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PROGRESS REPORT PREPARED BY THE AD HOC WORKING GROUP OF
EXPERTS IN ACCORDANCE WITH RESOLUTION 5 (XXXVII) OF THE
COMMISSION ON HUMAN RIGHTS AND RESOLUTION 1981/41 OF THE
ECONOMIC AND SOCIAL COUNCIL

TABLE OF CONTENTS

	<u>Paragraphs</u>
GENERAL INTRODUCTION	1 - 15
CHAPTER	
I SOUTH AFRICA	16 - 251
A. <u>Capital Punishment</u>	25 - 34
1. Reference to some relevant laws	25 - 26
2. Summary of information and evidence received by the <u>Ad Hoc Working Group of Experts</u>	27 - 29
3. The case of the Pretoria Three	30 - 34
B. <u>Violations of the Right to Life, including large-scale killings</u>	35 - 39
C. <u>Treatment of Political Prisoners, Detainees and captured freedom fighters</u>	40 - 60
1. Reference to some relevant laws	41 - 43
2. Summary of information and evidence received	44 - 60
(a) Treatment of detainees	46 - 55
(b) Treatment of political prisoners	54 - 57
(c) Some recent political trials	58
(d) Trials of trade unionists	59
(e) "Treason" trials	60
D. <u>Deaths of Detainees</u>	61 - 62
E. <u>Alleged Responsibility of Security Police Forces: List of persons implicated in cases of torture</u>	63 - 66
F. <u>Forced removals of population</u>	67 - 97
1. Reference to some relevant laws	70 - 74
2. Conditions in resettlement areas	75 - 76
3. Examples of removals	77 - 97
G. <u>The "Bantu Homelands" Policy</u>	98 - 154
1. Summary of relevant legislation	102 - 103
2. Violation of the right of all people to the exercise of sovereignty	104 - 106

CHAPTER	Paragraphs
3. Exploitation of black workers	107 - 110
4. Obstacles to the right freely to pursue economic development	111 - 113
5. Obstacles to the right freely to determine political status	119 - 127
6. Abuse of police powers by the "homeland" authorities	128 - 135
7. Attempts to disrupt national unity and destroy the identity of the blacks	134
II. <u>Conditions of Black workers</u>	135 - 163
1. Conditions of workers in the agricultural sector ..	138 - 146
2. Conditions of workers in the urban (industrial and other) sector	147 - 160
I. <u>Infringement of Trade Union rights</u>	169 - 198
1. The suppression of the right to organize trade unions	172 - 188
(a) Wiehahn Commission and implications of industrial relations "reforms"	172 - 182
(b) Struggle for the acquisition of trade union rights	183 - 188
2. The persecution of workers because of their activities, particularly as a consequence of strike action	189 - 198
J. <u>Student Movements</u>	199 - 230
1. Relevant legislation	201 - 205
2. Student campaigns against the Government's policy of black education	206 - 213
3. Student movements in black universities and schools	219 - 225
4. Student movements in white universities	226 - 230
K. <u>Other serious violations of human rights resulting from the policy of apartheid and racial discrimination</u>	231 - 251
1. Censorship and restrictions on the journalistic profession	231 - 235
2. Bannings	236 - 242
3. Denials of passports and visas	243
4. Violations of transit rights and of the integrity of neighbouring States	244
5. Pass laws	245 - 248

CHAPTER		<u>Paragraphs</u>
II	NAMIBIA	252 - 409
	Introduction	252 - 297
	A. <u>Capital Punishment</u>	298 - 304
	1. Reference to some relevant laws	298
	2. Summary of evidence and information received	299 - 301
	B. <u>Violations of the right to life</u>	305 - 325
	C. <u>Forced removals of population</u>	324 - 334
	D. <u>Other forms of collective prosecution of the population</u>	335
	E. <u>Treatment of political prisoners and captured freedom fighters</u>	336 - 376
	1. Summary of some relevant laws	336 - 342
	2. The police forces: present structure and United Nations proposals	343 - 345
	3. Summary of evidence and information received	346 - 377
	F. <u>Situation of the African black workers</u>	378 - 390
	1. Background information	378 - 380
	2. Summary of information received	381 - 390
	G. <u>Conditions of Africans in the "Homelands"</u>	391 - 402
	1. Background information	391
	2. Summary of recent developments	392 - 394
	3. Summary of evidence and information received	395 - 402
	H. <u>Impediments to student movements</u>	403 - 406
	1. Relevant legislation	404
	2. Summary of evidence received	405
	I. <u>Information concerning persons who have been suspected to be guilty of the crime of apartheid or of a serious violation of human rights</u>	407
III	THE CONDITIONS OF IMPRISONMENT AND THE STATE OF HEALTH OF PERSONS CAPTURED AT KISSINGA AND IMPRISONED AT THE HARDAP DAM CAMP, NEAR MARIENTAL, IN THE SOUTH OF NAMIBIA	410 - 426

<u>CHAPTER</u>		<u>Paragraphs</u>
IV	CONFERENCES, SYMPOSIA AND SEMINARS	427 - 451
	A. UNITAR Colloquium on the prohibition of <u>apartheid</u> , racism and racial discrimination and the achievement of self-determination in International Law (Geneva, Switzerland, 20-24 October 1980)	429 - 432
	B. International Seminar on the "Draft international criminal code and draft statute for the creation of an international criminal court", (Syracuse, Italy, 17-23 May 1981)	433 - 439
	C. International Conference on Sanctions against South Africa (Paris, France, 20-27 May 1981)	440 - 444
	D. International Seminar on Publicity and Role of Mass Media in International Mobilization against <u>Apartheid</u> (Berlin, German Democratic Republic, 31 August - 2 September 1981)	445 - 450
	E. Day of Solidarity with Prisoners of South Africa and Namibia	451
V	ADOPTION OF THE REPORT	452
<u>Annex I</u>	Report on the Seminar on "The draft international criminal code and the draft statute for the creation of an international criminal court" held from 17 to 23 May 1981 in Syracuse (Italy)	
<u>Annex II</u>	Report presented by Mr. Annan A. Cato (Ghana), Representative of the <u>Ad Hoc</u> Working Group of Experts on Southern Africa to the International Conference on Sanctions against South Africa, held in Paris from 20 to 27 May 1981	
<u>Annex III</u>	Report on the International Seminar on "Publicity and Role of Mass Media in the International Mobilization against <u>Apartheid</u> ", held from 31 August to 2 September 1981 in Berlin (German Democratic Republic)	
<u>Annex IV</u>	Statement made by Mr. Keba M'Baye, First President of the Supreme Court of Senegal, on the day of solidarity with South African and Namibian political prisoners, on 12 October 1981, in New York	

ABBREVIATIONS

GENERAL INTRODUCTION

1. The mandate of the Ad Hoc Working Group of Experts set up in 1967 in accordance with resolution 2 (XXIII) of the Commission on Human Rights, which was extended and broadened by several subsequent resolutions of the Commission and of the Economic and Social Council, was renewed by the Commission in resolution 5 (XXXVII) of 23 February 1981. The Economic and Social Council approved this resolution by decision 1981/137.

2. At its 1611th meeting on 23 February 1981, the Commission on Human Rights decided by its resolution 5 (XXXVII) that the Ad Hoc Working Group of Experts would be composed of the following experts, acting in their personal capacity: Mr. Kéba M'Baye (Senegal), Chairman/Rapporteur; Mr. Branimir Jenković (Yugoslavia); Mr. Annan Arkyn Cato (Ghana); Mr. Humberto Díaz-Casanueva (Chile); Mr. Mulkir Govinda Reddy (India); and Mr. Felix Ermacora (Austria).

3. By the same resolution, the Commission decided that the Ad Hoc Working Group of Experts should continue to examine policies and practices which violate human rights in South Africa and in Namibia. In that connection, the Commission requested the Ad Hoc Working Group of Experts to submit a report on its findings to it at its thirty-ninth session at the latest and to submit a progress report to it at its thirty-eighth session.

4. In addition, the Commission decided that the Ad Hoc Working Group of Experts should examine, in particular, the report of the Secretary-General on apartheid as a collective form of slavery (document E/CN.4/Sub.2/449) and the report on child labour in South Africa (document E/CN.4/Sub.2/447, paragraphs 28 to 30) submitted to the Working Group on Slavery at its sixth session by the Anti-Slavery Society and to propose in due course such measures as it deems appropriate. In that connection, the Group decided to give effect to this decision in the final report, which will contain other recommendations.

5. The Commission further requested the Ad Hoc Working Group of Experts in co-operation with the Special Committee against Apartheid: (a) to investigate the conditions of imprisonment and the state of health of persons captured at Kassinga and imprisoned at the Hardap Dam Camp, near Marienthal, in the south of Namibia; (b) to study the effects of the policy of apartheid on black women and children in South Africa, in conformity with General Assembly resolution 35/206 N of 16 December 1980. 1/

6. With a view to giving effect to that decision, the Ad Hoc Working Group of Experts carried out a mission of inquiry in London from 29 June to 3 July 1981, as a result of which it gathered certain information. In the light of this information, the Ad Hoc Working Group of Experts dealt with those matters in accordance with the mandate conferred upon it by the Commission on Human Rights. Consequently, this report also contains a study of the situation of persons captured at Kassinga and imprisoned at the Hardap Dam Camp, near Marienthal.

1/ This study is contained in document E/CN.4/1497

7. Furthermore, the Commission requested the Ad Hoc Working Group of Experts to continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or any other serious violation of human rights and to bring the results of those inquiries to the attention of the Commission on Human Rights. In that connection, the Ad Hoc Working Group of Experts has drawn up a list of the names of persons suspected to be guilty of crimes of apartheid by virtue of their participation in acts of torture. This list supplements those already included in the Ad Hoc Working Group of Experts earlier reports.

8. The Economic and Social Council, for its part, in resolution 1981/41 of 8 May 1981, requested the Ad Hoc Group of Experts to continue to study the question of violations of trade union rights in South Africa and to submit a report thereon to the Commission on Human Rights and to the Economic and Social Council in 1982. The question is dealt with in section I of the chapter on South Africa. In this connection, the Commission's attention is likewise drawn to the draft special report (E/CN.4/1486) prepared in accordance with Economic and Social Council resolution 1981/155 of 8 May 1981. In that report, the Ad Hoc Working Group of Experts considers and analyses a communication containing complaints concerning the exercise of trade union rights in the Republic of South Africa from the International Confederation of Free Trade Unions, which was drawn to its attention in document E/1981/28.

9. Finally, it should be recalled that the Ad Hoc Working Group of Experts, in accordance with the request made by the Commission on Human Rights in its resolution 12 (XXXVI), submitted in 1981 a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the Convention (E/CN.4/1426).

10. At its thirty-seventh session, the Commission on Human Rights, in its resolution 5 (XXXVII), invited every member State of the United Nations to make observations on the draft statutes of the International Penal Tribunal, as envisaged in document E/CN.4/1426, so as to enable the Ad Hoc Working Group to continue its study. In addition, in its resolution 6 (XXXVII), the Commission on Human Rights requested the Secretary-General of the United Nations to invite the States parties to the Convention on the Suppression and Punishment of the Crime of Apartheid to submit their views and comments on the above-mentioned study as prepared by the Ad Hoc Working Group of Experts, in accordance with Commission resolution 12 (XXXVI).

11. On the basis of supplementary replies which will be transmitted to the Ad Hoc Working Group of Experts in response to the requests made in Commission resolutions 5 and 6 (XXXVI), the Ad Hoc Working Group of Experts intends to continue its study as contained in document E/CN.4/1426.

12. This progress report, which has been prepared in accordance with the mandate conferred upon the Ad Hoc Working Group of Experts by the Commission on Human Rights under resolution 5 (XXXVII), as well as by the Economic and Social Council in resolution 1981/41, was adopted by the Ad Hoc Working Group of Experts at meetings held at the United Nations Office in Geneva from 4 to 8 January 1982. This report is based mainly on information received, in the form of oral statements and/or written communications, from persons and various bodies concerned. As in the past, for the purposes of drafting the report, a systematic analysis was made of documents of the United Nations and specialized agencies, official journals and records of the relevant parliamentary debates, publications, newspapers and magazines of various countries, and on works concerned with questions relating to the Group's mandate.

13. In drafting its progress report, the Ad Hoc Working Group of Experts also took account of relevant international norms relating to its activities.

14. The main part of the question relating to women and children under apartheid are dealt with in a special report drafted pursuant to resolution 35/206 N adopted by the General Assembly on 16 December 1980.

15. The Ad Hoc Working Group of Experts will not formulate any conclusions or recommendations in this report, since it intends, as in the past, to include them in its final report, to be submitted to the Commission on Human Rights at its next session, in 1983.

I. SOUTH AFRICA

Introduction

16. During the period covered by this report, the Ad Hoc Working Group of Experts once more received a lot of evidence of continued intensification of resistance to apartheid, as well as of intensified repression: detentions, trials and violence by police and military against unarmed citizens. As in previous years, the Group also received evidence on the continuing implementation of the policy of territorial apartheid, involving "independence" for the black "homelands", mass removals of black people from their homes, and denial of remaining citizenship rights to the majority of the black population.

17. As in recent years, resistance against apartheid has involved workers in struggles to defend black trade unions and to take collective action (see paras. 172-198 below); school and university students, in struggles to put an end to separate and inferior education through boycotts, strikes and demonstrations (see Section J below); and whole communities acting to resist removals (see Section F below). A feature of the recent period has been the growing integration of student, worker and community campaigns, particularly around the anti-Republic Day campaign in May 1981 and the commemoration of 16 June, the day of the Soweto uprisings in 1976 (see paras. 210-215 below).

18. Also, as in recent years, the activity of the combatants has become increasingly effective within the Republic of South Africa's borders.

19. On 28 November 1980 the African National Congress (ANC) made a formal declaration before the International Committee of the Red Cross in Geneva that it intended to respect and be guided by the general principles of humanitarian law applicable in the Geneva Conventions of 1949 and Protocol I of 1977 relating to the protection of victims of international armed conflicts. This declaration involves a solemn undertaking to treat members of the regular armed forces captured as prisoners of war, and to treat civilians according to humanitarian principles.^{2/} The ANC called at the same time for an international campaign to force the South African regime to respect the Geneva Conventions and accord captured guerrillas prisoner of war status.^{3/}

20. According to information published during the period under review, South African government military spending has increased from a total of R72m in 1961 to R3,000m in 1981.^{4/} A particular feature of the current period, according to information before the Ad Hoc Working Group of Experts, has been the growing role of the army in suppressing civil unrest in urban areas.^{5/} But by far the most striking military

^{2/} This declaration has been published in the ICRC Review, January/February 1981. See also United Nations, Treaty Series, Vol. 75, No. 970 to 973.

^{3/} Anti-Apartheid News, January-February 1981.

^{4/} Focus on Political Repression in Southern Africa, (London, International Defence and Aid Fund for Southern Africa, July-August 1981). Hereinafter this publication is referred to as Focus.

^{5/} Focus, September-October 1981.

development has been the unprecedented acts of aggression against neighbouring African States: notably the raid by South African troops into Mozambique in January 1981, killing 12 occupants of ANC refugee residences at Matola, outside the capital Maputo; 6/ and the full-scale invasion of Angola in July 1981 (see Chapter II on Namibia).

21. Once more, the Ad Hoc Working Group of Experts has found little evidence to suggest that the South African regime's promised "reforms" are anything but "cosmetic" in nature.

22. The Ad Hoc Working Group of Experts described in previous reports the scheme to set up a multiracial President's Council, to advise on "non-white" interests, but which would not include representatives of Africans (E/CN.4/1270, para. 23); and the rejection by coloured and Indian leaders of this scheme if blacks were excluded (E/CN.4/1429, para. 52). During the period under review, the Government reiterated its refusal to include Africans and was forced to set up the President's Council in January 1981 on the basis of 60 nominated members in the face of a boycott of the Coloured Representative Council by the majority Labour Party and a campaign among the Indian community to boycott the projected elections for a South African Indian Council. 7/

23. The Government called an election in April 1981, in which the National Party lost seats to the Progressive Federal Party, which opposes apartheid and favours gradual integration of the communities, and to right-wing Afrikaner Nationalist parties, which oppose any modification of white domination. 8/ The Government's election campaign, which stressed the policy of "homeland" political bases for all blacks, was embarrassed, according to information available to the Ad Hoc Working Group of Experts, by the "leaking" of a report by the State-financed Human Sciences Research Council, which concluded that a majority of black men living in urban areas had no or minimal contact with a "homeland" (see para. 122 below). 9/

24. With this background in mind, the Ad Hoc Working Group of Experts has, during the period under review, as in previous years, examined the regime's continued implementation of apartheid through the promoting of "independence" for black "homelands" and the deportation of blacks from "white" areas while depriving them of their rights in those areas; and the regime's continued repression of black resistance to apartheid through repressive laws, detentions and political trials, and acts of military and police brutality.

A. CAPITAL PUNISHMENT

1. Reference to some relevant laws

25. The laws in force providing for the death penalty have been described in previous reports of the Ad Hoc Working Group of Experts (see E/CN.4/1020, paras. 75-81, and E/CN.4/1111, paras. 40-43). Particular attention has been drawn to the Sabotage Act (General Law Amendment Act No. 76 of 1962) and the Terrorism Act (No. 83 of 1967) (see E/CN.4/1135, para. 18, and E/CN.4/1111, paras. 42-43).

6/ Focus, March-April 1981.

7/ United Nations General Assembly document A/CONF.107/3.

8/ The Guardian, 7 April 1981.

9/ The Guardian, 1 August 1981.

26. No legislation has been enacted during the period under review to reduce or extend the circumstances in which the death penalty might apply in South Africa.

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

27. According to information available to the Ad Hoc Working Group of Experts, during 1980 a total of 129 people were hanged in South Africa. Of these, one was white, one Indian, 43 Coloured and 85 Africans. 10/

28. Additional information shows that 69 people had been executed between January and August 1981. South Africa accounts for half the world's known executions. 11/

29. During the period under review, teargas was used to subdue four condemned prisoners before they could be taken from the death cell to the gallows. 12/

3. The case of the Pretoria Three

30. The last report (E/CN.4/1429, para. 112) referred to the opening of the Silverton Bank Siege trial of nine members of the ANC on charges of high treason, murder, attempted murder and terrorism. Three of the accused were sentenced to death in November 1980 for their part in an armed attack on the Soeknekaar police station (see para. 60 (i) below).

31. Appearing before the Ad Hoc Working Group of Experts on behalf of the South African Congress of Trade Unions (SACTU) (547th meeting), Mrs. Cate Clark drew attention to the declaration by the ANC that it would treat all captured South African Defence Force personnel as prisoners of war, and to the ANC's demand that the South African Government should be forced to abide by international law and accord prisoner of war status to captured freedom fighters, including the Pretoria Three.

32. The death sentences provoked protests and condemnations from organizations and individuals internationally. On 5 February 1981, the delegate of France, acting in his capacity as President of the United Nations Security Council, called on the South African regime to consider the "grave concern" with which the Security Council viewed the passing of the death sentences.

10/ Financial Mail, 6 March 1981.

11/ Rand Daily Mail, 6 July 1981; The Guardian, 16 July 1981.

12/ The Guardian, 16 July 1981.

33. The United Nations Special Committee against Apartheid condemned the brutal sentences imposed by the Pretoria Supreme Court on all nine freedom fighters. The Committee maintained that the freedom fighters, engaged in a legitimate struggle against a criminal regime, were entitled to the status of prisoners of war and appealed to Governments and organizations to launch a campaign to save the lives of the three men sentenced to death. 13/

34. In August 1981, three more Treason Trial defendants - Anthony Tsotsobe, Johannes Shabangu and David Moise - accused in connection with the Sasol II explosions in 1980, were also sentenced to death (see para. 60 (ii) below).

B. VIOLATIONS OF THE RIGHT TO LIFE, INCLUDING LARGE-SCALE KILLINGS

35. Ms Ilva Mackay, representative of the SACTU, gave evidence of killings of black workers, particularly trade union activists, by South African policemen and white civilians (551st meeting). She described the case of three Natal members of the National Union of Textile Workers charged with inciting workers to strike in May 1980. While awaiting trial, one, Samson Owele, a shop steward at the Frametex factory, was shot dead by what was called "a masked gunman". She also described the killing of a worker, Khona Mahlangu, at Sigma, the motor manufacturing subsidiary of the Anglo American Corporation and the Chrysler Corporation. The striking workers were dismissed and forced off the plant, and, as they were leaving the factory, a white woman in a car drew a gun and shot Mr. Mahlangu. She has not been charged, although there were witnesses to the crime, the witness said. (see also para. 195 below).

36. According to other information available to the Ad Hoc Working Group of Experts, there were during the period under review a number of inquests into the deaths of people allegedly shot by police. These included:

(a) The inquest on a 14-year-old girl, Shirley September, shot dead on 17 June 1980 by a riot policeman travelling as an armed guard in an ambulance. The magistrate at the inquest found that no one could be held criminally responsible for the death. 14/ At a second formal inquest on the death of the same girl, Mr. Alphonsus Titus, who had been travelling in the ambulance from which the constable shot, gave evidence that the policemen did not shout a warning or fire warning shots before he killed the girl. 15/

13/ See "Review of the Work of the Special Committee against Apartheid", (A/AC.115/L.533), 5 February 1981, pp. 5-6.

14/ Cape Times, 14 March 1981.

15/ Cape Times, 16 May 1981.

(b) The inquest on the death of Avril du Bruyn, shot on 17 June 1981 by a South African police sergeant, John Sterrenberg. According to an eyewitness, Ms du Bruyn had been on her way home when she was killed. The magistrate at the inquest ruled that there was no evidence of any conduct which constituted a criminal offence by the policeman who fired the shot. 16/

(c) The inquest on Mrs. Violet Tsili, shot by Detective Constable G. Dunster in July 1980. Police initially denied shooting Mrs. Tsili, saying they had only used birdshot that day. It was found that Mrs. Tsili was shot by a police revolver. 17/ The inquest magistrate found that no one was responsible for the death. 18/

(d) An inquest held on 24 deaths during unrest in Elsie's River, Cape, in May and June 1980. The magistrate exonerated the police, ruling that the deaths were "justifiable homicide". 19/

37. A boy was shot dead and 12 people injured during a riot in the township of Reiger Park outside the East Rand mining town of Boksburg in May 1981. 20/

38. A former National Party candidate gave evidence in a trial in August 1981 that fellow officers in his army unit joined in killing people in the Msinga district of Kwa-Zulu in June 1979. The court also heard the allegation that combat troops were paid between £333 and £444 for killing members of the Zwide tribe. 21/

39. The Minister of Police, Mr. Louis le Grange, refused in June 1981 to appoint an inquiry into police brutality in the Coloured areas near Johannesburg. A delegation, which included the director of the South African Institute of Race Relations and the president of the South African Council of Churches, met Mr. le Grange to request an inquiry. 22/ The delegation said the police were seen as "a brutal and heartless" force who had declared war on the community. 23/ Mr. le Grange, however, promised to investigate. 24/

16/ Cape Times, 20 March 1981.

17/ Daily Dispatch, 25 March 1981.

18/ Sowetan, 26 March 1981.

19/ Cape Times, 25 June 1981.

20/ The Times, 11 May 1981.

21/ The Guardian, 8 August 1981.

22/ Sowetan, 18 June 1981.

23/ Sowetan, 22 June 1981.

24/ Rand Daily Mail, 18 June 1981.

C. TREATMENT OF POLITICAL PRISONERS, DETAINEES AND CAPTURED FREEDOM FIGHTERS

40. This Section is devoted to an analysis of information concerning treatment of persons while held in detention by virtue of the powers conferred on the police in accordance with the repressive legislation applicable in South Africa. The section deals with the question of: (a) treatment of detainees; (b) treatment of political prisoners and (c) recent political trials.

1. Reference to some relevant laws

41. Previous reports of the Ad Hoc Working Group of Experts (in particular E/CN.4/1159, para. 50; E/CN.4/1187, paras. 30-32) have described legislation governing detention without trial, security legislation that makes a wide range of political acts punishable by law, and the laws governing the conditions of prisoners. At present, individuals in South Africa may be held without trial under three laws: pending the investigation of possible charges under the Terrorism Act or General Laws Amendment Act, under the Criminal Procedure Act of 1977 or under the Internal Security Act's preventive detention clauses in Sections 10 (concerning detention of persons considered to "endanger the security of the State or the maintenance of public order") and 12 (concerning the detention of potential State witnesses).

42. In addition, individuals in the so-called "independent homelands" may be detained without trial under special proclamations which have not been repealed since the "homelands" were granted so-called "independence".

43. Previous reports of the Ad Hoc Working Group of Experts have also drawn attention to laws which limit publication of allegations against the police and discussion of the subject of an inquest (see E/CN.4/1365, paras. 36 and 37), and to the Police Amendment Act No. 1306 of 1980, which makes it illegal to publish information on detentions made in the course of anti-terrorist operations, or in terms of the Terrorism Act, without specific authorization from the police (see E/CN.4/1429, para. 76).

2. Summary of information and evidence received

44. According to information available to the Ad Hoc Working Group of Experts, 440 South Africans out of every 100,000 are prisoners, making South Africa's prison population among the highest in the world. 25/

45. According to additional information available, South Africa's daily prison population has exceeded 100,000. Between June 1979 and June 1980 the daily prison population was 100,677, an increase of 2,385 over the previous year. 26/ The prison population consisted of 4,225 whites, 73,911 blacks, 551 Asians and 21,990 Coloureds. 27/ Evidence given to the Hoexter Commission, investigating the

25/ Cape Times, 15 October 1980.

26/ The Guardian, 26 August 1981.

27/ House of Assembly Debates, 30 January 1981.

legal system, indicated that South African prisons are dangerously overcrowded because of the pass laws and an increase in the number of long-term prisoners. 28/ The Chief Deputy Commissioner of Prisons, Lieutenant General M.C.P. Brink, said that the accommodation shortage was becoming more serious and was 40 per cent for white and 50 per cent for black prisoners. 29/

(a) Treatment of detainees

46. According to information available to the Ad Hoc Working Group of Experts, 956 people were detained by security police and 14 people issued with banning orders in South Africa and the "independent homelands" in 1980. 30/

47. The International Defence and Aid Fund (IDAF), in a paper prepared in December 1980 and handed in as a document at the Ad Hoc Working Group of Experts 1981 hearings (546th meeting), stressed the extreme difficulty of collecting accurate figures on detentions in the light of current legislation. It is stated that "the most general indication of the fact that there are many people in detention about whom there is no public knowledge, is the difference between the official statistics giving the total numbers of people detained and the numbers recorded by the most reliable comprehensive unofficial sources".

48. During the year 1980, the total number of detentions trebled in South Africa. According to the South African Institute of Race Relations, at least 956 people were detained by security police. Since the SAIRR compiles its records from press reports only, the witnesses heard by the Ad Hoc Working Group of Experts estimate that the real total is considerably higher.

49. In January 1981 there were reported to be 150 people being detained in terms of South Africa's main security laws. The Minister of Police told the South African parliament that 52 were detained under the Terrorism Act, 38 under Section 10 of the Internal Security Act, 40 under Section 12 of the Internal Security Act and 20 under the General Laws Amendment Act. 31/ Thirty-one people charged under the Internal Security Act during 1980 spent between 12 and 194 days in detention before being charged. 32/

50. Appearing before the Ad Hoc Working Group of Experts on behalf of Amnesty International (551st meeting), Mr. Philip Malcolm Smart raised the question of the effect of the detention provisions on political trials in South Africa. He said that many State witnesses were being kept in detention for many months, given

28/ Sunday Express, 8 February 1981; Cape Times, 16 February 1981.

29/ Rand Daily Mail, 5 February 1981.

30/ Rand Daily Mail, 12 January 1981; Cape Times, 16 January 1981.

31/ House of Assembly Debates, 30 January 1981.

32/ Cape Times, 31 January 1981.

no legal advice and being subjected to pressure from the security police. Mr. Smart told the Working Group that witnesses were being given harsh sentences for perjury when their evidence disagreed with that of the police and that witnesses who refused to give evidence were held in detention. Mr. Smart stated "The administration of justice has not been very healthy in South Africa for a long time, but the rights of the accused and the rights of the witness have been reduced and reduced and reduced. This is becoming increasingly urgent ...".

51. Cases which came to the Ad Hoc Working Group of Experts' notice, concerning witnesses who were penalized for not giving evidence in court, included those arising in the trials of Wordsworth Mhlana and of Mandla Gxanyana, detailed in paragraphs 58 (vii) and 58 (ix) below.

52. During the period under review, Albert Moloto was acquitted from a charge of perjury after a magistrate decided he was telling the truth about being tortured into making a false statement. The magistrate said he was satisfied that a torture room existed at the Pietermaritzburg police station. 33/

53. The papers also point to the increasing number of potential State witnesses who have been detained incommunicado for the duration of the trial. Some witnesses who have refused to give evidence have been given heavy prison sentences as a result.

(b) Treatment of political prisoners

54. In a document submitted by IDAF to the International Conference on Sanctions against South Africa, held in Paris in 1981, it is stated that over the past three years there has been a shift in major security trials from exclusive use of security laws to greater use of common law charges such as sedition, treason and murder (see paras. 59 and 60 below). 34/ Hence increasing numbers of political "offenders" are not appearing in the statistics relating to political offences at all, but are hidden in general crime statistics. In addition, more and more trials which could involve the "security of the State" are being held in secret conditions: in camera, in whole or in part; or in remote areas, prisons or police stations. 35/

55. Several witnesses before the Ad Hoc Working Group of Experts gave evidence on their experiences in prison. Mr. Dipheke Chiloane (551st meeting) gave evidence about his 15-year imprisonment on Robben Island. He described how when he, at the age of 21, and his colleagues, some of whom were just 16 years of age, arrived at Robben Island they were shocked at the way the hardened criminals lived and at the level of violence in the prison. He said he and his

33/ Rand Daily Mail, 27 May 1981.

34/ "Developments in South Africa since the Uprising in 1976" (A/CONF.107/3, p. 22).

35/ Ibid., p. 23.

comrades were thrown to the criminals and were made to live with them. Mr. Chiloane described the primitive sanitation and cramped cells. Only one bucket was provided for 80 prisoners. He described how the warders allowed the criminals to abuse the political prisoners and said that many of the youngsters were raped. He described how the warders abused the prisoners. He said that when he left prison he was given three orders - a deportation order, a restriction order and a house arrest order. Mr. Chiloane further described life on Robben Island. He said beds were only introduced in 1977.

56. During the period under review, the Minister of Police and Prisons made an out-of-court settlement with nine Robben Island prisoners after they had sued following an assault by warders in a Transvaal jail. 36/

57. During the period under review, Nelson Mandela failed to obtain a Supreme Court order permitting him to hand written instructions to his attorney freely. 37/

(c) Some recent political trials

58. Some of the most important political trials which have been drawn to the attention of the Working Group during the period under review are summarized below:

(i) Somngcuka and others

Mlungisi Elliot Somngcuka and Monde Dugmore Johnson were sentenced to five years each after being found guilty under the Terrorism Act of unlawfully consenting to undergo military training outside South Africa. The magistrate commented that, if it had been in his power to do so, he would have passed on them a lesser sentence, but five years is the minimum under the Act. 38/

(ii) Bentley and Mzinyathi

Archibald Monty Mzinyathi was sentenced to seven years under the Terrorism Act. The trial took one year and Mr. Mzinyathi was convicted of returning to South Africa as an ANC guerrilla after undergoing military training in the USSR. Bingo Mbonjeni Bentley was acquitted of harbouring him on his return to South Africa in 1978. 39/

36/ Cape Times, 30 May 1981.

37/ Cape Times, 1 October 1980, 24 October 1980.

38/ Post and Rand Daily Mail, 2 October 1980.

39/ Rand Daily Mail, 10 October 1980.

(iii) Mogale and Makunyane

Ephraim Mogale, the President of the Congress of South African Students, and Thabo Makunyane, a former student at the University of Natal, were each sentenced to eight years' imprisonment. They were convicted under the Terrorism Act of furthering the aims of the ANC and of communism. 40/

(iv) Khumalo and Dladlu

Raphael Mzikayifani Khumalo and Raymond Veli Dladlu were charged under the Terrorism Act with having received military training outside South Africa, being in possession of firearms and explosives, and conveying guerrillas between Swaziland and South Africa. Mr. Dladlu also faced an alternative charge of furthering the aims of ANC. 41/ A State witness who was not named, refused to give evidence in the trial. He said he would only decide after consulting his legal adviser and was then remanded in custody. 42/ Both accused were acquitted in April 1981. 43/

(v) Ribeiro and others

Dr. Fabian Defu Ribeiro, Jan Caiaphas Mashilo and a 16-year old youth were tried on five counts under the Terrorism Act. Dr. Ribeiro was charged with inciting or encouraging seven youths to undergo military training outside South Africa, and supplying them with money. The two youths were charged with attempting to go for military training abroad. 44/ Mr. Mashilo and the youth were convicted and sentenced to five years each. Dr. Ribeiro was found not guilty and acquitted. The two sentenced have appealed. 45/

(vi) Berger and Pillay

Guy Berger, a Rhodes University lecturer and journalist, and Devcandiren Pillay, a sociology student, were convicted in the Port Elizabeth Regional Court on charges under the Internal Security Act and Publications Act. Mr. Berger was sentenced to four years' imprisonment and Mr. Pillay to two years' imprisonment,

40/ Rand Daily Mail, 18 October 1980; Sunday Post, 19 October 1980.

41/ Rand Daily Mail, 10 February 1981.

42/ Rand Daily Mail, 11 February 1981.

43/ Post, 27 April 1981.

44/ Rand Daily Mail, 17 October 1980.

45/ Sowetan, 2 March 1981.

and in addition both were fined R400 (or four months). 46/ During the trial Mr. Berger gave evidence on how he had been deprived of sleep by security policemen 52 hours after his detention. During interrogation he was ordered to remove some of his clothes and stand in front of a draughty window, while a security policeman brandishing a cane circled him and asked questions. 47/

(vii) Wordsworth Mhlana

Wordsworth Mhlana was charged under the Terrorism and Internal Security Acts with receiving military training outside South Africa. He was also charged with being an active member or official of ANC. 48/ During the trial, a State witness, Weaver Magchye, was jailed for three and a half years after refusing to answer questions and for giving a clenched fist salute from the witness box. Mr. Mhlana was convicted and sentenced to eight years' imprisonment on 2 April, and an application for appeal against both conviction and sentence was refused. 49/ Mr. Mhlana gave evidence in court about his treatment by the security police. He said he was given no food, beaten with a hosepipe and forced to smoke a long cigarette until he became sick. Later he was made to undress, a broom was tied between his knees and through his arms, a knotted rag was forced into his mouth and a wet canvas bag tied over his head. He was asked to identify someone and threatened with being placed in leg irons and drowned. 50/ On another occasion he was forced to crawl with a firearm and undergo exercises for half a day and one night. If he stopped he was hit with a hosepipe. 51/

(viii) Dr. Motlana and others

Three members of the Soweto Committee of Ten - Dr. Nthato Motlana, Tom Manthata and Leonard Mosala and a school principal, Sidney Motingoa, have been charged with convening or addressing a meeting on 24 August 1980 when all gatherings of a political nature for more than 10 people were banned. 52/

46/ Sowetan, 13 March 1981.

47/ Star, 24 February 1981; Cape Times, 26 February 1981.

48/ Evening Post, 9 March 1981.

49/ Eastern Province Herald, 3 April 1981.

50/ Evening Post, 12 March 1981.

51/ Eastern Province Herald, 13 March 1981.

52/ Sowetan, 20 March 1981.

(ix) Mandla Gxanyana

Mandla Gxanyana, an artist from East London, who was acquitted of being a member of ANC, was sentenced to one and a half years' imprisonment (half of which was suspended for five years) and fined R250 for possessing and distributing banned literature. During the trial, Bonisile Norushe, a local secretary of the African Food and Canning Workers Union, refused to testify as a State witness. He had been held for over seven months before the trial and was then sentenced to one year's imprisonment for failing to testify. ^{53/}

(d) Trials of trade unionists

(i) Oscar Mpetha and 18 others

59. Ms. Ilva Mackay (551st meeting) drew the Group's attention to the trial of Oscar Mpetha and to SACTU's call on the United Nations to back up with further action its appeal to intensify the campaign to free Oscar Mpetha. Oscar Mpetha, a founder member of SACTU, and 18 others were charged on 4 December 1980 on two counts, for the murder of two motorists who died during unrest at Crossroads, and one count under the Terrorism Act. The State claimed that Mpetha was the "brains" behind unrest at Crossroads in August 1980 and had organized a bus boycott (see para. 81 below). ^{54/} A 15-year old girl gave evidence against the defendants in camera, despite permission from her parents to give evidence in open court. ^{55/} Under cross-questioning, the girl gave contradictory evidence and it was revealed that she might have identified some of the accused incorrectly. One of the accused complained that a security policeman signalled to the girl as she gave evidence. ^{56/} During the trial Oscar Mpetha was admitted to hospital for his diabetic condition. Despite international demands for his release, he and the 18 continued to stand trial. ^{57/} The detainees had been put in single cells and were permitted to shower only once a week. Some of them were, in addition, refused visits. ^{58/} When the trial opened on 3 March, seven demonstrators were arrested outside the court and police attacked demonstrators with dogs and batons. ^{59/}

53/ Daily Dispatch, 9 April 1981.

54/ Cape Times, 16 April 1981.

55/ Rand Daily Mail, 29 April 1981.

56/ Cape Times, 14 May 1981.

57/ Cape Times, 12 December 1980.

58/ Cape Times, 7 January 1981.

59/ Cape Times, 6 March 1981.

(ii) Black Allied Workers' Union leaders

The Group's last report (E/CN.4/1429, para. 103) referred to the trial of the three executive members of the Black Allied Workers' Union, all charged under the Sabotage Act. During the period under review, the trial was repeatedly postponed by the Johannesburg Magistrates' Court. One of the accused, Joseph Mavi, formally laid a charge of contempt of court against the Johannesburg City Council after the Council distributed 140,000 copies of a newsletter defending its handling of the municipal workers' strike.^{60/} The three were eventually acquitted on 4 March on charges of inciting an illegal strike. The court found that the work stoppage by the municipal workers did not constitute a strike because the Johannesburg City Council had not complied with its contract of employment by failing to pay wages.^{61/} According to information submitted to the Group by the ICFTU, Mr. Joseph Mavi was released in September 1981.

(e) "Treason" trials

60. The Ad Hoc Working Group of Experts, in its previous report (E/CN.4/1429, para. 112), referred to the reintroduction of charges of high treason in political cases. During the period under review, two treason trials have been conducted: The Silverton Bank siege trial and the Sasol trial.

(i) The Silverton Bank siege trial

The start of this trial was reported in the previous report of the Ad Hoc Working Group of Experts (E/CN.4/1429, para. 112). Mrs. Cate Clarke (547th meeting) presented papers to the Ad Hoc Working Group of Experts on the trial, which ended in November 1980 with death sentences for three of the accused (see para. 31 above) and prison sentences of between 10 and 20 years for the six other accused. During the trial, 130 witnesses were called. Evidence of State witnesses was heard in camera. Several of the accused testified that they had been tortured while in detention. One of them, Ikayeng Molegatsi, told of how a plastic bag was put over his head and how he was given electric shocks. As the death sentences were announced, police clashed with crowds outside the courts who were singing freedom songs and shouting slogans.

(ii) Sasol "treason" trial

Three alleged members of the African National Congress, Anthony Tsotsobe, Johannes Shabangu and David Moise, were charged with participating in the attack on the Booysens police station, the bombing of the Sasol II installations, Diepkloof West Rand Administration Board (WRAB) offices, Dube railway station and the gutting of Uncle Tom's Hall in mid-1980. They faced further charges of establishing underground bases and being in possession of arms, ammunition and explosives.^{62/} According to the Rand Daily Mail, during the trial,

^{60/} Post, 30 September 1980; Rand Daily Mail, 2 and 8 October 1980; Cape Times, 18 October 1980.

^{61/} Rand Daily Mail, 21 February 1981.

^{62/} Sowetan, 21 July 1981.

Mr. Tsotsobe described how he had been assaulted by security police, and said that the statements he had made to the police were inadmissible since they had been extracted by torture. His head was covered by a wet cloth sack and he was repeatedly hit by a hosepipe.^{63/} The trial was postponed to allow defence counsel to consult witnesses. A medical statement by a specialist surgeon testified to the fact that Mr. Tsotsobe had three pairs of roughly parallel marks in the skin of his back which were consistent with beating by a hosepipe.^{64/} When the trial resumed, the defence called witnesses to testify as to how they had been beaten in the hands of the security police. One, a Rolani standard five pupil, said she had been beaten with a hosepipe in Pretoria police station. Two men said they had been tortured with electric wires and their hands and feet bound together.^{65/} The accused were all found guilty and sentenced to death for high treason. Nine people were arrested when spectators poured out of the courtroom to give a black power salute.^{66/}

D. DEATHS OF DETAINEES

61. A previous report of the Ad Hoc Working Group of Experts (E/CN.4/1270, paras. 112-122) reviews deaths in detention between 1953 and 1977. A further report of the Ad Hoc Working Group of Experts (E/CN.4/1366) analyses 18 cases of murder of detainees.

62. In its last report (E/CN.4/1429, para. 116) the Ad Hoc Working Group of Experts described the first investigation by the South African Medical Council into the conduct of three doctors who attended Steve Biko before he died in detention. Controversy about his death which caused a strong international reaction, was reactivated when the Medical Association of South Africa and the South African Medical and Dental Council exonerated the three doctors who treated Mr. Biko during his imprisonment. In response to pressure aimed at the Medical Association of South Africa, the Association instituted a second inquiry into the death during the period under review.^{67/} Only one of the three doctors said he was prepared to testify.^{68/} On behalf of the Anti-Apartheid Movement Mrs. Cate Clarke (547th meeting) submitted documentation concerning a campaign to isolate the South African medical profession. The campaign charges that the three doctors ignored unmistakable signs of brain damage in Mr. Biko, falsified his medical reports and recommended that he travel 700 miles while critically injured. After his death, the South African medical and Dental Council (SAMDC) waited two and a half years before considering an inquiry and then decided that there were no grounds for one. The Medical Association of South Africa (MASA) endorsed this decision. The Anti-Apartheid Movement suggests that, since the South African Medical and Dental Council failed so clearly to maintain standards of medical conduct in the Biko case, countries abroad should consider no longer accepting certificates of "good standing" from the SAMDC for South African doctors seeking employment; and that the MASA should be denied re-entry into the World Medical Association (WMA).^{69/}

63/ Rand Daily Mail, 9 June 1981.

64/ Sowetan, 11 June 1981.

65/ Sowetan, 22 July 1981.

66/ The Guardian, 20 August 1981.

67/ Rand Daily Mail, 9 June 1981; Cape Times, 14 May 1981.

68/ Rand Daily Mail, 21 February 1981, 15 May 1981.

69/ Anti-Apartheid Movement, The Biko Doctors: Isolate the South African Medical Profession and MASA and the World Medical Association, June 1981.

E. ALLEGED RESPONSIBILITY OF SECURITY POLICE FORCES: LIST OF PERSONS IMPLICATED IN CASES OF TORTURE

63. In a special report submitted to the Commission on Human Rights at its thirty-seventh session in 1981 (E/CN.4/1366), the Ad Hoc Working Group of Experts examined the alleged responsibility of members of the security forces in cases of murder, torture and deprivation of liberty, and fundamental rights in South Africa. The report lists 37 cases and names specific police officers identified as being suspected of having been guilty of the crime of apartheid in accordance with articles II and III of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

64. During the period under review, personal testimony from witnesses, as well as documents handed in as evidence and press reports made available to the Ad Hoc Working Group of Experts, indicate that the systematic torture of detainees and brutality to prisoners described in the supplementary report persist.

65. One police officer, Lt. A. Trollip of the Soweto Security Police, was, however, named in the Sasol treason trial; Lt. Visser was named by the witness Masterpiece Gumede; and Major Strydom and Lt. van Eck were named by the witness Gladstone Moroka. Four men gave evidence in the Sasol treason trial on how they had been tortured by the security police. Mr. Vuyisile Mdleleni, a banned former member of the Black People's Convention, said that Lt. A. Trollip had tied handcuffs so tightly round his wrist that they had to be removed at Uabulani Fire Station with a hacksaw and pliers. Mr. Mdleleni told the court that he was kept naked in cold weather, deprived of sleep, leg-ironed and handcuffed so that he could not eat. 70/ Further reference was made to Sergeant Nel, at Algos Park police station, who allegedly beat with a hosepipe four 14-16-year old boys, accused of sabotage and arson, into signing confessions (see E/CN.4/1311, para. 110) in 1978. Further documentation on this case and the imprisonment of these boys on Robben Island was submitted to the Ad Hoc Working Group of Experts. 71/ Sgt. Nel is named in the Special Report of the Ad Hoc Working Group of Experts (E/CN.4/1366, cases 18, 19).

66. In July 1981 the Black Allied Workers' Union called for a fresh and proper investigation into allegations of torture of several of the union's officials by the security police. 72/

F. FORCED REMOVALS OF POPULATION

67. In its previous reports, the Ad Hoc Working Group of Experts documented the forced removals of populations consequent on the policy of territorial apartheid. In its last three reports (E/CN.4/1311, paras. 139-142; E/CN.4/1365, paras. 89-90; and E/CN.4/1429, paras. 121-124) the Ad Hoc Working Group of Experts noted that such removals had been accelerated in connection with the implementation of the "independent homeland" and migrant labour policies.

70/ Voice, 1 July 1981

71/ John D. Jackson, Justice in South Africa, London, Penguin Books, 1980, pp. 169-175.

72/ Sowetan, 23 July 1981.

68. At that time the Ad Hoc Working Group of Experts had also noted the deterioration of conditions of people in resettlement areas.

69. During the period under review, the Ad Hoc Working Group of Experts has noted the continuation of mass removals and the resulting human suffering. It noted in particular that individuals, whole families and large groups are in many cases moved more than once; and that influx control laws are still being rigorously enforced against individual Africans in urban areas (see paras. 94-97 below).

1. Reference to some relevant laws

70. A feature noted during the period under review has been an increase in prosecutions under the Group Areas Act, under which urban areas have been allocated for specific racial groups (see paras. 89-93 below).

71. A further development has been the use of "immigration legislation", rather than the pass laws, to remove Africans from urban areas. The immigration laws allow the authorities to fail people on conviction for up to six months without the option of a fine, or to deport them summarily. These laws are invoked on the argument that blacks are citizens of an "independent homeland" and not of the Republic of South Africa (see para. 84 below).

72. Squatters' legal representatives suspect that the summary deportation powers are being invoked in order to circumvent the defence of squatters' cases in the courts. 73/

73. Leading attorneys, advocates and law academies, at a meeting of Lawyers for Human Rights during the period under review, attacked a proposed Black Community Development Bill on the grounds that it would aggravate the plight of millions of black South Africans and further erode basic human rights. They said the proposed legislation did not "recognize the fundamental right of a citizen in the land of his birth to live and work in the place of his choice" and would lead to increased unemployment, poverty and overcrowding - particularly in the "homelands". 74/

74. The Black Community Development Bill, published in November 1980, follows recommendations of the Riekert Commission to replace the Black Urban Areas (Consolidation) Act, whose section 10 (i) defines the conditions under which Africans "qualify" to remain in an urban area for more than 72 hours. The main conditions for qualification would depend on having lawful employment and "approved accommodation", so that control over Africans would shift "from the streets and the police to the places of employment and accommodation". Already, fines on employers who employ "unregistered labour" have been increased to R500. Recruitment of labour has been largely restricted to labour bureaux and preferential treatment given to Africans who already have rights to be in urban areas - people without such rights, even though they find employment, frequently find themselves denied registration. 75/

73/ The Guardian, 20 August 1981.

74/ Cape Times, 27 January 1981.

75/ Focus 32, January-February 1981.

2. Conditions in resettlement areas

75. In its last report (E/CN.4/1429, paras. 126-132) the Ad Hoc Working Group of Experts dealt extensively with conditions in the dormitory towns and resettlement camps in the "homelands" to which Africans have been forcibly removed. According to information available to the Ad Hoc Working Group of Experts, conditions in the resettlement areas have continued to deteriorate during the period under review. Among the instances drawn to the attention of the Ad Hoc Working Group of Experts are the following:

(a) The Onverwacht resettlement area, 57 miles from Bloemfontein, officially houses 65,000 people but probably houses at least double that. According to observers, no sewer system exists and rows of bucket toilets are used. About 50 per cent of the people are unemployed and the population is plagued by water shortages, inadequate housing and malnutrition. 76/

(b) Sixty-five families removed from Kwaggafontein, one of the eight resettlement villages in the Kwa Ndebele "homeland", are unable to find work or raise crops. They receive water only once a week and there will be no reservoir in the area until at least 1985. 77/

(c) The Kwa Ndebele "homeland" government anticipates a further influx of one million people drawn from all over the Transvaal. They are not sure where these people can be settled. 78/

76. Quoting Professor Rodney Davenport, a Rhodes University history professor, the Sowetan stated that the South African Government's policy of resettlement is in danger of becoming "genocide". He pointed to the alarmingly high infant mortality rate in the resettlement areas. 79/

3. Examples of removals

77. The Ad Hoc Working Group of Experts has, in previous reports, categorized mass removals of the population as "black spot" removals (of Africans in an area declared for white habitation); farm labour removals (of labour tenants and squatters as "redundant labour" from white farms); land consolidation removals (consequent on redrawing of borders of African reserves in pursuance of the "independent homeland policy"); and urban removals (covering removals of Africans from urban areas where they are "surplus to labour requirements"). It has also covered removals of Asians and Coloured people under the Group Areas Act. In its last report (E/CN.4/1429, para. 134) the Ad Hoc Working Group of Experts also referred to removals involving movements within bantustans, following powers granted to the "homeland governments". The Ad Hoc Working Group of Experts lists below some examples of population removal:

76/ Sowetan, 20 March 1981.

77/ The Star, 25 April 1981

78/ Ibid.

79/ Rand Daily Mail, 26 June 1981.

(a) "Black spot" removals

78. "Black spot" removals have continued during the period under review. Recent examples particularly affected those people whose right to freehold land predates the Blacks (Urban Areas) Consolidation Act 1945 or who have fallen foul of the Group Areas Act. Whole areas such as Ladysmith, Kliptown, Alexandria and Pageview have been racially reconstructed. One example of a mass removal is at St. Wendolin's, outside Pinetown, Johannesburg, where 1,100 families were moved to two areas inside the Kwa Zulu "homeland". Among those threatened were 75 families who possessed freehold title deeds. The area is being "redeveloped" for Indian occupation. 80/

79. The East Cape Administration Board planned to remove 900 people from Riebeck East, another so-called black spot. The Board was building houses in Aicedale and planned to move all the families and demolish the township. 81/

80. During the period under review, families in Valspan, a northern Cape town, were told to move to an area in the Bophuthatswana "homeland". This is the second time these families have been moved. Once in Bophuthatswana, many of the people will be forced to commute to work and to shop in white areas, and the local administration board admitted that they would build hostels to house men who wanted to stay in the town and work.

(b) Squatter removals

81. Previous reports of the Ad Hoc Working Group of Experts (E/CN.4/1365, para. 105, E/CN.4/1429, para. 143) have dealt with Crossroads, a squatter camp outside Cape Town. The witness, Mrs. Peggy Preston (547th meeting) submitted a document which described the treatment of 800 people arrested during raids on Crossroads in September 1978. The document was based on interviews carried out with 131 of the detainees who spent time in police or court cells. Many of them, including 22 women, seven of whom had babies with them, were given no food or water for 38 hours of detention. The witness told the Ad Hoc Working Group of Experts how she was herself present during one of these raids.

82. In August 1981 some 2,000 people were arrested at Crossroads by hundreds of police with dogs. The squatters' homes were torn down. The people arrested were held not under the pass laws but under immigration legislation, on the grounds that they were Transkeian citizens and therefore "aliens". Legal representatives charged that the summary deportation powers under the immigration law were being invoked in order to evade the courts. 82/

83. The case of the squatter camp in the Nyanga township raised once more the question of deportation of blacks from towns to rural homelands. In a study carried out by Jan Lange, a researcher at the University of South Africa in Pretoria, the author explained the reasons which pushed blacks to return in towns despite going back to a precarious existence and risking arrest, prosecution and deportation again. 83/ According to The Economist, the author found that blacks who left Ciskei to work "illegally" in Cape Town - i.e., without Government permission - "stood to improve their economic position by 764 per cent". Mr. Lange also calculated the economic effect if blacks spent long periods in prison as a result of influx

80/ Financial Mail, 2 January 1981.

81/ Eastern Province Herald, 1 May 1981.

82/ The Guardian, 20 August 1981.

83/ The Economist, 29 August 1980.

control offences and were able to work only part of the year. He worked out that if they managed to find work for only one month they would still improve their economic position by more than 60 per cent. According to information available to the Ad Hoc Working Group of Experts, M.P. Helen Suzman described the evictions as "an outrage" stating that "the use of brute force on the squatters will have the most profound ill effects on race relations here and on attitudes towards South Africa from the rest of the civilized world". 84/ In this connection the Western contact group (Canada, Federal Republic of Germany, France, United Kingdom and United States of America) decided to appeal to the South African Government to give humanitarian considerations high priority in the handling of the situation in the Nyanga crossroads area. However the protest against the treatment of Cape squatters was opposed by the United States. 85/

84. During the period under review, more than 1,000 people were arrested near the black township of Nyanga, outside Cape Town. Most of the detainees had been squatting on open land at Epigangeni. 86/ After Government officials had destroyed the homes of the squatters, they barred outsiders from helping the homeless people. Officials seized and burnt firewood donated to the families, and 119 people were treated by doctors after the squatters were left in the open during one of the severest daylight storms of the winter. 87/ Officials then set up roadblocks to prevent the people from returning to their homes. Later, police fired teargas at a crowd of 1,000 of the squatters after church people had tried in vain to persuade them (the police) to allow food through the roadblocks. 88/ Police then raided the squatter refuge and arrested some 2,000 people, and charged them under immigration legislation (see para. 71 above). 89/ Some 1,000 were deported by bus, escorted by police vehicles, to the Transkei border, where they were transferred to railway coaches in what was described in the press as "one of the toughest influx control measures the country has seen". Roadblocks were then set up around the Transkei border to prevent the squatters' return. 90/ Other squatters, including 250 sick children, were offered refuge in a Nyanga church, and a few days later 800 of these, too, were arrested in a "pre-dawn police swoop". Questions on the deportations were dealt with by the Minister of Foreign Affairs, who said the deported squatters were "not South African citizens. They are like Mexicans in the United States". He also said that the number of adults forced into deportation leaving their children behind was "very small". One woman was reported to have had to walk back 250 km to her two-year old daughter in Cape Town. 91/

84/ Newsweek, 31 August 1981.

85/ Rand Daily Mail, 24 August 1981; Le Monde, 25-26 August 1981; International Herald Tribune, 24 August 1981.

86/ Morning Star, 17 July 1981; Le Monde, 20-21 August 1981; The Guardian, 18-25 August 1981; The Citizen, 21 August 1981; The Times, 21 August 1981; International Herald Tribune, 21 August 1981.

87/ The Guardian, 13 August 1981.

88/ The Guardian, 14 August 1981.

89/ The Guardian, 20 August 1981.

90/ The Guardian, 22 August 1981.

91/ Ibid., 22 and 28 August 1981.

85. During the period under review, officials of the Western Cape Administration Board also carried out a number of raids on the Langa Barracks and evicted squatters from Hout Bay, Table View and Killarney who had been moved to the barracks by the Board in 1980. Despite a promise by the Administration Boards that the squatters would be given houses if they broke their shacks and moved to the barracks, the evicted people were left homeless. 92/ Hundreds of people were evicted in the first two raids and a further 500 were given notice to vacate in the middle of March. They had been offered train tickets to the Transkei and Ciskei "homelands", which they refused. 93/

86. Nearly 200 men, women and children, evicted from the barracks, spent a night in the open at Crossroads. Families interviewed said that many of them had been living in Cape Town for up to 20 years and had been unable to acquire the necessary permission to live in the area legally. 94/ The Minister of Co-operation and Development said that new squatters settling at Crossroads would not be tolerated and that strong action would in future be taken against them. Dr. Koornhof said that he had given instructions that the women and children should return to the "homelands". 95/

87. A squatters' camp comprising more than 100 families grew up in the Ciskei "homeland" during the period under review. Many of the families said they had been forced to squat by the antagonistic attitudes of their former employers. 96/

88. The question of deportations continued to be an issue of conflict between the South African and "homeland governments" during the period under review. As noted in previous reports of the Ad Hoc Working Group of Experts the "homelands" have neither work nor services to support the deportees. Accordingly, after South African police forced the removal of 1,000 people to the Transkei in August 1981, the Transkei "government" apparently helped them to return. Chief George Matanzima said that he was protesting against the Pretoria Government's decision to "dump" the squatters in the Transkei and that he thought the whole exercise "... appears to be a thinly veiled attempt to suggest collusion between South Africa and Transkei on the eviction of blacks from the Western Cape." 97/

92/ Cape Times, 11 March 1981.

93/ Cape Times, 21 March 1981.

94/ Cape Times, 18 May 1981.

95/ Cape Times, 23 May 1981.

96/ Daily Dispatch, 10 March 1981.

97/ The Guardian, 25 August 1981.

(c) Group Area removals

89. According to information before the Ad Hoc Working Group of Experts, the application of the governmental policy has led to very significant displacements of population. At the end of 1980 there were 841 Group Areas for whites comprising 767,544 ha; 581 for Coloureds, comprising 93,848 ha; and 258 for Indians and other Asians comprising 45,747 ha. 98/ Since the Group Areas Act was first applied in 1957, 116,272 families, of which 1.9 per cent were white, 66.9 per cent Coloured and 31.2 per cent Indians and other Asians, have been moved. 99/ Additional information available to the Group indicates that a total of about 600,000 people have been moved under the Group Areas Act. The Minister of Community Development told the South African Parliament that another 3,300 families in the Cape Peninsula were still to be moved in terms of the Act. 100/

90. During 1980, 4,016 families were moved under the Group Areas Act. Thirty-one of the families were white; 2,842 were Coloured and 1,143 Indian. 101/

91. According to information available to the Ad Hoc Working Group of Experts, more than 31,000 families altogether have been moved from their homes in the Cape Peninsula under the Group Areas Act. 102/

92. At the beginning of 1981, tenants on land owned by Indians and other Asians, Coloured and Africans at Mbulwane, near Ladysmith, had their homes torn down by bulldozers without first receiving any warning. They were offered no alternative accommodation. 103/

93. During the period under review, four special courts were set up in Johannesburg to prosecute Indians and other Asians, Coloureds and Africans who were said to be living illegally in "white" areas. Six hundred cases were to be brought before the courts. 104/ The prosecutions began on 2 March 1981, but 233 of the pending cases were postponed for six months to allow legal representatives to investigate the cases, 105/ and 125 were withdrawn because the accused had vacated their "illegal abodes". 106/

98/ Financial Mail, 6 March 1981.

99/ Cape Times, 18 March 1981.

100/ Cape Times, 22 May 1981.

101/ Rand Daily Mail, 25 February 1981.

102/ Rand Daily Mail, 20 February 1981.

103/ Sunday Tribune, 4 January 1981; Rand Daily Mail, 30 January 1981.

104/ Star, 21 February 1981.

105/ Cape Times, 3 March 1981.

106/ Financial Mail, 20 February 1981.

(d) Influx control

94. As in previous years information before the Ad Hoc Working Group of Experts indicates that in contrast to claims of the régime that influx control has been relaxed, influx control remains a major means by which Africans are deported from urban areas to the "homelands" and appears indeed to have been recently intensified. Two recent court cases underlined the way in which pass law officials "undermine black people's already limited rights": one in which the appeal court upheld the right of a worker with rights under Section 10 of the Urban Areas Act to have his wife live with him; and a second in which the court ruled that a man who had been in the same job for 11 years had acquired rights under Section 10, although he had been compelled to return to a "homeland" as a migrant worker once every year. 107/

95. Commenting on the fact that more than 12 million people have been arrested on pass law offences in South Africa since 1948, Professor Michael Savage, head of the University of Cape Town's Department of Sociology, said in April 1981 that "... naked racism is dictating, via the law, that blacks migrating to the cities must be treated differently from whites". 108/

96. Among cases brought to the attention of the Ad Hoc Working Group of Experts were those of an elderly boiler attendant who pleaded guilty to charges of allowing his two children to visit him during their school holidays; a man who was found guilty of allowing his wife to stay with him when she was ill; and a woman who was found guilty of illegally accommodating her husband. 109/

97. Early in 1981, a Pretoria prosecutor, Mr. Adam Klein, left his job in protest against procedures in the trials of people charged under the pass laws. He said that there is a standing instruction from the Department of Co-operation and Development to the courts to postpone routinely all pass law cases for at least three working days while the accused are held in custody; and that the Aid Centres set up by the Government supposedly to help uneducated black people avoid prosecution under the pass laws, in fact investigate charges and prepare cases against black people without having to comply with judges' rules. He also cited cases where aged and insane people were tried for pass offences without regard to their age or mental condition, giving as an example the case of a 93-year-old senile man in hospital who was charged in his absence. He also complained that parents are not informed when their children aged under 18 are tried. 110/

107/ The Guardian, 28 September 1981.

108/ Sowetan, 8 April 1981.

109/ Rand Daily Mail, 16 April 1981.

110/ Sowetan, 22 March 1981.

G. THE "BANTU HOMELANDS" POLICY

98. The historical background to the "Bantu homelands" policy has been reviewed in previous reports of the Ad hoc Working Group of Experts (notably E/CN.4/1050, and E/CN.4/1187, paras. 93-97). Recent reports of the Group (E/CN.4/1270, E/CN.4/1411, E/CN.4/1365 and E/CN.4/1429) have considered the question of the "homelands" specifically in relation to the rights of peoples to self-determination, as defined and developed by the United Nations, in the light of the South African Government's claims to be offering the "homelands" so-called "political independence".

99. During the period under review, a new "homeland", the Ciskei, has joined Transkei, Bophuthatswana and Venda as "independent homelands". The process is further described in paragraph 103 below.

100. The United Nations General Assembly, in its review of the work of the Special Committee against apartheid has drawn the attention of the international community to the moves of the racist régime of South Africa to grant so-called "independence" to the Ciskei. An appeal was made to Governments and organizations to denounce the move to "independence". 111/

101. There have been continued protests by black South Africans about the deprivation of their rights to live and work in "white" areas, and their loss of South African citizenship as a result of the "homeland" policy. Paragraph 123 below describes the withdrawal of three bills which would further have eroded these rights inside South Africa, following widespread protest. As in previous years, land and poverty and the compulsory removal of "non-productive" Africans from "white" areas to "resettlement" areas within the "homelands" were major issues brought before the Ad hoc Working Group of Experts (Section F, paras. 78-87 above). These and other questions are discussed below in the light of the principle of the rights of people to self-determination as incorporated in the Declaration on the Granting of Independence to Colonial Countries and Peoples (see E/CN.4/1222, para. 125).

1. Summary of relevant legislation

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

103. During the period under review, the Transkei Criminal Amendment Act was passed. The Act makes it an offence for anyone to publish information about the Government which is "prejudicial" to the interest of the State, and makes it mandatory for a person to disclose his source of information to the police. The penalty for refusal to disclose such information carries a maximum three-year prison sentence or R3,000 fine. 112/ The Act also makes it an offence for public service employees to disclose information gained through their employment without permission from their heads of department; but, in any prosecution, it will be presumed that the recipient knew that information disclosed to him contravened the Act unless the contrary is

111/ A/HC.115/L.533, 5 February 1981.

112/ Daily Dispatch, 16 and 23 April 1981, 6 May 1981.

proved. 113/ Opposition members of the Transkei "parliament" attacked the Bill as a devastating blow to freedom and democracy. 114/ During the passage of the Bill, the Transkei "Minister of Justice", Mr. T.T. Letlaka, responded to some of the protests by amending the section that made it an offence to publish any information about the Government without Government approval. 115/

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

104. The grounds on which the "independence" of the "homelands" violates the right to sovereignty have been detailed in previous reports of the Ad hoc Working Group of Experts. During the period under review, the black majority have continued to be denied any right to sovereignty over 87 per cent of South African land.

105. According to information available to the Ad hoc Working Group of Experts, "independence" is being increasingly imposed on the people of the "homelands" against their will, and that black South Africans do not want to take part in the legislative process only inside the "homelands".

106. During the period under review, Chief Minister L.L. Sebe piloted a motion through the Ciskei legislative assembly on Ciskei's "independence". He said that as long as adequate development capital was provided and the Van der Walt Commission proposals were implemented, the Ciskei "government" would formally approach the South African Government and request "independence". Chief Sebe said he had already agreed with the South African Government on a number of issues, including the rights of nationality as between South Africa and Ciskei citizens. 116/ Professor George Quail, chairman of the Ciskei-appointed "Commission of Inquiry into Independence", said he was "shocked and disappointed" by Chief Sebe's move. Professor Quail said that the referendum called to sound out Ciskeians on independence was being treated as a "mere formality". 117/ In the referendum, 40.5 per cent refused to vote. Among the voters 295,891 voted for "independence", 1,642 voted against and 2,198 spoiled their papers. 118/ According to Professor Lawrence Schlemmer, who conducted a survey on Ciskeians' opinions on "independence", this vote was a result of a combination of the politics of boycott and of fear. During the run-up to the referendum Chief Sebe advised those who would not vote in favour of "independence" to stay away from the referendum, with a veiled threat of possible imprisonment if they did not obey him. He said: "... if you choose the worst - to betray the nation - do not go to the polling stations. The spirits of our great chiefs will make a piercing cry: Deliver him or her to the officer and be cast into prison." 119/ In March 1981, Chief Sebe signed an "independence" agreement with the South African Government which will make

113/ Daily Dispatch, 11 April 1981.

114/ Ibid.

115/ Daily Dispatch, 16 April 1981.

116/ Daily Dispatch, 9 November 1980.

117/ Star, 29 November 1980.

118/ Cape Times, 18 December 1980.

119/ Sunday Times, 21 December 1980.

Ciskei "independent" on 4 December 1981. 120/ The agreement included a refusal by the South African Government to grant South African citizenship to Ciskei "citizens". Chief Sebe said he "was not entirely satisfied" but that he would concentrate on the economic aspects rather than the "purely political ones". 121/

3. Exploitation of black workers

107. Previous reports of the Ad hoc Working Group of Experts (notably E/CN.4/1270 and E/CN.4/1311) have described the exploitative nature of the policy of migrant labour, whereby black workers are forced to "migrate" to "white" areas to work under contract and to live separate from their families.

108. A report on migrant labour, published during the period under review, found that of a sample of 206 working males, 185 (nearly 90 per cent) were away from home at work. The report says that the migrant labour system is responsible for breaking up homes. 122/

109. A study of conditions among 1,000 rural households in the Ciskei found that during the mid-1960s most workers were unemployed or underemployed, and concluded that the general under-utilization of labour explained the extreme and widespread poverty in the area. Figures from 300 households in one of the wealthiest areas of the Ciskei, Mdantsane, in 1975 showed that 217 people were seeking work but unable to find any. The unemployment rate was 23 per cent, and 70 per cent of the income came from migrant workers. 123/

110. According to further information before the Ad hoc Working Group of Experts, for every job created in Transkei there are 120 potential work-seekers. Ratios for Bophuthatswana and Venda are 1:190 and 1:120 respectively. An officer at the South African Institute of Race Relations argued that it is against Pretoria's interests effectively to stimulate industrial and agricultural growth in the three territories, as it would be inimical to the interests of South African-based industry and agriculture. 124/

4. Obstacles to the right freely to pursue economic development

111. As in previous years, evidence has come before the Ad hoc Working Group of Experts to demonstrate the fundamental economic dependence of the "homelands" upon the Republic of South Africa. Mr. T.K. Mopeli, Chief Minister of the QwaQwa "homeland" said, during the period under review, that he would not consider "independence" because it was not financially possible. He said that 94 per cent of those classified as QwaQwa citizens live outside the "homeland". 125/

112. An officer of the South African Institute of Race Relations said that the "independent homelands" are really neo-colonial dependencies in the "Nkrumah sense". He said that Transkei, Bophuthatswana and Venda are able to generate only 23 per cent,

120/ Rand Daily Mail, 21 February 1981.

121/ Daily Dispatch, 26 February 1981.

122/ Voice Weekly, 18-24 March 1981.

123/ Daily Dispatch, 26 November 1980.

124/ Rand Daily Mail, 28 October 1980.

125/ Cape Herald, 7 March 1981.

33 per cent and 23 per cent respectively of their own incomes, and that the percentages of their nationals who live permanently in South Africa and who are entirely dependent on South Africa for their livelihood are 40 per cent, 44 per cent and 24 per cent respectively. 126/

113. During 1979 and 1980, South Africa spent R125,222,293 in grants and services to the Transkei. In addition, South Africa's payments to the Transkei in terms of customs and excise agreements totalled another R88.4 million. Venda and Bophuthatswana received a total of R87 million in grants and services. 127/

114. In a report on the Ciskei (Ciskei: Economics and Politics of Dependence in a South African Homeland) it is stated that it relies heavily on subsistence agriculture, which accounts for between 19.5 per cent and 41 per cent of the gross domestic product between 1960 and 1971. The Ciskei is a land of extreme poverty and 91 per cent of households received an income below the poverty datum line. Forty per cent of the families fail to provide sufficient food for their own requirements. The report said: "It must be concluded that the Ciskei does not have an autonomous economy, nor any prospect of one. It remains a poverty stricken area in one of the less developed regions of the Republic, its economic future firmly tied to the chariot wheels of the South African economy.". 128/

115. According to a report by Christian Consultation, the Ciskei faces a future of rural famine and even death if "homeland consolidation" and resettlement continues. 129/

116. An investigation in Kwa Zulu found that "... poverty and malnutrition are so rife that the traditional Zulu physique is changing: the amaZulu in the area are becoming a puny, stunted and mentally enfeebled people". 130/

117. According to further information available to the ad hoc Working Group of Experts, poverty in the Kwa Zulu "homeland" is appalling. A survey by the Association for Rural Advancement said that hundreds of thousands of peasants live in a subhuman existence and that "it seems miraculous that they are able to survive at all". The survey said that the scale of resettlement in the "homeland" is immense and that people are being deprived of land and jobs when forced to move. The Deputy Director General of the South African Department of Manpower Utilization estimated that, at the current growth rate of 3.6 per cent, unemployment would increase from 900,000 in 1977 to 2.4 million in 1987. 131/

126/ Rand Daily Mail, 28 October 1980.

127/ Daily Dispatch, 10 February 1981.

128/ Daily Dispatch, 26 November 1980.

129/ Rand Daily Mail, 20 April 1981.

130/ Voice Weekly, 18-25 March 1981.

131/ Rand Daily Mail, 2 October 1980.

118. Families removed to the "homeland" of Ka Ngwane are living in crowded shacks with no ground to cultivate and no water to irrigate crops for food. Many of the shacks are made of corrugated cardboard or beer cartons. 132/

5. Obstacles to the right freely to determine political status

119. Previous reports of the Ad hoc Working Group of Experts have identified among the obstacles to determine freely political status: (a) the question of citizenship and (b) the enforced removals to the "homelands". During the period under review, further evidence was made available to the group on these two issues.

120. With the "independence" of Transkei, Bophuthatswana, Venda and Ciskei, about 7,390,000 black South Africans have gained the so-called citizenship of these homelands and by virtue of this the South African Government denies them the South African citizenship. 133/

121. Paragraph 106 above describes how a further number of black South Africans will lose their citizenship as a result of the "independence" of Ciskei. A report by Christian Consultation issued during the period under review notes that of 2,100,000 Xhosa speakers identified by the South African Government as Ciskeians, two thirds live and work in "white" South Africa. 134/

122. According to information available to the Ad hoc Working Group of Experts, the South African Government tried to suppress a report which showed that most black South Africans had minimal contact with the "homelands". The report, based on surveys conducted in 1978, found that 57 per cent of black men in "white" urban areas were born there, that 80 per cent had neither children nor parents living in a "homeland", that 40 per cent did not know whether their "homeland" had a representative in their area and that 60 per cent had not visited a "homeland". 135/

123. During the period under review, the South African Government withdrew three parliamentary bills, saying that it would refer them to a Committee of Experts for a "penetrating revision". The bills would have severely curtailed the freedom of movement of large sections of the country's black population and eroded the remaining rights of blacks living in urban areas. The implication of one of the draft bills was that people already removed to "homelands" would become prohibited immigrants in the land of their birth. 136/

124. During the period under review, an officer at the South African Institute of Race Relations said that the so-called "independent homelands" were ruled by local élites who are dependent on South Africa for political support, and who "permit the exploitation of their territories in the interests of white South Africa, as well as in their own personal interests". 137/

132/ Sunday Express, 9 November 1980.

133/ Sowetan, 17 March 1981.

134/ Rand Daily Mail, 20 April 1981.

135/ The Guardian, 7 April 1981.

136/ Sunday Express, 1 February 1981; Financial Times, 7 February 1981.

137/ Rand Daily Mail, 28 October 1980.

125. One casualty of the citizenship laws was a 75-year-old woman who was not given her pension for a year because she was holding a Bophuthatswana "passport". Mrs. Maria Mogorosi lost her pass book in January 1980 and it was replaced with a Bophuthatswana "passport" when she requested a new pass. As a result, she was refused her pension. 138/

126. According to information available to the Ad hoc Working Group of Experts, tension broke out on the "border" between the Kwa Zulu "homeland" and Natal. White farmers alleged that animals belonging to black people were grazing on their land, whilst the black people said that the farmers were confiscating their animals. The tension had arisen out of the abolition of the labour-tenant system. Previous to August 1980, squatters on these farms were allowed to cultivate some land and graze their cattle on condition that they worked for the farmers for six months of each year. This system was discontinued, in line with the Government's policy of ending the labour-tenant system, and farmers had to register full-time labourers on a quota system and force the squatters to leave. As a result, families who had nowhere to go stayed illegally, and were fined, or moved a short distance away, to find their animals strayed back to the old grazing patch. Several families who moved into the "homeland" were not allowed to take their animals with them. There were various reports of white farmers shooting animals belonging to Africans and of farmers fining the animal owners. According to the chairman of the Weenen and District Farmers' Association, "In one or two cases, farmers may be making more from impounding cattle than by farming". 139/

127. According to a Cape Town study, a net total of two million black people had been moved into the "homelands" in the past 20 years. 140/

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

128. Previous reports of the Ad hoc Working Group of Experts have detailed the transfer of repressive powers by the South African Government to the "homeland" authorities. Information available to the Group indicates that these powers continue to be used.

Ciskei

129. Ms. Ilva Mackay, a witness to the Ad hoc Working Group of Experts (551st meeting), told of the detention in April 1981 of 18 men by the Ciskei Central Intelligence Service. All 18 were members either of the South African Allied Workers' Union or former employees of the Wilson-Rowntree factory. Ms. Mackay described how 21 Wilson-Rowntree workers (whose strike is described in paras. 191 and 197 below) were detained under Proclamation R252 of the Ciskei in February 1981. In June 1981, she said, there were further reports of between 40 and 50 workers arrested in the Ciskei, although Chief Sebo acknowledged that only 33 had been arrested, under the Riotous Assemblies Act. Ms. Mackay told the Ad hoc Working Group of Experts that 24 other members of the South African Allied Workers' Union were being held under Proclamation R252.

138/ Sowetan, 2 April 1981.

139/ Sunday Times, 19 October 1980; Rand Daily Mail, 11 February 1981.

140/ Rand Daily Mail, 18 March 1981.

130. According to information made available to the Ad hoc Working Group of Experts, Mr. Joseph Kobo, former editor of the official Ciskei government newspaper, was arrested and detained in the Ciskei on 19 January 1979, charged with having participated in an illegal bus strike. He was later released since, on the grounds that he was not a bus driver, he could not have participated in the strike. He was served with an order banishing him from the Ciskei in terms of Proclamation R252, was given 48 hours to leave and was unable to visit his wife and children. Mr. Kobo was unable to get work, since the only jobs offered to him involved travelling into the Ciskei. He approached Chief George Matanzima of the Transkei to ask for help. When he arrived for his appointment, he was arrested and placed in solitary confinement from 17 August 1979 to 28 August 1980. During his detention, he was tortured and hung from a rope for a number of days. He was given no medical attention and was finally released without charge. 141/

Transkei

131. Opposition MPs of the Transkei "National Assembly" said they failed to hold public meetings because people were scared to attend their meetings. They likened the situation in the Transkei to a reign of terror. 142/

132. A journalist, Mr. Marcus Ngani, was deported from the Transkei and taken across an unmanned part of the border by the Transkei police after South African border post officials refused to accept him. Professor John Dugard of the Centre for Applied Legal Studies said that in law a State may not deport its own nationals and citizens, and that the deportation was "an acknowledgement of the farce behind the policy of separate citizenship for independent homelands". 143/

Lebowa

133. During the period under review, eight officials of the Azanian People's Organization were detained in the Lebowa "homeland". Dr. Cedric Phatudi said that Lebowa police had co-operated with the South African security police in the detentions. Dr. Phatudi banned all meetings in Lebowa and hundreds of people crossed the so-called border into South Africa to hold a meeting about the detentions and about a continuing bus boycott which had started in protest at steep rises in bus fares. 144/

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

134. During the period under review, the "homeland" policy has continued to disrupt the national unity of black South Africans, not only by dividing them according to their supposedly traditional tribal groups, but also by causing conflicts between urban and "homeland" Africans and between "homeland" Africans and the groups of their own or other "tribe" forcibly removed into "homeland" dumping grounds.

141/ Voice, 8-14 October 1980.

142/ Rand Daily Mail, 25 March 1981.

143/ Rand Daily Mail, 11 November 1980.

144/ The Guardian, 11 October 1980.

H. CONDITIONS OF BLACK WORKERS

135. Previous reports of the Ad Hoc Working Group of Experts have reported extensively on the conditions of black workers under apartheid. Evidence before the Ad Hoc Working Group of Experts has continued to confirm the conclusion of the International Labour Organisation that the policy of apartheid involves inequality of income and opportunities, which are determined more by race than by any other factor.

136. In the period under review, the Ad Hoc Working Group of Experts has looked particularly at the so-called "reforms" resulting from the reports of the Wiehahn and Riekert Commissions (see E/CN.4/1311, paras. 253-262; E/CN.4/1365, paras 184-195; E/CN.4/1429, paras. 245-249, 256), notably at the draft legislation introduced in the South African parliament in the latter half of 1980 and withdrawn, and further legislation introduced in 1981 but not enacted since parliament was dissolved in March 1981 for a general election (see paras. 140, 159 and 165 below).

137. The Ad Hoc Working Group of Experts has also received information on massive unemployment among black workers; the continued poverty level of wages, in the agricultural and industrial sectors of the economy; and in particular at the situation of women domestic workers as the lowest paid in both the agricultural and urban areas.

1. Conditions of workers in the agricultural sector

138. Previous reports of the Ad Hoc Working Group of Experts (notably E/CN.4/1187, paras. 130-172; E/CN.4/1222, paras. 184-213; E/CN.4/1270, paras. 139-154; E/CN.4/1429, paras. 220-234) have described the plight of black farm workers as the most numerous and most exploited sector of the South African workforce. During its field mission in 1981, the Ad Hoc Working Group of Experts did not take further personal testimony on the conditions of agricultural workers; but, according to information transmitted to it this sector is specifically excluded from any "reforms" proposed in the new labour legislation published during the period under review (see paras. 143, 159 below).

(a) Recruitment of workers

139. The methods of recruiting black agricultural workers were described in earlier reports of the Ad Hoc Working Group of Experts (E/CN.4/1187, paras. 134-144; E/CN.4/1222, paras. 186-191; E/CN.4/1270, paras. 141-147; E/CN.4/1429, paras. 221-223), notably the reliance on "influx control" through the pass system to keep Africans out of the towns; the policy of imposing migrant labour on agricultural workers in place of the squatter and labour tenant systems whereby farmworkers lived with their families on the farmer's, or neighbouring, land; and the role of Labour Exchanges in the "homelands" as the principal official places of enrolment for labour.

140. According to information available to the Ad Hoc Working Group of Experts, under the proposed legislation, Labour Exchanges in the "homelands" are to continue to direct African labour; and under three bills brought before parliament in 1980 but withdrawn for redrafting (see para. 123 above) following an outcry from employers and academics, as well as from welfare organizations such as the South African Institute of Race Relations and the Black Sash, influx control would

in fact be reinforced against the vast majority of black workers. The Institute claimed that the bills represented a "hardening" of influx control which would create an urban black élite but condemn the rural areas to continued poverty. 145/

141. Evidence was given in the Ad Hoc Working Group of Experts' previous report on a study by the Anti-Slavery Society on the exploitation of child labour by farmers in the Eastern Transvaal and Natal (E/CN.4/1429, paras. 230-234). Further details of this study, conducted in 1979 and 1980, have been made available to the Working Group.

(b) Wages and working conditions

142. According to official figures made available to the Ad Hoc Working Group of Experts, agriculture employed a total of 562,927 black workers in 1979, in a total workforce of 3,884,031. 146/ The basis for collection of these figures is not clear to the Group (see notes on unemployment statistics, paras. 166-168 below). However, these figures would seem to indicate a considerable drop in the proportion of agricultural to other employment. From being the single largest employer of black labour, agriculture now seems to employ fewer than mining and quarrying (659,961), manufacturing (647,444) and domestic service (611,901). This trend would appear to be linked with the increased mechanization of agriculture, combined with government policies to end labour tenant and squatter systems on the farms, which have tended to reduce considerably the number of full-time farmworkers and replace them with seasonal and casual labour.

143. The Ad Hoc Working Group of Experts has not had any official figures made available to it on wages in the agricultural sector. According to information available, however, the proposed Wage Amendment Bill, like the Wage Act of 1957 which it is planned to amend, will specifically exclude agricultural and domestic workers from its minimum wage and conditions of employment determinations. In addition, the proposed Labour Relations Bill, to amend the Industrial Conciliation Act of 1956 (see paras. 173-175 below) will not lift the specific prohibition against persons employed in agriculture or domestic service from joining a trade union. 147/

144. The Ad Hoc Working Group of Experts has once more before it evidence of brutality by farmers against their black employees. Among the cases drawn to the Group's attention during the period under review are:

(a) A 45-year-old farm labourer was found dead in a cellar at Storms River, Cape, after being allegedly assaulted twice by a farmer and a group of labourers. Another labourer was seriously injured in another alleged assault on the same farm in the same week. 148/

145/ International Labour Organisation, Seventeenth Special Report of the Director General on the Application of the Declaration concerning the policy of Apartheid of the Republic of South Africa, (Genova, 1981), pp. 10, 29-31.

146/ South African Institute of Race Relations, Survey of Race Relations 1980, p. 115.

147/ ILO, op.cit., pp. 7 and 10.

148/ Rand Daily Mail, 29 March 1981.

(b) Women workers at a poultry farm at Ottery, Cape, complained of being treated "like slaves", of unhealthy, damp working conditions, being fined 20c for coming late out of an average wage of R24 per week, and being sworn at. A spokesman for the company said that he was not covered by the Factories Act - "We are in fact a farm.". 149/

(c) A tenant on a farm at Brakfontein, Cape, charged his farmer landlord with locking him in a refrigeration room after assaulting him so that he coughed up blood. 150/

145. According to further information available to the Ad Hoc Working Group of Experts, an independent "ombudsman", Mr. Eugene Roelofse, has launched a national investigation into assault and torture of farm labourers. He told the University of the Witwatersrand during the period under review that "the idea that farmers are allowed to beat labourers at their own discretion was as South African as boerewors", and that "South Africa is the only country except Chile where agricultural productivity is dependent on violence towards the labourer". He gave as examples a Natal farmer who shot a pregnant woman because she stole a log of wood; a Transvaal farmer who beat two labourers with a whip which he had made from a stick and a coat hanger, because they were the last to finish picking a row of tomatoes; and a Kalahari farmer who applied electric shocks to a young labourer on his hands, chest and toes after one of his sows went missing. Mr. Roelofse also talked about the high incidence of farm labourers being beaten naked, having their clothes cut from their bodies after an assault, or having their sexual organs wounded, which, he argued, indicated a high level of sexual perversion. His office was campaigning against the release of a farmer who had served only 18 months of a three-year sentence for culpable homicide: the farmer had chained three workers together and flogged them so that one died. 151/

(c) Prison labour

146. According to information before the Ad Hoc Working Group of Experts, none of the projected labour legislation is expected to change the system whereby convicted prisoners may be hired out as farm labour, as described in previous reports of the Working Group. 152/

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

(a) Wages and working conditions

147. Previous reports of the Ad Hoc Working Group of Experts have stressed the wide gap that persists between white and black earnings in South Africa, in spite of the South African Government's claims that it was narrowing in percentage terms. The International Labour Organisation, in its Sixteenth Special Report, found that even in 1978 the gap was continuing to widen even in percentage terms (see E/CN.4/1429, para. 237), and its Seventeenth Special Report concluded that the gap was decreasing by 1979 in percentage terms only, at an average 0.67 per cent per year, and that in absolute, or money, terms, the gap was continuing to widen

149/ Cape Herald, 4 April 1981.

150/ Daily Despatch, 10 June 1981.

151/ Cape Times, undated.

152/ ILO, op.cit., p. 63.

significantly. The following tables compiled by the ILO show the wage gap first in percentage and then in absolute terms for the period 1970-1980. 153/

Average money wages of Blacks as percentages of those of Whites,
1970 and 1980

Sector	1970	1980	Average annual growth rate
Mining	5.1	15.8	1.07
Manufacturing	17.3	23.6	0.63
Electricity	16.2	23.5	0.73
Construction	14.9	19.2	0.43
Trade	22.1	27.6	0.75
Transport and communications	17.4	26.4	0.90
Finance and insurance	23.4	35.0	1.16
Government and public services	15.9	26.5	1.06

Source: Extracted from National Manpower Commission (NMC) data.

The gap between black and white earnings ranged from two to five times the level of black average monthly earnings, as shown in the following table. 154/

Average monthly earnings, by racial group, in various sectors of the economy, 1970 and 1980 (in Rands) */

Sector	Racial Group							
	White		Coloured		Asian		Black	
	1970	1980	1970	1980	1970	1980	1970	1980
Mining	356	1 057	70	310	92	433	18	168
Manufacturing	300	917	71	254	76	287	52	217
Electricity	333	894	81	326	-	-	54	210
Construction	316	898	106	276	135	454	47	173
Trade	208	504	64	186	91	277	46	139
Transport and communications	281	748	77	195	78	344	49	198
Finance and insurance	261	740	87	319	144	430	61	259
Government and public services	264	634	89	229	104	420	42	168

Source: National Manpower Commission (NMC).

*/ R1.00 = \$US1.00.

153/ Ibid., p. 53

154/ ILO., op.cit., p. 52.

148. Inflation is a further factor eroding the effect of wage increases for black workers. The rate of inflation, which in June 1980 was calculated to be 14.1 per cent, is expected by some observers to run as high as 20 per cent in 1981. 155/ Food prices, however, which affect low income groups most acutely, were reported to be rising by the end of 1980 at a rate of 51 per cent per year. 156/ Rent increases also affect the poorest - in Soweto, according to information before the Working Group, rent increases totalling 75.2 per cent were announced in 1980. 157/

149. Some categories of black employees in the public sector have benefited from the Government's announcement in 1979 that pay discrimination was to be abolished between white and black State employees, though these are to be selective at first for certain occupations and without commitment to any time-scale. By early 1981, however, in the Ministry of Posts and Telecommunications, white technicians were starting at R5 220-R6 210, per year, and black qualified technicians at R3 816 per year. Only 17 black technicians so far had qualified. And on the railways, according to a parliamentary spokesman for the white "opposition", the fact that white railway workers would get a 12 per cent rise and the blacks 15 per cent "did not mean that the blacks' position in absolute terms was improving faster than that of the whites". 158/

150. According to information available to the Ad Hoc Working Group of Experts, black teachers have attacked through the African Teachers Association of South Africa (ATASA) the salary scales for teachers announced in March 1981. One educationist described them as "a slap in the face for African teachers". Although the higher grades had received substantial increases, black teachers would still receive lower pay than their white counterparts; while more than 80 per cent would be no better off than before - mainly those teachers with only standard 8 education and two years' teacher-training. Some would earn only R123.50 per month. 159/

151. Other groups of workers who still remain poorly paid, according to information before the Ad Hoc Working Group of Experts, include factory workers earning between R9.81 and R15.75 per week, for 27 to 46 hours worked; 160/ and security-firm employed nightwatchmen earning R148 per month in Port Elizabeth. The latter is endorsed by the Wage Board, although it is R50 below the locally-calculated minimum to support a family. 161/ Newspaper vendors employed by Allied Publishing, the major newspaper distributor in South Africa, were being paid R22 a week before negotiations with the Commercial, Catering and Allied Workers' Union increased the minimum wage to R42.50. The union criticized the firm for advertising for children to deliver papers as a move to replace union members with "cheaper child labour". 162/

155/ South African Journal of Labour Relations, vol. 4, September-December 1980.

156/ Profiteering from Cheap Labour, Supplement, South African Labour Education Project, London 1981.

157/ South African Journal of Labour Relations, op. cit.

158/ Ibid., vol. 5, June 1981.

159/ Rand Daily Mail, 28 March 1981.

160/ Cape Herald, 4 April 1981.

161/ Eastern Province Herald, 14 May 1981.

162/ Rand Daily Mail, 25 March 1981.

(i) Codes of Conduct

152. A previous report of the Ad Hoc Working Group of Experts (E/CN.4/1311, para. 272) outlined the terms of the code of conduct recommended by the member Governments of the EEC to national and multinational companies operating in South Africa. Once more information is before the Ad Hoc Working Group of Experts indicating that the various Codes of Conduct advocated by the European Economic Community and the United States Congress (the Sullivan Principles) were having little impact on the wages and conditions of black workers employed by foreign companies. According to Mr. F. Sauls, General Secretary of the National Union of Motor Assembly and Rubber Workers, the codes served primarily to improve companies' credibility - they were drawn up without prior consultation with workers and were being implemented in the same paternalistic way. And according to Christian Concern for Southern Africa (CCSA) many observers saw the code as a policy that was never really intended to work but one which was introduced in order to deflect pressure for withdrawal from South Africa. The British Government had effectively abdicated any responsibility even for the minimal pressure of public exposure and the effort made to monitor the code had also been reduced. 163/

153. The Ad Hoc Working Group of Experts has before it a list of wages paid by British companies in South Africa, based on reports by British companies with subsidiaries in South Africa, and published in April 1981, showing that the 10 British companies paying the lowest wages paid at that date between R16.16 and R21.94 per week. 164/

(ii) Miners

154. In mid-1980 the Chamber of Mines agreed on wage increases for black miners, raising the minimum underground wage to R100 per month and surface wage to R75. These represented increases of 15 per cent and 28 per cent respectively. A spokesman for the Chamber (employers) pointed out that the increase did not reduce the differential between black and white miners' pay in real terms. The new wages, to affect some 500,000 workers, will increase total costs to the mining companies by only 5.5 per cent, as labour costs constitute only an average 25 per cent of total costs. 165/ The Johannesburg Rand Daily Mail called the increase "tightfisted", pointing out that mining is "still a low-wage industry and employers cannot afford simply to make piecemeal wage adjustments. Vast structural improvements are needed before the mines have cause to be proud of the wages they pay." The paper added that a massive gold price rise had recently increased after-tax profits by 52 per cent, and that industry leaders had promised a really big increase but offered only slightly above the 16 per cent awarded to white mine officials. "The inescapable conclusion is that the mines have retreated from a commitment to wage reform." 166/

155. According to information available to the Ad Hoc Working Group of Experts, the accident rate on South African mines is still unacceptably high: the death rate in South African coal-mines is 1.3 per thousand, compared with 0.27 per thousand in the United Kingdom. A total of 912 men were killed and 25,298 injured on the mines

163/ ILO, op.cit., p.22.

164/ Profiteering from Cheap Labour ..., op.cit.

165/ Financial Mail, 4 July 1980; The Guardian, 1 July 1980.

166/ Rand Daily Mail, 3 July 1980.

in 1978; 563 men were killed on the gold mines in 1979 and 19,308 injured. According to a retired mining engineer, apartheid increases risks on the mines because skilled jobs have been restricted to whites, whose numbers are limited, and "unskilled" Africans often did their work, causing accidents. He claimed that African miners die four times as frequently in accidents as one would expect, proving that they were left unsupervised. 167/

156. Further information before the Ad Hoc Working Group of Experts confirms that black miners are in fact doing skilled work, unsupervised, though not that they lack the necessary skills. A letter signed "Black Miner, Carletonville" in a Johannesburg newspaper claims "white miners are so lazy that they delegate all their duties and responsibilities to the blacks. The result is that the training in skills denied to blacks by officialdom is taught to them by white miners ... Today, black miners are well skilled in blasting and virtually all aspects of mining." The writer says he has been a team leader underground for 25 years. 168/

157. The Ad Hoc Working Group of Experts has also noted the continuing high rate of deaths resulting from violent incidents in mining compounds. In August 1980, 19 black miners were killed in clashes allegedly between Basotho and Pondo (Xhosa-speaking) miners. According to a study by the Southern Africa Labour and Development Research Unit (SALDRU), 205 men were killed in 80 such "incidents" between 1972 and 1979. It was concluded that the policy of migrant labour, which confines workers on single sex compounds, not only isolates them from the rest of the community but also contains them in tribally-based groups. Tasks in the mines also tend to be tribally allocated - i.e., top posts are often held by Basotho long-service contract workers, thus barring Xhosa from promotion. The study alleges that the purpose behind the tribal differentiation is to prevent a super-tribal class consciousness developing. 169/

158. Under an amendment to the Unemployment Insurance Act passed during the period under review, black mineworkers will be covered by unemployment insurance, up to now confined to white workers. 170/ Black miners receive settlements in terms of the Worker's Compensation Act, but white miners receive an extra R10,000 in life cover. 171/

(iii) Conditions of women workers

159. The Wage Amendment Bill, discussed in the South African parliament during the period under review but held up by the announcement of the general election, abolishes sex discrimination in the minimum wages laid down by the Wages Board. It does not, however, embody the principle of equal pay for equal work, and will not affect employers paying slightly above the minimum wage, professional women, or women doing work falling outside the control of the Wages Board - including domestic and agricultural work, where the vast majority of black women are employed. According to a spokesman of the Food and Canning Workers' Union, in whose trade over 60 per cent of the workers are women, "Employers paying minimum wages can find ways around it. In addition, wages set by wage determinations are so low, and are generally what employers are paying anyway. In no real sense will the Bill push up wages." 172/

167/ SAIRR, op.cit., pp. 125-126.

168/ Sunday Times, 10 May 1981.

169/ The Guardian, 4 August 1980.

170/ Rand Daily Mail, 3 February 1981.

171/ South African Journal of Labour Relations, op.cit.

172/ Rand Daily Mail, 26 February 1981.

(b) Job reservation

160. No further job reservation determinations have been abolished during the period under review; those applicable to certain municipal employees in the Western Cape and to sampling, surveying and ventilation operations in the mining industry remain in force. In addition, the Mines and Works Act, which prohibits blacks from holding blasting certificates and therefore effectively from skilled status in the mines, remains in force. 173/

161. According to information available to the Ad Hoc Working Group of Experts, however, the Witchahn Commission, in part 6 of its report, not yet published, has dealt with the question of job reservation in the mines and the question became a major issue during the April 1981 election, the white Mineworkers' Union accusing the Government of having taken the decision to permit black workers to hold certificates. 174/

162. In his Seventeenth Special Report (1981), the Director-General of the ILO points out that the predominant and most effective form of job reservation has been, and remains, closed shop agreements with white unions. "The government's decision to allow existing closed shop agreements to continue provides an effective means of enabling those already benefiting from the agreement to continue to protect their positions by controlling the admission of black workers into skilled membership and thus into skilled jobs." Such agreements exist in some 20 economic sectors, affecting some 340,000 workers. 175/

163. A further fundamental limitation on advancement of black workers, according to the ILO, involves the definition of the term "employee" in the Industrial Conciliation Amendment Act, 1979, which includes only Africans "legally" employed and "permanently resident" in white areas of the Republic - "border-area" commuters and Africans resident in "homelands" are excluded by the Act but included by Ministerial proclamation. Black unions, according to the ILO, "are of the opinion that what the Minister has granted by proclamation may be taken away by the same means". 176/ Since the definition of the term "employee" governs the right of an individual to join a trade union and, if access to skilled jobs depends, through closed shop agreements, on union membership, the vast majority of South African blacks remain excluded from such access except at the combined discretion of the Minister and the white-controlled trade unions.

164. According to further information before the Ad Hoc Working Group of Experts, white workers continue to obstruct moves to promote Africans to artisan status, in spite of an acute shortage of "skilled" labour. Johannesburg's fire brigade is recruiting firemen from the United Kingdom because white firemen "would rather resign than work, sleep, shower or eat" with blacks. 177/ In the mines, the Mineworkers' Union, which controls most underground white workers, remains "flatly opposed" to black advancement, although smaller mining unions are attempting to recruit black workers in a bid to control the rate of advancement. 178/

173/ ILO, op.cit., p. 25.

174/ Ibid., p. 26.

175/ Ibid., pp. 26-27.

176/ ILO, op.cit., p. 51.

177/ Sunday Express, 3 May 1981.

178/ New York Times, 9 June 1981.

(i) Training of black workers

165. The Manpower Training Bill, introduced but not passed during the period under review, proposes the establishment of a National Training Board and committees to make recommendations on apprenticeship training, the attainment of artisan status, and other training schemes. Training centres would be required to register in order to qualify for training allowance under the Income Tax Act, and registration would be compulsory for persons other than trade unions, employers' organizations, federations and industrial councils. Black trade unions, according to information available to the Group, see this last provision as a government attempt to control centres and courses, which may effectively be barred to unregistered unions. Further, training would appear to remain segregated, according to the ILO, and black apprentices would be able to use the whites-only Technikons (technical colleges) only on the exceptional basis on which blacks may at present use white universities. 179/

(ii) Unemployment

166. Unemployment statistics have been collected for blacks in South Africa only since 1977 but, unlike statistics for other races, these are collected only on the basis of sampling methods based on 1970 census figures. In addition, anyone who has worked five hours in the week during which the sample is taken is recorded as employed; contract workers are compelled to "return" to their "homeland" on expiration of their contract and so are likely to be discounted; and "citizens" of "independent homelands" are not counted. Nevertheless, the Minister of Manpower Utilization gave an estimate of one million black unemployed during the period under review. Other estimates suggest that 25 per cent of the black working population is unemployed. 180/

(iii) Domestic workers

167. Domestic service is the largest employer of black women in South Africa, according to information available to the Working Group, yet domestic workers are excluded from all wage determinations, as well as from the definition of "employee" under the Industrial Conciliation Act. Their conditions of work and wages remain virtually unstudied. During the period under review, however, research has been published following a study among 175 domestic servants in the Eastern Cape, which concludes that "as an occupational group, domestic workers are subject to ultra-exploitation. They are deprived of a negotiated wage, of reasonable working hours and of family and social life. They are denied favourable working conditions, respectful treatment and any acknowledgement of the dignity of their labour, as well as specific legal protection, membership in an effective worker organization and effective bargaining power." 181/

168. According to this study, wages ranged as low as R4 to R60 per month, though almost 75 per cent of the sample earned less than R30 per month. Hours worked might be as high as 89 hours - 77.7 per cent worked more than a 48-hour week and 34 per cent had one week's holiday or less per year, most having to work on public holidays. 182/

179/ ILO, op.cit., pp.5-8.

180/ Ibid., p. 29.

181/ Jacklyn Cock, Maids and Madams: a Study in the Politics of Exploitation, (Johannesburg, Ravan Press, 1980).

182/ Ibid., pp. 28-29, 42 and 47.

I. INFRINGEMENT OF TRADE UNION RIGHTS

169. By its resolution 1981/41 of 8 May 1981, the Economic and Social Council requested the Ad Hoc Working Group of Experts to continue to study the question of infringements of trade union rights in South Africa and to report thereon to the Commission on Human Rights and to the Economic and Social Council in 1982. This section has been prepared in response to the specific request of the Economic and Social Council.

170. During the period under review, information has become available to the Ad Hoc Working Group of Experts concerning:

- (1) The suppression of the right to organize trade unions; and
- (2) The persecution of workers because of their activities, especially as a consequence of strike action.

171. In this connection, the attention of the Commission on Human Rights is also drawn to the special draft report prepared by the Working Group (E/CN.4/1486) in conformity with decision 1981/155 of the Economic and Social Council by which the Ad Hoc Working Group of Experts was requested to consider and report to the Commission on Human Rights and to the Council, the allegations regarding infringements of trade union rights in South Africa as submitted by the International Confederation of Free Trade Union and contained in document E/1981/28.

1. The suppression of the right to organize trade unions

(a) Wiehahn Commission and implications of industrial relations "reforms"

172. Previous reports of the Ad Hoc Working Group of Experts (E/CN.4/1311, paragraphs 253-262; E/CN.4/1365, paragraphs 185-195; E/CN.4/1429, paragraphs 277-279) referred to the setting up of the Wiehahn Commission to examine ways in which South African industrial relations could be reformed; the publication of sections of the Commission Report; the tabling of the Industrial Conciliation Amendment Act of 1979, which for the first time recognized the right of black workers to join trade unions; and the reactions of black trade unionists to the reports.

173. During the period under review, three further bills have been published, though postponed because of the calling of the snap election in April 1981. (See paragraph 23 above). Further information has been made available to the Ad Hoc Working Group of Experts on the implications of the "Wiehahn reforms", particularly the Industrial Conciliation Amendment Act.

174. The ILO, in an analysis of the new definitions of "employee" under the Act, points out that, although following national and international protest a Ministerial proclamation included "homeland commuters" and "homeland residents" within the terms this proclamation could be altered without notice, and only those Africans with a "legal right" to remain in "white" areas are recognized within the Act as employees. Workers from outside the Republic are recognized neither in the Act nor the proclamation. The ILO comments that "this arrangement cannot be described as establishing the right of all African workers to play a part in making collective agreements which determine their own wages and conditions of work". 183

183/ ILO, op.cit., p. 51.

175. This "ambiguity", according to the ILO, affects the right of all those black workers without rights to reside in white urban areas to join a registered trade union and conduct a legal strike. Apart from foreign workers, agricultural and domestic workers are specifically excluded from the definition of "employee" and thus from membership of a registered union and the right to legal strike action. 184/

176. The ILO further points out that limitations under the Black Labour (Settlement of Disputes) Act, 1953, even as amended in 1973, "seriously circumscribe strikes if they do not actually prohibit them". 185/

177. The report further points to the Fund Raising Act of 1978, already used against the black Federation of South African Trade Unions as a means by which trade unions may be cut off from the funds necessary to organize efficiently and to finance strikes. This Act may be used to prohibit a union from receiving funds not only from abroad but also from sources within South Africa itself. 186/

178. As well as the right to strike, the ILO finds that the Wiehahn recommendations also continue to inhibit the right of workers to elect representatives in full freedom: although the Industrial Conciliation Act prohibition against the appointment of blacks as office holders in a registered trade union, or as employee representatives on an industrial council, has been repealed, a clause has been added giving existing parties to industrial councils the right of veto over the appointment of new members. 187/

179. The ILO further points to certain measures which may discriminate against "mixed" unions. The act in particular enables the Minister to take into consideration, when deciding whether or not to "register" mixed unions, the ratio of numbers of employees on the different population groups concerned. The clause, the ILO concludes, remains racially discriminatory and disadvantages unions of mixed compared with single race group membership. 188/

180. According to further information available to the Ad Hoc Working Group of Experts, the new labour legislation is widely regarded as intended to control, rather than encourage, African trade unions. Commenting on draft legislation published during the period under review, South African press articles claimed that the Minister of Manpower Utilization, Mr. Fanie Botha, was negotiating with neighbouring States agreements whereby any of their citizens found to be engaged in an illegal strike would be summarily deported; and that he planned to make similar agreements with "homeland" governments. This would mean that any contract worker who took part in a strike not "legal" in South African terms would lose his ability to earn a living in South Africa. 189/

181. Following widespread protest, a new bill to amend the Industrial Conciliation Act to impose further restrictions on trade unions was withdrawn in March and republished in August. A clause banning any kind of links between black unions and

184/ Ibid., p.65.

185/ Ibid., p.66.

186/ Ibid., p.66.

187/ Ibid., p.67.

188/ Ibid., p.69.

189/ Daily Dispatch, 21 November 1981.

political organizations now covers only political parties or other organizations running candidates for political office. It drops official supervision of strike ballots but retains a clause forbidding strike pay in "illegal" strikes - most black strikes are "illegal" - and another giving the Minister discretion over whether or not dues may be deducted by employers on behalf of a union. 190/

182. A government White Paper, based on the fifth part of the Wiehahn Commission Report and published in August 1981, rejected the Commission's recommendation that picketing in support of a strike be legalized, but accepted the recommendation that trade unions should not be forced to register. 191/

(b) Struggle for the acquisition of trade union rights

183. The period under review was a year of widespread strikes. In 1980, the total number of strikes doubled over the previous year: 207 strikes in 1980 compared with 101 in 1979. The number of lost man-days increased from 67,000 to 175,000 - South Africa's worst year on record. 192/ Of these stoppages, 60 per cent concerned wage disputes; the remainder, according to the ILO, concerned unfair dismissals, union recognition, shop floor disputes, poor supervisory techniques, bonus payments and conditions of employment. 193/

184. According to information available to the Ad Hoc Working Group of Experts, the biggest strike involving a single employer in 1980 was a strike of 10,000 black employees against the Johannesburg City Council (see E/CN.4/1429, paragraphs 291, 306). The strike originated because black electricians were receiving lower rates of pay than whites doing the same job, but the principal issue became recognition of the Black Municipal Workers' Union in place of the Johannesburg Municipal Workers' Union, which had allegedly been created and encouraged by the Council. The JMwu was given provisional registration under the Industrial Conciliation Act and the Council refused to negotiate with the BMWU. Instead, hundreds of striking workers were dismissed and deported by armed police to trucks to return them to their "homelands". Mr. Joseph Mavi and two other union officials were arrested and charged under the Sabotage Act, and subsequently under the Riotous Assemblies Act. 194/ They were found not guilty on all charges in March 1981. 195/

185. Another major strike involved the black journalists' union, the Writers' Association of South Africa (later the Media Workers' Association of South Africa), whose members struck against discriminatory wages paid to black journalists on white-owned "black" newspapers. The strike began in August 1980 on the Cape Herald in Cape Town, but spread to the Post, Saturday Post and Sunday Post in Johannesburg, all owned by the Argus Group and South African Associated Newspapers, in support of demands for union recognition. The Herald wage demand was settled, but the Johannesburg strike continued until December, when settlement coincided with the Government's withdrawal of the three papers' registration under the Internal Security Act and the banning of several MWASA leaders. 196/

190/ The Guardian, 6 August 1981.

191/ The Guardian, 29 August 1981.

192/ BBC, 4 February 1981; Sowetan, 11 March 1981.

193/ ILO, op.cit., p.11.

194/ Ibid., p.12.

195/ Rand Daily Mail, 11 March 1981.

196/ ILO, op.cit., p.13.

186. Other disputes in the period under review involving questions of union recognition included:

(a) A series of strikes at the Wilson-Rowntree sweet factory in East London. In October 1980 a group of workers in the chocolate moulding department were dismissed on making a complaint of racial discrimination. Some 1,530 workers, members of the South African Allied Workers' Union, decided not to return to work until their grievances had been met, but the firm refused to negotiate with SAAWU and dismissed the workers. The firm said that it recognized the TUCSA-affiliated Sweet Workers' Union, which had only recently accepted African members. A second dispute arose in February 1981, in which some 500 workers were dismissed. The union called for a boycott of Wilson-Rowntree sweets. 197/

(b) In November 1980, about 100 workers at the Toyota plant at Sandton stopped work in protest against the imposition of quotas and were dismissed. The company, however, agreed to recognize the workers' union, the Metal and Allied Workers' Union, which had been struggling for a year for recognition, and the workers were reportedly reinstated. 198/

(c) In March 1981, however, further reports said that 123 sacked Toyota workers told a press conference at MAWU headquarters that they were being threatened by Toyota security guards. The men had been dismissed when they struck in January in support of eight dismissed members, who they said had been victimized for their trade union activities. "Selective rehiring" meant that very few union members were left at the plant. 199/

(d) Black workers in the Natal furniture industry are all being forced to join the TUCSA-affiliated National Union of Furniture and Allied Workers, a registered union, on pain of losing their jobs. Rival union organizers point out that this use of the closed shop makes it difficult for other unions to enrol members in the industry and to gain registration themselves. Mr. Kikine, general secretary of SAAWU, called the move "an attempt to freeze out real unions and ensure that employers only have to deal with tame unions of their choice". 200/

(e) After a poll among employees of Johnson and Johnson resulted in a 93.5 per cent vote for SAAWU, the firm agreed to negotiate a formal recognition agreement in April 1981; Everite, East London, however, refused to recognize a SAAWU workers' committee and dismissed 200 workers involved in a strike. 201/

(f) A strike was decided on, but averted at the last minute, by Colgate-Palmolive Boksburg plant following a long dispute about recognition of the FOSATU-affiliated Chemical Workers' Industrial Union. The company said it would negotiate with the union only through an official industrial council. A strike ballot among CWIU members produced a 90 per cent vote in favour, and the company agreed to negotiate directly with the union. A union call for a consumer boycott received widespread support among workers on the Rand. 202/

197/ Daily Dispatch, 25 October 1980; Rand Daily Mail, 29 October 1980; Muslim News, 8 May 1981; Cape Times, 15 May 1981.

198/ Rand Daily Mail, 4 November 1980.

199/ Ibid., Sowetan, 23 March 1981; Financial Mail, 9 January 1981.

200/ Rand Daily Mail, 25 March 1981.

201/ Cape Herald, 4 April 1981.

202/ Rand Daily Mail, 19 June 1981, 26 June 1981; The Guardian, 21 June 1981; Financial Times, 24 June 1981.

187. According to information available to the Ad Hoc Working Group of Experts a strike at the Port Elizabeth motor industry, involving Fords, General Motors and Firestone, has been seen as the biggest "sympathy" strike in recent South African history and a "test" for a new community-based approach to trade unionism, led by the newly-formed Motor Assembly Components Workers' Union of South Africa (MACWUSA). One hundred and sixty workers at Firestone had been dismissed after a strike and approached MACWUSA for support. 203/

188. According to further information before the Ad Hoc Working Group of Experts, the Chamber of Mines has drawn up a policy for the "unionization" of black mineworkers, on conditions that are "the toughest set out by any employer group since the Wiehahn reforms were launched". The criteria for recognition are alleged to include: (a) the Chamber will in no circumstances negotiate with an unregistered union; (b) even a registered union will have to prove to have recruited at least 30 per cent of a certain class of employee throughout the industry - a condition regarded as impossible to meet. 204/

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

189. The witness Ms. Ilva MacKay, representing the South African Congress of Trade Unions (551st meeting), gave personal testimony on the detentions of trade unionists from the Western Province General Workers' Union, and about her own detention on five occasions between 1974 and 1976. She also handed in a number of documents describing arrests and detentions of workers in connection with their trade union activities.

190. The witness described the detention on 29 May 1980 of David Lewis and Diane Cooper, organizers of Western Province General Workers' Union (WPGWU), in connection with the Cape meatworkers' strike described in the Group's previous report. They were detained under section 22 of the General Laws Amendment Act, which allows for 14 days' detention without trial, and at the end of this period under section 10 of the Internal Security Act, which provides for indefinite detention. This was the first time that the preventive detention clause had been used against trade unionists. On 13 June, two more union officials, Mike Morris and Dr. John Frankish, were arrested under the General Laws Amendment Act in what the witness described as quite clearly an effort to break the "red meat" strike and supporting boycott. 205/

191. The witness also said that during the same strike 42 striking workers were arrested for pass offences and deported to the Transkei under police escort. These were acts of intimidation, she said, to terrorize the workers in their struggle.

192. Ms. MacKay handed in documents describing the detention of three post office employees in Soweto in March 1981, allegedly in connection with their plans to establish a trade union for black post office and telecommunications workers; 206/

203/ Rand Daily Mail, 8 June 1981.

204/ Rand Daily Mail, 27 March 1981.

205/ The Working Group analyses in depth the cases of these trade unionists in its report contained in document E/CN.4/1486; see also its previous report E/CN.4/1429, paragraph 305.

206/ Cape Times, 10 April 1981.

and 21 former Wilson-Rowntree employees detained under the Ciskei emergency regulations and said to be in hospital after a hunger strike; 207/ and reported the further detention of Sisa Njikelana, vice-president of SAAWU, detained since 29 May at Leeuwkop prison in the Transvaal. Further detentions included 29 members of SAAWU and the branch chairman of the African Food and Canning Workers' Union, all detained in the Ciskei in May-June; 40-50 workers reported arrested in the Ciskei on 12 June, apparently under the Riotous Assemblies Act; 24 SAAWU members under Proclamation R252; 57 trade unionists reported held in the Ciskei on 22 June, 21 of whom appeared in court charged with public violence; and a further 56 SAAWU members charged under the Riotous Assemblies Act. In addition, four leaders of MACWUSA were detained under section 22 of the General Laws Amendment Act: Dumile Makanda, chairman; Mxolisisi Didiza, union organizer, Maxwell Mandlinguizi, executive member, and Mr. Tetu.

193. Ms. MacKay emphasized the tactics of the authorities in deporting strikers to the "homelands", as had been done in the Johannesburg Municipal Workers' strike last year; and summarily dismissing them, as happened to 1,600 employees of the General Mining Corporation in April 1981.

194. She also told the Ad Hoc Working Group of Experts that many trade unionists were appearing in court charged with various offences - seven trials involved trade unionists in February alone. In particular, she drew the attention of the Group to the trial of Oscar Mpetha and appealed for further international action to free him (see paragraph 59 above).

195. Ms. MacKay further charged that police were frequently called in to "fire shots" at workers during a dispute and that they used intimidation, including murder, against workers' leaders. During the Frametex factory strike in May 1980, a shop steward was shot dead by a "masked gunman"; and during a strike at the Sigma motor manufacturing plant in April 1981, one of the workers was shot dead, as they were being forced off the premises, by a white woman in a car (see paragraph 35 above).

196. According to further information available to the Ad Hoc Working Group of Experts, a confidential government memorandum, said to have been circulated to certain companies in East London, is reported to describe a strategy to "break the power of SAAWU and unregistered unions". SAAWU is thought to be the fastest-growing of all the black unions. Suggested moves include: drawing up a list of potential strike-breakers to replace dismissed union members; activating TUCSA (white) unions to recruit black workers; campaigning for legislation requiring unions to limit themselves to a single trade (SAAWU is a general workers' union); and for legislation requiring all unions to register. 208/

197. Documentation available to the Ad Hoc Working Group of Experts indicates that electric shock torture was used against 15 youths charged after disturbances during a strike at Krom River Apple Co-operative in Grabouw, Cape, in April 1980. Medical evidence confirmed in court in October that scars on the boys' fingers were consistent with electric torture. 209/

198. According to further information available to the Group, the spate of trade union detentions in mid-1981 was "the biggest crackdown on unionism since 1976". 210/

207/ Cape Times, 1 May 1981.

208/ Star, 13 June 1981.

209/ Daily Dispatch, 28 October 1981.

210/ Rand Daily Mail, 30 June 1981.

J. STUDENT MOVEMENTS

199. The segregation of university education by race and the rise of student movements among white and black students were analysed in a previous report of the Ad Hoc Working Group of Experts (E/CN.4/1187). Two subsequent reports of the Ad Hoc Working Group of Experts described the boycotts and disturbances in schools and universities that followed the student uprisings in June 1976 and continued sporadically throughout the period 1977-1978 (E/CN.4/1270 and E/CN.4/1311). Ind last year's report described a new upsurge of political resistance by students at schools and universities (E/CN.4/1429, paras. 318-321) during 1980.

200. During the period under review, the boycott of classes started early in 1980 in the Eastern Cape and spread throughout the country by the second half of the year, became central to a campaign of national resistance involving parents, teachers, workers and squatters. The extension of support for the schools campaign among parents and teachers is described in paragraphs 206, 210, 213 and 221-223. The resistance of workers and tenants is dealt with in the sections on Forced Removals of Population and Infringements of Trade Union Rights.

1. Relevant legislation

201. The legislation relevant to university education was summarized in a previous report of the Ad Hoc Working Group of Experts (E/CN.4/1187, paras. 176-188), as were the provisions of the Government's policy on "Bantu Education" (later Black Education) and since 1978 administered by the Department of Education and Training, 211/ instead of the Department of Bantu Education, though still on a segregated basis.

202. No new legislation on black education was enacted during the period under review. However, a ministerial decision was announced in July 1980 that compulsory education for blacks would be introduced in selected areas in January 1981 (see para. 209).

203. Also during the period under review new school regulations were published in the Government Gazette in December 1980 governing black pupils and providing, inter alia, for:

The expulsion of pupils by the Department of Education and Training, without recommendation by the school principle;

The expulsion of a pupil who has violated any regulations under the Education and Training Act;

The expulsion of any students who have participated in "any riotous action".

204. A totally new section of the regulations is entitled "Treatment of Pupils under Extraordinary Circumstances" and is designed to deal with boycotts. It runs to 10 clauses and 8 subclauses and lays down procedures to be followed in warning pupils (and whole school bodies), suspending pupils, closing and reopening schools, and deleting pupils' names from school registers in the event of boycotts. The regulations make it clear that no pupil whose name is deleted from the register in terms of this section will be readmitted to school (even in the next school year)

211/ South Africa: 1980 School Boycott, IDAF Briefing Paper No. 1, March 1981

without permission. The regulations also stipulate maximum ages for pupils in certain standards - primary school pupils to be no older than 16; pupils in standards 6, 7, 8 to be no older than 18; and in standards 9 and 10 no older than 20. Commentators on the regulations point out that African pupils often have to leave school for a period in order to earn fees for a subsequent year; and that the regulations will enable the authorities further to control student activity by removing "unwanted" students. 212/

205. During the period under review a regulation was published in the Transkei under the Public Security Act of 1977 confining "scheduled persons", that is "any persons enrolled as a scholar or student at any institution" or "any person in the employ of any institution whom a member of the police may declare to be a scheduled person", to his/her residence except to attend classes, receive medical treatment or attend a bona fide funeral, except with written permission from a magistrate, chief or headman or the station commander of a police station. A minor may go out if accompanied by a parent or guardian. 213/

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

206. According to information available to the Ad hoc Working Group of Experts, the boycott of black schools continued through the latter half of 1980 in the Western Cape, Eastern Cape, Bloemfontein and Kimberley. A mass meeting of parents and pupils from all over the Eastern Cape and Cape Town at the end of August decided on a return to school but not to classes until the short-term demands were met. These demands were:

- (a) A declaration by the Government to scrap Bantu education;
- (b) The establishment of a genuine committee of enquiry elected by parents to investigate education with a view to prescribing an education system for all;
- (c) Recognition of representative councils of students (see para. 223);
- (d) Return of transferred teachers to their respective institutions and readmission for expelled or suspended students;
- (e) Release of all those detained in connection with the boycotts;
- (f) Better educational facilities.

207. The Minister of Education and Training refused to negotiate and threatened to close all schools indefinitely the following week unless parents brought their children to school to register. Sixty thousand pupils at 80 schools in Eastern and Western Cape, Bloemfontein and Kimberley, and one school in Johannesburg, were affected by mid-October. Twelve hundred teachers were involved, and the stay-away spread to lower primary schools, 33 of which were closed. An attempt by the South African Council of Churches to end the deadlock by interceding with the Government was frustrated when the meetings at which Bishop Tutu was to have reported back to the parents and pupils were banned in October 214/

208. The boycott was finally suspended in February and March 1981 after the Government had extended the registration deadline, on the basis that all students would be

212/ Muslim News, 30 January 1981; Rand Daily Mail, 12 January 1981; Financial Mail, 9 January 1981.

213/ Republic of Transkei Government Notice No. 74, 12 June 1981.

214/ IDAF Briefing No. 1 op.cit.

reregistered. The students said they reserved the right to resume the boycott if their leaders were not released from detention within a month and the other short-term demands met with some Government action. 215/

209. According to information available to the Ad hoc Working Group of Experts, the imposition of compulsory - but not free - education in some 201 schools catering for about 45,000 pupils has met with considerable opposition from parents and pupils. The plan is for education to be compulsory from age 6 to standard 5, or age 16 (seven years of school) though it is being introduced at present only to age 12. Compulsory education is unacceptable while education is inferior and segregated; and parents fear further that penalties enforceable on them if their children fail to attend school will be used to control the pupils and to force parents to act on behalf of the authorities against their children. 216/ It has been explicitly rejected by the Congress of South African Students (COSAS) and the Azanian People's Organisation (AZAPO), the two main black school students' organizations. 217/

210. A feature of the pupils' resistance in the period under review has been their growing recognition of educational issues as inseparable from broader political ones, reflected in their strategies to gain support from other sections of the population, primarily their parents. According to information before the Ad hoc Working Group of Experts, they have been successful in obtaining support from parents, teachers, professional organizations, residents' associations and community organizations such as PEBCO in Port Elizabeth, which was actually formed there during the boycott and has, in turn, links with the black trade union movement (see para. 187 above). At one stage in 1980, over 1,000 teachers and lecturers in Cape Town's Coloured and Indian schools and colleges were "on strike" and, for their part, African teachers threatened with transfer out of areas where schools had been closed threatened to resign rather than be moved. 218/

211. A document before the Ad hoc Working Group of Experts analyses a student protest in Kimberley in the second half of 1980, to illustrate the process whereby the intransigence of the authorities typically escalates student action, with the effect of hardening the pupils' attitudes and extending their political perspective. The report states that Kimberley has only one Government secondary school and a Catholic secondary school. The town is a small one and isolated enough to have seen no student action in 1976 or in the period following.

212. According to information before the Ad hoc Working Group of Experts although the 1981 school year opened with a return to school throughout most of the country, 1981 has been a year of even more widespread unrest and repression than 1980. In ending the school boycott, the pupils said that their struggle would continue: in Cape Town for instance, the Regional Committee of students said that they were preparing new tactics; 219/ and by March another confrontation had arisen, when parents refused to

215/ Voice Weekly, 18-24 February 1981; Daily Despatch, 22 January 1981; Cape Times, 23 January 1981, 7 February 1981, 9 February 1981; Rand Daily Mail, 11 February 1981; Sowetan, 13 March 1981.

216/ IDAF Briefing No. 1, op.cit.

217/ Natal Witness, 22 January 1981; The Guardian, 13 January 1981.

218/ IDAF Briefing No. 1, op.cit.

219/ Cape Herald, 21 March 1981.

pay examination fees unless the Government provided free stationery to pupils. 220/ In Kimberley, Galeshwe was reported to be in a state of "seething resentment" because 23 student detainees had not been released as detainees elsewhere had been in connection with the back-to-school decision. 221/ And in Soweto implementation of the 1980 regulations (para. 203 above) was causing further conflict between pupils and the authorities. 222/

213. One school student body formulated its aims in 1981 with the following preamble: "The call of the movement of all students is to direct effort and energy into intensive organization and programming of student activities, geared to the greater objective of the liberation of the oppressed, not only in Azania, but also of the oppressed throughout the world. The student-group as compared to worker groups are both potential yet explosive sections of society which could through any further intimidation be united into immediate rebellion ... Since the student is the future worker of tomorrow, he must be made aware of his long-term duties and responsibilities towards the struggle and the future social order. 223/

214. The major focus of protest during the year was the 31 May Republic Day celebration of 20 years of the apartheid Republic. Anti-Republic Day meetings were held in various centres, particularly university campuses and schools. Forty-eight students were arrested under the Riotous Assemblies Act in Cape Town, 20 pupils and some parents were arrested at a Johannesburg high school after police had used teargas and sjambok whips to break up the meeting; and police broke up meetings of students in Johannesburg, where 200 riot police invaded the campus. At a number of campuses the South African flag was burned, and at the University of the Western Cape the African National Congress flag was hoisted. 224/

215. The 31 May campaign led up to a further campaign on 16 June to commemorate the Soweto uprising; student leaders were arrested and detained, leading to further disturbances (see paras. 220-223 below). Army personnel and vehicles set up roadblocks around Soweto on the eve of 16 June and helped police the Western Coloured Township in Johannesburg. Meetings and services planned for 16 June were banned in Durban, Port Elizabeth and in the Northern Transvaal, and the period was reported to have seen "the most intense of repression since the mass uprisings of 1976 and 1977". 225/

216. During the second half of the year, disturbances continued in a number of black schools, including a boycott by 1,000 pupils at the new Vosloorus school in the East Rand (see para. 220), 226/ a boycott of classes at the University of Durban-Westville, 227/ and resumption of the boycotts in Cape Town and parts of Johannesburg in June (see below).

217. In August, the Minister of Education and Training announced in parliament a plan to open a new university for blacks, not in Soweto, where the greatest urban concentration of blacks in the country has no higher education institution, but in Pretoria. The headquarters would be in Pretoria but lectures would be conducted in centres "throughout the country", utilizing existing training colleges, technikoms and

220/ Cape Times, 24 March 1981

221/ Rand Daily Mail, 3 March 1981.

222/ Muslim News, 27 February 1981.

223/ Voice, 1 July 1981.

224/ Focus, July-August 1981.

225/ Focus, September-October 1981.

226/ Rand Daily Mail, 22 July 1981.

227/ Citizen, 28 July 1981.

other institutions, from which staff would also be drawn. Most students would be part-time and the university is planned to open in 1983. According to press reports, it had been widely hoped that the Human Sciences Research Council report on education, which was handed to the Government the same week as the Minister's announcement, would recommend the opening of all tertiary education institutions to all races. 228/

218. In February a black student, Ms Dorcas Buthelezi, was refused permission by the Department of Education and Training to attend the University of the Witwatersrand to study medicine, although the university had accepted her. 229/

3. Student movements in black universities and schools

219. Once more, as noted in last year's report of the Ad hoc Working Group of Experts (E/CN.4/1429, para. 334), university students joined school students in the struggle against apartheid in education. During the period under review, this collaboration broadened to embrace students of all races.

220. Among the incidents at black schools drawn to the attention of the Working Group are:

(a) At Musi High School, Soweto, complaints were made by matriculation students that they had inadequate, untrained teaching; that some of the white teachers insulted them in racist terms, and one of them brought a gun into the classroom; and that pupils who arrived late were locked out; and that the principal had told them he had given the names of some of the prefects to the police, and if there was a boycott he would call in the police. 230/

(b) Two pupils of Fezeka High School, Guguletu, Cape, were detained in February 1981 under section 22 of the General Law Amendment Act. Hundreds of pupils from all the high and higher primary schools in the black townships of Cape Town demonstrated in protest, complaining that the arrests contravened the conditions for ending the schools boycott. 231/

(c) In June, 700 pupils of Kliptown school, marching to Eldorado Park school, Soweto, in support of a boycott by both schools, were dispersed with rubber bullets and sjamboks by riot police. 232/

(d) In July, police again used sjamboks to disperse 1,000 pupils boycotting a Vosloorus school, East Rand. The pupils were marching to Illinge school, to seek support there. Two weeks later the Vosloorus school principal and five teachers resigned. The pupils complained of bad teaching and excessive corporal punishment. They said some of the teachers drank during school hours. 223/

(e) A fortnight later, two students of Illinge school were allegedly shot by police - the first while "driving a car without a licence", the second during a demonstration at the funeral of the first. A police spokesman said "police had used teargas and had to shoot in self-defence when about 800 school kids attacked them with stones". 234/

228/ Sunday Times, 2 August 1981

229/ Rand Daily Mail, 14 February 1981.

230/ Muslim News, 27 February 1981.

231/ Cape Times, 4 March 1981.

232/ Rand Daily Mail, 12 June 1981.

233/ Rand Daily Mail, 22 July 1981; Sowetan, 4 August 1981.

234/ Sowetan, 18 August 1981.

(f) In August, one boy was killed and five injured when two teachers opened fire on a group of youths who "refused to leave" a school function at Eldorado Park High School when told it was over. 235/

221. The period under review has been remarkable for the number of Coloured schools, both in Johannesburg and the Cape, involved in protests, both against conditions in Coloured schools and in solidarity with black students.

(a) More than 300 pupils at Esselin Park High School, Worcester, Cape, decided on a boycott on 4 February 1981 in support of their demand for an SRC, a democratically elected student/parent committee, and the reinstatement of several students not allowed back into school in 1981. The principal granted the SRC but suspended three more pupils, so the pupils walked out. On 9 February, 177 pupils were suspended. In response, nearby schools joined the boycott and 1,000 students and parents marched on the principal's house, demanding reinstatement of all the pupils. All the pupils were reinstated in March and the outcome was greeted as a victory for pupil/parent/community solidarity. 236/

(b) Students at Alexander Sinton High School, Athlone, Cape, protested at being barred from a parents' meeting by the principal of their school and thus prevented from defending teachers who were being victimized for their stand in support of the 1980 schools boycott. 237/

(c) Seven hundred pupils at Manenberg Senior Secondary School boycotted classes in protest against a low-standard practical course which they described as "worthless". Parents supported the protest and the course was abolished. 238/

(d) In April thousands of Coloured schoolchildren held sit-in demonstrations in protest against the whites-only general election and unequal education. 239/

(e) In June police and army units cordoned off part of the Western Coloured Township, Johannesburg, and launched a massive search for the "ringleaders responsible for the unrest" in schools in the area. Teargas was used to disperse student demonstrations, some students were detained and others injured in conflict with the police. One report spoke of "policemen seen laughing while lobbing teargas canisters in a primary school, swearing and indiscriminately using sjamboks on innocent bystanders, including women.". 240/

(f) More than 60 pupils were suspended from six Western Cape High Schools following the boycott of classes on 16 and 17 June to mark the uprisings in Soweto in 1976. 241/

222. More than 600 Indian children were suspended for boycotting classes in protest at the Republic celebrations. About 250 were allowed to return but in August 350 were still out of school and parents have demanded the replacement of Mr. Gabriel Krog, Director of Indian Education. 242/

235/ Sowetan, 1 September 1981.

236/ Grassroots, April 1981, June 1981.

237/ Muslim News, 24 April 1981.

238/ Cape Times, 6 May 1981; Cape Herald, 16 May 1981.

239/ Rand Daily Mail, 30 April 1981.

240/ Rand Daily Mail, 5, 6 June 1981.

241/ Cape Herald, 27 June 1981.

242/ Sunday Times, 16 August 1981.

223. Resistance at black universities during the period under review reflected increasing concern with wider political issues than purely educational ones, according to information available to the Working Group. Examples of student action include:

(a) Demands by 2,000 University of the Western Cape students for a new and more democratic constitution for their Students Representative Councils (SRC) culminating in the first election in four years. An ad hoc SRC campaign committee stated that the SRC should confront racist "miseducation" and provide an education to help build a democratic South Africa through alternative programmes of lectures, films, etc.; forward the demands of students on issues such as hostels, cafeterias, etc; and "support the communities. We must take our lead from the struggles in the factories and townships. The material and human resources of the SRC must be offered for use by the community." 243/

(b) A boycott of the annual graduation ceremony in May, followed by a class boycott, at the University of Durban-Westville in June, during which students were chased from the campus by police, who occupied the premises. The boycott started when students requested that 16 June be marked as Soweto Day. At the end of June, students demanded the removal of all police from the campus; that campus security police be disarmed; that suspension on the president and vice-president of the SRC be lifted; and the ban on meetings imposed by the rector be lifted. 244/

224. A meeting of representatives of Black Students' Societies at the Universities of Witwatersrand, Natal and Cape Town, the Students Representative Council at the University of Durban-Westville and representatives from the Universities of the Western Cape, Transkei and Turfloop, and the Rand College of Education, Transvaal College of Education, the medical Students Representative Council of the University of Natal and the SA Black Intervarsities Committee took place at Durban-Westville in March 1981. The meeting resolved not only to boycott the Republic celebrations in May but to affirm its commitment to a non-racial democratic South Africa. It endorsed the international sporting isolation of South Africa and the United Nations blacklist of collaborating sportsmen. 245/ In August, the University of the North decided at a mass student meeting to boycott a concert by the pianist David Early, in line with its boycott of foreign artists performing in South Africa, which students see as "giving credibility to the Government's policy for separate development." 246/

225. The Azanian Students' Association held its first congress in July, attended by some 100 delegates and observers from black campuses and "so-called universities". The congress endorsed the call of the United Nations Committee against Apartheid for a boycott of South Africa, becoming the third black organization to do so, following the South African Council of Sports and the Azanian People's Organisation. 247/

243/ Grassroots, June 1981.

244/ Natal Mercury, 2 May 1981; Rand Daily Mail, 13 June and 25 June 1981.

245/ Rand Daily Mail, 31 March 1981.

246/ Sowetan, 6 August 1981.

247/ Voice Weekly, 29 July-4 August 1981.

4. Student movements in white universities

226. University of the Witwatersrand: According to information available to the Ad hoc Working Group of Experts, black students are also openly campaigning for recognition of black rights at the so-called "white" universities, especially at the University of the Witwatersrand which a number of black students have permits to attend. 248/

227. Following a mass meeting in March 1981 of 1,200 students to hear Mr. Ricvel Nkondo, son of the former leader of AZAPO and a spokesman for COSAS; Ms. Zinzi Mandela, daughter of ANC leader Nelson Mandela; and Mr. Sammy Adelman, president of the university SRC, propose a "participatory democracy" for South Africa, a vote taken recorded only one vote against. 249/ Two weeks later Dr. Piet Koornhof, Minister of Co-operation and Development, was shouted down when he tried to speak at the university on the anniversary of the Sharpeville massacre. 250/ Anti-Republic Day rallies at the end of May involved the burning by students of the South African flag. Riot police were at one point called on to the campus and a senior cabinet minister had to cancel a Republic Day speech. 251/

228. The Government responded by banning Mr. Adelman and detaining at least three student leaders, Azhar and Firoze Cachalia, and Dave Johnson. 252/ An attempt by right-wing students, the Students' Moderate Alliance, to organize meetings for seven cabinet ministers aroused further hostility from black students and, when Prof. Ntsanwisi, Chief Minister of Gazankulu, spoke on the campus in August, only a handful of students attended. 253/

(a) The National Union of South African Students

229. Also banned was Mr. Andrew Boraine, president of the National Union of South African Students. At a NUSAS national council meeting in July, the council unanimously retained Boraine as 1981 president. 254/

(b) The Political Student Society of South Africa

230. The Political Student Society of South Africa was formed in July 1980 when verligte student members of the white nationalist Afrikaanse Studentebond (ASB) broke away to form a non-racial body, calling for a "just and free South Africa with equal citizenship, social and economic opportunities for all". It has some 500 members at six Afrikaans campuses, Stellenbosch, Pretoria, Orange Free State, Potchefstroom, Port Elizabeth and RAU. The organization was banned in May 1981 from Potchefstroom campus for investigating the living and working conditions of black workers on the campus without permission; and has been warned by the Minister of Police, Mr. Louis le Grange, for making contacts with radical blacks. It was also prevented from holding its first annual congress at the University of Pretoria. 255/

248/ Sowetan, 8 April 1981.

249/ Rand Daily Mail, 6 March 1981.

250/ The Guardian, 21 March 1981.

251/ Rand Daily Mail, 26/28 May 1981; Sowetan, 27 May 1981.

252/ Rand Daily Mail, 19 June 1981.

253/ Rand Daily Mail, 9 July, 20 August 1981.

254/ Rand Daily Mail, 6 July 1981.

255/ Financial Mail, 10 July 1981.

K. OTHER SERIOUS VIOLATIONS OF HUMAN RIGHTS RESULTING FROM THE POLICY
OF APARTHEID AND RACIAL DISCRIMINATION

1. Censorship and restrictions on the journalistic profession

231. The Ad hoc Working Group of Experts last report (E/CN.4/1429, para. 356) refers to the second Police Amendment Bill which was passed in June 1980. According to the Black Sash newspaper, this Act is open to the interpretation that the media are prohibited, without the consent of the Minister or Commissioner, from publishing any information (including names) about any person who is arrested under the broad terms of the Terrorism Act. The newspaper Black Sash noted that South African law has reached the point where people - like Steve Biko and Joseph Mavi - may simply disappear without the public being informed in any way. 256/

232. In September 1981, newspaper editors were warned in a confidential memorandum from the South African Defence Force, against any detailed reporting of sabotage incidents, including results of an operation, enemy casualties or any mention of the SADF. 257/

233. During the period under review, six journalists had three-year banning orders served on them under the Internal Security Act. Five of the journalists were leading figures in the Media Workers Association, which had just ended a protracted strike following Government suspension of four newspapers. The journalists are John Issel, organizer of a community paper, Grassroots; 258/ Zwelakhe Sisulu, President of the Media Workers Association and news editor of the Sunday Post; 259/ Marimuthu Subramoney, Vice President and Natal Regional Secretary of the Media Workers Association and reporter on the Daily News, correspondent for the BBC and several other foreign broadcasting corporations; 260/ Mathata Tsedu, a Post reporter and Northern Transvaal executive member of the Media Workers Association; 261/ Phil Mtimkulu, former Secretary-General of the banned Union of Black Journalists and a journalist on the Post; 262/ and Joe Thloloe, former President of the Union of Black Journalists, a leading figure in the Media Workers Association and a journalist on the Post. 263/ All six are restricted to their homes between 7 p.m. and 6 a.m. on weekdays and for the whole of weekends and public holidays. They are not allowed visitors apart from parents and parents-in-law, and a doctor, and are prevented from entering any newspaper office, industrial complex or educational institution. 264/

256/ Black Sash, February 1981.

257/ The Guardian, 28 September 1981.

258/ Cape Times, 22 November 1980.

259/ Rand Daily Mail, 30 December 1980; Star, 1 March 1981.

260/ Cape Times, 30 December 1980; see also E/CN.4/1486.

261/ Rand Daily Mail, 10 January 1981.

262/ Focus, March-April 1981.

263/ The Guardian, 29 January 1981.

264/ Focus, March-April 1981.

234. Two black newspapers, the Post and Sunday Post, were banned. 265/

235. During the period under review, Zubeida Jaffer, a 22 year-old journalism graduate, was arrested and detained under the Internal Security Act. She was incarcerated under section 6 of the Terrorism Act, 266/ and was later charged with possessing banned documents. 267/

2. Bannings

236. According to additional information available to the Ad hoc Working Group of Experts, the following people were also banned:

(a) Mr. A.S. Chetty, Chairman of the Pietermaritzburg branch of the Natal Indian Congress, banned and confined to the magisterial district of Maritzburg. This is the second time that Mr. Chetty has been banned. 268/

(b) Florence Mkiize, one of the leaders of the Women's Federation of South Africa and the former Natal province organizer of the banned African National Congress, banned in February 1981. Her banning order restricts her to the Lamontville township and Durban magisterial district, and she has to report once a week to a police station. 269/ This is her third banning order and she had previously been arrested and detained three times. 270/

(c) Mr. Andrew Boraine, President of the National Union of South African Students and son of a Progressive Federal Party MP, detained without trial (see para. 239 above) and, on his release, served with a five-year banning order. 271/

237. Ms. Ilva Mackay (551st meeting) said that the South African Congress of Trade Unions was unable to calculate the numbers of banned trade unionists but that since 1960, 1,426 people have been banned in South Africa. The régime found banning one of the most effect ways of preventing people from carrying out their work.

238. The Ad hoc Working Group of Experts also received information on a number of banned people charged with contravention of their banning orders. These include:

(a) Mr. Fikile Mlinda, sentenced to six months' imprisonment after being found guilty of breaking his restriction order. 272/

265/ The Times, 27 January 1981.

266/ Financial Mail, 17 October 1980.

267/ Rand Daily Mail, 21 November 1980.

268/ Rand Daily Mail, 20 February 1981; Daily News, 19 February 1981.

269/ Cape Times, 28 February 1981.

270/ Post, 8 October 1980.

271/ The Guardian, 7 August 1981.

272/ Daily Dispatch, 5 February 1981.

(b) Laurence Ntlokoza, a former executive member of the Young Christian Workers, sentenced to six months' imprisonment for breaking his banning orders. When the court sentenced him he was in detention under the General Law Amendment Act. 273/

(c) Mrs. Fatima Mzer, charged on four counts of contravening her banning orders. 274/

239. During the period under review, a banned priest and leading black consciousness exponent, Father Smangaliso Mkhatshwa, was appointed as general secretary of the Catholic Church in Southern Africa. His banning order is expected to expire in June 1982. 275/

240. A banned man, Mr. Marimuthu Subramoney (see para. 233 above), was forced to wait for some time before a magistrate agreed that an exemption could be made under his house arrest order to allow him to drive his child to hospital. The sick child later died in hospital. 276/

241. During the period under review, Mr. H.J. Coetsee, Minister of Justice, banned any gatherings in the Republic of South Africa from 1 April 1981 to 31 March 1982. Only bona fide sports gatherings, gatherings in buildings and gatherings authorized by the minister or a magistrate are not affected by the ban. 277/

242. During the period under review, the South African Government prevented families of people killed in the South African army raid into Mozambique in January 1981 from having their bodies returned to South Africa, and banned all weekend memorial services for the dead. 278/ On the Sunday after the weekend covered by the ban, thousands attended a memorial service in Soweto held for those killed. 279/

3. Denials of passports and visas

243. During the period under review, people who had their passports confiscated included:

273/ Sowetan, 11 March 1981.

274/ Sunday Times, 10 May 1981.

275/ Voice, 6 May 1981.

276/ The Guardian, 7 February 1981.

277/ Cape Times, 28 March 1981.

278/ Cape Times, 14 February 1981.

279/ Cape Times, 23 February 1981.

(a) Bishop Desmond Tutu, whose passport was confiscated in April by the security police after he returned from North America and Europe. 280/

(b) Makashini Khumalo, President of the Black Allied Workers Union, who had his passport withdrawn. 281/

(c) Beki Khumalo, Public Secretary of the Black Allied Workers Union, was refused a passport to visit the United States to attend a course on union issues. 282/

(d) Frank Chikane, an Apostolic Faith Mission Minister, was refused a passport for the second time. He had wanted to further his studies outside South Africa. 283/

(e) Dr. Beyers Naude, a former director of the banned Christian Institute, who was refused an application for a passport. He had wanted to attend the centenary celebrations of the Free University of Amsterdam, which awarded him an honorary doctorate in theology in 1972. Dr. Naude spoke in a meeting held to commemorate the bannings in 1977 and managed to get over his own banning order by remaining apart from the congregation after giving his sermon. 284/

4. Violations of transit rights and of the integrity of neighbouring States

244. During the period under review, the South African army kidnapped three ANC freedom fighters from Mozambique and detained them without trial in South Africa. 285/

5. Pass laws

245. Proposals for new legislation affecting the pass law system were published during the period under review. They implement policies advocated by the Riekert Commission and include a tightening of control over work seekers from the rural areas, the tying of residence rights to having a "lawful" job and approved accommodation, and intensified relocation of unemployed people to the "homelands" (see paras. 101, 123, 140 above). A Black Sash representative said of the proposals that they "would entrench racial discrimination and perpetuate African rural poverty". 286/ The new laws would confirm the practice of fining employers of unregistered labour R500. The penalties for contravening the laws, by being unlawfully in an area, can be suspended if the person is sent to a "homeland" or renders community services, or is enrolled to train as an artisan. 287/

280/ Financial Times, 18 April 1981.

281/ Voice, 25 March 1981.

282/ Ibid.

283/ Sowetan, 29 April 1981.

284/ Rand Daily Mail, 20 October 1980.

285/ Rand Daily Mail, 28 February 1981.

286/ Sunday Express, 2 November 1980.

287/ Rand Daily Mail, 5 November 1980,

246. A new bill, providing for the eventual fingerprinting of the entire population and the compulsory carrying of passes by all, was published during the period under review. The draft bill was seen by opponents as intended to counter charges of racial discrimination by having the Government "discriminate against everybody"; but observers doubt that white people will in fact be subjected to the same control as black people. 288/

247. According to information available to the Ad hoc Working Group of Experts, nearly half a million people were jailed during 1978 and 1979, including 200,000 short-term prisoners, most of whom were offenders against pass laws, trespassers and curfew breakers. 289/

248. A total of 66,397 black men and 14,653 black women were arrested by the South African police for offences relating to influx control and reference books during 1980. 290/

6. Health

249. Mrs. Eleanor Khanyile, a witness before the Group (549th meeting) described "appalling conditions" she had worked in at the second largest hospital in South Africa, the King Edward III hospital. She said that two of the most serious problems are overcrowding and understaffing, and that practically all patients treated at the hospital are treated for ailments which could be prevented if their socio-economic conditions were better. Mrs. Khanyile told the Ad hoc Working Group of Experts about a study at the hospital which revealed that 30 per cent of twins delivered there die before reaching the age of two. She told the Ad hoc Working Group of Experts how patients are hospitalized only for the acute phase of their illness and that, because women who have given birth are sent home the next day, many return to hospital sicker than they originally were. She said, "One would never find a situation like this at Addington hospital - a white hospital."

250. Mrs. Peggy Preston (522nd meeting) told the Ad hoc Working Group of Experts that long-term wards in black hospitals are very bleak. She said the facilities for old people are extremely inadequate. She said: "Whereas the white people have beautiful old people's homes, while I was there a so-called old people's home in a township was on fire, and then it came out in the press that it was really nothing more than a shack where all those old people were living."

251. A paper submitted by Ms. Cate Clarke (547th meeting) described how the South African medical profession has participated in the planning, establishment and running of the apartheid health services, which mean that while beds stand empty in white hospitals, black patients lie on the floor in overcrowded and underfinanced black hospitals. The paper goes on to say that the continued acceptance of South Africa by the international health community remains a source of encouragement to the apartheid régime.

288/ Financial Mail, 16 January 1981.

289/ Sunday Express, 8 February 1981; Cape Times, 16 February 1981.

290/ Rand Daily Mail, 26 February 1981.

II. NAMIBIA

Introduction

252. In its previous report, the Ad Hoc Working Group of Experts described the illegal measures by which South Africa had continued to maintain its jurisdiction over Namibia by consolidating internal, purportedly autonomous Government structures in Namibia (E/CN.4/1429, paras. 375-479). The Ad Hoc Working Group of Experts referred to the efforts by the international community to implement the proposal for a peaceful settlement as provided for in Security Council resolutions 385 (1976), 431 (1978), 435 (1978) and 439 (1978). The Ad Hoc Working Group of Experts described the actions of the Secretary-General and his Special Representative in carrying out the Security Council mandate, including attempts to obtain agreement on the establishment of a demilitarized zone (DMZ) in northern Namibia, and in parts of Angola and Zambia, as a basis for a cease-fire, involving discussions with all interested parties, including SWAPO, the South African Government, the African Front Line States and the Contact Group of the Western Five (the United Kingdom, Canada, France, the Federal Republic of Germany and the United States). The report also described the granting of executive powers by South Africa to the so-called Council of Ministers of SWA/Namibia and the division of legislative powers between the "first tier" so-called National Assembly and the "second tier" so-called "representative (ethnic) authorities" for each "population group"; the establishment of a separate "South West African Territory Force"; the escalation of attacks by the SADF/SWATF on civilian and refugee centres in Angola; the intensification of measures of arrest, intimidation, torture and murder of SWAPO members, supporters and other individuals, including members of the Namibian churches by the SADF and the South African police; the detention of Namibian freedom fighters captured in the attack on Kassinga in May 1978 in an open-air detention camp and the infliction of grave mistreatment; and, the harassment of SWAPO political meetings and attacks on SWAPO supporters in urban areas.

253. Other reports of the Ad Hoc Working Group of Experts have discussed the Development of "Self-Government" for Native Nations in South West Africa, Amendment Act, No. 20 of 1973, which enables the South African State President to grant "self-government" to any of six proclaimed "homelands" (Ovamboland, Kavangoland, Eastern Caprivi, Damaraland, Hereroland, Namaland). The Ad Hoc Working Group of Experts noted that despite the process of so-called "internal constitutional development" initiated in August 1977 under the aegis of a South African-appointed Administrator-General these acts have not been repealed, although their application has in practice been modified by the new administrative arrangements imposed on Namibia. In addition, despite the transfer of government functions from Ministries in South Africa to so-called "directorates" acting under the authority of the Administrator-General, many areas of internal policy where issues of human rights are involved - the judicial system, police, internal security and prisons - remain subject to direct control from Pretoria (E/CN.4/1429, paras. 388-89).

254. The most significant developments considered by the Ad Hoc Working Group of Experts during the period under review have been the failure of the pre-implementation conference convened by the United Nations in Geneva in January 1981 to secure progress on implementing a peaceful settlement, owing to South Africa's

rejection of this as "premature"; the continued intensification of South African attacks on civilian and refugee centres inside Angola, including several major incursions into southern Angola and the further militarization of Namibia; the granting of extended powers to the Ministers' Council, culminating in the transfer to it of all executive powers previously exercised by the Administrator-General with the exceptions of defence, security, foreign affairs and matters "affecting the international status" of Namibia; the establishment of a purportedly autonomous police force, the "South West African Police"; the enforced conscription of Namibians into the armed forces, causing thereby an increased exodus of Namibians into Angola and neighbouring States as refugees; the continued widespread arrest and intimidation of SWAPO members, supporters and other individuals; the continued detention in poor conditions of the Kassinga detainees held for over three years without charge or trial; further attacks on church members and property in northern Namibia.

1. Efforts to secure a peaceful settlement

255. The Secretary-General, in a report issued on 24 November 1980, 291/ stressed that it was of vital importance that Namibia should achieve independence in accordance with Security Council resolution 435 (1978) in 1981. In order to achieve that aim, he proposed that a date for the cease-fire and a start of implementation should be set in the early part of 1981. He also proposed, inter alia, that a means of facilitating agreement and creating the necessary climate of confidence and understanding would be a pre-implementation multiparty meeting held under the auspices of the United Nations.

256. The meeting, the opening sessions of which were chaired by the Secretary-General of the United Nations, was held at the Palais des Nations, Geneva, from 7 to 14 January 1981. South Africa and the South West Africa People's Organization (SWAPO) were contacted concerning the composition of the respective delegations that would participate in the meeting. The front-line States, Nigeria, the Organization of African Unity (OAU) and the Contact Group of the Western Five were also contacted about the sending of observers. 292/

257. The two delegations participating in the meeting were led respectively by the South African Administrator-General of Namibia, Mr. Danie Hough, and by the President of SWAPO, Mr. Sam Nujoma. The observer delegations were represented at a high level, including some at the ministerial level. The OAU was represented by its Secretary-General, Mr. Edem Kodjo. In addition, the Minister of State of Foreign Affairs of Sierra Leone attended the meeting on behalf of the President of Sierra Leone, the Chairman of the OAU, Mr. Siaka Stevens.

291/ S/14266, para. 18.

292/ Ibid., para. 24. See also Working paper on Namibia prepared for the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/AC.109/653).

258. Later, in reviewing the outcome of the meeting, the Secretary-General observed that the "pre-implementation meeting ... did not succeed in achieving the objective set for it in my report of 24 November 1980, namely the setting of a date for the cease-fire and a start of implementation in the early part of 1981. It became clear in the course of the meeting, that the South African Government was not yet prepared to sign a cease-fire agreement and proceed with the implementation of resolution 435 (1978)". 293/ In this connection the Secretary-General appealed to the Government of South Africa to review, with the utmost care, the implications of the meeting and to reconsider its position with regard to the implementation of resolution 435 (1978) at the earliest possible time.

259. Immediately after the breakdown of the Geneva conference, the front-line States and Nigeria called for the imposition of economic sanctions against South Africa and pledged to increase material support from the OAU to SWAPO.

260. A new initiative on behalf of the Contact Group of the Western Five was made by the United States in February 1981, reported to include proposals to modify the existing settlement plan to make it more acceptable to South Africa, notably by including constitutional guarantees to be agreed in advance of the holding of elections. The front-line States reaffirmed their commitment to a solution based on Security Council resolution 435 (1978), and at a meeting in Luanda (Angola) on 17 April 1981, attended by the front-line Presidents and the SWAPO President, reaffirmed total support for SWAPO and denounced efforts to "destabilize" Angola. The Foreign Ministers of the Contact Group countries, at a meeting in Rome (Italy) on 3 May, ruled out the proposal for a constitutional conference as impractical in view of SWAPO's position that it would not attend such a conference before the holding of internationally-supervised elections. The Rome communiqué reaffirmed that resolution 435 provided a solid basis for the achievement of a negotiated settlement. 294/

261. Foreign Ministers from the non-aligned countries called on the Security Council on 19 April 1981 to impose mandatory economic sanctions on South Africa to force it out of Namibia. At a meeting in Algiers (Algeria) a programme of action for Namibia's independence was adopted, which specified that if the Security Council failed to impose sanctions, an emergency special meeting of the General Assembly should be convened to review the question of Namibia and take appropriate measures under the United Nations Charter. The demand for sanctions culminated in a vote in the Security Council on 30 April on four resolutions proposed by the African group, all four of which were vetoed by France, the United Kingdom and the United States. 295/

293/ S/14333, para. 19.

294/ Africa Research Bulletin, 31 May 1981.

295/ Africa Research Bulletin, 1-30 April 1981; Quarterly Economic Review of Southern Africa, 2nd quarter 1981, (London, Economist Intelligence Unit).

262. Two days of talks centred on the Namibian issue took place from 14-16 May 1981 in Washington between the United States Secretary of State, Mr. Haig, and the Foreign Minister of South Africa, Mr. R.F. Botha. It was reported that Mr. Botha had returned to Pretoria with details of new United States proposals which could break the deadlock over an independence formula, which were said to include the need for safeguards for minorities, a multiparty political system and an independent judiciary.

263. At a meeting in London with the United Kingdom Foreign Secretary, Lord Carrington, on 29 May 1981, the SWAPO President denounced what he saw as United States attempts to deviate from the United Nations settlement plan, and rejected any suggestion that the withdrawal of Cuban forces from Angola should precede independence for Namibia, as well as the idea of "constitutional safeguards" in advance of elections.

264. On 22 June 1981 in Nairobi, where he was attending the OAU summit conference, Mr. Nujoma stressed that SWAPO remained ready to sign a cease-fire as soon as the conditions of resolution 435 were met. Namibia was a direct responsibility of the United Nations and the only way forward was for South Africa to withdraw its troops and for the United Nations to establish its presence in Windhoek. 296/

265. Officials of the Contact Group met in Paris in July 1981 to formulate proposals "to complement and strengthen the existing United Nations plan and provide the confidence necessary for all parties to proceed".

2. Moves towards the imposition of an internal settlement

266. During the period under review South Africa continued its policy of consolidating internal, purportedly autonomous, Government structures in Namibia, and the Group has paid particular attention in its report to this process in relation to human rights violations. Previous reports of the Ad Hoc Working Group of Experts (E/CN.4/1311, paras. 336, 348-351; E/CN.4/1365, paras. 252-253; E/CN.4/1429, paras. 387-397) have described the measures taken by South Africa since the establishment of the post of Administrator-General on 1 September 1977.

267. On 3 September 1980, the South African Police in Namibia, exclusive of the Security Branch and the national intelligence services, were handed over from the South African Minister of Police to the Administrator-General. According to the Divisional Commissioner of Police in Namibia, Major-General Dolf Gouws, the transfer of authority did not mean that a separate and autonomous police force had been established. The command structure of the police in the territory remained unchanged, but South African police serving in Namibia did so officially henceforward on secondment. 297/

296/ Africa Research Bulletin, 1-30 June 1981; Quarterly Economic Review of Southern Africa, 3rd quarter 1981, (London, Economist Intelligence Unit).

297/ Working paper on Namibia (A/AC.109/653) Focus, No. 31, November-December 1980, p. 7.

268. The process of transferring control over the police was completed on 1 April 1981 with the formal inauguration of the South West African Police (SWAP) to which responsibility for policing in Namibia was transferred from the South African Police. Major-General Gouws, appointed commander of SWAP, said he expected many of the serving South Africans to stay on in the new force which would be operated with no racial discrimination. SWAP was to be directly responsible to the Administrator-General. According to Major-General Gouws, local policemen would continue to be trained in South Africa, although the territory's own police college was under construction and training would eventually be in the territory. Uniforms would also remain unchanged initially, and the paramilitary role of the police would continue. 298/

269. Pursuant to the proclamation of constitutions for the second-tier "representative authorities" in June 1980, and of regulations for the holding of elections for members of the authorities in August 1980 (see E/CN.4/1429, para. 390), the Administrator-General announced that elections for members of the second-tier authorities for eight "population groups" would be held from 11-13 November. Whites would vote for candidates of their choice on a constituency basis, while non-white groups would vote for parties or political organizations on a proportional basis, although a list of independent candidates would also be slated. In terms of the functions proclaimed for "representative authorities", legislative and executive control is exercised over all matters pertaining to each "population group" for which the authority is established. No matter where a person lives, he or she falls under the authority of his or her ethnic Government, although the budget for the authorities is controlled by the National Assembly.

270. In this connection, The Windhoek Observer commented that the country's citizens rejected the ethnic exercises which were being imposed upon the country and which were designed to divide the people further, to cause increased bitterness and to pave the way for further violence. 299/

271. In response to criticism from local parties opposed to ethnic institutions, the Administrator-General stated that the elections should be regarded as referendums in which political groups which had expressed their opposition to representative authorities should take part so that they could, if elected, decide not to implement the second-tier authority designated to represent their groups.

272. No elections were organized for the Ovambos, Bushmen or Basters. According to the Administrator-General, the Ovambos would not vote because the extent of military and operational activities in the area made elections unfeasible; the Basters because they had taken part in elections for a Kaptein in 1979; the Bushmen because they would continue to be represented by a nominated authority. According to other sources, the reasons for not holding elections in Ovamboland was fear on the part of

298/ Focus, No. 34, May-April 1981, p. 2, Quarterly Economic Review of Southern Africa, 2nd quarter 1981, (London, Economist Intelligence Unit) p. 23.

299/ Windhoek Observer, 6 November 1980. See also, Working paper on Namibia (A/AC.109/653).

the authorities that the popularity of SWAPO in the area would result in an extremely low percentage poll. The unpopularity of Pastor Cornelius Ndjoba, DTA President and chairman of the Ovambo executive committee, was also cited. Shortly before the elections were held, in fact, Pastor Ndjoba announced his resignation as DTA President and as a member of the National Assembly on the grounds that the Ovambo people needed him and he had no time for his DTA functions. He was replaced as DTA President by Mr. Peter Kalungula, with responsibility for education on the Ovambo executive committee. 300/

273. Prior to the beginning of the poll it was announced that no elections would take place for the East Caprivians, Tswanas and Namas because no party had served notice of its intention to oppose the ruling DTA in each area, SWAPO, SWAPO-Democrats and the Namibia National Front (NNF) having announced they would not contest the elections and called on their supporters to boycott the polls. Following the three days of polling, it emerged that the DTA had been defeated in two out of five contested polls.

274. The Republican Party, the white DTA constituent party led by Mr. Mudge, was defeated by AKTUR, which opposed one man-one vote elections and demanded the repeal of all recent legislation modifying apartheid. AKTUR received 48.0 per cent of the vote as against 41.5 per cent for the Republican Party and 10.5 per cent for the Herstigte Nasionale Partei (HNP). In the contest for the 18 seats of the SWA Legislative Assembly, now reconstituted as the white "representative authority", AKTUR gained 11 seats to the Republican Party's seven. The result was seen as an unexpected setback to the Republican Party, and a reflection of the failure of the Administrator-General to persuade the right-wing whites to support a programme of modified reform of the apartheid system under the leadership of the DTA.

275. It was considered likely that the DTA defeat might have an effect on the negotiations for an international settlement since, unlike Ian Smith at the Lancaster House Conference, Dirk Mudge would be unable to claim majority backing from the whites. Mr. Mudge, however, contended that many South Africans seconded to the civil service and military forces had cast votes for AKTUR and that a vote conducted on the basis of an electoral list limited to permanent white residents would show a different result.

276. The other election lost by the DTA was in Damaraland, where the DTA constituent party, the Damara United Front, was defeated by the Damara Council, a member of the NNF, which campaigned on a platform of opposition to the establishment of ethnic authorities, and which won a majority of 23 out of the 40 seats up for election. DTA affiliated parties won the Herero, Coloured and Kavango elections, all of which had markedly low turnouts. The 32.8 per cent poll among the Coloureds (the lowest) was considered an indication of popular support for an election boycott, while the 49.5 per cent poll among the Damaras, the largest non-white group after the Ovambos, was thought to signify a strong measure of support for SWAPO. In the Herero election, where the National Unity Democratic Organization, NUDO, won 34 of the 35 seats, only 53 per cent of those eligible actually voted. 301/ The results of the voting are summarized below:

300/ Ibid., pp. 18-19; Windhoek Advertiser, 25 October, 3 November 1980.

301/ Working paper on Namibia (A/AC.109/653) p. 20; Quarterly Economic Review of Southern Africa, 4th quarter 1980 (London, Economist Intelligence Unit).

Summary of the results of the voting

Party	Votes	Seats
<u>Damaras</u>		
Damara Tribal Council (affiliated with NNF)	11 677	23
Damara United Front (DUF) (affiliated with DTA)	8 291	16
Damara Tribal Executive	449	1
Total	20 417	40
<u>Hereros</u>		
National Union Democratic Organization (NUDO) (affiliated with DTA)	21 036	34
NUDO-Progressive	444	1
Total	21 480	35
<u>Coloureds</u>		
Labour (affiliated with DTA)	5 292	11
Liberal	2 101	4
Total	7 393	15
<u>Kavangos</u>		
DTA	...	11
National Christian Democratic Party	...	1
Total		12
<u>Whites</u>		
AKTUR	48.0	11
Republican Party (affiliated with DTA)	41.5	7
Herstigte Nasionale Partei	10.5	0
Total	100.0	18

302/ The voting results for the white parties were given only in terms of percentages.

277. At the beginning of September 1980, the South African Government announced that Mr. Gerrit Viljoen (see E/CN.4/1429, paras. 387-390) was to be replaced as Administrator-General by Mr. Danie Hough, a member of the executive committee of the Transvaal National Party, and member of the Transvaal provincial council. Mr. Viljoen was appointed Minister of Education in the South African Cabinet. His replacement was widely viewed as an indication that South Africa was preparing to reduce the powers of the Administrator-General in favour of the Ministers' Council. It was also noted that Mr. Viljoen's main priority of establishing a restructured local administrative structure had been largely completed. 303/

278. According to the Windhoek Observer, Mr. Hough's appointment was construed as evidence that executive powers were not invested in the Council of Ministers. The territory would be governed in essence by the Council while Mr. Hough would be a figurehead and an intermediary between the Council and the South African Government. 304/

3. Militarization of Namibia and attacks against Angola

279. In its previous report (E/CN.4/1429), the Ad Hoc Working Group of Experts drew attention to South Africa's military build-up in Namibia and the launching of attacks by SADF troops based in Namibia against neighbouring States. The period under review has seen the intensification of these developments with an almost continual pattern of attacks directed against Angola, as SWAPO for its part continued to intensify its armed struggle against the South African forces illegally occupying the territory. In order to conceal the extent of the continued military effectiveness of SWAPO from the Namibian and South African population, South Africa does not publish its own casualties, and refrains from giving details of military actions in which losses are sustained. Conversely, South Africa widely publicizes the number of "terrorists" allegedly killed by SADF. 305/

280. An International Commission of Inquiry into the Crimes of the Racist and Apartheid Régimes in southern Africa was set up in October 1976 in Brussels, Belgium under the chairmanship of Mr. Sean McBride. A delegation visited Angola in August 1980 to investigate South African attacks. The mission heard witnesses at the central military hospital in Luanda, visited sites of attacks in the Lubango and Moamedes areas and examined the remains of aircraft shot down in the June-July 1980 invasion (see E/CN.4/1429, para. 402). Over the three-month period August-October, the provinces of Cunene and Cuando Cubango came under particular attack. A communiqué issued by the Angolan Embassy in Paris on 21 October said that during the period South African forces carried out 165 reconnaissance flights, 22 air bombardments and laid mines on roads in these regions. They also made 23 landings of helicopter-borne troops.

303/ Ibid.

304/ The Windhoek Observer, 6 September 1980; Working paper on Namibia (A/AC.109/653).

305/ Ibid., p. 24.

281. The International Commission of Inquiry held a second plenary session in Luanda from 30 January-3 February 1981. In concluding this session, the International Commission drew attention to the universally recognized principles on which its action was based - these included the principles set forth by the Nuremberg Tribunal, the Convention on the Prevention and Punishment of the Crime of Genocide, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, as well as many resolutions and decisions adopted by the United Nations, which all lead to the conclusion that apartheid is a crime under international law. The Commission gathered information demonstrating defiance of these principles, drew legal conclusions and proposed measures to restore international legality. Its findings were based on reports submitted by the representatives of Angola, of the Namibian people (SWAPO); the testimony of individual witnesses; the observations of the missions carried out on 1 February 1981 in Lubango, Xangongo and Cuamato in the Cunene region and in the Kwanz do Sol Namibian refugee camp 250 km from Luanda.

282. The findings were that: (a) armed attacks, raids and temporary military occupations of Angola had been perpetuated by the South African army as well as violations of Angolan air space by South African air forces stationed at bases in Namibia, on a systematic and almost daily basis; (b) these attacks were aimed in particular against Angola's industrial and agricultural infrastructure and all its communication systems, in order to paralyse the country's economy, create a permanent state of insecurity, and destabilize Angola; (c) this undeclared war directly affected large sections of the civilian population, who were the victims of bombings, assassinations, abductions and torture; (d) the arms and equipment used for war and repression by South Africa originated mainly from NATO countries, and that mercenaries from the same countries were associated with, or even integrated into, South African army units; and (e) the very difficult living conditions of the 50,000 Namibian refugees in Angola were the direct result of the illegal measures taken in Namibia by South Africa.

283. The Commission's legal conclusions were that South Africa was systematically violating the sovereignty of Angola and the integrity of its territory, which justified the application of sanctions provided in Chapter VII of the United Nations Charter. The South African Government had no right to justify its military actions by means of the rule of "hot pursuit" since such a right did not exist in international law in relation to pursuit on land, and was inconceivable from a territory occupied illegally. The recognized rights of the Namibian people were being violated in outrageous fashion by the South African occupation, and as a violation of the fundamental principle of a people's right of self-determination constituted a crime of aggression against the Namibian people. The use of armed force against SWAPO and the people of Namibia also constituted an international armed conflict, while the systematic massacres and torture carried out by South Africa against the population and the liberation movement fighters were a violation of humanitarian law (The Hague Convention, the Geneva Convention of 1949 and the Additional Protocol of 1977). The Commission demanded the following urgent measures: strict respect for the rules of general international law, particularly those concerning the sovereignty and territorial integrity of Angola and other front-line States; the implementation of the right of the Namibian people

to self-determination; effective application of sanctions already decided upon by the Security Council, and the application of sanctions provided for in Article 41 of the Charter; indemnity by South Africa for all losses and damage by acts of aggression against Angola and the front-line States; effective aid to the front-line States and to national liberation movements to be guaranteed and increased, particularly on the part of the International Red Cross and other humanitarian organizations. 306/

284. Testimony to the International Commission was given on the second day of the hearings by Captain Jose Ricardo Belmundo, a black Angolan, who described how he had become a mercenary for South Africa and spent two years in a unit which regularly raided Angola with instructions to destroy schools, hospitals and houses, and to kill civilians and cattle. The unit was the 32 or "Buffalo" Battalion, based at Rundu in north-eastern Namibia, and comprising 9,000 men. He had become part of a small unit called reconnaissance Command Number 5, which made scouting trips, raids, and "cleaning up" operations inside Angola. The unit attacked civilian and military targets belonging to Angola and SWAPO. Captain Belmundo said that he had taken part in several operations in Angola's Cuando Cubango province at the request of UNITA. He claimed to have undergone a two-year commando training in Pretoria and Durban and to have been instructed partly by French and Israeli officers. According to further information available to the Working Group, a British soldier, Mr. Trevor Edwards, disclosed in The Guardian that he had deserted from 32 Battalion, because the unit had been involved in indiscriminate killing of Angolan civilians in so-called "fireforce" clearing operations. On joining up, he claimed he had had to sign a secrecy pledge, and been told the unit operated primarily in Angola. He was one of some 15 British soldiers in the unit, which also included Australians, American, French and German officers, while most of the African troops were former FNLA soldiers. The South African Defence Force issued a statement dismissing the allegations of a "self-confessed deserter", and claiming that the report took no account of the existence of a civil war in Angola, or the flight of refugees from Angola to Namibia caused by SWAPO "atrocities" against their own people. The statement claimed that South Africa was not involved in a war against Angola, and it was declared policy to avoid contact with Angolan troops and civilians. 307/

285. According to information available to the Ad Hoc Working Group of Experts, the SADF was engaged in an extensive programme of "civic action" directed at the population in northern Namibia: more than 60 per cent of the population lived within the area of the proposed DMZ, and the military believed that the bulk of these people would be "intimidated" into supporting SWAPO if a United Nations-supervised election was held. The numerous military camps established along the border were described as having a look of permanency, larger and better fortified than before, with bigger numbers of military vehicles in evidence. There were eight "ethnic battalions" fighting alongside the SADF in some areas, making up half

306/ A/AC.115/L.541 of 3 April 1981.

307/ The Guardian, 28/29 January 1981, 2 February 1981.

the South African military presence. Senior military commanders were reported as contending that increasingly aggressive South African tactics, involving regular cross-border raids, had forced SWAPO to move its main operational bases deeper into Angola. 308/

286. According to information available to the Ad Hoc Working Group of Experts, the local authorities are said to have also succeeded in their efforts to compel Africans to take up arms against SWAPO. At the end of October, Mr. Marais Viljoen, the State President of South Africa, issued a proclamation 309/ making military service compulsory for all Namibians between the ages of 18 and 25 years. 310/

287. The proclamation stipulated that all males aged 16 to 25 years at 1 January 1981 would have to register for the draft, and those holding current identity cards would be deemed to have registered already. Training was scheduled to begin in March. Previously, all Namibians serving in the tribal armies were considered to have "Volunteered" for duty. Although no concrete information is available as to the number of "volunteers", in 1979 it was reported by South African sources that 20 per cent of all troops deployed in the operational zone were Namibians. 311/

288. The conscription of African men has political as well as military significance, as it will enable the authorities to claim that the majority of Africans are against the national liberation struggle as well as relieving the strain on white manpower resources. The Star (Johannesburg) reported on 25 October 1980 that many nationalist groups inside the Territory had indicated that they would resist conscription physically, even if it meant imprisonment.

289. In a statement issued on 19 September 1980, 312/ the President of the United Nations Council for Namibia declared that all measures by the illegal occupation régime in Namibia to establish military conscription were illegal, null and void.

290. Information before the Ad Hoc Working Group of Experts indicated in January 1981 a noticeable presence of military police enforcing the new conscription law. Young men were being taken off the streets and sent for training, since only a few of those called-up had reported for duty; those making any form of inquiry were immediately enlisted.

308/ The Times, 17 February 1981; Financial Times, 12 February 1981.

309/ The proclamation took the form of an amendment to the 1957 Defence Act, in terms of the South West Africa Constitution Act, No. 39 of 1968, removing racial exclusion as far as military service is concerned.

310/ Government Gazette, No. 7259, 17 October 1981. Proclamation 198/1980; Working paper on Namibia (A/AC.109/653).

311/ Ibid.

312/ A/35/475-S/14186, annex. For the printed text, see Official Records of the Security Council, Thirty-fifth Year, Supplement for July, August and September 1981, document S/14186, annex.

291. Further reports during the period under review indicate that the first group of national servicemen to be conscripted into the SWATF were due to complete their basic training in April 1981. They were to remain until the end of 1981 at the Rooikop military base, under the control of the SADF, and were then to be posted to SWATF units for the second half of their two-year period of service. Whites were said to have comprised about 20 per cent of the first intake of national servicemen called up in January. Training comprised four months of basic training, and a further six months training in specialized fields. Half of the men were stationed at Rooikop and the rest in Walvis Bay. Two companies consisted of men with standard eight qualifications and higher, and a third contained trainees with lesser qualifications - many of the trainees were illiterate. 313/

292. According to further information available to the Ad Hoc Working Group of Experts, the SWATF was allocated 850 hectares of land for the erection of a new military headquarters south of Windhoek in March 1981. The prominent role played by the police in military counter-insurgency operations was highlighted in a 12 March military communiqué of the SWATF. Colonel Nico Roets, Senior Staff Officer, said that the South African Police had accounted for 60 per cent of the deaths of 58 SWAPO combatants alleged to have been killed over the preceding two weeks. It was reported that during February 1981 journalists had for the first time been able to visit base camps built by the police in the operational area, where local residents were trained to perform various tasks - including the "prevention of crime" and counter-insurgency. Volunteers were said to exceed the facilities available. 314/

293. Angola accused South Africa of launching a major invasion of its southern Cunene province on 29 July 1981. According to a statement issued by the Ministry of Defence, the invasion force comprised a motorized infantry battalion, an infantry brigade, and two mixed battalions of mercenary and South African troops, backed-up by Impala jets and Puma and Alouette helicopters.

294. The statement noted that in the first half of July, troop movements which had already begun in the last half of June began to take on the aspect of an invasion. At the time the communiqué was issued, seven towns were reported to have been seized, the provincial capital of Ondjiva encircled, and a motorized battalion was advancing towards the North of Cuvelai rural district 120 miles from the border. The South African airforce had seized control of the airspace over the entire Cunene province. The South African Defence Minister, General Malan, initially denied an invasion was taking place, claiming that the operation merely formed part of the constant follow-up and hot-pursuit operations against SWAPO. But Major-General Charles Lloyd, Commander of the SWATF, had announced at a briefing for journalists in Oshakati in mid-July, that it would be military policy in future to strike at SWAPO bases in Angola.

313/ Focus, No. 32, January-February, p. 3; No. 33, March-April 1981, p. 6; No. 34, May-June 1981, p. 1 and p. 4.

314/ Focus, No. 33, and No. 35, July-August 1981.

295. According to South African military statistics available to the Ad Hoc Working Group of Experts, 700 SWAPO guerrillas had been killed in the year to mid-July 1981, 225 of them in the previous month in the course of "intensive counter-insurgency operations" over the 12 days prior to 16 July. It was reported in the local press that South African shock troops had converged on various targets in southern Angola "in a strike which had few parallels in the long and bloody bush war".

296. The scale of the invasion became more apparent during August as South African troops continued to occupy large parts of southern Angola. On 25 August 1981 President Dos Santos of Angola issued the order for a general mobilization, called for an urgent convening of the Security Council, and warned that Angola might be forced to invoke Article 51 of the United Nations Charter, which provides for collective defence by member States of a fellow member State which is the victim of external aggression.

297. As of the beginning of September, despite an announcement by South Africa that it was withdrawing from Angola, having allegedly achieved its military objectives, South African forces were reported to have remained some 25 miles inside Angola. The Angolan Government and SWAPO stated that South Africa's aim was to establish a permanent buffer zone to isolate SWAPO and provide a base for UNITA. After the failure of the Security Council to pass a resolution on the invasion, owing to a veto by the United States, Angola announced that it regarded the conditions justifying invocation of Article 51 to be fulfilled. 315/

A. Capital Punishment

1. Reference to some relevant laws

298. As described 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. These include the Terrorism Act, No. 83 of 1967 (made retroactive to 1962 when introduced) which provides the death penalty for a wide definition of "terroristic activities", the Sabotage Act (General Law Amendment Act No. 76 of 1962) and the Internal Security Act, 1950 (formerly known as the Suppression of Communism Act, 1950) as amended in 1976, which are used in Namibia to the exclusion of all other legislation in this sphere (see E/CN.4/1270, para. 296). No additional legislation has been made applicable to Namibia reducing or extending the circumstances in which the death sentence may be applied, during the period under review.

2. Summary of evidence and information received

299. The South African Government publishes no separate figures with respect to the executions of any convicted Namibian prisoners. However, as noted in previous reports, relatively few SWAPO guerrillas captured have ever actually been tried for participation in guerrilla activities. It has been suggested that many are being held at undisclosed locations, or tried and executed in secret.

315/ Focus, No. 36, September-October 1981; Quarterly Economic Review of southern Africa, 3rd quarter, (London, Economist Intelligence Unit).

300. In her testimony before the Ad Hoc Working Group of Experts, Mrs. Cate Clark (547th meeting) referred to the campaign organized internationally against the death sentence imposed on Markus Kateka, the 40-year-old farm labourer sentenced in October 1980 (see E/CN.4/1429, para. 409). There was particular concern that almost two months after his appeal against the death sentence had been heard, judgement had still been reserved.

301. According to information available to the Ad Hoc Working Group of Experts, Mr. Kateka was sentenced to death in Windhoek Supreme Court on 13 October 1980, after a trial which commenced on 27 August. Together with Mr. Hendrik Kariseb, a 45-year-old farm worker who received a 10-year prison sentence, he was charged with participating in guerrilla activities. The death penalty had only been imposed for political offences under the Terrorism Act in one previous trial, that of Aaron Muchimba, SWAPO's Organizing Secretary, and Hendrik Shikongo, a SWAPO member, who were sentenced to death in May 1976 after a three-month trial in the Swakopmund Supreme Court. Their sentences were quashed by the Appellate Division of the Bloemfontein Supreme Court in May 1977, after evidence of serious irregularities in the original trial proceedings had been produced (see E/CN.4/1270, paras. 297-8).

302. As in the Muchimba trial, the prosecution concentrated on attempting to discredit SWAPO as a political organization, and presenting any involvement with SWAPO as leading to "terrorist activities". Major Gerrit Badenhorst of the Police Security Branch in Windhoek gave a summary of attacks on farms in recent years, none of which bore any relation to the defendants. In passing sentence, Mr. Justice Strydom attacked SWAPO's aims as "detestable" and stressed that the Court's role was to give farmers protection in the form of a deterrent, and on those grounds refused leave to appeal. 316/

303. It was reported in December 1980 that a petition seeking leave to appeal had been sent to the Chief Justice in Bloemfontein by the defence lawyer, Mr. Pio Teck. The registrar of the Windhoek Supreme Court stated on enquiry that the record of the death sentence had been sent to the Secretary for Justice, who in turn would submit it to the State President-in-Council. In the event of the petition failing, the record of the death sentence could still lead to a decision of clemency by the State President. In March the Chief Justice granted Mr. Kateka leave to appeal against the sentence but not against the verdict, while Mr. Kariseb was refused leave to appeal against both the judgement and the sentence.

304. On 7 July 1981 the appeal proceedings, which had extended over four months, reached a conclusion with commutation of the death sentence to 17 years imprisonment by the Bloemfontein Appellate Division. Judgement had been reserved on 7 May. During the whole period of the appeal, Mr. Kateka was held in Windhoek Central Prison. 317/

316/ Focus, No. 32, January-February 1981, p. 2.

317/ Focus, No. 35 July-August, p. 11; No. 36, September-October 1981.

B. Violations of the right to life

305. In his testimony before the Ad Hoc Working Group of Experts, Mr. Itula (549th meeting) referred to the daily destruction of houses and cattle, and the seizing and subsequent disappearance of people by South African troops, especially in the north and north-eastern part of the country. According to information available to the Ad Hoc Working Group of Experts, the SWATF was reported in April 1981 to be investigating allegations that soldiers had made "callous and mocking displays" of the corpses of persons shot dead during counter-insurgency operations in the Tsumeb area. Mr. Hans Rohr, a Christian Democrat member of the National Assembly, said he had received numerous complaints about this and that prominent businessmen had told him that soldiers had laid out three bullet-ridden bodies on the Tsumeb airfield in front of a large group of civilians; the dead men, allegedly SWAPO guerrillas, were not covered and dressed only in underpants. 318/

306. In her testimony before the Ad Hoc Working Group of Experts, Ms Ling (546th meeting) referred to the dangers and threats faced by Namibian refugees in the front-line States, particularly those in Angola and Zambia, due to South African attacks and abductions.

307. These had intensified considerably since the Kassinga raid in May 1978 was carried out (see E/CN.4/1429, paras. 44/-44, and paras. below). South Africa appeared to be extending its raids deeper into Angolan territory - at the beginning of 1981 it had not been usual for the South African airforce to penetrate more than 400 kms from the Namibian border, but the International Defence and Aid Fund had received information that South African planes had flown over the main Namibian refugee settlement and SWAPO Health and Education Centre in Kwanza Sul province, where there were 25,000 refugees, a distance of 800 kms from the border.

308. Ms Ling (546th meeting) described the trauma and state of shock in which Namibian refugees arrived in Angola, due to their experiences in escaping from the South African military and the long and dangerous journey involved. The witness had gone to Angola on behalf of the International Defence and Aid Fund for Southern Africa (IDAF), to investigate at first hand the psychological and other effects of the experiences undergone by the refugees, and the impact of what she saw on this visit had made a profound impression. According to the testimony the refugees were traumatised due to the fact that families had been separated and had come from villages where homes had been destroyed and relatives killed. Villages had been attacked and parents had lost their children and vice versa, either because they had been killed, or lost each other in the disruption of the journey to Angola. Many of the elderly people had lost everything, homes and relatives. Adult men were greatly affected psychologically and socially by their experience of apartheid, which had the effect of almost denaturing the individual in his personal behaviour, and could lead to a depressive psychological state.

309. The witness stressed the seriousness of the situation caused in Angola as a result of South African attacks and the existence of a regional war. The refugees had not reached safe refuge in Angola, and were still exposed to attack. The breakdown given of victims of attacks was normally between the nationality of the refugees - Namibian and other nationalities - and Angolan civilians and members of

the Angolan armed forces. It was difficult to provide a breakdown of the victims by sex and age due to the difficult circumstances in which the figures were collected. But in the Kassinga attack, it was known that a very large proportion of the 600 killed had been women.

310. According to information available to the Ad Hoc Working Group of Experts, details of the victims of attacks during 1980 were provided by a press release by the Angolan embassy in Paris on 20 March 1981. This stated that the main target areas for attacks were the southern provinces of Cuando Cubango, Cunene and Huila. Casualties inflicted by these attacks included 136 Angolan civilians killed, and 84 wounded. In its presentation to the second session of the International Commission of Inquiry into the Crimes of the Racist and Apartheid Régime in Southern Africa held in Luanda, the Angolan Government stated that between 27 March 1976 and 11 June 1979, there were 570 confirmed deaths of Angolan citizens, and 594 wounded, and 612 Namibian refugees killed and 611 wounded; in the next 18 months up to 31 December 1980, 400 Angolan civilians had been killed and 640 wounded, while vast numbers of Namibian refugees had been killed and wounded. On 17 March 1981 South African troops were reported to have mounted an airborne attack on a transit centre for Namibian refugees near Lubango, claiming it was a SWAPO base. A South African military spokesman claimed the raid was a great success. According to the Angolan Department of Information and Publicity, the location attacked was a reception centre for Namibian youths fleeing from forced military conscription. One of the South African Mirage planes had dropped a bomb which killed one Namibian youth and injured four others. 319/

311. According to the testimony given to the International Commission by Captain Belmundo, which was corroborated by the revelations of the British mercenary, Trevor Edwards (see para. 284 above) the 32 Battalion was used by South Africa to create a depopulated zone in the south of Angola through terror tactics and indiscriminate massacres. Belmundo had commanded Platoon 6, and led a variety of missions into Angola in the 1978-1979 period. He stated that the type of operation varied according to whether the target was large or small, military or civilian, from small commando raids against SWAPO guerrillas and attacks on Namibian refugee camps, through to large scale "cleaning-up operations" directed against the local civilian population. The units of 32 Battalion were given air support by Puma helicopters, Impala MK II jets and Buccaneer bombers from the Ondangua airforce base in northern Namibia, with ground support from paratroops of the 54 Battalion of the SADF. In one large-scale operation carried out over the period of a month, under the command of Lt. Col. Ferreira, a force of 240 soldiers, 60 armoured cars, with helicopter and aircraft support, attacked a SWAPO camp and a FAPLA military base in Cunene province. The main thrust was said to be against the local Angolan population. The unit had strict instructions to attack and destroy everything it came across, including villages, schools and hospitals. Many were killed, both people and cattle, and in the "clean-up" operations, ground forces would advance to one kilometre or so from the target, and then aircraft would bomb prior to the troops going in. The contents of schools and hospitals were either destroyed, or looted and taken back to Namibia.

319/ Focus, Special Issue 2, April 1981; Angola Fighting Apartheid, Documentation from the International Commission of Inquiry. Focus, No. 35, July-August 1981, p.10.

312. The main operational area for 32 Battalion was Cunene province, although operations were also conducted in Cuando Cubango province in support of UNITA. The International Commission was told that when UNITA got into difficulties, its leadership would contact South African military security for assistance and a joint operation would be formulated for 32 Battalion and UNITA troops; Captain Belmundo had participated in a number of such operations. The South Africans mounted regular reconnaissance and supply flights to UNITA bases; food, weapons and equipment were dropped by parachute, and instruction was given in UNITA bases by members of 32 Battalion. When operating with UNITA, the unit wore clothing and carried equipment without distinctive marking, so in the event of a casualty or a capture inside Angola, they could not be identified as South African forces. 320/

313. In his account published by The Guardian, Trevor Edwards claimed he had deserted from 32 Battalion because he found the killing of civilians intolerable. In one of the attacks in which he participated, known as "Operation Butterfly", a total of about 90 civilians were killed, but no SWAPO guerrillas were found. Young children trying to run away were also killed, and the platoon led by Edwards had killed a girl aged about five together with her father; afterwards the child's mother with another child had followed the platoon at about 100 metres distance for the whole day. According to Edwards, the main task of the unit was to take an area and sweep through it - this often got out of hand as the soldiers got carried away and shot indiscriminately. All those killed, whether SWAPO guerrillas or civilians, were counted as "kills" and added together to form the basis for the figures subsequently given by the South African military.

314. At the end of March 1981, journalists visiting northern Namibia at the invitation of the South African Government, were shown copies of a document allegedly signed by Edwards at Rundu in April 1980. The document comprised an undertaking not to commit atrocities or "misdeeds" against the local population on recruitment by the SADF. The undertaking acknowledged that committing atrocities would only aid the "terrorist" cause and had to be avoided at all costs, and that the rule was maximum force against the enemy and maximum friendship towards the local population. A SADF spokesman admitted that atrocities were committed by all armies, but claimed that the SADF was determined to take strict action against South African soldiers involved in brutalities against the local population. The spokesman added that if Edwards was innocent of the alleged atrocities he should return to South Africa to give evidence against those who had committed these acts. On being asked why this document had not been produced at the time the charges were made by Edwards in January, the spokesman gave as a reason that the file had had to be brought from 32 Battalion. 321/

315. The lethal nature of the weapons used by the South African forces in Namibia was described to the International Commission 322/ by General Sergio Poblete, a member of the Commission, and former senior officer in the Chilean air force during the time of the Allende Popular Unity Government. A delegation had visited the Central Military Hospital in Luanda where they had seen the type of wounds and

320/ Focus, Special Issue 2, April 1981.

321/ The Guardian, 29 January, 23 March 1981.

322/ See para. 280 of the report.

disfigurements suffered by some 120 victims of South African attacks, the majority of them amputees or paralysed. Their wounds had been caused by inflammable mines containing oil and gasoline, rockets and projectiles similar to those used in Viet Nam, booby traps combining shells and mines, designed to generate enormous explosions when activated. General Poblete said the methods used were not normal, and the weapons were designed not simply to wound or to kill, but to destroy the fibres of the human body. 323/

316. According to the information available to the ad hoc Working Group of Experts, the Namibian population in the north has suffered increasingly at the hands of South African army and police during the period under review. There were a number of incidents reported which indicated that security forces were perpetrating atrocities against defenceless civilians. In one incident, the army had attacked a small settlement in the Conghoodi area in Ovamboland, killing 11 civilians. The commander who directed the operation claimed his men had been fired on, and that SWAPO guerrillas were believed to be present in the village, but a survivor gave evidence that the seven men, two women and two children killed in the attack had been eating a meal, and that no guerrillas had been present. The troops had opened fire as they approached, hurling hand grenades, and two huts had gone up in flames, burning six people to death. Eight people were killed and 12 badly wounded when an 18-year-old black soldier opened fire with a machine gun at people in the village of Omashaka in Ovamboland. The massacres were described by an eyewitness who said that those killed had been seated in front of their huts and there had been no warning of the shots. 324/

317. It was reported that during the period under review, many people had been shot or otherwise killed in the free-fire zone near the border or in the curfew areas. Many of those who had "disappeared", an increasingly common phenomenon, were thought to have been killed. A representative of the Lutheran Church in America, John Evenson, had arrived in Oniipa, Ovamboland in November 1980 and during his stay had met many people who told him of family members arrested, missing or killed by South African army and police officers. Mr. Andreas Shipanga, leader of the SWAPO Democrats, returning from a visit to Ovamboland in December 1980, said that the Ovambo people were under a cross-fire and were being terrorized by the armed forces. 325/

318. It was reported that Immanuel Haihambo, an evangelist of the South Angola Evangelical Church, had been murdered by South African soldiers at the end of September 1980, according to the Finnish Missionary Society in Helsinki. A local Finnish missionary had reported that soldiers arrived at his church in Omwifi near the border, and had placed explosives in Mr. Haihambo's bag and accused him of stealing ammunition. He had been forced to accompany them to nearby woods, where his mutilated body had been found by local villagers the next day.

319. Speaking at the Lutheran World Federation Executive Committee meeting at Turku (Finland) in August 1981, Bishop Kleopas Dumeni, President of the United Evangelical Lutheran Church, said that since the Geneva Conference the war in Namibia had kept on escalating to the extent of a civil war, and many innocent

323/ Focus, Special Issue 2, April 1981, p. 8.

324/ Windhoek Observer, 21 February, 4 April 1981.

325/ Focus, No. 35, July-August 1981, pp. 8-9.

civilians had lost their lives violently. The effects were particularly felt in the north, with reports of violence and violent incidents the order of the day. Rev. Dumeni said he had seen violence perpetrated at first-hand, and one of the church's pastors, Rev. Matias Sikondambero, had been killed. 376/

320. Evidence of murders of detainees held by the SADF was given to the International Commission by Silas Ndapuka, a Namibian who had been arrested and detained at Oshakati prison in June 1980, and subsequently at a large detention camp near Oshakati. He had been ordered to remove the clothing from the corpses of alleged SWAPO guerrillas. The faces of the corpses were always smashed beyond recognition and they were believed to have been buried in a mass grave. SWAPO had reported the existence of a mass grave in mid-1980, which was said to have been discovered in the bush near Okatope mission, 25 miles from the Angolan border. Some of those who had disappeared in the North, were reported to have been buried there, and truckloads of people and corpses had been taken to the place which was cordoned off by South African troops. 327/

321. It was reported that Louis Conrad Nagel, a member of a police unit apparently established in Namibia, the Special Task Force, had shot a Namibian three times. The victim, Fritz Rainhold, was alleged to have called Nagel a "Boer". Nagel was acquitted of murder and given a six-year sentence, three years of which were suspended, on conviction of culpable homicide. In mitigation, Justice Strydom said that it was Nagel's training which had made him react with lethal efficiency - according to evidence given in camera, he had been trained to identify and eliminate "SWAPO terrorists".

322. In another incident, on 27 October 1980, three security guards at the electricity corporation, SWAEK, had assaulted a Namibian, Moses Namiseb, when they were driving around the Windhoek power station. Namiseb was found unconscious the next morning and died in hospital; the autopsy report showed he had 11 head and 14 body injuries. The three accused were sentenced to four-to-six months imprisonment on conviction of assault. The judge ruled that Namiseb could have fallen with his head against the railway line and thus received head injuries leading to his death. 328/

323. According to information available to the Ad Hoc Working Group of Experts, Jonas Shiumefeleni, a Namibian political prisoner serving an 18-year sentence on Robben Island, died on 1 August 1980 at Groote Schuur Hospital at the age of 49. An abridged death certificate gave the cause of death as "pulmonary oedema as a result of chronic renal failure". Mr. Shiumefeleni was arrested in 1966 and detained in Pretoria Central Prison for two years before being brought to trial under the Terrorism Act (see E/CN.4/1429, para. 441). He was known to have suffered from a severe kidney failure and on several occasions doctors had recommended his release. 329/

326/ Lutheran World Federation Information, 31/1981.

327/ Focus, Special Issue 2, April 1981; Focus, No. 32, January-February 1981.

328/ Focus, No. 31, November-December 1981. Focus, No. 35, July-August 1981.

329/ Focus, No. 33, March-April 1981, p. 8.

C. Forced removals of population

324. During the period under review the Ad hoc Working Group of Experts received evidence and information covering several kinds of forced removal. These included: (a) the disruption caused to the civilian population in southern Angola by the regular South African attacks; (b) the abduction of refugees and civilians in both southern Angola and northern Namibia; (c) the forced removal of Ovambo civilians to fortified areas to prevent them giving support to SWAPO guerrillas. There have been no reports of forced removals during the period under review designed to implement the "homelands" policy. It would seem that with the designation of the "homelands" as "representative authorities" defined in terms of members of each particular "population group" rather than by geographical area as previously, the South African authorities no longer attempt to relocate members of "population groups" in conformity with the previous Odendaal Commission blueprint for the establishment of Bantustans.

325. In her testimony before the Ad hoc Working Group of Experts, Ms Ling (546th meeting) said that the number of refugees in the front-line States from Namibia had risen dramatically over the past three years. There were now over 70,000 Namibian refugees in Namibia, a high proportion of whom were women and children, although the exact proportions were not known. At the Kwanza Sul settlement there were 25,000 Namibian refugees as of April 1981, about half of whom were women and children. The witness had visited the settlement, and also interviewed member of SWAPO and the Angolan Government responsible for providing facilities to the refugees.

326. Details were also provided in the written documentation provided by the witness. There were many practical and logistical difficulties in providing for such a large number of people, but these problems were being tackled by SWAPO, working in conjunction with the Angolan authorities. Water supply, health care, educational provision, food and shelter were the main needs. Between one-third and one-half of the Namibians at Kwanza Sul were school age children, with about 10 per cent in the one to eight year age range, a high risk category for malnutrition and related illnesses. Women and elderly people accounted for further large proportions of the population, and 800 babies had been born in the settlement since it was founded. A recent trend had been towards an increasing number of adult men of working age, many of them contract workers, who had left Namibia since the introduction of military conscription for all races. The settlement was located in well-wooded, hilly country, where rivers flowed through deep ravines. Accommodation was largely in tents provided by the United Nations High Commissioner for Refugees and the Swedish Government. The most acute problem was provision of a safe and reliable supply of water; at present water was transported by truck from the nearest river, but it was hoped to install a pumping system to provide a continuous supply.

327. The SWAPO Secretary of Health, Dr. Iyambo Indongo, who was also the chief doctor at the clinic, had told the witness that poor water supply was responsible for much disease, both at the camp, and in the country through which the refugees had to travel to reach Kwanza Sul. New arrivals had in most cases travelled through a series of transit camps through areas where clean water for drinking and washing was scarce. Typhoid, malaria, dysentery and other diarrhoea-type illnesses and parasitic diseases were common. Tuberculosis, which is prevalent in Namibia, also arrived with the refugees. Undernourishment and malnutrition were being tackled as systematically as possible, and the settlement was endeavouring to be as self-sufficient as possible in growing vegetables and other foodstuffs at an agricultural project a short distance from the settlement.

328. In this connection the representative of the UNHCR in Angola had told the Commission delegates that both the Angolan Government and UNHCR were disappointed with the limited response so far received from the international community to appeals for humanitarian assistance for the refugee problem. However it was reported in June 1981 that a joint World Council of Churches/Lutheran World Federation programme had airlifted 116 tons of food for Namibian refugees in southern Angola and that the Angolan Council of Evangelical Churches was providing 22,000 dollars for refugee resettlement. 330/

329. The witness, Ms Ling, said that the southern provinces of Angola had to all intents and purposes been depopulated by the South African raids - apart from the Namibian refugees, some 800,000 Angolans had been displaced. UNESCO was assisting with their rehabilitation and settling them in villages further north out of range of the attacks. UNICEF was providing two forms of aid, expansion of existing villages in the central regions to accommodate refugees from the south and distribution of emergency supplies of food and medicine.

330. According to additional information available to the Ad hoc Working Group of Experts, several hundred thousand inhabitants of the south-eastern and southern provinces of Cuando Cubango and Cunene had fled to the south-west province of Huila to escape South African incursions. Other refugees from the raids simply moved from their villages into the nearby forest. It was reported in July 1981 that an additional 20,000 Namibian refugees had arrived in Angola from Namibia since the beginning of the year, most prompted by the start of military conscription. The total of refugees had reached 73,000. 331/

331. Ms Ling also said she had met a number of people in Angola - both Angolans and Namibians - who had been abducted to Namibia and forced to enlist in the South African army and fight against SWAPO. According to information given to the Ad hoc Working Group of Experts, apart from those captured during the Kassinga raid, a large number of Angolans and Namibians had been abducted during South African raids, many of whom had never been subsequently traced. During an attack on the hamlet of Chiede in Cunene province on 12 May 1980 "countless families" had reportedly been taken away by South African troops, and on 21 May during an attack on Savate in Cuando Cubango province, a large number of people were reported kidnapped. 332/

332. Information available to the Ad hoc Working Group of Experts indicates that people in northern Namibia were being forced to leave their villages as a result of army and police action. The sources of water were being cut off with the destruction of pumps and boreholes, houses and crops burned down by local Home Guards, according to a letter in the Windhoek Observer. South African vehicles were said to be destroying fences and agricultural vegetation during their operations.

330/ Lutheran World Federation Information, 23/1981.

331/ Focus, No. 35, July-August 1981.

332/ Focus, No. 32, January-February 1981.

According to a statement issued by SWAPO the purpose of these actions was to force people to move near to the main towns of Oshakati and Ondangwa, where major South African bases existed, in an effort to prevent support of SWAPO guerrillas.

333. A previous report of the Ad hoc Working Group of Experts (see E/CN.4/1311, paragraphs 369-370) described the clearing of a one-kilometre wide "no go" zone along the border and the enforced displacement of some 50,000 people. 333/

334. It was reported that conscripts thought to be supporters of SWAPO were being given special treatment to minimize the security risk they might represent. Several parents of conscripts had alleged that their sons had been singled out during junior leadership training at the Okahandja military school. They had been disarmed, suspended from further training and sent to the operational area for "reorientation". A SWATF spokesman had subsequently confirmed that 18 out of the 28 trainees had been sent to other units on the border. A demonstration of 1,000 people took place in Katutura in July 1981, organized by the parents of 30 young conscripts who had identified themselves as SWAPO members during their basic training. The trainees had been disarmed and taken to an unknown location. The parents said they were worried about the safety of their sons since reports of torture were rife. According to the journal of PIAH, the armed wing of SWAPO, special boarding schools were built at Okahandja and other military bases to accommodate school students and prevent them from evading conscription or helping SWAPO. 334/

D. Other forms of collective persecutions of the population

335. During the period under consideration, the population suffered other forms of collective persecution characterized, firstly, by the flight of Namibians forced by the activities of the South African army and police in Northern Namibia to take refuge in Angola and, secondly, by forced enlistment in the army.

333/ Focus, No. 35, July-August 1981, p.8.

334/ Lutheran World Federation Information, 23/1981; Focus, No. 36, September-October 1981, p.3.

E. Treatment of political prisoners and captured freedom fighters

1. Summary of some relevant laws

336. The Ad Hoc Working Group of Experts had noted in previous reports that the South African security laws providing for severe penalties of detention and imprisonment for "political offences" as well as legislation governing the situation of prisoners in gaol, have been made applicable to Namibia and are still applied (see E/CN.4/1030/Add.1, para. 9; E/CN.4/1311, paras. 372-376). These include the Prisons Act, No. 8 of 1959, and the General Law Amendment Acts, Nos. 76 of 1962, 101 of 1969 and 94 of 1974: Act No. 76 was applied to Namibia with retroactive effect in 1966 but has since been largely superseded in usage by the Terrorism Act, No. 83 of 1967. Conviction under the Terrorism Act carries a mandatory minimum sentence of five years' imprisonment. Section 6 of the Act provides for the indefinite detention without charge of any person suspected of terrorism, of having aided a "terrorist" or of possessing information about "terrorism". Detainees under the Terrorism Act are held incommunicado until they have "satisfactorily" answered all questions put to them by their interrogators. No court of law may pronounce upon the validity of any detention or order the release of any detainees. The great majority of Namibian political prisoners serving sentences have been convicted under the Terrorism Act. The provisions of the Riotous Assemblies Act of 1956 were applied for the first time to Namibia during 1976 under the terms of the Internal Security Act of 1976 (embodying the provisions of the Suppression of Communism Act of 1950), providing for indefinite preventive detention and the banning of any persons deemed likely to endanger the maintenance of public order. The laws taken together give the South African authorities in Namibia a wide range of repressive measures to choose from in enforcing "law and order". A person may be arrested under one law, rearrested under another law, and the terms of his or her detention order subsequently altered while in prison. In practice, many detainees are likely to be unaware of the precise legislation under which they are being held.

337. In addition, a number of laws and emergency proclamations have been specifically designed for use in Namibia, and enacted mainly by the Administrator-General on behalf of the South African authorities. These include the Security Districts Proclamation, AG.9 of 1 November 1977, which replaced the emergency measures in force in northern Namibia since the contract workers' strike of 1971-72; Proclamation R17 of February 1972, covering Ovamboland; and its successor, R39 of May 1976, covering Ovamboland, Kavangoland and East Caprivi; Proclamation AG.26 of 18 April 1978, Provision for the Detention of Persons in order to prevent Political Violence and Intimidation; Proclamation AG.50 of July 1978 which amended the Undesirables Removal Proclamation No. 50 of 1920, so as to transfer the power to expel such persons to the Administrator-General, and the various amendments to these laws (see E/CN.4/1311, paras. 372-377; E/CN.4/1365, paras. 268-270; E/CN.4/1429, paras. 421-423).

338. Of particular note is a clause of Proclamation AG.9 which protects any Government or public official (including the police) and any member of the armed forces from being prosecuted for injuries inflicted through actions taken under the Proclamation. This reinforces the South African Indemnity Act, No. 13 of 1977, which indemnifies the State or its servants against civil or criminal proceedings in connection with the prevention or suppression of civil disorder, and which has been made applicable to Namibia. AG.9 was extended on 10 May 1979 when the magisterial districts of Windhoek, Tsumeb, Outjo, Okahandja, Otjiwarongo and Grootfontein were all declared

security districts. In December 1979, certain sections of AG.9 were extended to Kaokoland in north-western Namibia, and as a result of these additions, more than 50 per cent of Namibia's land area, including the major urban centres with the exceptions of Keetmanshoop and Luderitz, and over 80 per cent of Namibia's population, are subject to de facto martial law.

339. The previous report of the Ad Hoc Working Group of Experts detailed the further restrictions under Proclamation AG.9 introduced relative to freedom of movement in Ovamboland (see E/CN.4/1429, para. 422). Under Proclamation AG.26 the Administrator-General has unqualified powers to detain, indefinitely and without charge, any person whose actions are felt to "promote violence or intimidation" without recourse to lawyers or to the courts. Initially the police were not empowered to interrogate detainees under the Proclamation, but in May 1979 powers of interrogation were introduced through an amendment authorizing the justice of the peace to conduct interrogations. While from time to time figures are issued by the South African authorities for the numbers of detainees held under AG.26, these are never revealed for AG.9 detainees.

340. During the period under review further additions to the regulations relating to the imposition of martial law and security matters were declared by the Administrator-General. An amendment to the Security Districts Proclamation requires any person in a security district who gives medical attention to persons wounded in "suspicious circumstances" to report the matter without delay to the security forces. The Security District Amendment Act, AG.161/No. 20 of 1980 was adopted by the National Assembly in October 1980. Under the division of powers between the Administrator-General and the National Assembly, all such acts, while promulgated by the Administrator-General, have to be adopted by the National Assembly before coming into effect. 335/

341. It was reported that security had been tightened in Kavangoland, following the suspected presence of SWAPO combatants. In April 1981, the Kavango "representative authority" imposed a ban on all movement in the south-west of Kavangoland between dusk and dawn. The ban had the effect of restricting movement on the road from Rundu to Grootfontein. The ban was said to be aimed at preventing SWAPO combatants moving to the southern white farming areas and back again. In Ovamboland, vehicle control between sunset and sunrise was to be applied stringently, according to Colonel Roets, senior officer Staff Operations of the SWATF. He emphasized that the measure was not an extension of the existing curfew provisions in the area, and the new measures applied only to vehicle traffic. Previous restrictions under AG.9 imposed in Ovamboland required the written consent of an officer of the security forces or of the police for vehicles travelling at night (see E/CN.4/1429, para. 422). 336/

342. The previous report of the Ad Hoc Working Group of Experts referred to the proclamation published on 23 January 1980 by the Administrator-General offering a conditional amnesty to SWAPO guerrillas (AG.3, Granting of Amnesty to Certain Persons). Owing to the poor initial response this was extended from the initial deadline of 30 April to 31 August 1980 (see E/CN.4/1429, para. 425). In September 1980 the amnesty was again extended to the end of February 1981, and in March was extended for a further six months until 31 August 1981. According to an announcement by the Administrator-General, 103 former SWAPO guerrillas had turned themselves in since the amnesty was announced in January 1980. 337/

335/ Official Gazette, 13 October 1980.

336/ Focus, No. 35, July-August 1981, p.8.

337/ Focus, No. 31, November-December 1980, p.9; No. 34, May-June 1981, p.4.

2. The police forces: present structure and United Nations proposals

343. A previous report of the Ad Hoc Working Group of Experts described the incorporation of the SWA police force into the South African Police, which became the body authorized by South Africa to exercise the powers previously entrusted to the former under the laws of the mandated territory (see E/CN.4/1050, paras. 264-267). From that time onwards the Commissioner of the South African Police exercised the command, superintendence and control of the force in Namibia, through the Divisional Commissioner of Police in Windhoek, subject to the directions of the South African Ministry of Police. As detailed above, in September 1980 responsibility was transferred to the Administrator-General, and in April 1981 the South African Police in Namibia were reconstituted as the South West African Police (SWAP), under the command of Major-General Dolf Gouws, the previous Divisional Commissioner of the South African Police in Namibia. The new force is also responsible to the Administrator-General, and was not transferred to the control of the National Assembly in August 1981, when the Administrator-General announced that most of his existing executive powers were so transferred. The SWAP took over the existing paramilitary functions of the South African Police in Namibia. The Security Branch of the police was not affected by the new arrangements, and during the period under review remained under the control of Lieutenant-Colonel van der Merwe.

344. It would appear that there are now seven types of police currently operating in Namibia: (a) the South West African Police, equipped with military vehicles, jeeps and helicopters and involved in so-called counter-insurgency operations jointly with the SADF; (b) the security police, with a large detachment of men on permanent duty in Namibia, particularly concerned with the detention and interrogation of political prisoners; (c) municipal police, including African constables under white officers, mainly responsible for pass laws, registration of workers at employment bureaux, patrol of labour compounds, issuing of permits etc.; (d) so-called tribal police forces, which are in fact various forces acting under the direct control of the tribal authorities and ethnic governments of Ovamboland, Kavangoland and East Caprivi, and not subject to departmental regulations or any form of public scrutiny or accountability; (e) the police Special Task Force, under the command of Major G. Nande, trained to identify and eliminate SWAPO "terrorists", whose existence was first reported during the period under review; (f) a force of 50 Ovambo Special Constables under the command of six police officers set up as a special permanent police force at the Katutura workers' compound in August 1980; (g) the South African Railways Police, which were reported to be undergoing local training in Namibia at the new training college in Gammans, in the southern industrial area of Windhoek during the period under review. 338/

345. Under the Proposal for a Settlement of the Namibian Situation transmitted to the Security Council on 10 April 1978 by the Western Contact Group and incorporated in Security Council resolution 435 (1978), primary responsibility for maintaining law and order during the transition period leading to elections would rest with the existing regular police force, with the Administrator-General to ensure its "good conduct". The proposal also involved the demobilization of the citizen forces, commando and ethnic forces which SWAPO understood to include the tribal police. The proliferation of various types of police forces in Namibia complicates the process involved in the event of implementation of resolution 435. The Ad Hoc Working Group of Experts has already described the United Nations proposal for inclusion of a 360-strong police element in the military component of UNTAG, and the subsequent rejection of this by South Africa (see E/CN.4/1311, paras. 380-381).

3. Summary of evidence and information received

346. The evidence collected by the Ad Hoc Working Group of Experts on this subject is presented as follows: (a) the numbers of political prisoners and some recent arrests; (b) allegations concerning torture and the cruel, inhuman and degrading treatment of political prisoners and captured freedom fighters; (c) allegations concerning violations of the right of the accused to a fair and public trial and procedures for complaints and redress.

(a) Political prisoners and some recent arrests

347. The degree of close control exercised by the South African authorities over information relating to security measures in force in Namibia, particularly in the north of the territory, makes it difficult to give an exact figure for the number of people detained without charge at any one time, particularly for those held under martial law regulations. The whereabouts of many detention centres and the circumstances of their inmates are shrouded in secrecy. The SWAPO office in Windhoek which in the past had been able to supply details, has during the period under review been forced to close for long periods (see E/CN.4/1429, para. 437). From time to time, figures are issued by the South African authorities for the numbers of detainees held without charge or trial under Proclamation AG.26 of 1978. The largest group of Namibian political prisoners convicted and sentenced to prison terms are on Robben Island; the total number imprisoned is believed to number 57, including Herman Toivo ja Toivo, co-founder of SWAPO, 26 others from the Pretoria Terrorism Act Trial of 1967-1968, another group sent to the island following a second Terrorism Act Trial in Windhoek, and Namibians sentenced from 1973 onwards. The previous report of the Ad Hoc Working Group of Experts provided a full list of those detained (see E/CN.4/1429, para. 441).

348. According to documentation provided by Ms. Ling (546th meeting) the South African authorities have consistently used the technique of arresting leading officials, supporters and activists, and detaining them without charge or trial under one or another of the various laws at their disposal, to disrupt and ultimately neutralize SWAPO and other organizations actively opposed to its illegal occupation. These tactics, combined with systematic harassment and intimidation by the police or other security agents in the territory had virtually forced SWAPO underground by 1979. Officials and members of SWAPO had been exposed to a series of nationwide purges in which up to several hundred people have been arrested and detained at a time. (See E/CN.4/1365, para. 278; E/CN.4/1311, para. 387). 332/

349. Mr. Itula (549th meeting) described his arrest under Proclamation AG.26 on 29 May 1979 at the SWAPO office in Windhoek. He had been the only SWAPO member of the office not to have been arrested the previous month, and during a break-in by South African soldiers had been the one to inform his colleagues and journalists of what was happening. He was known to the police as he had been arrested for a day for taking part in a demonstration against the internal elections in December 1978. During his last year at school he was elected Vice-Secretary of the SWAPO Youth League. He had been placed under restrictive detention from 25 January 1980, but had been provided with a passport on receiving an invitation to study in the United Kingdom, and had left Namibia on 31 March 1981. He was told if he returned he would be restricted

again. During his period in Windhoek prison he said he had met children of 13 to 14 years, who had been arrested for stealing, and a child of 13 years sentenced to 15 years for allegedly killing a labourer who had slaughtered a goat on the farm where he worked. The farmer had threatened to kill the child if any more goats were taken.

350. Mr. Johannes (548th meeting) described his considerable experience of imprisonment and torture. His first arrest had been in 1964, and he had been arrested repeatedly after that until 28 July 1980, when he was released but placed under house arrest. He was banned from attending political meetings and seeking work and was not allowed to visit or to receive visits from his parents. He had been able to leave Namibia on 5 December 1980 to pursue studies in the United Kingdom.

351. Previous reports of the Ad Hoc Working Group of Experts have described the experiences of Mr. Johannes (see E/CN.4/1365, paras. 283-284) and the pattern of his arrests is here summarized, since it comprises one of the best-documented cases of the consistent harassment of a leading SWAPO official. According to the information available to the Ad Hoc Working Group of Experts, Mr. Johannes, aged 35, has spent nearly one-third of his life in prison. In 1966 he was arrested for a second time when he was Secretary of the SWAPO Youth League and taken into custody along with Herman Toivo ja Toivo. He was held in solitary confinement until some time in 1967 when, having told the police he was only 18 and therefore a minor, he was released without being charged. He was arrested for a third time in 1973 under emergency proclamation R17, and detained from August to November of that year. He was again arrested together with other leading SWAPO members in January 1974 and detained under the Terrorism Act. He was released on bail in September 1974 but subsequently brought to trial before Gobabis Magistrate's Court, where he was found not guilty of assisting others to leave Namibia illegally.

352. In August 1975 he, along with virtually the entire SWAPO leadership inside Namibia, was arrested again in Windhoek following the assassination of the Ovamboland Chief Minister, Filemon Elifas, and held incommunicado there for over seven months. In March 1976 he was brought before the Swakopmund Supreme Court to give evidence against SWAPO's National Organiser, Aaron Muchimba, and five other SWAPO members but refused to testify and was sentenced to a year's imprisonment. On 2 March 1977, the day he was due to be released, he was taken to Ovamboland and rearrested and detained under Section Six of the Terrorism Act. In October 1977 he was called before the Windhoek Supreme Court to testify against Victor Nkandi (also sentenced to a one-year prison term for refusing to testify against Aaron Muchimba in 1976) and, as he failed to respond to the subpoena was arrested at the end of November and detained in Windhoek Central Prison. On 1 December 1977 he was sentenced to a fine of R50 or 50 days' imprisonment for failing to appear as a witness.

353. In April 1978 he was rearrested in the course of the territory-wide police operation against SWAPO following the murder of Chief Clemens Kapuuo. He was held under the Terrorism Act and between 7 May and 27 June was in solitary confinement in Seeis prison. On 28 June he was told he was being released from custody under the Terrorism Act but would continue to be detained in terms of AG.26. He was then transferred to Gobabis prison where he joined 15 other SWAPO members detained under AG.26. He was released in October 1978, together with his colleagues, on condition that they did not take part in public meetings, or ask people to boycott the elections. After six weeks of freedom, he was arrested with five other members

of SWAPO's national executive inside Namibia and detained under Section Six. He was released at the end of December, together with his colleagues, but rearrested on 7 February 1979 while travelling to the north to visit his parents, whom he had not seen for two years. A week later he was found guilty by the Ondangwa Magistrate's Court of having contravened the curfew regulations prohibiting the movement of vehicles at night, and was sentenced to a fine of R200 or 100 days' imprisonment.

354. On 27 April 1979, following his visit to New York as part of the SWAPO delegation for consultations with the United Nations, he was rearrested along with over 50 leading SWAPO members, and taken to Gobabis prison where some 80 other SWAPO detainees were being held. Later he was transferred to Windhoek for a period, but was then taken back to Gobabis for a further five months. By March 1980, he remained with a few other SWAPO detainees at Gobabis, the others having been released. When he was released on 28 July 1980 he was restricted to his home in Katutura, required to remain indoors from 8 p.m. to 6 a.m., and not allowed to leave the Windhoek municipal area for any reason. 340/

355. As of October 1980, according to the information available to the Ad Hoc Working Group of Experts, the persons whose names are listed below are said to be in detention; some of them had not previously been reported as having undergone arrest. These include the small group of black businessmen in Windhoek and Ovamboland who have joined political and church leaders as a special target for arrest. Those detained were:

- (a) Jason Angula, SWAPO Secretary for Labour, arrested 14 December 1979, released from prison but under house arrest in Windhoek;
- (b) Skinny Hilundwa, Chairman of SWAPO's northern region, arrested April 1979;
- (c) Johannes Konjore, Secretary of SWAPO Youth League, arrested October 1979;
- (d) Lazarus Nunuhe, Albertus Kanguootui, Namibia National Front Youth League, arrested July 1980;
- (e) Kefas Shipuata, Nangola Jacob, businessman, arrested May 1980;
- (f) Eliakim Namundjebo, church warden at St. Mary's mission;
- (g) Odibo, arrested June 1980; Amon Kalomo, headman from Onamutayi;
- (h) Johannes Kwego, businessman and member of Ovamboland cabinet, arrested May 1980; Kaufiwetu Shingege, Pollykarpus Hango, Erasmus Kamati, businessmen; Jeremia Kangongu, church journalist; Simon Nambili, businessman, arrested May 1980; Amutenya Shimweetheleni, member of Ovamboland cabinet, arrested May 1980; Lucky Shoopala, member of SWAPO-Democrats, arrested May 1980; Toivo Shilongo, principal of school at Otjukwa, arrested May 1980; Jack Shimana, businessman, arrested May 1980; Kakololo Itope; Paulus Ndunga; John Oiva; Immanuel Velikosi, teacher at Ondobe; Erastus Mupupa; Shigwedha Mupupa; Johannes Siebob; Josua Shililifa; Moses Moses; Ms. Esther Nghiweleka; Ms. Rauna Nambinga; Ms. Rauha Shimhanda; Set Kaukungua, businessman; Vilbard Kalili; Elia Nghi Angelwa; Gideon Hatutale; Aron Ipinge; Festus Kadzhikwa;
- (i) David Shikomba, former SWAPO Youth League Secretary, rearrested and detained after serving six years imprisonment on Robben Island in March 1980; since released and gone into exile.

356. The following prisoners were reported to have been released from detention, as of October 1980, in some cases their arrest had not previously been known:

(a) Ms. Gertrude Kandanga, Deputy Secretary for SWAPO Women's Council;

(b) Titus Angula; Rev. Micah Ilonga; Silvanus Vature, Frans Mvula, businessman; Sakeus Kaula, teacher; Shigwedha Simon, businessman; Jason Nangombe, teacher, Rev. Matti Endjala, parish pastor Engola; Rev. Malakia Alugongo, pastor at Ongongo; Enea Amutenya, school inspector; Ruben Kashea, teacher; Petrus Nehunga, teacher; Simon Milunga, businessman; Ms. Esther Nghiweleka, nurse; Malakia Aukongo, Abisa Ihuhua, evangelist for Evangelical Lutheran Ovambokavango Church; Elia Haipinga, retired pastor from Okahao; Rev. Kristian Shipunda, pastor at Omunaungilo; Ms. Hilja Nampala, nurse; Rev. Natanael Shinana, evangelist, ELOK; Rauha Hitula Shimhanda, nursing assistant; Frieda Paulus; Dr. Naftali Hmata, head of the Lutheran medical mission at Onandjokwe.

357. It was reported that in September 1980 the Bloemfontein Appeal Court had dismissed an appeal by Heikkie Shililifa, a teacher, against the five-year sentence imposed under the Terrorism Act in September 1978 for allegedly aiding people to leave Namibia for guerrilla training. 341/

358. In November 1980 the Administrator-General, Danie Hough, stated that the International Committee of the Red Cross would be given regular access to detainees held in terms of security legislation. Representatives of the ICRC met with the Administrator-General shortly before his announcement and accepted an invitation to visit detainees "under the usual internationally acceptable procedure" it was reported. 342/

359. The Ad Hoc Working Group of Experts previously reported the arrest of two Namibian National Front members, Adolphus Konguooti and Lazerus Nunuhe (see E/CN.4/1429, para. 440). In January 1981 it was reported that they had been released from detention under Proclamation AG.9. Three members of SWAPO under restriction orders, Philip Tjerije, SWAPO Publicity and Information Secretary, Dr. Thomas Ihuhua, and Markus Hausiku, were released to attend the Pre-Implementation Conference in Geneva in January 1981. Mr. Tjerije and Dr. Ihuhua had been placed under restriction orders on being released from detention in February 1980. 343/

360. According to SWAPO, many detainees were being held in secret prisons and detention camps in the heavily-wooded areas of the Grootfontein and Otavi districts. Those named as being held in this manner were Ms. Gertrude Kandanga (since reported as released), Jason Angula, Eliakim Numudjebo, and Monika Munagobe. Kefas Shipwata and Ms. Rauna Nambinga, two witnesses to the International Commission in Luanda, both described being taken blindfolded to detention camps in unidentified forest areas in northern Namibia.

361. It was reported that members of the family of Herman Toivo ja Toivo visited him on Robben Island on 4 March 1981, only the third such visit since his imprisonment in 1968. His mother, Elizabeth Toivo ja Toivo, over 70 and partially blind, and his sister Esther made the journey from Onajema district in Ovamboland.

341/ Focus, No. 31, November-December 1980, p. 8-9.

342/ Windhoek Advertiser, 24 November 1980.

343/ Focus, No. 33, March-April, p. 8.

Mrs. Toivo ja Toivo said after the visit that her son was in high spirits and had asked his visitors to pass his greetings on to the people of Namibia. They hoped to visit again in 1982. Last year Mr. Toivo ja Toivo was visited by Ms. Helen Suzman, Progressive Federal Party spokeswoman on civil liberties (E/CN.4/1429, para. 442). 344/

362. A threat to ban SWAPO was reported to have been made at a DTA rally in Windhoek in May 1981. The DTA Deputy President, Chief Kuaimo Riruako, said that "suitable steps" would have to be taken soon to ban SWAPO unless it listened to the Council of Ministers. Mr. Jacob Nangula was reported to have been released from detention in May 1981. 345/

363. According to an article by David Shikomba, a former Robben Island prisoner, now in exile in Angola, there were five prisoners there who were no longer fit to be in prison due to their age and deteriorating health. All had originally been sentenced to life imprisonment, but four had had their sentences reduced to 20 years. Shinema Nailenge was over 70 years old and had high blood pressure; Njabula Tshaningau, also over 70, had high blood pressure and was becoming blind; Naftalie Amungula, over 60 years old, with high blood pressure; Sakeus Phillipus Itika, over 60 years old, with high blood pressure; Elizae Tuhadeleni, over 60 years old, and suffering from asthma, serving a life sentence. Mr. Shikomba appealed for the international community to concern itself with the fate of these prisoners. 346/

Women in prison and detention

364. According to the information available to the Ad Hoc Working Group of Experts, there are many women amongst those arrested and detained without charge. 347/ Mr. Itula (549th meeting) referred to the case of Ida Jimmy, who was held in Gobabis prison under Proclamation AG.26 at the same time as himself. She had been rearrested in 1980 and sentenced to seven years' imprisonment; at the same time of her arrest she was in an advanced state of pregnancy, and gave birth to a child in early 1981 in the Windhoek maternity home. During her stay at the home she had not been allowed to receive any visitors, and a warden was constantly in her room. Ms. Ida Jimmy was sentenced to seven years' imprisonment by the Windhoek Regional Court on 15 October 1980 on charges under the Riotous Assemblies Act and Section Three of the Terrorism Act, after a one day trial. She was convicted for a speech she made at a SWAPO rally in Luderitz in August in celebration of Namibia Day; her speech had been tape recorded by the police. Ms. Jimmy was found guilty of inciting or encouraging people to harbour or aid "terrorists". She had previously been detained without charge under Proclamation AG.26 in April-May 1979 in Luderitz, together with her nine-month old baby.

365. The witness also referred to the case of Gertrude Kandanga, who had been arrested in 1980; she suffered from asthma, but was held incommunicado, like all prisoners detained under Proclamation AG.26. Ms. Gertrude Kandanga had been arrested while attempting to leave Namibia to attend the First Consultative Congress of the SWAPO Women's Council in Angola. She was held in solitary confinement in Windhoek Central Prison. 348/

344/ Focus, No. 34, May-June 1981, p. 3.

345/ Focus, No. 35, July-August 1981, p. 10.

346/ Focus, No. 36, September-October 1981, p. 2.

347/ See special draft report of the Working Group E/CN.4/AC.22/1982/WP.1.

348/ Remember Kassinga, (International Defence and Aid Fund for southern Africa).

366. As well as being held under the same conditions as men, women detainees are exposed to the additional risk of rape and assault by members of the security forces, according to information received by the Ad Hoc Working Group of Experts. A number of cases of rape by members of the South African armed forces were brought before the courts during the period under review. Constable Adrian Ferreira appeared in court in August 1980 on a charge of rape of a 20 year old woman detainee, Karlina Jambo, who alleged that she was being detained in a police cell at Ruacana under Proclamation AG.9, when the assault took place on 4 June 1980. It is believed that many other women whose names are not known are held in detention without charge. 349/

(b) Evidence concerning torture and the cruel, inhuman and degrading treatment of political prisoners and captured freedom fighters

367. A previous report of the Ad Hoc Working Group of Experts described the suffering inflicted on Axel Johannes, SWAPO Administrative Secretary (see E/CN.4/1365, paras. 283-284). Mr. Johannes (548th meeting) outlined his experiences of torture whilst in detention. As a SWAPO member he had been subjected to different kinds of torture, which varied according to whether he was in the hands of the police or the army. Conditions in prisons also varied according to who was in charge. Torture by electric shocks was common and was also used on women. He had been tortured this way on two occasions himself, when electrodes were attached to his nostrils, mouth, penis and anus. Another common method of torture was to hang a prisoner up by his hands and leave him suspended for long periods. Prisoners were also beaten until they bled and made to lick up the blood. He had once been taken out of prison in Windhoek to a river bank where he was forced to dig a pit in which he was then buried. He had also been put in the river and his head held under the water until he was near to drowning. Then he had been suspended from a tree and it was only the arrival of a witness in the shape of the owner of the land that had obliged the police to discontinue the torture. According to information available to the Ad Hoc Working Group of Experts, this occurred after his arrest in April 1978, and the assault was carried out by security police who suggested that the witness had hidden in the riverbed a pistol used as a murder weapon in connection with the assassination of Chief Clemens Kapuu. 350/ The same treatment was meted out to another SWAPO detainee, Festus Thomas (see E/CN.4/1311, para. 411).

368. The witness said that psychological torture used in prison included being threatened with death unless membership of SWAPO was renounced and the prisoner agreed to co-operate with the police. This kind of treatment was inflicted on persons of all ages, both men and women, irrespective of occupation. While many nations might conduct torture on their own people, Mr. Johannes said that it was worse to be tortured by South Africans who did not regard black prisoners as human beings. Solitary confinement sometimes lasted for two to five years, and prisoners were told they would never be released. The families of prisoners were often left destitute during this time, and the police would say that SWAPO had burned down their homes and property and that they should therefore renounce SWAPO.

349/ Focus, No. 31, November-December 1980, p. 9; No. 33, March-April 1981, p. 9.

350/ Remember Kassinga, (International Defence and Aid Fund for southern Africa).

369. He said there were certain police officers specially trained in interrogation techniques and torture, and other South African officials were not allowed to conduct interrogations using torture. Usually security police were specially brought in from Johannesburg, Windhoek or other centres in South Africa or Namibia. He confirmed the names of many officers habitually engaged in torture, most of whom had previously been identified by the Ad Hoc Working Group of Experts. Many of those detained in the "operational area" were beaten up as a form of revenge whenever a clash between SWAPO guerillas and South African troops resulted in any of the latter being killed. Many detainees had been driven mad by constant torture or isolation. Prisoners were often blindfolded when undergoing torture so that they would be unable to identify the torturers. Black prison warders and wardresses were not allowed to speak to political detainees or to visit them except in the company of white prison staff. They were not trusted to visit the cells until prisoners had recovered from torture. The Windhoek central prison was said to be the only one with female prison warders, both black and white.

370. Mr. Johannes also stated that he was not interrogated after his arrest in April 1979 along with other leading SWAPO members, but was held in solitary confinement. He was first taken to Gobabis, transferred to Windhoek, and then taken back to Gobabis. During 1979 the detainees were involved in a week-long hunger strike in protest at conditions, especially at not being allowed to receive any letters from relations. He was held in a cell measuring about 2 x 1 metres in Gobabis prison, and only allowed out for 30 minutes each day. Apart from a bed (provided following a visit by an Amnesty International representative in January 1980) there was no furniture, and no window, apart from a grating high in the cell. With the exception of his last three weeks he had not been allowed any reading material apart from his Bible. During the period of his detention and subsequent restriction, the witness's elderly parents in northern Namibia were reported to have suffered severe privations and were made homeless after their family farm was burnt down on 28 January 1980, allegedly by South African police.

371. In July 1980, an urgent application, which was initially unsuccessful, was brought before the Windhoek Supreme Court by lawyers acting on behalf of Johannes Ahinkono, Mr. Johannes' father, claiming compensation for damage against the South African Minister of Police and the Ovamboland authorities. An objection by the Minister of Police that the claim had been issued in an irregular fashion was subsequently overruled, and the claim was still pending before the court at the end of the period under review. The claim stated that the farm, in the Uukvaluunhi area of Ovamboland, was burnt down through the "wanton action" of the police and that all private possessions and personal effects had been gutted. Mr. Ahinkono, who was 93 years old and partially blind, and his 70 year old wife, had been living in temporary corrugated iron shelters in the bush ever since. 351/

372. Mr. Itula (549th meeting) described the case of Maria Amkali, who was arrested by South African soldiers at Ononjepa hospital and taken to the Oshakati military camp, and from there by truck to Okakarara, in November 1980. She was detained for four months, and had been given electric shocks about three times a week. Then she was released and restricted in Windhoek. While detained she had developed

malnutrition, as she had been provided with only one cup of water a day with which to wash and to drink from. Her cell had been made of zinc, which made it very hot. There was a generator to supply power for the shock machinery, and as this made a lot of noise, the guards had to shout. She had overheard one of them say that his job was to torture, not to carry corpses.

373. It was reported that an unsigned communication published in the Windhoek Observer gave details of maltreatment of Dr. Nafta Hamata, superintendent of Onandjokwe Lutheran Hospital, over a period of two months. He had been held in solitary confinement near Windhoek, and had no access to running water or a change of clothes. His head was covered with blankets during interrogation. He reportedly often heard screams, but believed that these emanated from a tape recorder. 352/

374. A letter smuggled out of Windhoek Central Prison in 1980 alleged the ill-treatment of detainees due to lack of medical treatment and beatings by prison warders. The letters listed the names of 51 long-term prisoners and 18 people who had allegedly died in detention, mainly through lack of medical attention. It cited six cases of prisoners beaten to death by warders and in some cases gave the names of the warders concerned. Assault with batons and Alsatian dogs was said to be frequent.

375. It was reported that a memorandum, submitted by SWAPO to a United States Government team visiting Windhoek in June 1981, provided details of torture suffered by opponents of the regime. In one case, a man was detained on 4 October 1980 and taken to Otjivarongo, and from there was taken blindfold to an unknown location. He was held for 10 days in solitary confinement in a small cell made of zinc, with one blanket and no mattress. From 17 October onwards, he was tortured with electric shocks for several days until he was almost unconscious. He had been handcuffed and suspended in the air for hours, and beaten and kicked in the ribs and stomach. This treatment continued until 28 October when after repeated demands he was visited by a doctor. He was released on 1 May, but still suffered from back problems and injuries to his left shoulder, and had to seek hospital treatment.

376. In another case, the victim spent two months from 28 May 1980 under interrogation at Oshakati, and was then taken blindfolded to an unknown place and kept in solitary confinement in a cell made out of zinc. He had repeatedly been taken to a nearby building, where he was suspended by his hands for long periods. His arms and fingers became immobile, but he was refused access to a doctor. On his release on 21 May 1981 he still suffered from pains in his shoulder and three fingers on his left hand remained stiff. 353/

(c) Violations of the right of the accused to a fair and public trial

377. The Ad Hoc Working Group of Experts received no direct evidence as to violations of the right of the accused during court hearings for the period under review. The Group has, however, no reason to believe, on the basis of past trials, during which duress has been used to obtain a confession from the accused or to force witnesses to give evidence for the prosecution (see E/CN.4/1511, para. 414, E/CN.4/1270, paras. 323-324), that the pattern of systematic violations of the rights of the accused has in any way altered in Namibia.

352/ Focus, No. 32, January-February 1981.

353/ Focus, No. 35, July-August 1981. Focus, No. 36, September-October 1981.

F. Situation of the African black workers

1. Background information

378. In its previous reports the Ad Hoc Working Group of Experts has examined the effects of the labour system in Namibia, including the system of recruitment of migrant workers; the denial of trade union rights; the disparity in wages between black and white workers; and the low wages and resulting poverty (see E/CN.4/1222, paras. 385-390; E/CN.4/1187, paras. 376-379; E/CN.4/1135, paras. 288-299; E/CN.4/5622, paras. 117-136; E/CN.4/1270, paras. 325-337; E/CN.4/1311, paras 415-424).

379. A previous report of the Ad Hoc Working Group of Experts (see E/CN.4/1365, paras. 287-291) described the effects of the meagre income available to the African population from the migrant labour system and subsistence agriculture, and surveyed the available information drawn from United Nations and other sources, as to the number of economically active persons and employment by economic sector.

380. The available information from South African sources remains sparse but, with the establishment of local administrative structures in Namibia, more information on economic and social sectors is gradually being made available, although its reliability remains, in the view of the Ad Hoc Working Group of Experts, questionable.

2. Summary of information received

381. According to a study by an economist working for the Anglo-American Corporation, the economically active section of the population numbered 414,000 in 1979, while the total number of persons in employment was some 375,000, resulting in about 9 per cent of the labour force being unemployed. About 31 per cent of the total labour force, or just under 115,000, was employed in the industrial and commercial sectors of the economy, with about 20 per cent in mining, 18 per cent in wholesale and retail trade, 10 per cent each in manufacturing and construction, and 35 per cent in the public sector, including South African Railways and Harbours. Employment in commercial agriculture accounted for about 12 per cent of total employment. As of 1977 some 100,000 households were dependent on subsistence agriculture, or about 70 per cent of all black and Coloured households, supplying 175,000 workers. In 1977 there were some 40,000 migrant workers, down from an estimated 50,000 in 1970, of whom well over a half came from Ovamboland, the rest from Kavangoland and other areas. These accounted for about 30 per cent of all male workers, and 22 per cent of the labour force outside agriculture. Using the 1977 figures it was stated that about 7 per cent of all workers could be classified as skilled (all races); excluding the agriculture and domestic sectors, the proportion was 19 per cent.

382. The study highlighted an upward trend in open unemployment. Until 1970 the subsistence sector was able to absorb all workers who could not find jobs elsewhere, but this had been affected by regional overpopulation in the north. As a result, since 1970, while the labour supply had increased on average by 2.8 per cent a year, demand for labour had grown by about 1.8 per cent a year. In addition there was the disguised unemployment in the subsistence economy in the northern regions amounting to about 80,000, or 22 per cent of the labour force. It was reported that,

as of August 1981, the unemployment total had risen to 75,000, out of a total workforce of 415,000, a rate of 18 per cent. Dr. Wolfgang Thomas, a West German economist, stated that this compared to 10 per cent in 1977/78 and was increasing despite economic growth. He said that the annual rate of increase in the labour force was running at 8,500 a year. 354/

383. It was reported that leading international and local firms had established the Private Sector Foundation (PSF) in Windhoek in November 1980. The PSF was launched with an initial R750,000 for the first three years by 30 founding corporate members. Its objectives included the protection of free enterprise values and the upliftment of the quality of life of the disadvantaged sectors of the community. The PSF was to be non-racial and non-political and would in practise operate like the Urban Foundation in South Africa. Amongst other objectives included in its constitution were the promotion of a voluntary code of employment, and the co-ordination and promotion of training to improve the earnings potential of unskilled and semi-skilled manpower. Founder members of the PSF included Rossing Uranium Ltd. and De Beers Consolidated Mines Ltd. 355/

384. According to the 1980 annual report of the Chamber of Mines of SWA/Namibia, there were 20,183 people employed in the mining industry in 1980, compared to 18,417 in 1975. The total salaries and wages paid amounted to R111 million in 1980, providing average earnings (all races) of R5,503 a year. According to the report, the Chamber had expressed concern that industrial unrest could result from the decision of the National Assembly in March 1981 to apply personal income tax universally. Previously it was only payable by Whites and Coloureds. It was reported that statutory job reservation in the mining industry was abolished in December 1980, via the repeal of racially discriminatory provisions in the Mines, Works and Minerals Ordinance of 1968. The range of job exclusions had run downwards from manager to shift boss and overseer, while Africans had been prevented from obtaining the crucial blasting certificate. The widespread use of migrant labour had effectively disguised the effect of the provisions, but mine owners had found that the introduction of job training schemes on a comprehensive basis was being hindered, despite partial exemptions granted by the Government mining engineer. The continuance on the statute book of racial exclusions was also seen as a cause of potential embarrassment to multinational mining firms. 356/

385. According to the 1980 report of De Beers Consolidated Mines, which wholly owns CDM, the company operating the Oranjemund diamond mines, average wages paid to unskilled mineworkers in Namibia, including overtime and allowances, amounted to R247 a month during the second half of 1980, compared with R208 in 1979. The formation of black or multiracial unions was said to be under discussion at the year-end, with guidelines established by the CDM management. 357/

354/ Optima, vol. 28, No. 4, January 1980; Sue Collett, "The Human Factor in the Economic Development of Namibia", Quarterly Economic Review of Southern Africa, 3rd quarter, 1981 (London, Economist Intelligence Unit).

355/ Windhoek Advertiser, 27 November 1980, 9 March 1981.

356/ Quarterly Economic Review of Southern Africa, 1st quarter, 1981 (London, Economist Intelligence Unit), p. 27.

357/ De Beers Consolidated Mines, 1980 Annual Report.

386. Information published by Rio Tinto-Zinc Corporation during the period under review stated that there were 3,036 workers at the Rossing uranium mine, of whom 1,593 were black, 875 white and 568 Coloured. Of the black employees, 1,501 were in job grades 1-6, with wages per month ranging from a minimum of R223 to a maximum of R474. Only nine black employees were above grade nine, and paid more than R783 a month. Of the white employees, 799 were in job grades 7-18, with wages ranging from a minimum of R475 to a maximum of R1,146 a month. Of the Coloured employees, 384 were in grades 4-7, with wages ranging from a minimum of R320 to a maximum of R568 a month. There was stated to be an integrated wage and salary structure in line with the Paterson system of job evaluation, with grading based on the level of decision-making involved. The aim of the company was said to be to house its married employees on a family basis if they wished, with single quarters maintained for single employees. About 450 single-status employees in grades 1-4 were housed in Rossing Village 'A' and 133 in Rossing Village 'E'. Accommodation for married black employees in grades 1-5 was provided at the Arandis township; some R15 million had been spent on providing housing and amenities. There were 672 houses occupied by married employees with their families. Coloured workers are housed in the Tamariskia suburb of Swakopmund, and white employees, and those in grade 8 and above, are housed in the Vineta suburb of Swakopmund.

387. It was reported that a major exercise had been started in 1979 to provide training for all semi-skilled employees, with 699 having completed training as of mid-1981, and a further 1,238 undergoing training. Apprenticeship training, literacy and language training were also provided. In 1978 the Rossing Foundation had been set up to provide educational and training opportunities. Some 300 students were registered for literacy, basic English and other courses. The health and safety precautions were described. According to the corporation, the only area where employees were said to encounter any concentration of uranium was in the final product section. All employees had monthly urinanalysis and kidney function examinations, and wore protective clothing. Among measures to control dust in the atmosphere were the spraying of haul roads and other areas around the mine with water, while the cabs of all haul trucks were filtered and pressurized. Medical examinations were carried out once a year on all employees, and there was a 24-hour first-aid station situated in the mine complex, and an occupational health centre. 358/

388. On the other hand according to documents provided to a trade union seminar organized by SWAPO in June 1981, workers at Rossing were being exposed to severe radiation hazards, with no independent evaluation of the worth of the health and safety measures in force. Reports from workers at Rossing were said to refer to inadequate safety precautions at the mines, while the residents of Arandis were exposed to radiation from the mine and tailings dumps. Radon gas was said to be a constant hazard, exacerbated by high desert winds blowing particles of radioactive dust from the uncovered tailings. Black workers had also complained of forced overtime, inadequate rest periods, failure of the company to provide the necessary protective clothing and breathing equipment. Medical treatment

for black employees was said to be slower, and of a lower standard, than that available for white employees. In the long term, no attempt was made to keep a register of Namibians who had worked at the mine, in order to follow up the delayed-action effects of exposure to radiation. 359/

389. According to information available to the Ad Hoc Working Group of Experts, a number of journalists visited the Rossing mine in August 1981. It was reported that management representatives had denied allegations that Rossing workers were exposed to dangerous levels of radioactive contamination as malicious and ill-informed. It was claimed that all employees were strictly protected against contamination and that the extent of radioactive and other toxic pollution on the Namibian environment was being closely monitored. It was conceded that certain contingencies could cause problems and that the full long-term environmental effects were not certain. The Arandis township, housing 4,500 black and Coloured workers, did not lie in the path of prevailing winds leeward of the tailing dam, the Assistant General Mine Manager, Mike Brett, claimed. But he acknowledged that the full implications of a flash flood breaking the retaining earth wall of the tailings dam and spilling downstream towards two emergency retaining dams could not be predicted. Besides normal levels of gamma and beta radioactivity dissolved in the tailings water, the dam also contained concentrated solutions of hydrochloric acid, manganese, iron and other chemical compounds. No actual measures to prevent wind erosion of the tailings had been implemented as yet. The Chief of Health Services at the mine claimed that there had been individual cases of radioactive contamination, but this had in no case been above 0.5 Rems, well within the world uranium safety standard. Regular electronic monitoring of levels was carried out at various sites, including Arandis. Cases of contamination had occurred in the final product stage and been caused by the negligence of employees and not by the existence of inadequate regulations. 360/

390. In its 1981 report, the Ad Hoc Working Group of Experts referred to the arrest and detention of members of the National Union of Namibian Workers (NUNW) including individual unionists active at Rossing (see E/CN.4/1429, para. 458). Two trade union officials placed in restriction in April 1980, Arthur Pickering and Henry Boonzaaier, were reported to have left Namibia at the end of 1980, for the United Kingdom and Angola respectively. According to the trade union documents referred to above, although the amendment made in July 1978 to the 1952 Wage and Conciliation Ordinance allows Africans to join trade unions, the only "registered" unions allowed are those that are multiracial, and include large numbers of white employees in each industry. Only then are the unions regarded as representing all grades; in addition no union can be affiliated to any political party. At this time the NUNW had established steering committees of workers on all the main mines and an office in Windhoek. Early in 1980, after publication abroad of an attack on conditions at the Rossing by Rossing workers, the NUNW was closed by the South African authorities, and documents and vehicles confiscated. 361/

359/ Trade Union Seminar on Namibian Uranium, London, 29-30 June 1981

360/ Windhoek Advertiser, 3 August 1981.

361/ Trade Union Seminar on Namibian Uranium, London, 29-30 June 1981.

G. Conditions of Africans in the Homelands"

1. Background information

391. The implications of the "homelands" policy, as established pursuant to the recommendations of the official "Odendaal Commission" of 1964, were described in a previous report of the Group (see E/CN.4/1020, paragraphs 29-30). Other reports of the Ad hoc Working Group of Experts have summarized the legislation enacted in the period since February 1973 in relation to the setting up of the "homelands" for occupation exclusively by the different officially-classified tribal groups in accordance with the provisions of the Self-Government for Native Nations in South West Africa Act, No. 54 of 1968, and the Amendment Act, No. 20 (see E/CN.4/1135, paragraphs 245-252, E/CN.4/1159, paragraphs 237 et. seq.). A previous report of the Ad hoc Working Group of Experts also referred to the continued establishment of "homelands" in the guise of so-called second-tier representative authorities as provided for in the draft Turnhalle constitution of 1977, which provided for "existing legally constituted bodies" to be accepted as representative authorities for the different "ethnic groups" and the switch from a geographical definition of "homelands" to a demographic concept covering all members of a so-called ethnic group irrespective of actual physical residence in the area of a "homeland" (see E/CN.4/1311, paragraph 426). In its report last year, the Ad hoc Working Group of Experts further analysed this process, describing the enactment of provisions for constitutions of individual representative authorities, the establishment of a representative authority for the whites, in lieu of the existing South West Africa Legislative Assembly, the entrenchment of functions allotted to the representative authorities, and the duplication of some administrative powers with those of the first tier National Assembly in Windhoek.

2. Summary of recent developments

392. The proclamation of a representative authority for Namas was made during the period under review. It was reported that a budget of R8.7 million had been voted for its legislative assembly by the National Assembly, of which R3.5 million was for salaries of members of the assembly. 362/

393. According to information available to the Ad hoc Working Group of Experts some 30 per cent of the total budgeted expenditure of R520 million for 1980/81 by the central administration was allotted to the representative authorities under the heading of "constitutional development". The amount totalled R156 million, up by R49 million over 1979/80, and included subsidies to the budgets of the representative authorities. The budget was the first to be tabled in the National Assembly, following the establishment of a Central Revenue Fund for the territory. Expenditure on "homeland" developments previously came under the Department of Plural Relations/Bantu Administration via the South West African Account of the South African Treasury. 363/

362/ Windhoek Observer, 1 August 1981.

363/ Quarterly Economic Review of Southern Africa, 4th quarter, 1980, (London, Economist Intelligence Unit).

394. Reference is made above to the elections of November 1981 for the legislative assemblies of the various representative authorities.

3. Summary of evidence and information received

(a) Political rights and personal freedoms

395. According to information available to the Ad hoc Working Group of Experts, there was an increasing number of assaults, particularly rape, committed against women by security forces during the period under review. An 18 year old white soldier, Jacobus Abel van Zyl was given suspended sentences of 18 months and six months for raping Hilma Sakarias, 25, and attempting to rape Frida Dawid, 20, in February 1980. He had first pleaded not guilty to the charges, and only changed his plea to guilty after several women had given evidence. In another case, two SADF soldiers were sentenced to three years' imprisonment, suspended for five years, for repeatedly assaulting a 14 year old Caprivi girl. During an attack on civilians at Otshandi in September 1980, it was reported that a pregnant woman had died after being raped by five South African soldiers. The lenient court attitudes over rape cases was cited in a letter to the Windhoek Observer, which pointed out that SADF members in the north believed they were free to do anything with an Ovambo-speaking person. Many people had been raped and people killed without compensation to their families.

396. During the period under review the churches in Namibia came under further attack and intimidation. On 19 November 1980 the printing plant of the Evangelical Lutheran Ovambokavango Church (ELOC) at Oniipa mission, in Ondangwa, Ovamboland was completely destroyed in a bomb explosion. The blast also caused extensive damage to a bookstore and surrounding offices. A church spokesman said that the bomb appeared to have been placed underneath a printing press in the three-unit complex. The whole building collapsed, and the machinery was completely destroyed, with damage estimated at R350,000. In a statement issued immediately after the attack, the Bishop of ELOC, Bishop Kleopas Dumeni, said that the identity of those responsible was unknown, but they were enemies of his church. He pointed out that although the attack had been reported to the police via the radio at Oshakati hospital at 1.30 a.m., no policeman arrived on the scene until 10 a.m. At least two major army bases were located within six miles of Oniipa, and the army had carried out numerous raids in the previous four years. The explosion had been loud enough to be heard nine miles away. Bishop Dumeni said that he had been told by church members of movements in the vicinity of the mission complex by South African army vehicles on the night preceding the attack, and armed soldiers had been seen walking in the direction of the printing press about 15 minutes before the blast occurred. The Oniipa mission is in a curfew area and ordinary residents are confined to their homes between sunset and sunrise, with only the police and military able to move about at night. A senior South African Police spokesman was reported to have said that the police were conducting a full investigation. A statement issued by the Lutheran World Federation (LWF) in Geneva said it was evident that the police did not intend to press their enquiries. A substantial rebuilding grant was endorsed by the LWF community development service meeting in Geneva in December. 364/

397. It was reported that one reason for the destruction of the printing press might have been to prevent Omukweto publishing a story about an assassination which took place at Nakayale hospital shortly before the explosion. Lisias Aluuma, a member of the Ovambo Legislative Council, was assassinated in his hospital bed by two unidentified gunmen on 31 October. A Finnish hospital matron, Ms Kaino Kovanen, was immediately accused of complicity in the assassination, by having the special Ovambo police guard removed from the hospital precincts. It was reported that Omukweto planned to publish a true version of the event to clear Ms Kovanen, as the account given by Bishop Dumeni had not been published. According to this account, Ms Kovanen had gone to the residence of Titus Heita, a member of the Ovambo executive committee charged with responsibility for health, to complain about raids by armed men on the hospital, believed to be members of Heita's bodyguard. The next day Mr. Aluuma had been shot, but despite a radio call to the modern Oshakati hospital for assistance, no help came, and, as a result, he had died. At no time had Ms Kovanen told any homeguards to leave. 365/

398. A pastor of the Lutheran Church in America, John Evenson, who visited Onipa on the day after the explosion, reported considerable police harassment of the community. Two nights after the bombing, soldiers had arrived in tanks and armoured cars and played searchlights over houses, allegedly searching for Namibians disobeying the curfew. A church official told him that this was an intimidation raid so that people would not talk. A number of Namibians were rounded up from their homes in the printing press area; some were accused by hooded informers of being SWAPO terrorists, and one shopkeeper was severely beaten and had not returned home by the time Mr. Evensen left Namibia. On the following Saturday, a further round-up of Namibians from the area had taken place outside the Onandjokwe Lutheran Hospital, and Mr. Evensen was arrested by soldiers after he had been seen taking photographs. When they arrived at the Olumbongo shop area he saw some 40 Namibian men seated in the centre of a circle of armoured cars, machine guns pointed at them. He was told by the commanding officer that they were not looking for the people who had bombed the press but were searching for "terrorists". Later on he had been told that after producing their identity cards, the men had been forced to say repeatedly that they hated SWAPO. Two who had not responded to questions quickly enough had been clubbed, and a number of persons had been taken away. Namibian Christians were being treated with less respect than goats, with pastors, teachers, doctors, nurses, shopkeepers, all members of the Lutheran church, arrested, detained, tortured and beaten, while many were missing, and some were known to be dead. 366/

399. It was reported that St. Mary's mission at Odibo, near the border with Angola, had been firebombed by unknown assailants on the night of 18 June 1981. Residents of the mission compound said the entire seminary complex was destroyed, including a chapel, classrooms, dormitory, the library and office. Damage was estimated at R100,000. No one was injured as the seminary has been in indefinite recess due to the war. Although the Director of the Mission, Archdeacon Shilongo, reported the attack at 10 a.m. the police had not arrived until 3.45 p.m. and there had been no result of their inquiries. The personnel at the mission have frequently been subjected to harassment and the mission raided by South African troops and the police. Archdeacon Shilongo was arrested in 1976 and again in 1979. There have been allegations that the special military unit, "Koevoet" (crowbar), has been involved

365/ Windhoek Observer, 29 November 1980.

366/ Lutheran World Federation Information, 9/81.

in recent attacks on persons and property in northern Namibia. Involvement in the attacks on St. Mary's and Oniipa missions was denied by Brigadier Hans Dreyer, the chief of the unit. 367/

(b) Freedom of movement

400. Ms Kovanen, referred to above, was issued with an expulsion order by the Ovambo administration in November 1980. The Administrator-General concluded at the end of December 1980 that she was not in any way involved in the assassination at her hospital, and overruled the expulsion order. But in January the Ovambo administration made another attempt to expel Ms Kovanen, by requesting the Department of Civic Affairs and Manpower to withdraw her permanent residence permit. This also failed. The authorities then threatened to withdraw the annual subsidy paid to her employers, the Evangelical Lutheran Ovambokavango Church, unless they moved her to another part of Namibia. When this move also failed, the attempt to deport Ms Kovanen, was reported to have been dropped. 368/

(c) Health

401. According to information available to the Ad hoc Working Group of Experts, a major feature of the health situation was the incidence of major diseases, such as tuberculosis, with an incidence of 17 per 1,000 in Kavangoland, and venereal disease, with a rate of 10 per cent in the same area. In some areas among the Bushmen, tuberculosis rates as high as 25 per cent have been recorded. Less than 20 per cent of all doctors were reported to be practising in the "homelands", with the worst-off sections of the population, those living in Kavangoland, Kaokoveld, Damaraland, Hereroland and Bushmanland. Health facilities in these areas were still largely provided by missionaries. 369/

402. It was reported that the severe drought afflicting Namibia during 1981 had hit Kaokoveld particularly hard, with some 9,000 people facing starvation by mid-1981, while 30,000 cattle in the area had died. A relief team from Windhoek which visited Kaokoveld in August reported high levels of malnutrition, with particularly severe suffering by children. Endemic diseases such as whooping cough were reported to be widespread, with no immunization programme or health care of any kind available, except that provided by the hospital at Opuwo, the administrative centre. The establishment of a temporary clinic, with the services of a trained paramedic to distribute medicines and food, was recommended. A commission of enquiry into health services in the territory was announced by the Administrator-General, with, as its terms of reference, the provision of efficient health services to all the inhabitants of Namibia. 370/

H. Impediments to student movements

403. The question of student movements has been examined in previous reports of the Ad hoc Working Group of Experts (see E/CN.4/1222, paragraphs 396-407; E/CN.4/1270, paragraphs 356-365; E/CN.4/1356, paragraphs 304-306; E/CN.4/1429, paragraphs 473-476). It was found that education in Namibia was restrictive, authoritarian and limited. There is no university in Namibia, only a number of

367/ Focus, No. 36, September-October 1981, p.4.

368/ Focus, No. 33, March-April 1981, p. 9, Focus, No. 34, May-June 1981, p. 4.

369/ Perspective for Developing Health in Namibia, (Berlin, German Development Institute, March 1980).

370/ Windhoek Advertiser, 14 August 1981.

technical and vocational training centres, theological seminaries and segregated government high schools. Only a limited number of African students have been able to attend "Bantu" universities in South Africa; a few have managed to obtain scholarships abroad, while many are receiving education in exile from the United Nations Institute for Namibia in Lusaka, Zambia. The primary and secondary educational levels were characterized by progressively higher drop-out rates in respect of African students.

1. Relevant legislation

404. Previous reports of the Ad hoc Working Group of Experts have summarized the South African legislation affecting the education of Africans (see E/CN.4/1187, paragraphs 388-389). The general policy had been to regulate the pattern of black education in conformity with that of the republic. Black education is now controlled by the Directorate of National Education, established in October 1979, under the aegis of the Administrator-General. The Bantu education syllabus was dropped for Government secondary schools in 1977 and replaced by the Cape province secondary schools Afrikaans curriculum. An Academy for Tertiary Education was established in Windhoek in May 1980. Racial segregation remains entrenched throughout the school system. An official survey states that each population group retains its own schools, and in the country multiracial schools are an exception, found only in the case of a few private schools. Various factors, such as the language problem, were said to render multiracial schools "impracticable". A local examination board has been established with a view to obtaining uniformity in regard to study courses and syllabuses. 371/ The African education system is controlled by a regional office in Windhoek, which controls all institutions and has the power to close down schools, expel students and dismiss teachers for not adhering to regulations.

2. Summary of evidence received

405. It was reported that the German Evangelical Lutheran Church in Namibia had charged that, despite claims to the contrary, racial segregation remained official policy. The event which led to this criticism by the 12,000 member church, normally one of the least critical of the authorities, involved the Coloured son of Rev. and Mrs. Seemuller, who was adopted shortly after his birth by a German mother. Although he had full German citizenship and spoke German he had been refused admission to a German-speaking pre-State primary school by the white district council of Ojiwarongo. 372/

406. According to information available to the Ad hoc Working Group of Experts, Pastor Hendrik Witbooi, a member of the national executive of SWAPO and hereditary "kaptein" of the 2,500 Witbooi Nama Community, had clashed with the authorities, whilst he was principal of the Gibeon Nama Primary School. Although it had been agreed to extend the school up to standard 8, an attempt had been made to transfer him to another school on the grounds that he was underqualified. When he left the school in 1977, most of the 600 pupils and some of the teachers had gone with him. In 1979 Pastor Witbooi had opened a multiracial private school to standard 7, with English as the medium of instruction, and particular emphasis on the teaching of geography and history. In January 1981 a new school had been opened, attended by 420 children,

371/ South West Africa/Namibia Survey, June 1980.

372/ Lutheran World Federation Information, 18/81.

and although it was overcrowded, students preferred it to the two State-run schools which were both under-attended, despite having better facilities. The school was the first in the territory to apply for national registration. 373/

I. Information concerning persons who have been suspected to be guilty of the crime of apartheid or of a serious violation of human rights

407. It should be recalled that in its resolution 6 (XXXIII) of 4 March 1977, the Commission on Human Rights requested the Group to institute an enquiry in respect of any person who had been suspected, in Namibia, to be guilty of the crime of apartheid, or of a serious violation of human rights, in accordance with article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and to bring the results of that enquiry to the attention of the Commission on Human Rights.

408. After studying the relevant information received, and in the light of the mandate entrusted to it, the Group has already drawn up four lists of persons who in its view, were considered to be guilty of the crime of apartheid or of a serious violation of human rights (see E/CN.4/1311, paragraph 444; E/CN.4/1365, paragraphs 307-310; E/CN.4/1429, paragraph 479).

409. From the information and evidence collected by the Group during the period under review, the Group feels there is sufficient reason for believing that the following persons have been suspected to be guilty of the crime of apartheid or of a serious violation of human rights:

Case No. 1

Brigadier Dolf Gouws, Commissioner of the South West African Police, for the gross neglect of the conditions of detainees during the period under review.

Case No. 2

Lieutenant Colonel van der Merwe, head of the Security Police in Namibia Windhoek; responsibility for the maltreatment of detainees;

Case No. 3

Major G. Nande, head of the special task force, whose men attack civilians using their special anti-SWAPO "terrorist" training;

Case No. 4

Colonel Myburgh, former head of the security police in Namibia; Majors Koffee and Nel (formerly both captains); Colonel Schoon, in charge of Oshakati prison; Major Coetzee; Lieutenant Dippenacer; David Low; Joseph Angula; Sergeant Hentie Botha; all identified by Mr. Johannes (548th meeting) as torturers. Apart from Colonel Myburgh, these persons were also identified in the previous report of the Ad hoc Working Group of Experts.

III. THE CONDITIONS OF IMPRISONMENT AND THE STATE OF HEALTH OF PERSONS CAPTURED AT KASSINGA AND IMPRISONED AT THE HARDAP DAM CAMP, NEAR MARIENTHAL, IN THE SOUTH OF NAMIBIA

410. In paragraph 20 of resolution 5 (XXXVII) the Commission on Human Rights requested the Ad Hoc Working Group of Experts, in co-operation with the Special Committee against Apartheid, to investigate the conditions of imprisonment and the state of health of persons captured at Kassinga and imprisoned at the Hardap Dam Camp, near Marienthal, in the south of Namibia.

411. This chapter, prepared in response to the above-mentioned request, contains details of the abduction of Namibian refugees during the raid on Kassinga in May 1978 by the South African troops, and the subsequent detention of refugees abducted from Kassinga and other camps in Angola in conditions of extreme hardship. The main information was submitted by a number of witnesses, including Ms. Ling (546th meeting), Ms. Nghatinga and Mr. Ithete (548th meeting), and Ms. Cate Clark (547th meeting) who appeared before the Ad Hoc Working Group of Experts. The previous report of the Group outlined the facts as known as of mid-1980 (see E/CN.4/1429, paras, 407-408, 443-444), but the information now available enables a more comprehensive account to be given.

412. Documentation provided by Ms. Ling included a fact paper, Remember Kassinga,^{374/} which she said had been specially prepared by the International Defence and Aid Fund to mark the third anniversary of the attack and to draw attention to the continued detention of the refugees. Much of the information contained in the fact paper had been drawn from reports in the local Namibian press, especially the Windhoek Observer newspaper.

413. The sequence of events following the Kassinga attack was described by the witnesses and is outlined in the various documents submitted to the Ad Hoc Working Group of Experts. One of the witnesses, Ms. Nghatanga, who appeared before the Working Group at its 548th meeting, was a personal survivor of the Kassinga raid, who had herself been held in detention for six months in northern Namibia. At the time of the raid, Kassinga, some 250 km inside Angola, was SWAPO's main transit centre and settlement for Namibian refugees. Most of its 4,000 inhabitants, accommodated in disused mine buildings and tents, were young people, teenagers and children, who had only been in the camp for a short period of time. The camp was attacked from the air in a joint South African army and air force operation which lasted from 7.15 a.m. until after 6 p.m. on 3 May involving bombings and a paratroop attack, which left over 600 dead, and 1,500 wounded. A second stage of the attack on the same day involved operations against SWAPO settlements closer to the Namibian border, including the "Viet Nam" camp, about 50 km inside Angola, the transit point for refugees before they reached Kassinga, and from where Ms. Nghatanga and about 270 other refugees were captured.

^{374/} Remember Kassinga, and other Papers on Political Prisoners and Detainees in Namibia, Fact Paper No. 9, July 1981, (London, International Defence and Aid Fund).

414. There were about 500 people in the camp, many of them wounded; the camp had been attacked by jet fighters and surrounded by armoured cars, and as most people did not have weapons, they were unable to defend themselves. As it began to get dark South African soldiers searched the camp for survivors; the seriously wounded were flown to Namibia by helicopter, and the rest, including those slightly wounded, put in trucks and taken back to Namibia in a convoy. One Namibian who died on the journey, which lasted two days, was simply thrown out of the truck, and not buried. The refugees had been given no food or medical attention and at Ombaluntu had been joined by the prisoners flown out by helicopter.

415. On arrival at Oshakati military base, the captives were detained in a fenced enclosure and systematically interrogated. According to Ms. Nghatanga, every detainee was questioned for at least an hour every day for approximately three months. On the way to being interrogated the detainees were roughly treated, beaten with rifle butts and rubber truncheons; males and females alike received the same treatment, although kept in separate tents. The women's sanitary needs were not attended to after the first month, and one boy was forced to swallow a number of chloroquin tablets. They were given badly cooked maize porridge twice a day, except at weekends when the morning porridge was replaced by tea and a piece of bread. One detainee, who was accused of being a SWAPO leader, had his hands tied, and was hung up all night, with his feet just touching the floor, after he refused to admit to the accusation. One female detainee, Nadia Musheko, was beaten and given electric shocks; she bit her tongue as she was trying to answer questions, and had been unable to take solid food for a month afterwards. Ms. Nghatanga had herself been given electric shocks, with electrodes attached to her temples. She was asked the whereabouts of the SWAPO President and where she obtained her medical supplies.

416. A number of prisoners were released from Oshakati in the course of the next six months, including 63 prisoners - 34 men and 29 women described as "half-trained terrorists and terrorist accomplices" -- on 27 May 1978. A number of these were subsequently interviewed by Father Heinz Hunke, a Roman Catholic priest in Namibia, who described their capture and interrogation at Oshakati (see E/CN.4/1429, para. 443). Others were released in the course of the next six months, the last group, including Ms Nghatanga, in November 1978. No charges were ever preferred against them.

417. The witness went on to state that she had had no contact with her parents, who were unaware of her forced return to Namibia; although they knew of the attacks in Angola, they did not know who might have been killed and who captured. The South Africans had broadcast that they had been to Angola and brought back the children of Namibian parents. On release the detainees were warned not to get involved in SWAPO meetings or to tell people that allegations made by the South Africans on FM radio - that in SWAPO camps there was no food, no religion, and men and women slept in the same quarters - were not true.

418. The detainees, known as the Kassinga detainees and held at the Tenegab military base at the Hardap Dam near Marienthal, had been separated from the other detainees at Oshakati because they wore either military shorts or boots and were therefore thought by the South Africans to be active guerrillas. The reason for wearing military clothing was the lack of civilian clothing in the refugee centres, and not because they formed part of any SWAPO military unit, the witness stressed.

419. About 120 people had been taken from Oshakati to Marienthal in August 1980. There were reports in 1980 that some others were being held in Bobabis prison, but this had proved impossible to confirm, while it was thought that other detainees might still be held elsewhere in Namibia. A list of 127 names compiled by SWAPO had been issued in 1979. 375/

420. The Hardap Dam Camp detainees were originally believed to have been held under Section 6 of the Terrorism Act, but in December 1980 it was revealed in the South African press that they were being detained under Proclamation AG.9. For more than two years, the South African authorities denied the existence of the detainees, and in July 1979 the South African Foreign Minister, Mr. R.F. Botha, denounced SWAPO's statements on the issue as "wild untruths". Several attempts by individuals and international organizations to see the detainees were refused.

421. Ms. Ling (546th meeting) and Mr. Thete (548th meeting) said that the detainees, although really prisoners of war, were not given the sort of treatment that might be expected under the Geneva Conventions. The detainees had been denied any access to legal counsel and denied visits from their relatives. There was evidence that they had suffered harsh treatment, and some had reportedly suffered physical disabilities, lost limbs, or eyes as a result of the treatment they had received. South Africa had refused to grant the status of prisoner of war to captured SWAPO combatants or refugees. The witnesses thought that despite the wide publicity surrounding the case of the Kassinga detainees, and the appeals to the South African authorities to grant prisoner of war status, the treatment of such detainees had worsened. SWAPO had applied to accede to Protocol 1 of the 1949 Geneva Convention, and it was hoped that by becoming a signatory, possibly by the end of 1981, it might be in a better position to protect the well-being of those detained.

422. Ms. Nghatanga said that after her release from Oshakati she had gone to work in the Katutura State Hospital and while she was working there, one of her colleagues had told her that two detainees from Marienthal had been brought in for treatment. The woman's body was swollen from beating, while the man had a broken leg, also as a result of beating. She had not seen the prisoners herself. Mr. Ithete said that the detainees at Marienthal were continuing to suffer torture, and for this reason SWAPO had appealed to the International Committee of the Red Cross (ICRC) to visit the camps at Oshakati and Marienthal. The ICRC is said to have done this in 1980, and to have informed SWAPO of intolerable conditions, especially as regards food and health.

423. The International Committee of the Red Cross (ICRC) is said to have pressed the South African authorities to improve the conditions, and this they promised to do.

375/ In this connection see also the report submitted by the Working Group to the Commission on Human Rights at its thirty-seventh session (E/CN.4/1429, para. 407).

The ICRC representatives are said to have been able to see only a few of the detainees, but had been promised that on their next visit they would have been allowed to see more, obtain full details and conduct interviews. According to The Times of London, 376/the ICRC representatives are said to have confirmed that 119 members of SWAPO were being held at the Hardap Dam Camp. According to the same source, official representatives of the ICRC visited 117 SWAPO prisoners, 35 of them women, held in Hardap Dam Camp, near Marienthal. All are said to have been captured during the South African raid in May 1980. According to a statement made by a representative of the ICRC in Windhoek, it was known from official sources that at least two more SWAPO prisoners were taken during South African operations in Angola in July 1981. It was also stated that the security police in Namibia would not give the Red Cross information about people being held in terms of the emergency proclamation AG.49 which, as in South Africa's Terrorism Act, provides for indefinite detention without trial. In line with ICRC policy, no further information than the number of detainees could be disclosed.

424. In February 1981, the Windhoek Observer reported that, probably as a result of intercession by the Red Cross, the detainees were now allowed to send or receive letters. The newspaper also suggested that the detainees were being provided with hot water and that food had improved. Relatives and friends, however, continued to be afraid to make personal approaches to the military at Hardap Dam, to confirm the detention there of particular individuals, for fear of action being taken against them.

425. According to another source, a representative of the ICRC, Mr. Peter Lutolf, was said to have stated in Windhoek that several visits had been paid to the SWAPO detainees at Marienthal since 1980. The defence authorities in the territory were said to have responded positively to suggestions put forward by the ICRC on the treatment of prisoners. He was alleged to have said that the function of the organization in unconventional warfare situations was beset by problems, and attempts were being made to overcome them by broadening the basis of the Geneva Conventions to provide for insurgents, and an additional Protocol dealing with internal insurrection had been introduced. Some 60 States had appended their signature to the additional Protocol but South Africa was not a signatory. South Africa was said, however to have granted the ICRC access to certain political prisoners, without giving official recognition to the status of their organizations. The ICRC was said to have had access to the Marienthal detainees as prisoners of war, although legally they did not fall into this category. The representative of the ICRC is alleged to have said that South Africa's decision in this regard would be a voluntary and non-binding step, which would not imply it had officially accepted the additions to the Geneva Conventions.377/

376/ The Times, 20 August 1981.

377/ Windhoek Advertiser, 16 August 1981.

426. It was reported that nine of the detainees, all of them men, had escaped custody in December 1980. The South African Defence Force and Police went on immediate alert and an extensive manhunt was initiated, which led to the recapture of three of the nine escapees within 24 hours, and a further five over the following week. It was not clear from the available information, when, or if, the ninth was recaptured. In the wake of the break-out security at the Tenegab base has been intensified. The Windhoek Observer reported that civilian aircraft had been warned not to fly anywhere near the Hardap Dam; although it was clearly visible from the main road at Marienthal, journalists were kept away from the area. It was reported that in May 1981, 134 school pupils were expelled from a Keetmanshoop school by the Nama "representative authority" for taking part on a boycott of classes to commemorate the third anniversary of the Kassinga raid. The Secretary of the Nama Administration stated that they had been expelled for breaking the school rules after they boycotted classes at Hoersskool J.A. Nel, and left the hostel to take part in a march through the Tseiblaagte township. 378/

378/ Windhoek Advertiser, 16 August 1981.

IV. CONFERENCES, SYMPOSIA AND SEMINARS

Participation by the Ad Hoc Working Group of Experts in international conferences on the problems of apartheid

427. Under paragraph 24 of resolution 5 (XXXVII), adopted by the Commission on Human Rights at its thirty-seventh session, the Ad Hoc Working Group of Experts was authorized to participate in conferences, symposia, seminars or other events connected with the action against apartheid, more particularly those organized under the auspices of the Special Committee against Apartheid.

428. In conformity with that decision, and after participating actively in the discussions of a number of international meetings during the period in question, the Ad Hoc Working Group of Experts intends in this chapter to set out the relevant aspects of the discussions directly relating to its own work. In this connection, considering the importance of the results achieved at the Colloquium held by the United Nations Institute for Training and Research, the Ad Hoc Working Group of Experts felt it would be useful also to include information on the results of the Colloquium's work.

A. UNITAR Colloquium on the prohibition of apartheid, racism and racial discrimination and the achievement of self-determination in International Law (Geneva, Switzerland, 20-24 October 1980) 379/

429. In response to the General Assembly's request (resolution 33/99 of 16 December 1978) that it should organize an international colloquium on the prohibition of apartheid, racism and racial discrimination, the United Nations Institute for Training and Research set out in search of new ideas relevant to the global strategy for the abolition of apartheid, racism and denials of self-determination.

430. The Division of Human Rights was requested to participate in the Colloquium on behalf of the Ad Hoc Working Group of Experts. The results of the debate are described below.

431. The discussions, in which a number of specialists and international jurists participated, dealt more particularly with the need for examining the linkages between the strategies pursued by the public institutions of the international community, the strategies pursued by governments in discharge of their national and international legal obligations, and the efforts of private or non-governmental groups including churches, trade unions and public interest law firms.

432. As a result of these discussions, participants approved the view that apartheid, racism and denials of self-determination should come to be perceived as violative of the most fundamental norms governing international conduct. The following were among the various views expressed as to the legal consequences this might entail:

No State may under any circumstance justify a violation of a peremptory norm of jus cogens, nor is any treaty, agreement or unilateral act valid which conflicts with such a norm;

A régime which consistently violates such a norm may eventually lose its legitimacy as the recognized government of the State concerned;

Persons within a violating State who refuse to carry out its unlawful dictates and escape its jurisdiction are entitled to special consideration as refugees;

Those engaged in combat against such a régime, if captured, are entitled to treatment as prisoners of war;

Civil transactions which lead a party to be enhanced or to profit by the illegal régime should not be recognized by legal institutions of other States;

Those directly involved in illegal conduct should be subject to civil or criminal penalties, wherever found. One example cited is the United States law permitting suit for damages by aliens in United States courts for violations of the law of nations committed anywhere.

B. International seminar on the "Draft international criminal code and draft statute for the creation of an international criminal court", Syracuse, Italy, 17-23 May 1981

433. The secretary of the Ad Hoc Working Group of Experts, Mr. Gaham, was appointed by the Chairman of the Ad Hoc Working Group of Experts to attend the Seminar and report on it. The results of the debates are presented below. 380/

434. The main purpose of the seminar, which was organized by the International Institute of Higher Studies in Criminal Sciences, was to examine a draft international criminal code and a draft statute for the creation of an international criminal court and to consider prospects for such an international criminal code and international criminal court.

435. The structure of the draft code, prepared and presented by Professor Cherif Bassiouni, 381/ is based on alternative possibilities: (1) enforcement as a complete code by an international criminal court (direct application system) and (2) its applicability as an international convention for the establishment of an international criminal code which would be enforced by States in the light of their prevailing internal penal system (indirect application system). Each of these possibilities requires a different structure and content of the applicable code, which is why the draft code is divided into separate parts.

436. The first possibility, that of the direct application system, assumes the existence of an international criminal court and the infrastructure necessary to all criminal justice systems. As a result, it contains a "general part", as do all national criminal codes. The second possibility is based on an indirect application system which does not assume the existence of an international criminal court, but

380/ The text of the report presented by Mr. Gaham is reproduced in annex I.

381/ See M. Cherif Bassiouni: International Criminal Law: A Draft International Criminal Code (Aphen aan den Rijn, The Netherlands and Germantown, Maryland, USA, Sijthoff and Noordhoff, 1980).

which is applied through the national criminal justice system and, as a result, does not require a "general part". Nevertheless, both possibilities require a "special part" containing a list of the acts considered to be international crimes. In the first case (direct application system), the procedures for implementation are found in the general part and, in the second case (indirect application system), in the part entitled "Implementation measures". Since both possibilities are being proposed in the form of international conventions, general provisions have been laid down.

437. The participants as a group recognized the importance of, and the need for, the establishment of an international criminal code and an international criminal court. Nevertheless, doubts were expressed as to whether it could be implemented in the near future, given the difficulties involved in reconciling all the principles, doctrines, concepts and policies which must be taken into consideration. However, the draft international criminal code was considered to be, if not a generally accepted concept, at least a good starting-point for reflection.

438. In the same context, the participants also commented on the special report by the Ad Hoc Working Group of Experts on southern Africa concerning the establishment of an international criminal court to deal with crimes of apartheid. 382/ In this context, it was generally recognized that such a draft represented an important step forward and was considered to be the result of a recent trend in the area of international law as a means of ensuring the protection of basic human rights. An international criminal court can in fact further the goals of defending human rights by attacking policies such as apartheid or even by dealing with a greater number of crimes.

439. In the light of the views expressed by participants in the Seminar as to the need to establish such legal machinery, three working groups were designated to re-examine the document and draft a text, taking into consideration the different points raised during the discussion. To this end a meeting is being planned for May 1982 with a view to preparing a text which will take account of comments made in this connection.

C. International Conference on Sanctions against South Africa
(Paris (France), 20-27 May 1981) 383/

440. The Ad Hoc Working Group of Experts was represented by one of its members, Mr. A.A. Cato (Ghana) at the Conference. The results of the debates are presented below. 384/

441. This Conference was organized to consider new international measures to be adopted in the struggle to eliminate the repellent apartheid régime imposed by the South African Government. To do so it was necessary to conduct a general review of measures taken in the past by the international community and to exchange ideas on a new policy of action to combat apartheid. The Conference also studied the possibility of measures being taken by States and non-governmental organizations pending any subsequent decisions by the United Nations Security Council.

382/ E/CN.4/1426.

383/ A/CONF.107/8.

384/ The text of the report presented by Mr. A.A. Cato is reproduced in annex II.

442. As a result of the work of this Conference, which provided a unique opportunity for exchanging ideas and practical information, a number of specific recommendations were made.

443. In this connection the Conference in particular urged all States to apply economic sanctions unilaterally and collectively against the South African apartheid régime.

444. The Conference also noted that there had been serious violations of the arms embargo imposed by the Security Council on South Africa in 1977. As a result, it appealed to all States to enact effective legislation for monitoring the strict application of the embargo. Such legislation should also provide for the cessation of all direct or indirect military collaboration with South Africa and participation in arms production in South Africa.

D. International Seminar on Publicity and Role of Mass Media in International Mobilization against Apartheid (Berlin, German Democratic Republic, 31 August-2 September 1981) 385/

445. The Ad Hoc Working Group of Experts was represented by one of its members, Mr. A.A. Cato (Ghana), at the Seminar. The results of the debates are presented below. 386/

446. This Seminar, organized by the Special Committee against Apartheid pursuant to General Assembly resolution 35/206 G, considered the need to give greater publicity to the campaign against apartheid and the role of the media, in particular in promoting the adoption and application of sanctions against apartheid in South Africa.

447. On the basis of information concerning the situation currently prevailing in Angola, the Seminar adopted a declaration on aggression by the South African racist régime against the People's Republic of Angola: This declaration strongly condemns the premeditated series of armed attacks and the large-scale invasion by the racist régime of South Africa against the People's Republic of Angola. It goes on to state that it is the duty of all Governments, organizations and people, committed to peace, freedom and international co-operation to defend Angola and protect its sovereign and territorial integrity.

448. The Seminar also adopted an appeal to journalists of all media, all film-makers, all national and international organizations of journalists, writers, and correspondents, and to all organizations within the United Nations system to urge them to contribute effectively to the struggle against apartheid.

449. Finally, the Seminar adopted a declaration containing conclusions and recommendations, recalling in particular the results of the International Conference on Sanctions against South Africa, held in Paris in May 1981, and recommending that a day should be designated by the United Nations Special Committee against Apartheid as Anti-Apartheid Media Day. Noting that the media in the third world countries were largely dominated by Western news and broadcasting agencies, the Seminar recommended

385/ A/36/496, S/14686.

386/ The text of the report presented by Mr. A.A. Cato is reproduced in annex III.

that a pool of non-aligned news agencies should set up an anti-apartheid desk to collect and disseminate news about the liberation struggle in South Africa and Namibia.

450. The Seminar recommended that UNESCO, in the process of formulating the aims and principles of a new international information order, should take into account the special problem of apartheid.

E. Day of solidarity with prisoners of South Africa and Namibia

451. The Ad Hoc Working Group of Experts was represented by its Chairman, Mr. Kéba M'Baye (Senegal). 387/

ADOPTION OF THE REPORT

452. The present report was approved and signed, on 8 January 1982, by the members of the Ad Hoc Working Group of Experts, namely:

Mr. Kéba M'Baye, Chairman-Rapporteur

Mr. Branimir Janković, Vice-Chairman

Mr. Annan Arkyin Cato

Mr. Humberto Díaz-Casanueva

Mr. Felix Ermacora

Mr. Mulka Govinda Reddy

387/ The statement made on this occasion is reproduced in annex IV.

ANNEX I

Report on the Seminar on "The draft international criminal code and the draft statute for the creation of an international criminal court" held from 17 to 23 May 1981 in Syracusa (Italy)

1. The International Seminar on the draft international code and draft statute for the creation of an international criminal court, held from 17 to 23 May 1981 at the International Institute of Higher Studies in Criminal Sciences, Syracusa, brought together nearly 50 participants from different universities in the world as well as government officials and organizations. The main purpose of the Seminar was to discuss a draft international code and a draft statute for the establishment of an international criminal court submitted by Professor Bassiouni and to examine the international action towards the creation of such an institution.

2. The draft code is divided into three principal parts:

(a) A special part drawing largely on existing international conventions, defines 20 international crimes and can be either applied by an international criminal court or be part of an international convention whereby signatory States undertake to incorporate these provisions in their national laws. This part would also be a model which could be used by states wishing to include part of the provisions in their national criminal laws;

(b) An enforcement part which requires Governments of States to proscribe these crimes, prosecute offenders and co-operate with other States in bringing them to book;

(c) A general part which deals with the general principles that might be applied by an international criminal court if there were actually an international criminal court.

3. During the general debate on the question of establishing an international court, although views favoured such an establishment, the general trend of the discussion was that such prospect was not foreseeable in the near future. Doubts were in particular expressed about the possibility to reconcile all the conflicting principles, doctrines, concepts and policies which must be considered. Reference was made to the current climate of international policies which does not augur for the institution of a generally recognized tribunal with authority in a field as sensitive and political as that of criminal police.

4. However several participants considered the draft international criminal code as a test which, if not generally acceptable, as a valid starting point. In this connection it was pointed out that one cause for reluctance to establish an international criminal court was the lack of a codification of the law to be applied by such an institution.

5. In the course of the debate I informed the Seminar about the interim study submitted by the Ad Hoc Working Group of Experts to the Commission on Human Rights at its last session. I also drew the attention of the participants that although several representatives at the Commission favoured the elaboration of legal rules and the establishment of a procedure for the creation of an international penal tribunal to try crimes of apartheid, other members expressed their reservations. In this connection I also referred to the resolutions adopted by the Commission on this matter,

by which the States Parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid, and Member States of the United Nations were invited to submit their views and comments on the interim study prepared by the Group so as to enable the Group to continue its study.

6. Commenting on the proposal made by the Ad Hoc Working Group of Experts to the Commission on Human Rights, it was stated that such a proposal represents a step of an evolution and constitutes a product of a relatively recent trend regarding international criminal adjudication as a means of securing basic human rights. In fact an international criminal court may serve human rights goals, by addressing a simple crime, such as apartheid, or a narrow range of crimes. The use of existing organs may be regarded as a more expedient approach. Moreover the effectiveness of a court as to such goals might be perceptible even if only few States subscribe to it.

7. At the conclusion of the discussion, the Seminar decided that another session be convened at Syracusa in May 1982 in order to seek the possibility of establishing a model which could impose itself as a logical solution. In this connection it was decided to establish three review committees responsible for collecting views and comments to be taken into account in the process of redrafting the code. I was designated member of the review committee dealing with the special part.

Annex II

REPORT PRESENTED BY MR. ANNAN A. CATO (GHANA), REPRESENTATIVE OF THE AD HOC WORKING GROUP OF EXPERTS ON SOUTHERN AFRICA TO THE INTERNATIONAL CONFERENCE ON SANCTIONS AGAINST SOUTH AFRICA, HELD IN PARIS FROM 20 TO 27 MAY 1981

I was privileged to represent the Ad Hoc Working Group of Experts on southern Africa at the United Nations - U.N. - sponsored conference on sanctions against South Africa which took place in Paris from 20 to 27 May 1981.

The conference was called to consider additional international action needed in the struggle to eliminate the odious system of apartheid practised by the Government of South Africa. This involved a general review of measures taken in the past by the international community and an exchange of views on a new programme of action to combat apartheid. The conference also explored possibilities for separate action by States and non-governmental organizations in advance of whatever decisions the Security Council of the United Nations may be expected to adopt in the future.

The conference opened against the background of the righteous anger felt by the majority of States following the exercise of the triple veto by France, the United Kingdom and the United States of America in the Security Council on 30 April 1981 against the cluster of sanctions resolutions against South Africa for which there was an overwhelming global consensus. As the Vice-President of Nigeria observed in his key-note address at the opening of the Conference, "the votes which so outrageously desecrated the august chambers of the Security Council and made a travesty of the Charter of the United Nations were cast by the nations which gave the world the 'Magna Carta', that gave it the cry of the enlightenment of 'Liberty, Equality and Fraternity' and that gave it 'the Declaration of Independence'".

It was little wonder therefore that the three countries were among a number of other Western countries which stayed away from the conference which was in any case attended by 124 Governments, 14 specialized and international organizations, 37 non-governmental organizations and 53 national anti-apartheid organizations. Altogether the conference was attended by 700 participants.

Among the World Leaders who addressed the conference, apart from the Vice-President of Nigeria, were the Secretary-General of the United Nations, Mr. Waldheim, the Director-General of UNESCO, Mr. Amadou Moktar M'Bow, the Secretary-General of the Organization of African Unity, Mr. Edem Kodjo, the Minister for Foreign Affairs of France, Mr. Claude Cheysson and the First Secretary of the Socialist Party of France, Mr. Lionel Jospin. Also to address the conference were the President of SWAPO, Mr. Sam Nujoma, the President of the Pan Africanist Congress of Azania, Mr. Nyati J. Pokela, and the President of the African National Congress of South Africa (ANC), Mr. Oliver R. Tambo. Several African and world leaders sent messages to the conference. The Minister for Foreign Affairs of Tanzania, Mr. Salim Ahmed Salim, was elected to chair the conference.

The work of the conference was conducted in plenary meetings and in two commissions, the Political Commission and the Technical Commission. The plenary meetings were devoted to statements by representatives of Governments, intergovernmental organizations and non-governmental organizations and to the consideration of the reports of the Commissions.

All the statements made at the conference recognized the archaic and dehumanizing character of apartheid, which had to be eliminated. Concern was expressed about the attitude of some Western countries whose economic interests in South Africa had had the effect of influencing their policies towards South Africa; policies which had reflected themselves in such actions as the frustrating of international action aimed at isolating the apartheid régime.

Sanctions were generally seen as an effective weapon, short of direct military confrontation, which the international community could use to weaken Pretoria's capacity to maintain its aggressive posture. Sanctions were a way of isolating the racist régime and denying it the means through which it could sustain and perpetuate itself; but it was also recognized that sanctions were not a substitute for the struggle by the nationalists of South Africa and Namibia but a complement of that struggle and therefore the liberation movements needed all the support and encouragement which the international community could offer.

A copy of my brief intervention during the conference is attached to this report. Also attached are copies of:

- (a) the "Paris Declaration on Sanctions Against South Africa"
- (b) The "Report of the Technical Commission"
- (c) The "Report of the Political Commission"

These documents were adopted by consensus.

These documents contain the conclusions and recommendations reached at the conference.

The conference affirmed its conviction that the cost of sanctions is relatively minor compared to the cost of the human suffering and the degradation inherent in the system of apartheid. It underscored the dangerous consequences of a widening and unavoidable conflict in southern Africa if apartheid were not eliminated quickly.

For the above reasons and other considerations highlighted in the various reports the conference urged all States, unilaterally and collectively, to impose economic sanctions against the apartheid régime of South Africa. It recommended to all Governments to end their trade links with the apartheid Republic and to terminate government guarantees, insurance and investments in South Africa.

The conference also took note of the fact that there had been serious breaches of the arms embargo imposed against South Africa by the Security Council in 1977. For this reason it called upon all States to enact effective legislation to reinforce observance of the arms embargo which should also include a cessation of all forms of military collaboration, direct or indirect, and involvement in arms production in South Africa.

The conference noted with satisfaction the decision by major oil-exporting States not to supply oil to South Africa. It called on the Security Council to take action to support these measures by imposing a mandatory embargo on the supply of oil and oil products to South Africa.

The conference marks another important milestone in the struggle against apartheid. It is perhaps not entirely surprising that the principal Western countries which maintain close links with South Africa, namely the United Kingdom, France, the Federal Republic of Germany and the United States of America, should have stayed away from the conference. The Ad Hoc Working Group of Experts and all the various United Nations bodies and organs should take note of this fact. The Group will need to continue to expose the large-scale violation of human rights in South Africa and Namibia. It will also, I think, have to give consideration to evolving a way in which, through its processes, it can monitor and report on breaches of the various measures recommended to States by the International Conference in Paris.

The Committee Against Apartheid ought to be congratulated on its initiative in summoning the conference and for the magnificent role it played in the success of the conference.

A.A. CATO
Member, Ad Hoc Working Group
of Experts on Southern Africa

STATEMENT BY MR. A.A. CATO BEFORE THE INTERNATIONAL CONFERENCE
ON SANCTIONS AGAINST SOUTH AFRICA, ON BEHALF OF THE AD HOC
WORKING GROUP OF EXPERTS ON SOUTHERN AFRICA OF THE COMMISSION
ON HUMAN RIGHTS

Mr. President,

On behalf of the Chairman and members of the Ad Hoc Working Group of Experts, I wish to congratulate you and the other members of the Bureau on your unanimous election to preside over the deliberations of this important Conference concerned with the noble task of evolving effective and practical measures which can quickly bring an end to the obnoxious and inhuman policy of apartheid. Apartheid has long been recognized as a crime against humanity and we cannot and must no longer hesitate in taking those measures including sanctions which can quickly remove this scourge from the conscience of mankind.

The Ad Hoc Working Group of Experts has since 1967, the year of its establishment, and in response to mandates given to it by the Commission on Human Rights and the Economic and Social Council considered various aspects of the human rights situation in southern Africa. It is a matter of regret to say that every year that the Working Group has gathered evidence on the situation prevailing in southern Africa, its members have come to the conclusion that the situation evidences a consistent pattern of gross and cruel violations of the human rights, elementary in many respects, of the majority black population.

The Working Group has undertaken its task guided by existing basic international instruments including the Charter of the United Nations, the Universal Declaration of Human Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, to mention just a few. We have found that whether in its treatment of its political opponents, freedom fighters, women or children, trade unionists or peaceful demonstrators, the racist régime and its so-called security forces have resorted to excessive violence, and unparalleled cruelty and barbarity, contrary to International Law or the norms of civilized behaviour.

Nor does the judicial system provide any comfort for the victims of South African cruelty and inhumanity.

As far as the situation in Namibia is concerned the Ad Hoc Working Group of Experts has reported that particularly since 1975 the South African Government which illegally occupies Namibia has resorted to every form of subterfuge in hopes of conferring its peculiar brand of independence on the stooges that the régime has imposed on the territory; and the racist régime has done this, despite the fact that South Africa has participated in so-called negotiations with the Western five-power "Contact Group" on a peaceful transition of Namibia to independence. The method employed by the apartheid régime includes the imposition by the South African appointed Administrator-General, of security regulations which provide for indefinite arrest, detention and torture. The officially-sanctioned violence against SWAPO supporters, the harassment, intimidation and killing of civilians in northern Namibia by police and troops engaged in so-called counter insurgency operations led to the massacre of over 700 Namibian refugees at the Kassinga SWAPO refugee camp in 1978.

South Africa now maintains a force of over 55,000 men in Namibia comprising ground forces, support units and air commando units. These troops are deployed throughout the territory in a network of over 21 military bases equipped with sophisticated weapons including tanks, armoured cars and fighter bombers. A micro-wave radio-telecommunications system connects the war zone with Walvis Bay and Cape Town military centres.

Against the background of these trends in apartheid South Africa and those prevailing in occupied Namibia, the Ad Hoc Working Group of Experts has repeatedly concluded that the situation in South Africa and in Namibia and the callous and criminal attacks which South African forces have waged into the territories which border Namibia and South Africa, the situation in southern Africa constitutes a real threat to international peace and security. For this reason, the Working Group has long recommended and wishes to repeat again that the Security Council should assume its international responsibility by taking action against South Africa under the relevant provisions of the Charter of the United Nations especially under Chapter VII. Such action should include the imposition of comprehensive sanctions against the illegal and racist Government. These steps are long overdue and are the least that the suffering majority expects of the international community.

On behalf of the Working Group, I wish the International Conference on Sanctions against South Africa every success and I wish to express the hope of the Working Group that the conclusions of the Conference will include among other actions:

- (a) A reaffirmation of the right of the Namibian people to self-determination and independence under United Nations supervision
- (b) An expression of its indignation and disapproval regarding the increased South African military presence in Namibia, and
- (c) A call on member States of the need to assist SWAPO in its legitimate struggle for self-determination, independence and dignity in Namibia.

Thank you.

A.A. CATO
Member, Ad Hoc Working Group of Experts

ANNEX III

Report on the International Seminar on Publicity and Role of Mass Media in the International Mobilization against Apartheid, held from 31 August to 2 September 1981 in Berlin (German Democratic Republic)

1. The International Seminar organized by the United Nations Special Committee against Apartheid in compliance with General Assembly resolution 35/206 G brought together nearly 50 participants representing Member States, international organizations, international non-governmental organizations, national liberation movements of southern Africa, national non-governmental organizations as well as individuals and experts.

2. Under the Chairmanship of His Excellency James Victor Gbeho of Ghana, the Seminar had to discuss the following main themes:

(1) Need for greater publicity for campaign against apartheid and the role of mass media, particularly as regards the promotion and implementation of sanctions against apartheid in South Africa;

(2) Analysis of reporting by mass media and brief review of activities by United Nations and its agencies, governments, and other inter-governmental and non-governmental organizations;

(3) Proposals for further action, i.e.:

Means to encourage action by mass media;

Action by United Nations and its agencies;

Action by anti-apartheid and solidarity movements and other NGO's;

Audio-visual material;

Co-operation in ensuring wider dissemination of information.

3. The Seminar received reports and heard statements on the activities of international organizations, national solidarity committees, anti-apartheid movements, trade unions, liberation movements and national bodies relating to these themes.

4. At the opening meeting, His Excellency Mr. Bernhard Neugebauer, Deputy Foreign Minister of the German Democratic Republic, referring and condemning the brutal escalation of acts of aggression by the South African régime against the People's Republic of Angola, stated that it was essential that the United Nations Security Council and the entire family of nations take the necessary action to put a check on South Africa.

5. His Excellency Mr. Horacio Pereira Braz da Silvia, Minister of Labour of the People's Republic of Angola, described to the Seminar the significance of the invasion launched by the racist régime of South Africa against Angola from the International Territory of Namibia for which the United Nations has special responsibility.

6. On the grounds of the information received on this matter, the Seminar adopted a Declaration on the aggression by the South African racist régime against the People's Republic of Angola which strongly condemned the premeditated series of armed attacks and the large-scale invasion of Angola by the racist régime of South Africa. The Declaration stated that "It is the imperative and solemn duty of all governments, organizations and people, committed to peace, freedom and international co-operation to defend Angola and protect its sovereignty and territorial integrity." The text of the Declaration is attached hereto.

7. The Seminar also adopted an appeal to journalists of all media, to all film makers, to all national and international organizations of journalists, writers, mass communicators and to all organizations within the United Nations System requesting them to contribute efficiently to the struggle against apartheid:

(a) By informing on a regular basis the world public opinion of the crimes of the apartheid régime;

(b) By mobilizing world public opinion against apartheid and by publicizing the activities of the national liberation movements in southern Africa.

8. The positive role of the mass media in eradicating discriminatory attitudes was stressed in the Seminar. In this connection the participants recognized the power of the mass media to influence world public opinion and pointed out that the main responsibility of the information media was broadly to propagate the need to eliminate all forms of racial discrimination.

9. All the participants strongly condemned the invasion of Angola by the South African régime stating that the continuing protection of and collusion with the apartheid régime by certain western countries has encouraged South Africa not only to continue its repression of the peoples of South Africa and Namibia but also to launch attacks against independent African States.

10. A declaration containing the conclusions and recommendations reached at the Seminar was adopted by consensus. It is stated that "All those committed to the liberation of South Africa must make every effort to mobilize public opinion in all countries, especially in western and other countries which provide vital support to enable the apartheid régime to survive, and promote widest public action, in concert with the efforts of committed governments ...". In this connection, special duty rested on anti-apartheid movements in western countries, where the media are owned by monopolies, to explain the very nature of the apartheid policy.

11. The Seminar emphasized the urgent need to investigate, publicize and expose the sustenance of the apartheid régime by certain Western Powers and transnational corporations. Therefore the Seminar recalled the results of the International Conference on Sanctions against South Africa, held in Paris in May 1981, which reflected the overwhelming consensus in the international community for action against the apartheid régime and its collaborators, and adopted historic declaration on effective international action.

12. In view of the lack of factual and accurate information about the evil apartheid system in many countries, the Seminar recommended that an elementary handbook on the subject should be produced by the United Nations Centre against Apartheid to educate and encourage the people in these countries to promote anti-apartheid action.

13. The Seminar also recommended that during the International Mobilization Year 1982, a day should be designated by the United Nations Special Committee against Apartheid as Anti-Apartheid Media Day.

14. The Seminar strongly referred to the fact that the media in the third world countries were largely dominated by western news broadcasting agencies. In this connection it recommended that adequate vigilance could be exercised in order to implement the appeal adopted by the Seminar. It was also recommended that a non-aligned news agency pool should set up an anti-apartheid desk to collect and disseminate news about the liberation struggle in South Africa and Namibia. In this connection, and on the recommendation made by Mr. Cato on behalf of the Group, the Seminar urged the Special Committee against Apartheid to co-operate with the new Pan African News Agency (PANA) in exposing the evils of apartheid.

15. Finally the Seminar recommended that the UNESCO should take into account the special problem of apartheid in the process of formulating the aims and principles of a new international information order.

16. Attached hereto is the full text of the Declaration as adopted by the Seminar on 2 September 1981.

BERLIN DECLARATION
(adopted on 2 September 1981)

The International Seminar on Publicity and Role of Mass Media in International Mobilization against Apartheid, meeting in Berlin, German Democratic Republic, from 31 August to 2 September 1981, wishes to emphasize:

- (a) the vital interest of humanity as a whole in ensuring the speedy triumph of the struggle for national liberation in South Africa and Namibia;
- (b) the grave dangers posed by the policies and actions of the fascist apartheid régime in South Africa, and the persistent obstruction by certain Western Powers of international action against apartheid;
- (c) the imperative need for greater efforts to inform the world public of the situation in South Africa, and southern Africa as a whole, and for promoting public action to totally isolate the apartheid régime and support the national liberation movements of South Africa and Namibia; and
- (d) the crucial role and responsibility of the mass media - as well as of Governments, anti-apartheid and solidarity movements and other organizations.

With the march of independence in Africa, and especially the victory of national liberation movements in the former Portuguese colonies and Zimbabwe after heroic armed struggles, the liberation struggle in South Africa and Namibia has assumed historic world significance.

Freedom in South Africa and Namibia is the last major task to secure the total emancipation of Africa after centuries of humiliation, oppression and exploitation; to ensure the end of the tragic era of colonialism in the world; and to reach a turning point in the efforts to abolish the crime of racism and racial discrimination.

The oppressed people of South Africa and Namibia are, therefore, fighting not only for the freedom of their peoples and nations but for all humanity.

The Seminar also recognizes and salutes the heroism of the national liberation movements in South Africa and Namibia which have the full support of the African, non-aligned, socialist and other States.

They have struggled for decades in the face of inhuman repression and great odds, and have consistently upheld principles cherished by humanity.

Apartheid is a crime against humanity which has entailed immense suffering to the people and has no parallel in modern history except for Nazism. Apartheid is imposed by a minority racist régime through the use of massive repression and torture.

The apartheid régime, by exploiting the enormous human and natural resources of South Africa and Namibia and by the assistance rendered to it by certain Western Powers, has built up a powerful repressive and military apparatus. In order to perpetuate its rule, it has not only crossed all bounds in repression of the peoples of South Africa and Namibia and has embarked on incessant acts of terrorism, subversion and aggression against independent African States.

The expansion of its military power, and its acquisition of nuclear weapon capability, pose an enormous danger to peace in the entire region and, indeed, in the world.

While the international community has recognized for many years the need to eliminate apartheid, effective international action under the United Nations Charter has been blocked by the persistent obstruction by a few Western Powers and the greed of numerous transnational corporations to profit from the crime of apartheid. A continuation of the situation poses a grave peril to humanity. The United States of America and other Western Powers bear a great responsibility in this respect.

The continuing protection of and collusion with the apartheid régime by these powers require intensification and greater co-ordination of efforts by the great majority of Governments which are genuinely committed to freedom in southern Africa, the many anti-apartheid and solidarity movements inspired by the heroic struggle for liberation in South Africa and Namibia and, indeed, all organizations and institutions which value peace and freedom.

All those committed to the liberation of South Africa must make every effort to mobilize public opinion in all countries, especially in Western and other countries which provide vital support to enable the apartheid régime to survive, and promote widest public action, in concert with the efforts of committed governments and in accordance with the resolutions of the United Nations and other international organizations.

In this context, the mass media have a crucial role and responsibility.

The media must publicize the legitimacy of the struggle against apartheid waged by the national liberation movements.

The media must make the world aware of the inhumanity of apartheid, the struggle of the people of South Africa and Namibia under the leadership of their national liberation movements, and the need for effective international action.

The media must expose the nefarious propaganda of the apartheid régime and its allies including the efforts to defame the national liberation movements.

The media must investigate, publicize and expose the substance of the apartheid régime by certain Western Powers and transnational corporations through:

- supply of arms, technology and other vital resources in contravention of United Nations resolutions;
- integration of racist South Africa into imperialist military alliances;
- development of further links with the apartheid régime as an ally in the context of aggravating international tension and conflict.

The media must expose the links developed by the apartheid régime with racist and fascist régimes and groups all over the world.

Neither the media nor anyone else can be neutral on apartheid which is the greatest moral challenge of our time and a grave threat to peace and international security and co-operation.

Any action which provides comfort to the apartheid régime constitutes collusion with the crime of apartheid. Any action which seeks to undermine the struggle of the oppressed people against apartheid is a disservice to humanity and human values.

Governments, anti-apartheid and solidarity movements, trade unions, religious bodies, organizations of youth, students, women and others as well as academic, cultural and other institutions have also an important role in disseminating public information and promoting public action. Many of them have made a valuable contribution in this respect. It is essential that their activities should be further expanded and co-ordinated.

The Seminar commends the United Nations Special Committee against Apartheid and the Centre against Apartheid for their efforts to promote the dissemination of information against apartheid and public action against apartheid.

The Seminar recalls the results of the International Conference on Sanctions against South Africa, held in Paris from 20 to 27 May 1981, which reflected the overwhelming consensus in the international community for action against the apartheid régime and its collaborators, and adopted historic declarations on effective international action.

It welcomes the proposal to proclaim 1982 as the International Year of Mobilization for Sanctions against South Africa in order to promote the most effective mobilization by all governments, organizations and individuals in support of the declaration of the Paris Conference.

The Seminar proposes the following recommendations for the immediate attention of the mass media, United Nations, Governments and organizations:

I. General

1. The United Nations, Member Governments, organizations and institutions should assist the national liberation movements in their information activities. Such assistance, at the request of the national liberation movements, might include:

- (a) Provision of broadcasting facilities;
- (b) Printing and distribution of publications;
- (c) Technical and professional training;
- (d) Provision of equipment and supplies; and
- (e) Assistance to liberation movements to gather information.

2. The Seminar notes the public campaigns launched in many countries by anti-apartheid and solidarity movements and other public organizations, in co-operation with the Special Committee against Apartheid. Such campaigns should be further developed and co-ordinated, and adequate resources provided for the purpose. The Seminar makes special reference to campaigns on:

- (a) Sanctions against South Africa;
- (b) Arms and nuclear embargo against South Africa;
- (c) Oil embargo against South Africa;
- (d) Preventing loans to South Africa;
- (e) Sports and cultural boycott of South Africa;
- (f) Solidarity with the oppressed peoples of South Africa and Namibia;
- (g) Assistance to the national liberation movements of South Africa and Namibia;
- (h) Campaign for the release of all political prisoners;
- (i) Campaign for according prisoner-of-war status to the freedom fighters.

3. Large sections of the major Western and other collaborating countries assist the South African régime through advertising to recruit mercenaries as well as white skilled workers, to raise financial loans, to promote tourism, etc. Campaigns should be launched against this form of collaboration.

4. The governments and non-governmental organizations, including the mass media, should facilitate the dissemination of information material produced by the liberation movements in southern Africa.

5. Liberation movements require assistance in improving and developing the skills of their personnel who are responsible for dissemination of information. They should be offered all assistance in this regard by governmental and non-governmental organizations.

II. United Nations

6. The Seminar commends Governments and organizations which have assisted the United Nations in the dissemination of information against apartheid through contributions to the United Nations Trust Fund for Publicity against Apartheid, co-operation with the United Nations Centre against Apartheid, provision of facilities for United Nations broadcasts to southern Africa and in other ways. It urges all governments and organizations to increase their assistance, especially in connection with the International Year of Mobilization for Sanctions against South Africa.

The Seminar recommends that the present modest provision in the United Nations budget for translation of publications into various languages should be greatly increased.

7. The Special Committee against Apartheid, in consultation with Governments and organizations, should promote wider observance of International Days relating to South Africa and Namibia, and seek greater co-operation of the media. For instance:

- (a) International Day for the Elimination of Racial Discrimination (21 March)
- (b) Africa Liberation Day (25 May)
- (c) Day of Solidarity with the Struggling People of South Africa (16 June)
- (d) Day of Solidarity with the Struggle of Women in South Africa and Namibia (9 August)
- (e) Namibia Day (26 August)
- (f) Day of Solidarity with South African Political Prisoners (11 October)

8. The efforts of the United Nations Centre against Apartheid should be greatly expanded and adequate resources be provided by the United Nations in order to enable the Centre to discharge its responsibilities.

Governments, organizations and institutions should extend to the Centre all necessary co-operation.

9. The Special Committee should urgently arrange for the preparation and publication of expert studies on:

- (a) Propaganda by the apartheid régime and its supporters;
- (b) Lobbies which promote South African propaganda in other countries;
- (c) Misleading reporting by Western and other media of developments in southern Africa;
- (d) The role of transnational corporations in promoting South African propaganda.

10. The Special Committee against Apartheid should monitor the one-way flow of information by the major western news agencies and other media in presenting distorted reports about events in South Africa and Namibia. This should be publicized. It should also monitor the way in which these agencies and organs report specific events such as acts of aggression and terrorism against Frontline States.

11. In view of the lack of factual and accurate information about the evil apartheid system in many countries, an elementary handbook on the subject should be produced by the United Nations Centre against Apartheid to educate and encourage the people in these countries to promote anti-apartheid action.

12. The United Nations Special Committee against Apartheid should encourage national and international journalist organizations to establish awards for journalists with outstanding record of exposing the apartheid system, particularly investigative and other forms of specialized reporting.

13. The UNESCO, in the process of formulating the aims and principles of a new international information order, should take into account the special problem of apartheid. In this context the IPDC of UNESCO should promote the information media of the liberation movements.

14. The United Nations Special Committee against Apartheid should help organize national or regional workshop seminars for leading journalists to consider the general question of the role of the media in counteracting the apartheid system.

15. The United Nations Centre against Apartheid should develop close liaison with media institutions particularly in western countries;

(a) to make them aware of the severe restriction imposed by the apartheid system which makes it impossible to gather and disseminate objective information; and

(b) to make available details of covert and overt operations of the South African régime and its agents to influence world public opinion in favour of apartheid.

16. The Special Committee against Apartheid should start a special bulletin to give publicity to news from the Member States about activities against apartheid.

17. During the International Mobilization Year 1982, a day should be designated by the United Nations Special Committee against Apartheid as Anti-Apartheid Media Day.

18. The United Nations Special Committee against Apartheid has published a register of sportsmen and sportswomen collaborating with apartheid sport. In order to make this exposure more effective, the Special Committee should organize special briefings for sports journalists and others at which background information is provided about the operation of apartheid in South African sport.

19. The United Nations Special Committee against Apartheid and the United Nations Centre against Apartheid should produce films, posters and other audio-visual materials in different languages which the national solidarity organizations can use on a wide scale for mass public education against apartheid. With a view to exposing the countries' collaboration with the apartheid régime, relevant material should be translated into the languages of these countries.

20. The Special Committee against Apartheid, in co-operation with the national liberation movements, should arrange the publication of the history of the struggle of the people of South Africa and Namibia against apartheid.

III. Governments

21. All Governments should take active steps to inform the public in their countries, through all media, about the struggle for national liberation in South Africa and Namibia and about the efforts of the United Nations for the elimination of apartheid.

They should prevent and counteract the propaganda by the apartheid régime in their countries.

Committed Governments, should, moreover, instruct all their external information services and offices to take all appropriate action to help in the dissemination of information against apartheid in co-operation with the United Nations, the OAU and the anti-apartheid and solidarity movements.

22. Governments should undertake appropriate measures in monitoring propaganda on behalf of the apartheid system by prohibiting the distribution of racist publications produced by South Africa and by imposing a general ban on racist propaganda.

IV. Media

23. The Seminar calls for actions of support, especially by media and media workers, for the journalists subjected to repression by the apartheid régime.

24. The Seminar calls upon trade unions with membership in the media to consider discussing with management the editorial policy on the reporting and presentation of news and information on the situation in southern Africa as a whole, and South Africa and Namibia in particular.

25. The non-aligned news agency pool should set up an anti-apartheid desk to collect and disseminate news about the liberation struggle in South Africa and Namibia.

26. A news agency in one of the Frontline States should be entrusted with the task of collecting news and background materials about the evils of apartheid and the people's struggle for national liberation. The agency should be helped to transmit the news to other national news agencies. To this end the United Nations Special Committee against Apartheid, United Nations Council for Namibia, United Nations Committee on Information, the Department of Public Information, UNESCO, and the International Telecommunications Union should extend all possible technical and material assistance.

27. It was noted that the Pan African News Agency (PANA) has been formed under the auspices of the Organization of African Unity, and the Special Committee against Apartheid was urged to co-operate with PANA in exposing the evils of apartheid.

28. Since the media in the third world countries are largely dominated by western news and broadcasting agencies, it is essential that professional journalist organizations and trade unions in these countries set up special anti-apartheid committees to ensure that false and distorted information about South Africa and Namibia is not automatically disseminated. In this way, adequate vigilance can be exercised in order to implement the appeal adopted by the Seminar.

V. Organizations

29. The anti-apartheid and solidarity organizations, particularly in the collaborating countries, do invaluable work in publicizing the evils of apartheid and disseminating information about the liberation struggle in South Africa and Namibia. They should be given material and other assistance by Governments as well as public organizations so that they may have adequate resources to conduct their national and international mobilization of public opinion.

30. Trade unions, religious groups, political parties and other non-governmental organizations should be encouraged to carry special articles and information about the African liberation struggle in their journals and other publications; provide an opportunity to representatives of the liberation movements and anti-apartheid organizations to speak at their meetings and actively participate in national and international anti-apartheid campaigns, particularly during the International Year of Mobilization for Sanctions against Apartheid.

VI. Others

31. The Seminar calls for the establishment in all countries, where they do not exist, of anti-apartheid and solidarity movements or other national committees for the struggle against apartheid.
32. It asks Governments and organizations to consider the establishment of national committees for the International Year of Mobilization for Sanctions against South Africa.
33. The Seminar calls on universities, cultural institutions, writers, artists and others to contribute to the maximum to the international campaign against apartheid.

Declaration on Aggression by the South African Racist Régime against
the People's Republic of Angola (adopted on 31 August 1981)

The Seminar strongly condemns the premeditated series of armed attacks and the large-scale invasion by the racist régime of South Africa against the People's Republic of Angola. This massive invasion follows a long series of acts of aggression, terrorism and subversion against Angola and other Frontline States.

It is a clear breach of the peace and has been acknowledged as such by the unprecedented and almost universal condemnation and demands for immediate withdrawal. Unless firm international action is taken to end this aggression the consequences will be extremely grave for international peace and security.

This invasion was launched from the International Territory of Namibia for which the United Nations has special responsibility. It has resulted in the maiming and killing of numerous Angolan and Namibian men, women and children.

Acts of aggression by the apartheid régime against Frontline States for their support of the legitimate struggle of the national liberation movements of South Africa and Namibia constitute not only a violation of the sovereignty and territorial integrity of these independent African States but also an aggression against Africa and the world. They are a blatant challenge to the authority of the United Nations.

It is the imperative and solemn duty of all Governments, organizations and people, committed to peace, freedom and international co-operation to defend Angola and protect its sovereign and territorial integrity.

The apartheid régime has continued with its acts of aggression against Angola and other Frontline States because the major Western Powers have persistently protected the racist régime and prevented the United Nations and its Security Council from securing South Africa's compliance with the United Nations Plan for the Independence of Namibia.

The apartheid régime's determination to escalate its undeclared war is a direct result of the encouragement and support provided by the policies of the Reagan Administration in the United States of America. These hostile policies towards Africa must be reversed.

The Security Council must:

- (a) declare the racist régime of South Africa as the aggressor;
- (b) demand the immediate and unconditional withdrawal of South African forces from Angola;
- (c) declare that South Africa is liable for full reparations;
- (d) adopt comprehensive and mandatory sanctions without further delay;
- (e) call on all States, individually and collectively, to assist Angola, at its request, for the defence of its sovereignty and territorial integrity.

South Africa's illegal occupation of Namibia must be terminated. The United Nations must discharge its solemn responsibility to the people of Namibia by taking all necessary measures for the immediate implementation of the United Nations Plan for the Independence of Namibia.

The apartheid régime constitutes one of the greatest threats to world peace. Until it is overthrown and replaced by a democratic society there can be no peace and stability in the region.

The international community must step up action to ensure the total isolation of the racist régime of South Africa, and to assist the national liberation movements of South Africa and Namibia as well as the Frontline States which are discharging an international responsibility in southern Africa.

The Seminar appeals to all Governments, organizations and mass media urgently to mobilize world public opinion towards this end.

Appeal to the Mass Media
(adopted on 1 September 1981)

The participants in the Seminar on Publicity and Role of Mass Media in International Mobilization against Apartheid, organized by the United Nations Special Committee against Apartheid in Berlin, the capital of the German Democratic Republic, appeal

to journalists of all media,
to all film-makers,
to all national, regional and international associations, organizations and institutions of journalists, writers, mass communicators, and
to all organizations within the United Nations system

to do their utmost to mobilize world public opinion against apartheid and expose and condemn on a global scale the racist régime in South Africa and its external allies and accomplices.

The United Nations has declared apartheid as the most brutal form of racism; a violation of international law; a crime against humanity; and a danger to world peace.

In the face of intensified repression by the South African régime against the majority of people of South Africa and Namibia and the renewed aggression against the People's Republic of Angola, it is the duty of all journalists to report objectively the events in southern Africa.

We call upon you:

- To be vigilant and guard against the continuing clandestine propaganda paid for by the South African régime on behalf of apartheid;
- To express concern at the suppression of press freedom in, and manipulation of news by, South Africa;
- To expose in words and pictures those who are collaborating with the apartheid régime;
- To point out the violations of the United Nations decisions against racism and apartheid;
- To publicize the activities of the national liberation movements in southern Africa and to extend all-round solidarity to journalists, publicists and writers of these movements;
- To expose the crimes of the apartheid régime and the operations of the transnational corporations in assisting apartheid;
- To inform world public opinion of the decisions and activities of the United Nations system and other international organizations against racism and apartheid.

With this Appeal we are emphatically reaffirming the Declaration of Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War, adopted by the General Conference of UNESCO at its twentieth session.

We make this Appeal on the anniversary of the unleashing of the Second World War by the Nazi racists in order to prevent the racists of South Africa from threatening world peace and security.

ANNEX IV

Statement made by Mr. Keba M'Baye, First President of the Supreme Court of Senegal, on the day of solidarity with South African and Namibian political prisoners, on 12 October 1981, in New York

Mr. Chairman,

You have been kind enough to associate me, in my capacity as Chairman of the Ad Hoc Working Group of Experts, with this day by means of which your Committee is once again showing its generosity towards the oppressed people of South Africa and, in particular, is undertaking to carry out a new campaign aimed at making the entire world aware of the ignominious policy of apartheid. You took over the chairmanship of the Special Committee only recently, but ever since then, you have been tireless in your efforts to devise and implement the most appropriate ways of adding a further dimension to our organization's struggle against apartheid in all its manifestations.

I can assure you that the Ad Hoc Working Group of Experts will always be ready to help you, through the Commission on Human Rights, within the framework of its competence and the tasks entrusted to it.

The Ad Hoc Working Group of Experts of the Commission on Human Rights was established in 1967 to investigate the torture and ill-treatment of prisoners, detainees or persons in police custody in the Republic of South Africa. Since then, its mandate has been renewed and extended each year.

Today, the Group comprises six members appointed in their personal capacity. It has been entrusted with responsibility for gathering information on human rights violations in South Africa and Namibia. It holds sessions at which it hears witnesses and gathers evidence concerning human rights violations in South Africa and Namibia. It is currently preparing a preliminary draft text on the establishment of an international penal tribunal as envisaged in the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Mr. Chairman,

Thanks to your predecessors and yourself, the Group works closely with the Special Committee against Apartheid and has done so for several years. Your Committee sends an eminent member to each of our sessions to attend our meetings, and that member's contribution is always outstanding.

In addition, the Centre against Apartheid spares no effort to extend and intensify this kind of collaboration, as a result of which we exchange information with a view to rationalizing more effectively our joint action to combat one of the most serious evils of our time: apartheid.

Mr. Chairman,

Any reference to political prisoners in South Africa should not be limited to those currently serving a prison sentence. South Africa is not like other countries. It is the country of apartheid. Any reference to its political prisoners must also include all those who are detained without trial under the various acts. As you know, in South Africa a person may be detained without trial under the following three Acts:

The Terrorism Act (General Laws Amendments Act);

The Criminal Procedure Act of 1977;

The Internal Security Act, and in particular article 10 thereof.

In addition to this body of legislation, there are special proclamations in force in the homelands which make it possible to incarcerate anyone without trial.

Secondly, reference must also be made to all those affected by the Bantu Urban Areas Consolidation Act of 1945, as amended in 1964 and 1977, under which an African cannot remain more than 72 hours in a white urban area unless he fulfils certain strict conditions, a fact which, in all cases, he must prove at any time under a system of rigorous control which is accompanied by bothersome, humiliating and brutal methods. A law similar to that referred to above (the Group Areas Act) is applied to persons of mixed race and Asians.

Thirdly, there are all those who, because of their sex, age, health or other reasons do not fulfil the conditions necessary to obtain permission to remain in the white areas. They are forcibly transferred to reservations without any regard for their family relationships. In these "reservations", or "reserved areas", depending on the case in question, they live in great poverty. Everyone who saw the documentary film "The last tomb of Dimbasa" was struck by the terrible anguish of the population of old people, women, children and the sick, who frequently live in indescribable promiscuity.

Fourthly, there are those who are forcibly displaced en masse for generally political reasons. They are sent from one region to another so as to eliminate a social or political embarrassment or to free land with a view to its subsequent use for the exclusive benefit of the white population. The Ad Hoc Working Group of Experts noted that last year nearly 4 million persons had been displaced in this way. Their houses were demolished under the Prevention of Illegal Squatting Act of 1951. The areas to which they are sent are "dormitory towns" or "resettlement camps", in which living conditions are precarious. Mrs. Rogers, who made a lengthy statement to the Group, calls them quite simply "concentration camps" and she is right.

Those who have been exiled and those whose residence has been restricted should also be considered among the prisoners. The former have been forced to leave their country, their family and their belongings. The latter are compelled to reside in a particular place, to the detriment of their vital interests.

Thus, Mr. Chairman, each black person in South Africa is a prisoner or a potential prisoner. That is why this Day of Solidarity with South African and Namibian Prisoners is also a day of meditation and of solidarity with all the black peoples, persons of mixed race or Asians in South Africa and Namibia who are the prisoners of apartheid.

The most striking point concerning the prisoners as such is their large numbers, as borne out by the admissions of the South African régime itself. It is apparent from the report of the Commissioner of Prisons of the Republic of South Africa, published in 1980, that 67,146 people have been sentenced in the criminal courts. This is a devastating figure, particularly when one considers that 194 persons were condemned to death during 1978. In 1979 there were apparently 133 executions.

When one thinks of the citizens dragged before the South African courts, one must remember that the concepts of a crime and an offence do not have the same meaning there as elsewhere. Infamous laws ride roughshod over the most essential principles, making any act an offence. For example, under the Inquest Amendment Act and the Police Amendment Act, the act of publishing, without express police authorization, information concerning persons detained or arrested in the course of an anti-terrorist operation or under the Terrorism Act is considered an offence.

In addition, one has only to remember that relatively recent South African laws abandon the principle whereby the burden of proof lies not on the accused but on the prosecuting authority in order to understand why I have said that, in South Africa, each black person is a prisoner or a potential prisoner.

This is particularly true since, under the influence of the liberation movements, the people have become aware of their responsibilities.

The many people arrested and detained are frequently imprisoned in places that are unknown to their relatives. International non-governmental organizations have frequently protested against this situation. The relatives know nothing about the detainees, not even when they are detained.

More serious still, it is evident from the many statements collected by the Group that persons arrested in South Africa are tortured. Mr. John David Jackson, a white lawyer, testified to that fact in a long statement at the 520th meeting of the Group. According to Mr. Jackson, the South African legal system itself permits the continuation of torture and brutality by the police; he said, and I quote, "Until there is equality under the law for all people in South Africa, black and white, and until the courts themselves do something about police brutality and violation of human rights, the position there is not going to improve at all".

Mr. Jackson described how evidence of whipping and assaults by police had been shown to him by his clients over and over again, and how such allegations were put before magistrates daily and ignored.

Mr. Murugai Naidoo, an eminent South African jurist, also revealed evidence of the same situation to the Group. Blacks who are the victims of the police do not even have the remedy of addressing an impartial court.

Most deplorable of all is the fact that neither women nor children are spared such ill-treatment.

The detention of women in South Africa is today symbolized by the case of Dorothy Nyembe and Amina Desai, who have been condemned for political activities. But many women are imprisoned every day for various reasons and tortured during their detention. Several black women have come before the Group to testify to the ill-treatment to which they have been subjected. Some of them have preferred to remain anonymous, but others have not hesitated to show themselves openly and to demonstrate to the horrified members of the Group the tortures to which they have been subjected, the details of which I will spare you. I would ask you to refer, in this connection, in particular to the Group's latest report (document E/CN.4/1429, para. 86).

The case of children detained in South Africa gives cause for concern and calls for special action by the international community. The Sabotage Act has cancelled any measures for the protection of minors which could have resulted from South African common law. John David Jackson revealed that children from the ages of seven to 14 years are condemned and serve their sentences like adults. Moved by this situation, the Group, at its session in London and pursuant to paragraph 6 of resolution 9 (XXXVI), on 25 August 1980 sent the Chairman of the Commission on Human Rights a telegram in which it drew the attention of that organ to the fact that the sentencing of young children violated the most elementary principles of criminal liability, which are based on international human rights instruments.

The fate of political prisoners is tragic, particularly those imprisoned on Robben Island, because of their "intellectual isolation". They are exemplified in Nelson Mandela, who has become a national hero in the struggle against apartheid and a living symbol for all those who are revolted by South Africa's racist policy.

Mr. Chairman,

I would also like to draw attention to the problem of the deaths of detainees, which are on the increase and occur in suspicious circumstances. It is evident from the information gathered by the Group that the causes of the 308 deaths which occurred between 1 July 1978 and 30 June 1979 were: assault by other prisoners, "suicide", killed during escape and natural causes. Proceedings against prison guards almost always result in a decision that there is no ground for prosecution.

I cannot conclude without making a special reference to Namibian prisoners, particularly those taken prisoner at Cassinga Camp. When the Group was informed that some 120 members of SWAPO arrested in Angolan territory had been detained at Hardap Dam, near Mariental south of Windhoek in Namibia, it immediately alerted the Chairman of the Commission on Human Rights to the fate of those prisoners whom it had good reason to suspect had been ill-treated. We immediately suggested that the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 should be applied to them until their release, which should be demanded. We were afraid that they were in a critical state of health. Unfortunately, our fears were confirmed when we heard Mr. Sam Nujoma, President of SWAPO, in Luanda. In a moving statement, he informed us of the conditions in which those prisoners had been found, many of them suffering from mutilation, and looking more like ghosts than human beings.

Just recently, defying all the warnings of the international community, the South Africans invaded the territory of an independent State - Angola, thereby blatantly threatening peace and security in that region and taking advantage of the situation to capture SWAPO fighters, whom they are subjecting to inhuman treatment.

Following our denunciation, the Chairman of the Commission on Human Rights brought the matter to the attention of the South African authorities and held a press conference to inform world opinion of the situation of the Cassinga prisoners. All Chairman Saadi received from South Africa by way of a reply was a few ironic words.

How long, Mr. Chairman, is this situation going to continue? When will the international community finally decide to free mankind by freeing black South Africans from apartheid? To be free is not to deny other people's existence, for that is to deny one's own existence.

To be free is to accept the freedom of man himself.

As long as there are people who believe in their racial superiority, the freedom of the world will be mortgaged. Tolerating apartheid is ultimately tantamount to justifying slavery and forced labour. But at the same time it brings grist to the mill of the racists of every age and constitutes acceptance of the Roehm purge, and the night trains rushing through the fog towards the camps of Treblinka, Dachau and Auschwitz. It must not be forgotten that apartheid and nazism are characterized by exactly the same spirit and are based on the same principles. Nazism could not have existed unless the slavery and forced labour of blacks had been tolerated beforehand. Let us be warned; racist bodies which are encouraged by apartheid have been proliferating for some time. No one can foresee the outcome. A universal crusade was waged against nazism and Africa participated in it by donating the blood of its sons. A crusade must also be waged against apartheid and, believe me, the price is ridiculously low compared with the evils which will inevitably arise out of a policy which degrades mankind as a whole.

The nineteenth century imprisoned itself in narrow positivism. The beginning of the twentieth century followed suit. It was not until the horrors of the Second World War that mankind awoke and became aware of the fact that the egoism of men and States is the surest way to destroy the society of man.

That is why we have our universal organization. Let us act immediately. Tomorrow it will be too late.

ABBREVIATIONS

AKTUR	Front d'action pour le maintien des principes de la Turnhalle
ASB	Afrikaanse Studente Bond
AZAPO	Azanian People's Organization (Organisation du peuple azanien)
AZASO	Azanian Students' Association
COSAS	Congress of South African Students (Congrès des étudiants sud-africains)
DTA	Democratic Turnhalle Alliance
DTC	Damara Tribal Council (affilié à la DTA)
DUF	Damara United Front (affilié à la DTA)
FOSATU	Federation of South African Trade Unions (Fédération des syndicats sud-africains)
GANUPT	Groupe d'assistance des Nations Unies pour la période de transition
HNP	Herstigte Nasionale Partei
MACWUSA	Motor Assembly Components Workers' Union of South Africa
MAWU	Metal and Allied Workers' Union
MWASA	Media Workers' Association of South Africa
NNF	Namibia National Front (Front national de Namibie)
NUDO	National Union Democratic Organization (affiliée à la DTA)
NUSAS	The National Union of South African Students (Syndicat national des étudiants africains)
POLSTU	The Political Student Society of South Africa
SAAWU	South African Allied Workers' Union
SACOS	South African Council of Sports
SACTU	South African Congress of Trade Unions (Confédération des syndicats sud-africains)
SADF	Force de défense sud-africaine
SADWA	South African Domestic Workers' Association
SAIRR	South African Institute of Race Relations
SASO	South African Students Organization (Organisation des étudiants sud-africains)

SRC	Students Representative Councils
SWATF	Force du Territoire du Sud-Ouest africain
SWAP	Police du Sud-Ouest africain
SWAPO	South West Africa People's Organization
TUCSA	Trade Union Congress of South Africa (Conseil des syndicats de l'Afrique du Sud)
WASA	Writers' Association of South Africa (Association des écrivains noirs sud-africains)