 19 October 1963.

<sup>61/</sup> Cape Times, 16 October 1963.

<sup>62/</sup> Reuters, 22 October 1963.

imprisonment and fined R300, for allegedly taking part in a banned organization, the South African Communist Party, and possessing banned literature. He was granted bail of R3,000, pending appeal.<sup>63/</sup> (Dr. Festenstein was among the seventeen persons arrested on 11 July 1963 at Rivonia.)

On 15 October 1963 in Cape Town, Advocate Ntuli was sentenced to two years' imprisonment on charges of membership in "Poqo" and of recruiting other members. The judge stated the action of the accused "amounts to high treason".<sup>64/</sup>

On 25 October 1963 in Wynberg, Mr. Basil Februarie, 20, and Mr. Neville Andrews, 18, both Coloured, were found guilty of malicious damage to property by painting anti-Government slogans on roads and factory walls. Sentence was postponed.<sup>65/</sup>

Also in October in Umtata, thirty-one African men were each sentenced to two and one-half years' imprisonment on charges of being office-bearers or members of the Pan-Africanist Congress.<sup>66/</sup>

On 4 November 1963 in Port Elizabeth, seventy-seven persons were brought to trial on charges of sabotage. The prosecution maintained that there were prima facie cases against all the accused of membership in the "Spear of the Nation". Several defendants were charged with murdering a State witness in Port Elizabeth. Bail was refused.<sup>67/</sup>

On 6 November 1963 in Grahamstown, twenty-six Africans were charged with sabotage, murdering a State witness, furthering the aims of the banned African National Congress, and possession of weapons.<sup>68/</sup>

On 7 November 1963 in Butterworth, seventeen Africans were found guilty of sabotage and three contraventions of the Suppression of Communism Act. They were sentenced to six to twenty years' imprisonment for allegedly gathering in the bush at Duncan Village on 8 April 1963 and planning armed insurrection, arson and

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<sup>63/</sup> Cape Times, 29 January 1964.

<sup>64/</sup> Cape Times, 16 October 1963.

<sup>65/</sup> Cape Times, 26 October 1963.

<sup>66/</sup> The Star, weekly, Johannesburg, 12 October 1963.

<sup>67/</sup> Cape Times, 5 November 1963.

<sup>68/</sup> Forward, Johannesburg, December 1963.



murder of Whites, and with various other activities involving a banned organization. Application for leave to appeal was refused.<sup>69/</sup>

On 7 November 1963 in Bellville, Mr. Elijah Loza was charged with offences under the Suppression of Communism Act. He had been detained for ninety-day detention since 11 May 1963.<sup>70/</sup>

On 8 November 1963 in Cape Town, three Coloureds were charged with sabotage.

On 9 November 1963 in Cape Town, an African and a Coloured were charged with sabotage.<sup>71/</sup>

On 13 November 1963 in East London, fifty-one men and one woman were charged with sabotage and furthering the aims of a banned organization.<sup>72/</sup>

On 18 November 1963 in Butterworth, eight Africans were sentenced to terms of imprisonment ranging from seven to fourteen years, on charges rising out of an alleged plan by "Poqo" to murder the Whites of East London in April 1963. Two of the accused were acquitted for lack of evidence. Leave to appeal was refused.<sup>73/</sup>

On 20 November 1963 in Cape Town, two Coloureds were charged with sabotage on 20 November 1963.<sup>74/</sup>

On 21 November 1963 in Goodwood, thirty-one Africans were charged with being members of "Poqo" and planning to attack Whites.<sup>75/</sup>

On 28 November 1963 in Bellville, twenty-one Africans were charged with contravening the Suppression of Communism Act.<sup>76/</sup>

On 1 December 1963 in Butterworth, eighteen Africans were found guilty of public violence and two of culpable homicide. All the accused pleaded guilty. They were sentenced to seven to eight years' imprisonment each on charges arising from the death of a police assistant in Kanywa Location, Engcobo, when Africans had attacked police who were arresting a suspect.<sup>77/</sup>

69/ Cape Times, 8-9 November 1963.

70/ Cape Times, 8 November 1963.

71/ Cape Times, 5 December 1963.

72/ Cape Times, 15 November 1963.

73/ Cape Times, 19 November 1963.

74/ Cape Times, 5 December 1963.

75/ Cape Times, 22 November 1963.

76/ Cape Times, 29 November 1963.

77/ Cape Times, 2 December 1963.

On 4 December in Cape Town, Mr. Cardiff Marney, Coloured, was charged with sabotage.<sup>78/</sup>

On 6 December 1963 in Bellville, eleven Africans were charged with contravening the Suppression of Communism Act. Bail was refused.<sup>79/</sup>

On 9 December in Pretoria, the conviction and sentence of Mr. Sulliman Nathie, secretary of the Transvaal Indian Congress, to twelve months' imprisonment for incitement were upheld.<sup>80/</sup>

On 10 December 1963 in Port Alfred, Mr. Jackson Mdinga and Mr. Fundile Msutwana were sentenced to seven years' and six years' imprisonment on charges of sabotage for cutting twenty-five telephone lines on 13 February 1963.

On 10 December 1963 in Goodwood, Mr. Leo Vehile Tikolo was sentenced to eighteen months' imprisonment for saying that if a volunteer were needed to assassinate Prime Minister Dr. Verwoerd, he would be the first to volunteer.<sup>81/</sup>

On 10 December 1963 in Johannesburg, Mr. Dennis Brutus, president of the South African Non-Racial Olympic Committee, was charged with attending a meeting in defiance of a banning order, failing to report to police, leaving the district of Johannesburg, leaving South Africa without a valid passport and escaping from custody.<sup>82/</sup> He was sentenced on 10 January 1964 to eighteen months' imprisonment.<sup>83/</sup> Mr. Brutus, a poet and former schoolteacher, had fled from South Africa after being banned under the Suppression of Communism Act, and was granted political asylum in Swaziland. On his way to the session of the International Olympic Committee in Baden-Baden on a British passport, he had been arrested in Mozambique by Portuguese police and returned to South Africa. He had been shot and seriously wounded by police in Johannesburg on 18 September 1963 while allegedly attempting to escape police.<sup>84/</sup>

<sup>78/</sup> Cape Times, 5 December 1963.

<sup>79/</sup> Cape Times, 7 December 1963.

<sup>80/</sup> Cape Times, 10 December 1963.

<sup>81/</sup> Cape Times, 11 December 1963.

<sup>82/</sup> Reuters, 10 December 1963.

<sup>83/</sup> Cape Times, 11 January 1964.

<sup>84/</sup> Reuters, 19 September 1963.

On 17 December 1963 in Durban, Mr. George Mbele, former organizing secretary of the African National Congress and a ninety-day detainee from 10 May to 4 November 1963, and Mr. Stephen Dlamini were sentenced to nine months' imprisonment on being found guilty of issuing a pamphlet with intent to cause hostility between the races.<sup>85/</sup>

On 18 December 1963 in Port Elisabeth, three Africans were sentenced to twelve, eight and three years' imprisonment, on charges of sabotage for allegedly burning down the shop of the official representative of Chief Kaiser Matanzima in New Brighton in September 1962.<sup>86/</sup>

On 19 December 1963 in Krugersdorp, Mr. Jordan Zuma was sentenced to four years' imprisonment for attempted murder of a policeman, possession of a weapon and ammunition, and escaping from custody.<sup>87/</sup>

Also in December in Grahamstown, Jackson Madinga and Fundile Msutwana were sentenced to seven and six years respectively on a charge of cutting telephone wires on the night of 15 February 1963.<sup>88/</sup>

In December in Cape Town, eight Africans were charged with sabotage.<sup>89/</sup>

On 5 January 1964 in Cape Town, Mr. Randolph Vigne, banned former official of the Liberal Party, was charged with contravening Proclamation 400 of 1960.<sup>90/</sup>

On 10 January 1964 in Port Alfred, Mr. Charlie January and Mr. William Mtswalo were sentenced to twenty years' imprisonment on charges of sabotage for cutting telephone wires at the Bantu Administration Office in New Brighton Township.<sup>91/</sup>

On 11 January 1964 in Cape Town, the State withdrew sabotage charges against Mr. Ernest Gabriel and seven other men, after they had been in jail for several months.<sup>92/</sup>

<sup>85/</sup> Cape Times, 18 December 1963.

<sup>86/</sup> Cape Times, 19 December 1963.

<sup>87/</sup> Cape Times, 20 December 1963.

<sup>88/</sup> Spotlight on South Africa, Dar-es-Salaam, 10 January 1964.

<sup>89/</sup> Cape Times, 31 December 1963.

<sup>90/</sup> Cape Times, 6 January 1964.

<sup>91/</sup> Cape Times, 11 January 1964.

<sup>92/</sup> Cape Times, 11 January 1964.

On 22 January 1964 in Port Alfred, Mr. Jacob Sikundla was sentenced to twenty years' imprisonment on charges of sabotage, including two acts of arson, cutting a telephone wire and making or possessing twenty-three chemical or incendiary bombs.<sup>93/</sup>

On 24 January 1964 in Port Elizabeth, Mr. Wilson Bekwayo was sentenced to five years' imprisonment for possessing chemical bombs. Two witnesses testified that they had carried bombs to his house and that he had not appeared to be surprised at their arrival with the bombs.<sup>94/</sup>

Also in January 1964, seventeen Africans were sentenced in Butterworth, to a total of 202 years' imprisonment on charges of sabotage and offences under the Suppression of Communism Act; a second group of twenty Africans were sentenced to seven and eight years' imprisonment each on charges of public violence and culpable homicide; and a third group of ten Africans were sentenced to seven to fourteen years' imprisonment on charges of sabotage. In Pretoria, nineteen Africans were charged with conspiring to recruit Africans for military training outside South Africa. In Bellville, ten Africans were charged with offences under the Suppression of Communism Act. In Port Elizabeth, fifty-five Africans were charged with sabotage. In Graaff Reinet, twenty Africans were charged with sabotage. In Port Elizabeth, twenty-six Africans were charged with political offences.<sup>95/</sup>

Also in January 1964 in Durban, twenty-five Africans were charged with being members of and furthering the objects of the banned African National Congress. Rev. Gladstone Ntlabati, a Methodist minister, was granted bail of 300 Rand. The other accused were refused bail.<sup>96/</sup>

On 3 February 1964, three Africans, Mr. Martin Ramogadi, Alios Mancu and Izak Tiale, were charged in the Rand Supreme Court on allegations of having recruited persons, or being themselves recruited, for training outside the Republic to further the objects of the African National Congress.<sup>97/</sup>

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<sup>93/</sup> Cape Times, 23 January 1964.

<sup>94/</sup> Cape Times, 25 January 1964.

<sup>95/</sup> Forward, Johannesburg, January 1964.

<sup>96/</sup> The World, Johannesburg, 24 January 1964, quoted in Spotlight on South Africa, Dar-es-Salaam, 14 February 1964.

<sup>97/</sup> Cape Times, 4 February 1964.

On 10 February 1964, fourteen Africans were sentenced to three years' imprisonment on charges of belonging to the Pan-Africanist Congress.<sup>98/</sup>

On 20 February 1964, in Potchefstroom, seven Africans were sentenced to a total of sixteen years' imprisonment on charges of being members of the Pan-Africanist Congress.<sup>99/</sup>

On 21 February 1964 in Cape Town, four Whites were charged with contravening the Suppression of Communism Act.<sup>100/</sup>

On 27 February 1964 in Cape Town, the State informed the Supreme Court that forty to forty-five persons would be brought to trial on charges of sabotage or contravening the Suppression of Communism Act before 15 April 1964.<sup>101/</sup>

In March 1964 in Port Elizabeth, Mr. Vuyisele Mini, Mr. Wilson Khayinga and Mr. Z. Mkaba were sentenced to death.<sup>102/</sup>

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<sup>98/</sup> Agence France Presse, 10 February 1964.

<sup>99/</sup> Agence France Presse, 20 February 1964.

<sup>100/</sup> Cape Times, 21 February 1964.

<sup>101/</sup> Cape Times, 28 February 1964.

<sup>102/</sup> A/AC.115/L.61.

### III. DETENTION WITHOUT TRIAL

A significant feature of repression in the past year was the wide-spread use of powers obtained by the Government in new legislation to detain persons indefinitely without trial. Hundreds of persons of all races have thus been detained, frequently in solitary confinement for extended periods, for their active opposition to the policy of apartheid or even suspicion that they might have knowledge of the commission of illegal acts. The principal provisions used by the South African Government in this regard are Proclamation 400 of 1960, and section 4 and section 17 of the General Law Amendment Act of 1963.

Proclamation 400 of 1960, which remains in force in the Transkei, provides that any non-commissioned officer of the South African Police or Defence Force may arrest without warrant any person for interrogation concerning any offence, or intention to commit an offence, under any law in force in South Africa. The arrested person may be detained indefinitely. He is not allowed to consult with a legal adviser without the consent of the Minister of Bantu Administration and Development. The Minister of Justice stated on 24 January 1964 that 592 persons had been detained under this provision in 1963.<sup>103/</sup>

On 22 February 1964, Dr. Pascal Ngcane, son-in-law of Chief Albert Luthuli, father of four small children and the only medical doctor practicing in Clermont, was detained for detention without trial under Proclamation 400.<sup>104/</sup>

Section 4 of the General Law Amendment Act of 1963 provides that persons serving a term of imprisonment may be detained indefinitely on completion of their sentence.<sup>105/</sup> Mr. Robert Mangaliso Sobukwe, President of the Pan-Africanist

103/ House of Assembly Debates, 24 January 1964, col. 263.

104/ Sunday Times, Johannesburg, 8 March 1964.

105/ Section 4 states inter alia: "The Minister (of Justice) may, if he is satisfied that any person serving any sentence of imprisonment ... is likely to advocate, advise, aid or encourage the achievement of any of the objects of communism, ... prohibit such person from absentsing himself, after serving such sentence, from any place or area which is or is within a prison ... and the person to whom the notice applies shall ... be detained in custody in such place or area for such period as the notice may be in force."

Congress, has been so detained since 2 May 1963 after completing a three-year term of imprisonment in connexion with the Sharpeville incidents of 1960.

Section 17 of the General Amendment Act of 1963 provides for the arrest and detention of persons without warrant and without trial for periods of ninety days at a time.<sup>106/</sup> The Minister of Justice stated on 21 January 1964 that 594 persons had been detained under this Section in 1963.<sup>107/</sup> Of the 594 persons, 361 had been charged with:

- "(a) Sabotage and conspiracy to commit sabotage;
- (b) Furthering the achievements of a banned organization;
- (c) Becoming or remaining a member and furthering the activities of a banned organization;
- (d) Attempting to leave the Republic of South Africa without the necessary documents;
- (e) Possession of explosives."

106/ Section 17 states inter alia: "Any commissioned officer ... may ... without warrant arrest ... any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connexion with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested."

107/ He had stated in 8 November 1963 that "at least 544 persons" had been detained under Section 17, of whom 275 had been charged, sixty-one were due to be charged, 151 had been released after answering questions, five had escaped and one had died in prison. Fifty-one detainees were still being interrogated and their release depended on whether they co-operated with police. (The Star, weekly, Johannesburg, 9 November 1963.)

He added that as of 21 January, there were forty-one persons under detention, of whom twenty-one had been detained since the beginning of the year. The others had apparently been charged in courts or released.<sup>108/</sup>

On 5 February police headquarters announced the further arrest of twenty persons between 27 January and 5 February.<sup>109/</sup>

The Minister of Justice stated in the House of Assembly on 25 February 1964 that seventy persons were under ninety-day detention. He added that a further eighteen persons had been released since 21 January 1964.<sup>110/</sup>

On 3 March police announced the arrest of fourteen Africans for ninety-day detention in Johannesburg. On the same day police raided the home of a Mrs. Nelson Mandela in Orlando West and arrested Mr. Oscar Soman, a relative of Mr. Mandela, for ninety-day detention.<sup>111/</sup>

The Government has indicated that persons could be indefinitely detained, on orders for ninety days at a time. On 9 October 1963, the Cape Supreme Court ruled that a person detained without trial for ninety days could be rearrested immediately after completing the initial period, as there was no provision granting immunity from indefinite detention.<sup>112/</sup> On 6 November 1963, the Minister of Justice stated in response to the appeal of the leader of the United Party that the case of Mr. Loza who had been detained for a third term of ninety days be considered, that a third period of detention, or any number of such periods, could well be justified in principle.<sup>113/</sup> A number of persons are now undergoing detention for a third or fourth term of ninety days.

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<sup>108/</sup> House of Assembly Debates, 21 January 1964, cols. 14-15.

<sup>109/</sup> Cape Times, 6 February 1964.

<sup>110/</sup> The Star, weekly, Johannesburg, 29 February 1964.

<sup>111/</sup> The Star, weekly, Johannesburg, 7 March 1964.

<sup>112/</sup> The Court dismissed an appeal for a writ of habeas corpus on behalf of Mr. Elijah Loza, a trade union leader of Cape Town, who was not released on the completion of an initial period of 90 days' detention on 8 August 1963. (Cape Times, 10 October 1963.)

<sup>113/</sup> Cape Times, 6-7 November 1963.



Many of the prisoners have been charged in courts after long periods of detention. The release of others appears to depend on their giving of evidence against persons accused of sabotage to the satisfaction of the police.<sup>114/</sup>

Detainees are normally allowed only one hour of exercise daily. The provision in the Criminal Code which prohibits subjection of criminal prisoners to more than two days of solitary confinement a week does not apply to 90-day detainees.

On 13 November 1963 the Cape Supreme Court, acting on an appeal by Mr. Albert L. Sachs, ordered that the prisoner should have a "reasonable supply" of books and writing materials and should be given a reasonable amount of exercise each day. The judge states: "There can be no doubt that the effect of solitary confinement for all but one hour for exercise a day, and the deprivation of reading matter and writing material, constitutes a punishment." Captain D.J. Rossouw of the Security Branch claimed that the conditions of imprisonment of Mr. Sachs were adequate. He submitted that a ninety-day detainee had no rights, and the only limitation on the discretion of the security officers was that the health of the detainee must be unimpaired on his release.<sup>115/</sup> The Government announced that it intended to appeal against the court order.<sup>116/</sup>

The operation of the ninety-day detention clause has led to strong criticism and concern in South Africa and abroad.

Former Chief Justice Senator H.A. Fagan stated that indefinite detention was as abhorrent as physical third-degree methods.<sup>117/</sup>

<sup>114/</sup> On 28 January 1964 Police Lieut. D.J. Swanepoel told the Court in the "Rivonia trial" that the 90-day detention clause was a "mighty weapon in the hands of the police" and that he would not release a detained person if he believed the person had not divulged all information at his disposal. (Cape Times, 29 January 1964.)

<sup>115/</sup> The Star, weekly, Johannesburg, 16 November 1963.

<sup>116/</sup> Reuters, 14 November 1963. On 25 November 1963 police refused to accept three books (Digestive Troubles, Carmen, and Italian Grammar-Simplified) handed in for a ninety-day detainee, Mr. Uriah Malcke, by his wife. (Cape Times, 27 November 1963.)

<sup>117/</sup> Cape Times, 7 November 1963.

Mr. Hamilton Russell, a former United Party Member of Parliament who resigned in protest against the General Law Amendment Act of 1963, called for a militant public protest against the clause and charged that detainees had been subjected to various forms of torture, including electric shocks, prolonged submersion in cold water and "gas mask" treatment.<sup>118/</sup>

The national Congress of the United Party unanimously demanded in November 1963 that the ninety-day detention clause be dropped during the 1964 parliamentary session.<sup>119/</sup> Sir de Villiers Graaff, leader of the United Party, urged a full investigation into the application of the measure.<sup>120/</sup>

On 18 November 1963, two Cape Town psychiatrists stated in reference to prolonged detention in solitary confinement: "Pressure put on people in solitary confinement is a form of brainwashing. We know from experiments that people deprived of outside stimuli can become disordered, indeed quite psychotic ... He would get to the state where he would believe or say anything."<sup>121/</sup>

Major Fred van Niekerk of the Pretoria Criminal Investigation Division stated on 27 November 1963, at the inquest on the death of Mr. Ngudle, that after one to three days in solitary confinement, prisoners showed signs of bewilderment, discouragement and attempts to fraternize; after three to ten days' confinement they showed signs of gradual compliance and between ten days and three weeks a tendency to automatic behavior. Later, he stated, detainees experienced hallucinations and had difficulty in distinguishing between truth and fiction. After months of detention, prisoners were depressed frequently to the point of suicide.<sup>122/</sup>

On 20 December 1963, sixty medical specialists, psychiatrists, and psychologists sent an appeal to the Minister of Justice for the abolition of solitary confinement under the ninety-day detention clause. The appeal described detention in solitary confinement as inhuman and unjustifiable and declared:

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<sup>118/</sup> The Star, daily, Johannesburg, 26 November 1963; Rand Daily Mail, 26 November 1963.

<sup>119/</sup> In terms of the General Law Amendment Act of 1963, the ninety-day detention provision expires on 30 June 1964, but can be extended for one year periods by proclamation of the State President in the Government Gazette.

<sup>120/</sup> The Star, weekly, Johannesburg, 23 and 30 November 1963.

<sup>121/</sup> Cape Times, 19 November 1963.

<sup>122/</sup> Cape Times, 28 November 1963.

"As the time approaches for re-appraisal of the 90-day detention clause, we, as medical specialists, psychiatrists and psychologists, consider it our duty to draw the attention of the Government and the public to the possible serious consequences of this form of detention on the mental condition of the detainees.

"The psychiatric study of political prisoners subjected to periods of solitary confinement in various countries indicates that this experience is associated with intense distress and impairment of certain mental functions. Numerous experimental studies support this evidence.

"We submit that the exposure of individuals to acute suffering and mental impairment for indefinite periods of time is no less abhorrent than physical torture. Whatever view may be held about the need for preventive detention in certain circles, no cause can justify the injury whether physical or mental, of persons who have not been found guilty of an offence by the Courts.

"We feel, therefore, that the present system of detention in solitary confinement is inhuman and unjustifiable and we appeal for its abolition." 123/

The utilization of detainees, kept for long periods under solitary confinement, as State witnesses in trials for alleged sabotage has caused serious concern. In the Cape Town trial of Dr. Alexander and others, on 7 February 1964, Dr. Jane E. Bain of the Department of Psychiatry, Groote Schuur Hospital, said that persons kept in isolation were extremely unlikely to make reliable statements. Such persons were highly susceptible to suggestion, were apt to change their views, and tried to please the persons they came into contact with. She said she was treating one former detainee and had interviewed four others. 124/

Professor Kurt Danziger, head of the Department of Psychology at the University of Cape Town, stated in the same trial on 10 February 1964: "The intellectual function which seems to suffer is the capacity for reasoning time and time again." He said another effect of isolation was that it tended to lead to hyper-suggestibility. "I would say that a statement obtained from people under these conditions would be tantamount to one obtained under duress." 125/

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123/ The Star, weekly, Johannesburg, 11 December 1963.

124/ Cape Times, 8 February 1964. Dr. James McGregor, acting head of the Department of Neurology, University of Cape Town, also gave evidence in regard to false confessions obtained from persons in solitary confinement.

125/ Cape Times, 11 February 1964.

Two ninety-day detainees in Cape Town, Mr. T. Tsotso and Mr. M. Msingizane, were placed under observation and care at the Valkenberg Mental Hospital after being committed there through a magistrate on the advice of two doctors.<sup>126/</sup> The Minister of Justice stated on 21 January 1964 that five ninety-day detainees had been committed to mental institutions.<sup>127/</sup>

On 5 January 1964 the Minister of Justice described as "all nonsense" charges that ninety-day solitary confinement amounted to physical torture. In reverence to the statement of sixty medical experts, he stated that "not a single incident of torture" had been proven or demonstrated and that no complaints had been lodged against the law.<sup>128/</sup> He told the House of Assembly that every allegation of ill-treatment had been or was being investigated. "So far there has not been a single proven case."<sup>129/</sup>

Prime Minister Dr. Verwoerd also rejected the statement of the medical experts, and stated:

"They are simply a group of people who are willing to allow themselves to be used to achieve a political object. In other words, it is nothing more or less than an attempt by a certain smaller group, which do belong to certain professions, it is true, to intervene politically but who do not act as experts but as laymen in politics. I say it is a political act ... Their professions must not be dragged in where it is nothing else than an attempt to make political propaganda in connexion with any matter. Here is an attempt to attack the Government. It is therefore not a purely professional diagnosis which we shall allow to influence our judgement."<sup>130/</sup>

In January 1964, the Minister of Justice stated that the ninety-day detention clause would be renewed for a second year and would remain in effect while there was a chance it might be needed in any contingency. He added: "Although we are on top of the situation - and have been for some time - one never knows what might crop up."<sup>131/</sup>

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<sup>126/</sup> Cape Times, 19 November 1963.

<sup>127/</sup> House of Assembly Debates, 21 January 1964, col. 27.

<sup>128/</sup> The Star, weekly, 4 January 1964.

<sup>129/</sup> South African Digest, Pretoria, 30 January 1964.

<sup>130/</sup> House of Assembly Debates, 21 January 1964, col. 89.

<sup>131/</sup> The Star, weekly, Johannesburg, 18 January 1964.

The Minister claimed that the provision had helped South Africa in 1963 to meet the most serious threat that had ever confronted it. It was not necessary, he said, for anyone to remain in detention for ninety days or even for a single day. Anyone taken into custody in terms of that provision could be released immediately if he was prepared to reply to questions. He was satisfied that in every case people detained were in possession of information required. He added that no fewer than 213 of the 594 persons detained in 1963 had been willing to give information.<sup>132/</sup>

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<sup>132/</sup> House of Assembly Debates, 22 January 1964, cols. 161-05.

#### IV. ALLEGATIONS OF TORTURE OF PRISONERS

The concern that has been evoked in South Africa and abroad by the wide-spread detentions and the conditions of prisoners has been heightened by numerous charges of ill-treatment and torture of prisoners in the past few months, despite denials by the South African authorities. A number of witnesses and accused have charged in the courts, as indicated earlier, that they had been subjected to threats, assaults and torture. Copies of affidavits by persons subjected to such treatment have been published in the Press in London and New York, and communicated to the Special Committee.

Some evidence of torture was presented at the inquest on the death of Mr. Looksmart Solwandle Ngudle, a leading member of the African National Congress, who had been detained under the ninety-day detention clause on 19 August 1963 and found dead by hanging in his cell on 5 September 1963. Police refused to allow his body to be sent home for burial or to be visited by his mother. His body was buried without examination. Counsel for the family secured an inquest into allegations that he had been tortured and killed by police.

On 26 November 1963, counsel for Mrs. Ngudle, Mr. Vernon Berrange, stated that twenty witnesses had told him of being subjected to "gross brutalities" to make them talk. They were told to undress, made to jump up and down and when exhausted, manacled in a squatting position with a stick under their knees, blindfolded and given electric shocks until they were, in some cases, unconscious.<sup>133/</sup> On 28 November 1963 Mr. Isaac Tlale, a Johannesburg businessman who had undergone detention with Mr. Ngudle, testified at the inquest that he "went off his head" after being subjected to electric shocks and "had to be put into a straitjacket".<sup>134/</sup> He described how he had been handcuffed and subjected to electric shocks while a bag had been tied over his head until he had lost consciousness twice.<sup>135/</sup>

Mr. Berrange, counsel for Mrs. Ngudle, walked out of the inquest on 11 February 1964 when the evidence on which his submissions of torture had been based had been disallowed.<sup>136/</sup>

<sup>133/</sup> Cape Times, 27 November 1963.

<sup>134/</sup> Cape Times, 29 November 1963.

<sup>135/</sup> Contact, Cape Town, 13 December 1963.

<sup>136/</sup> Cape Times, 12 February 1964.

Advocate Bob Hepple, one of the original accused in the Rivonia trial, stated in an interview in Dar-es-Salaam:

"The evidence is overwhelming that the 90-day detention law provides a cover for protracted mental and physical torture.

"I personally eye-witnessed the horrifying effects of such detention on a particular detainee. One night during September or October I was awakened in Pretoria prison by screams emanating from the African section, which continued throughout the night. The next morning I heard the screaming man being pushed along the corridor into the hospital yard. Looking out of my cell window I saw an African man, Z..., a 90-day detainee being held by two warders, his arms twisted behind his back. He was frothing at the mouth and his eyes had the wide, vacant stare of the beserk. A few weeks later he was still in the hospital yard wearing a straitjacket. His screams by then had degenerated into whimpers which were met by blows from the warden in charge of him.

"In a number of cases African detainees had been subjected to brutal assaults and electric shock treatment.

"I saw a witness in the 'Rivonia' trial, who is being held in custody, still limping three months after he had been assaulted in order to force a statement from him. One of the 'Rivonia' accused still bears deep bruise marks from an assault on him by the police during August. Electric shock treatment was also applied to the sensitive parts of his body.

"Those who are inside the South African gaols were tremendously heartened by the United Nations resolution calling for the release of political prisoners and for an end to the Sabotage trial. They place tremendous hope on the effects of world-wide pressure on the Verwoerd government." 137/

A few of the numerous other charges of ill-treatment of detainees may be noted.

Eleven detainees released from Pretoria Central Prison in November 1963 made sworn affidavits alleging torture and assault by police while in custody under ninety-day detention. The Commissioner of Police described the affidavits as "utter nonsense ... spread deliberately by neo-communists". 138/

On 28 November 1963 in Bellville, complaints of assault by the police were made by six African prisoners in court as they were charged with sabotage. 139/

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137/ Spotlight on South Africa, Dar-es-Salaam, 6 December 1963.

138/ Cape Times, 4 November 1963.

139/ Cape Times, 29 November 1963.

On 4 December 1963 a State witness at the sabotage trial in Pietermaritzburg testified that police had assaulted him, threatened him with death if he refused to answer certain questions, threatened to detain his mother and cause his brother to be dismissed from his job, and placed him in a cold cell where he contracted double pneumonia. The witness was arrested immediately. <sup>140/</sup>

Mr. Arthur Goldreich, a former ninety-day detainee who had escaped, told the Press that Mr. Abdulhisa Jassat, another former ninety-day detainee who had escaped with him, had been beaten by twenty Special Branch policemen until he had collapsed. Mr. Goldreich added:

"They put a wet sack around his head and tied the cords at his neck till he blacked out. After reviving him, they made him stand on one leg, holding a stone above his head while they stuck pins into his raised leg. The soles of his feet were then beaten with batons, and electrodes were placed on the toes with the current flowing. Finally they held him by the ankles out of a window 40 feet above the street in trying to get a confession." <sup>141/</sup>

South African police have repeatedly denied all allegations of torture and assault of prisoners. The Minister of Justice stated in the House of Assembly on 22 January 1964:

"We have no facts whatsoever before us; we have no shred of evidence before us about people who were tortured."

He rejected a proposal by the leader of the Opposition that a judicial commission be established to investigate allegations of torture. <sup>142/</sup>

On 31 January 1964 he stated in the House of Assembly that forty-nine complaints by prisoners held under ninety-day detention alleging torture or

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<sup>140/</sup> Cape Times, 5 December 1963.

<sup>141/</sup> Sunday Express, Johannesburg, 12 January 1964, quoted in Spotlight on South Africa, Far-es-Salaam, 21 January 1964. Mr. Jassat had been detained on 20 May 1963 and Mr. Goldreich on 11 July 1963. They escaped from Johannesburg police headquarters on 11 August and subsequently fled from South Africa.

<sup>142/</sup> House of Assembly Debates, 22 January 1964, cols. 99-106.



assault by police had been received and that all complaints had been found by police to be without substance.<sup>143/</sup>

The statements of the Minister of Justice, however, are in contradiction with evidence given in South African courts. On 13 March 1964, for instance, a police officer accused of murdering an African prisoner and assaulting another at the Bultfontein police station, testified at his trial:

"I don't think there is a police station in the country that does not use violence during questioning."

Another accused police officer stated that the purpose of trussing a prisoner so that he was helpless, blindfolding him and giving him electric shocks was that he might believe he was being attacked by a Tikoloshe, an evil. He stated that tying a plastic bag around a prisoner's head "is common in investigations". He added that the methods used at the Bultfontein police station were all used elsewhere.<sup>144/</sup>

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<sup>143/</sup> Cape Times, 1 February 1964. On 18 February 1964 the Minister of Justice stated that police and prison staff had assaulted 120 prisoners in 1964. (House of Assembly Debates, 18 February 1964, col. 1511.)

<sup>144/</sup> The Observer, London, 15 March 1964.

## V. OTHER REPRESSIVE MEASURES

The detentions, trials and ill-treatment described above are supplementary to the application of other measures of repression and intimidation of opponents of apartheid described in earlier reports.

Banning orders, house arrests, banishment and threats continue.

During the period under review, banning orders have been served on a number of persons, including Jordan Ngubane, national vice-president of the Liberal Party; Mr. Hammington Majija, chairman of the Cape branch of the Liberal Party; Mrs. Adelaide Hain, secretary of the Pretoria branch of the Liberal Party; Mr. E.V. Mohamed, former private secretary to Chief Luthuli and former member of the Liberal Party's National Committee; Mr. Hyacinth Bhengu, national vice-president of the Liberal Party; Mr. D.L. Evans, another leader of the Liberal Party; Mr. Timothy Mbuzo, former territorial secretary of the African National Congress in the Transkei; Mr. Yusuf Cachalia, an Indian leader, and his wife Amina; Mr. Solomon Nathie, general secretary of the Transvaal Indian Congress; Mr. M. Lekato and Mr. J. Makersing, African trade union leaders.

House arrest orders were served on Mrs. Jacqueline Arenstein, Mrs. Mary Turok, Mr. Paul Joseph, Mr. Morametso Lekoto, Mr. John Gaetsewe and Mr. Malek Rasool.

Victims of these arbitrary orders continue to be persecuted for minor infringements. Miss S.B. Brown was convicted in October for contravening the Suppression of Communism Act by changing her place of residence or employment without giving notice to the police and sentenced to imprisonment for one year, conditionally suspended.<sup>145/</sup> Mr. Peter D. Hjul was taken to court on the charge of violating the ban on attending gatherings by playing snooker with his brother.<sup>146/</sup> Mr. R.A. Arenstein, Durban attorney, who had been ordered to report to police daily between noon and 2 p.m., had to serve seven days in gaol in November for being late on two occasions.<sup>147/</sup> Miss G.E. Jewell was taken to court for communicating with another banned person, her fiancé, who was in prison.<sup>148/</sup>

<sup>145/</sup> Cape Times, 14 October 1963.

<sup>146/</sup> He was sentenced to six months' imprisonment. The sentence was suspended and set aside on appeal.

<sup>147/</sup> Natal Mercury, Durban, 23 November 1963.

<sup>148/</sup> She was sentenced to two years, but the sentence was set aside on appeal.

The Government seems to have sought to silence and paralyse more and more organizations and groups by restrictive orders and intimidation. The Liberal Party has come under severe attack, as indicated by the bans listed above. The Government had already banned Fandolph Vigne, the Party's national chairman; Peter Hjul, chairman of the Cape division and editor of Contact; and Terence Beard, vice-chairman of the Cape division. The Security branch raided the home of four leaders of the Liberal Party on 21 October 1963. In February 1964, the Chief Magistrate of Johannesburg warned Mrs. Elizabeth Levin, a member of the Party's national executive, to desist from activities "calculated to further the aims of Communism".<sup>149/</sup> Mr. Alan Paton, National President of the Liberal Party, declared in a public statement: "It is clear that the Government does not intend to ban the Party but means to weaken it by banning its leading members."<sup>150/</sup>

Another organization which has come under attack is the National Union of South African Students, a multi-racial organization. The Security branch raided its Cape Town office on 21 October 1963.<sup>151/</sup>

Intimidation has been widened to include religious groups. In November 1963, Mr. E.H. Louw, then Minister of Foreign Affairs, warned ministers of religion not to interfere in political controversy. He said that the Anglican Bishop of Johannesburg, who had criticized repressive legislation, would "do well to remember what happened to Bishop Reeves" (who had been deported in 1960).<sup>152/</sup>

On 16 March 1964 the Minister of Justice, Mr. B.J. Vorster, threatened "certain individual members" of the English-language press that action might have to be taken against them.<sup>153/</sup>

The denial of due process in South Africa and its consequences were described in the annual report to the Civil Rights League, Cape Town, by its chairman, Mr. Leo Marquard, as early as 9 September 1963:

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<sup>149/</sup> Contact, Cape Town, 14 February 1964.

<sup>150/</sup> Contact, Cape Town, 14 February 1964.

<sup>151/</sup> Cape Times, 22 October 1963.

<sup>152/</sup> Southern Africa, London, 8 November 1963.

<sup>153/</sup> The Times, London, 17 March 1964.

"The peaceful and orderly conduct of society depends on just laws openly administered and it is in this respect that the condition of the Republic of South Africa is parlous. We shall have to wait till Parliament reassembles for further official information, but it is even now clear that close on 100 Africans have been banished to places far distant from their homes; that about 20 South Africans are under house arrest; that many hundreds of all races have been banned; that about 300 South African citizens have been imprisoned under the 90-day law; and that in none of those cases has the law been openly administered. There have been no warrants for arrest, no charges framed for the accused to meet in open court where witnesses can be cross-examined.

"In the numerous Poqo prosecutions, where arrest is properly made on warrant, it is clear that many people are arrested before adequate investigation has been made. Cases are constantly remanded and no bail is allowed. Thus, recently in Cape Town, 41 Africans who had been in gaol for more than four months on a charge of belonging to an unlawful organisation, were released without any evidence being led against them. In another case in Cape Town, 43 out of 57 men arrested were finally acquitted or discharged without a case being made against them. Similar examples can be quoted from other parts of the country ...

"What makes the situation in South Africa so serious is that the gross disregard for the Rule of Law communicates itself from the rulers to the ruled. When a majority in Parliament, at the request of responsible Ministers, passes laws that deprive people of their rights and liberties, not by due legal process but by administrative discretion, it will not be long before the majority of the population comes to regard the administration of justice as a method of oppression rather than as an instrument for the orderly and peaceful conduct of society ..." 194/

## Appendix

### POLITICAL TRIALS AND CONVICTIONS IN 1963\*

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\* Pretoria, Johannesburg, September, October and November 1963, February 1964.

Number of Verdicts	Place of Trial	Charges	Date of Verdict	Sentences
6	Grubbenston	Sabotage	20 January	3 to 20 years each 1 to 12 years 2 acquitted
9	Pied Elizabeth	Sabotage	21 February	1 to 15 years 2 acquitted
20	Queenston	Sabotage	5 March	1 to death 1 to 20 years 20 to 15 years
20	Pied	Sabotage	20 March	16 to 12 years 2 acquitted
20	Queenston	Sabotage	22 March	2 to death 1 to 25 years 17 to 20 years each
4	Grubbenston	Sabotage	23 April	1 to 12 years 2 to 6 years each 1 acquitted
1	Cape Town	Sabotage	24 April	15 years
57	Cape Town	Belonging to and furthering aims of banned organization	30 April	4 to 2 1/2 years 3 to 1 1/2 years 7 to 1 year (9 months suspended) 20 charges withdrawn 23 acquitted
3	Johnnastown	Sabotage	13 May	10 years each
4	Craddock	Belonging to banned organization (ABC)	13 May	3 years each
1	Craddock	Belonging to banned organization (PAC)	16 May	3 years each

Number of A. 1003d	Place of Trial	Charges	Date of Verdict	Sentences
	Butterworth	Conspiracy to murder	21 May	4 to 7 years each 1 to 5 years 3 acquitted 3 to death
21	Pearl	Sabotage	22 May	5 to 10 years each 8 to 12 years each 5 acquitted
1	Cape Town	Sabotage	24 May	12 years
2	Graaff-Reinet	Furthering aims of banned organization (PAC)	25 May	3 years each
2	Blancfontein	Belonging to banned organization (PAC)	27 May	1 1/2 years each
24	Engobo	Belonging to banned organization (PAC)	31 May	5 to 3 years each 7 to 2 years each 12 acquitted
10	Kimberley	Belonging to and furthering aims of banned organization (PAC)	2 June	3 to 6 years each 3 to 5 years each 10 to 2 years each 2 acquitted
1	Uitenhage	Sabotage	3 June	15 years each
3	Grahamstown	Sabotage	4 June	15 years each
10	Pearl	Sabotage	5 June	3 years
2	Cape Town	Murder	10 June	death
1	Graaff-Reinet	Belonging to banned organization (PAC)	10 June	4 to 3 years each 2 to 1 1/2 years each

Number of Accused	Place of Trial	Charges	Date of Verdict	Sentences
4	Pearl	Murder	11 June	Death
1	Pearl	Murder	12 June	Death
9	Butterworth	Belonging to banned organization (PAC)	20 June	5 to 3 years each 4 to 2 years each
6	Johannesburg	Plotting to possess explosives and weapons	21 June	1 to 20 years 1 to 15 years 3 to 12 years each 2 to 10 years each 1 to 7 years
15	Pearl	Belonging to banned organization (PAC)	22 June	3 years each
20	Butterworth	Belonging to banned organization (PAC)	24 June	12 to 3 years each 7 to 2 years each 1 acquitted
14	Pretoria	Sabotage	25 June	3 to life imprisonment 4 to 12 years each 2 to 10 years each 1 to 5 years 4 charges withdrawn
50	Pearl	Belonging to banned organization (PAC)	26 June	9 to 3 years each 21 acquitted
16	Umtata	Belonging to and furthering aims of banned organization (PAC)	27 June	2 to 3 years each 3 to 2 years each 11 acquitted
25	Grahamstown	Belonging to and furthering aims of banned organization (PAC)	28 June	3 to 3 years each 10 to 2 1/2 years each 7 acquitted



Number of Accused	Place of Trial	Charges	Date of Verdict	Sentences
16	Pretoria	Sabotage	2 July	2 to life imprisonment 1 to 15 years 3 to 10 years each 2 to 8 years each 6 to 5 years each 2 acquitted
19	Faarl	Belonging to banned organization (PAC)	11 July	16 to 3 years each 3 acquitted
14	Pretoria	Sabotage	12 July	1 to life imprisonment 6 to 15 years each 5 to 10 years each 2 acquitted
1	Durban	Belonging to and furthering aims of banned organization (PAC)	18 July	4 years
32	Cape Town	Belonging to banned organization	19 July	23 to 3 years 6 charges withdrawn 3 acquitted
1	Lurten	Belonging to and furthering aims of banned organization (PAC)	19 July	4 1/2 years
11	Goodwood	Belonging to banned organization (PAC)	20 July	1 to 3 years 10 acquitted
20	Faarl	Belonging to banned organization (PAC)	24 July	19 to 3 years each 1 acquitted
16	Worcester	Belonging to banned organization (PAC)	25 July	5 to 3 years each 3 to 2 years each 8 acquitted
2	Johannesburg	Belonging to and furthering aims of banned organization (PAC)	25 July	3 to 6 years each 4 to 5 years each 1 to 4 years 1 to 1 1/2 years

Number of Accused	Place of Trial	Charges	Date of Verdict	Sentences
20	Johannesburg	Belonging to and furthering aims of banned organization (PAC)	26 July	9 to 6 years each 9 to 5 years each 2 to 2 years each 6 years
1	Pearl	Belonging to and furthering aims of banned organization (PAC)	31 July	
15	Curian	Furthering aims of banned organization (PAC)	1 August	All acquitted
6	Alice	Belonging to banned organization	1 August	2 to 1 1/2 years 3 to 2 years 1 to 1 1/2 years
1	Alice	Belonging to banned organization	1 August	1 1/2 years
3	Pretoria	Sabotage	6 August	1 to 9 years 2 to 6 years each
3	Johannesburg	Sabotage	7 August	2 to 6 years 1 to 9 years
1	East London	Belonging to and furthering aims of banned organization	9 August	6 years
25	Koestel	Murder (Bastee Bridge murders - 5 Feb.)	10 August	Death
10	Alice/East London	Belonging to banned organization (and 4 to furthering aims of banned organization)	10 August	4 to 6 years 4 to 2 1/2 years 4 to 2 years 3 to 1 1/2 years 1 to 8 cuts 3 acquitted
1	Alice	Belonging to banned organization	12 August	3 to 2 years (15 months suspended) 1 acquitted

Number of accused	Place of Trial	Charges	Date of Verdict	Sentences
4	Johannesburg	Sabotage	13 August	1 to 11 years 1 to 8 years 2 to 6 years 2 acquitted
45	Cape Town	Belonging to banned organization	16 August	45 acquitted (4 re-arrested)
7	Port Elizabeth	Belonging to banned organization	19 August	5 to 1 year
3	Cape Town	Sabotage	19 August	3 to 9 years
3	Cape Town	Belonging to banned organization	19 August	2 to 3 years 1 to 1 1/2 years
3	Queenstown	Sabotage	22 August	1 to 11 1/2 years 1 to 10 1/2 years 1 to 9 years
12	Paarl	Sabotage and belonging to and furthering aims of banned organization	23 August	1 to 18 years 2 to 15 years 4 to 12 years 1 to 5 years 4 acquitted
3	Johannesburg	Sabotage	23 August	2 to 20 years 2 to 17 years 1 to 15 years
-	Porten	Belonging to and furthering aims of banned organization	23 August	2 to 4 years 1 to 5 1/4 years 1 to 5 years
37	Lysoobc	Belonging to and furthering aims of banned organization	27 August	1 to 8 years 36 to 5 years

Number of Accused	Place of Trial	Charges	Date of Verdict	Sentences
14	Cape Town	Sabotage	30 August	3 to 15 years 1 to 10 years 6 to 7 years 2 to 4 years 1 to 3 years 1 acquitted
1	Pretoria	Belonging to banned organization	30 August	2 to 2 1/2 years 2 to 1 1/2 years
2	Johannesburg	Belonging to banned organization	6 September	2 to 3 years each
14	Port Elizabeth	Belonging to banned organization	9 September	13 to 1 1/2 years each 1 to 1 3/4 years
2	Cape Town	Furthering the aims of a banned organization	10 September	2 to 3 years each
4	Johannesburg	Belonging to and furthering the aims of a banned organization	11 September	1 to 6 years 3 to 5 years each
6	Cape Town	Belonging to banned organization	13 September	2 to 1 1/2 years each (seven) 4 to 3 years each
79	Umtata	Belonging to and furthering the aims of a banned organization	16 September	40 to 2 years each 2 to 3 years each 6 to 5 years each 31 acquitted 3 years
1	Johannesburg	Belonging to banned organization		
4	Johannesburg	Headquarters of Special Branch run by members of PAC	1 October	Death
7	Pretoria	Undergoing military training in Rhodesia which could be of use in furthering the object of the banned ANC	1 October	7 to 20 years each

Number of Accused	Place of Trial	Charges	Date of Verdict	Sentences
15	Pretoria	Belonging to banned organization	5 October	2 to 3 years each 2 to 2 1/2 years each 4 to 1 1/2 years each 2 to 1 year each 3 acquitted
35	Grahamstown	Sabotage - attack on King Williams Town police station on 8 April 1963	9 October	1 to 25 years 2 to 20 years each 6 to 12 years each 8 to 8 years each 1 to 10 years 15 acquitted
71	Umtata	Belonging to banned organization		31 to 2 1/2 years each (19 sentenced to further 1 year each, to run concurrently, for contributing to banned organization.)
7	Cape Town	Belonging to banned organization	26 October	7 to 2 1/2 years each
23	Putterworth	Sabotage and contraventions of the Suppression of Communism Act	8 November	6 acquitted 17 to terms ranging from 6 to 20 years = 202 years in all
10	Putterworth	Sabotage and belonging to banned organization	19 November	2 acquitted 1 to 14 years 2 to 13 years 1 to 10 years 1 to 9 years 3 to 7 years each
20	Putterworth	Public violence and culpable homicide (murder of policeman)	30 November	20 to terms of 7 years and 8 years = 148 years in all

Number of accused	Place of Trial	Charges	Date of Verdict	Sentences
1	Port Alfred	Sabotage	10 December	1 to 7 years 1 to 6 years
2	Dare Town	Incitement	11 December	1 to 1 1/2 years
12	Pretoria	Belonging to banned organization	14 December	1 acquitted 11 to terms of 1 to 3 years = 24 years in all
3	Port Elizabeth	Sabotage	17 December	1 to 12 years 1 to 8 years 1 to 3 years
2	Lurten	Issuing pamphlet calculated to cause hostility between Whites and Non-Whites	17 December	2 to 9 months each (six months suspended)
3	Port Elizabeth	Sabotage	24 December	2 to 12 years each 1 still to be sentenced
5	Lurten	Belonging to and furthering the objects of a banned organization	27 December	2 to 4 years each 1 to 2 years 1 to 3 1/2 years 1 to 1 year
20	Pretoria	Furthering the aims of a banned organization by conspiring to recruit Africans for training outside South Africa	30 December	1 to 20 years 2 to 12 years each 1 to 11 years 9 to 16 years each 2 to 5 years each 5 acquitted or charges withdrawn

## ANNEX II

NOTE ON DEVELOPMENTS IN SOUTH AFRICA SINCE THE SPECIAL  
COMMITTEE'S REPORT OF 13 SEPTEMBER 1963 TO THE GENERAL  
ASSEMBLY AND TO THE SECURITY COUNCIL

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## I. INTRODUCTION

The present document contains a review of some of the main developments since the adoption of the last report of the Special Committee on 13 September 1963 (A/5497 - S/5426).<sup>1/</sup>

Since 13 September 1963, the General Assembly and the Security Council have adopted further decisions on the policies of apartheid in the Republic of South Africa in view of the continued non-compliance of the Government of the Republic of South Africa with the earlier decisions and the continued aggravation of the situation in the country.

It may be recalled that on 7 August 1963 the Security Council expressed its conviction that the situation in South Africa was seriously disturbing international peace and security, and (a) strongly deprecated the policies of the South African Government in its perpetuation of racial discrimination as being inconsistent with the principles contained in the United Nations Charter and contrary to its obligations as a Member State of the United Nations; (b) called upon that Government to abandon the policies of apartheid and discrimination, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of apartheid; (c) solemnly called upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa; and (d) requested the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963.<sup>2/</sup>

On 11 October 1963 the General Assembly took note of reports that the South African Government was arranging the trial of a large number of political prisoners under arbitrary laws prescribing the death sentence and considered that such a trial would lead to a further deterioration of the already explosive situation in South Africa, thereby further disturbing international peace and security. By a vote of 106 in favour, with only South Africa voting against, the General Assembly (a) condemned the Government of the Republic of South Africa

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1/ The developments relating to the persecution of the opponents of the policies of apartheid are covered in a separate document.

2/ S/5386.



for its failure to comply with the resolutions of the General Assembly and the Security Council calling for an end to the repression of persons opposing apartheid; (b) requested it to abandon the arbitrary trial and forthwith grant unconditional release to all political prisoners and to all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of apartheid; and (c) requested all Member States to make all necessary efforts to induce the South African Government to ensure that the above provisions were put into effect immediately.<sup>2/</sup>

As South Africa failed to comply with the Security Council resolution of 7 August and the General Assembly resolution of 11 October, but proceeded with its course of increased apartheid and increased oppression, the Security Council considered the matter again from 27 November to 4 December 1963. On 4 December, the Security Council unanimously adopted a resolution by which it (a) appealed to all States to comply with the provisions of the resolution of 7 August 1963; (b) urgently requested the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures which were contrary to the principles and purposes of the Charter and which were in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights; (c) condemned the non-compliance by the South African Government with the appeals contained in the resolutions of the General Assembly and the Security Council; (d) again called upon the South African Government to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policies of apartheid; and (e) solemnly called upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms or ammunition in South Africa.

The Security Council also requested the Secretary-General to establish, under his direction, a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly

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<sup>2/</sup> General Assembly resolution 1881 (XVIII).

application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed. Finally, it requested the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as might occur, and in any case not later than 1 June 1964, on the implementation of this resolution.<sup>4/</sup>

On 16 December 1963 the General Assembly adopted two resolutions. By the first resolution it (a) appealed to all States to take appropriate measures and intensify their efforts, separately or collectively, with a view to dissuading the South African Government from pursuing its policies of apartheid, and requested them, in particular, to implement fully the Security Council resolution of 4 December 1963; and (b) noted the reports of the Special Committee with appreciation and requested it to continue to follow the various aspects of this question constantly and to submit reports to the General Assembly and the Security Council whenever necessary.<sup>5/</sup>

By the second resolution the General Assembly took note of the reference of the Special Committee to the serious hardships faced by the families of persons persecuted by the South African Government for their opposition to the policies of apartheid, and its recommendation that the international community, for humanitarian reasons, should provide them with relief and other assistance. It requested the Secretary-General to seek ways and means of providing relief and assistance, through the appropriate international agencies, to the families of all persons persecuted by the South African Government for their opposition to the policies of apartheid, and invited Member States and organizations to contribute generously to such relief and assistance.<sup>6/</sup>

In connexion with the question of South West Africa the General Assembly adopted two resolutions. By resolution 1899 (XVIII) of 13 November 1963, the Assembly condemned the South African Government for its persistent refusal to co-operate with the United Nations in applying the principles of the Charter

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<sup>4/</sup> S/5471.

<sup>5/</sup> General Assembly resolution 1978 A (XVIII).

<sup>6/</sup> General Assembly resolution 1978 B (XVIII).

and implementing the resolutions of the General Assembly. It urged all States which had not yet done so to take, separately or collectively, the following measures with reference to the question of South West Africa:

- "(a) Refrain forthwith from supplying in any manner or form any arms or military equipment to South Africa;
- "(b) Refrain also from supplying in any manner or form any petroleum or petroleum products to South Africa;
- "(c) Refrain from any action which might hamper the implementation of the present resolution and of the previous General Assembly resolutions on South West Africa."

By resolution 1979 (XVIII) of 17 December 1963, the Assembly requested the Security Council to consider the critical situation prevailing in South West Africa.

Despite resolutions adopted unanimously, or almost unanimously, by the principal organs of the United Nations, the Government of the Republic of South Africa continued with its policies of apartheid in defiance of the authority of the United Nations and in violation of its obligations under the United Nations Charter. The policies and actions of the Government have further aggravated the situation in the Republic of South Africa and caused wider international repercussions.

## II. NON-COMPLIANCE WITH THE RESOLUTIONS OF THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL

In a communication of 11 October 1963, the Government of the Republic of South Africa claimed that the Security Council did not have the juridical power to take the action envisaged by its resolution of 7 August 1963 and that the resolution could not have any binding effect on the Republic of South Africa or any other Member State.<sup>1/</sup> By a note dated 14 November 1963, it informed the Secretary-General that no reply could be expected to General Assembly resolution 1881 (XVIII) of 11 October 1963, on the ground that it constituted flagrant interference in South Africa's judiciary and was beyond the competence of the United Nations.<sup>2/</sup> In a communication dated 5 February 1964, it described the Security Council resolution of 4 December 1963 as an "unparalleled attempt at deliberate interference" in the internal affairs of the Republic and "yet another flagrant example of the application of the 'double standard'". It added that any form of co-operation with the Expert Group established under the resolution was out of the question.

The leaders of the South African Government have continued to adopt a hostile attitude towards the United Nations and have reiterated their determination to ignore or defy the resolutions of the General Assembly and the Security Council.

On 18 September 1963 Mr. Eric Louw, then Minister of Foreign Affairs, stated that if the United Nations ceased to exist it would be a "blessing."<sup>2/</sup>

Speaking at a National Party rally at Klerksdorp on 26 October 1963, Prime Minister Dr. H.F. Verwoerd rejected any form of concession on racial policy, and declared that he would rather be a "a granite rock than soft clay."<sup>10/</sup>

In regard to the Security Council resolution of 4 December 1963, the Minister of Posts and Telegraphs, Dr. A. Hertzog, stated on 16 December:

"The object of our enemies is to obliterate the White man ... The struggle of today is practically the same as that of our ancestors, except that it is being waged more ruthlessly. The enemies of today

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1/ 3/5/38.

2/ A/5614.3/5457, para. 3

3/ Reuters, 1 September 1963.

10/ The Star, weekly, Johannesburg, 2 November 1963.

are like these of long ago ... (who) tried to ban arms consignments to the Voortrekkers, which is on the same pattern as today," 11/

In a New Year's Eve broadcast, Prime Minister Dr. Verwoerd described South Africa's course as the giving of each racial group "attainable ideals in its own community under its own leaders", and added that loss of control by the White man would ruin the economy and bring misery to all sections of the population. He said it was therefore justified for the Whites to refuse to commit national suicide and fight for self-preservation. He stated that the Whites:

"...are determined to survive and to rule this country, which is their heritage. This attitude is fundamental. All who try to judge or intimidate us may as well realize from the outset that no submission or concession can be made to any pressure which will have the effect of destroying the South Africa we all know and honour, its economy, its way of life and its political structure ... (The White man) cannot countenance his removal from the scene, or his suppression as a minority," 12/

In his review of international affairs at the end of the year 1963, Mr. Eric Louw, then Minister of Foreign Affairs, declared:

"The question is often put to me: 'How do you see the future of the United Nations?' My reply invariably is that if it continues on its present course, and if the General Assembly continues to be used as a forum for airing grievances and for attacking Member States, then the Organization will sooner or later come to an inglorious end - 'unwept, unhonoured and unsung' - except perhaps by the Afro-Asians, who will have lost a useful weapon of attack." 13/

The State President, Mr. C.R. Swart, stated in his opening statement to Parliament on 17 January 1964 that in 1963 attacks on South Africa had continued in the United Nations and in its specialized agencies, and decisions had been taken in direct conflict with the United Nations Charter. Stating that it could be expected that the attacks on South Africa would be developed and increased during 1964, he added:

11/ Geo Times, 17 December 1963.

12/ Geo Times, 1 January 1964; Southern Africa, London, 3 January 1964.

13/ Southern Africa, London, 3 January 1964.

"The Government is not prepared to sacrifice the continued existence of the South African nation, or the prosperity of all the country's inhabitants, or order and peace, not even in the face of threats in any form." 14/

Speaking in the House of Assembly on 21 January 1964, Prime Minister Dr. H.F. Verwoerd criticized the "obsession" of bodies like the United Nations with the relationship between Whites and non-Whites, and declared:

"I contend therefore that present-day international politics proved that the world is sick, and that it is not up to South Africa to allow herself to be dragged into that sickbed. It is White South Africa's duty to ensure her survival, even though she is accused of being isolated under such a policy...

"Furthermore, I contend that the West is sick and not only the world as a whole. The West is closest to us. There we find our natural friends ... The tragedy of the present time is that in this crucial stage of present-day history, the White race is not playing the role which it is called upon to play and which only the White race is competent to fulfil. If the Whites of America and of Europe and of South Africa were dissolved in the stream of the Black masses, what would become of the future of the world and of the human race? What would become of its science, its knowledge, its form of civilization, its growth, its peace, etc? ...

"What we are dealing with here is the preservation of the White man and of what is his, and only in respect of what is justly his, coupled with the recognition of the other people's rights ...

"I contend therefore that the Government Party has not failed in its international policy, as is alleged, but that it has succeeded. We have succeeded in warding off the threat of multi-racialism which was to be forced upon us." 15/

Referring to South Africa's withdrawal from the Food and Agricultural Organization on 18 December 1963, he continued:

"The Republic, at a time when there was no demand that South Africa should withdraw but when our friends created difficulties, decided of its own free volition no longer to remain a member of a body in which in any event South Africa had no particular self-interest. In the same way we shall use our judgement in a sensible and careful manner in respect of other world organizations. That also applies to the United Nations." 16/

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14/ House of Assembly Debates, 17 January 1964, col. 7.

15/ House of Assembly Debates, 21 January 1964, cols. 52-55.

16/ House of Assembly Debates, 21 January 1964, cols. 40-41.

The Minister of Transport, Mr. B.J. Schoeman, told the House of Assembly on 23 January 1964:

"The policy of this party is to discriminate. That is why we discriminate." 17/

The only new element is perhaps the emphasis on certain propaganda lines which do not affect the fundamental policy of apartheid. 18/

The Government has assiduously sought to project the contention that the policy of "separate development" or "orderly co-existence" was in the interest of non-Whites as well. It has sought to argue that South Africa was willing to grant equal rights to non-Whites, but that the controversy was only as to the time when and area where they would be exercised. Illustrative is the statement of the Minister of Bantu Administration and Development.

Mr. M.D.C. de Wet Nel, at the opening of the Transkei Legislative Assembly in December 1963:

"... Transkei remains part of the Republic of South Africa. We have one fatherland and we all belong to South Africa. White and Bantu need each other and must help each other. Our technical knowledge and competence are necessary for the development of your area. Our prosperity is your prosperity and our strength is your strength. Likewise is our safety your safety and towards the outside world we stand together as children of South Africa." 19/

Prime Minister Dr. H.F. Verwoerd told the House of Assembly in January that while the Government would not allow non-White groups to have representation in a White Parliament, their leaders would at some later stage be taken into "that purely consultative general body, which I said would be similar to a Commonwealth body." 20/

17/ House of Assembly Debates, 23 January 1964, col. 171.

1/ The Government has devoted even more attention to propaganda at home and abroad. It was announced in January 1964 that a number of new films, dealing with various aspects of racial policy in South Africa, were being released by the Department of Information in 1964. (Statement by the Minister of Information in House of Assembly Debates, 4 February 1964; cols. 700-02.) Municipal and Divisional councils were authorized to contribute to the South Africa Foundation, a private organization which seeks to build goodwill abroad for South Africa. (Southern Africa, London, 17 January 1964).

1/ Southern Africa, London, 20 December 1963.

10/ House of Assembly Debates, 21 January 1964, col. 71.

### III. PURSUIT OF POLICIES OF APARTHEID

Despite the repeated decisions of the General Assembly and the Security Council, the South African Government continues to implement racially discriminatory legislation and administrative measures. It has, moreover, introduced drastic new legislation in the current session of Parliament to deprive the Africans in "White areas", constituting 87 per cent of the territory, of most remaining rights.

#### I. Bantu Laws Amendment Bill<sup>21/</sup>

On 18 February 1964 the Deputy Minister of Bantu Administration and Development, Mr. M.G. Botha, introduced the Bantu Laws Amendment Bill of 1964. According to press reports, the Bill abolishes the few remaining rights of Africans to seek or accept employment in "White areas" without first obtaining approval of a network of labour bureaux. A labour officer would be able to deprive an African of his job or refuse any request for permission to accept employment for a wide variety of reasons. If he deemed such employment as not "in the public interest", permission could be refused.

Africans who have been refused permission to accept employment would be referred to "aid centres" where they would either be offered "suitable work in the area or any other area" or required to leave the area.

The Bill would abolish the existing rights of Africans born in "White areas" to remain there. Unless they accept "suitable" work offered by the labour bureaux, they may be expelled to the reserves. The Bill would extend the definition of an "idle and undesirable" African, a person who had "failed without lawful cause to accept suitable employment offered him by the labour bureau", to political opponents. "Idle and undesirable" Africans would be expelled to the reserves, sent to "selected institutions" or "banished" to remote areas.

The Bill is regarded by the Government as an essential step to implement its policy of treating the Africans as aliens and transients outside the reserves.

<sup>21/</sup> The Bantu Laws Amendment Bill was originally published in February 1963 and aroused wide-spread opposition. An abridged version was enacted as Act No. 76 of 1963. The remaining provisions, as revised, have now been introduced.



Sir de Villiers Graaff, leader of the United Party, said the Bill would turn all Africans outside the reserves into a "vast floating labour pool from which the Minister can detach individual units from time to time". The New York Times stated: "Essentially the measure would... impose completely rigid control over the movements, homes and jobs of the more than seven million Africans who live in so-called White cities and on farms outside the African reserves."<sup>22/</sup>

The Conference of Roman Catholic Bishops of South Africa condemned the Bill on 17 March 1964 as "a negation of social morality and Christian thinking". The Conference stated that the Bill:

"is a violation of primary human rights ... deprives African citizens of a strict right to residence, movement and employment outside the Bantu areas, that is, in four-fifths of the entire Republic. It would strip the African of his basic freedoms in the country of his birth, making him dependent upon the possession of a permit to explain his presence anywhere, and at any time, outside the 'Bantu homelands'. This is not consonant with any concept of the dignity of the human person."<sup>23/</sup>

### 3. Expulsion of Africans from "White areas"

The Government has continued to expel thousands of Africans from areas outside the reserves.

On 5 November 1963, the Deputy Minister of Bantu Administration and Development, Mr. M.C. Botha, urgently appealed to White employers to help the Department limit the number of Africans in "White areas" to a minimum. He stated that measures would have to be taken against employers if the necessary co-operation was not obtained.<sup>24/</sup>

On 15 January 1964, he stated that the Department was framing regulations to enforce the provision in the Bantu Laws Amendment Act of 1963 limiting the number of African servants permitted to reside on the premises of employers to one per employer in 1964.<sup>25/</sup>

<sup>22/</sup> The New York Times, 19 February 1964.

<sup>23/</sup> Reuters, 17 March 1964.

<sup>24/</sup> South African Digest, Pretoria, 21 November 1963.

<sup>25/</sup> Cape Times, 16 January 1964.

On 28 January 1964, the Minister of Bantu Administration and Development, Mr. M.D.C. de Wet Nel, stated that in 1963, 3,103 Africans had been endorsed out of the Cape Town municipal area, 660 out of the Cape Divisional Council area and 19,650 out of the Johannesburg municipal area.<sup>26/</sup>

He told the House of Assembly on 24 January 1964:

"... Think of the industrial development that has taken place over those (past) ten years. All that development demands a terrific labour force. It was a miracle that we managed to put a stop to the uncontrolled flow of Bantu to South Africa. We put a stop to it. And the tide has already started to turn. The year before last 100,000 Bantu had already left the White areas. Do you know, Sir, that we have sent back a considerable number of foreign Bantu over the past two years? ... Just think of the 2,000 Rhodesian Bantu whom I removed from the vicinity of Port Elizabeth. Approximately 20,000 foreign Bantu have passed through our borders posts, Bantu who will not return to South Africa ... Bantu are daily returning to their own areas ... You have the Mdontzani project near East London where 60,000 have been resettled in the Bantu area. We are busy with that; we shall shortly start in Pietersburg; there are 180,000 at Durban who will shortly be settled in the Bantu area; Dalmeny 75,000; Pietermaritzburg 38,000; Rustenburg 9,000; Potgietersrus 6,000 (already settled); Newcastle over 12,000; Pretoria over 50,000. Just think of these few projects, and more are in process of development. That will mean that within the following few years over 350,000 Bantu, from the White areas, will be settled in their own areas. And not only do the Bantu accept this, but they accept it enthusiastically." <sup>27/</sup>

### 3. Implementation of the Group Areas Act

The forcible uprooting of families and businesses to separate the races, under the Group Areas Act, has continued. Tens of thousands of families have

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<sup>26/</sup> Cape Times, 29 January 1964.

<sup>27/</sup> House of Assembly Debates, 24 January 1964, cols. 282-83.

been affected. The proclamations for Durban alone, issued on 4 October 1963, involved the dispossession and eviction of nearly 10,000 families.<sup>28/</sup>

A plan to resettle virtually all of the 38,000 Indians on the Rand in three areas is nearing completion and the final group areas proclamations are expected. Full implementation of the plan will result in almost total residential segregation of Indians in the Transvaal. The three towns of Benoni, Lenasia and Krugersdorp will be developed as "self-supporting communities which will eventually be granted autonomous local government". Some businessmen will be permitted to remain in strictly controlled multi-racial trading and light industrial areas yet to be proclaimed in some urban areas.<sup>29/</sup>

A deputation of persons of Indian and Pakistani origin from Cato Manor, Durban, complained to the Minister of Community Development, Mr. P.W. Botha, on 21 November 1963, that although their community made up only a tenth of the non-African population, it had been obliged to make nine-tenths of the sacrifices under the Group Areas Act. They stated that 125,000 persons of Indian and Pakistani origin had been affected, compared with 4,000 Whites and 10,000 Coloureds.<sup>30/</sup>

Members of the Indian community observed 15 November 1963 as "a day of anguish and sorrow in thousands of homes". A statement issued in that connexion said that Indians were entering "a moment of crisis" caused by the Group Areas Act and that it was "a solemn and religious duty to say that mass uprooting of

28/ The New York Times, 7 October 1963. The following declarations of group areas have been issued since 13 September 1963 and published in the Government Gazette of the dates indicated:

13 September 1963: Group areas for Coloureds and Indians at Ermalo, Transvaal; for Whites at Ottoshoop, Transvaal; 4 October 1963: Group areas for Whites, Coloureds and Indians at Durban, Natal; for Whites, Coloureds and Indians at Isipingo, Natal; for Whites and Coloureds at Colesberg, Cape Province; 18 October 1963: Group area for Coloureds at Hawston, Cape Province; 25 October 1963: Group area for Indians at Mountain Rise, District of Pietermaritzburg, Natal; 1 November 1963: Group areas for Whites and Coloureds at Riverdale, Cape Province; for Whites at Port Elizabeth, Cape Province; for Whites and Indians at Krugersdorp, Transvaal; for Whites at Randfontein, Transvaal; for Whites and Coloureds at Reddepoort, Transvaal; 22 November 1963: Group area for Whites at Schermet West, Cape Province; 6 December 1963: Group areas for White and Coloureds at Tarkastad, Cape Province; for Whites and Coloureds at Malmesbury, Cape Province ...

29/ The Star, weekly, Johannesburg, 5 October 1963.

30/ Rand Daily Mail, 22 November 1963; Cape Times, 22 November 1963.

people, no matter what colour, is against all moral and religious scruples".<sup>31/</sup> More than one hundred Indian school children were caned for having stayed away from classes on 15 November.<sup>32/</sup>

Police used police dogs to disperse several hundred Indian women who had come from many parts of the Transvaal to Pretoria on Human Rights Day, 10 December 1963, to present a protest to the Prime Minister on the application of the Group Areas Act. They had carried a memorandum which read in part:

"The ruthless application of apartheid is causing grave concern to our people. Its implementation in the form of group areas, job reservation and other measures involves loss of homes, impoverishment and assault on our dignity and self-respect.

"As a woman, I request you to take steps that will restore security to a people whose only 'crime' is colour and race." <sup>33/</sup>

#### 4. Establishment of advisory bodies for racial groups

Separate advisory and administrative bodies are being set up and expanded on racial lines to implement the policies of apartheid and give an appearance of consultation.

The first Bantu council was established at Welkom (Orange Free State) in November 1963. The council will consist of eight elected and four appointed members representing their ethnic groups.<sup>34/</sup> It may be recalled that the establishment of Bantu councils had been strongly opposed by African organizations.

State President, C.R. Swart, declared in his opening statement to Parliament on 17 January 1964 that a bill would be introduced providing for a Council with legislative powers to deal with certain matters affecting Coloureds.<sup>35/</sup> The Minister of Coloured Affairs, Mr. P.W. Botha, had stated in October 1963 that a Coloured Representative Council would be established and enabled to consult with a joint committee of Parliament.

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<sup>31/</sup> SAPA, 4 November 1963.

<sup>32/</sup> Rand Daily Mail, 23 November 1963, quoted in Institute of Race Relations; News Letter, December 1963.

<sup>33/</sup> Rand Daily Mail, 11 December 1963.

<sup>34/</sup> South African Digest, Pretoria, 7 November 1963.

<sup>35/</sup> House of Assembly Debates, 17 January 1964, col. 3.

Prime Minister Dr. Verwoerd told the House of Assembly on 21 January 1964:

"Our policy is that there will be a Coloured Legislative Council which will care for the interests of the Coloureds; the leaders ... will form an executive body. This Council will deal with matters affecting the Coloureds only. The other matters, affecting the country as a whole, will be dealt with by this Parliament as it is constituted at present, and the representatives of the Coloureds will remain White, as they are now. That is our policy." <sup>36/</sup>

The Minister of Coloured Affairs, Mr. P.W. Botha, introduced the Coloured Persons Representative Council Bill in the House of Assembly on 26 February 1964. The Council would be composed of thirty elected and sixteen nominated members and an executive committee of five members, of whom one would be appointed as chairman by the State President. The State President would be enabled to permit the Council to legislate on specified subjects. Voting in the executive committee would be secret. <sup>37/</sup>

The Government has also made efforts to set up an advisory body of people of Indian and Pakistani origin along the same lines as the coloured Advisory Council. Representatives of the community, however, refused to co-operate <sup>38/</sup> and the Government invited about one hundred "delegates" to a conference in Pretoria on 10 and 11 December 1963. <sup>39/</sup>

The Minister of Indian Affairs, Mr. W. Maree, told the conference that he had invited them, as democratically-elected leaders of the Indian community could scarcely be found because of "agitation, intimidation and internal strife" and as there was a "dire need for consultation". He continued:

"If the required co-operation is still withheld it will not mean that I shall refrain from going ahead with the task entrusted to me. But I shall do so as I see fit and nobody will be entitled to accuse me then of taking matters into my own hands without first having consulted you."

<sup>36/</sup> House of Assembly Debates, 21 February 1964, col. 71.

<sup>37/</sup> Cape Times, 27 February 1964.

<sup>38/</sup> The Transvaal Indian Congress declared, for instance, that "no self-respecting Indian will serve on a body designed to implement apartheid". (Reuters, 10 December 1963.)

<sup>39/</sup> The Minister of Indian Affairs stated that it had been decided to invite persons who had proved by their actions that they had the interests of the community at heart. (Rand Daily Mail, 13 November 1963.)

The Minister warned the people of Indian and Pakistani origin that the Government had difficulty in engendering an adjustment of outlook among its followers "who for many years were used to saying that the Indians are a foreign people who should go back to their countries of origin",<sup>40/</sup>

The Conference was reported to have accepted the Government's plans for the formation of a National Indian Council.<sup>41/</sup>

On 3 February 1964 the Minister of Indian Affairs announced the establishment of a National Indian Council of twenty-one members as "purely an administrative arrangement to provide the machinery for contact between the Government and the Indian community. In due course, and after necessary consultation, legislation will be introduced for the creation of a statutory council". He added that the establishment of the Council created an official link between the Government and the Indian community and showed "proof of the Government's willingness and desire to cater for the needs of Indians in the same way as the needs of other sections of the population are being catered for".<sup>42/</sup>

On 25 February 1964 the Chairman of the National Indian Council, Mr. J.H. van der Merwe, stated that the first meeting of the Council would be held from 23 to 25 March 1964.<sup>43/</sup>

40/ Southern Africa, London, 20 December 1963. Mr. Maree said the proposed council could "pave the way for an eventual democratically elected council", which in time would control those affairs of the Indian community that might be delegated to it by parliament. Initially it would serve as a body through which the Government could consult the Indian community. It would consist of about fifteen members "nominated by me - perhaps from a list submitted by this conference".

Among matters upon which the council would be consulted were: (1) How it could be developed into an elected body "with powers to legislate and administer"; (2) Improvement of school facilities; (3) Establishment of local government "for Indians and by Indians in their own cities, towns and residential areas"; (4) Giving Indians a share in industrial development; (5) Establishing Indian-run hospitals; (6) Care for the aged and infirm; and (7) Creation of more employment facilities. (Ibid.)

41/ Southern Africa, London, 3 January 1964.

42/ Agence France Presse, 3 February 1964.

43/ Cape Times, 26 February 1964.

5. Apartheid in education, employment and other fields

Segregation in education is being extended. It was reported that a faculty of medicine would be established at the University College of the North. African students would be enrolled in this segregated institution in early 1965, and would then be barred from the medical schools of the Universities of the Witwatersrand, Cape Town and Natal.<sup>44/</sup>

The Cape Times (22 November 1965) reported that more than 100 Coloured taxi drivers had been dismissed from their jobs in Cape Town because of enforcement of regulations forbidding non-White drivers to chauffeur White passengers. At least 250 more Coloured drivers were liable to lose their jobs. Mr. A. Bloomberg, Coloured Representative for Cape Peninsula, stated: "this repressive race policy, resulting as it does in innocent people losing their means of livelihood, is causing South Africa infinite harm".

The South African Press has reported that the Minister of the Interior intends to introduce the Protection of Race Relations Bill to enforce rigid apartheid in virtually all cultural, sporting and entertainment fields. The Minister, Senator Jan de Klerk, warned of "stern measures" against persons who failed to observe rigid social segregation of the races.<sup>45/</sup>

6. Implementation of the Transkei Constitution Act

The adoption of the Transkei Constitution Act, as a step towards the creation of Bantustans, was reviewed in the last report of the Special Committee. The Act provided for limited self-government in the overcrowded African reserve of Transkei, to be exercised through a legislative assembly composed of sixty-four appointed chiefs and forty-five elected members.

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<sup>44/</sup> The Star, weekly, Johannesburg, 9 November 1963.

<sup>45/</sup> Cape Times, 10 January 1964.

Elections for the legislative assembly were held on 20 November 1963. The Government announced that 880,425 persons - 414,238 men and 466,187 women had registered as voters.<sup>46/</sup> One hundred and eighty candidates were nominated for the forty-five seats.

Political parties were not allowed, and the two main contenders for the post of Chief Minister - Chief Kaiser Matanzima, head of Imigrand Tembuland and Paramount Chief Victor Poto of Western Pondoland - issued election manifestoes. Chief Matanzima supported the Government's policy of "separate development", while Paramount Chief Poto called for multi-racialism and a more democratic legislature.<sup>47/</sup>

45/ All Africans born in the Transkei, all Xhosa-speaking persons in South Africa and all Sotho-speaking persons linked with Sotho elements in the Transkei were regarded as Transkei citizens. Of the total registered voters, about 610,000 had registered in the Transkei and about 270,000 outside the territory.

47/ South African Digest (7 November 1963) summarized the main points of the manifestoes as follows:

"Chief Matanzima says in his 13 point manifesto that he would advocate: "Separate development; industries for the Transkei, but not European private enterprise; the gradual takeover for the Bantu of all land in the Transkei including municipal property in the 26 villages; the establishment of a Bantu battalion in the Republic's defence force to train the young Transkeians for military service in the event of war involving South Africa.

"He would also press for an all-Black civil service in the Transkei with salaries comparing favourably with those of their White counterparts in the Republic.

"The Transkei's Education Department should be solely responsible for the nature and standard of education to be given to the Bantu children. The people of the Transkei should decide on the medium of instruction and syllabi.

"The Transkei would require financial stability. For this reason good relations would have to be maintained with the Republican Government (to facilitate the flow of money) from South Africa to the Transkei by way of grants and the employment of Transkeians in the border industries and elsewhere.

"He wanted agriculture to be placed on a high standard whereby every able bodied man owning land should use modern methods of farming. The whole country should be completely rehabilitated - irrigation schemes to be undertaken, soil erosion checked, dams built and good quality stock bought.

"He would strive to induce the Republican Government to employ Bantu men and women in all the departments that had not been transferred to the Transkei Government so as to train them for independence.



The issues in the elections were rather unreal as the Government had made it clear that multi-racialism could not be accepted. Paramount Chief Victor Poto stated that though he was in favour of a multi-racial Transkei, he realized that he would not be able to do much to promote it before the Transkei was totally independent.<sup>h3/</sup>

Moreover, the elections were conducted under a State of Emergency and with the full use of repressive force against the militant opponents of the policies of apartheid. As the Liberal Party noted shortly before the elections:

"One candidate at least, Mr. L. Mdingi of Bizana, was given 90-days when he emerged as organiser of the Iqumru IamaMpondo Asempumalanga (Pondoland People's Party) putting up eight candidates. Another, Mr. Hamington Majija, a well-known Liberal, was banned under the Suppression of Communism Act on 1st October, the eve of Nomination Day. An outstanding local leader, Mr. N.I. Honono, was house-arrested in Umtata in 1962 and another, Mr. R.S. Canca, banned and confined to Idutywa and Willowvale this year. And all the old factors remained - the cream utterly sceptical, banned, or elsewhere involved - Transkeians like Messrs. Nelson Mandela, Walter Sisulu and Govan Mbeki all in gaol and Mr. Oliver Tambo in exile. So came the Election, with many leading

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(Foot-note 47 continued)

"The traditional authority of chieftainship should be preserved, and in order to do so, chiefs should participate in the body that made the laws - the Transkeian Legislative Assembly. The chiefs should be in the Assembly by virtue of their status.

"This is one of the main points on which Chief Matanzima and Paramount Chief Poto disagree. The latter has said that members of the Assembly should all be elected members and that the chiefs should sit in an Upper House of Review.

"Other points which Paramount Chief Poto advocates in his election are:

"The formation of political parties which have the interests of the Transkeian people at heart; an educational system that will fit the individual into human society and which is not bound by geographical boundaries; a policy of equal pay for equal work; freedom to compete for any position or employment in an unrestricted labour market and removal of disabilities of the work-seeker; a policy that will remove fear and uncertainty and instil confidence in the future and a sense of belonging and usefulness to a growing and expanding community; the establishment of factories and industries resulting in increased opportunities for employment; a legal system that will measure up to the international standards of justice; a policy of scientific, pastoral and agricultural development; increased and State-subsidized health services; and freedom of speech and religion."

h-7/ South African Digest, Pretoria, 21 November 1963.

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figures knocked out in advance, no political parties, no freedom to hold meetings at will, freedom of speech muzzled by the Emergency Regulations which make even 'interference with the authority of the State, one of its officials, a chief or headman' by making 'a verbal or written statement' an offence punishable by up to three years' gaol and £300 fine." <sup>49/</sup>

The Paramount chiefs and the chiefs seemed to have exercised much influence on the elections.

Paramount Chief Botha Sigcau of Eastern Pondoland (Quakeni), against whom there had been revolts in the area, appealed to the electorate in his region to abide by the principle of separate development on which the Transkei Constitution was based and added: "order, law and justice, and not subversion and sabotage, have always adorned the careers of wise statesmen. Voters of Pondoland, vote for such men."<sup>50/</sup> His statement was considered significant particularly as his region has the biggest block in the Assembly - eight elected members and fifteen chiefs.

Paramount Chief Sabata Dalindyebo, on the other hand, supported Paramount Chief Victor Poto.

Despite the clear evidence of the Government's support for Chief Matanzima, nearly thirty-five of the forty-five elected seats were won by supporters of Paramount Chief Poto. This was widely interpreted as a repudiation of apartheid by the Whosa people.

Chief Matanzima, however, was elected Chief Minister on 6 December 1963 by 54 votes to 49, having obtained the support of a large majority of the chiefs.

Paramount Chief Poto and his supporters formed the Democratic Party as a parliamentary opposition.

7. Imposition of the policies of apartheid in the Mandated Territory of South West Africa

The plans of the Government to impose the policies of apartheid by force in the Mandated Territory of South West Africa, in disregard of its international obligations under the United Nations Charter and the resolutions of the General Assembly, may be briefly noted.

<sup>49/</sup> Contact, Cape Town, 30 November 1963.

<sup>50/</sup> South African Digest, Pretoria, 21 November 1963.

On 27 January 1964, while the question of South West Africa was the subject of adjudication in the International Court of Justice, the Government tabled in Parliament the report of the Odendaal Commission which provides, in conjunction with a development plan, for the division of the Territory into a large White area and a number of "native homelands".

The Commission endeavoured to present the plan as favourable to the indigenous African inhabitants. It stated that 21,607,743 hectares had so far been set aside as "home areas" for the non-White groups. Under the Commission's plan, these areas would be increased to 32,629,364 hectares,<sup>51/</sup> largely by the addition of desert to consolidate scattered reserves.

These areas would be divided into ten "homelands" for ten non-White "groups" whose numbers vary from 9,234 persons in Kaokoveld to 239,363 Ovambos (who constitute 45.3 per cent of the total population of the territory and a majority of the non-White population).<sup>52/</sup>

The Commission projected the ideal of "self-determination" for the ten non-White groups. It stated that "one mixed central authority for the whole Territory would not further the proper aims of self-determination for each population group" on the grounds that (a) the population was heterogeneous; (b) the groups "harbour strong feelings against other groups"; (c) "the Ovambo ... would completely dominate the other groups"; (d) government by non-Whites would lower standards of administration, and hamper the Whites "to whom the Territory mainly owes its economic progress".<sup>53/</sup>

Under the Commission's recommendations, the bulk of the habitable land of the Mandated Territory would be reserved for the Whites who constitute only a sixth of the population. In addition, all diamond mines and the great majority of all other mines would remain in the "White area".<sup>54/</sup> The Commission recommended that an area now part of the Kaokoveld reserve, where prospecting for diamonds has now begun, be placed in the "White area".

<sup>51/</sup> Report of the Commission of Enquiry into South West Africa Affairs, para. 425.

<sup>52/</sup> Ibid., paras. 298-407 and table XII.

<sup>53/</sup> Ibid., paras. 184-89.

<sup>54/</sup> Ibid., para. 1321.

The Commission concluded that:

"... the upliftment and development of the non-White groups and their contemplated homelands is a task for direct handling in all its facets by the Central Government of the Republic of South Africa, and that, largely in view of the implications involved, only the proposed White area in South West Africa should be administered by an Administrator, Executive Committee and Legislative Assembly." 55/

It recommended that the non-White "homelands" and non-Whites in the "White area" be administered by the Department of Bantu Administration and Development of the Republic.

The Commission recommended that each homeland institute "a citizenship of its own". 56/

Two Commissioners-General would be appointed for non-White "homelands". 57/ Each "homeland" would have its own "constitution" and legislative council. The legislative councils would consist of chiefs and headmen and, in some cases, a minority of elected members. 58/ Powers would be gradually transferred to them. Eventually, these Councils would be responsible for all functions except defence, foreign affairs, internal security and border control, posts, water affairs, power generation and transport. All legislation passed by the Council would be subject to the approval of the State President. 59/

The five-year development plan involves an expenditure of \$219 million in both the White and non-White areas. Of this, however, about a quarter is for budget deficits. \$100 million is for power and water projects: over two-thirds of this appears to be intended for White areas or for mines controlled by Whites. Over \$57 million is to be spent for roads and \$4.2 million for airports. Projects for education and health in the homelands would cost \$7 million. 60/

55/ Ibid., para. 214.

56/ For example, Ibid., para. 306.

57/ Ibid., paras. 227-28.

58/ Ibid., paras. 301-308. In the majority of cases where the Commission recommended the election of members to the Legislative Councils, it stipulated that "such elected member shall initially not constitute more than 40 per cent of the Legislative Council".

59/ Ibid., paras. 305-309.

60/ Ibid., para. 1509.

In short, it would seem that the Commission's plan is based on such an interpretation of "self-determination" to make the term meaningless. "Homelands" with such small populations as are envisaged can never hope to become truly self-governing or independent. The objective would seem to be to divide the territory on tribal lines, create Bantustans with small populations, and integrate the territory more closely with the Republic.

It secures the richest part of the country for White control. It does not change the present situation in that respect which was described in the summary of the report as follows:

"South West Africa has what can be described as a dual economy with a predominantly modern sector in the South and a traditional subsistence economy in the North.

"Except for the wealth derived from karakul sheep which thrive in the Southern Region, the country as a whole has limited and uncertain agricultural possibilities. To its mineral resources, however, particularly diamonds and copper, it owes a large measure of its vigorous economic growth. Its fishing grounds off the coast-line have, since the last War, contributed substantially to the general prosperity.

"These developed natural resources are mainly in the Southern Sector where the knowledge and resourcefulness of the Whites in mining, industry and farming have made their exploitation possible. Apart from providing labour, the Northern homelands have so far made an extremely small contribution to development as a whole."

As Contact, a liberal fortnightly of Cape Town, commented on 14 February 1964, the South African Government had inherited "a mandate, not half a country". The paper added:

"The economic - industrial, agricultural, social welfare - provisions will provide a mass of useful ideas for a free South West Africa. The political ideas ... can attract none but the inevitable sell-outs and short-term power seekers, and can please only the already apartheid-converted. Ten Bantustans for the non-Whites and the Whites ... and not even a central parliament for all the Bantustans to meet together: here is 'divide and rule' gone mad.

"The Report talks of the 'melting-pot' of population migrations in the country', yet ... it never once postulates a 'melting-pot' state - a non-racial democracy, which has been the constant aim of the political leaders of the Ovambo, Hereros, Namas, Damaras, and others as represented by the petitioners at the United Nations."

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On 4 February 1964 the Administrator of South West Africa stated that the report of the Commission would be submitted to the Legislative Assembly of South West Africa on 17 March 1964.<sup>61/</sup> On 25 February 1964 the Minister of Bantu Administration and Development, Mr. M.D.C. de Wet Nel, stated that there should be no delay in implementing the Commission's recommendations.<sup>62/</sup>

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<sup>61/</sup> South African Information Service, 5 February 1964.

<sup>62/</sup> Cape Times, 26 February 1964.

#### IV. BUILD-UP OF MILITARY AND POLICE FORCES

In the previous reports, the Special Committee has reviewed the tremendous expansion of military and police forces in South Africa to meet the grave situation caused by the imposition of the policies of apartheid, and indicated that this expansion is itself likely to have serious international repercussions.

The build-up of military and police forces has continued during the period under review.

State President C.R. Swart declared in his opening address to Parliament on 17 January 1964:

"It is gratifying to be able to mention that the programme to equip our Defence Force is proceeding according to plan, and that defence research and local production of defence requirements are progressing satisfactorily ... It is also encouraging to note that the expansion of the Defence Force enjoys the general support of the nation. 63/

The Minister of Finance, Dr. T.E. Dinges, claimed on 17 September 1963 that South Africa could cope with any "Army of Liberation" which did not receive financial and military support from at least two great Powers. 64/ He suggested, however, that South Africa had not yet reached her maximum defence expenditure and that the 1964-65 defence vote would rise above current expenditure. 65/

On 16 March 1964 the Minister of Finance introduced a record defence budget totalling 210 million rand or \$294 million. The estimate represents an increase of 25 per cent, or 52 million rand, over the appropriation for 1963-1964. Dr. Dinges stated in the House of Assembly that the increase was to "discourage foreign aggression" and counter:

"threats which have been hurled at our country, threats which at another time would have called down the condemnation of the civilized world ... If I do not believe that those threats will be translated into action, it is only because I know - and those who threaten us know - that our defences are strong and getting stronger by the day". 66/

63/ Senate Debates, 17 January 1964, cols. 3-9.

64/ Cape Times, 18 September 1963.

65/ Cape Times, 11 September 1963.

66/ The Times, London, 17 March 1964.

The budget also includes an estimate of \$16 million for justice and police services. South Africa would spend 26.8 per cent of its total budget on security.<sup>67/</sup>

The South African Government has continued to import military equipment from abroad. The President Steyn, second of the three modern anti-submarine frigates ordered by the South African navy in the United Kingdom, at a cost of ten million Rand, arrived in Cape Town in September 1963.

The Swiss Federal Cabinet announced in November 1963 that it had authorized a Swiss firm, Oerlikon, to deliver several anti-aircraft guns and explosives to South Africa. It stated that export of these weapons had been permitted because they were exclusively for air defence.<sup>68/</sup>

Manufacture of arms and ammunition in South Africa continues to be expanded.

The Minister of Defence, Mr. J.J. Fouche, said in September 1963 that South Africa still needed certain types of arms, but so much progress had been made with the production of arms and ammunition that South Africa was now almost independent of foreign sources of supply. If the threats of certain countries to stop supplies to South Africa were carried out, he foresaw great progress in the manufacture of arms in the country. He claimed that South Africa's problem was no longer to get arms manufacturers of other countries to produce arms in South Africa, but rather to decide whose requests for the establishment of factories should be accepted.<sup>69/</sup>

Mr. Fouche added on 14 October 1963 that South African production of arms, ammunition and explosives had risen 80 per cent in the past four years and that the variety of arms and ammunition manufactured was three times as great as during World War II, despite the greater complexity of modern weapons.<sup>70/</sup>

He stated in December 1963 that South Africa had not been buying arms for internal use for some time and that it either had, or was manufacturing, all arms needed for internal security.<sup>71/</sup>

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<sup>67/</sup> New York Times, 17 March 1964.

<sup>68/</sup> South African Digest, Pretoria, 21 November 1963.

<sup>69/</sup> South African Digest, Pretoria, 19 September 1963.

<sup>70/</sup> A.F.P., 14 October 1963; Cape Times, 15 October 1963.

<sup>71/</sup> Southern Africa, London, 20 December 1963.



Defence research, begun in 1962 with the collaboration of the Council for Scientific and Industrial Research and the Defence Force, was actively promoted and expanded. Close contact was maintained with industry and the universities.<sup>72/</sup>

Early in September 1963, it was announced that the Council for Scientific and Industrial Research (CSIR) was recruiting highly-qualified scientists to be sent overseas for two years for the necessary training to conduct research into the construction of rockets.<sup>73/</sup>

On 27 October, Professor L.J. Le Roux, Vice-President of the Council for Scientific and Industrial Research, announced the establishment of a Rocket Research and Development Institute. He stated that the rocket-propelled ground-to-air missile was one of the defensive weapons being contemplated. Supported by radar to seek out an assailant far beyond the boundaries of the country, the guided missile was the surest defence against an enemy attack from the air.<sup>74/</sup>

He also announced the establishment of a Naval Research Institute. Its main task would be the development of scientific methods to protect the Republic's harbours and coastline.<sup>75/</sup>

Professor Le Roux stated on 7 November 1963 that the South African Government was studying recent developments in airborne weapons, including poison gases known to be capable of massive devastation, in order to strengthen defences against surprise attack from the air. He said that gas was coming back as a low-cost weapon of frightening power and stated:

"We appreciate that these poisons are capable of being delivered in vast quantity by aircraft or long-range missile and they can have a destructive effect similar to that of a nuclear bomb of 20 megatons. These gases are 10 times more poisonous than any other substance you can name ... We must be alert to such dangers."<sup>76/</sup>

72/ South African Digest, Pretoria, 31 October 1963.

73/ South African Digest, Pretoria, 5 September 1963.

74/ South African Digest, Pretoria, 31 October 1963; New York Times, 23 October 1963.

75/ South African Digest, Pretoria, 31 October 1963.

76/ Reuters, 7 November 1963.

Large numbers of civilians are being trained in the use of firearms. The Minister of Justice, Mr. B.J. Vorster, stated on 11 September that 27,250 women in South Africa belonged to pistol clubs where they received instruction from police officers.<sup>77/</sup>

The Government set up a special committee of police and defence experts to compile a list of military and strategic installations which would be declared "protected areas" in case of emergency. The Minister of Justice may direct the owners of "protected areas" to erect security fences, refuse admittance to all persons not authorized by the Minister and institute other precautionary measures at their own expense. He may also designate any person "in the service of the State", and specifically military personnel, to take charge of any such installation. The Minister stated that Africans would be excluded from all duties connected with the security of such areas. The Minister of Defence announced simultaneously that special units of the Commandos would be responsible for the security of strategic installations.<sup>78/</sup>

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<sup>77/</sup> The Star, daily, Johannesburg, 11 September 1963.

<sup>78/</sup> The Star, weekly, Johannesburg, 21 September 1963.

ANNEX III

Resolution adopted by the Council of Foreign Ministers of  
the Organization of African Unity at its session held at  
Lagos in February 1964

The second regular session of the Council of Ministers of the Organization of African Unity, meeting at Lagos from 24 to 29 February 1964,

Recalling its earlier resolutions on apartheid and racial discrimination, and particularly the resolution adopted by the Summit Conference of Heads of African States and Governments at Addis Ababa in May 1963,

Having considered the report of the Committee for Liberation,

Having heard the report of the delegation of Foreign Ministers entrusted by the Addis Ababa Summit Conference with the task of setting forth and defending the African position in the United Nations Security Council,

Noting with great concern the continued refusal of the Government of South Africa to heed the appeals of all sectors of world public opinion, and in particular the resolutions of the United Nations Security Council and General Assembly,

Noting in particular that inasmuch as the Government of South Africa has disregarded all peaceful efforts to secure the abandonment of the policy of apartheid, sanctions of every kind represent the only remaining means of peacefully resolving the explosive situation prevailing in South Africa,

Decides to submit to the next conference of Heads of State the following recommendations:

1. That it should reaffirm that the situation in South Africa represents a serious threat to international peace and security;

2. That it should condemn the Government of South Africa, whose policy, which is inconsistent with its political and moral obligations as a State Member of the United Nations, gravely imperils the stability and peace of the African continent and of the world;

3. That it should endorse and promote action by representatives of the Organization of African Unity in international bodies to secure the abandonment of the policy of apartheid and that it should welcome the growing support of many States and institutions for African demands in this matter;

4. That it should renew its appeal to all States to apply strictly the economic, diplomatic, political and military sanctions already decided upon by the United Nations General Assembly and Security Council;

5. That it should address a special appeal to the major trading partners of the Government of South Africa to desist from the encouragement they are giving to apartheid through their investments and their trade relations with the Pretoria Government;

6. That it should commend the delegation of Foreign Ministers entrusted by the Addis Ababa Summit Conference with the task of setting forth and defending the African position in the United Nations Security Council and that it should instruct the African Group in the United Nations to request the earliest possible action by the Security Council to give effect to its resolutions S/5386 of 7 August 1963 and S/5471 of 4 December 1963 calling for an end to the sham trials of South African nationalists and for the liberation of all persons imprisoned, interned or subjected to other restrictions for having opposed apartheid;

7. That it should decide to take all necessary steps to deny the right of overflight, landing and docking, and all other facilities, to aircraft and ships coming from or bound for South Africa;

8. That it should instruct the African Group in the United Nations to prepare and submit to the next Summit Conference of Independent African States a complete report on the nature and scope of trade relations and private and public investments as between South Africa and other States, and as between African States and these partners of the Government of South Africa.

Lagos, 27 February 1964

