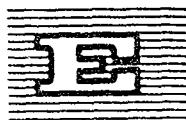


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VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF  
THE AD HOC WORKING GROUP OF EXPERTS

Progress report prepared by the Ad Hoc Working Group of Experts  
in accordance with Commission on Human Rights  
resolutions 1985/7 and 1985/8 and Economic  
and Social Council resolution 1985/43

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GENERAL INTRODUCTION

A. Mandate and composition of the Ad Hoc Working Group of Experts

1. The mandate of the Ad Hoc Working Group of Experts established in 1967 under resolution 2 (XXIII) of the Commission on Human Rights, as enlarged and extended by successive resolutions of the Commission and the Economic and Social Council, was renewed by the Commission on Human Rights in resolution 1985/8 of 26 February 1985. The Economic and Social Council approved that resolution by decision 1985/140 of 30 May 1985. The Group's mandate covers the period 1985-1986.
2. At its forty-first session, the Commission on Human Rights decided, by resolution 1985/8, (para. 11) adopted on 26 February 1985, that the Ad Hoc Working Group of Experts would be composed of the following experts, acting in their personal capacity: Mr. Annan Arkyin Cato (Ghana), Chairman Rapporteur, Mr. Branimir Janković (Yugoslavia), Mr. Felix Ermacora (Austria), Mr. Humberto Díaz Casanueva (Chile), Mr. Mulka Govinda Reddy (India), and Mr. Mikuin Leliel Balanda (Zaire).
3. Under this same resolution concerning the situation of human rights in South Africa, the Commission decided that the Ad Hoc Working Group of Experts should continue to investigate and study the policies and practices which violate human rights in South Africa and Namibia (para. 12). In addition, the Commission requested the Ad Hoc Working Group, in co-operation with the Special Committee against Apartheid, to continue to investigate cases of torture and ill-treatment of detainees and the deaths of detainees in South Africa (para. 13). The Commission took note of the studies and findings of the Ad Hoc Working Group of Experts on the relationship between apartheid and genocide contained in the report prepared pursuant to paragraph 14 of Commission on Human Rights resolution 1983/9 and requested the Ad Hoc Working Group to continue its investigation of the matter (para. 14).
4. The Commission again requested the Secretary-General to renew his invitation to all States Members of the United Nations to submit their views and comments on the interim study on the international penal tribunal to enable the Ad Hoc Working Group to continue its study and to submit a report to the Commission at its forty-third session (para. 20).
5. The Commission on Human Rights also renewed its request to the Government of South Africa to allow the Ad Hoc Working Group to make on-the-spot investigations of the living conditions in the prisons in South Africa and Namibia and the treatment of prisoners (para. 15). In this connection, in a letter dated 8 April 1982, the Ad Hoc Working Group called on the Government of the Republic of South Africa to co-operate with the Group in discharging its mandate. As already mentioned in the previous report (E/CN.4/1985/8), no reply was received. Further to the renewal of such a request by the Commission on Human Rights in its resolution 1985/8, a letter dated 12 July 1985 was addressed to the South African Government on behalf of the Ad Hoc Working Group by the Assistant Secretary-General for Human Rights, reading as follows:

"I have the honour to transmit to you herewith Commission on Human Rights resolutions 1985/6 entitled 'Situation in southern Africa', 1985/7 entitled 'Situation of human rights in Namibia' and 1985/8 entitled 'Situation of human rights in South Africa' adopted on 26 February 1985.

By resolution 1985/8 the Commission renewed the mandate of the Ad Hoc Working Group of Experts on southern Africa. At its First Regular Session of 1985, the Economic and Social Council, by decision 1985/140 of 30 May 1985, approved the decision of the Commission to renew the mandate of the Ad Hoc Working Group. By paragraph 15 of resolution 1985/8 the Commission,

'Renews its request to the Government of South Africa to allow the Ad Hoc Working Group of Experts to make on-the-spot investigations of the living conditions in the prisons in South Africa and Namibia and the treatment of prisoners'.

At the request of the Ad Hoc Working Group of Experts I should like to express the hope that Your Excellency's Government will extend its co-operation to the Ad Hoc Working Group in the fulfilment of its tasks under the aforementioned resolutions.

Furthermore, I am transmitting herewith ECOSOC resolution 1985/43 of 30 May 1985, entitled 'Report of the Ad Hoc Working Group of Experts of the Commission on Human Rights on allegations of infringements of trade union rights in the Republic of South Africa'."

6. At the time of the adoption of this report, no reply was received by the Ad Hoc Working Group concerning this request for co-operation on the part of the South African Government.

7. With regard to the situation of human rights in Namibia, the Commission on Human Rights, in its resolution 1985/7 of 26 February 1985, decided that the Ad Hoc Working Group should continue to study the policies and practices which violate human rights in Namibia, bearing in mind the effects of apartheid on women and children and the consequences for the people of Namibia of the militarization of the Territory and the activities of so-called security units including the Koevoet (para. 9). The Commission further decided that the Ad Hoc Working Group, in consultation with the Special Committee against Apartheid and the United Nations Council for Namibia should study ways and means in which the Commission might effectively contribute to the elimination of apartheid in Namibia (para. 10). In this context, the United Nations Council for Namibia took part in the work of the Group at its January 1986 session. Lastly, the Commission decided that the Group should continue to institute inquiries in respect of any persons suspected of having committed the crime of apartheid or other serious violations of human rights in Namibia and to bring the results of these inquiries to the attention of the Commission on Human Rights (para. 11).

8. In addition, the Economic and Social Council adopted, on 30 May 1985, resolution 1985/43 concerning infringements of trade-union rights in South Africa. In that resolution, the Economic and Social Council, after taking note of the report of the Ad Hoc Working Group of Experts on southern Africa (E/1985/41), requested the Ad Hoc Working Group to continue to study the situation concerning impediments to the exercise of trade-union rights in South Africa and to report thereon to the Commission on Human Rights and the Economic and Social Council.

9. In this connection, it is noted that, in its resolution 277 (X) of 17 February 1950, the Economic and Social Council laid down the procedure to be followed with regard to allegations concerning infringements of trade-union rights by Governments of States Members of the United Nations and members of the International Labour Organisation. The resolution also lays down the

procedure for dealing with complaints against States Members of the United Nations who are not members of the International Labour Organisation. Pursuant to this procedure and following the withdrawal of South Africa from ILO in 1966, the Economic and Social Council adopted on 1 June 1967 resolution 1216 (XLII), in which it authorizes the Ad Hoc Working Group of Experts to receive communications, hear witnesses, and to consider the comments received from the Government of South Africa in its examination of the allegations regarding infringements of trade-union rights in the Republic of South Africa. It also requested the Ad Hoc Working Group to report to the Economic and Social Council on its findings and to submit its recommendations for action to be taken in specific cases.

10. Accordingly, the Ad Hoc Working Group of Experts has, since 1967, had a mandate to investigate a number of complaints of infringements of trade-union rights in South Africa and to report on them to the Commission on Human Rights and the Economic and Social Council. The Ad Hoc Working Group deals with this question in chapter IV of this report.

11. Finally, in resolutions 1985/7 (para. 14) and 1985/8 (para. 17) the Commission on Human Rights authorizes the Chairman of the Ad Hoc Working Group of Experts to participate in conferences, symposia, seminars or other events connected with action against apartheid, more particularly those organized under the auspices of the Special Committee against Apartheid and the United Nations Council for Namibia. Part Three of this report mentions the Group's participation in some events of this kind.

#### B. Organization of work

12. During the period in question, the Ad Hoc Working Group was provided on several occasions with information concerning the increasingly grave situation in South Africa. In accordance with the mandate assigned to it by the Commission on Human Rights in resolution 1985/8 (para. 16), whereby the Commission requested the Ad Hoc Working Group to continue to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he might deem appropriate, particularly serious violations of human rights in South Africa which might come to its attention during its studies, the Chairman of the Commission on Human Rights at its forty-first session at the request of the Ad Hoc Working Group, decided to send the following telegram dated 29 March 1985 to the President of the Republic of South Africa, drawing his attention to the need for urgent action:

"I have the honour to refer to Commission on Human Rights resolution 1985/8 of 26 February 1985 entitled 'Situation of human rights in South Africa' by which the Commission, inter alia, requested its Ad Hoc Working Group of Experts on southern Africa,

'To continue to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he may deem appropriate, particularly serious violations of human rights in South Africa which may come to its attention during its studies'.

The Ad Hoc Working Group of Experts has drawn my attention to the events taking place in South Africa and has appealed to me to take appropriate action.

I have accordingly decided, in my capacity as Chairman of the Commission on Human Rights, to address myself to you as President of the Republic of South Africa.

The tragic events of recent weeks in South Africa resulting in the killing by the South African police of so many innocent persons together with the deprivation of the other basic rights of the black majority over the years as a result of the policy of apartheid have been the subject of the attention of the Commission on Human Rights, which has been regularly seized with information on the human rights situation in South Africa by its Ad Hoc Working Group.

The Ad Hoc Working Group of Experts of the Commission, which has followed the situation for so long, is in the best position to assess the real gravity and seriousness of the present situation. I share the concern of the Ad Hoc Working Group at the continuing deterioration in the human rights situation of the black majority and, in particular, at the killings in Uitenhage. These tragic events continue, in spite of the outcry that has been provoked at the international and at the local levels. This very outcry has, in its turn, provided further proof of the depth of this deterioration.

I therefore cannot but express my shock and dismay at the tragic events and express my sincere desire to see that the lessons of history and those administered by the present tragedy are learned once and for all in order that your Government may put an end to these killings as well as an end to the policy of apartheid and, above all, an end to the misguided spirit that inspires this policy.

These tragic occurrences once again underscore the urgency of meaningful action by your Government which of necessity must involve the abolition of discriminatory and unjust laws which continue to entrench apartheid. The fundamental rights of the black majority must be realized, the killings must stop: there cannot be peace otherwise."

13. Having observed that the loss of human life and acts of violence and brutality were continuing on an unprecedented scale in South Africa, the Ad Hoc Working Group decided to hold an emergency meeting to examine the situation and decide what measures were to be taken. It was the first time since its establishment in 1967 that the Ad Hoc Working Group had decided to hold an emergency meeting, thus demonstrating the extent of its concern over the situation in South Africa. Accordingly, on 14 June 1985 the Ad Hoc Working Group met at Geneva to consider information on increased violence and deaths in south Africa and to advocate the necessary measures to combat such a situation. At the Group's request, the Chairman of the Commission on Human Rights at its forty-first session transmitted the report of the emergency meeting (E/CN.4/1986/3) on 18 July 1985 to the President of the General Assembly, the President of the Security Council and the Secretary-General of the United Nations.

14. A copy of the report of the emergency meeting of the Ad Hoc Working Group was also transmitted to the Government of the Republic of South Africa in June 1985 by the Chairman of the Commission on Human Rights at its forty-first session. The letter of transmittal read as follows:

"I have the honour to refer to my message to you of 29 March 1985 in which I referred to Commission on Human Rights resolution 1985/8 of 26 February 1985 entitled 'Situation of Human Rights in South Africa'. By that resolution the Commission requested its Ad Hoc Working Group of Experts on Southern Africa,

'To continue to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he may deem appropriate, particularly serious violations of human rights in South Africa which may come to its attention during its studies'.

The Ad Hoc Working Group of Experts has continued to follow events taking place in South Africa, and on 14 June 1985 it held an emergency meeting at which it adopted a Special Report which it transmitted to me with a request for its circulation as a document of the Commission on Human Rights.

I have acceded to the request of the Ad Hoc Working Group and the Special Report will be circulated accordingly. I have also decided to transmit to you the Special Report with an appeal that your Government gives it its attention. It is my hope that the tragic events taking place in South Africa which reflect a continuing deterioration, particularly in regard to loss of life, be brought to an end. I am convinced that the present tragic situation is a direct result of the policy of apartheid and illustrates the urgent need for an end to such a policy. I, therefore, appeal to you once again to put an end to this policy and to reverse this process in the interest of justice and peace."

15. The step taken by the Chairman of the Commission at its forty-first session was in response to a letter transmitted by the Chairman of the Ad Hoc Working Group, dated 14 June 1985, which read as follows:

"I have the honour to refer to our consultations on the situation of human rights in South Africa in the second half of March 1985 when, in pursuance of paragraph 16 of Commission on Human Rights resolution 1985/8, the Working Group had drawn your attention to the serious deterioration of human rights.

Since that time the Working Group has continued to follow the situation and has noted no sign of mitigation in the extensive loss of life, violence and brutality. The Working Group, therefore, decided to hold an emergency meeting to examine the situation and to decide what measures were to be taken by the Working Group.

The depth of the concern of the Working Group is illustrated by the fact that such an emergency meeting has never been called by the Working Group since its establishment in 1967. Accordingly, on 14 June 1985 the Working Group convened and examined information relating to the situation of human rights in South Africa and discussed various possibilities of further action to be undertaken.

The Working Group agreed that the situation calls for exceptional measures and as a first step is submitting to you, Sir, the attached summary covering the last few months with a request that this is considered as an interim report of the Working Group to be duly circulated to the members of the Commission on Human Rights.

We would hope that you would agree to give this initiative of the Working Group the support of your Chairmanship with the purpose of obtaining from the member States concerned the awareness and action vis-à-vis the South African authorities. Furthermore, please consider this request as being formulated also under paragraphs 16 of Commission resolution 1985/8 for whatever further action you may deem fit to take.

In formulating this request the Working Group is convinced that only concerted international action could contribute constructively to lessening the likelihood of further violence and bring an end to apartheid."

16. In this connection, the Ad Hoc Working group of Experts has received no response from the South African Government.

17. In discharging its mandate and in accordance with Economic and Social Council resolution 1985/43 (para. 7), the Ad Hoc Working Group transmitted communications to the International Labour Office and to the Special Committee against Apartheid, inviting them to participate in the emergency meeting held at the Palais des Nations, Geneva, on 14 June 1985.

18. In addition, the Chairman of the Commission on Human Rights sent a telegram dated 12 July 1985 to His Excellency, President Mwalimu Julius Nyerere, President of the Organization of African Unity (OAU) informing him of the emergency meeting, announcing that he was also transmitting to President Nyerere a copy of the report adopted at that meeting and appealing to him, as President of OAU, to intercede with the South African authorities in order to put an end to the violence, brutality and loss of human life resulting from the implementation of the policy of apartheid. The telegram read as follows:

"In my capacity as Chairman of the Commission on Human Rights of the United Nations and former President of the People's Republic of Bangladesh I have the honour to draw your attention to the present situation of human rights in South Africa.

While the international community is fully aware of the threat to human rights that apartheid has constantly caused, it has now become more clear than ever before that this policy must end.

The Ad Hoc Working Group of Experts on Southern Africa, which was originally established in 1967, has, for the first time in its history, deemed it necessary to hold an emergency meeting to consider the serious deterioration of the human rights situation in South Africa. As a result of that meeting, the Ad Hoc Working Group of Experts adopted a special report which I am sending to you under separate cover for your information.

By resolution 1985/8 of 26 February 1985, the Commission on Human Rights requested its Ad Hoc Working Group of Experts on Southern Africa to 'continue to bring to the attention of the Chairman of the Commission on Human Rights for whatever action he may deem appropriate, particularly serious violations of human rights in South Africa which may come to its attention during its studies.'

I have acceded to the request of the Ad Hoc Working Group of Experts formulated to me under this authority and have decided to transmit to the President of the Republic of South Africa an appeal, a copy of which I am also sending to you. This appeal follows an earlier one that I made on 29 March 1985 for the same purpose. I have addressed the Presidents of the General Assembly of the United Nations, of the Security Council, the Secretary-General of the United Nations and the Special Committee Against Apartheid, of the concern of the Working Group.

I therefore appeal to you and to the distinguished participants at the meeting that your are presiding to lend your respected support to the Commission on Human Rights in its endeavour to persuade those responsible in South Africa to put an end once and for all to the violence, brutality and loss of life that their policy of apartheid has created, in the interest of justice and human rights."

19. Following the meeting of the Ad Hoc Working Group held in Geneva from 12 to 15 August 1985 to consider the situation in South Africa, the Chairman of the Ad Hoc Working Group sent a letter on 16 August 1985 to the Chairman of the Commission on Human Rights at its forty-first session, recalling the results of the emergency meeting and drawing his attention to the continued deterioration of the situation in South Africa.

20. The text of the letter, together with a preliminary assessment of the state of emergency in South Africa, is contained in document E/CN.4/1986/6, which will be submitted to the Commission on Human Rights at its forty-second session.

21. In August 1985, the Ad Hoc Working Group of Experts became highly concerned at the avalanche of cases of serious violations committed in South Africa in particular, in the wake of the declaration of the state of emergency in that country. Since the cases that were reported revealed flagrant contempt for the right to life, the Ad Hoc Working Group of Experts decided, in consultation with the United Nations' Special Rapporteur on Summary or Arbitrary Executions, to send a joint mission to Lusaka (Zambia) in which the Ad Hoc Working Group and the Rapporteur would take part in order to determine the extent of the allegations. For this mission, Mr. Annan A. Cato, Chairman of the Ad Hoc Working Group of Experts, and Mr. S. Amos Wako, Special Rapporteur on Summary or Arbitrary Executions, visited Lusaka from 13 to 19 November 1985. They gathered evidence from 19 witnesses with direct personal experience of the situation prevailing in South Africa and in Namibia. The evidence covered many aspects of violations of human rights in South Africa, including the so-called independent homelands, and in Namibia: violations of the right to life, effects of the implementation of the constitutional reforms and the harsher bantustans policy, torture, victimization, harassment, destruction of the property of persons or groups of persons opposed to apartheid, detention of such persons under the security laws and ill-treatment inflicted on them when they were in custody. The details of the evidence are given in the relevant chapters of this report.

22. As in the past, in order to prepare this progress report, the Ad Hoc Working Group studied first-hand information gathered in the course of the fact-finding mission. The information was presented in the form of oral testimony and written communications from individuals and concerned organizations. Again, the Group sought out and systematically analysed documents of the United Nations and specialized agencies, official journals, publications, newspapers and magazines of various countries, as well as of works dealing with questions related to its mandate.

23. In addition, in drafting its progress report, the Ad Hoc Working Group used as a basis relevant international instruments and took account of resolutions relating to the situation in South Africa and Namibia adopted by United Nations bodies (General Assembly, Security Council, Economic and Social Council and Commission on Human Rights), as well as relevant resolutions adopted by the International Labour Organisation.

24. The South African authorities have also admitted violating the Nkomati agreement, concluded with Mozambique in 1984. In fact, according to information from concordant sources, South Africa had helped the National Resistance Movement (MNR) to build a landing-strip and thus permitted its air force to transport several chiefs of the insurrection to and from Mozambique and also to supply them.

25. According to the same source, national production and procurement by South Africa are carried out under the auspices of a State company, the Armaments Development and Production Corporation (ARMSCOR), established by the Government in 1968, in anticipation of the embargo on weaponry imposed by the United Nations, and which depends mainly on licensing and manufacturing agreements concluded with foreign companies. Lastly, the Ad Hoc Group of Experts wishes to recall that South Africa is engaged not only in strengthening its armed forces but also in developing its nuclear technology and installations and acquiring the means to produce its own nuclear weapons. These efforts, which constitute a threat to international peace and security, are particularly alarming in the light of the aggressive policy of South Africa in Namibia and towards the neighbouring States.

26. Pursuant to the mandate assigned to it by the Commission on Human Rights in resolutions 1985/7 and 1985/8 and Economic and Social Council resolution 1985/43, the Ad Hoc Working Group presents, in this progress report, a situation which continues to be particularly serious and disturbing in both South Africa and Namibia. Part One of the report gives an account of the situation currently prevailing in South Africa and more particularly since the declaration of the state of emergency, Part Two, concerning Namibia, analyses the situation in that Territory in the light of the specific nature of 'the problem, and Part Three reports on the Working Group in activities connected with the struggle against apartheid.

27. The progress report, prepared in accordance with the mandate laid down by the Commission on Human Rights and the Economic and Social Council was adopted by the Ad Hoc Working Group at meetings held at the United Nations Office at Geneva from 6 to 17 January 1986.

PART ONE

SOUTH AFRICA

Introduction

28. During the period under review, the situation in the Republic of South Africa has been characterized by the major constitutional changes which were put into effect despite widespread opposition.

29. According to information submitted to the Working Group, these significant changes affected the black population which was regularly prosecuted under the pass laws that regulate where they may work and live and restrict their freedom of movement.

30. The information received indicates that South Africa has one of the highest per capita prison populations in the world. The intensity of developments in South Africa resulting from the declaration of a state of emergency on 21 July 1985, as well as their nature and extent, require a detailed description. The following paragraphs give an overview of the situation prevailing in South Africa as reflected in this report. The general picture that it set out hereunder is substantiated in detail in the relevant chapters. It may be recalled in this context that the Government of South Africa, in spite of repeated calls from the Commission on Human Rights, has not furnished any information relating to the events described in this report. However, the information it contains is primarily gathered from the testimonies of people from South Africa who have not only lived but continue to live under the pressure of the apartheid system. The information was in the form of oral testimonies, written submissions, affidavits, medical reports, court records, studies and statistical data. Therefore, the following paragraphs give the main characteristics of the situation provoked by the state of emergency and the effects in particular as regards the situation of detainees, including hunger-strikes and prison confrontations, forced removals of populations, the situation of trade unions and the situation of children. This information provided the Working Group with an overall picture of the human rights situation in South Africa in 1985. In addition, the Group refers to Nelson Mandela, in his capacity as the leader of the people of South Africa in its struggle against apartheid.

31. The key event in 1985 was the declaration of the state of emergency on 21 July 1985. The Working Group recalls that, following the constitutional reforms from which the blacks were excluded, the situation in South Africa took a new turn for the worse. Reports of violent confrontations, killing and widespread disorder characterized the period in early 1985. It was at this juncture that the Working Group decided to inform the Chairman of the Commission of its concern at the deterioration in the situation (see para. 12, above). This situation is also reflected in the special report of the Working Group of 14 June 1985 (E/CN.4/1986/3) in which details have been given. With the declaration of the state of emergency, the violence and bloodshed increased, the factors contributing to the phenomenon are analysed in the evaluation of the state of emergency prepared by the Working Group at its meetings from 12 to 16 August 1985 (E/CN.4/1986/6).

32. Although the state of emergency affected 36 magisterial districts - and subsequently a further eight - the events that characterized the general situation continued in areas other than those affected by the state of emergency. The situation thus created which was only exacerbated by the state of emergency, affected the entire gamut of rights, thus the chapters below

give details in regard to the particular rights affected. As may be seen from the following chapters, the period under review has witnessed an upsurge of popular resistance characterized by widespread protests which have been met with violent repression. Extensive and frequent use of armed forces to suppress the unrest in black townships has been the principal response of the Government.

33. However, as stated by several witnesses, the reaction to the suppression in the various black townships has taken the form of a greater determination to resist the application of this policy. According to several witnesses, such determination has manifested itself in an unprecedented organization on the part of groups which are in disagreement with this policy in an effort to stem its application. Thus, the period under review was characterized by the emergence of opposition on the part of the black population which had already gained strength as a result of the constitutional reforms from which the blacks had been excluded.

34. In the various black townships, the response to this suppression has been a concerted effort towards organized campaigns. In addition the perpetuation of the appalling conditions in the townships, inferior education, low wages continue according to witnesses. With the level of militancy raised to unprecedented heights, almost every symbol and act of domination has become a target of attack. Counsellors have been forced to resign, policemen have been driven out of many black townships as have members of Administration Boards and prison warders. The police and army have found that they cannot control the townships, and the townships have become ungovernable.

35. In January 1985 in his annual address to parliament, President Botha spoke of "easing of the notorious pass laws and reconsidering the question of black citizenship among other apparently promising reforms". According to information received by the Group "in April the decision to repeal the 'sordid laws' forbidding sex and marriage between whites and other races was announced to no applause: by then funerals seemed more topical than weddings. At the beginning of August 1985 Mr. Botha's officials and ministers were deploying 'the nudge and the wink' to make sure world attention was focused on a presidential speech that would at last reveal what he meant by 'reform'."

36. With regard to the policy of forced removals the Government announced on 1 February 1985 that it would stop all removals. In the same vein, in December 1985, consolidation plans were announced which, if fully implemented, would affect close to 242,000 people.

37. The Working Group was informed by witnesses that people forced into the rural areas through relocation schemes had been driven back into the urban areas in search of work and a livelihood; that police combed the streets in search of people whose passes did not entitle them to be in a particular area, and that in Johannesburg alone over 200,000 people were arrested under the pass laws every year.

38. The report of the Working Group attempts to discuss the crisis of South Africa within the framework of apartheid and the quest for human rights which have continued to elude the black majority.

The state of emergency \*/

39. On 20 July 1985 the State President, P.W. Botha, using powers under the Public Safety Act, 1953, announced that a state of emergency would take effect from 21 July in 36 magisterial districts and warned that the number could be extended at any time, the Working Group has had occasion to give a preliminary evaluation of these laws in its report to the Commission (see E/CN.4/1986/6). On 24 October, the President lifted the emergency in five Eastern Cape districts and in one Transvaal district. Two days later a state of emergency was imposed in eight western magisterial districts.

40. Subsequently, however, witnesses stated to the Working Group that, while the emergency formally existed in prescribed magisterial districts, evidence showed little difference in the intensity of repression in emergency and non-emergency areas.

41. Indeed, according to firsthand testimony of persons who are currently experiencing the situation in South Africa, the repression under the state of emergency was not a new experience, the situation prevailing in the country, in particular as regards respect for human rights existed, as a day-to-day practice, was commonplace even before the declaration of the state of emergency throughout the country, was indeed already embodied in the legislation in force independently of the state of emergency. According to the same witness, the major factor in this context was the added immunity, apart from other draconian measures, embodied in the state of emergency against any civil or criminal proceeding of:

"(a) The State:

(b) The State President:

(c) Any member of the Cabinet of the Republic:

(d) Any member of a force:

(e) Any person acting by direction or with the approval of any member or person referred to in the preceding paragraphs of this subregulation,

by reason of any act in good faith advised, commanded, ordered, directed or performed by any person in the carrying out of his duties, or the exercise of his powers, or the performance of his functions in terms of these regulations, with intent to ensure the safety of the public, the

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\*/ This section is based on information drawn from The Star, 2 July, 11 October and 11 November 1985, City Press, 13 October 1985, Sowetan, 3 July and 29 October 1985, The Citizen, 25 September and 11 November 1985, The Guardian, 16 November 1985, Weekly Mail, 15-21 November 1985, The Times, 7 December 1985, "Health Our Basic Right" - Health Workers Association, submitted by Mr. Hope Mpankanzane in Lusaka, Zambia, 15-19 November 1985; testimony of Mr. Hope Mpankanzane in Lusaka, Zambia, 15-19 November 1985; testimony of representatives of the Black Lawyers Association in Lusaka, Zambia, 15-19 November 1985; testimony of anonymous witnesses in Lusaka, Zambia, 15-19 November 1985; testimony and submission of the Detainees Parents' Support Committee in Lusaka, Zambia, 15-19 November 1985, Newsweek, 28 October 1985.

maintenance of public order or the termination of the state of emergency in any area where the existence of a state of emergency has been declared in pursuance of section 2 (1) of the Act, or in order to deal with circumstances which have arisen or are likely to arise as a result of the aforementioned state of emergency."

As observed by the Working Group in its analysis (E/CN.4/1986/6, para. 7), this legislation extends to all magisterial districts in South Africa in addition to those mentioned in the Proclamation.

42. Reports from all areas reveal that South African Defence Forces (SADF) and the South African Police (SAP) mount patrols 24 hours a day. House-to-house searches and road-blocks are commonplace:

In emergency areas, daytime curfews keep students in their classrooms. In non-emergency areas students report that meetings on school premises are disrupted by police and the army,

In Soweto and in the Eastern Cape, a curfew keeps residents off the streets at night. In other areas residents report that large SAP and SADF patrols keep them at home after dark,

In emergency areas funerals of the victims of unrest have been severely restricted under the Public Safety Act. In non-emergency areas magistrates have restricted funerals under the Internal Security Act.

43. On declaring the state of emergency, Mr. P.W. Botha said that he was aiming at "re-establishing law and order and a normal way of life in black communities throughout the country". The official death toll in township unrest at the end of 1985 had exceeded the 1,000 mark. The average death toll by the end of October 1985 was 3.4 compared with 1.7 a day between January and July 1985. The police have acknowledged that two thirds of these deaths are attributable to their action, but independent analysts say that the figure is likely to be higher.

44. Benjamin Moloi, a 30-year-old resident of Soweto, was executed on 18 October 1985. The execution attracted world-wide condemnation and triggered off a new escalation of violence in South Africa. The Working Group referred to this case in its previous report to the Commission (E/CN.4/1985/8, paras. 135 ff.).

45. The United Democratic Front (UDF) and its affiliates have sustained a protest campaign against the consolidation of apartheid through the rejection of black local authorities and structures, such as the tri-cameral parliament and the bantustan governments. Through education campaigns mounted by UDF and its affiliates, the people have been able to bring these structures to a standstill. In some areas such as the Vaal Triangle, the local authority found it impossible to obtain rent from the residents.

46. A witness described the UDF position vis-à-vis the Government in the following terms: "... there is no doubt that the Government has singled out UDF as a priority for repression ... UDF is the kind of formation they have not dealt with in the past. It has hundreds of organizations and affiliates ... even during the emergency, some organizations have applied for affiliation. The Government hopes to bring the Front to a standstill without actually banning it ... Then they will be able to tell the world that they are allowing extra-parliamentary and black opposition to continue."

Detainees under the state of emergency

47. The Detainees' Parents Support Committee (DPSC) stated that it had approached the Commissioner of Police, General P.J. Coetzee, requesting a meeting to discuss "conditions of detention under the state of emergency regulations and the difficulties being experienced by the families in communicating with the authorities" and to raise the following points in regard to detainees:

Immediate notification of next of kin:

- (a) Of confirmation of detention,
- (b) Of place of detention,

Co-operation in forwarding parcels of clothing, food and money to detainees;

Procedures for applying for visits;

Assurance about:

- (a) Hygienic and adequate cell conditions,
- (b) Exercise facilities in fresh air,
- (c) Medical attention,
- (d) Adequate food,

Reconsideration of:

- (a) Ban on reading matter,
- (b) Ban on study facilities,
- (c) Isolation.

48. Of particular concern to DPSC was the question of over 1,300 detainees housed in isolation in prisons that were already overcrowded. An interpretation of the regulations did not seem to allow for supplements to what was already a very poor diet, yet such a facility was available to convicted prisoners.

49. The request for the meeting was refused by the Commissioner who stated that he would only respond to legal representatives and next of kin. DPSC then proceeded to approach the International Committee of the Red Cross and Amnesty International to intercede on behalf of the detainees and their families.

50. In a press statement issued soon after the declaration of the state of emergency, DPSC voiced "concern about the way in which the State is remorselessly hunting down hundreds of its opponents and herding them into already overcrowded jails. As the daily toll mounts, we wonder how over a thousand people can be held in isolation as the regulations require, and can only fear the worst, especially in the smaller towns. We are also aghast at the punitive measures to which these detainees may be subjected if they in any

way displease their captors, and we must once again warn those responsible about the medically acknowledged harmful effects of long-term solitary confinement".

Reaction of detainees under the state of emergency

51. Between October and December 1985, several hunger-strikes and other forms of confrontation took place involving persons held under the state of emergency.

52. On 5 October 1985, a confrontation took place between detainees and warders at Modder Bee prison near Berani. At least 41 detainees and warders were injured in the clash, some seriously. In this context, the Working Group received a written testimony by Dr. Wendy Orr which is further reflected in chapter II below. A released detainee claimed that medical care was inadequate. A number of strikes were launched in Protea police station cells on 27 July 1985; another in New Johannesburg prison in Diepkloof and a third in Modder Bee on 11 November 1985. The strikes were said to be in protest against detention conditions and, in particular, poor food.

53. On 7 November 1985, 32 detainees held under the state of emergency in the Western Cape began an indefinite hunger-strike to mark the completion of the first 14 days of detention. On the same day, the prison service confirmed that seven prisoners awaiting trial at the Oudtshoorn prison had also gone on hunger-strike. In the Cape and the Transvaal, families and friends of the detainees held dawn-to-dusk solidarity fasts in support of the hunger-strike.

54. In the same week, 30 women and two men held at Pollsmoor prison and an estimated 300 at Victor Verster gaol in Paarl, went on hunger-strike in protest against their continued detention. The strikers demanded an end to the state of emergency, legal representation for all detainees and their release after the 14 days stipulated in the emergency regulations.

Children under the state of emergency \*/

55. A report of the South African Council of Churches dated 1 August 1985 begins with "we the young persons of South Africa would like to bring to the attention of the young persons all over the world during this International Youth Year (1985) that the South African Government has declared a war against us. We are saying this not as emotional, irresponsible people, but as people who care about the future of our nation and who are actively involved in changing the life and society of South Africa."

56. A report submitted to the Working Group by the Detainees' Parents Support Committee confirms the situation depicted above. "Children in South Africa are suffering. DPSC estimates show that 60 per cent of those detained are under the age of 25 and that children as young as 7 years have been detained under the state of emergency. Under the Public Safety Act the ages of detained people may not be stated. As a result, monitoring groups on the situation of detainees have found it difficult to determine the exact number

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\*/ This section is based on information drawn from a Detainees' Parents Support Committee report on children submitted in Lusaka, Zambia, 15-19 November 1985; affidavits of ex-detainees submitted by the Detainees Parents' Support Committee in Lusaka, Zambia, 15-19 November 1985; March 1985 report of the Detainees' Parents Support Committee, The Guardian, 11 November 1985.

of children in detention. It is alleged by one detainee that at the prison where she was held she saw young girls. On 9 October 1985 I saw about 14 girls whose ages ranged from 9 to 15 years. They were taken to Moroko police station. They spent the night there. During the night they said they were beaten with quirts by the riot squad and police. The following day they were transferred to the Johannesburg prison. When I saw them they still had bruises on their feet and bodies. When I was released on 14 October they were still detained.

57. In another case, a 15-year-old Alexandra schoolboy was admitted to the psychiatric ward of a Johannesburg hospital within days of being released from detention under the security provisions. Johnny Mashiane, a standard six pupil at Minerva High School, was detained on 25 July 1985. He was released on 12 August 1985 and was said have been admitted into the general ward of the Hillbrow Hospital two days later. On 19 August he was transferred to the psychiatric section. The youth, was described by family members as having been a normal active pupil before his detention; but on admission to hospital he was found to be agitated, fearful and unable to communicate.

58. Concern is growing among teachers, doctors, social workers, clergymen, psychologists and most of all among black parents about the impact that 15 months of sustained civil unrest has had upon children in places like Soweto and other "ghetto" townships of South Africa, particularly those under emergency rule near Cape Town, Port Elizabeth and in the Eastern Cape Province. A director of the Entokozwen early learning school described the impact of violent unrest on the children in his care thus: "At an age when a child should be innocence itself, he is caught up in some of the worst violence imaginable and it deforms him cruelly. At an age when he is totally impressionable, he sees anger, bitterness and hatred all around him and it warps him in the most frightening way."

59. Those most caught up in the unremitting violence - now an element of everyday life for South African blacks and Coloureds - are youths. Most are in their teens, some are in their early twenties, while others are children, some not even yet in school.

60. According to the Detainees' Parents Support Committee, since January 1985, at least 68 black and Coloured youths have been killed by police, some of them have been as young as four or five. According to the Committee black and Coloured youths account for about a quarter of all arrests and detentions without charge, and many of those released from lengthy stays in gaols, sometimes show signs of trauma after torture. The deaths and detention of older brothers and sisters, cousins and neighbours and particularly of parents has, in the words of a white psychiatrist, "sown salt and crushed glass in this jagged bleeding wound that could easily kill a whole generation with anger and bitterness". Youths who have been gaoled or detained, often without charge, often suffer from even more severe traumas, according to psychologists, clergymen and others who counsel them. "Given the thousands of teenagers who have been arrested and held by the police, these traumas may have community-wide impact."

#### The case of Nelson Mandela

61. Nelson Rolihlahla Mandela, who was to become the spokesman for his people in a period of confrontation with the South African authorities, was sentenced to life imprisonment on Robben Island in 1964 together with other political detainees from the Rivonia trial.

62. Over the years, Mandela has attacked the steadily intensifying racial oppression in South Africa and has made an exceptional contribution to the South African liberation struggle.

63. Following the launching of an appeal for the release of Nelson Mandela in February 1980, support has been growing for the campaign all over the world as well as in South Africa. In this connection, the Working Group indicated in its report submitted to the Commission on Human Rights at its thirty-seventh session in 1982 (E/CN.4/1429 and Corr.1) that the response of the then Minister of Justice had been that "those who call for the release of Nelson Mandela want the release of a terrorist". The Southern Committee of the Commonwealth has deplored the continued imprisonment of Nelson Mandela and a resolution which included a call for his release was passed in June 1980 by the United Nations Security Council. In addition, similar calls were expressed by several organs of the United Nations system without any success.

64. It may be recalled that in recognition of the contribution of Mr. Nelson Mandela in the struggle against apartheid and against colonialism and racial discrimination, the Government of India awarded the Jawaharlal Nehru Award for International Understanding and Peace for 1979 to Nelson Mandela.

65. According to information submitted to the Working Group, more than a year ago speculation was rife that President Botha would consider releasing Nelson Mandela who has been in prison for 23 years. Mandela's release is one element which unites world opinion and indeed the majority of South Africans would wish to see him set free. When Mr. Mandela was recovering in hospital from an operation in November 1985, the Government is reported to have broached the question of his conditional release. But Nelson Mandela would not settle for that. He has said it would be a betrayal of his people and what he stands for. Mr. Botha "will not reform under pressure" he has said. The black people have resolved to intensify their struggle for justice. Bishop Desmond Tutu stated that "it is a matter of life or death. We want a legitimate government elected freely by all South Africans - black and white - and the world has a chance to bring this about without any further bloodshed and violence."

66. Nonzamo Winnie Mandela, a leading political figure in her own right and wife of the imprisoned African National Congress (ANC) leader, Nelson Mandela, has been almost continually restricted under banning orders or held in detention for the past 20 years. For five months Winnie Mandela has defied the South African Government. Ignoring her banning orders and after her house was petrol-bombed, she left her exile in the Orange Free State and moved to Soweto - the original order had been in force since May 1977 but has been ignored by Mrs. Mandela since August 1985., In addition, she had addressed gatherings at two black funerals in defiance of the conditions of her banning order. The Government later announced that it was relaxing her banning order, permitting her to attend social gatherings and so live anywhere in South Africa except the Johannesburg area. Nonetheless, Mrs. Mandela promptly returned to Soweto where she was arrested again.

67. On 30 December 1985 she was rearrested as she made her way to Soweto in defiance of the ban. Asked by a journalist why she continued to defy the banning order, Mrs. Mandela replied that rather than defying the order she highlighting the inequality of an unjust law.

68. In these circumstances, the funerals of people killed while protesting against the régime tended to become the principal forums for expressing solidarity and resistance. Accordingly, in July 1985, the Commissioner of Police used the new emergency regulations to impose a series of restrictions on the funerals of those killed during protests. Police commissioners used new powers under section 6 of the emergency regulations to impose other bans. According to the latest information, all gatherings to celebrate Nelson Mandela's birthday in July 1985 were banned in six areas on the Rand, and in August 1985 a ban was announced in 18 Transvaal districts on meetings to commemorate the start of the Vaal uprisings in September 1984.

## I. APARTHEID INCLUDING BANTUSTANIZATION AND FORCED REMOVALS

A. Forced removals \*/

69. In previous reports, the Working Group studied forced removals of population resulting from the policy of territorial apartheid and noted that such removals were increasing, particularly with the implementation of the so-called "independent homelands" policy. The Group also noted that living conditions in the resettlement areas continued to deteriorate.

70. During the period covered by this report, the Ad Hoc Working Group of Experts noted the continuation of the massive removal of population and the human suffering involved. It also took note of information concerning expulsion from "white" towns in connection with influx control. The following paragraphs contain examples of such forced removals as noted by the Working Group.

71. According to information received by the Group over the past two years, the call to end forced removals has grown both within South Africa and abroad. The demand has come from quarters such as the Afrikaans press, the business community and UDF. This widespread call was ignited by the forced removal of the Mogaga people which attracted both local and international publicity more than any previous removal. Foreign Governments and local pressure groups protested vehemently and the South African Government found itself unable to justify the "brutal implementation of an entirely racially based policy of dispossessing black landowners of their stable, self-sufficient farms".

72. Forced removals in South Africa have not stopped. Despite the February 1985 announcement by the Minister of Co-operation, Development and Education that removals would be suspended pending a reconsideration of the policy, six of the eight categories of relocation have continued, affecting more than 2 million people. When the Minister announced a review of removals, he was referring to only two out of the eight categories, namely, black spots and urban relocation. Moreover that suspension was heavily governed by the following two conditions: (a) that the Government would continue to resettle black communities whose "leaders" agreed to move, and (b) that the Government would not accept "illegal squatting".

73. Indeed, as will be shown, the Government is still trying to persuade people to move "voluntarily". It is determined to find co-optable leaders. The words employed by officials in the removal process do not reflect reality - "removal for development", "urban renewal", "the leaders agreed", and the difference in interpretation between the words "consulted" and "agreement". With the arrival of a new minister at the Ministry of Co-operation, Development and Education in 1984 came a new language, that of

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\*/ This section is based on information drawn from The Star, 19, 20, 21, 23 June 1985, the Citizen, 25, 26 September 1985, The Times, 12 August 1985. The Guardian, 9, 12, 24 September and 17 November 1985, the Sunday Star, 23 June 1985, Working Group Karos, "Broken Promises", June 1985, "Forced removals in South Africa", October 1985, "From Crossroads to Khayelitsha"; evidence collected by Transvaal Rural Action Committee (TRAC) submitted by Black Sash; testimony of representatives of the Black Lawyers Association (Lusaka, 15 November 1985); testimony of Hope Mpakanyane (Lusaka, 15 November 1985).

"co-operation and development" of the Koorhaj era gave way to the "orderly urbanization and urban renewal" of the Viljoen era. It is against this background that the Working Group will examine developments concerning forced removals in Kwangema, Mogopa, Kwelera and Mooiplass, Mgwali, Huhudi and Driefontein.

Kwangema

74. The Ad Hoc Working Group of Experts stated in its previous report (E/CN.4/1985/8, para. 68 ff.) to the Commission on Human Rights that in 1984 the inhabitants of this Eastern Transvaal "black spot" had appealed to both the Queen and the Prime Minister of the United Kingdom to help them in their attempt to remain on the land granted to them by a former British monarch. The majority of the people opposed the planned removal. The government strategy here concentrated on the "leadership issue". Against the wishes of the Ngema people, the Government appointed a chief, Cuthbert Ngema, who said he was prepared to move. The elected Ngema Committee applied to the Supreme Court to stop this action. Their application failed because, in terms of the 1927 Black Administration Act, the State can appoint whoever it wishes as chief over a black tribe. The Ngemas asserted they were not a tribe but the judge ruled that in this case anthropological evidence was irrelevant. In the circumstance, therefore, the Government will go ahead and consult Cuthbert Ngema over the removal of the whole community. The removal will then be "a negotiated removal" because a leader, albeit State appointed, agreed to move.

Mogopa

75. It may be recalled that the Working Group referred to this matter in its previous report (E/CN.4/1985/8, paras. 62-63). At a press conference held in February 1985, the "reprieve" of removals was announced; the Minister of Co-operation, Development and Education stated that Mogopa had been "a negotiated and not a forced removal", and that as such it was in line with the new policy. This assertion ignores the fact that the Mogopas refused to move even after their public buildings and houses were demolished by the Government. The State, in its efforts to force inhabitants to leave, had resorted to using a State President's Order. In terms of the Black Administration Act No. 38 of 1927, the State President may "order that ... any tribe, portion of a tribe, African community or African shall withdraw from any place to any place". The Act makes no provision for negotiation and compensation.

76. However the Act provides that "if a tribe refuses to leave their land, the Minister has to secure a resolution of Parliament approving their removal before the removal order can be put into effect".

77. On the basis of this clause, the Mogopas applied for an order to stop the removal. Their application to the Supreme Court was rejected and their application for leave to appeal was refused by the judge. They were in the process of petitioning to the Appellate Division of the Supreme Court for leave to appeal against the judgement when their village was surrounded in the dead of night and they were forcibly removed by the South African police to Pachsdraäi. Those who were moved by force left Pachsdraäi immediately and went to Bethanie, the home of their paramount chief. The Mogopas won their appeal case in Bloemfontein on 19 September 1985.

Kwelera and Mooiplaas

78. In May 1985, the chief of these "threatened black spots" in what is called "the white corridor", between Ciskei and Transkei, told residents that houses were "waiting for them at Kidds Beach". When the people suggested that the homeless squatters of Pottsdam on the edge of Mdantsane in the Ciskei would be better settled in those houses, the chief replied that there were other plans for them; the Kidds Beach houses were for the people of Kwelera and Mooiplaas.

Mgwali

79. Mgwali which has a population of 10,000 is situated in the "white corridor" between the Transkei and the Ciskei. It has been administered by the Ciskei since December 1981 following an agreement signed on 30 November 1981 between the Minister of Co-operation and Development and the Ciskei. The Mgwali residents association challenged the Government's right to hand over administrative control of the area to the Ciskei and applied to the Supreme Court to have the agreement annulled. On 5 September 1985, the application which was previously opposed by the Government, was formally withdrawn in the Supreme Court following a settlement out of court. The Judge-President of Eastern Cape and the presiding judge at the hearing of 5 September, "granted an order making the agreement entered into by the Government and Mgwali residents an order of court with the consent of both parties". In terms of the settlement:

- (a) Mgwali falls under the exclusive jurisdiction of South Africa and the Ciskei government has no power to exercise any authority there;
- (b) Ciskei police have no powers of arrest or detention in Mgwali;
- (c) Mgwali pensioners are entitled to be paid their pensions in accordance with the South African scale and pension arrears will be due for payment on 31 December 1985;
- (d) Mgwali work seekers are entitled to be registered and dealt with by South African recruitment machinery and may not be required to register in the Ciskei "as if they were Ciskei citizens";
- (e) South Africa will assume responsibility for Mgwali schools from 1 January 1986.

Prospect Farm (Natal)

80. A resident of this Natal "black spot", Mrs. Thembari Dhlamini, was harassed by an official of the Natal Development Board. On 26 May 1985, a meeting at Stange was told that the official ordered Mrs. Dhlamini to move to Bulwer Trust Farm after she had complained that officials had demolished two walls of her home. Although she had not received any eviction notice, she had been ordered to relocate in a new area.

Huhudi (Northern Cape)

81. Huhudi is the township of Vryburg in the Northern Cape. In 1970, the Government announced that Huhudi was to be moved. The proposed removal site was to be Pudimoe, 55 km away in Bophuthatswana. The residents of Huhudi (at present approximately 14,000 people) have lived under this threat for more than 14 years, overcome with a feeling of anxiety and uncertainty about their

future. On 15 October 1984, the township of Huhudi received a reprieve. This was granted by Dr. Gerrit Viljoen at a meeting attended by the Huhudi Community Council, the mayor of Vryburg, representatives of the Vryburg Afrikaanse Sakekaner and Chambers of Commerce and the local Nationalist Member of Parliament.

82. Since the reprieve, nothing much has changed. People trying to build are told by officials of the Board that the Board will not permit such constructions until it receives an official letter from Pretoria concerning the reprieve. This is seen by the community as a deliberate obstacle to development, yet, for them, development without removal is an essential principle.

Driefontein and Kwangema (Eastern Transvaal)

83. It may be recalled that these two cases had already been referred to in its previous report (E/CN.4/1985/8, paras. 64-72). It has now been reported that Driefontein and Kwangema have been reprieved. They have also been given adjacent land in an unprecedented decision arrived at at a meeting between Mr. Ben Wilkens, the Deputy Minister of Land Affairs and the communities on 26 August 1985. This is the first formal reprieve of a "black spot" for many years. Because Mr. Viljoen's statement earlier in the year was about the suspension of forced removals and not about stopping them, it is the hope of the numerous people under such threats that the Kwangema-Driefontein reprieve will set a precedent for all the other black spots whose fate hangs in the balance at the moment.

1. Urban relocation

84. According to information received by the Working Group, on 9 May 1985, the Department of Co-operation and Development issued a list of 52 townships affecting more than 638,000 inhabitants who were "now no longer threatened with removal". The list included townships like Atteridgeville and Mamelodi outside Pretoria as well as townships in Bloemfontein which the Surplus People's Project (SPP) did not consider to be threatened with relocation. SPP had only estimated about 157,000 inhabitants in this category under threat of removal.

85. The townships of Leandra and Huhudi illustrate the inherent "contradictions" and at times "dubious" motives of these reprieves. Leandra is the township of Leslie, situated in the Eastern Transvaal. The township was originally made up of freehold plots, but these were bought out by the Administration Board in the mid-1970s. Since then, there have been a number of attempts to remove the township. The focus of removal in recent months has been an attempt to divide the township into those who will get houses in the new township - adjacent to the old, where some 712 houses have been constructed - and those who are deemed to be "illegal" residents and will have to move to Kwandebelle.

86. Under the leadership of the Leandra Action Committee (LAC), the community has resisted these attempts to divide it and, has demanded that the entire population be allowed to remain in the township. Of particular concern were the 116 households which the Administration Board had defined as "illegal" and which were under direct threat. On 7 June 1984, the Leandra community and the Leandra Action Committee received through their lawyers a letter from the Ministry of Co-operation and Development which said that the 116 families would be reprieved and would not be expected to move to Kwandebelle. But ever since, the repeated evictions have cast serious doubt on

the value of the reprieve. For two months running, late in 1984, the local Administration Board evicted individual families from their houses in the township.

87. The registered tenants in these houses were allocated houses in the new townships. All the other residents, in most cases the extended family of the registered tenants, then had to move. They were told to demolish their houses, take their building materials and move to a waiting place that is "near a township taxi park". The "waiting place" has no facilities at all - toilets, water, etc. The people in this waiting place are by and large residents of long-standing in Leandra.

88. A serious problem clearly arises now that the Administration Board has "tragically and belatedly" discovered that the new township is too small. And their way of dealing with the problem is by allocating houses to registered tenants only. With the residents of Leandra living in constant fear of eviction, the tension exploded into violence in November 1984 when an angry crowd of township residents set fire to the house of one of the community counsellors who supported the attempts to move them.

## 2. Organized resistance to removal

89. In December 1984, four regional organizations concerned with forced removals in South Africa came together to form a national committee to further their common aims. These are: the Transvaal Rural Action Committee (TRAC), the Association for Rural Advancement (AFRA), the Grahamstown Rural Committee (GRC) and the Surplus People's Project (SPP), all of which joined to form the National Committee against Removals.

90. At a meeting convened on 24 August 1985 by the Association for Rural Advancement (AFRA), community leaders representing about 250,000 people in Natal threatened with removal or who have in the past suffered removal, demanded an end to forced removals.

91. The meeting of over 90 people, representing 24 communities, drew up a memorandum which called on the Government to announce "the end to forced removals":

"This meeting,

Rejects all removals, and states that 'we do not want to move',

Rejects the so-called 'consultation' that the South African Government engages in with communities threatened with removal, and the way it attempts to use some chiefs and indunas to divide the people,

Rejects the term 'squatter' as an attempt by the Government to justify the removal of long-standing tenants, leaseholders and farmworkers,

Calls upon the Government to stop all removals and to demonstrate this by:

(a) Permanently removing the whole policy of removals and not just 'suspending' it,

- (b) Withdrawing, by notice in the Government Gazette, all categories of removal areas;
- (c) Withdrawing all expropriation notices of areas threatened with removal;
- (d) Withdrawing all excisions of areas threatened with removal;
- (e) Withdrawing the very category 'black spot'.

Affirms that there is one South Africa,

Calls on the Government to devote the money that it would have spent on removals and the money that should rightfully have been devoted to the following purposes, to providing in threatened areas (either directly by subsidy or by other means) such facilities as:

Housing  
Clean water  
Transport  
Roads  
Clinics  
Schools  
Electricity,

and generally to ensure that the wealth of this country is shared equally and that there be no taxation without representation;

Further calls on the Government to provide real compensation to all who have suffered removals and that such people be free to settle wherever they choose."

### 3. "Voluntary" removals to Khayelitsha

92. In March 1983, the then Minister of Development, Co-operation and Education, Mr. Koornhof, announced the decision to build Khayelitsha (in the Assembly on 30 March 1983), some cautiously welcomed it in the hope that it would be "an additional, totally free option for blacks wishing to move there, even though still conceived within the framework of Grand Apartheid". However, on 25 May 1985, Mr. Koornhof stated that Khayelitsha was intended for the consolidated housing needs of the black communities in the Cape Metropolitan area and that as people "voluntarily" moved there, the possibility of other race groups being accommodated in the older black townships would be considered.

93. Other than through the "rejected" Community Counsellors, the residents of Langa, Guguletu, Nyanga, Crossroads, Mjuleni (Black-heath) and Khaya Mandi (Stellenbosch) were not consulted about the decision.

94. On 18 February 1985 violence broke out in Crossroads in response to a statement made by the Minister of Co-operation, Development and Education to the effect that "uncontrolled squatting in Crossroads would not be tolerated". At the same time a removal squad had arrived from the Transvaal to move people to Khayelitsha. In the few days of conflict between residents of Crossroads and the police, 18 people were killed and more than 230 injured.

95. On 22 February the Government announced that it would grant 99-year leasehold to qualified residents of Langa, Guguletu and Nyanga. This was seen as an attempt to divide the united response of township residents and squatters.

96. On 27 February the Government announced the upgrading of 3,000 sites for "legal" Crossroads residents. This concession which divided the people into "legal" Crossroads residents and newcomers would inevitably force the majority of the estimated 100,000 Crossroads and KTC residents to move.

97. On 15 April 1985 the "illegal" squatters of Crossroads started their "trek" to Khayelitsha, described in a press report as "a black, desert landscape dotted with hundreds of tin toilets". According to the Chief Commissioner for the Western Cape, Mr. Timo Bezuidenhond, some 42,000 people have already signed an undertaking to move to the site at Khayelitsha. The area according to the same press report "has been carved out of the sand-dunes and resembles a huge flat expanse of desert. Corrugated iron toilets stand back to back in long rows. On the ground, slabs of concrete of about 3 1/2 square metres have been laid. A menacing looking fence, partly constructed, lines one side of the site. On the plus side there are taps - one to every 10 families - on the site and a clinic, shopping and schooling facilities are available in the other 'towns' of Khayelitsha. These are about two kilometres away and people there live in tiny houses. Transport to Cape Town and surrounding areas will be subsidized and cost no more than from Crossroads or the other squatter camps in the area."

#### Mathopestad

98. As already mentioned by the Working Group in its previous report (E/CN.4/1985/8, para. 74), the Government of South Africa planned to move the 2,000 inhabitants of Mathopestad to Onderstepoort near Sun City in Bophuthatswana.

99. Over the years, the tribe has been hindered by officials from fully developing and exploiting its land on the pretext that it was going to be moved to Onderstepoort in the bushveld, an area described as barren patches of dry land unsuitable for maize farming on which the community depends. It is also said that Onderstepoort has no infrastructure apart from 4,000 tin toilets, a school and a reservoir.

100. After several unsuccessful attempts by the Government to co-opt the existing acting chief, it is alleged that the local commissioner had a meeting with his informers in the village who in turn managed to convince a handful of people to go and inspect Onderstepoort on 11 March 1985. Most of the 29 who went were neither landowners nor of the tribe of Mathopestad but labourer-tenants evicted from other farms. The main aim of getting a number of people to visit Onderstepoort was in support of a government strategy whereby it must have a certain number of inhabitants "voluntarily" accepting to be relocated. The move has been severely opposed by the people of Mathopestad and criticism has also been voiced by the press, the clergy and the Black Sash women who visited the new site. But this opposition did not stop the authorities from affirming, on 9 April 1985, that it was the Government's intention to resettle the residents of Mathopestad.

B. Policy of homeland consolidation

101. According to information available to the Working Group, the theory that guides the policy of homeland consolidation stresses on the one hand the need for ethnic unity and the consolidation of people in their "proper ethnic groups". On the other, it rests upon the principle that black areas adjoining homelands should be incorporated into them and that, where possible, people living in what are called "badly situated areas", should be moved into homelands.

102. In September 1985, the South African Government announced its final consolidation proposals for the Lebowa, Gazankulu and Kwandebelé homelands. In August, it published the final Verda plans and in October it announced those for Bophuthatswana.

103. The Working Group has studied the latest Transvaal proposals and found to its dismay stark deviations from these principles. The communities described below are all to be consolidated into homelands.

Moutse

104. The Government has announced that Moutse will be incorporated into Kwandebelé on 1 January 1986. Moutse has a population of approximately 120,000 people, 80 per cent of whom are Sotho-speaking and not Ndebele. The plans for incorporation into Kwandebelé go back to 1979 when the idea was first mooted. Even at that time the very idea of incorporation aroused a storm of protest, and in the face of this opposition, the plans were shelved, and for five years the Moutse people have consistently voiced their objection to incorporation. They do not want to end up as an ethnic minority within Kwandebelé; they fear losing their South African citizenship when Kwandebelé becomes "independent" in 1986 and they also feel that to go ahead with the transfer is "a grossly undemocratic action".

105. In this regard, the attention of the Working Group is drawn to a telegram from the Black Sash dated 16 December 1985, which reads as follows:

"Minister Heunis has announced that Moutse will be incorporated into Kwandebelé on 1 January 1986. The residence and the representatives of Moutse reject the incorporation outright. They have called on the Government to hold a referendum to test their views before changing the status quo. Both President Botha and Minister Viljoen have refused to agree to a referendum. The incorporation will involve the loss of South African citizenship for 120,000 people when Kwandebelé becomes independent in 1986. Eighty per cent of the Moutse people are Sotho not Ndebele. The Minister is well aware that the Moutse people reject incorporation. He has said the Government will provide a resettlement camp for those who wish to leave Moutse rather than stay under Kwandebelé. We fear that tens of thousands of people will flee Moutse and a situation similar to the 1976 Thornhill refugee disaster will develop. Please telex Minister Heunis and President Botha to protest against the proposed incorporation. We believe that it would constitute genocide in the sense of loss of cultural identity as well as terrible human suffering. Those Sothos who remain in Kwandebelé will be persecuted as an ethnic minority and those who flee will lose their land at home. The proposed incorporation flies in the face of President Botha's reform pronouncements and the Government's stated policy of negotiating with black leaders. In this instance the leaders he refuses to negotiate with are government approved chiefs and elected representatives."

Bloedfontein and Geweerfontein

106. Bloedfontein and Geweerfontein are adjoining farms situated between the Bophuthatswana district of Moretele 2 and the Kwandebelé district of Mdutjana. The two have a population of about 15,000 to 20,000. These farms were purchased in 1927 and 1948 after they had been declared "released land". The original purchasers were wrongly advised that they had to have a chief as a nominee to sign the title deed for them. They accordingly asked Chief Moepi, a neighbouring Trivana chief to do this for them.

107. Moepi, however, signed the title deed in his own name and not as a nominee. This in effect means that the land belongs to Moepi's tribe although the original purchasers all have receipts showing how much they contributed towards the farm.

108. Until 1979, the largely Pedi, North Sotho and Ndebele speaking residents of the two farms were administered by the central Government via Chief Moepi. In 1979, they were informed that they were to be excised from Bophuthatswana and were subsequently administered by the commissioners responsible for Kwandebelé.

109. The people were told that they would be incorporated into Kwandebelé and were content to accept this. However, the negotiations around the final consolidation of the Transvaal homelands changed these plans. The Government negotiated with the Bophuthatswana authorities (the nominal owners of the farms), and the solution reached shows an utter disregard for the vast majority of the residents. The majority of these farmers are to be moved to new land that is still to be incorporated into Kwandebelé and their farms will revert to Bophuthatswana. The total effect of this is that Bophuthatswana stands to gain two large pieces of land, complete with infrastructure, roads, dams, boreholes and substantial buildings, whilst the removed residents will have to reconstruct their own lives from nothing.

110. In the first press release about these proposals, Minister Heunis is reported to have said that the inhabitants of these farms had already agreed to move and were co-operating fully with the authorities. But the people of these two communities claim that they only heard about the planned removal when it was published in the press. They are not opposed to consolidation; it is the dispossession of their land that they are resisting.

Machakaneng

111. Machakaneng is near Brits and the situation is similar to that of Bloedfontein and Geweerfontein whose entire community is to be dispossessed. The people of this small "black spot", approximately 300, have been there since 1904 when their ancestors bought the land in individual shares. Like all other black spots in South Africa, the Machakaneng community have been subject to attempts by the South African Government to persuade them to move to a trust farm called Kafferskraal on the border of Bophuthatswana. When the community refused to move, the Government did not pursue the matter but went ahead instead with an inquiry into ownership of the land. This resulted in the fragmentation of the title deeds of the original purchasers.

112. An investigation by the Black Sash revealed that the inquiry and division of the title deeds were undertaken as a precursor to the expropriation of the land through buying out individual shareholders. The community rejects this entirely. They are adamant and have no intention of leaving their land under any circumstances.

113. As Machakaneng adjoins the Bophuthatswana district of Bapong, the community decided that if they could not remain in South Africa, they would rather be incorporated into Bophuthatswana than have to move. In making this decision, an explicit and important concern of the community was that they would not lose their title deeds nor their rights to the land, thus saving themselves from the agonies that forced removals have meant for millions of South Africans.

114. Machakaneng is to be incorporated after the shares have been acquired by the South African Development Trust. It is not clear whether they will be able to remain on the land as tenants of the South African Development Trust or the Bophuthatswana government when the land is ultimately incorporated.

Motlatla

115. In the Western Transvaal, the population of Motlatla, like that of Mathopestad, still remains under threat of removal into Bophuthatswana. Motlatla is a community of about 1,500 people. The land that they are supposed to be moved to in the Geysdorp area is 800 hectares smaller than their present land.

C. Influx control \*/

116. In its previous report (E/CN.4/1985/8), the Ad Hoc Working Group noted that the Government had concentrated on measures which made it more difficult for blacks from outside the "white" areas to enter those areas. During the period under review, the Group received information indicating that the authorities have continued their policy on the matter.

117. According to information received by the Working Group, an estimated 20 million pass law arrests have been made in the 40 years of existence of the pass law system. Under the requirements of the pass laws, all blacks are obliged to carry pass books stating where they live and work. Many defy the law and the National Committee against Removals expressed concern about the large number of arrests, currently running at about 200,000 to 300,000 a year.

118. The Working Group received information indicating that in September 1985 the President of South Africa announced that the system of influx control would be reformed. On 12 September the Committee on Constitutional Affairs of the President's Council presented its report entitled "An Urbanisation Strategy for the Republic of South Africa". The main recommendation was that "influx control in the Republic of South Africa as applied at present in terms of Act 25 of 1945 be abolished". The report has been referred to the Minister of Constitutional Development and Planning for recommendations to the Cabinet "for the reform of the system".

119. The recommendation to scrap influx control has been generally welcomed, but the National Committee against Removals observes that in fact the "blatant controls of the system will be replaced by existing hidden forms of control". Essentially the "existing 'hidden' forms of urban influx control, such as clearance of slums and informal settlements, zoning and decentralization are to replace pass law control".

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\*/ This section is based on information drawn from the Citizen of 16 August, 1 and 3 October 1985, The Times of 16 August 1985, the International Herald Tribune of 13 September 1985, evidence collected by the National Committee against Removals (NCAR) and submitted by Black Sash.

120. However, some positive points are acknowledged. For instance, on removals, "as far as possible, urbanized people should be moved. However, where circumstances necessitate this it should be done with the consent of those involved and in a community context". However, the report only recommends the abolition of one act, the Urban Area Act, which regulates the physical presence of blacks in urban areas. It does not recommend the repeal of any legislation related to the right to work or to occupy land in urban areas and it does consider rural influx control. In effect, it only deals with one of the three aspects of influx control.

121. The Committee found that influx control was discriminatory, a failure and costly. In its report the Committee admits that the policy of influx control had not been able to control the rate of urbanization and that the policy had only succeeded in controlling the spatial distribution - which in fact it could continue to do without the pass laws described as "an anathema to human rights and the dignity of the individual". The report suggests that South Africa no longer needs influx control, because it can use other direct and indirect means of control such as the Prevention of Illegal Squatting Act (52 of 1951), the Slum Clearance Act (76 of 1979), the Group Areas Act (41 of 1956), legislation relating to health controls and local authority measures such as zoning.

122. The Committee recommends that classic influx control can be replaced by "orderly urbanization", in terms of which the process of urbanization is ordered and directed mainly by indirect forms of control and by direct measures. Indirect measures in this case consist mainly of incentives and restrictive measures based chiefly on market forces. Measures that discriminate against certain population groups should not be applied. The direct measures comprise legislation, ordinances and by-laws that direct and control. Orderly urbanization also presupposes freedom of movement for all citizens in the country.

123. According to the report, planned sites and services replace informal settlements. While the report does not address the broad issue of right of occupation, it suggests that the Government should set aside land (for blacks) for site and service schemes. The numbers would be controlled because only so much land would be set aside and there would be strict controls to prevent "overcrowding and health hazards".

124. The central theme throughout the report is economic rather than racial differentiation - with an "ominous" proposal that people should pay the economic cost of living in cities. The example of paying for pollution control rather than charging this to industry is cited. The argument is that the cost of living in the city would become too expensive for the vast majority of (black) people.

125. Officials of the Committee said that they expected the Government to introduce legislation on these recommendations in 1986. The Chairman of the Commission, Mr. Piet Koornhof, said that if the proposals were accepted "you remove one of the worst pinpricks as stated by black leaders".

## II. RIGHT TO LIFE AND PHYSICAL INTEGRITY

126. During the period covered by this report, the Ad Hoc Working Group of Experts, pursuant to the mandate entrusted to it by the Commission on Human Rights, again reviewed the situation in South Africa with regard to respect for the right to life, freedom and the protection of individuals from torture. The present chapter, which illustrates some of the ways in which the policy of apartheid has continued to violate the most basic rights of the black population, especially since the declaration of the state of emergency, will therefore deal with trials, bannings, repression, detentions, deaths in detention or in police custody, torture, abduction, disappearances, "assassinations" and petrol bombings.

### A. Trials

127. According to information available to the Working Group, the present turmoil in South Africa is said to be the most intense in the country's history. As the Working Group has pointed out in its previous reports, the South African authorities continue to employ wide legal powers to detain those they consider to be their enemies without charging or bringing them to trial. The most prominent of those detained are leading figures of UDF and community leaders as well as churchmen.

128. In reviewing political trials in South Africa the Working Group wishes to recall Nelson Mandela's statement to the court in 1962:

"... I fear I will not be given a fair and proper trial ... I consider myself neither legally nor morally bound to obey laws made by a parliament in which I have no representation. In a political trial such as this one, which involves a clash of the aspirations of the Africans and those of the whites, the country's courts, as presently constituted, cannot be impartial and fair... In its proper meaning equality before the law means the right to participate in the making of the laws by which one is governed, a constitution which guarantees democratic rights to all sections of the population... The white man makes all the laws, he drags us before the courts and accuses us, and he sits in judgement over us."

#### 1. Treason trials \*/

129. In what is regarded as South Africa's "biggest and most crucial political trial", the following 16 members of UDF were accused of treason on the grounds

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\*/ This section is based on information drawn from the Rand Daily Mail, 16 January, 25, 26, 27 February, 3, 9, 14, 15, 16, 20, 25, 29 and 30 March, and 24 April 1985; The Citizen, 1, 27 February, 9, 13, 15, 16, 27 and 30 March, 10, 12, 16, 24, 25, 26 and 27 April and 4, 13 and 21 May 1985; The Star, 4, 6 and 18 March, 29 April and 6 May 1985; The Sunday Times, 12 May 1985; The Christian Science Monitor, 25-31 May 1985; The Times, 29 April, 20 and 21 May and 10 December 1985; International Herald Tribune, 11 March, 6, 21 May and 10 December 1985; Focus, No. 61, November-December 1985; Political Trials in South Africa, published by SATIS, "Southern Africa - The Imprisoned Society", May 1985, submitted by the Detainees' Parents Support Committee (in Lusaka, Zambia, 15-19 November 1985); report of the Detainees' Parents Support Committee.

that they were allegedly involved in a conspiracy to overthrow the Government by unlawful means - a charge which carries a maximum penalty of death:

Mr. RAMGOBIN, Mewa	- UDF National Treasurer
Mr. SEWPERSHAD, George	- President Natal Indian Congress
Mr. NAIDOO, M.J.	- Vice-President Natal Indian Congress
Mr. JASSAT, Essop	- President Transvaal Indian Congress
Mr. MOKOENA, Aubrey	- UDF
Mr. DAVID, Paul	- UDF
Mr. NKONDO, Ephrain Curtis	- UDF
Mr. GUMEDE, Archie	- President UDF
Mrs. SISULU, Albertina	- President UDF
Rev. CHIKANE, Frank	- Vice-President UDF
Mr. SALOOJEE, Cassim	- UDF
Mr. MOHAMMED, Ismail	- UDF
Mr. NJIKELANE, Sisa	- South African Allied Workers Union
Mr. KIKINE, Sam	- South African Allied Workers Union
Mr. NGCOBO, Isaac	- South African Allied Workers Union
Mr. GQWETA, Thozamile	- South African Allied Workers Union

130. They also faced alternative charges, inter alia, under section 54 of the Internal Security Act dealing with terrorism. It is part of the Government's case that the 16 gave succour to a revolutionary alliance comprising the South African Communist Party, the South African National Congress, the South African Congress of Trade Unions, the Congress Movement and the Congress Alliance. The State alleges that UDF was used as an instrument of this alliance.

131. The 16 are accused of having sought to advance the goals of the Revolutionary Alliance through the convening of political rallies, speech-making at rallies and meetings as well as the distribution of prohibited publications.

132. One of the controversies in the treason trial, has been the matter of "bail". On 8 March 1985 Natal's Attorney-General, Mr. Michael Imber, invoked section 30 of the Internal Security Act in refusing to grant bail applications for eight of the accused. On 24 April 1985, a "reserved judgement" of the full bench of the Pietermaritzburg Supreme Court ordered that the bail application be remitted to the magistrate to deal with afresh.

133. In terms of section 30(1) of the Internal Security Act, the Attorney-General is entitled to refuse bail if "the interests of the State and the maintenance of law and order necessitate that the accused should not be released on bail."

134. Mr. Justice Friedman said in the judgement that it was traditionally the role of the court to decide on bail applications. "It is right and proper that the courts should exercise this power. It is only through the courts exercising their powers, fearlessly and impartially, that a proper balance can be achieved between the interest of the individual's liberty and the interest of the State in bringing alleged wrongdoers to justice", he explained.

135. With regard to the right of the Attorney-General to refuse to allow the granting of bail in terms of the Internal Security Act, the Judge said that "these sections constituted serious inroads into the traditional role of the courts". He said that it was "a complete anathema that an Attorney-General should be... a judge in his own cause. He is not an independent officer. Unlike the courts, he does not exercise his powers free of executive control".

136. In granting bail to the 16 accused on 4 May 1985, the Judge-President of Natal, Mr. Justice John Miles called for the repeal of the Internal Security Act which allows the Attorney-General "to refuse to allow bail". He made his call before granting a collective bail of R 170,000 and imposing conditions on the accused. The conditions include: the surrender of passports within 24 hours to police officers, confinement to magisterial districts, and reporting to the various police stations in their respective areas twice daily between 6 a.m. and 7 a.m. and 7 p.m. and 9 p.m. They are prohibited from addressing meetings or becoming involved in any activities of the organizations, or affiliate organizations, to which they belong. They are also required by conditions of their bail not to interfere with or approach any of the 117 state witnesses listed in the indictment.

137. Subsequent to these developments and in what was seen by observers as "a serious political embarrassment for the South African Government", charges of high treason against 12 of the accused were withdrawn. Five of those freed - Mr. Archie Gumede, Mr. Mewa Ramgobin, Mr. George Sewpershad, Mr. Moorooogih Naidoo and Mr. Paul David - made headlines when they sought refuge in the British Consulate in Durban on 13 September 1984 "to evade arrest". The other seven were: Mrs. Albertina Sisulu, wife of Walter Sisulu, one of the ANC leaders still imprisoned with Mr. Mandela, Rev. Frank Chikane, Mr. Essop Jassat, Mr. Ephraim Curtis Nkondo, Mr. Ismail Mohammed, Mr. Aubrey Mokoena and Mr. Cassim Saloojee. The Government is "to continue pressing the treason charges against four trade-unionists, all of whom are leading members of the South African Allied Workers Union (SAAWU). These four are: Mr. Sisa Njikelane, Mr. Sam Kikine, Mr. Isaac Ngcobo and Mr. Thozamile Gqweta.

138. However, lawyers said that the case against them had been seriously weakened by the events that led to the abandonment of the charges against the other 12 leaders of UDF. Testimony in the case is said to have crumbled in the week preceding the withdrawal when a State prosecution witness, Mr. Isaak D. Voies, told the court that "he had misunderstood his role in the case and made fundamental mistakes in his evidence that could have misled the court". Mr. de Voies, a lecturer in politics at the Rand Afrikaans University in Johannesburg, was presented by the prosecution as "an expert on revolutions". His testimony that "a revolutionary alliance" existed between illegal organizations such as African National Congress and legal ones such as the United Democratic Front laid the theoretical foundation for the treason charges against the accused. Under cross-examination, Mr. de Voies admitted that the Natal Indian Congress and the Transvaal Indian Congress, which are part of UDF and to which many of the accused belong, are not committed to violent revolution as he had testified. The case is said to have produced other embarrassments for the Government when a security police officer, Major Harold Miles, revealed that police informers were paid according to the

information they gave, getting more money for more valuable information. He conceded that "this could be an incentive to informers to exaggerate their reports".

139. The trial of the 16 is reminiscent of the 1956 treason trial in which 156 activists were charged with high treason but were finally acquitted in 1961. This meant that, for the duration of the trial, the black leaders involved were effectively removed from political activity.

140. In another case, 22 people, including leading UDF officials and its affiliate, the Vaal Civic Association as well as members of the Azanian People's Organization (AZAPO), have been charged with high treason, "terrorism", subversion and murder. The charge sheet in this case is said to run to some 250 pages. The indictment is a wide-ranging attack on UDF and its alleged role in the unrest in the Vaal Triangle in September 1984. It alleges that UDF allied with the African National Congress (ANC) and the South African Communist Party (SACP) to overthrow the existing order by violence. UDF meetings were allegedly used to glorify ANC as "a friendly army" whose members were portrayed as heroes and martyrs.

141. Their lawyers have continued to press for their release on bail having challenged the validity of the certificates under which the Attorney-General refused them bail, principally on the grounds that they were issued prematurely before the men had been charged.

## 2. Political trials under the Internal Security Act (ISA) and other Acts

142. The Working Group has found that the great majority of trials this year are the result of the upsurge of "popular resistance" against apartheid. In the six months from September 1984 to February 1985, 10,000 people were arrested on charges arising out of the unrest. In the Eastern Cape alone more than 20,000 people were arrested in the first six months of 1985 on charges of violence. From January to September 1985, police in the Eastern Cape opened dockets on 1,789 cases and the charges reflected the nature of the resistance which the Government is attempting to suppress through the use of the courts.

143. The majority of the accused have been charged under the common law, mostly with public violence. Most trials in which this charge has been used relate to protests and demonstrations broken up by the police. In most cases, these allegedly involved the stoning of police, police vehicles and property. In most cases where these charges have been brought the trials arose out of stoning of the houses of community counsellors and police, stoning of schools, shops and government buildings. Where petrol bombs have been used against unoccupied property, the charge has been arson, but where such attacks have taken place against the property of agents of the State and injuries or deaths have resulted, the accused have been charged with attempted murder or murder. In July 1985, the State was in the process of prosecuting 367 cases of arson, most involving homes that were gutted, 93 alleged murders arising from the uprisings and 1,050 cases of public violence.

144. People have also been charged for offences under statute laws such as the Internal Security Act of 1982, the Intimidation Act and the Gatherings and Demonstrations Act of 1983. The number of trials related to the uprisings in black townships has increased in proportion to the increased resistance in these areas and trials have been taking place in virtually every corner of the country. However, the areas where most trials are taking or have taken place are those which have seen the most severe unrest, in particular the Eastern Cape, the Pretoria-Witwatersrand-Vereeniging area, the Northern Transvaal and the Orange Free State.

145. The pressure on the courts has been so great that in certain areas special regional courts have been set up so that the "normal" running of the ordinary courts would not be disrupted. While some trials are rushed very quickly through the courts, their great number has resulted in many taking a long time to be completed. Trials under the Internal Security Act and other Acts are listed below:

<u>Status</u>	<u>Name</u>	<u>Charge</u>	<u>Place</u>
Ongoing	MAPUMULO, Wilfred BUTHELEZI, Norbert DUMISA, Robert MARUPENG, James and nine others	Terrorism and possession of arms	Estcourt
Ongoing	ZONDO, Salusha MAPHUMULO, Kate	Harbouring ANC members, possession of arms	Eshowe
Ongoing	THABANE, Frank MOGALE, Elphos CHILOANE, Thabo	Terrorism	Nelspruit
Ongoing	MAAPE, Abel Bushy	Terrorism	Kimberley
Ongoing	VIVIERS, J.C. SAUNDERS, Juliette	Infringement of Police Act	Port Elizabeth
Ongoing	SEFATSA, Reginald and seven others	Subversion, murder	Pretoria
Ongoing	OMAR, Dullah MCMASTER, L.	Addressing illegal gathering (UWC July 1985)	Bellville
Ongoing	MAHLOPANE, W.	Banned literature	Klertsdrorp
Ongoing	JOSEPH, Humphrey NGEMDOE, Louis	Subversion	Oudtshoorn
Ongoing	STUURMAN, Daniel JOSEPH, James DU PLESSIS, James BOOYSEN, Almo BARNARD, Paul JAMES, Hilton JACOBS, Andrew	Sabotage	George
Ongoing	TSHOBA, Jan JULY, Fikile KETYE, Mlandele NKABINDE, Rayond GQAMANE, Mike	Terrorism, furthering of PAC aims	Potchefstroom
Ongoing	HEARD, Anthony	Quoting listed persons	Cape Town
Ongoing	ALLY, A. and 19 others	Gathering and Demonstrations Act, Caledon Square, September 1985	Cape Town

<u>Status</u>	<u>Name</u>	<u>Charge</u>	<u>Place</u>
Ongoing	JONGILE, Joe	Terrorism	Umtata
Ongoing	NGOYI, Edgar and nine others	Murder	New Brighton
Ongoing	TALAKUMENI, Thomas	Harbouring opposition members	Cape Town
Ongoing	TSHWETE, Pamela and 45 others	Illegal gathering	Mdantsane
Ongoing	Eight demonstrators at treason trial Court Building Act	Contravention of demonstrations in and around Pietermaritzburg	
Ongoing	BLACK, Anthony and 22 others	Illegal procession, August 1985	Durban
Ongoing	GROOTBOOM, Derek BASSON, Derek STEENBOK, Stephans PRITCHARD, Robert BOTHА, Julian	Sabotage	Oudtshoorn
Ongoing	NGATYANE, Chris JAXA, Nkululeko	Terrorism, furthering of ANC aims	Queenstown
Ongoing	TOM, Ntozelizwe	Terrorism, furthering of ANC aims	
Ongoing	SISHUBA, Andile MJILA, Visumze	Terrorism, furthering of ANC aims	
Ongoing	GXAVU, Zukile MAKU, Toivo Otto TUNGWANA, Denmark NOMEVO, Lungelo QAKU, Ntsikelelo XINTOLO, Andile SPEELMAN, Simon SAMUEL, Tembeni BACELA, Professor	Contravention of ISA	Burgersdorp
Ongoing	NAME, Prince	Contravention of ISA	King Williams Town
Ongoing	GREEN, Pippa	Illegal demonstration anti-press restrictions	Cape Town
Ongoing	DENNEHY, Peter	Illegal gathering, obstructing police	Cape Town

According to information transmitted to the Group the following trials are due to be heard in 1986:

<u>Status</u>	<u>Name</u>	<u>Charge</u>	<u>Place</u>
9 Jan.	MBIZE, Charles RAMONTSHU, Esau MOTAUNG, Daniel	Contravention of ISA	Johannesburg
9 Jan.	MABONE, Furgane OGANNE, Aaron MNTAMBO, Thomas DWAYI, Jan NKHELE, Steven LESHIBA, Bonakale	Sabotage, placing public safety in danger	Klerksdorp
20 Jan.	MASHELA, Samuel and nine others	Subversion, murder (Sebokeng, Sept. 1984)	Oberholzer
20 Jan.	MLONYIENI, Themba	Incitement to attend illegal gathering	Beaufort West
24 Jan.	RABEDE, January BILA, Daniel	Subversion	Vanderbijl Park
27 Jan.	MATAKATA, Jana	Furthering ANC aims	Paarl
27 Jan.	MBENYANE, Joseph KHOMUNALA, A. NGOBESE, Arletta	Banned literature	Durban
30 Jan.	SELOANE, M. and 40 others	Illegal gathering (Lebowa, August 1985)	Nebo
3 Feb.	MOLEFE, Oupa RADEBE, Jahannes SEKETE, Patrick MOKOENA, Tladi and a 16 year old	Subversion, murder, malicious damage to property and arson	Pretoria
3 Feb.	MOTSOAGOA, Solomon MOTSOAGOA, Paulus and three others	Murder, ISA	Nigel
7 Feb.	SOCIKWA, Goodman	Banned literature, furthering ANC aims	Pietersburg
- March	NHLAPO, Tom TSOTETSI, Ishmael MOREMI, Oupa MOSEBI, Moleje SONDI, William MIRA, Simon	Subversion, murder, attempted murder	Carletonville
3 March	THEBA, Farid	Subversion	Middelburg
12 May	BOESAK, Allan	Four charges under ISA	Malmesbury

B. Bannings \*/

146. In its report (E/CN.4/1985/8, paras. 156-163), the Working Group examined information regarding restrictions imposed in terms of banning orders under the Internal Security Act of 1982. The Working Group has continued to receive information in this regard and has expressed concern over the restrictions which these orders continue to impose on the freedom of association, expression and movement of individuals regarded as critics or opponents of the Government. Such banning orders are imposed administratively by order of the Minister of Law and Order, the responsible cabinet minister, and are specifically excluded by law from the jurisdiction of the court.

1. Banning of persons

147. Some banning orders include restrictions which relate specifically to the individual. Although the courts are specifically denied jurisdiction over the imposition of banning orders and cannot challenge their validity, banned people may be tried before a court and sentenced to imprisonment if they infringe the restrictions imposed under the terms of their banning orders.

148. Among those currently under banning orders are two black trade-unionists from Port Elizabeth, Maxwell Madlingozi and Dumile Makanda, both are restricted to Port Elizabeth. Being banned people they may not enter factory premises, hence are effectively prevented from returning to their jobs.

149. Banning orders may be reimposed immediately when they expire, and some of the people restricted at present have been banned since the early 1960s. As a result, they have been condemned through the administrative action of the Government to many years of social isolation.

150. Rowley Arenstein, a Durban lawyer, has been continually banned or imprisoned since 1962. His banning order restricted him to Durban and is due to expire on 30 June 1988.

151. Abel Dube is banned until 31 October 1987. He was detained on 16 April 1962. On his release in October 1984, he was immediately served with a three-year banning order which effectively banished him to the remote town of Messina in the Northern Transvaal.

152. Johnny Issel is a leading community worker in the Western Cape. His first five-year banning order was imposed in October 1973 when he was regional organizer in the Western Cape for the South African Students' Organization (SASO). The present banning order, which was imposed on him in July 1983, restricts him to Athlone and was due to expire on 31 July 1985.

153. Mordecai Mothibe Tatsa, a former member of the proscribed South African Students' Movement (SASM), was banned on his release from custody in August 1983. His banning order restricts him to Soweto and is due to expire on 30 August 1986.

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\*/ This section is based on information drawn from The Star, 11 November 1985, Sowetan, 8 November 1985, The Guardian, 22, 23 November 1985, The Times, 11 November 1985; report submitted by the Detainees' Parents Support Committee in Lusaka, Zambia, 15-19 November 1985; reports of Amnesty International, Focus, No. 61, November-December 1985, Newsweek, 6 January 1986.

154. Mathatha Tsedu is a former journalist and Northern Transvaal President of the Media Workers' Association of South Africa (MWASA). The present banning order which restricts him to the magisterial district of Seshego also puts him under house arrest on weekday evenings and weekends and is due to expire on 30 June 1986. He has been prevented from pursuing his journalistic career by his banning order, especially because the district of Seshego is a residential black township servicing the neighbouring town of Pietersburg which is reserved for whites.

155. Ahmad Cassiem is a former political prisoner and was president of the South African Students Association. His banning order restricts him to Wynberg and is due to expire on 31 March 1986.

## 2. Banning under emergency regulations

156. The following persons have been restricted for the duration of the state of emergency:

COLEMWAN, Neil	- restricted to Johannesburg
RATCLIFFE, Simon	- restricted to Johannesburg
SALOCJEE, Rashid	- restricted to Johannesburg
SMITHERS, Maurice	- restricted to Johannesburg
VAN HEERDEN, Auret	- restricted to Johannesburg
PETERSON, Rev. Robin	- restricted to Wynberg

## 3. Listing of persons

157. Government Gazette No. 9830 of July 1985 lists the names of persons who may not be quoted, according to the provisions of section 56 (i)(p) of the Internal Security Act of 1982, contravention of which carries a prison sentence of up to three years. The persons who are thus affected are:

- (a) Nine persons under banning order (sects. 19 (1) (a) and 20),
- (b) Nineteen persons convicted of security offences (sect. 16 (1) (b)),
- (c) Seven persons previously in preventive detention (sect. 28),
- (d) One hundred and thirty-seven persons whose names are entered on lists maintained in terms of sections 16 (6) (a) and 23 (1).

158. The total number of listed persons is 172, of whom 22 are in South African prisons, 40 are resident in South Africa, 89 are living abroad in exile and 21 are deceased.

## 4. Banning of organizations

159. Under section 4 of the Internal Security Act (ISA) the Minister of Law and Order can ban certain organizations. On 28 August 1985 (in government Notice No. R.1977) the Minister of Law and Order banned the Congress of South African Students (COSAS). This was the first time since 1977 that an organization had been banned.

## 5. Banning of gatherings

160. Under section 46 of ISA, the Minister of Law and Order or a magistrate can ban or impose restrictions on gatherings. Throughout the year the Government has imposed broad bans on gatherings, supplementing orders issued by local magistrates.

161. On 22 March 1985, in government Notice No. 701, an annual ban on outdoor gatherings, excluding those of a sporting nature, was renewed. In addition, the Notice extended the ban to all indoor gatherings advocating education boycotts. And in government Notice No. 776 of 22 March 1985, the Minister announced a three-month ban in 18 districts on meetings to discuss stay-aways and meetings of 29 specified organizations. The ban was extended on 28 June 1985 to cover the rest of the year and to include a total of 30 districts and 64 organizations. The organizations included youth, student, women's, community and political bodies, while the magisterial districts were in the Transvaal (2), the Eastern Cape (21) and Orange Free State (7).

162. In these circumstances, the funerals of people killed while protesting against the régime tended to become the principal forums for expressing solidarity and resistance. Accordingly in July 1985, the Commissioner of Police used the new emergency regulations to impose a series of restrictions on the funerals of those killed during protests. Police commissioners used new powers under section 6 of the emergency regulations to impose other bans. According to the latest information, all gatherings to celebrate Nelson Mandela's birthday in July 1985 were banned in six areas on the Rand, and in August 1985 a ban was announced in 18 Transvaal districts on meetings to commemorate the start of the Vaal uprisings in September 1984.

163. Magistrates in districts not included in the state of emergency have continued to impose restrictions on gatherings under the Internal Security Act, mainly on funerals. For a month in September all funerals of blacks in the East London magisterial district in the Eastern Cape were subjected to restrictions identical to those in effect in the emergency districts, with their attendance limited to 100 people. On 23 November 1985 funerals in Mamelodi were banned by the chief magistrate of Pretoria North under the Internal Security Act. In addition, attendance at vigils and funeral services was restricted to 50 persons.

#### 6. Banishments \*/

164. Another form of restriction and isolation imposed by the South African Government is banishment, in terms of which the Minister of Law and Order can, under powers conferred by the Internal Security Act, issue a deportation order.

165. In recent years, black opponents of the Government have been banished from "white" South Africa to the "homelands" by the South African authorities.

166. In other instances, people designated by the South African Government as citizens of the homelands which have been granted so-called independence have automatically lost their South African citizenship, through administrative deportations to the "homelands".

167. The case of Steve Tshwete serves as an example. In November 1984, Steve Tshwete, a former ANC prisoner on Robben Island and a leading member of UDF, was declared a prohibited immigrant. This occurred at a time when there was widespread unrest in South Africa, and many UDF leaders were in

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\*/ This section is based on information drawn from reports of Amnesty International and submissions by the Detainees' Parents Support Committee in Lusaka, Zambia, 15-19 November 1985.

detention. Regarded as a national of the Ciskei "homeland" by the South African authorities, his exemption from requiring a visa to enter "white" South Africa and a temporary residence permit to reside there, was withdrawn by the Minister of Home Affairs. Steve Tshwete is unable to continue working outside Ciskei and is unlikely to be able to find employment in the "homeland" where there is high unemployment and little work.

168. Powers similar to those of the Minister of Law and Order to banish individuals have been granted to administrations in the black "homelands". The Working Group has received information about political prisoners and other persons who have been restricted by homeland administrations.

169. The case of Prince Madikizela is one of such examples. In October 1984, Prince Madikizela was served with a banishment order which restricts him to a rural district of Bizana far from his home and legal practice in Umtata, the capital of Transkei. Under the Transkei Public Security Act of 1977, the so-called President of Transkei may order anyone to withdraw to any district for any length of time and he is not obliged to give any reason for the banishment if this is not deemed to be in the public interest. Prince Madikizela had been representing the family of Mxolisi Sipele who died in July 1984 while in detention in the bantustan. He appealed against the banishment in the Umtata Supreme Court in December 1984; the case was heard on 9 May 1985 but judgement was reserved.

C. Targets of repression \*/

170. The legislation in force in South Africa has been used to silence or neutralize all opposition to apartheid. By mid-1984 the situation in South Africa had reached a level of polarization, provoked principally by the exclusion of blacks from the constitutional proposals and the continued application of the policy of apartheid. Thus, this period saw the emergence of various organizations whose main purpose is to defend civil rights. In addition to several civic youth organizations, such as students organizations, women's organizations, trade unions and political organizations, journalists' groups, human rights groups, community support organizations, sport organizations and, above all, some members of the clergy came to the forefront in resisting government policy.

171. The information received by the Working Group shows that some members of these organizations were clearly the targets of the repression permitted by the legislation in force:

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\*/ This section is based on information drawn from reports of the Detainees' Parents Support Committee from January to November 1985, submission by the Detainees' Parents Support Committee in Lusaka, Zambia, 15-19 November 1985, testimony of representatives of the Black Lawyers Association in Lusaka, Zambia, 15-19 November 1985 and evidence presented by other witnesses in Lusaka, Zambia, 15-19 November 1985 (identity withheld on request).

(a) Civic associations

PEBCO (Port Elizabeth Black Civic Organization)  
SCA (Soweto Civic Association)  
GRCA (Graaf Reinet Civic Association)  
ERAPO (East Rand People's Organization)  
Organ for Peace (Ford Beaufort)  
GRACA (Grahamstown Civic Association)  
DUCAs (Duduza Civic Association)  
Port Alfred Civic Association  
Kattlehong Action Committee  
Tembisa Civic Association  
Tsakane Civic Association  
Tsakane Homeseekers

(b) Youth organizations

SOYCO (Soweto Youth Organization)  
KWAYCO (Kwa Tema Youth Organization)  
AYCO (Alexandra Youth Organization)  
PEYCO (Port Elizabeth Youth Organization)  
UYCO (Uitenhage Youth Organization)  
STEYCO (Steytlerville Youth Organization)  
TSAYCO (Tsakane Youth Organization)  
DUYO (Duduza Youth Organization)  
LYL (Lenasia Youth League)

(c) Student organizations

COSAS (Congress of South African Students)  
AZASO (Azanian Students Organization)  
NUSAS (National Union of South African Students)  
Parents/Students Committee

(d) Women's organizations

PEWO (Port Elizabeth Women's Organization)  
FEDTRAW (Federation of Transvaal Women)  
WWM (Wits Women's Movement)

(e) Political organizations

TIC (Transvaal Indian Congress)  
UDF (United Democratic Front)  
JODAC (Johannesburg Democratic Action Committee)

(f) Trade unions

FOSATU affiliates (Federation of South African Trade Unions)  
CUSA affiliates (Council of Unions of South Africa)  
SAAWU (South African Allied Workers Union)  
GAWU (General and Allied Workers Union)  
MACWUSA (Motor and Component Workers Union)  
CCAWUSA (Commercial, Catering and Allied Workers Union of South Africa)

(g) Human rights groups

DESCOM/DPSC (Detainees' Parents Support Committee)  
ECC (End Conscription Campaign)

(h) Community support organizations

MARS (Media and Research Services)  
CRIC (Community Resources Information)  
STP (Silkscreen Training Project)  
ERC (Economic research Committee)  
AEP (Adult Education Project)  
HIC (Health Information Centre)

(i) Sporting organizations

SACOS (South African Council of Sports)  
EPCOS (Eastern Province Council of Sport)

In addition to the above, some journalists and some members of the clergy have also become special targets of intimidation.

172. In the course of its investigations the Working Group found that the legal profession had suffered considerably from detention and charges of treason, the following list reflects this trend:

Detained in 1985

KGAKA, Mike (Vaal)  
OMAR, Dallah (Cape Town)  
MOHAMED, Yunus (Durban)  
MADIKIZELA (Transkei)  
SIWISA, Hintsa (Ciskei)

Charged with treason 1985

SEWPERSHAD, George (Durban)  
NAIDOO, M.J. (Durban)  
GUMEDE, Archie (Durban)  
DAVID, Paul (Durban)

173. The Working Group was informed by representatives of the Black Lawyers Association and lawyers from other racial groups that there was a tendency to victimize lawyers involved in political trials who were regarded as important in the defence of political activists in court.

D. Detentions

174. The Working Group received information reflecting the pattern of detentions effected under the legislation in force. The following tables give a breakdown of the pattern of detentions reported between January and November 1985: \*/

(a) Summary of detention by legislation

Section 28, Internal Security Act	8
Section 29, Internal Security Act	301
Section 31, Internal Security Act	4
Section 50, Internal Security Act	301
Ciskei National Security Act	98
Transkei Public Security Act	47
Bophuthatswana Internal Security Act	6
Unknown legislation <u>**/</u>	76

Total 841

(b) Detention by area

Transvaal	257
Natal	87
Eastern Cape	63
Western Cape	193
Northern Cape	43
Orange Free State	47
Ciskei	98
Transkei	47
Bophuthatswana	6

Total 841

(c) Detention by activity

Scholars, students, teachers	230
Community and political workers	237
Trade-unionists	29
Clergy and church workers	9
Journalists	19
Unspecified or unknown activity	317

Total 841

\*/ Detainees' Parents Support Committee.

\*\*/ The information transmitted to the Working Group does not refer to a specific piece of legislation as being applicable.

(d) Fate of 1985 detainees as at 31 November 1985

Released without charge:

Within 48 hours	70
After a longer period	424
Charged, awaiting trial	109
Charged and acquitted	1
Charged and convicted	1
Escaped from detention	2
Still in detention	160
Transferred to emergency detention	74
<b>Total</b>	<b>841</b>

175. As of 30 November 1985, according to information received by the Working Group the number of persons still in detention for so-called security reasons can be broken down as follows:

(a) Summary by area

Transvaal	98
Natal	7
Eastern Cape	13
Western Cape	20
Northern Cape	5
Orange Free State	6
Ciskei	10
Transkei	13
Bophuthatswana	-
<b>Total</b>	<b>172</b>

(b) Persons still detained as at November 1985,  
according to period of original detention

Detained during 1984	12
Detained during January-June 1985	18
Detained during July 1985	16
Detained during August 1985	44
Detained during September 1985	40
Detained during October 1985	23
Detained during November 1985	19
	172

(c) Summary of detention by legislation

Internal Security Act, section 28	8
Internal Security Act, section 29	115
Internal Security Act, section 31	20
Internal Security Act, section 50	1
Ciskei National Security Act	10
Transkei Public Safety Act	13
Bophuthatswana Internal Security Act	-
Unidentified legislation	5
	—
	172

Total

176. The above statistics have been made available to the Working Group by the Detainees' Parents Support Committee on the basis of detentions known to them. Published police statistics as at 30 November 1985 indicate that out of a total of 287 persons in detention, 143 are unknown to DPSC. The breakdown of unknown persons in detention as at 30 November 1985 is as follows:

Unknown persons under section 31	1
Unknown persons under section 29	46
Unknown persons under section 50	96
	—
	143
	—

177. The Group noted the extensive use by the security police of section 50 of the Internal Security Act in the non-emergency areas. Police statistics on section 50 detentions published from 29 July to 30 November 1985 show that at least 1,079 persons have been held during this four-month period. Section 50 of the International Security Act allows for up to 14 days "preventive detention".

Detention in Transkei

178. The Working Group's attention has been drawn to the escalation in the use of detention in Transkei. A detailed breakdown of detention statistics is given below:

Mass detentions:

May	600	- Sigoga High School pupils
August	128	- University of Transkei students
	66	- Lourdes High School pupils
September	60	- St John's College students
	400	- Cala High School pupils
	390	- Umtata Technical College students
	—	
Total	1 644	—

Individual detentions

June	11	
July	20	
August	19	
September	29	
October	123	
<u>Total</u>	<u>202</u>	Mostly at funeral of B. Ndondo (see sect. E below on deaths in detention or in police custody)

Transkei police statistics

179. The chief of Transkei Security Police has been reported as saying that 259 persons have been detained under the Transkei Public Security Act since August, with less than a quarter still being held at the end of November 1985.

Banishment of released detainees

180. The following persons have been served with banishment orders to remote areas of the Transkei, following their release from detention. They are all relatives of, or witnesses to the killing of, Bathandwa Ndondo:

Dumisa NTSEBEZA, lawyer  
Lungisile NTSEBEZA, businessman  
Meluxdo SILINGA, teacher  
Monde MVIMBI, businessman  
Victor NGALEKA, assistant shop manager  
Zingisa MKHABILE.

E. Deaths in detention or in police custody \*/

181. In its previous reports the Working Group has brought to the attention of the Commission on Human Rights deaths which have occurred in detention or in police custody. The information given below shows that the situation has deteriorated. The following cases have been brought to the attention of the Group:

(a) 29 November 1984, NGWENYA, Abel Nphiwa, aged 31. Died within a few hours of being taken into custody from his Daveytone home. Police claimed he had died of an epileptic seizure whilst in their custody. Two policemen are now appearing in court on charges of culpable homicide in connection with his death. The district surgeon who conducted the post-mortem has attributed death to constant pressure applied to the neck.

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\*/ This section is based on information drawn from Focus No. 60, September-October 1985; Focus No. 61, November-December 1985; reports of the Detainees' Parents Support Committee, January-November 1985; submission of the Detainees' Parents Support Committee in Lusaka, Zambia, 15-19 November 1985; the testimony of representatives of the Black Lawyers Association in Lusaka, Zambia, 15-19 November 1985.

(b) Late 1984/early 1985, KOROTSOANE, Tatlheho, aged 28, from Seboken. He was reportedly being held on 3 September 1984 in the Vaal, under section 29 of ISA, although police public relations denied any knowledge of his detention under security legislation. However food parcels brought by his mother, Mrs. Elizabeth Korotsoane, were accepted for a while at Vereeniging police station until a policeman informed her in March 1985 that her son had died at Leratong hospital. On 22 April 1985, Mrs. Korotsoane identified her son from photographs of dead persons at Vereeniging police station. She claims that the police told her that the "person in the photograph had died years before". The investigation continues.

(c) 29 March 1985, MVULANE, Bheki, aged 18, from Katlehong. Taken into custody at Katlehong police station on 18 February 1985 along with eight other youths, on charges of public violence. Appeared briefly in court on 21 February and was remanded until 7 March 1985. Did not appear in court on 7 March whereupon his worried parents started making inquiries and were later to find him unconscious in Nataalspruit hospital. Subsequently, they learned that he had been admitted unconscious on 23 February 1985. Bheki Mvulane died on 29 March without regaining consciousness. A post-mortem has been carried out and a police investigation is in progress. Witnesses allege that "a white policeman flung Bheki Mvulane against the wall and on crashing down another policeman had trampled on his head ... He collapsed with blood coming from his nose and mouth." The superintendent of Nataalspruit hospital is reported to have said that Mvulane was treated for brain injuries before he died.

(d) 5 May 1985, MUTSI, Sipho, aged 20, from Odendaalsrus. Died of head injuries while in police custody (see special report E/CN.4/1986/3, para. 18).

(e) 6 May 1985, RADITSELA, Andries, aged 29, from Tsakane. Died of head injuries while in police custody (see special report E/CN.4/1986/3, para. 20).

(f) 3 July 1985, MUGGELS, Mzwandile, aged 20, from Steytlerville, Eastern Cape. Mzwandile who was co-ordinator of the Karoo Youth Congress, was returning from the memorial service for the Cradock leaders with a group of youths when they were confronted by police. They retaliated with stones and ran away. Later in the day police came across the youths sitting around a fire and fired rubber bullets and tear-gas at them. Mzwandile ran into his uncle's house, followed by the police who shot and fatally wounded him. They took him away in a police van. The next day (4 July) the police informed his parents that he had died, following an attack on the home of several SAP in which he was fatally wounded.

(g) 5 July 1985, SPOGTER, Johannes, aged 13, from Steytlerville, Eastern Cape. Johannes Spogter (also known as Witbooi and a nephew of Mzwandile Muggels) was arrested after a memorial service which had been held for the four community leaders killed near Cradock (see para. 205). His parents were informed on 5 July that "during a routine cell visit, he had been found dead". According to a Port Elizabeth pathologist who conducted the post-mortem on behalf of the dead boy's family, Johannes Spogter died of head injuries.

(h) 16 August 1985, MOKOENA, Sonnyboy, aged 24, from Moroka, Soweto. Taken into custody on 14 August by Pilgrim's Rest police while visiting his grandmother in Eastern Transvaal. The grandmother reports that two white and one black policemen, accompanied by a local businessman, raided her home to take Sonnyboy. She was later to hear of his death through a friend who had seen his corpse in a mortuary. There are allegations of assault before being taken into custody and his mother alleged that the body had an eye missing.

(i) 16 August 1985, GEORGE, Thembalake, aged 15, from Ginsberg (King Williams Town). Taken into police custody on 15 August 1985 while attending a students' gathering (Forbes Grant School) in Ginsberg. Next day, 16 August, his mother went to the police station and was told to go to the Grey Hospital where they found him guarded by police, his face badly swollen and unable to respond to her. He died later that day.

(j) 18-19 August 1985, NDZANDZE, Loyiso, aged 20, from Ginsberg (King Williams Town). Circumstances of his death similar to those of Thembalake George, except that he died a few days later in Cecilia Mikwane Hospital in Mdantsane (Ciskei).

(k) 21 September 1985, MBOTYA, Mbuyiselo, aged 34, from Ginsberg (King Williams Town). Taken into custody in King Williams Town police station on Friday 20 September 1985. Police stated that he became ill and was transferred to Frere Hospital in East London where he died. He was seen by family members before his death. They alleged that he was unable to speak and his breathing was laboured. They learnt that he was to undergo an operation on his head. The post-mortem revealed that he had died of head injuries. An inquest is to be held. Mr. Mbota was a well-known UDF activist. He was due to appear in court on 14 October 1985 on charges of attending an illegal gathering. He was the third person to die in police custody in King Williams Town within a period of five weeks.

(l) 24 September 1985, NDONDO, Batandwa, aged 22, from Cala, Transkei. Taken from his home on the morning of 24 September by four plain clothes policemen and one uniformed policeman. Within an hour and soon after his arrival at Cala Hospital he was pronounced dead. Eyewitnesses allege that Mr. Ndondo was shot several times by the police as he lay on the ground outside a house on the outskirts of Cala. Police report that a murder docket has been opened. Mr. Ndondo was a former member of the Student's Representative Council at the University of Transkei.

(m) 18 October 1985, RAMALEPE, Ngoako, aged 26, from Kgapane, Lebowa. Student teacher at Modjadji College where he was president of the Students' Representative Council. Taken into custody by Labowa police on 17 October 1985, was allegedly assaulted in the cells and subsequently dumped in the Veld. Found by SAP and taken to Kgapane Hospital where he died the next day. The police who found him are reported to have stated that Ramalepe told them that he had fallen off a truck. However, fellow student Robert Makgoka made a sworn statement about his assault together with Ramalepe and his subsequent escape.

(n) 17 November 1985, MOGALE, Meshack, aged 16, from Mamelodi East. A standard 6 pupil at Rethabile secondary school, was arrested on 15 November 1985 with other youths while at a night vigil for unrest victim Magdaleine Nkaane, and died at Kalajong Hospital. His sister Betty, who was arrested with him, alleges that he was kicked and sjamboked by the police. Police have confirmed his death and are awaiting the result of the post-mortem examination.

182. In addition, the following previous deaths in detention or in police custody are the subject of court proceedings that are still in progress at the time of the preparation of the present report:

(a) MALATJI, Paris. Died 5 July 1983, shot in the head. Security policeman Sgt. Jan Harm van As was convicted of culpable homicide on 21 February 1984 and was sentenced to 10 years' imprisonment. He has been granted leave to appeal and was released on bail on 8 November 1985 pending the hearing on 17 March 1986.

(b) NGWENYA, Abel Mphiwa. Died 22 November 1984, pressure applied to neck. Two policemen, Detective Constables Johannes Rolvink and Hilton Pete West face charges of culpable homicide, although their claim is that they dragged Ngwenya from a police car by his neck and head after he had suffered an epileptic fit. The trial resumes on 17 January 1986.

(c) MUULANE, Bheki Zachariah. Died 29 March 1985. An inquest is in progress, with the district surgeon reporting death as due to subdural haemorrhage, cerebral softening and a chest infection. A ruling is to be given at the end of December 1985.

(d) MUTSI, Sipho. Died 5 May 1985 of brain haemorrhage. In his evidence, Detective Maxwell Sithole stated that Mutsi was overcome by an epileptic fit, fell from a chair and injured his head on an iron table. An inquest is in progress.

F. Torture \*/

183. The situation of human rights in South Africa during the period covered by the present report is characterized not only by the legislation to which reference has been made above and by the widespread arrests, detentions and loss of life that it gives rise to, but also by reliable reports of numerous cases of torture by police of persons detained in the context of the laws in question.

184. Over the years the Working Group has had occasion to show in its reports that many court cases and inquests have involved allegations of torture. In 1977 the inquest into the death of Steve Biko brought a spate of allegations about the abuse of detainees. In 1982 the inquest into the death of Neil Aggett heard many witnesses claim to have been severely tortured during interrogation by the security police. All of these were widely published. Some caused more of a stir than others. In December 1982, the Minister of Law and Order published a code to govern the treatment of section 29 detainees. He said "a detainee shall at all times be treated in a proper and humane manner with proper regard to the rules of decency and shall not in any way be assaulted or otherwise ill-treated or subjected to any form of torture or inhuman or degrading treatment". Since then, there have been many deaths in detention and torture allegations have reached new heights: the cry from ex-detainees has become a chorus.

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\*/ This section is based on information drawn from reports of the Detainees' Parents Support Committee January-November 1985, submission by the Detainees' Parents Support Committee in Lusaka, Zambia 15-19 November 1985, SASPU publication, October/November 1985, testimony of representatives of the Black Lawyers Association in Lusaka, Zambia 15-19 November 1985, testimony of anonymous witness in Lusaka, Zambia 15-19 November 1985, testimony of Ms. Hope Mpakanyane in Lusaka, Zambia 15-19 November 1985, testimony of Mr. Don Foster of the University of Cape Town and his submission in "A Study of Detention and Torture in South Africa: Preliminary Report" in Lusaka, Zambia 15-19 November 1985, application by Dr. Wendy Orr and 43 others including applicants, Christian Science Monitor, 12 October 1985, The Times, 14 and 31 August, 20 and 27 September and 18 October 1985, The Guardian, 26 and 27 September and 1, 6 and 10 October 1985, The Citizen 26 and 28 September and 1 October 1985.

185. In the period under review the Working Group has received authoritative evidence of the continued extreme and gross abuse of detainees by security police. In most cases, the evidence is based on a sworn affidavit, medical reports and court orders. The evidence corroborates that emanating from other sources such as the Detainees' Parents Support Committee report of 1982 (E/CN.4/1985/8, paras. 175-176). The cases described below are illustrations of the reported abuse of detainees by security police.

Port Elizabeth

186. In September 1985, Dr. Wendy Orr, a South African government doctor won a supreme court order restraining police from assaulting detainees at Port Elizabeth's St. Albans and North End prisons and future detainees in the Port Elizabeth and Uitenhage magisterial districts. The Prisons Department was instructed to read out the order to prisoners at these gaols.

187. Dr. Orr told the supreme court that since 1 August 1985 she had been responsible for North End prison; she had examined about 360 detainees daily. She stated that she was overwhelmingly convinced that detainees were being systematically assaulted and abused, after their arrest and interrogation and before admission to prison.

188. She stated that police appeared to think that they enjoyed complete immunity under the emergency regulations and were quite unrestrained in the abuse they inflicted on detainees. She also said that it had become clear to her that complaints of police assault were not being properly investigated. "I received instructions not to endorse the medical records requesting an investigation of alleged assaults." She testified that her superiors had shown scant concern over reports of alleged assaults on detainees. Dr. Orr's evidence was supported by 43 other affidavits including those of prominent churchmen and relatives of detainees.

189. The latest information available to the Working Group is that Dr. Orr has resigned following harassment including death threats.

190. In a parallel development two other South African doctors have said "they are to examine the conduct of Dr. Juor Lang, the Port Elizabeth acting district surgeon, in his handling of alleged assaults on detainees". Dr. Lang, who is Dr. Orr's immediate supervisor, was "reprimanded" in July 1985 for improper conduct by the South African Medical and Dental Council following an investigation into the death in 1977 of black consciousness leader, Steve Biko. Dr. Lang and Dr. Benjamin Tucker, who was also \*\*"reprimanded", treated Steve Biko as he lay dying in police custody in September 1977. They were found guilty of improper conduct for failing to keep proper records and compiling misleading reports about Biko's detention.

191. Other cases in which courts issued restraining orders ordering police to refrain from assaults and torture of persons in detention are listed below.

Durban

192. DLAMINI, Eugene Vusi (school pupil aged 16). Detained on 27 August under section 29 ISA. Application brought before Justice Leon on 6 September 1985 who granted an interim interdiction, pending a report to the court by a district surgeon and magistrate who were to interview the detainee. Claims were made that, as a result of assault, Eugene Vusi Dlamini was "partially deaf in one ear, with a broken jaw and suspected fractures of the skull and arms".

193. NGUBANE, Sibinelo (aged 20). Detained on 7 August 1985 under section 29 of ISA. Application brought before Justice Wilson on 10 September 1985. Judge granted an interim injunction, pending a report by the district surgeon and magistrate. Parents claim he was in hospital, under guard, with serious injuries and in a suicidal state.

194. NAIR, Billy (UDF leader, Natal Indian Congress member and former political prisoner). Detained on 23 August 1985 under section 29 of ISA. An application by Mrs. Nair to restrain the police from assaulting her husband, was brought before Justice Kroon on 13 September. A doctor who had attended Mr. Nair had confirmed that he had suffered injuries, including a ruptured left ear-drum. On 30 September 1985 the judges (Justices Milne, Leon and Wilson) granted the order and ordered the police to pay the costs of the application.

195. SHAIK, Yunus and Riaz. The first case brought before the courts in the wake of the Mkhize judgement was in connection with two sons of Mr. G.N. Soobader (himself detained at the beginning of July 1985 and later released). Yunus and Riaz Shaik were held under section 29 of ISA. The former was detained on 3 July 1985 and the latter on 29 June 1985. On 21 August, an urgent application was heard by Justice Shearer, in which Mr. Soobader said he feared his sons were being interrogated for long periods and physically and mentally tortured. The basis of the allegation was a letter from Yunus smuggled out of detention to the father. Both brothers were hospitalized during August and received psychiatric treatment. They are now back in detention. The order restraining the police was granted after both sides reached consent about the terms although the police did not admit the alleged assault.

196. SONI, Sirish (aged 29). Detained on 29 June under section 20 of ISA. On 25 September a judge granted an order temporarily restraining the security police from interrogating him after being told by a psychiatrist that Soni was suffering from acute psychosis, severe depression and was a "totally broken man".

East London

197. JORDAN, Tetani. Arrested on 2 September 1985 in Duncan village. On 9 September 1985 the Grahamstown Supreme Court granted an interim interdiction. Mr. Jordan said that he had to be supported and assisted into court because he could hardly walk after being beaten and tortured by the police.

Cape Town

198. COSTERWYK, Trevor (aged 27). Detained on 3 September 1985 under section 29 of ISA. The father's application, based on information from a released detainee and on the impressions he had had of his son's condition when he saw him at Caledon Square police station, was rejected by the court on 29 September 1985.

199. JEFTHA, Andrew Kenneth (aged 21), BOOYSEN, Jerome Peter (aged 21), ODENDAAL, Andrew (aged 19). Detained on 16 September 1985 under ISA. Urgent application to court for an interdiction was made on 25 September 1985, alleging "assault by kicking and punching; torture by suffocation, squeezing of genitals and immersion of head in water and death threats".

200. PHILLIPS, Cheryl (aged 17). Detained on 24 September 1985 under section 50 of ISA, released the next day. In a sworn statement she alleges that "at least five policemen at the Brackenfell police station had repeatedly beaten her during a six-hour interrogation, until she was dizzy and in pain". Miss Phillips was subsequently examined by two doctors who reported "multiple bruises and haematomata, subcutaneous haemorrhage in the right ear canal and subconjunctival haemorrhaging in right eye".

201. Further evidence of torture of detainees is documented in an independent study relating to detention and torture in South Africa compiled by Mr. Don Foster and Ms. Diane Sandler both of the Institute of Criminology at the University of Cape Town.

202. The study, which is based on a nation-wide sample of 176 detainees, found that 83 per cent of detainees were subjected to some form of physical torture. This varied from beating to forced standing and maintenance of abnormal body positions, electric shocks, strangulation, burning and pulling out of hair and beard and genital abuse.

G. Abductions, disappearances, assassinations and petrol bombing \*/

203. The Working Group has received information regarding abductions, disappearances, assassinations and petrol bombing of known critics of the South African Government.

204. In May 1985 three Port Elizabeth community leaders disappeared in suspicious circumstances, leading their relatives to conclude that they had been detained or abducted by the police. The three men, Sipho Hashe, General-Secretary of Port Elizabeth Black Civic Organization (PEBCO), Qaqawuli Godolozi, President of PEBCO and Champion Galela, Organizing Secretary of PEBCO, disappeared on 8 May 1985 on a journey between KwaZakhele township and Port Elizabeth airport. Sipho Hashe's family believe that they were killed. It is alleged that security police made threats against Sipho Hashe to his daughter while she was in detention without trial, that his house in KwaZakhele was attacked the day after his "disappearance" by people claiming to be members of the security police, that his wife was arrested when she went to lay a charge about the attack on the house and was herself charged with public violence and that the security police subsequently suggested that Sipho Hashe was detained and made threats against his son. The police have denied that they detained him. PEBCO is affiliated to UDF.

205. According to information received by the Working Group, on 28 June 1985, four UDF and Eastern Cape community leaders with a history of harassment by the security police were abducted by "unknown persons". The four were: Matthew Goniwe, a teacher from Cradock and General-Secretary of Cradock Residents Association (CRADORA) at the time of his death; Fort Calata, a teacher from Cradock and a former member of both CRADORA and Cradock Youth Association; Sparrow Mkhonto, a community leader in Cradock and Chairman of CRADORA at the time of his death; and Sicelo Mhlauli, a teacher from Oudtshoorn. Matthew Goniwe was a founder of CRADORA at the time of unrest over rents and education in the black township. Attempts by the authorities to transfer him to a school in another area were followed by community

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\*/ This section is based on information drawn from reports of the Detainees' Parents Support Committee May-November 1985, submission of the Detainees' Parents Support Committee in Lusaka, Zambia 15-19 November 1985, testimony of representatives of the Black Lawyers Association in Lusaka, Zambia 15-19 November 1985 and reports of Amnesty International.

protests and a ban by the authorities on meetings of local community organizations. Goniwe and Calata and three other community leaders were detained in April 1984 and held in "preventive" detention without trial for six months. A boycott of seven schools in the township, which started in February 1984, lasted until April 1985 but was unsuccessful in obtaining the reinstatement of Matthew Goniwe and Fort Calata to their teaching posts. CRADORA is affiliated to UDF and Matthew Goniwe and Fort Calata were returning from a UDF meeting in Port Elizabeth when they were abducted and murdered.

206. On 1 August 1985 Victoria Mxenge, a leading black human rights lawyer and widowed mother of three children was shot dead outside her home reportedly by "four unidentified persons". Victoria Mxenge's husband Griffiths Mxenge, had also been the victim of an apparently politically-motivated killing in late 1981. No one was ever arrested for his murder.

207. The Working Group's attention was drawn to the fact that these abductions, disappearances and killings had taken place in the context of allegations that other attacks on known opponents of apartheid had been carried out by or with the knowledge of the police, suggesting the existence of death lists.

208. The homes of people known to have criticized the policies of apartheid have been petrol-bombed. Prominent among these cases are the houses of Mrs. Winnie Mandela and the late Mrs. Victoria Mxenge (bombed after her death).

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

#### A. Right to education

##### Introduction

209. During the period under review, the Working Group noted that the major developments in the field of education were the massive unrest in the schools and other institutions resulting from the deterioration in the system of education in South Africa.

210. In a previous report (E/CN.4/1985/8), the Group described the boycotts and disturbances in schools and universities which followed the proposals on the organization of education under the reformed Constitution. In addition, the Group mentioned in its previous reports (E/CN.4/1983/10 and E/CN.4/1984/8) the regulation which had entered into force from 1982 which limits the admission of black students to school.

211. During the period under review, the Group also received information indicating that on 26 September 1985 the Minister of National Education, Mr. F.W. de Klerk, announced that the Government would introduce legislation in the course of 1986 aimed at "reforming" the education system. "The changes are in keeping with the 1983 White Paper proposals for equal education opportunities for all". The main elements of the proposals are:

The introduction during the next Parliamentary session of legislation to establish three "certification councils" for different types of education qualifications;

Forthcoming legislation providing for full membership, including voting rights, of blacks on the Committee of University Principals (CUP) and the Committee of Technikon Principals (CTP),

A policy for the registration and subsidization of private schools,

A qualification structure for universities in South Africa, and

The composition and membership of the Universities and Technikons Advisory Council (UTAC).

212. In this connection, the Minister drew attention to what he called "a further important development", the approval in 1984 of the National Policy for General Education Affairs Act, in which the Government designated four spheres in which the Minister responsible could determine the general policy to be applied to formal, informal and non-formal education for all population groups in South Africa. The four areas were:

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\*/ This section is based on information drawn from the Rand Daily Mail, 7, 12 March, 11 April and 23 May 1985, The Citizen, 22 August, 7, 16 and 27 September 1985, The Weekly Mail, 2, 4, 30 August, 5, 6, 10 and 13 September 1985, Financial Mail, 29 November 1985, Sowetan, 4, 7, 18, 22, 27 and 30 August, 10 September 1985, City Press, 4, 18, 25 August, 8 and 29 September 1985, Sunday Times, 4 August 1985, The Star, 23 August, 13, 17 and 22 September 1985, Sunday Tribune, 25 August 1985, Christian Science Monitor, 24-30 August, 7-13 September 1985, The Guardian, 7 October 1985, Focus No. 59, July-August 1985 and No. 61, November-December 1985, Testimony of Witnesses heard in Lusaka, Zambia, 15-19 November 1985, submission by the Detainees' Parents Support Committee: "Democratic Movement Under Attack - report on the state of emergency."

Norms and standards for the financing of running and capital costs of education for all population groups;

Salaries and conditions of employment of staff;

The professional registration of teachers, and

Norms and standards for syllabuses and examinations and for certification of qualifications.

213. The Working Group found that in 1976 and 1980 the school boycotts were aimed at improving the material conditions in schools. The 1985 school year opened with a boycott in black schools across the country. An estimated 70,000 students stayed home. When the wave of boycotts began at the end of 1983, most of the issues were specific to the situation in the schools where they occurred or were connected with other general educational issues. In 1984 broader community issues began to be raised. These began to take on particular prominence with the beginning of this particular phase of boycotts in September 1984. Educational issues have continued to be discussed but in the context of a conviction that limited demands will not be achieved without more fundamental changes.

214. Students nation-wide have continued to demand full recognition of democratically elected Student Representative Councils, the abolition of age-limit restrictions, improved school facilities, the end of the quota system, more qualified teachers, the ending of sexual harassment and the abolition of corporal punishment. Other demands have been the release of detained pupils, free, compulsory and equal education, the complete withdrawal of State forces from the townships and the lifting of the state of emergency. In their grievances students have pointed out that per capita expenditure for black education is one seventh of that for whites, pupil-teacher ratios are much higher (43.1 for blacks as against 18.1 for whites), nearly three quarters of black teachers are underqualified, nearly all white teachers are qualified, less than 50 per cent of black students receive high school diplomas, many drop-outs are unemployable at a time when even those with diplomas are having a hard time finding employment.

215. According to information received by the Group since the declaration of the state of emergency, students have borne the brunt of the repression. On 28 August 1985, in an attempt to contain the growing boycott of schools, the Government banned the Congress of South African Students (COSAS). Within a few days of the banning a leading Azanian Students Organization Official said that pupils were grouping themselves to form a new organization. Two weeks after the emergency was declared a Detainees' Parents Support Committee (DPSC) analysis of the people detained within that short period revealed that over 60 per cent were under the age of 25 years. Some were as young as six. Two months into the emergency, DPSC noted that one out of every five detainees was a member of COSAS. Established in 1979 COSAS has had many of its members and leaders gaoled or killed in clashes with the police and many others have left the country. COSAS leader Siphiwe Mthinkhulu disappeared after he had been detained and released with suspected thallium poisoning. COSAS which subscribed to non-racialism and supported the Freedom Charter of 1955 was the largest UDF affiliate.

216. COSAS was instrumental in advocating the inseparability of schools and the community. A former president of COSAS, Lulu Johnson, said in 1984: "Before they are students, the students are members of their community. Students are affected by rent hikes because it affects the amount of money

their families have for schooling. The schools and the community are inseparable." Students said that "if their fathers were being taxed and retrenched every day, they could not afford school fees, let alone food and uniforms." For this reason COSAS took up students' grievances with the education system and also supported the struggles of the Fattis and Monis and Wilson Rowntree workers by joining the consumer boycotts in the early 1980s. Workers rallied round the students, realizing that "their children had taken the forefront" in the campaign against the larger community grievances. The campaigns spearheaded by COSAS together with the tradition of student resistance (began in 1976), laid the basis for the pivotal role which students have come to play in the current township uprisings.

217. Action against former COSAS members seems unlikely to end with the organization's formal banning. Divisional Commissioner of the Soweto Police, Brigadier Jan Coetzee, said that the organization was still behind the school boycotts and violence in the township even though it was banned. "Trouble will escalate in schools unless members of COSAS are all rounded up by the security forces... the police will never rest until they are all arrested" he said.

218. School boycotts have been the means for seeking improvement of the education system. At the time of preparation of this report the Working Group received a statement by the Department of Education (DET) that 100,000 students were out of school, although unofficial estimates put the figure far higher.

219. Black colleges and universities around the country have also persisted in their protests and boycotts against apartheid. Today nearly 10 years after 1976, Bantu Education remains in force. Once again thousands of students around the country are boycotting classes.

#### Chronology of student action and repression

220. According to information received by the Working Group, the following incidents occurred between January and October 1985:

28, 29 January 1985, Uitenhage: Coloured schools boycott following a controversy about the leasing of sports fields to the Uitenhage municipality.

28, 29 January 1985, Port Elizabeth: Students go back to school but set a deadline of 30 April 1985 for the Department of Training and Education (DET) to respond to their demands.

February 1985: The education struggles in Uitenhage intensify at both DET and Coloured schools and spread to Port Elizabeth. Secondary schools in Port Elizabeth, Graaf Reniet, Somerset East, Mossel Bay and Humansdorp as well as the Dower Teacher Training College boycott in solidarity with Uitenhage students. Similarly, at Port Elizabeth, students at Coloured schools join the United Students Congress (UNISCO) to co-ordinate their demands.

4 February 1985: A Uitenhage Parents Committee (UPC) is established. COSAS representatives meet to discuss student grievances.

22 February 1985: All Coloured schools in Uitenhage closed by the Minister. The schools boycott ends on the understanding that the new academic year will begin on 18 March 1985.

April 1985: Students resume boycotts - the deadline set for DET response not met.

May 1985, Iansenville: The 15-month-long school boycott in Cradock ends - having been the largest school boycott in history. This was only a tactical move to prevent the closure of schools.

24 July 1985: Students at Medunsa agreed to end their class boycott after a professor they wanted dismissed resigned. Pupils at three Ciskei high schools who had boycotted classes were sent home and told to return with their parents or guardians. In Witbank, a "COSAS" pamphlet was circulated urging students to return to school and end the class boycott. At the same time, a spokesperson at the COSAS central office said the organization had not been consulted about the pamphlet and that "with police still in the townships and some of the demands still not attended to, I do not think that such a call could be made." The spokesperson said "it was possible that this was a local call or that it could have been made by people trying to hijack our struggle for a just education".

25 July 1985: The National Parents' Committee called on the Government to break the education deadlock by accepting the Student Representative Council constitution the committee had submitted to the Department of Education and Training (DET) in February 1985. The Committee also called on the Government to recognize SRCs already in existence and to remove the army from the townships. A DET liaison official said it would be preposterous to accept the parents' proposals in their entirety as other parties had also made submissions.

26 July 1985: The acting vice-chancellor of the University of Cape Town called on the Government to free Nelson Mandela, free all detainees, lift the ban on ANC and declare an amnesty on political exiles. He also pleaded for the responsible and minimal use of force and a quick end to the emergency.

28 July 1985: DET said that 200 black schools were affected by a boycott involving 150,000 pupils. Most of these were on the East Rand and in the Eastern Cape, although 27,000 pupils were boycotting in the Pretoria area.

30 July 1985: Three thousand students at the University of the Western Cape declared an indefinite boycott of lectures in protest against the state of emergency. Several hundred students marched to the administration block to hand in a list of lecturers they wanted dismissed. In the administration building, they confronted a group of lecturers and overturned furniture and broke windows. The rector banned all campus meetings while lectures were in progress. In Natal about 200 Medical School students staged a demonstration in Smit Street, Durban, in protest against the state of emergency. They also tried to present a statement at the United States and British Consulates.

31 July 1985: "Classes at the Soweto College of Education have been suspended after a boycott," said the college rector. Boycotts continued at six Pretoria schools. Attendance at all five secondary schools in Soshanguve was low and pupils who came to school were sent home. Hostels at the University of Venda were closed indefinitely. A spokesperson for the University said lectures would continue normally. The closure of the hostels followed student protests against facilities and demands for the resignation of a lecturer.

July and August 1985: Hostels at the University of Venda were closed indefinitely at the end of July and at the University of Transkei on 21 August. The action in Venda was taken after protests by students about a lecturer and certain facilities on the campus and in the Transkei because students failed to heed an ultimatum to end a boycott.

1 August 1985: Boycotts in protest against the state of emergency hit two Natal universities and resulted in 80 per cent of the pupils staying away from classes in the Cape Peninsula. In addition there were widespread boycotts of classes in the Eastern Cape and the East Rand and problems at the University of Fort Hare and the University of the North, Turfloop.

2 August 1985: DET rejected a claim that it had instigated the arrest of eight students at the Soweto College of Education the previous week. At least 40 schools, universities and colleges were estimated to be participating in the education boycott in the Western Cape. Class-rooms at all five secondary schools in Cape Town's African townships were deserted. The Inter-Schools Co-ordinating Committee (ISCC), representing 25 schools in Cape Town and outlying areas, demanded the reinstatement of a transferred teacher, the withdrawal of troops from the township, the immediate and unconditional release of all political prisoners and the resignation of councillors, "dummy MPs" and other collaborators. The DET regional director in the Northern Transvaal suspended classes indefinitely at two Mamelodi secondary schools.

3 August 1985: University of Natal students boycotted classes in protest against the state of emergency. At a protest on campus, 3,200 students burned a dummy of President Botha and pictures of the British and the United States flags.

4 August 1985: Pupils boycotting schools in Graaf Reinet were collected at their homes by police and taken to schools in SADF trucks and caspirs (light armoured vehicles). The Soweto College of Education was closed by the rector following the boycott of classes by students in protest against the detention of eight student leaders and the demand for the dismissal of two allegedly racist teachers.

7 August 1985: Members of SADF armed with sjamboks were reported to have raided the Kalafong Secondary School in Katlehong (East Rand), forcing boycotting pupils who were outside the premises to enter their class-rooms. The soldiers allegedly ordered pupils into the class-rooms and immediately started beating them with sjamboks. About 200 students were involved in the incident. Police said they had no comment to make and that anyone with a complaint could go to their nearest police station. It was reported that groups of youngsters were moving from school to school in Meadowlands and Diepkloof in Soweto forcing students out of classes. The group claimed to belong to COSAS, but school officials said they were not sure if they were in fact from the organization.

11 August 1985: Students and police clashed at the University of the Witwatersrand. About 40 students sustained injuries and five were arrested after the police came on to the campus.

14 August 1985: Mr. Gerrit Viljoen, Minister of Education and Training, said that 250 out of 72,000 schools were being boycotted and appealed to community leaders to use their influence to "normalize" education in those parts of the country hit by the boycott. About 4,000 Durban-Westville students voted to return to classes.

18 August 1985: Pupils at two Naledi high schools in Soweto staged a protest demanding the unconditional release of COSAS member and Standard 10 pupil Ernest Voice Mabe. Soldiers arrived at the scene and fired several tear-gas canisters into the schoolyard. Several students were arrested but later released. Soldiers then conducted house-to-house searches in which a number of students were detained. They were later released. Police said they had no record of the clash.

22 August 1985: Two students from King Williams Town died in police custody after they had been arrested while police were dispersing students singing freedom songs at Fordes Grant Secondary School. Police used tear-gas, rubber bullets and sjamboks to disperse 1,000 pupils from Esselen Park, Breeriver and Worcester High Schools in the Western Cape after students had marched on Shonge Training College. The pupils were given five minutes to disperse with an assurance that the police would not interfere with them on their way home. In Daveyton on the East Rand, 20 pupils were injured, four of them seriously when the police surrounded Mabuya High School and allegedly assaulted scores of pupils. The pupils said they had been studying in their class-rooms while others had been standing outside when police arrived at 10.30 a.m. The police ordered all those pupils who were outside to go back to their classes. Also about 100 students from the Southern Cape Teachers College in Oudtshoorn were arrested.

23 August 1985: About 500 students from Fidelitas High School in Diepkloof, Soweto were arrested for boycotting classes. The previous day police had arrested 300 students, some as young as seven years of age, for loitering in Soweto. Similarly, in Dobsonville and Meadowlands, Soweto, classes were disrupted at all schools and police were seen sjambokking students while others ran from school premises. Brigadier Coetzee of Soweto said he would not allow "500 stupid students to disregard law and order in Soweto" and that he was therefore "cracking down". When asked to comment on the fact that some of the children arrested for loitering were only seven years old, Brigadier Coetzee is quoted as saying that this was quite possible. He later denied having said this to The Star newspaper (23 August 1985).

25 August 1985: At Soweto's Entokozweni Early Learning Centre, 150 children aged between six months and two years were knocked unconscious after police had fired tear-gas into the building. Others vomited as they were overcome by tear-gas fumes. The principal said that when she had asked Jabulani police for help they had told her to contact Baragwanath Hospital. The incident occurred during disturbances at the adjacent Moletsane High School when police using tear-gas tried to disperse groups of students milling around outside the school.

25 August 1985: Mamelodi students who complained to The Star about alleged police assaults were arrested and questioned by police for several hours about their allegations. Mr. Louis Khumalo of the

Mamelodi Parents' Committee said that children were afraid to venture out into the streets. He said he was convinced that there had been as many as 500 instances of alleged police misconduct ranging from rape to assault. He appealed to the authorities to remove the police and army from the township, as students were afraid to go back to school.

27 August 1985: The entire student body at the Rand College of Education, Johannesburg, boycotted classes following the arrest of 40 students and teachers on a charge of attending an illegal gathering. Students said there had been a meeting on campus to pledge solidarity with black students. Police had appeared and baton-charged students. Students were forced off the premises by police who beat them. Similarly, five schools were reported to have been petrol-bombed in Alexandra township. The Soweto chief of police denied rumours that police had invaded Baragwanath Hospital and arrested four or five students. He said four or five soldiers had arrested scores of students who he alleged had planned to attack the driver of a Putco bus who had killed a student reportedly stoning his bus.

28 August 1985: About 3,500 students from the University of Cape Town (white university) attempted to march from the University to the State President's residence. The marchers dispersed after being confronted by the police, but only after they had read out a statement in support of Nelson Mandela. Later that day 1,000 demonstrating students were dispersed by police baton-charges. The police were stoned by students in retaliation. Forty-nine student leaders from schools in Guguletu, Cape Town, were released after police had arrested them during a clash between police and students.

29 August 1985: UDF affiliate, the Congress of South African Students (COSAS) was banned under section 4 (1) of the Internal Security Act.

30 August 1985: About 2,000 students of the University of Bophuthatswana boycotted classes on 30 August in protest against a visit to the Mmabatho by President P.W. Botha. The students demanded that the President speak to the real leaders of South Africa and declared their rejection of the "independence" of the bantustan. About 6,000 high school students from Mamelodi, Soshanguve and Atteridgeville boycotted classes for two days. They gave as their reasons solidarity action with those arrested on the Pollsmoor march, protest against the banning of COSAS and the presence of police and army in the township. DET said classes in Mamelodi and Soshanguve had been suspended indefinitely following continuous class boycotts.

1 September 1985: Minister Le Grange met 64 leaders from Potchefstroom's Ikageng township to discuss, among other things, unrest in the area. After the meeting, parents were asked to hold meetings at various schools to discuss the lifting of the suspension of classes at 10 schools in the township.

5 September 1985: The banning of COSAS sparked off a nation-wide class boycott. DET said there was no attendance at 160 schools around the country. In the Eastern and Western Cape 108 schools were boycotted. There were no pupils at 14 schools in Johannesburg and Alexandra. The boycott followed an improvement in school attendance in preceding weeks.

6 September 1985: Minister of Education and Culture in the House of Representatives, Mr. Carter Ebrahim, closed 448 schools and colleges in

the Western Cape. This affected about 500,000 students. Under the state of emergency the premises of schools and colleges are out of bounds to staff, parents and students. About 1,000 students, 100 academics and the vice-principal of Rhodes University marched through the campus in protest against the violent dispersal by police of a student gathering the previous day. Two hundred students protesting against the banning of COSAS had been charged by 40 sjambok-wielding policemen at the entrance to the university. Two lecturers and 18 students were arrested, and 15 students were arrested at KwaMashlono High School in Soweto. At the same time, thousands of pupils in Mamelodi near Pretoria decided to go back to classes despite the suspension of classes by the Department of Education and Training (DET). The decision was taken at a joint meeting called by parents and students. An executive member of the Mamelodi Parent's Committee, Mr. Louis Khumalo, said the pupils had expressed strong feelings about bad elements disrupting classes and had demanded that police be withdrawn from the township as their presence was "provocative" and could cause a lot of trouble.

11 September 1985: A number of parents were reported to have sent their children to school in the bantustans to avoid school boycotts. A QwaQwa spokesperson said that on occasions this had given rise to problems, as some of those arriving had been involved in boycotts elsewhere. However, he said these problems were soon sorted out as discipline in QwaQwa schools was strict. About 20,000 pupils at all 33 Atterridgeville schools boycotted classes in a protest against the delayed introduction of Students' Representative Councils at black schools.

13 September 1985: Twenty white school pupils joined the Cape Town boycott call and more than 100 attended an afternoon mass meeting to protest against the Government's actions. The previous weeks, the Government had banned a meeting called by white pupils which was to have been addressed by Mrs. Di Bishop (a civil rights campaigner). Troops and police sealed off the building and turned schoolchildren away. About 900 schoolchildren were arrested at Hlengiwe Secondary School in White City Jabavu, Soweto. In an urgent application for the release of the children, schoolteacher Mr. Langa Maboba said in an affidavit that some of the children were carried out of the class-rooms by the police and soldiers and loaded into trucks. Many children burst into tears when told they were being arrested. Most appeared to be consumed with fear and distress. Mr. Mbobo said he had also seen pupils being pushed into trucks with the butts of firearms. When he had tried to intervene he said, he had been punched in the face by a soldier. Thirty-three teachers were also held and later released, but 746 of the children spent 2 1/2 days imprisoned under emergency regulations before being taken from gaol in military vehicles and returned to Soweto. At the Rand College of Education, police arrested 128 students. One hundred and two were arrested on campus for holding a demonstration and 26 were arrested at Langlaagte police station while demonstrating against the arrest of their fellow students. At Musi High School in Pimville, Soweto, a teacher and 10 pupils were injured when police opened fire with shotguns and rubber bullets. Police said the incident had followed police action against rioters after unrest at the school. A student said that police had been at the school earlier in the day when pupils had been milling around outside their class-rooms. Later a group of students had arrived from a school in Diepkloof and had gone outside with some pupils who were still in their class-rooms. They had burnt something in a dustbin and left. Police had arrived in a van and opened fire on pupils in the yard.

17 September 1985: Parents and staff reportedly planned to return students to school in an unofficial "back-to-school movement" in defiance of the Cape Peninsula schools' closure. At Livingstone Secondary School police kept 400 staff and parents out. At Belville South, Scottsdene and Kasselsvlei senior secondary schools, hundreds of parents and children were told to leave by plain-clothes policemen. At Good Hope Elementary School in Bellville South, about 100 parents and children who gathered on the pavement before the locked gates were told by a policeman in a patrol van that they should leave at once. Near Belgravia High School in Athlone, police fired tear-gas into a crowd of parents and pupils who had demanded that the school be opened. In Mitchell's Plain, police patrolled near most schools. At Woodlands Senior Secondary School, a pupil was held briefly by police but released after a group of pupils and teachers had agreed to leave.

19 September 1985: More than 600 students at the Mamelodi Campus of Vista University boycotted lectures in protest against the "country's discriminatory laws".

20 September 1985: A group of 4,000 University of Western Cape students and staff led by rectors dispersed peacefully when confronted by police. They were marching to Bellville magistrate's court to demand the release of student chaplain, Mr. Allan Boesak, SRC President, Mr. Llewellyn McMaster, SRC Secretary, Mr. Russel McGregor, economics lecturer and UDF executive member, Mr. Graeme Black, and two students, Mr. Desmond Africa and Mr. Steve Sabango. The march was in defiance of a magisterial order refusing permission for a legal demonstration.

22 September 1985: Ciskei students at Dr. Rubusana College reported to be in the third week of a boycott which had started on 9 September, sent a seven-point petition to the Government stating: "We the students of Dr. Rubusana College, an institution hoping for a better tomorrow, have resolved to draft this petition with the hope of ending the national turmoil which is escalating in our society." A 4,000-strong crowd in Athlone, Cape Town barricaded police with cars, buses and delivery trucks after they had tried to enter school premises to arrest parents, teachers and students. Police broke free using tear-gas and rubber bullets and arrested 173 people. At Gobisembe in Alice, Eastern Cape, 100 students were charged with holding an illegal gathering at their school. They were not asked to plead and were released on R20 bail each. The Atteridgeville/Saulsville Student Representative Council warned DET that students would boycott exams if the Department rejected a student-parent-teacher committee to check exam scripts after marking. Students claimed that the previous year, exam scripts at Saulridge High School had not been marked, and that as a result, students had lost marks. Students also demanded the withdrawal of police occupying the schools and the resignation of Hofmeyer High School Principal, Mr. Amos Kekana, whom students said led police on a tour of the school pointing out student leaders. As a result, four student leaders, including UDF student executive member Matthews Sathege, had been detained under section 29 of the Internal Security Act. Students at the Soweto College of Education called a meeting of parents and students to seek "an acceptable" solution to the problems that led to the college closure on 25 July 1985. Eight student leaders had been detained in July, three of whom were subsequently released. About 900 students at the Transvaal Teacher's Training College in Soshanguve returned to classes after a boycott centring on demands for a Student Representative Council (SRC).

2 October 1985: According to a DET spokesman at least 100,000 students boycotted classes in Soweto and thousands more stayed away elsewhere at the beginning of the final school term. There was total boycott at 174 black schools while attendance varied from 5 to 95 per cent at other schools in black townships. Boycotts resumed at many black schools in East London, Port Elizabeth and Pretoria.

6 October 1985: Scores of South Africa's black schools were deserted as high school students continued their boycott in support of demands for the withdrawal of security forces from the townships and the postponement of end-of-year examinations. The Deputy Minister of Education and Training put the number of "completely deserted schools" at 174, but he said in an interview "you must remember that we have more than 7,000 schools." Most of the deserted schools were concentrated in the Eastern Cape, he added. At the University of the North, near Pietersburg vehicles belonging to the South African Broadcasting Corporation were stoned and students arrested. The day started with a student demonstration against the holding of a symposium on campus by the Development Society of Southern Africa, an organization considered (by the protesters) to be ideologically hostile to black aspirations. The demonstration led to clashes with the police who then occupied the campus. Stone-throwing students prevented the Chief Minister of the "homeland" of Lebowa, Mr. Cedric Phatufi, from addressing the symposium at the University of the North in Pietersburg.

221. In its previous reports the Working Group has described how several universities, particularly the University of Turfloop, were affected by the conflict between students and the Bantustan authorities. According to information received by the Working Group, the University of Turfloop was described as a "concentration camp" by students who said that South African Police, South African Defence Forces and Lebowa police had occupied the campus for three weeks during September 1985. University sources said that "the request for indefinite police presence on the campus was to ensure the safety of students who wanted to attend lectures."

222. The occupation began early in September 1985 after students had boycotted lectures in protest against the detention of two colleagues and the death of Nash Morgan, who was shot dead in his room.

223. Students said "the invasion of the campus on Tuesday, 3 September 1985 had begun when SAP and Lebowa police had occupied the campus. Police ordered students into their hostels and searched their rooms during a 12-hour raid. Twenty-four students were detained under ISA. Students who had press cuttings of political meetings on their walls said that they had been "severely sjambokked" and asked why they kept cuttings that were not relevant to their studies. During the three-week police occupation, hundreds of students were injured. Students reported that on occasion police had arrived on campus and told students to go to lectures. One student said: "some students' rosters start in the afternoons, but they were forced to go to lecture rooms because they feared they would be sjambokked. The Turfloop Students' Representative Council fled the campus after police occupied its offices.

224. The student agitation in turn provoked reaction from the Government. In this connection, the Working Group received information indicating that a number of government statements have been made since March 1985 concerning the situation in black schools. The Minister of Home Affairs and National Education (white education) announced in Parliament on 11 March 1985 that the Government was

considering legislation which he claimed would bring it much closer to its goal of equal standards of education for all. The statement was made amid calls for the institution of a single education department for all.

225. The Minister responsible for black education said in May 1985 that if the Government met the "reasonable political aspirations of the black community" political organizations would not be able to misuse black schoolchildren for their own political ends. He acknowledged widespread shortcomings in the system of education for blacks and said that reforms in education had to be accompanied by political reforms. He emphasized, however, that he would not tolerate attempts by students to prescribe to DET and accused students' organizations of implementing "politically inspired boycotts and demonstrations". Referring to calls for a single education department for all groups, Minister Viljoen said it was Government policy to create a co-ordinating department of education to determine a general education policy on a national level. "Corrective steps" which he said would be taken include increasing the number of black teachers and decision-makers, a large increase in expenditure and bringing down the failure rate of black pupils.

226. With the intensification of resistance Government response acquired a greater measure of brutality. In August 1985 regulations were issued forbidding pupils in certain areas from being outside their class-rooms during school hours. The rule was first applied in Graaff-Reinet but later many of the emergency areas were subjected to the same requirements. In the Transkei bantustan the movement of students is strictly controlled by emergency regulations that have been in effect in the area since 1980.

227. In some areas army and police units attempted to break school boycotts by patrolling the streets with loud hailers to warn pupils. In Grahamstown and Graaf-Reinet the police and army obtained lists of absentees from principals and then drove to their homes to collect the boycotters and ferry them to schools in army and police vehicles.

228. Army and police have carried out a number of raids on schools, either to force pupils to attend classes or to force them out when the schools have been closed.

229. In the Transvaal and the Cape, meetings held on school premises were reported to have been broken up by smashing through gates and fences to gain access. Soldiers are reported to have whipped pupils who were found outside their class-rooms. Pupils have been fired at with rubber bullets and tear-gas to drive them from buildings and grounds. Hundreds have been arrested in mass round-ups, usually to break boycotts or stop meetings declared illegal.

230. Another step taken by the Government to break school boycotts has been the closing down of affected schools to prevent them being used for meetings. Classes at 10 secondary schools in Mamelodi, Pretoria, were suspended on 3 September leaving 12,000 pupils out of class. Following the uprisings in the Western Cape at the end of August the Coloured Minister of Education and Culture closed a total of 464 Coloured schools and colleges in the Western Cape from 7 September, affecting 500,000 pupils and students. The closure was condemned by parents, students, teachers, civic, church and sporting organizations, all of which demanded that the schools be reopened immediately. The organizations criticized the Minister for failing to condemn the invasion of school properties by police and soldiers and the whipping, detention and shooting of pupils. On 17 September 1985 teachers, parents and pupils decided to defy the closure by reopening the schools themselves. Thousands of pupils barricaded the streets and marched on their schools. Police and soldiers took up positions outside many schools and

patrolled township streets. At one school, police were besieged by a crowd of pupils, teachers and parents and had to be freed by reinforcements who fired rubber bullets and tear-gas. Hundreds of pupils and teachers were arrested.

231. As a direct consequence of the Government's reaction, the parents responded by forming committees. The Working Group received information indicating that student leaders have attributed the sustained turmoil in black schools chiefly to the absence of democratically elected student councils (SRCs). The Department of Education responded to the impasse on the issue by inviting the community to submit recommendations for improving the SRC constitution it had earlier drawn up and by declaring a suspension of its SRC and prefect system while it considered those suggestions. A comprehensive memorandum was submitted to the Minister of Co-operation, Development and Education by an ad hoc National Committee of Parents' Committees, but by 15 May 1985 DET had failed to respond to the suggestions.

232. In April 1985, the parents' National Committee in conjunction with students' representatives urged schools to implement the constitution drawn up by them without permission from DET. The African Teachers' Association had aligned itself with pupils' demands by accepting the draft constitution, security police had continued to harass Parents' Committee members, the call for the release of detained students had been ignored, and DET had failed to reinstate sacked teachers.

233. In October 1985 concern over the deteriorating crisis in the schools and fears that the boycott could continue into the next academic year led to the forming of the Soweto Parents Crisis Committee (SPCC). Members of the Committee were given a mandate by the community to negotiate with the Departments of Education and Defence. Since then SPCC and the Deputy Minister of Education and Development and the Deputy Minister of Defence and Law and Order have met. The main issues on the agenda were the deferment of examinations until early 1986, the withdrawal of SADF from the townships, the release of detained students, the repeal of emergency regulations, the lifting of the ban on COSAS and the recognition of democratic SRCs. Although the Department of Education and Training "is willing to concede over the issue of examinations and allow them to be rewritten in 1986", the negotiations were deadlocked over the issue of the South Africa Defence Force (SADF) in the townships. SPCC is adamant because "the withdrawal of SADF is crucial before pupils will return to school" and their stand was endorsed by Soweto principals, black school inspectors and teachers.

B. Right to freedom of expression \*/

234. In its most recent report (E/CN.4/1985/8), the Working Group referred to a number of legislative provisions designed to give the police increased

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\*/ This section is based on information drawn from The Citizen, 29 October 1985, 4 and 5 November 1985, The Sowetan 4 November 1985, The Star 3, 8, 29, 30 and 31 August 1985, 6, 12, 28 September 1985, 12 and 28 October 1985, Weekly Mail, 23 August 1985, 8 and 19 September 1985, Daily Dispatch 24 August 1985, Argus 8 September 1985, Government Gazette No. 10004, Proclamation R 208: submission by the Detainees' Parents Support Committee in Lusaka, Zambia, 15-20 November 1985, testimony of Mxolisi Fuzile of the Media Workers Association of South Africa in Lusaka, Zambia, 15-19 November 1985.

powers of press censorship. During the period under review, further measures which are liable seriously to impede press freedom have been envisaged or are to be put into effect. The Working Group received information to the effect that in South Africa, journalists seem to be walking a "minefield of restrictive laws". In reporting on police activity in the townships the key restriction has been section 27 (b) of the Police Act No. 7 of 1958 which makes it an offence to publish anything about the police without reasonable grounds for believing it to be true, with the onus of proof being on the press.

235. Other laws exist which obstruct journalists in reporting on township upheavals. The Protection of Information Act No. 84 of 1982 has been used to prevent the publication of a detention and to prevent reporters reporting the prohibition. Under the Internal Security Act, no notification of detained persons is published. Information available to the Working Group points to instances whereby the Act has been used increasingly against journalists, particularly in the Eastern Cape. Rand Daily Mail reports were challenged by the military and on one occasion the newspaper was faced with a military inquiry to challenge what reporters had seen and to query photographs which had been published.

236. With the declaration of the state of emergency came further restrictions. According to Mr. Geoff Budlender of the Legal Resource Centre in Johannesburg, "press censorship was probably one of the most important aspects of the emergency regulations". The emergency proclamation has two sections which heavily restrict the free flow of information. Section 8 (b) says "the names of people detained under the regulations cannot be published unless officially authorized". If a journalist does publish an unauthorized name, he/she is liable to a fine of up to R 20,000 or 10 years' imprisonment. Even more restrictive is the provision in section 6 (1) (1) of the emergency regulations which give the authorities power to stop a publication or dissemination of any information they choose. "The Commissioner of the South African Police or any person acting on his authority, may issue orders relating to the control, dissemination, distribution, taking or sending of any comment on or news in connection with these regulations, or the declaration of a state of emergency in terms of the Act, or any conduct of a force or any member of a force regarding the maintenance of the safety of the public or the termination of the state of emergency".

237. At a meeting, on 22 July 1985 with the National Press Union, the Commissioner of Police, General Coetzee, asked the press "to scale down its coverage of the unrest" and not to print "half-truths, slanted truths, dramatized versions and lies". Stressing that unrest reports would continue to be monitored by a security force monitoring committee on a daily basis, he warned that he would alter the regulations regarding the press if necessary.

238. Existing restrictive regulations, and the threat of severe action against the press are not the only factors militating against a clear accurate and detailed picture of what is happening in the townships under the emergency. Journalists have been banned or expelled from unrest areas. Reported instances include the following:

(a) A Johannesburg journalist, Mrs. Belede Mazwai, a free-lance for United States and French publications, and a French news team were ordered out of Duduza on 27 August while documenting unrest. Mrs. Mazwai was later told to report to security police;

(b) On 29 August, police declared certain areas in the Cape Peninsula "no-go zones" for journalists without "police protection",

(c) Two Star reporters covering the school boycott in Eldorado Park near Johannesburg were arrested in the township and held for several hours. Before being released, they said, police had warned them that if they were ever seen in a restricted zone again they would be held indefinitely under the emergency regulations,

(d) A Cape Times photographer and seven correspondents for overseas media (including Time and CBS) appeared in the Wynberg Magistrate's Court on 29 August in connection with the Pollsmoor march. Charges of interfering with police in the course of their duty were later withdrawn;

(e) On 1 September the press was prevented from attending the funeral of a victim of the unrest in Zwelethemba, Worcester. Earlier, reporters had been denied access to the township during a peaceful demonstration of local women;

(f) White journalists, including a foreign correspondent, were prevented from attending an unrest funeral in Kwathema on 5 September and told: "You know what kind of trouble we have had in the past, white journalists are not allowed to attend funerals in black townships",

(g) On 5 September, three journalists working for foreign news agencies alleged that they had been sjambokked by police while taking cover on a veranda from tear-gas and bird-shot in Athlone on the Cape Peninsula. Earlier in the day, one journalist said that while he was filming police firing tear-gas, "a policeman swung round, saw me and fired a tear-gas canister straight at us". Two Cape Times journalists were briefly detained and a Cape Times and Argus reporter escaped serious injury when a tear-gas canister was fired,

(h) A correspondent for America's Newsweek magazine was deported in September after co-writing an article on township uprisings. He was accused by a government minister of "selective reporting, half-truths and false innuendo". The Newsweek containing the article was banned,

(i) Two South African journalists and six foreign television news crew members appeared in a Cape Town Court after they had covered a University of Western Cape student rally. Charges of attending an illegal meeting, interfering with the police in the execution of their duties, photographing an awaiting trial prisoner and in one case, resisting arrest, were being investigated, according to the police. The next day one of the journalists, French photographer Bernard Bisson was deported on the grounds that he had entered the country under false pretences,

239. According to a source incidents of this kind, together with the restrictions listed above, have meant that the press has had to rely on "situation reports" from the Police Directorate of Public Relations in Pretoria. Immediately after the emergency was declared, these were released three times a day and dealt with unrest according to individual townships. The reports are extremely brief and make use of terms such as "hooligans", "delinquents", "black criminals", "radicals", "senseless acts of violence", "anarchists" and "mobs".

240. Situation reports are not totally accurate. Commenting in an editorial, The Star reported on 31 August 1985 "... the police version, quite apart from any natural suspicions of partiality, is often not complete. A case in point: by mid-morning yesterday, The Star had learned that 19 people had died in unrest in Durban townships the previous night. The police report of unrest in the 12 hours up till 8 a.m. mentioned only four dead."

241. Even this limited information has been reduced since the first days of the emergency. The head of the police counter-insurgency unit, General Bert Wandrag, subsequently announced that, in future, reports would only list the number and type of unrest incident by region, and not the towns in which they occurred. He said a breakdown of unrest could give the impression that "the whole world is on fire instead of the usual Sunday sports". Reports are now given once a day.

242. The South African Broadcasting Corporation (SABC) has been frequently criticized for inadequate coverage of township uprisings. This is important as research has shown that more than 70 per cent of whites rely on television reports for a picture of events.

243. According to a source, most whites in South Africa who believed they were seeing what was happening in the townships on television as compared with blacks who witnessed what was going on, had little perception of what the emergency meant. The same source mentioned an incident in which mounted troops had launched "a vicious charge" on demonstrators in Soweto. United States television crews were on the scene and their footage was seen in the United States and in the United Kingdom. SABC crews, it was said, had ignored the incident and had instead shown a glimpse of a petrol-bomb explosion at the home of the Soweto mayor.

244. According to information in The Star of 20 August 1985, two black reporters said that there was increasing anxiety among blacks about news reports on the township uprisings. Residents berated newspapers for giving credence to police comment, in which unrest casualties were portrayed as the guilty parties. In many instances, residents said, police action had been unnecessary and unprovoked, and reporters believed these claims were supported by events which they themselves had witnessed. City Press editor, Mr. Percy Qoboza, said local papers were losing credibility. "This happens when township residents tell reporters, for example, that a group of children were surrounded by the police who fired tear-gas at them without any provocation, and the newspaper then reports that police were forced to fire tear-gas to disperse a stone-throwing mob of schoolchildren". He added: "The police version is far too often regarded as sacrosanct, and anybody who disagrees with it cannot reasonably challenge it without facing the wrath of section 27 (b) of the Police Act".

245. As in other areas, there are fears that the extraordinary powers to control the press under the emergency will be made permanent in some form. At the recent Progressive Federal Party (PFP) congress, Mr. Dave Dalling warned that severe restrictions on South African and foreign journalists in South Africa were in the offing - and, specifically, that the Steyn Commission on the media could be revived. This could result in a register of journalists and a cut in the number of foreign media representatives in the country.

246. The collapse of "international confidence in the South African economy" has made foreign correspondents particularly vulnerable, the deportation of Newsweek's Ray Wilkinson - which came soon after a speech by the Deputy Minister for Foreign Affairs, Louis Nel, in which he said "it is time the Government reconsidered whether its hospitality should be extended to people who share in organized lying" - is seen as ominous.

247. According to a news report, foreign news media are reporting difficulties in obtaining visas for journalists and television crews to work in South Africa. Some correspondents have reported that their rooms have been broken into and material stolen.

248. It appears that the Government is intent on taking measures to ensure that, if it cannot control the uprisings, it can stop news reaching the outside world.

249. On 11 October 1985 the Minister of Law and Order Mr. Le Grange, attacked members of certain foreign media for inciting people during situations of unrest, for publishing "crude lies" about South Africa and hampering the police. The Foreign Correspondents Association warned of a "mounting government campaign of threat toward the foreign press in South Africa".

250. On 2 November 1985 the South African Government imposed further restrictions on the media. The ban imposed under Proclamation R 208 was condemned both locally and internationally. The Foreign Correspondents Association described it as "a step down the slippery slide toward a totally controlled press." The opposition Progressive Federal Party accused the Government of drawing an "Iron Curtain" around the troubled areas.

251. The ban, imposed under the emergency regulations, prohibits the televising, photographing, recording, or even drawing of conflict situations in 38 magisterial districts covered by the state of emergency, except with the permission of the Commissioner of Police. The ban applies to disturbances, riots, strikes, boycotts, attacks on property, and assaults on individuals, as well as to action taken by the security forces. About one third of South Africa's population lives in these areas.

252. The Minister of Law and Order stressed that only accredited journalists would be allowed to report on unrest. They would have to report first to the commanding police officer. Police already have powers to order journalists to leave an emergency area.

253. Penalties for contravention of the new regulations are severe. They include a maximum penalty of a fine of up to R 20,000 (equivalent to \$8,000) or imprisonment for 10 years without the option of a fine and the confiscation of equipment. The Minister said that the ban was necessary because the presence of television crews had "proved to be a catalyst for further violence."

254. In Soweto, home of up to 2 million people, the restrictions are different. All non-residents are barred, but the police have indicated in the past that reporters would be allowed to cover stories not related to the political violence that has claimed more than 840 lives since September 1984. Black reporters who live in Soweto, and who thus cannot be barred as non-residents, say they have another problem: "The regulations say that if there is unrest, we must remove ourselves". A reporter then asked "But what do they mean by removing ourselves? Must we go away so that we can't see anything?"

255. In its statement, the Foreign Correspondents Association, referring to the ban on correspondents entering unrest areas except under police escort, said that "public scrutiny of police and army actions will be impeded and a news vacuum will develop in which rumours and distortions from whatever quarter will prevail, without the possibility of independent verification."

256. The City Press, a newspaper aimed at blacks, carried a strip of photographs of the conflict across its front page under the headline: "The pictures we won't be taking ... and you won't be seeing". The Sunday Star, another local newspaper, warned that the banning of film crews would result in the replay of existing films of unrest until they become indelible images superimposed on the message "South Africa forbids freedom of information"; videos would be smuggled out of South Africa "where their illicit nature would enhance their value and revive flagging international attention on South Africa".

257. South Africa's conflict between the State and sections of the press was said to have intensified when the Cape Times "illegally" published an interview with the leader of the "outlawed" African National Congress, Mr. Oliver Tambo.

258. The Editor of the Cape Times, Mr. Tony Heard, explained his decision to publish the interview on 4 November 1985 in these words: "The Cape Times published the full interview as a contribution to peaceful solutions in South Africa... I feel that every South African should read it and the South African Broadcasting Corporation should broadcast it. I believe that if they did we would be nearer to peace".

259. On 8 November 1985 Mr. Heard was charged under the Internal Security Act with "quoting a banned person". He was not asked to plead and the case was postponed until 9 December 1985. Commenting on the charge, Mr. Heard said "there are very few things I am prepared to risk prison for, and one of them is freedom of expression in the press".

#### IV. RIGHT TO WORK AND TRADE-UNION RIGHTS \*/

260. By its resolution 1985/43 of 30 May 1985, the Economic and Social Council requested the Working Group to continue to study the situation of trade-union rights in the Republic of South Africa and to report thereon to the Commission on Human Rights and the Council.

261. In this interim report the Working Group has confined itself to examining information concerning the right to work and information on trade-union rights. The Working Group in its final report to the Commission on Human Rights at its forty-third session will report in greater detail on other aspects concerning black workers within the context of its terms of reference.

262. During the period under review, information has become available to the Ad Hoc Working Group which is set out in this chapter in two parts, as follows:

- (a) Information concerning the right to work, and
- (b) Information on trade-union rights.

##### A. Information concerning the right to work

###### 1. Conditions of black workers

263. According to information available to the Working Group, dehumanizing conditions continue to be imposed on South Africa's black workers by the apartheid system. The Working Group in its various reports has examined in great detail the situation of South Africa's rural blacks and found that their conditions were harder than in the cities. Rural workers, particularly those on private farms, are treated in a manner equivalent to slavery. According to one witness, "they are paid more in kind than in cash and normal family life is non-existent, private farmers are known to shoot at their black employees while floggings are a daily occurrence, child labour continues to manifest itself. The rural workers are deliberately kept isolated to ensure that they do not organize into groups or unions".

264. The Working Group has received evidence concerning the poor conditions of workers in multinational companies. These allegations will be the subject of further investigations and the findings will be brought to the attention of the Commission on Human Rights.

265. In a study on black miners' perception of safety conditions in the mines commissioned by the National Union of Mineworkers (NUM), Mr. Jean Leger

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\*/ This chapter is based on information drawn from the Financial Mail, 15 July, 16 August, 18 and 25 October, 15, 19, 22 and 29 November and 6 December 1985, Sowetan, 13 and 27 March, 3, 4 and 10 April, 13 and 15 August and 5 and 23 September 1985, The Guardian, 22 and 26 March, 19 July, 13 August, 18, 26 and 30 November, and 2 and 3 December 1985, The Times, 30 March and 2 December 1985, the New York Times, 22 March and 3 July 1985, Reuters, 29 April and 3 July 1985, the Star, 8 April and 9 September 1985, Cape Times, 2 and 18 July and 5 August 1985, Financial Times, 11, 14 and 19 July, 9 August and 6 December 1985, Christian Science Monitor, 2 and 10-16 August and 7-12 December 1985, Weekly Mail, 15 November, International Herald Tribune, 26 November 1985, Journal de Genève, 30 November and 1 and 2 December 1985, Le Monde, 3 December 1985, The Economist, 8 May 1985, and Employment Law, October 1985, vol. 2, No. 2, Transvaal, South Africa.

states that mine accidents result not only from the physical location of the mines but also from the way the work is organized. For instance, bonuses, which are unlimited in the case of white miners, encourage supervisors to bring pressure to bear on the miners' production despite hazards. NUM has drawn up a "Miner's Bill of Rights" containing 12 demands, foremost among them is the recognition of safety stewards.

## 2. Workers on trial

266. With a continuing high level of industrial action in the face of recession, black workers embarking on strikes and engaging in picketing in 1985 have on many occasions been charged with intimidation, illegal striking and attending illegal gatherings.

267. In February 1985, 75 workers who were members of the Orange Vaal General Workers Union (OVGWU) and employed by the Sasolburg Electricity Department were charged with failing to vacate their hostels after being dismissed for striking in protest against the sacking of a colleague. In the same month four bus drivers (among a group of 226 on strike over the dismissal of a colleague) at the Mzimkulu Bus Company in Thagate (Natal) were arrested on charges of intimidation and malicious damage to property. Their arrest followed an incident in which buses were stoned.

268. Two hundred and seventy workers, members of the South African Black Municipal and Allied Workers' Union (SABMAWU), appeared in three separate courts in Potchefstroom on 20 February on charges of attending an illegal gathering following a wage dispute at the local municipality. They were released on bail and the case was postponed.

269. In April, at the Rosslyn plant of Continental China, police arrested 241 workers picketing outside the factory gates. The workers, mostly women and members of the South African Allied Workers Union (SAAWU), were demanding their reinstatement and that of 409 colleagues dismissed in a dispute over wages in November 1984. They were charged with intimidation.

270. In May five members of the Metal and Allied Workers Union (MAWU) were arrested on charges of intimidation following a strike by over 900 workers, in a long-standing recognition dispute of the British Tyre and Rubber Company's Sarmcol Rubber Factory in Howick, Natal. In a further incident involving MAWU, 40 members of the Union were charged in the Johannesburg Magistrates' Court on 1 May 1985 with holding an illegal gathering. They were arrested outside the Johannesburg City Hall where Industrial Council wage negotiations were taking place. After postponement of their case and release on bail of R 1,000 each, the workers were rearrested on identical charges when they marched through the streets of Johannesburg on their way back to their union office.

271. In several trials workers were acquitted of charges against them or released without charge. Five Roodepoort miners were acquitted on charges of intimidation and participation in an illegal strike in the Roodepoort Magistrates Court on 21 January 1985. The arrest arose from a strike at Durban Roodepoort Deep mine in September 1984. The magistrates found that the charges were incorrectly framed in terms of the Labour Relations Act.

## 3. Strikes

272. Strikes have largely been a result of poor working conditions coupled with low wages paid to black workers. According to the Department of Manpower and Industrial Relations, the number of strikes which took place in the first nine months of 1985 is significantly lower than during the same period in 1984, but it led to a greater number of man-days lost.

273. By mid-September 1985, there had been 174 strikes compared to 469 during the same period in 1984. Whereas 383,864 man-days had been lost in 1985 compared to 379,712 in 1984. On average, each strike has involved a far greater number of workers and the Department of Manpower attributes this to increased activity in the mines. In fact, almost two thirds of the man-days lost occurred in the mining industry (see table below).

274. In 1985, apart from mining, the most strike-prone industry has been the motor assembly sector, followed by the chemical, food and metal industries.

275. As in the past, the most important of all strike-triggering disputes has been wages. Up to end of September 1985, it was the central issue in 44.5 per cent of strikes, whereas dismissals triggered off 18.3 per cent and grievances 7.8 per cent. The rest were over a wide range of issues, including safety and union recognition.

Strikes in 1985 (up to 12 September 1985) \*/

Sector	Number of strikes	Persons involved	Man-days lost	Man-days lost in 1984
Mining	21	100 302	253 091	118 204
Manufacturing	111	39 407	119 498	224 664
Electricity	1	1 466	1 594	1 585
Construction	9	2 916	5 107	3 312
Commerce	18	2 258	2 429	20 187
Transport/communication	11	2 118	1 864	10 977
Local authorities	3	447	281	783
TOTAL	174	148 914	383 864	379 712

\*/ Source: Department of Manpower, Financial Mail, 18 October 1985.

276. On 22 March 1985, more than 600 employees at the African Explosives and Chemical Industries plant in New Castle went on strike over a wage dispute.

277. In March 1985, about 450 employees were dismissed at the Black-heath plant of Continental China in the Cape for going on a solidarity strike in support of their colleagues who were dismissed in 1984. The Black-heath plant strike followed a refusal by management to meet the demands for a minimum wage of R 2 per hour and the immediate reinstatement of the workers previously dismissed.

278. On 1 April 1985, over 1,000 employees went on strike on the Reef over wages and dismissal of colleagues.

279. On 26 and 27 April 1985, at the world's largest gold-mine near Klerksdrop, south-west of Johannesburg, more than 14,000 workers were dismissed for taking part in illegal strikes over wages. While mass dismissals were common in the South African mining industry, gold-mining officials said that this was one of the largest in many years. Cyril Ramaphosa, General Secretary of the National Union of Mineworkers accused the police of using tear-gas on 28 April to dislodge striking miners

from their hostels after being dismissed. Once dismissed, mineworkers face automatic relocation to the so-called homelands or deportation to their country of origin, if they are foreigners. In defence of the illegal strikes, Ranaphasa stated that, since the industry's system was designed for the exploitation, control and manipulation of black miners, union members have developed a policy of resistance in order to force change.

280. On 21 March 1985, in Uitenhage, which is the centre of South Africa's motor industry, a three-day strike began to protest, among other things, against restrictions on the funerals of victims of the unrest.

281. On 21 March, at the Anglo-American owned Vaal Reefs gold-mine near Johannesburg, 40,000 black miners went on strike in demand of a wage increase. The strike was the largest ever recorded at any single time. This strike was followed by another in April when more than 17,000 black miners went on strike in demand of a wage increase. In both cases, the workers were immediately dismissed and their repatriation to the so-called "homelands" was undertaken.

282. On 2 April 1985, about 400 employees of the Cable Company in Pretoria, a subsidiary of the German company, Siemens, went on strike after management refused to grant a wage increase and transport facility to enable shop stewards to attend Industrial Council wage negotiations in Germiston. The workers are all members of the Metal and Allied Workers Union.

283. On 1 July 1985, some 20,000 miners at the Gencer-owned mines of Beatrix near Welkom and Kinross and Winkelhaak near Evander in the Eastern Transvaal went on strike in protest against their annual wage increase. One miner died when police shot at them. The National Union of Mineworkers (NUM) rejected the wage offer made by the Chamber of Mines.

284. On 3 July 1985, three black miners died following the intervention of the police in a strike at the Western Platinum mine near Rustenburg in the Transvaal against a unilateral wage increase implemented by the mine owners.

285. On 18 July 1985, tens of thousands of blacks in Pietermaritzburg near Durban went on a general strike in support of the 975 workers who had been dismissed by British Tyre and Rubber (BTR) - Samocol. Police used tear-gas to disperse demonstrators in the area.

286. On 17 July 1985 hundreds of workers at the General Motors, Ford and Volkswagen plants in Port Elizabeth and Uitenhage went on strike in demand of wage increases and payment of their pension contributions.

287. On 4 August 1985, the General Secretary of the National Union of Mineworkers (NUM), Mr. Cyril Ramaphosa, announced that the union would go on a nation-wide strike on 25 August to demand a wage increase and the abolition of job reservation. The strike would affect 29 mines - 70 per cent of gold mines and 20 per cent of coal mines. Mr. Ramaphosa said that the strike "could virtually bring the industry to a halt".

288. On 12 August 1985, thousands of workers in Mamelodi and Soshanguve stayed away from work in protest against the state of emergency and the presence of the army and police in the townships. On that same day several workers at Woolworths' stores in Johannesburg went on strike in protest against working conditions. One of the workers had earlier died after being forced to work in a "freezing room".

289. On 14 August 1985, more than 450 employees of the Irvin and Johnson company went on strike in demand of a wage increase and the recognition of 16 June (anniversary of the Soweto uprising) as a paid public holiday.

290. In September 1985, about 550 members of the Food Canning Workers Union at Dairy Bell on the East Rand were dismissed following a strike over the firing of a security guard who caught his white manager stealing. Dairy Bell workers at three other plants in Pretoria staged a "work stoppage" in solidarity with their dismissed colleagues and demanded that they be unconditionally reinstated.

291. In September 1985, the National Union of Mineworkers brought an urgent application to the Pretoria Industrial Court to protect thousands of workers threatened with dismissal and unlawful eviction from mine hostels. Meanwhile, thousands of black miners went back to work on 4 September 1985 after the Union suspended its wage strike at Gold Fields and Gencor mines pending the outcome of the court hearing. During the strike which started on 1 September 1985, some 70 miners were arrested and 16 injured. Gold fields confirmed that it had begun to dismiss miners from its Deelkraal mine on 4 September 1985. Similarly, on 5 September 1985, about 738 miners were dismissed and forcibly sent home by Marievale Consolidated Mines Ltd. for striking. An interim Supreme Court order of 4 September restrained the mining company from evicting members of the National Union of Mineworkers from their premises but the ruling did not protect them from dismissal.

292. On 14 November 1985, some 1,800 workers, comprising 800 student nurses and 1,000 auxiliary workers, at the Baragwanath hospital went on strike. The immediate demands of the student nurses were said to be the repeal of an 8 p.m. curfew and recognition of democratic organizations, including the health workers association and a student representative council elected by nurses. The auxiliary workers were demanding a wage increase.

293. Hospital authorities at the 3,500-bed hospital, which serves Soweto and other neighbouring townships in the Johannesburg area, reacted by dismissing the strikers and calling in soldiers to maintain services. The Health Workers Association (HWA) and the General and Allied Workers Union (GAWU) blamed the hospital authorities for the crisis. They accused them of dragging their feet over negotiations on grievances.

294. On 25 November 1985, following a Supreme Court judgement, the workers were reinstated without loss of benefits. The judge ruled that the dismissals were invalid and that the head of the hospital had not exercised his power properly when he dismissed all the student nurses. The superintendent should have established which students were guilty of going on strike and given each a chance to be heard. The judge explained that "nursing is a venerable and noble profession. As it is an essential service, the lives or health of many people could be endangered by strike action ... But the responsibility that nurses bear implies that the authorities have a reciprocal duty to ensure that their terms of employment are satisfactory as well as also ensuring that an efficient mechanism for airing grievances exists.".

#### 4. Industrial courts

295. The Working Group has had occasion to refer to the activities of the industrial courts in its previous report (E/CN.4/1985/8, paras. 274 ff.). During the period covered by the present report, they have heard many cases in which workers have asked to be reinstated, alleging they were dismissed without

a fair hearing. Where it has been established that this was indeed the case, a court has not hesitated to order reinstatement. This has "underscored the fundamental difference between industrial courts and other South African courts: the fairness of an action is its major concern and this outweighs any other consideration.".

296. With few exceptions, most reinstatement cases which are heard under section 43 of the Labour Relations Act have involved unionized black workers. The following cases serve as illustrations.

(a) The Marievale National Union of Mineworkers (NUM) case

297. In the dispute between the Gencor-managed Marievale mine and the National Union of Mineworkers (NUM), which arose out of a legal wage strike in September 1985, the industrial court handed down the reasons for its decision to order the reinstatement of several hundred miners who were dismissed after the strike.

298. Although the judgement does not lay down any specific guidelines which employers should follow in the case of a lawful strike, it strongly criticizes a number of actions taken by Marievale management. The judgement rejects Marievale's argument that a reinstatement order would amount to giving employees a licence to strike. In the view of the court, it was more likely to convince other employees planning to strike illegally to use the conciliation procedures in the Labour Relations Act.

299. It rejects Marievale's contention that NUM had failed to exhaust conciliation procedures before striking, the union had tended to support mediation and arbitration, whereas the employers, through the Chamber of Commerce of Mines, had rejected such procedures.

300. The court also rejects Marievale's allegation that the union had deliberately embarked on a process of confrontation because it "used all available dispute-setting mechanisms". In addition, the union did not call a strike at mines where a wage settlement had been reached.

301. The court also accuses the employers of adopting a paternalistic attitude towards the employees by unilaterally implementing wage increases and notifying workers that they faced dismissal should they strike.

302. The judgement dismisses the contentions made by Marievale that NUM had no locus standi to act on behalf of its members in the case. It also rules against Marievale's claim that the industrial court did not have jurisdiction over the case because the Supreme Court had previously decided that the dismissals were lawful. The function of the industrial court, it says, is to consider matters on the basis of fairness and equity, and it is the only South African court able to do so.

303. According to an industrial relations consultant, Andrew Levy, the lessons to be drawn are the following:

"(a) The decision does not entail a general prohibition on the right to dismiss lawfully striking workers. Each case will be judged on its individual merits. Nevertheless, the judgement is a major step toward providing some protection for strikers,

"(b) The legality of the strike is important. The court is unlikely to give protection to unlawful strikers,

"(c) A lawful response by management is not enough. It is important to be able to show that any breakdown in communication was due to the other side's intransigence,

"(d) Mediation and arbitration must be seriously considered as a means of breaking a deadlock rather than as tactical positions;

"(e) Paternalism is a risky style of management. Management must accept that a union is a legitimate representative of the work-force and has an important role to play. Attempts to bypass a union are inadvisable;

"(f) Caution should be taken when making press statements for these may be used against the interviewer in court later,

"(g) It is important to comply with the word and spirit of recognition agreements. Most agreements have clauses making reference to a constructive relationship between management and union, often included at the behest of management. It must be remembered that the sentiment applies equally to both sides. Most agreements also contain a so-called 'peace clause' in which unions undertake not to strike until they have exhausted various conciliation procedures. Where these clauses exist, they should be carefully re-examined, because inherent in such clauses is the implication that once the procedures have been exhausted a strike will take place;

"(h) Managements should not take the attitude that strikes are over once strikers are dismissed. Marievale was criticized for not responding positively to the suspension of the strike."

304. According to the same consultant the judgement indicates that "strike, as a legitimate workers' response to a deadlocked dispute, is coming of age". He advises managements to begin seeing industrial action in the light of a legitimate part of the collective bargaining process.

305. Marievale's urgent action to challenge the industrial court ruling in the Supreme Court was postponed to January 1986. The company is asking that the industrial court's decision be set aside on the following grounds:

NUM had no locus standi to act on behalf of its members in the industrial court;

The court's decision was based on a misapplication of the law and gross unreasonableness; and

The Supreme Court had previously decided that the dismissals were lawful and the industrial court had no authority to override that decision.

(b) The Factors Investors Guide/Facts Investor's Services versus Media Workers' Association of South Africa (MASA)

306. The case arose out of a dispute between the National Union of Mineworkers (NUM) and Anglo-American Vaal Reefs mine over the dismissal of four workers. Earlier in 1985, Vaal Reefs lodged an urgent application in the Supreme Court to have the four evicted from its hostels on the grounds that their dismissals were lawful, the workers having breached the terms of their common law employment contracts. In the interim, the workers brought an application in the industrial court in terms of section 43 of the Labour Relations Act (LRA)

on the grounds that their dismissal constituted an unfair labour practice. However, the Vaal Reefs legal representatives opposed the application, arguing that the industrial court did not have the right to hear the matter. These arguments were rejected by the industrial court.

307. In November 1985 the Industrial Court ordered Factors Investors Guide and Facts Investor's Services to reinstate nine members of the Media Workers' Association of South Africa (MWASA) temporarily. However, the workers effort to obtain permanent reinstatement was foiled by the decision of the Minister of Manpower, Mr. Pietre du Plessis, not to appoint a conciliation board to consider the matter further, thus preventing the union from unilaterally referring the case to the court for a final ruling.

308. The workers alleged that they had been unfairly dismissed after they had stopped working for about half an hour in an attempt to meet the Managing Director of the two companies to discuss grievances arising from a memorandum relating to annual bonus and leave.

309. The industrial court found that under the Labour Relations Act a mere cessation of work was not in itself a strike. There must be a demand related to a concerted refusal to work, and such a refusal must be shown to be intended to persist until the demand was met. In this case the workers' request to meet the Managing Director did not constitute a demand.

310. In this case, the industrial court affirmed its right to hear a case in which workers had asked for reinstatement, notwithstanding the fact that the dispute which gave rise to the application was also a subject of a Supreme Court hearing. This was said to constitute a new and major development on the jurisdictional powers of the industrial court and its position in legal structures.

#### B. Information on trade-union rights, including consumer boycotts

311. On 30 November 1985, a new trade-union federation was launched in Durban. The new union, known as the Congress of South African Trade Unions (COSATU), claims to represent more than 500,000 black workers in all the main sectors of the economy.

312. COSATU is a product of more than four years of difficult negotiations. The Working Group referred to these developments in its report to the Commission at its forty-first session (E/CN.4/1985/8, paras. 233-234). It represents a merger between highly organized factory-based unions (notably the Federation of South African Trade Unions (FOSATU) and the less tightly-knit, more politically-oriented unions with community-based roots. It is founded on five primary principles, i.e., workers' control, non-racialism, one union one industry, national co-operation between the unions and representation of member unions on the basis of paid-up membership. The principle of one union one industry will result in the disappearance of some general unions as they currently exist, notably the South African Allied Workers Union and the General and Allied Workers Union.

313. At its founding congress, COSATU adopted a political statement calling for disinvestment in South Africa. It gave the South African Government a six-month ultimatum to abolish the pass laws and influx control, to remove the troops from the townships, to provide equal education for all South Africans and to end the migrant labour system. The president, Mr. Elijah Barayi, told the inaugural assembly that COSATU would not only seek to improve wages and conditions of work of blacks but would also give its active support to their demands for social and political justice.

314. Pressure from the workers themselves, as the country's political crisis deepened, forced black unions to take a political stand. Thus, since November 1984, black unions have increasingly moved to the forefront of political activity against apartheid.

315. This increase in involvement in the political sphere by trade unions is further illustrated by the reaction of FOSATU, a union that was said to be traditionally apolitical, in May 1985, following the death of Mr. Andreas Radistela, a shop steward of a FOSATU affiliate (see E/CN.4/1986/3). FOSATU, decided it would turn Mr. Radistela's funeral into a one-day general strike. Although only a minority stopped work that day, more than 25,000 turned the funeral into a political rally. Mr. Dlamins, an official of FOSATU, declared the death of his shop steward a watershed for FOSATU.

316. In August 1985, Cyril Ranaphasa, NUM General Secretary, threatened the Government with a black boycott of white businesses "unless Pretoria immediately lifts its state of emergency". At the same time, he told the Chamber of Mines, which represents the mining companies, that black miners would strike on 25 August unless the Chamber improved its wage offer. The decision was seen by labour analysts as a reflection of the increasingly militant stance of South Africa's emerging black trade unions. Cyril Ranaphasa stated that one of the reasons for the politicization of unions was that black political leaders had either been immobilized by being indicted for treason or by being detained. As a result, in the absence of functioning political organizations, blacks increasingly turned to trade unions to voice their political grievances and aspirations.

317. Coinciding with the launching of the Congress of South African Trade Unions (COSATU), the South African Labour Bulletin (SALB) published an analysis of the state of the trade-union movement in South Africa. The report reflects significant membership gains and greater consolidation of organizational structures in the emerging unions.

318. The SALB report was based largely on a survey of 23 of the "new generation" of emerging unions representing about 363,000 workers - about 70 per cent of their total paid-up membership. Fourteen of the unions are affiliates of COSATU, while most of the remainder fall under the umbrella of the Council of Unions of South Africa (CUSU) or the Azanian Confederation of Trade Unions (AZATU).

319. According to the SALB survey, the 23 unions have a total of 12,462 shop stewards, or a ratio of 1 to 29 members. By comparison, a 1983 survey conducted by Mr. Edward Webster of the Department of Industrial Sociology at the University of Witwatersrand, found "there were a total of about 6,000 shop stewards in the emerging unions".

320. The unions surveyed have 306 paid officials - one per 1,186 members. They have signed 450 recognition agreements and are organized in 3,421 places of work. A single agreement can apply to scores, or even hundreds, of the commercial and mining sectors. Webster's survey indicates that there were 756 organized places of work in 1983.

321. The survey found that of the 23 unions, 10 sat on industrial councils, 14 had used industrial courts, 13 had applied to conciliation boards and 12 had used mediation, thus reflecting the attitude of unions in regard to official and unofficial conciliation procedures.

322. Half of the 23 unions expressed dissatisfaction with their dealings with the court and only three were happy with their participation on industrial councils. Three expressed satisfaction with the operations of conciliation boards, another three were ambivalent, while the rest were dissatisfied. Three quarters expressed satisfaction with mediation - the only conciliation method mentioned which usually operates outside official channels.

323. The survey also reflects the increasing involvement of unions in political matters. Only three unions stated that they had not participated in political or community issues. Thirteen had encouraged their members to participate in stay-away strikes, while 15 had supported consumer goods boycotts.

324. SALB notes that the total membership of 1,406,302 workers in registered trade unions at the end of 1984, as estimated by the National Manpower Commission, represents about 12 per cent of the economically active work-force. However, the report argues, this is not a good yardstick for measuring the extent of unionization. Instead, it suggests that it is more realistic to look at the "organizable population" which excludes professionals and administrative, agricultural and domestic workers in much of the homelands. According to these criteria, about 30 per cent of "organizable" workers are members of the emerging unions.

#### Consumer boycott

325. The consumer boycott, "potentially one of the most effective ways of undermining economic confidence in the Government", has meanwhile developed into a major instrument of popular retaliation inside South Africa.

326. Immediately following the declaration of the state of emergency in South Africa, UDF president, Dr. Allan Boesak, issued a call for a national consumer boycott of all shops owned by supporters of apartheid. Already well advanced in many areas, the boycott has since shaken South Africa's business community to the core. In Port Elizabeth for example, people had already been boycotting many of the city centre shops as far back as the beginning of July.

327. The boycott was well co-ordinated through campaigns, publicity through pamphlets, house visits and press statements. Boycotts demanded the following:

Lifting of the state of emergency,

Removal of SAP and SADF from townships,

Release of detainees, political prisoners and those held under the emergency regulations;

Resignation of councillors,

Recognition of democratic Student Representative Councils.

PART TWO

NAMIBIA

Introduction

328. In the most recent report (E/CN.4/1985/8) of the Ad Hoc Working Group of Experts, submitted to the Commission on Human Rights at its forty-first session, the Group described the efforts made by the United Nations to implement a peaceful settlement through negotiations between all the parties concerned. At the same time, the Group referred to various measures taken by the South African authorities with a view to imposing an internal settlement in Namibia, in particular the establishment of a State Council on 18 July 1983 by proclamation of the Administrator-General on behalf of the South African authorities (Proclamation AG.14 concerning the establishment of a State Council for South West Africa).

329. Among the major political developments commanding its attention during the period under review, the Ad Hoc Working Group of Experts noted the South African Government's recent decision of 18 April 1985 to establish an interim government in Namibia.

330. This decision, which represents a further infringement of Security Council resolution 435 (1978), envisages the formation of an interim government consisting of a National Assembly, an Executive Cabinet and a Constitutional Council responsible for introducing a Constitution.

331. Through its President and following consultations among its members, the Security Council immediately reacted to the announcement of this decision by issuing a statement on 3 May 1985 in which, inter alia, it declared South Africa's latest manoeuvre to be contrary to Security Council resolutions 435 (1978) and 439 (1978), condemned and rejected any action undertaken outside Security Council resolution 435 (1978) as unacceptable, declared the establishment of a so-called interim government in Namibia to be null and void, and called upon South Africa to rescind its decision and to co-operate in facilitating the implementation of the United Nations plan contained in Security Council resolution 435 (1978), as called for in Council resolution 539 (1983) (S/17151).

332. In a further report submitted to the Security Council in pursuance of resolutions 435 (1978) and 439 (1978) on the question of Namibia (S/17242), the Secretary-General gave an account of his meeting on 28 March 1985 with Ambassador von Schirnding of South Africa, at which the Secretary-General conveyed his concern in regard to the implications of the proposal for the establishment of an interim government in Namibia made by the Multi-Party Conference on 25 March 1985. At that meeting, the Secretary-General urged the Government of South Africa to desist from any action which would contravene the provisions of Security Council resolutions 435 (1978) and 439 (1978) regarding unilateral measures in Namibia which were not recognized by the United Nations. The Secretary-General also indicated that all unilateral measures taken in Namibia in contravention of the resolutions concerned were null and void and that no recognition would be accorded either by the United Nations or by any Member State to any representatives or organs established in that manner.

333. In the conclusions of the same document, the Secretary-General stated that he regretfully had to report that it had not yet proven possible to finalize arrangements for the implementation of the United Nations plan for Namibia. The Secretary-General further indicated that those difficulties had been aggravated and magnified by South Africa's recent decision to establish an interim government in Namibia.

334. For its part, the Council for Namibia, as the legal Administering Authority for that territory until its independence, took the strongest objection to this proposed violation of the political rights of the Namibian people, through the South African régime's endeavour to consolidate its illegal occupation of their territory.

335. In a communiqué issued on 4 June 1985 during its Vienna plenary meetings, the Council condemned and rejected outright, the South African Government's unilateral decision to install an interim government in Namibia and stated categorically that the United Nations Plan for Namibia contained in Security Council resolution 435 (1978) remained the only basis for a peaceful settlement of the Namibian question. It urged all States to refrain from according any recognition to, or undertaking any kind of co-operation with, the so-called interim government, or any other entity installed in Namibia. The Council further urged the Security Council to act decisively in fulfilment of the direct responsibility of the United Nations over Namibia and to take, without further delay, appropriate action to ensure the implementation of its resolution 435 (1978) without modification or pre-conditions.

336. In the same context, and at the request of the special ministerial meeting of the Co-ordinating Bureau of the Non-Aligned Countries, held at New Delhi from 19 to 21 April 1985, the Security Council discussed this question and adopted resolution 566 (1985), in which it condemned South Africa for its installation of a so-called interim government in Windhoek and declared that that action constituted a direct affront to the Council and a clear defiance of its resolutions, particularly resolutions 435 (1978) and 439 (1978). It further declared that action to be illegal and null and void and demanded that South Africa immediately rescind the illegal and unilateral action concerned.

337. At a special meeting held in London on 26 April 1985, the Commonwealth Committee on Southern Africa condemned South Africa's decision to install an interim government in Namibia as an act of flagrant defiance of Security Council resolution 435 (1978), the only acceptable basis for Namibian independence..

338. Despite these reactions, an interim government was installed in Windhoek by the South African Prime Minister on 17 June 1985.

339. During the period under review, the Government of South Africa has persisted in its refusal to co-operate with the United Nations in implementing Security Council resolution 435 (1978). By so doing, the South African authorities have continued to deny the Namibian people their inalienable rights to self-determination and independence. During the same period, according to information reaching the Ad Hoc Working Group of Experts, attacks against the civilian population in Angola have been stepped up; despite the agreements concluded with South Africa, there has been a continuation of arrests and an intensification of intimidation measures directed against SWAPO members and sympathizers, as well as other persons; and captured Namibians have continued to be detained in very poor conditions. The Ad Hoc Working Group of Experts has also been informed of the expansion of the militarization of Namibia and of several cases of atrocities committed by Koevoet.

## V. VIOLATIONS OF HUMAN RIGHTS AFFECTING INDIVIDUALS

340. During the period under review, the Ad Hoc Working Group of Experts once again gathered evidence and received information regarding atrocities committed by Koevoet, cases of death in detention, torture and ill-treatment of captured freedom-fighters and civilians, and various cases of arbitrary arrests, as well as allegations concerning ill-treatment of women.

341. In this connection, the Ad Hoc Working Group of Experts would recall that Proclamation AG.9 of 1977, as amended in May 1979, remains the most repressive of the laws permitting detention without trial. This instrument means an individual can be detained incommunicado, without trial, for an indefinite period of time. In addition, detainees are not entitled to legal aid and have no possibility of recourse. Lastly, the Proclamation enables members of the security forces to arrest without warrant and to detain without charges or trial any person suspected of having committed an offence or of intending or having had the intention to commit an offence, of possessing information on an offence committed or on the intention of a third party to commit an offence. This Proclamation also includes a provision affording members of the security forces protection against prosecution for "bona fide" acts committed by them.

342. It should also be noted that the state of emergency has been in force for many years, particularly in Namibia's northern districts. For instance, the state of emergency has been in force since 1972 in the Ovamboland district, since 1976 in the Kavango and East Caprivi district, and since 1979 in six other districts in the northern part of the country. In this connection, according to information collected by the Group, this entire frontier area in northern Namibia was classified by the Administrator-General on 6 March 1985 as a "security zone", access to which was strictly prohibited without a prior authorization of strictly limited validity issued by the police. This new "security zone" comprises five of the so-called "homelands" <sup>1/</sup> where more than half Namibia's population lives: they are Ovamboland, Kavangoland, East Caprivi, East Hereroland and Kaokoland (A/AC.109/824).

### A. Capital punishment

#### 1. Relevant legislation

343. As indicated in previous reports of the Ad Hoc Working Group of Experts, the various South African laws providing for the death penalty have been made applicable to Namibia. The Terrorism Act, No. 83 of 1967, which prescribes the death penalty for a wide range of "terrorist activities", the Sabotage Act and the Internal Security Act are applied to the exclusion of all other legislation in this sphere (E/CN.4/1270, para. 296).

<sup>1/</sup> South Africa's policy of racial fragmentation in Namibia was reflected in the promulgation on 24 April 1980 of Proclamation AG.8, which is designed to divide Namibian society into 11 groups according to racial, ethnic and tribal criteria following the model of the bantustan policy applicable in South Africa.

344. In general, since 1967 the Government of South Africa has promulgated a whole series of laws laying down severe penalties such as the death sentence, life imprisonment and long prison terms by virtue of which the occupation forces have absolute power to make arrests, ban organizations and publications and detain and deport Namibians without trial.

345. All the laws referred to above are still applicable, no significant change has been reported. Similarly, no new legislation restricting or extending the scope of the death penalty has been made applicable to Namibia during the period under review.

346. As already stated by the Ad Hoc Working Group of Experts in previous reports, the Government of South Africa publishes no separate figures on executions of Namibian prisoners sentenced to death.

B. Violations of the right to life and to security

347. Among the cases most frequently mentioned, the Ad Hoc Working Group of Experts took particular note, during the period under consideration, of atrocities committed by Koevoet, deaths of prisoners, ill-treatment of combatants and civilians, a growing number of arrests, allegations of ill-treatment inflicted on women, and several cases of disappearances.

348. According to information transmitted to the Ad Hoc Working Group of Experts, three South African laws were extended to Namibia by proclamation AG.9 of 1985, a few days before the official ceremonies for the installation of the "interim government". These are the Intimidation Act, the protection of Information Act and the Demonstrations in or near Buildings Prohibition Act, all of which entered into force in South Africa in 1982. The Intimidation Act was designed to counter election boycotts, the Demonstrations in or near Buildings Prohibition Act was aimed at prohibiting demonstrations during political trials, while the Protection of Information Act introduced a wide range of measures for restricting the transmission of information on the activities of the police, the armed forces and government organs.

1. Atrocities committed by Koevoet

349. On 1 May 1985, control of Koevoet, a unit which had previously been under the orders of the South African security police, was transferred to the commissioner of the South West African Police (SWAP). The term "Koevoet" seems to have been officially abolished, and this unit is now simply known by the name "Counter-insurgency Unit of the South West African Police" (COIN). It is said to be composed mainly of black Namibian policemen and to comprise three groups based at Opuwa, Oshakati and Rundu, covering operational zones in northern Namibia.

350. According to concordant information from several sources, massacres continued to be carried out by the Koevoet counter-insurgency unit. Notwithstanding certain statements to the effect that this unit has been disbanded in order to improve the image of the new administration of the Multi-Party Conference in Windhoek, the Ad Hoc Working Group of Experts was apprised of a substantial amount of evidence regarding the use of torture and other forms of cruel, inhuman and degrading treatment in Namibia involving members of the notorious special unit "Koevoet". This unit operates under the command of Major-General A.J.C. Gouws, who is also chief of the South West African Police.

351. In his deposition to the Ad Hoc Working Group of Experts during the joint mission to Lusaka in November 1985, one witness referred to the existence of a special branch of Koevoet whose task is to infiltrate the guerrilla movement. This group claims to form part of the guerrilla forces and demands assistance from the population: if such assistance is refused, it simply kills people on the spot; if assistance is provided, it comes back the next day and arrests the persons concerned. According to this same witness, women of all ages are raped by members of these groups and sometimes pregnant women are forced to have sexual relations; the witness reported that a son had been compelled to have sex with his own mother.

352. The same witness, referring to the massacre committed at Oshikuku in April 1985, stated that the bodies of eight persons (five men and three women) were found buried the morning after the soldiers' departure. Lastly, the witness stated that the members of Koevoet are paid according to their success in establishing contact with the guerillas and the number of persons they kill.

353. In a written communication transmitted by the Namibia Communications Centre, Brigadier Hans Dreyer, Commander-in-Chief of the Koevoet unit, confirmed that his men had shot to death four members of the Roman Catholic Mission at Oshikuku, northern Namibia, in April 1985. Referring to this incident, Brigadier Dreyer reportedly stated that he assumed full responsibility for the four bodies, adding that the Namibian "terrorists" killed had been brought to Oshikuku for identification. He was quoted as saying that his men had been ordered to bury the bodies, but had not managed to do the job properly. In another case, three members of the same church at Kavango, northern Namibia, stated that, following their arrest by members of Koevoet, they had been beaten on the soles of their feet, chained and given electric shock torture for lengthy periods. They also said that they had been held incommunicado and been refused any medical treatment. The persons concerned are Mr. Adam Kabono, a 40-year-old teacher, Mr. Magnus Haushiku Mpase, a 29-year-old teacher, and Mr. Sebaldus Sinone, aged 39.

354. The Ad Hoc Working Group of Experts has also received reports of extremely violent acts by Koevoet during the peaceful march which took place at Katutura, in the suburbs of Windhoek, in June 1985 and in the course of which a number of persons were said to have been brutally beaten. According to the spokesman of the Council of Churches in Namibia, the local hospitals and clinics were full of wounded persons, and at least 33 persons were kept in hospital for intensive care.

355. The Ad Hoc Working Group of Experts has received several concordant reports of frequent atrocities being committed against civilians, particularly in the northern area, which is regularly the scene of hostilities involving members of the police forces and the South African army, especially the notorious special Koevoet unit.

356. In a report that emerged from the South African Catholic Episcopal Conference in January 1985, the Catholic bishops gave a detailed account of the atrocities which the security forces, and particularly Koevoet, continued to commit against the civilian population, affirming that the territorial force was vigorously pursuing the process of militarization.

357. Other atrocities committed against civilians in northern Namibia were mentioned in a resolution adopted by the General Assembly of the Council of Churches in Namibia, held at Windhoek from 30 January to 2 February 1985. This resolution states, inter alia, that Mr. Thomas Shindobo Nikor, a miner employed by the Consolidated Diamonds Mines (CDM) of Oranjemund, had been arrested by the police while on leave in northern Namibia on suspicion of assisting SWAPO' and had died in prison on 29 January 1985.

358. In a report submitted by the Roman Catholic Mission from Oshikuku, northern Namibia, it is stated that the partially decomposed bodies of seven men were discovered on 9 April 1985 in the vicinity of the Mission. According to inhabitants of the region, Koevoet is responsible for their death.

## 2. Deaths of detainees

359. According to a document submitted to the Ad Hoc Working Group of Experts by the Namibia Communications Centre, an inquest into Mr. Thomas Nikanor's death in detention was postponed until January 1986 because of "insufficient evidence". Mr. Nikanor, a 45-year-old member of the Lutheran Evangelical Church, was arrested by the police on 22 January 1985 at his home in Ovamboland. On 29 January 1985, the police announced that Mr. Nikanor had died on 27 January 1985, having "hanged himself with his socks". Mr. Nikanor had been detained without charges under the security legislation and held without trial. At the inquest held from 30 September to 3 October 1985, Magistrate Van Pletzen, a pathologist representing the Government, stated that Mr. Nikanor's death might have been caused by hanging. However, Mr. Nikanor's wife stated that her husband was an entirely balanced person who had no reason to commit suicide. Professor L.S. Smith, a pathologist representing the deceased's family, stated that death might have been caused by manual strangulation, since the victim bore visible marks on the neck which could have been caused only by pressure. Mr. Nikanor was one of 40 persons detained in northern Namibia in January/February 1985, a number of these persons are still in detention.

## 3. Torture and ill-treatment of captured freedom fighters

360. The Ad Hoc Working Group of Experts noted in previous reports that South African laws providing for long periods of detention and imprisonment for "political offences", as well as legislation covering detainees, have been made applicable to Namibia and are still applied (see E/CN.4/1020/Add.1, para. 9; E/CN.4/1311, paras. 371-376). These include the Prisons Act, No. 8 of 1959, and the General Law Amendment Acts, Nos. 76 of 1962, 101 of 1969 and 94 of 1974; Act No. 76 was applied to Namibia with retroactive effect in 1966 but has since been largely superseded in usage by the Terrorism Act, No. 83 of 1967. The great majority of Namibian political prisoners now serving sentences have been convicted under the Terrorism Act. The Riotous Assemblies Act of 1956 also appears to be in force; the provisions of that Act were applied for the first time in Namibia in 1976 under the Internal Security Act of 1976, which provided for indefinite preventive detention and the banning of any persons deemed likely to endanger the maintenance of public order. Finally, as noted above, the adoption of Proclamation AG.9 of 1985 brought into force three new laws previously applied only in South Africa. Taken as a whole, this legislation thus gives the South African authorities in Namibia a wide range of repressive measures.

361. During the period under review, the Ad Hoc Working Group of Experts received information concerning cases of arbitrary arrest and ill-treatment of prisoners who were either members or sympathizers of SWAPO, under Proclamation AG.9 which, as indicated above, authorizes prisoners to be held incommunicado for an indefinite period of time.

362. According to statements made during the joint hearings held at Lusaka (Zambia) in November 1985, the following forms of torture are practised against Namibians:

Torture by means of electricity administered to the genitals,

Hanging by the arms or the legs,

Deprivation of sleep for a number of days, often for an indefinite period of time,

Solitary confinement,

Being forced to remain standing for several days without sleep or food,

Beatings, generally administered to the head or stomach and, more particularly, practices used against pregnant women, etc.

363. The two main detention camps in Namibia at the present time are said to be located at Oshakati, northern Namibia, and Osire, which is approximately 80 km south-east of Otjiwarongo. These two centres, which apparently specialize in interrogations, are reputedly places where torture and ill-treatment are practised systematically.

364. A report submitted by Amnesty International describes a number of cases of torture and ill-treatment practised against political prisoners in Namibia. The victims include clergymen, local political leaders, merchants, teachers, peasants, etc. According to the same report, the methods of ill-treatment used are, generally, application of electric shocks, beatings and prolonged solitary confinement. Most of the allegations refer to situations occurring in northern Namibia, and, as mentioned above, more particularly in Ovamboland, Kavangoland and Kaokoland, regions which contain more than half of the population.

365. The information provided by Amnesty International indicates that Mr. Nahas Ndevahoma, school principal at Kongo in Ovamboland, was arrested in July 1985. According to concordant information, he was tortured and ill-treated by the South African military security forces during the first week of detention. He was reportedly accused of aiding SWAPO. Information indicates ill-treatment in the form of beatings and an attempt at suffocation. He was also said to have been photographed receiving money from a South African soldier, which was supposed to show that he might be an informer.

366. According to information submitted to the Ad Hoc Working Group of Experts, Mrs. Esther Iimene, eight months pregnant, was arrested on 22 July 1985. The authorities allegedly refused to disclose where she was being held and no one was allowed to visit her. Further information indicates that Mrs. Iimene was released on 4 September 1985. In another case, on 30 November 1985, Mr. Franz Uapota was reportedly beaten to death by South African soldiers in his home at Eembo in northern Namibia. In this connection, the Ad Hoc Working Group of Experts is once again inclined to conclude, on the basis of information available to it, that a number of political prisoners are being held in detention in secret places or may have been secretly tried and executed..

367. However, according to information received by the Ad Hoc Working Group of Experts, in September 1985 the South African authorities announced that all Namibian political prisoners in South African gaols had been transferred to Windhoek. From additional information it emerges that the 20 Namibians in detention at Robben Island and the detainees in the Pretoria central prison were released on 14 November 1985. 2/

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2/ Focus, No. 61, November/December 1985. Information transmitted by the Council for Namibia in the course of the meetings held by the Ad Hoc Working Group of Experts from 6 to 17 January 1986 in Geneva.

4. Recent cases of detention

368. In its previous reports, the Ad Hoc Working Group of Experts mentioned the difficulties in obtaining information from Namibia as well as South Africa, and more particularly information regarding political prisoners. In this connection, the Ad Hoc Working Group of Experts was informed that there was at least one secret detention camp to which prisoners were brought with their heads covered by a blanket, held in solitary confinement, taken blindfolded to interrogation sessions and beaten. Quite often their families had absolutely no information concerning them. The prisoners were subsequently released at a place within the country, where they were transported hidden under a blanket. According to recent information, one of the interrogation centres is located in a place called Osire, near Oejiwarongo.

369. According to information received by the Ad Hoc Working Group of Experts, the number of cases of detention increased during 1985, and several persons are still being detained, as indicated in the attached list. However, the Ad Hoc Working Group of Experts has been informed of the release of 13 Namibian prisoners who were arrested during the period under review. According to the same information, these releases began in September 1985.

370. One relatively new element which attracted the attention of the Ad Hoc Working Group of Experts was the increasing tendency of the South African authorities to attack the property and staff of the churches in Namibia. Although the South African authorities in Namibia have been trying for years now to stifle the protests of the churches by expelling large numbers of persons employed by the churches as well as missionaries, the Lutheran and Anglican churches in particular are increasingly the target of acts of violence. Thus, in January 1985, a bomb exploded outside the Roman Catholic church in the mining town of Tsumeb (A/AC.131/187). According to further information, it is believed that that incident was in reprisal for the church having extended an invitation to United States Senator Edward Kennedy to visit the town.

371. In this connection, it should be noted that the churches are more and more active in both Namibia and South Africa in the struggle against apartheid. In a statement made on 22 October 1985 at Windhoek, the Justice and Reconciliation Commission of the Roman Catholic Church in Namibia repeated the Catholic Church's total rejection of the establishment of the so-called interim government of national unity and appealed to the population to refrain from any form of co-operation with that Government supported by the South African régime.

372. The Ad Hoc Working Group of Experts has even received reports of hunger strikes by members of the clergy, in particular the three-week strike of Father Hermann Klein-Hitbass at Walvis Bay. Father Klein-Hitbass, who is 46 years old, described his three-week fast as a non-violent protest to pray for the unity of the church in its struggle against apartheid.

373. On 9 October 1985, the eleventh Synod of the Evangelical Lutheran Church of Namibia (Rheinisch Mission), which was held at Otjimbingue from 22 to 26 September 1985, addressed an open letter to President P.W. Botha, reiterating the need for a peaceful settlement of the Namibian question. In that context, the Synod expressed its support for Security Council resolution 435 (1978), which it considered to be the only means of preparing the way for free and fair elections under United Nations supervision and control. The Synod also expressed its dismay at the unilateral declaration and setting up of the so-called interim government of national unity on 17 June 1985. Finally, the Synod called on the South African President to co-operate with the United Nations in implementing Security Council resolution 435 (1978).

374. The Ad Hoc Working Group of Experts was recently informed of the arrest of the Rev. Junias Kaapanda, 52 years old, pastor of the Evangelical Lutheran Church of Namibia, arrested at Tsandi on 22 October 1985. According to the same sources, he is being held without charge under the security laws promulgated by the South African Administrator-General in Namibia. The same sources also report that Mr. Heikki Shililifa, a 40-year-old teacher, was arrested on the same day.

375. During the period under review, the Ad Hoc Working Group of Experts received information on a particularly interesting case of a detainee who has recently been set free. The case is that of Joseph Katofa, who was arrested in May 1984 and was thereafter detained under the security legislation without charge or trial. His release has been seen as a victory in the struggle against detentions without trial in Namibia. He was released by decision of the Supreme Court of Windhoek on 19 September 1985, whereupon the lawyer representing Mr. Katofa announced that Mr. Katofa intended to bring a suit for compensation and damages against the authorities of the country because of the acts of torture and ill-treatment to which he had been subjected throughout his detention. 3/ However, it should be pointed out that in taking its decision that Mr. Katofa should be immediately released, the Court acknowledged the possibility that the so-called interim government which has been administering Namibia since June 1985 could appeal to the South African Court of Appeal at Bloemfontein.

376. According to information provided to the Ad Hoc Working Group of Experts, the police arrested 52 persons during a peaceful demonstration commemorating Namibia Day, which took place at Windhoek on 26 August 1985. These arrests were made under the Notification and Prohibition of Meetings Act. 4/

377. The following list, which is not exhaustive, enumerates persons detained between January and November 1985. A second list gives the names of persons probably released during the same period.

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3/ Amnesty International, Focus, No. 61, November/December 1985.

4/ The Citizen, 26 August 1985.

LIST OF PERSONS HELD IN DETENTION IN NAMIBIA

JANUARY - NOVEMBER 1985

Name	Age	Occupation	Hometown	Date and place detained
Abel, Festus				
Akambaye, Johannes		Municipal employee Oshakati		19 March
Akuenda, Martin (Lutheran)	23	Builder	Oniipa	28 August
Akuenda, Thomas (Lutheran)	32	Mechanical Engineer	Oniipa	30 August
Amakali (Mr.) (Roman Catholic)		Teacher	Oneya	January
Amkugo, Nathaniel		Mechanic	Oniipa	September
Andimba, Naftali				October, Katutura
Andimba, Tibias				October, Katutura
Andreas, Immanuel		Ex-employee Ondjondjo Wholesale		September Oneputa
Angula, Frans	28	Labourer	Onanghulo	August
Angula, Helmut			Emanyia	6 August
Ankome, Desiderius (Mr.)	26	Teacher, Valombola Tech. School	Ongwediva	January
Ankone, Nobert	25	Labourer	Okwambi	August
Ashoongo, Nestor				20 January
Gabriel, Matheus				October, Windhoek
Gideon, Andreas				Ocotber, Ovamboland
Haimbondi, Petrus			Ondehaluka Ovamboland	
Haludilu, Oscar (Lutheran)	35	Accountant Barclays Bank	Oshakati	29 January
Hamukoto, Fillemon (Amukoto, Filimon)				

Name	Age	Occupation	Hometown	Date and place detained
Hamunime, Frank (Lutheran)	40	Contractor	Changwena	12 January
Hamutenya, Immanuel (Lutheran)		Teacher	Olupandu	25 July
Hanae, Franz (Roman Catholic)	36	Teacher Ogongo Agric. College and Church Youth worker		29 January
Ihuhwa, Frans (Lutheran)	50	Interpreter for Ovambo Administration	Ongwediva	8 March
Iipenge, Amutanya Erasmus				24 April
Iipito, Johannes				October Ovamboland
Iiyambo, Agapitus Stefanus	30	Teacher	Emono	21 January
Ikukutu, Eric				6 April Ondangwa
Ishilelo, Stephanus Theofelus				5 February Walvis Bay
Jabala, Joseph				October, Katutura
Jeremia, Johannes	20		Ogongo	
Johannes, Eliakim (Lutheran)		Teacher (?)	Okanjera	5 February Etilyasa, Ovamboland
Johannes, Kleopas		Teacher		31 March
Jonas, David (Nokwafilda) (Anglican)			Okauva	10 January
Rev. Kaapanda, Junias Vaino (Lutheran)			Tsandi Uukwaluudhi	22 October
Kambembe, Mvula				October, Katutura
Kambudu, Jona (Lutheran)	40	Post Office worker	Ongwediva	24 July (rearrested)
Kandima, Johannes (Lutheran)		Businessman	Oniipa	September

Name	Age	Occupation	Hometown	Date and place detained
Kankono, Toivo Simon				March
Katengo, Listo (Sheya)				October, Ovamboland
Kavila, Lamek (Mr.)	24		Oukwandongo	11 July
			Ombalantu	
Kwathiindge, Reinhold Aumbi			Okando	January
Linus, Absolom		Teacher	Oshitayi	September
Malakia, Henok				October, Ovamboland
Mvula, Festus (Lutheran)		Clerk in Government office	Oniipa	6 April
				Ondangua
Nafuka, Gerhard (Lutheran)		Mine worker		14 March
				Grootfontein Airport
Nakatana, Ndeuka		Barclays Bank	Oshakati	29 January
Nambwandja, Modestus			Emono	August
Namke, Benjamin				October, Katutura
Namke, Reinhart				October, Katutura
Namweya, Andreas (Lutheran)	60	Evangelist	Endola	5 August (rearrested)
Nanghama, Lusia (Ms.) (Lutheran)				26 July
Nangolo, Johannes Ipito (Lutheran)		Builder	Oneputo	September
Nangombe, Petrus (Kakede) (Anglican)	37	Teacher		October, Ovamboland
Nauyoma, Lukas				10 July
Neghede, Kondjeni				11 January
Nehale, Wilbard				10 July, Oshakati
Nnipamdua, Alfeus (Shikongeni)				October, Kavango
Onesmus, Absalom	27		Oukwandongo	11 July,

Name	Age	Occupation	Hometown	Date and place detained
Paulus, Markus			Oniipa	4 September
Paulus, Veinela				October, Windhoek
Penduki, Jakob				July (rearrested)
Raphael, Paulus (Roman Catholic)	43	Filling station attendant at Onampira		19 March, Onampira, Ovamboland
Shapumba, Andreas				6 August (rearrested)
Shidjuu, Teofelus (Lutheran)			Onandoba	September 1984
Shifeta, Henok (Lutheran)			Ongenga Oukwanyana	20 October
Shifidi, Ferdinand (Roman Catholic)	40	Teacher (Principal)	One pandaguro	28 January
Shikongo, Bernadinus Petrus	47	School Principal	Etayi	August (rearrested)
Shikongo, Damian				9 September (rearrested)
Shikongo, Iyambo Erasmus Christof	37	Teacher		14 April 1981
Shikongo, Timiteus (Lutheran)	48	Church elder, shop owner, farmer and CDM miner	Onanghulo	January
Shikoyeni, Oskar		Barclays Bank	Ondangua	January
Shililifa, Heikki (Lutheran)		Teacher	Uukwandongo Ombalantu	22 October
Shilongo, Paulus				6 March, Osire
Shiluwa, John (Anglican)	30	Mine worker	Odibo	15 January
Shipahu, Petrus			Enkolo	4 January
Shipo, Reinhold				21 January, Osire
Shipweya, Paulus (Roman Catholic)	36	Teacher Atshipara School	Oshikuku	29 January
Shoombe, Elikan	21		Onashiki	Windhoek

Name	Age	Occupation	Hometown	Date and place detained
Uutoni, Erastus (Napoleon) (Lutheran)	28	Unemployed for CDM labourer	Oshakiti	21 January
Uutoni, Johannes (Lutheran)	50s	Farmer	Olupumbu	28 March
Valombola, Marius (Roman Catholic)	28	Teacher	Oneeya	January Osire
Viliho, Kashululu (Roman Catholic)	22	Teacher, Nuuyoma School	Oshikuku Olumpandu	29 January
Wejulu, Ndume			Omuthiya	2 December 1984

## LIST OF PERSONS SAID TO HAVE BEEN RELEASED

Name	Age	Occupation	Hometown	Date detained/ released
Auala, Penda (Lutheran)		Teacher	Oniipa	4 September/ 16 September
Iikondela, Simon				22 June/ 4 September
Iimbodi, David				22 June/ 4 September
Iimene, Ester	30		Iipumbu	22 July/ 4 September
Iimene, Frans	35	Teacher	Iipumbu	22 July/ 4 September
Katofa, Josef	32	Shopkeeper	Ombalantu	May 1984/ 19 September
Moshana, Victoria (Ms.) (Anglican)		Auxiliary Nurse, Lutheran Hospital	Odibo	26 July/ ? October
Nambinga, Rehabeam				22 July/ 4 September
Ndevahoma, Nahas (Mr.) (Lutheran)		Teacher (Principal)	Kongo	29 July/ 5 August
Nepolo, Selma				22 July/ 4 September
Paulus, Sara (Mrs. Markus)			Oniipa	4 September/ ? October
Vilho, Gideon				22 July/ 4 September
Vilho, Jakob				?/17 September

5. Allegations concerning ill-treatment of women during detention

378. According to information communicated to the Ad Hoc Working Group of Experts, Namibian women continue to suffer the consequences of the military occupation of Namibia by South African troops. They are often the victims of rape attempts and assaults of various kinds, and they suffer torture and other ill-treatment. The rapes generally take place in the "operational zone" of northern Namibia and are nearly always committed by members of the South African army. Although numerous cases of rape have been reported, in most of them the culprits are only given a light penalty or fine. When the rapes are committed by whites, the culprits are generally not prosecuted.

379. Because of the large number of cases of women being subjected to brutality, torture and ill-treatment, the Ad Hoc Working Group of Experts mentions by way of illustration some cases brought to its knowledge from reliable sources of information 5/:

(a) According to a source close to church circles in Namibia, two women members of the Evangelical Lutheran Church in Namibia - Mrs. Helena Nuyuni and Mrs. Victoria Amoomo - were killed on 16 April 1985 near their homes at Omuthiya, a village located in southern Ovamboland, and were found decapitated. According to the same information, the two women were taken away at night after curfew time, and their bodies were found the following morning near their respective houses,

(b) At the end of April 1985, Mrs. Vilhemina Shalimba Wakalondwa, an elderly blind lady, was burnt to death in her house when the security forces set fire to it. The house was reportedly burnt by south African soldiers who were pursuing members of SWAPO,

(c) On 11 May 1985, Mrs. Kambangula, 36 years old, a member of the Evangelical Lutheran Church, was very badly tortured by South African soldiers at Onankali in northern Namibia. According to information communicated to the Ad Hoc Working Group of Experts, she was buried by the soldiers, then removed from the grave and re-buried several times until she lost consciousness. As a result of the torture, Mrs. Kambangula allegedly has a fractured shoulder and various wounds all over the body,

(d) On 5 July 1985, Mrs Olivia Katatu was shot by soldiers of the South African security forces at her home in Etale, Oukwanyama region,

(e) On 26 July 1985, Mrs. Bilah Kakaunya, a member of the Evangelical Lutheran Church, was allegedly raped by soldiers from the South African defence forces engaged in an operation in the region of Oukwanyama, northern Namibia. Mrs. Kakaunya was pregnant,

(f) On 22 October 1985, a 59-year-old woman, Mrs. Selma Awala, reportedly had her arm broken and was also buried alive several times by members of the Owambo security forces. The incident took place in the vicinity of her house near Onipa,

(g) On 15 November 1985, the South African police reportedly arrested two women from Onayena, a village located in northern Namibia. These were Mrs. Ester Hango, 44 years old, a nursing sister at the Lutheran Clinic of Onayena, and Mrs. Muleka, 38 years old, a teacher at the Onayena primary school.

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5/ Namibia Communications Centre, Focus, No. 60,  
September/October 1985, Windhoek Advertiser, 5 November 1985.

380. These few examples are an indication of the suffering being experienced by the Namibian population, particularly in what is called the "operational zone" of northern Namibia, where the greatest concentration of army and police forces is to be found. As indicated above, northern Namibia has been classified as a security zone and unauthorized access to it prohibited, which restricts opportunities for journalists and other persons to obtain information on such atrocities.

6. Cases of disappearances

381. As the Ad Hoc Working Group of Experts has already indicated in its previous reports, cases of disappearances of persons in Namibia continue to be a subject of concern. In its latest report (E/CN.4/1985/8), it stated that in a detailed note addressed to the Van Dyk Commission of Inquiry, referring to security laws applied in Namibian territory, the Council of the Bar Association had stated that some of the persons being held by the security police in Namibia had disappeared without a trace. In the case of the disappearance of a civilian, Mr. Johannes Kakuva, for example, the security police never ordered a genuine inquiry into the causes of the disappearance.

382. A document submitted by the United Nations Council for Namibia to the General Assembly at its fortieth session (A/AC.131/187) indicated that one of the most disturbing facts of life in Namibia continued to be the frequent disappearance of people after having been detained or abducted. There are no accurate statistics for the number of people who have disappeared, since families frequently do not report to the police if any of their relatives are missing, for fear of being themselves harassed by the occupation forces. According to the same document, in many instances missing persons have actually been secretly killed by the South African armed forces.

383. According to testimony collected by the Ad Hoc Working Group of Experts during the mission to Lusaka, many Namibians are being held in secret prisons or detention camps set up in the forest in the Otavi and Grootfontein districts.

384. It should also be noted that, in resolution 39/50 A, the General Assembly demanded that South Africa should account for all "disappeared" Namibians and release any who were still alive, and declared that South Africa would be liable for damages to compensate the victims, their families and the future lawful Government of an independent Namibia for the losses sustained.

## VI. CONSEQUENCES OF THE MILITARIZATION OF THE TERRITORY

385. In its previous reports (E/CN.4/1984/8 and E/CN.4/1985/8) the Ad Hoc Working Group of Experts drew attention to the increased deployment of South African military forces in Namibia and to the constant attacks launched against Angola and other countries. The Group also reported the intensification of the armed struggle being waged by SWAPO against the South African forces illegally present in Namibia.

386. The increase in allocations for defence and security clearly reflect South Africa's intention to continue its illegal occupation of Namibia and aggression against the Namibian people and the front-line countries. According to information received by the Group, the military expenditure estimates for the financial year 1985/86, submitted by the Minister of Finance in March 1985, amounted to 4,274,000,000 rand, or an increase of 8.1 per cent over the allocations for the financial year 1984/85 6/ The Ad Hoc Working Group of Experts would recall that the military expenditure for the year 1984/85 was equivalent to almost \$3 billion, which was already an increase of 21 per cent over the 1983/84 budget.

387. One of the consequences of the increased militarization of Namibia has been the compulsory registration on the army list as from 31 October 1984 of all Namibian men between the ages of 17 and 55 years with a view to service in the South African Defence Forces in Namibia. Persons who do not register or who endeavour to prevent others from registering are liable to prosecution. According to information received by the Ad Hoc Working Group of Experts from several concordant sources, over 17,000 men were registered in the northern areas of Namibia in November 1984. 7/

388. During the period under consideration, a number of major attacks were launched against Angola by the South African armed forces stationed in Namibia. In addition to a large-scale operation that had been carried out at the end of June 1985, the South African troops launched a further raid into southern Angola on 16 September 1985. This operation was described by General Constand Viljoen, Chief of the South African Defence Forces, as "hot pursuit" of the Namibian partisans of SWAPO. The attack took place in the neighbourhood of the town of Maving, in south-eastern Angola. According to information from several concordant sources, the operation was launched by the South African troops in order to counteract an offensive by the Angolan forces against UNITA troops. The South African military authorities, for their part, have presented the operation as a pre-emptive strike against SWAPO. 8/

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6/ \$US 1 = R 1.98.

7/ Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid in South Africa - ILO, International Labour Conference, seventy-first session 1985, A/AC.109/824.

8/ International Herald Tribune, 17, 18 and 19 September 1985, The Guardian, 17, 18, 19 and 20 September 1985, Le Monde, 18 and 20 September 1985, The Times, 17, 19 and 21 September 1985, and Newsweek, 30 September 1985.

389. On 14 June 1985, the city of Gaborone, capital of Botswana, was attacked by units of the South African army, resulting in the death of 12 civilians and injuries to at least 6 other persons, as well as causing untold damage. This attack was a continuation of a series of attacks against Botswana, which is still suffering violations of its frontiers by South African defence troops operating from Namibia and, more particularly, from the Caprivi Strip.

390. Following the attack by the South African army of 16 September 1985, the Security Council adopted resolution 571 (1985) by which, *inter alia*, it strongly condemned the premeditated invasion of Angola and the utilization of the international territory of Namibia as a springboard for perpetrating armed invasions and destabilization.

391. During the period under consideration, the South African Government committed other acts of aggression, terrorism and assassination. Thus, in February 1985, two South African refugees were wounded at Gaborone, Botswana, as a result of an explosion of a bomb thrown into their home. In May 1985, Mr. Vernon Nkademing, a member of the Trade Union Council of South Africa (TUCSA), and the son of the Secretary-General of TUCSA, were killed at Gaborone by a booby-trap car-bomb.

392. During the period under consideration, South Africa continued to strengthen its military presence and greatly increased the manpower of its occupation forces in the territory by recruiting a large number of mercenaries and by introducing, as indicated above, conscription for the Namibians. In addition, it extended and consolidated its military bases in Namibia, particularly those along the Angolan frontier. Information on the numbers and composition of the South African forces in Namibia is not published, but it is generally estimated that South Africa is maintaining a force of about 100,000 men in Namibia, in addition to locally recruited forces, and without counting the 110,000 white settlers in Namibia, almost all of whom are armed.

393. The troops are stationed in some 85 to 90 bases which cover the whole of the territory. The most important of these are at Windhoek, Walvis Bay, Crootfontein, Oshivello, Ondangwa, Ruakana, Oshakati, Rundu, Mpache, Katima Mulilo, Omega and Caprivi.

394. To this should be added the fact that, according to some sources, the South African Army took control in October 1983 of all hospitals and medical services in the Ovambo region, a decision which enraged the medical staff concerned.

## VII. RIGHT TO WORK AND FREEDOM OF ASSOCIATION

395. In its previous reports, the Ad Hoc Working Group of Experts analysed employment policy in Namibia, including the system of recruiting migrant workers, the refusal to grant such workers trade union rights and the disparities in pay between black workers and white workers.

396. Unfortunately, this situation has not changed and, despite international action to put an end to the illegal occupation of Namibia by South Africa and thus enable progress to be made, there is no development pointing to any improvement of any kind in the lot of the general population with respect either to work or to freedom of association.

397. In its report to the General Assembly at its fortieth session, the United Nations Council for Namibia describes the working and living conditions of black Namibians in and around the mining centres as appalling. In fact, the mines, which dominate the economy of Namibia, rely primarily on cheap and unskilled migrant labour. These labourers are not allowed to bring their families within the confines of the mining compound, are hired on a temporary basis and are housed in rigidly controlled hostels (A/AC.131/187). Estimating the active black population at 500,000 persons, 240,000 of whom are engaged in the subsistence agricultural sector and the rest in mining, industry, fishing and other sectors, the report notes that the colonial Government has, over the years, deliberately and systematically transformed the African population of Namibia into a cheap labour reserve at the disposal of the white-controlled economy.

398. In his annual report for 1985, the Director-General of ILO notes that this system, composed of a central administration with 10 racially based "second-tier" administrations, now consumes 75 per cent of gross domestic product, preventing economic development and causing the territory to import 75 per cent of its requirements. 9/

399. The same report notes that, although no official statistics are yet available, there can be no doubt that the economic decline has contributed to higher unemployment levels.

400. What is more, as in the past, the reliance on the use of migrant labour is a practice which, with other social and economic factors, contributes to the failure to develop a stable, permanent labour force. The migrant labourer system has a particularly disastrous effect at the social level. The workers are obliged to leave their families for periods of up to 30 months, living conditions are catastrophic and there is some reason to think that the régime is using the system as a way of impeding any trade union activities. This is, moreover, the reason why black labour organization remains limited. There are three unrecognized trade union movements in Namibia: the National Union of Namibian Workers, which is linked to SWAPO and attracts considerable support among workers, the Namibian Trades Union Congress, whose activities appear limited and confined to advice to individual workers and restricted discussions with certain employers, and, lastly, a third organization, the Namibian Confederation of Labour, which groups largely white unions in mining, local government, the white "second-tier" administration and the nine railway staff associations. 10/

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9/ International Labour Office, Special Report of the Director-General on the Application of the Declaration Concerning the Policy of Apartheid in South Africa, Geneva, 1985, p. 61.

10/ Ibid., p. 63.

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

A. Right to education

401. As the Ad Hoc Working Group of Experts has already mentioned in its many reports, general education policy has always been to structure the sector around the ideology of apartheid by devoting different resources to the education of white, African and Coloured pupils. These inequalities notably affect the funding of education, school facilities, teacher training, teachers' salaries and teacher-pupil ratios.

402. This analysis of the situation is confirmed by ILO in its latest report to the International Labour Conference at its seventy-first session, in 1985. It is also shared by the United Nations Council for Namibia which, in its latest report to the General Assembly at its fortieth session, emphasizes the fact that, after decades of apartheid, which resulted in the development of separate educational facilities and dictated that expenditures on white schools far exceed those on black schools, the differences between the two systems are glaring. White schoolchildren enjoy a modern and comprehensive educational system, while educational facilities for black children are non-existent in some areas and mediocre at best in others.

403. Racial discrimination is also evident in the amount of money spent on education for the different races. According to the data available, some \$US 1,500 per year is spent on the education of each white child, which is seven times as great as the allocation for each black or Coloured child. 11/

404. As far as school enrolment is concerned, the statistics for black and white pupils who complete secondary school demonstrate even more clearly the disparity which exists between black and white schoolchildren, since almost all black Namibians are forced to leave school and forgo secondary education. Many of them either leave school to enter the work-force in order to support their families or are expelled from school because of their presumed opposition, or of a demonstration regarded by the authorities as opposition, to the illegal occupation of their country by South Africa.

405. According to estimates for the year 1985, 50 per cent of black Namibians are illiterate.

406. There are no higher education facilities in Namibia and segregation applies even to access to libraries.

B. Right to health

407. Like education, the health sector in Namibia is inextricably linked to the apartheid system imposed on Namibia by South Africa. Consequently, expenditure on health services varies according to whether the services are provided for blacks or for whites.

408. These disparities in the standard of living and in access to resources are reflected in the mortality rates for the various population groups. There are no national statistics for mortality in Namibia because there is no legal requirement for the registration of births and deaths. Nevertheless, figures are available for Windhoek, the largest city. The disparities in infant mortality rates are stark: 21.6 per thousand live births among the whites,

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11/ Ibid., p. 64 and A/AC.131/187.

145 per thousand live births among the Coloureds and 165 per thousand live births among the Africans. The average life expectancy of a black person in Namibia is 40 years (A/AC.109/824).

409. In a report published by the World Health Organization and dealing mainly with apartheid and health in South Africa, the comment is made that the obvious distribution of health resources in terms of skin colour has at least three interrelated aspects. In the first place, it is the consequence, or the reflection, of the "racial picture" of the economy. That is a consequence of the other two aspects and is also the way that health care re-enforces and perpetuates racial discrimination in South Africa. In the second place, the health services form part of the contract or political alliance concluded between the governing class and the other whites in South Africa. In terms of that alliance, health care - like the vote and many other privileges accorded to the whites - constitutes a sort of spoils given them as the price of their support. In the third place, the "racial" distribution of diseases and of health care propagates the ideology of white supremacy, by giving a practical form to white control over resources and production. In the case of health care, it takes many forms. Most doctors are white, while most nurses are black. Differences in salaries are to be found in virtually all the categories of health staff. There are racial distortions in the supply of social services, pensions, subsidies, hospital services and preventive medicine campaigns. Racial differences in the quantity and quality of health care are observed at all levels. Some aspects of the health services, particularly the dental services, the mental health services and the family planning services, disclose the quantitative and qualitative differences which characterize health policies and practices in South Africa. 12/

410. It is clear that, in view of the nature, manifestations and application of the system of apartheid in Namibia, such an analysis of the perpetuation of white domination in South Africa is also applicable to Namibia.

411. In this connection, a document relating to health and apartheid in Namibia indicates that the main determining factors of the health of a nation are not the number of medical staff or institutions and still less the amount of medicaments available to treat illnesses, but, rather, access to medical facilities, as well as the quality of food, the quality of water, the quality of housing, the level of education and the condition of the existing infrastructure. Another important factor is preventive health measures, including education through information campaigns designed to eradicate all existing diseases in the country. Actual medical care is another problem, since it is a last resort which can, in any event, not improve the health of a nation as such, but can provide only the necessary care for those who are already ill. 13/

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12/ Apartheid and Health, World Health Organization, Geneva, 1983, p. 252 (of the French version).

13/ Fact Paper on Southern Africa, No. 13, A Nation in Peril, Health and Apartheid in Namibia, International Defence and Aid Fund, London, May 1985.

412. The study by the International Defence and Aid Fund on health in Namibia shows that health services for the blacks in Namibia operate primarily thanks to contributions by churches and missions. Most of the hospitals and dispensaries in rural areas are run by church organizations and financed to varying degrees by the State. Several of these establishments have medical staff from European missions assisted by a small number of the available Namibian or South African staff. Some medical services are also provided by companies operating in Namibia. In most cases, these are dispensaries which have been set up in the mines that employ many workers, but which are often located far from towns or the nearest public medical service. 14/

413. As to health infrastructure, it was found that, in 1982, the hospital bed/population ration was 1/400 for blacks as against 1/160 for whites. It may thus be seen that those who are in the greatest need of medical health care are allocated minimum facilities.

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14/ Ibid., pp. 21 and 24.

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

414. On the basis of supplementary information, the Ad Hoc Working Group of Experts lists below a few cases in addition to those already mentioned in its previous reports, and in particular in document E/CN.4/1985/8, paragraphs 511 to 513.

415. It should be recalled that this list is prepared pursuant to a request made in 1977 by the Commission on Human Rights in resolution 6 A (XXXIII), for the purpose of instituting an inquiry in respect of any person suspected of being guilty in Namibia of the crime of apartheid or of a violation of human rights under the terms of article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

416. Accordingly, pursuant to Commission on Human Rights resolution 1985/7, the Ad Hoc Working Group of Experts considers that, in addition to the cases already listed in this report, the persons referred to below are suspected of being guilty of the crime of apartheid or of a serious violation of human rights under the terms of articles II and III of the International Convention on the Suppression and Punishment of the Crime of Apartheid:

1. Lieutenant Brand Wessels, age 20, commander of a military patrol, admitted during the inquiry into the death of Barbara Kasiku (64 years), Raphael Gerard (48 years), his son, Gerard (4 years) and Rudolf Erasmus (8 years) that he threw a phosphorescent grenade into the house where they were staying, thus causing their deaths. During the trial, the judge allegedly stated that death was caused by an act or omission causing loss of life and committed by a member of the armed defence forces,

2. In February 1985 as well, members of the police were allegedly relieved of any responsibility for the death of two Namibian civilians who were considered to have been killed by mistake as members of SWAPO. The judge took the view in this case that the members of the police acted pursuant to section 103 ter of the South African Defence Act, which relieves the members of the armed forces of any responsibility when they act in good faith to prevent and punish terrorism in an operational area.

Constable Brian Bartlett, age 26, a member of the South African Security Police, is suspected of being responsible for the death of the two men, one of whom has been identified as Elia Simon, age 24.

PART THREE

CONFERENCES, SYMPOSIA AND SEMINARS

417. In accordance with paragraph 17 of resolution 1985/8 adopted by the Commission on Human Rights at its forty-first session, the Chairman of the Ad Hoc Working Group was authorized to participate in conferences, symposia, seminars or other events connected with action against apartheid organized under the auspices of the Special Committee against Apartheid and the United Nations Council for Namibia.

418. In accordance with that decision and having taken part in or contributed to the work of meetings held during the period under review, the Ad Hoc Working Group intends in this chapter to set out the relevant aspects directly relating to its own work.

A. International Conference on Women and Children under Apartheid  
(Arusha, United Republic of Tanzania, 7 to 10 May 1985)

419. The Conference, organized by the Special Committee against Apartheid in co-operation with the Government of the United Republic of Tanzania and the Organization of African Unity, was intended to:

(a) Review the situation in Southern Africa with particular reference to the plight of women and children in South Africa and Namibia,

(b) Promote the international action in support of oppressed women and children in South Africa and Namibia, especially since the International Conference on women and children held in Brussels in 1982 and

(c) Undertake action to promote greater moral and material assistance to them in their struggle for liberation with particular reference to dissemination of information, political action and financial and material assistance.

420. Owing to his inability to attend the Conference, Mr. Annan A. Cato, acting in his capacity as Chairman of the Ad Hoc Working Group of Experts, and on behalf of the Group, transmitted to the President of the Conference on 3 May 1985, a working paper to aid the Conference in its deliberations. The working paper focused on the plight of women and children under apartheid, a subject which has been under consideration by the Ad Hoc Working Group of Experts for many years at the request of the Commission on Human Rights.

B. Informal inter-organizational meeting held in  
New York on 6 May 1985

421. The Chairman of the Ad Hoc Working Group was invited to participate in the informal inter-organizational meeting organized to co-ordinate the activities of United Nations organs in implementing the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, in compliance with General Assembly resolution 39/16.

422. A working paper describing the activities of the Ad Hoc Working Group of Experts to achieve the objectives of the Second Decade was transmitted to the meeting.

C. International seminar on racist ideologies and organizations hindering efforts for the elimination of apartheid in South Africa (Siofok, Hungary, 9 to 11 September 1985)

423. The seminar was organized by the United Nations Special Committee against Apartheid in co-operation with the Hungarian Solidarity Committee. The purpose of the seminar was to concentrate on apartheid as a fascist ideology and to focus attention on breaches of the peace and the threat to international security resulting from the policies of the South African Government.

424. Mr. Branimir Yankovic, Vice-Chairman of the Ad Hoc Working Group of Experts, attended the above-mentioned seminar on behalf of the Group.

425. The Declaration adopted at the seminar, in its political and ideological approach, calls upon the international community, on this another occasion, to extend any kind of assistance to the people of South Africa and the front-line States in the struggle against apartheid. The Declaration also condemns South Africa's co-operation with Israel.

426. It contains recommendations in respect of all measures taken and legal instruments adopted against apartheid so far, the world's public should be better informed about the struggle against apartheid on all fronts and in all directions, to ensure the boycott of the State and the Government of South Africa. The recommendations include a categorical request that Nelson Mandela be released from prison.