

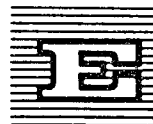
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COMMISSION ON HUMAN RIGHTS
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REPORT OF THE AD HOC WORKING GROUP OF EXPERTS SET UP UNDER
RESOLUTION 2 (XXIII) OF THE COMMISSION ON HUMAN RIGHTS

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I. ESTABLISHMENT AND TERMS OF REFERENCE OF THE WORKING GROUP

1. The Commission on Human Rights, at its twenty-third session, adopted on 6 March 1967 resolution 2 (XXIII) which reads as follows:

"The Commission on Human Rights,

"Considering that the General Assembly by its resolution 2144 A (XXI), paragraph 12, invited the Commission to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur,

"Having considered and examined the communication from the Secretary-General transmitting a letter from the Acting Chairman of the General Assembly's Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa (E/CN.4/935) together with its enclosures (A/AC.115/L.53, A/AC.115/L.73, A/AC.115/L.87, A/AC.115/L.106, A/AC.115/L.116, A/AC.115/L.123 and A/AC.115/L.181),

"Deeply disturbed by the evidence in those documents of continuing torture and ill-treatment of persons in the Republic of South Africa who have been detained by the police or imprisoned for opposition to, or infringement of, apartheid laws,

"Strongly deploring the continued flagrant violation of the provisions of the Charter of the United Nations by the Government of the Republic of South Africa and the actions of that Government which are contrary to international law and international morality,

"Determined to protect human rights and fundamental freedoms, and desirous of an urgent and immediate stop of violations of human rights and fundamental freedoms in the Republic of South Africa,

"Having heard the statement of the observer for the Republic of South Africa in connexion with this question,

"Noting with appreciation the proclamation of the General Assembly in its resolution 2142 (XXI) of the annual commemoration of the massacre of Sharpeville, 21 March, as International Day for the Elimination of Racial Discrimination,

"1. Condemns the practices described and complained of in the above-cited documents as constituting a double injury against the victims of the inhuman policies of apartheid of the Government of the Republic of South Africa, who are imprisoned or detained for opposing and violating those policies;

"2. Requests the Secretary-General immediately to address, on behalf of the Commission, a telegram to the Government of the Republic of South Africa conveying the deep distress and serious concern of the Commission at

/...

this situation and requesting that Government to take positive action so that its treatment of political prisoners shall conform with civilized standards of penal law and practice;

"3. Decides to establish, in accordance with resolution 9 (II) of 21 June 1946 of the Economic and Social Council, an Ad Hoc Working Group of Experts composed of eminent jurists and prison officials to be appointed by the Chairman of the Commission to:

(a) Investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa;

(b) Receive communications and hear witnesses and use such modalities of procedure as it may deem appropriate;

(c) Recommend action to be taken in concrete cases;

(d) Report to the Commission on Human Rights at the earliest possible time;

"4. Calls upon the Government of the Republic of South Africa to co-operate with the Ad Hoc Working Group of Experts, providing it with the necessary facilities for the discharge of its task within South Africa;

"5. Requests the Secretary-General to give the widest possible publicity, as soon as possible, to the documents received from the Acting Chairman of the Special Committee containing the testimony of political prisoners, victims of torture and ill-treatment in the prisons of South Africa, as well as the statements of Nelson Mandela and Abram Fischer in their recent court trials in South Africa;

"6. Calls upon all Member States of the United Nations to give the widest national publicity, through all available information media, to the substance of the contents of these documents;

"7. Draws attention of all international humanitarian organizations to these documents and appeals to them to take, as a matter of urgency, any appropriate action in their power to help alleviate the inhuman situation described therein;

"8. Appeals to all Member States, governmental, non-governmental and private organizations, as well as private individuals, to support the United Nations Trust Fund for South Africa through financial and other aids;

"9. Requests the Secretary-General to circulate this resolution to the members of the Security Council;

"10. Further requests the Secretary-General to convey to the Special Committee on the Policies of Apartheid of the Government of the Republic of

South Africa the desire of the Commission on Human Rights to maintain close collaboration with it in achieving their common objectives;

"11. Requests its Chairman to maintain contact with the Secretary-General and to report before the end of the present session on the progress of the implementation of this resolution;

"12. Recommends that the Secretary-General, in consultation with Member States, arrange to provide facilities whereby registers for the receipt of contributions from all sources, private and public, for the victims of the policies of apartheid and racism in South Africa may be opened in each country;

"13. Requests the Secretary-General to report to the General Assembly the degree of co-operation he has received from the various Member States;

"14. Decides to review the situation at its twenty-fourth session."

2. In accordance with paragraph 3 of the resolution, the Chairman of the Commission appointed as members of the Working Group Mr. Ibrahima Boye, Procureur-général (Senegal), Mr. Felix Ermacora, Professor of Public Law at the University of Vienna (Austria), Mr. Branimir Janković, Rector of the University of Nis (Yugoslavia), Mr. Luis Marchand Stens, Professor of International Law, Deputy Permanent Representative of Peru to the United Nations Office in Geneva (Peru), and Mr. Waldo Emerson Waldron-Ramsey, Barrister-at-Law/Economist, Counsellor at the Permanent Mission of the United Republic of Tanzania to the United Nations (United Republic of Tanzania).

II. DEVELOPMENTS WITHIN THE UNITED NATIONS, PRIOR TO THE OPENING
OF THE MEETINGS OF THE WORKING GROUP, ON THE QUESTION OF THE
TREATMENT OF PRISONERS IN SOUTH AFRICA

3. Several reports to the General Assembly by its Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, of dates from 25 March 1964 onwards, made reference to reports being received of allegations of torture and other ill-treatment of detainees and prisoners in South Africa.^{1/} In its reports dated 30 November 1964 and 10 August 1965, the Special Committee recommended:

"(a) That an international commission composed of eminent jurists and prison officials be set up to investigate charges of torture and ill-treatment of prisoners in South Africa;

"(b) That this commission be authorized to investigate the affidavits by former prisoners, interview present and former prisoners and look into the conditions in the prisons, and report as soon as possible; and

"(c) That the Government of the Republic of South Africa be invited to provide facilities for such an impartial investigation." ^{2/}

4. At the 82nd meeting of the Special Committee, held on 5 January 1967, the Chairman of the Special Committee, Mr. Achkar Marof (Guinea), drew attention to a letter from Mr. Dennis Brutus concerning conditions in the prisons in South Africa and the treatment of political prisoners (A/AC.115/L.181). The Chairman said that, although the Special Committee had devoted great attention to the subject, it would need to be considered again in view of the alarming reports from South Africa (A/AC.115/SR.82, page 7). At the 83rd meeting of the Committee, held on 13 January 1967, on the proposal of Mr. J.V. Gbeho (Ghana), the Special Committee decided to refer the question of conditions in South African prisons and the treatment of political prisoners to the Commission on Human Rights for examination during its twenty-third session in 1967 (A/AC.115/SR.83, pages 9 and 12). The draft of a letter to that effect, to be dispatched by the Chairman

^{1/} See documents A/5692, annex I, paras. 137-148, 153-162 and 165-166; A/5707, annex I, paras. 63-67; A/5825, paras. 623-624; A/5825/Add.1, paras. 285-286, 301-336 and 339-341; A/5957, para. 172 and annex I, paras. 165, 167-170 and 172; and A/6486, annex II, paras. 133-134, 147 and 154-167.

^{2/} See documents A/5825, para. 625 and A/5957, para. 173.

of the Special Committee to the Commission on Human Rights through the Secretary-General, was approved by the Special Committee at its 84th meeting, held on 3 February 1967 (A/AC.115/SR.84, page 4).

5. The communication dated 3 February 1967 which the Acting Chairman of the Special Committee of the General Assembly on the Policies of Apartheid of the Government of the Republic of South Africa sent to the Secretary-General as a result of this decision was circulated to the Commission on Human Rights (E/CN.4/935).

6. The communication read as follows:

"Sir,

"I have the honour, on behalf of the Special Committee, to request you to draw the urgent attention of the Commission on Human Rights to the continuing ill-treatment of prisoners, detainees and persons in police custody in the Republic of South Africa, particularly the numerous opponents of apartheid who have been imprisoned under arbitrary laws.

"The Special Committee has always been gravely concerned over this matter and has reported on it to the General Assembly and the Security Council. A number of documents of the Special Committee, a list of which is attached, contain alarming evidence of ill-treatment of such persons in prisons and police stations.

"In its reports of 30 November 1964, and 16 August 1965, the Special Committee suggested the establishment of an international commission composed of eminent jurists and prison officials to investigate the charges of torture and ill-treatment of prisoners in South Africa. The suggestion was not pressed in the General Assembly because it was hoped that the expression of international concern might persuade the South African Government to improve conditions so as to conform with civilized standards and the regulations in South Africa itself.

"However, evidence of the continuing ill-treatment of prisoners, detainees and persons in police custody is still being received. Those being subjected to this ill-treatment include not only acknowledged leaders of the people and opponents of apartheid who have been persecuted under legislation which violates the fundamental principles of human rights, but also thousands who have been imprisoned for the infringements of apartheid laws. As the Special Committee observed in its report of 21 October 1966, the ruthless measures of the South African Government seem to be increasingly designed to wreak vengeance against the opponents of apartheid. In the view of the Special Committee, such measures contravene international standards of behaviour and the Universal Declaration of Human Rights.

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"The Special Committee, therefore, hopes that the Commission on Human Rights will consider the matter urgently and take steps to secure an international investigation with a view to ameliorating the conditions of these victims.

"Accept, Sir, the assurances of my highest consideration."

7. The communication of 3 February 1967 referred to seven documents of the Special Committee on Apartheid which contained alarming evidence of ill-treatment, in prisons and police stations in South Africa, of prisoners, detainees and persons in police custody, particularly opponents of apartheid. The documents were the following:

- A/AC.115/L.53 Letter dated 3 March 1964 from Mr. George Houser, Executive Director, the American Committee on Africa, New York, enclosing copies of statements by South Africans detained under the ninety-day Detention Act.
- A/AC.115/L.73 Letter dated 12 May 1964 from Mrs. Ruth First, London, enclosing three sworn affidavits of former political prisoners on Robben Island.
- A/AC.115/L.87 Memorandum dated 30 September from the World Campaign for the Release of South African Political Prisoners, London, on the treatment of political prisoners and detainees in South Africa.
- A/AC.115/L.106 Letter dated 23 November 1964 from Mrs. Ruth First, London, enclosing affidavits by prisoners in South Africa concerning ill-treatment in prison.
- A/AC.115/L.116 Memorandum dated December 1964 from the World Campaign for the Release of South African Political Prisoners, London, on the treatment of political prisoners in South Africa.
- A/AC.115/L.123 Statement dated March 1965 from the World Campaign for the Release of South African Political Prisoners, London, enclosing an affidavit by Washington Bongco.
- A/AC.115/L.181 Letter dated 1 September 1966 from Mr. Dennis Brutus, East Twickenham, Middlesex, United Kingdom.

8. At its 85th meeting, held on 27 February 1967, the Special Committee heard a statement by Mr. Dennis Brutus which it decided to transmit to the Commission on Human Rights (A/AC.115/SR.85, pages 3-6). This statement was circulated to the Commission (E/CN.4/L.899).

9. The discussion by the Commission of these communications is summarized in the report of the twenty-third session of the Commission (E/4322, chapter IV), and resulted in the adoption of resolution 2 (XXIII), quoted above in paragraph 1.
/...

10. Communications dated 13 and 17 April 1967, denying the allegations referred to in paragraph 7, were received from the Permanent Representative of the Republic of South Africa to the United Nations, in reply to the Secretary-General's telegram sent pursuant to paragraph 2 of resolution 2 (XXIII). These communications were circulated to the Economic and Social Council in documents E/4340 and Corr.1 and E/4340/Add.1.^{3/}

11. The following communication dated 1 May 1967, from the Chairman of the Commission on Human Rights to the Secretary-General, was circulated to the Council (E/4340/Add.2):

"Sir,

"A number of members of the Commission on Human Rights have approached me as Chairman of the Commission at the twenty-third session in connexion with the virtual refusal of the Government of the Republic of South Africa to allow a visit by the ad hoc working group of experts established by the Commission to investigate repressive measures against the opponents of the policy of apartheid in South Africa.

"At its last session, the Commission on Human Rights considered the question of racist persecution in the Republic of South Africa. In the course of the Commission's meetings, it was established that persons imprisoned in South Africa were subjected to cruel and inhuman treatment. The Commission condemned these actions by the South African authorities as a flagrant violation of the United Nations Charter, the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. In establishing the ad hoc working group of experts, composed of eminent jurists, the Commission was convinced that the group's activities would help to defend the rights of opponents of apartheid who had been seized and imprisoned.

"On my own behalf, and on behalf of those members of the Commission on Human Rights who have approached me, I should like to protest strongly against the activities of the South African authorities, which pursue a course of terror, crime and violence, in violation of elementary human rights and freedoms, and persistently disregard decisions taken by United Nations organs.

"Yours sincerely,

(Signed) P. NEDBAILO
Chairman of the Commission on Human Rights
at the twenty-third session"

^{3/} Concerning documents E/4340 and Add.1, see further paras. 36-38, 40 and 42-43 below.

12. The Economic and Social Council, in resolution 1236 (XLII) of 6 June 1967, welcomed the decisions of the Commission on Human Rights set out in resolution 2 (XXIII), and condemned the Government of South Africa for refusing to co-operate with the United Nations in expediting the work of the Ad Hoc Working Group of Experts.

III. PROCEDURES ADOPTED BY THE WORKING GROUP

13. The Ad Hoc Working Group held forty-four meetings, sixteen in New York from 22 May to 9 June 1967, ten in London from 13 to 20 June 1967, four in Dar es Salaam from 22 to 27 June 1967, and fourteen in Geneva from 1 to 15 August 1967. The records of its debates and public hearings of witnesses will be found in documents E/CN.4/AC.22/SR.1-2, 13, 14, 16-39, 41 and 44.^{4/}

14. At its first meeting the Working Group unanimously elected Mr. Ibrahima Boye (Senegal) as its Chairman. Later it was agreed that the Chairman would also serve as Rapporteur of the Working Group.

15. In addition to the documents which had been transmitted to the Commission on Human Rights by the Special Committee (see paragraphs 7 and 8), and the communications received from the Permanent Representative of the Republic of South Africa (see paragraph 10), the Working Group had before it several documents containing background information (E/CN.4/AC.22/1-6).

16. At the request of the Working Group, the Secretary-General addressed a communication to the Governments of all Member States inviting them to transmit to the Working Group any information which would be likely to facilitate its investigation, in particular by communicating the names and addresses of persons residing in their territories who would be prepared to furnish evidence, orally or in writing. Only eleven substantive replies to this communication were received, the Governments of Argentina, Austria, China, Costa Rica, Jamaica, Kuwait, Laos, Niger, Philippines, Togo and Tunisia indicating that they had no

^{4/} The records of public hearings of witnesses (E/CN.4/AC.22/SR.6 and 16-30 are, to the extent relevant in the present connexion, reproduced in chapter VII of the present report. Documents E/CN.4/AC.22/SR.11, 12 and 15 have not been generally distributed because they set out testimony heard in private session. In addition, the 40th, 42nd and 43rd meetings, in Geneva, were closed.

relevant information to furnish or that there was, to their knowledge, no person residing in their territories who would be prepared to furnish relevant testimony before the Working Group.

17. Also at the request of the Working Group, the Secretary-General sent a communication to the Permanent Representative of the Republic of South Africa to the United Nations, requesting the co-operation of the Government of South Africa in the work of the Working Group. The text of this communication, dated 26 May 1967, reads as follows:

"The Secretary-General of the United Nations presents his compliments to the Permanent Representative of the Republic of South Africa to the United Nations and, on behalf of the Ad Hoc Working Group of Experts established by resolution 2 (XXIII) of the Commission on Human Rights, has the honour to draw the attention of His Excellency's Government to paragraph 3 of that resolution, requesting the Working Group to:

"(a) Investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa;

"(b) Receive communications and hear witnesses and use such modalities of procedure as it may deem appropriate;

"(c) Recommend action to be taken in concrete cases;

"(d) Report to the Commission on Human Rights at the earliest possible time."

"In accordance with operative paragraph 4 of that resolution, the Working Group, at its second meeting held on 24 May 1967, requested the Secretary-General to inquire from the Government of the Republic of South Africa whether that Government would co-operate with the Working Group, providing it with the necessary facilities for the discharge of its tasks within South Africa.

"It would therefore be appreciated if His Excellency's Government could kindly inform the Secretary-General of the extent to which it would be prepared to co-operate with the Working Group. The Working Group would appreciate, in particular, receiving clarification as to whether His Excellency's Government would agree to the Working Group entering the territory of the Republic of South Africa to carry out its functions. On the receipt of an affirmative reply from His Excellency's Government, the Working Group would communicate immediately with His Excellency's Government to make detailed arrangements for its visit to South Africa.

"The Working Group would also appreciate receiving from His Excellency's Government any information concerning the charges referred to in resolution 2 (XXIII) of the Commission on Human Rights.

"The Working Group would be grateful if His Excellency's Government could send a reply to the Secretary-General at His Excellency's earliest convenience and, as regards the possibility of a visit of the Working Group to South Africa, not later than 5 June 1967."

18. The reply of the Permanent Representative of the Republic of South Africa to the United Nations, dated 5 June 1967, reads as follows:

"The Permanent Representative of the Republic of South Africa to the United Nations presents his compliments to the Secretary-General of the United Nations and in reference to the Secretary-General's note SO 234 (13-3) of 26th May, 1967, has the honour to state that the attitude of the South African Government towards Resolution 2 (XXIII) of the Commission of Human Rights and the Ad Hoc Working Group in particular, is quite clearly set out in the communications, reference 9/1/20/5 of the 13th and 17th April, 1967, addressed to the Secretary-General." 5/

The communications of 13 and 17 April 1967 denied the allegations referred to in paragraph 7 above. The Working Group was consequently unable to conduct any part of its inquiry in the territory of the Republic of South Africa.

19. On 26 May 1967, the Working Group issued a communiqué, through the Office of Public Information of the United Nations Secretariat, reading as follows:

"The Working Group established by resolution 2 (XXIII) of the United Nations Commission on Human Rights to investigate the charges of torture and ill-treatment suffered by prisoners, detainees and persons in police custody in the Republic of South Africa began its work in New York on 22 May 1967. The Working Group may, in particular, 'receive communications and hear witnesses and use such modalities of procedure as it may deem appropriate'. It should 'recommend action to be taken in concrete cases' and 'report to the Commission on Human Rights at the earliest possible time'.

"The Working Group invites all the persons who believe that they could provide specific and relevant information on this matter, in particular those who have been 'imprisoned or detained for opposing and violating the policies of apartheid', to contact the Secretary of the Working Group, Room 3144C, United Nations, New York. These persons are invited to indicate the matters on which they may be able to provide information to the Working Group, and to specify whether they wish to send detailed written information and/or to testify orally before the Working Group.

5/ See para. 10 above.

"The Working Group will communicate to the persons concerned, as soon as possible, its decisions regarding the extent to which it wishes to make use of the information furnished, and it will inform them whether it considers it necessary to invite these persons to testify before it."

20. The Working Group held a press conference in London on 13 June 1967 and a further press conference at the airport in Dar es Salaam on its arrival there on 21 June 1967.

21. At the opening of its meetings in Dar es Salaam (E/CN.4/AC.22/SR.27) the Working Group heard a statement from Mr. Bomani, Attorney General of Tanzania, assuring it of the support of his Government in its work. (See annex I to the present report.)

22. During its meetings, the Working Group heard twenty-five witnesses, of whom two were, at their wish, heard in closed session. In addition, twenty-five written statements were received by the Working Group from thirteen of the witnesses heard in public. Those heard in public were the following:

- (i) In New York: Mrs. Marie Louise Hooper and the Reverend Gladstone Ntalabatin;
- (ii) In London: Mr. Dennis Brutus, Mr. Paul Henry Trehwela, Miss Sylvia Neame, Mr. Livingstone Mrwetyana, Mrs. Caroline de Crespigny, Mr. Lyttleton Mngqikana, Mrs. Stephanie Sachs, Mr. Alan Brooks, Mr. Albert Sachs, Mr. Cardiff Marney, Miss Gillian Jewell, Mr. Clare Cotton, Mrs. Phyllis Altman, Mr. Abdul Minty and Mrs. Ray Alexander.
- (iii) In Dar es Salaam: Mr. Abdulhai Jassat, Mr. Moosa Mohamed Moola, Mr. Benjamin Turok, Mr. A.B. Ngcobo, Mr. David Sibeko and Mrs. Benjamin Turok.

23. Each witness was asked by the Chairman to give his or her name again, age and occupation and was then offered the choice of taking an oath or making a declaration. The alternatives offered were as follows:

"I swear that I will speak the truth, the whole truth and nothing but the truth" and

"I solemnly declare on my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."

24. The Chairman then explained to each witness the purpose of the Working Group's investigation and asked him whether he could contribute relevant evidence from his own experience.

25. Witnesses made introductory statements concerning their relevant experience, and were then questioned by the members of the Working Group. All oral evidence was tape-recorded for accuracy of reference on the part of the Working Group.

26. Written statements were received from three other persons, namely, Miss Mary Benson, Mr. Justin Alexander La Guma and Mr. Thami Mhlambisco.

27. Nearly all witnesses were, at the time of their imprisonment or detention, citizens of the Republic of South Africa, and these included persons of African, European and Asian descent.

28. Many of the witnesses had spent at least part of their time in prisons or police stations as detainees under the "90-day law" or the "180-day law" (which are reproduced in annexes II and III hereto respectively), as can be observed from their statements.

29. The prisons most frequently mentioned in evidence were those at: Robben Island, Leeuwnip, Kroonstad, Barberton and Pretoria (Central and Local), the Fort Prison at Johannesburg, and Roeland Street Prison in Cape Town. Others were: Jail Durban (para. 163), Pollsmoor Prison (para. 233), Port Elisabeth Jail (para. 327), Lady Frere (para. 327), Maitland Police Station (para. 669), Caledon Square Police Station (para. 669), Marshall Square Police Station (para. 759), Security Prison, Pretoria (para. 861) and Vereeniging Police Station (para. 962).

IV. INTERNATIONAL STANDARDS RELATING TO THE TREATMENT OF
PRISONERS, DETAINEES AND PERSONS IN POLICE CUSTODY
IN THE REPUBLIC OF SOUTH AFRICA

A. Provisions of the United Nations Charter and of the Universal Declaration of Human Rights

30. Article 1, paragraph 3, of the Charter of the United Nations states that the purposes of the United Nations are, among others, "To achieve international co-operation... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Article 2, paragraph 2 of the Charter reads as follows: "2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter." In Article 56: "All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55"; Article 55 provides that "the United Nations shall promote: ... c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

31. The Universal Declaration of Human Rights provides the United Nations General Assembly's interpretation of what is meant by "human rights and fundamental freedoms" in the texts quoted above from the Charter of the United Nations. It has been maintained that the obligations imposed by those texts upon States Members of the United Nations have therefore been extended to the more precise provisions of the Universal Declaration. It has also been claimed that the provisions of the Universal Declaration have become recognized as general principles of international law by dint of their widespread acceptance by States and international organizations. Those provisions of the United Nations Declaration which have a bearing on the treatment of prisoners, detainees and persons in police custody include articles 2, 3, 5, 6, 7, 8, 9 and 10. These read as follows:

"Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international

status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

"Article 3. Everyone has the right to life, liberty and security of person.

.....

"Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

"Article 6. Everyone has the right to recognition everywhere as a person before the law.

"Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

"Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

"Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

"Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

The Government of South Africa abstained in the vote on the Universal Declaration.

B. International Covenant on Civil and Political Rights

32. Although the International Covenant on Civil and Political Rights, adopted by the General Assembly at its twenty-first session, is not yet in force, the Working Group wishes to recall that the following provisions of that Covenant concern the matters under investigation:

"Article 2. (1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"(2) Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

"(3) Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

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"Article 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

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"Article 9. (1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

"(2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

"(3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

"(4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

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"(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

"Article 10. (1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

"(2) (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

"(3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status."

The Government of the Republic of South Africa took no part in the voting when the General Assembly adopted this Covenant.

C. International Convention on the Elimination of All Forms of Racial Discrimination

33. Although this Convention, adopted by the General Assembly at its twentieth session, is not yet in force, the Working Group wishes to recall that the following provisions concern the matter under investigation:

"Article 1

"1. In this Convention the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

"2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

"3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

"4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure to such groups or individuals

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equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

"Article 2

"1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms, and promoting understanding among all races, and to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multi-racial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

"2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

"Article 3

"States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate, in territories under their jurisdiction, all practices of this nature.

"Article 4

"States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, and to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

"Article 5

"In compliance with the fundamental obligations laid down in article 2, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group or institution;

(c) Political rights, in particular the rights to participate in elections, to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) the right to freedom of movement and residence within the border of the State;

(ii) the right to leave any country, including his own, and to return to his country;

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- (iii) the right to nationality;
- (iv) the right to marriage and choice of spouse;
- (v) the right to own property alone as well as in association with others;
- (vi) the right to inherit;
- (vii) the right to freedom of thought, conscience and religion;
- (viii) the right to freedom of opinion and expression;
- (ix) the right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
 - (i) the rights to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration;
 - (ii) the right to form and join trade unions;
 - (iii) the right to housing;
 - (iv) the right to public health, medical care and social security and social services;
 - (v) the right to education and training;
 - (vi) the right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafés, theatres, parks.

"Article 6

"States Parties shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

"Article 7

"States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and

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to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention."

The Government of the Republic of South Africa took no part in the voting when the General Assembly adopted this Convention.

D. Standard Minimum Rules for the Treatment of Prisoners

34. The First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 22 August-3 September 1955, adopted among other texts the Standard Minimum Rules for the Treatment of Prisoners.^{6/} The Economic and Social Council in part I of resolution 663 C (XXIV) of 31 July 1957 approved the Standard Minimum Rules and recommended that Governments give favourable consideration to their adoption and application in the administration of penal and correctional institutions.

35. The statement made by the Observer of the Republic of South Africa at the 904th meeting of the Commission on Human Rights and circulated in document E/CN.4/AC.22/5 includes the statement that: "The International Standard Minimum Rules for the Treatment of Offenders adopted in 1955... were accepted by the Republic of South Africa, and are also mandatorily incorporated in the relative legislation (Prisons Act No. 8 of 1959) and departmental directives. These provisions are strictly applied and no discriminative application of them is tolerated." Similarly, the comments by the South African Ministry of Justice on the Report on Conditions in South African Prisons which was forwarded to the Minister of Justice by the International Committee of the Red Cross on 18 June 1964^{7/} includes (page 36 (a)) the following passage:

"At the outset it should be noted that the principal Act governing the administration of prisons, the Prisons Act, 1959 (Act No. 8 of 1959), and the regulations framed under the Act, are based upon the International Standard Minimum Rules approved in 1955 by the First United Nations Congress for the Prevention of Crime and the Treatment of Offenders. The law is thus of recent vintage and conforms to accepted international standards."

^{6/} Document A/CONF.6/1, annex I, A.

^{7/} See para. 40 below.

V. THE POSITION TAKEN BY THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
IN RELATION TO CHARGES OF TORTURE AND ILL-TREATMENT OF PRISONERS,
DETAINEES OR PERSONS IN POLICE CUSTODY IN SOUTH AFRICA, AND COMMENTS
OF THE WORKING GROUP THEREON

36. In connexion with the position taken by the Government of the Republic of South Africa to the charges which the Working Group has investigated, attention is drawn to the statements made at the twenty-third session of the Commission on Human Rights by the Observer of the Republic of South Africa (E/CN.4/SR.904, page 4; E/CN.4/SR.906, pages 14, 15 and 16; E/CN.4/SR.910, pages 5 and 6; and E/CN.4/SR.916, page 13) and to the letters of 13 and 17 April 1967 from the Permanent Representative of the Republic of South Africa to the United Nations addressed to the Secretary-General (E/4340, paragraph 3 and E/4340/Add.1 respectively). The text of the statement made by the Observer at the 904th meeting of the Commission at its twenty-third session was circulated to the Working Group (E/CN.4/AC.22/5).

37. The letter dated 13 April 1967 from the Permanent Representative of the Republic of South Africa to the United Nations read as follows:

"Excellency,

"I have the honour to transmit the following communication from the Minister of Foreign Affairs of the Republic of South Africa, in reply to Your Excellency's telegram of 8 March 1967:

'Excellency,

'I have the honour to refer to your telegram dated 8 March 1967, in which you conveyed to me, at the request of the Commission on Human Rights, the Commission's "deep distress and serious concern" about the various reports received by it, and the Commission's request that the South African Government should "take positive action so that its treatment of political prisoners shall conform with civilized standards of penal law and practice".

'I must state, in the first place, that the South African Government does not consider itself responsible in any way to the United Nations or any of its Commissions or Committees for the conduct of its prison administration or the treatment of prisoners lawfully convicted by South African courts. I am sure, in fact, that no other independent State either, would be prepared to admit to such responsibility, which would amount to an infringement of its sovereignty.

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'At the same time, the South African Government has never tried to keep the conditions in South Africa hidden from the public here or overseas. The Government by reason of its intimate knowledge of prison systems and conditions throughout the world, is convinced that, in fact, the conditions in prisons in South Africa and the treatment of prisoners compare very favourably with other prison systems throughout the world.

'As evidence of the Government's willingness to inform the outside world of prison conditions, I wish to recall the two visits by a representative of the International Committee of the Red Cross in 1963 and 1964, respectively. The detailed reports of this representative had, as you know, been released publicly and it is clear from them that he was given free access to any prison he wished to visit in South Africa, as well as to any prisoner for the purpose of private interviews. The comments and suggestions which the Red Cross representative included in his reports were duly considered and investigated by the prison authorities with a view to appropriate action.

'The South African Government has always regarded the International Committee of the Red Cross, by reason of its international status and long tradition of objectivity, as the proper body to establish the true facts in a situation such as this, where a concerted campaign has been built up about the treatment of prisoners in South Africa. In view of the fact that the Commission on Human Rights has now also been involved in this campaign, it is legitimate to ask whether the members of the Commission had made any attempt to consider the reports of the representative of the International Committee of the Red Cross, before they took the decision referred to in your letter. If some members were not aware initially of the existence of these reports, they were informed of them by the South African Observer at the Commission's session.

'I should like to take this opportunity of informing you that a further visit to South Africa by a representative of the International Committee of the Red Cross, for the purpose of visiting prisons and interviewing prisoners, is taking place at present. It should be mentioned that this visit was discussed with the International Committee before the United Nations Special Committee on the Policies of Apartheid decided to request the Commission on Human Rights to consider the question of the treatment of prisoners in South Africa.

'As in the case of the previous visits no restrictions will be placed on the Red Cross representative as to which prisons and prisoners he wishes to visit, and it is expected that he will make an extended and thorough inspection of prisons throughout South Africa.

'If further evidence is required of the fact that the South African Government has nothing to hide, I would mention the invitations extended towards the end of 1965 and the beginning of 1966 to certain prominent penologists from three different countries to visit penal institutions in South Africa. These invitations were an indication of the Government's confidence in the high standard of its penal institutions, in terms of acknowledged international criteria.

'I would also mention that the South African Prisons Act (No. 8 of 1959) provides that "a Judge of the Supreme Court of South Africa shall at all times be afforded admission to a prison as well as access to any section thereof, and he may interview any prisoner and may report to the Commissioner in respect of any matter which he considers shall be brought to the Commissioner's notice". In terms of this provision Judges of the Supreme Court have visited prisons freely and on many occasions, in fact they are encouraged to do so by the South African prison authorities, and such visits have become almost standard practice.

'In addition, the Government some time ago made it clear that Members of Parliament may at any time pay visits to penal institutions, and, in making use of this open invitation, a member of an opposition party in Parliament recently visited all sections of Robben Island - a place of detention referred to in documents before the Commission - and spoke freely with whichever detainee she wished. According to press reports of the Member's remarks after the visit, there was absolutely no evidence of any malpractices. Considerable press publicity was given to the visit at the time, and it is presumed that members of the Commission were aware of it.

'In the light of the above facts, it is clear that the Commission on Human Rights based its conclusions on certain unsupported allegations only, which emanated from sources known to be conducting a hostile propaganda campaign against South Africa, and that other sources which were available to the Commission and which would have shown a completely different picture, were ignored. The South African Government, therefore, has no hesitation in rejecting the conclusions of the Commission in its resolution referred to by you, and cannot accept any suggestion that the treatment of prisoners, no matter what crimes such prisoners have committed, does not conform with "civilized standards of penal law and practice".

'It would be helpful if a general picture of prison conditions throughout the world were available. Not only would such a general picture enable all interested persons and bodies to view particular situations in the right perspective, but would help to focus attention on the conditions really in need of rectification. In our opinion a great humanitarian cause would be served if all other countries were also, like ourselves, to open their doors to visits by the International Committee of the Red Cross.

'I should be grateful if this letter could be circulated to Member States as an official document of the Commission on Human Rights and the Economic and Social Council.

'Please accept, Excellency, the assurances of my highest consideration.

'H. Muller
Minister of Foreign Affairs of
the Republic of South Africa'

/...

"Please accept, etc.,

"(Signed) M.I. BOTHA
Ambassador, Permanent
Representative"

38. The letter dated 17 April 1967 from the Permanent Representative of the Republic of South Africa to the United Nations read as follows:

"Excellency,

"I have the honour to refer to resolution 2 (XXIII) adopted by the Commission on Human Rights on 6 March 1967, and in particular, to the decision of the Commission in that resolution to establish an ad hoc working group of experts 'to investigate charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa'.

"I should be grateful if you could convey to the Chairman of the Commission on Human Rights the South African Government's strong protest at this decision which constitutes a flagrant interference in the internal affairs of a sovereign State Member of the United Nations. The Government cannot accept the legal validity of this resolution in terms of the Charter of the United Nations, and it is sure that no other sovereign independent State would accept such a decision directed at it, either.

"In addition, I must point out that the Commission on Human Rights decided to establish this group of experts after it had already reached certain conclusions and in fact condemned the South African Government for alleged malpractices in South African prisons. The approach of the group of experts to this question can, therefore, hardly be expected to be objective, when the judgement has already been made.

"As pointed out to you in the communication of the South African Minister of Foreign Affairs, conveyed to you on 13 April 1967, in reply to your telegram to him of 8 March 1967, the South African Government has nothing to hide in respect of the administration of its prison system and the treatment of prisoners, no matter for what crime they may have been legally convicted. In fact, the Government has given ample evidence of its willingness to allow unrestricted inspection of prisons and interviews with prisoners, for instance, by representatives of the International Committee of the Red Cross. Reports have been issued and statements made by these independent persons, who have visited prisons and talked extensively to prisoners, but this evidence was apparently totally ignored by the majority of the Commission on Human Rights.

"The fact that this wealth of material, issued under the most impeccable auspices, has throughout been freely available to all who have an interest in such matters, which would include the Commission, makes it all the more incomprehensible that the Commission should nevertheless see fit to launch

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this unwarranted attack on the Republic of South Africa and incidentally, also to burden the Organization's already grievously loaded budget with additional heavy expenditure which is both fruitless and unnecessary, and quite mischievous.

"However, to illustrate South Africa's interest in what should be a purely humanitarian issue, I should like to repeat the statement made in the Foreign Minister's communication referred to above, to the effect, that the South African Government is very conscious of the fact that it would be most helpful in the formation of an informed body of opinion on prison conditions throughout the world, if the Commission on Human Rights were to extend the scope of its inquiries to cover all countries through the agency of an authority or authorities, such as the International Committee of the Red Cross, about whose bona fides and dedication to the humanitarian ideal there can be no doubt.

"I should be grateful if this letter could be circulated to Member States as an official document of the Commission on Human Rights and the Economic and Social Council.

"Please accept, etc.

"M.I. BOTHA
Ambassador
Permanent Representative"

39. The statement made by the Observer of the Republic of South Africa at the 90⁴th meeting of the twenty-third session of the Commission on Human Rights was as follows:

"Mr. Chairman,

"I should like first of all to thank you and the members of the Commission for your courtesy in giving me the floor, and so giving me the opportunity of saying something about prisons and the treatment of prisoners in South Africa. I must confess to some surprise, however, at the degree of urgency accorded this item, since in spite of the plea for urgency in the letter from the Acting Chairman of the Special Committee drawing the Commission's attention to the matter, I note that the annexes to his letter are communications mostly dating from 1964. Moreover, there are points in those annexes which raise doubts in my mind.

"In document A/AC.115/L.53 no names or other clues to the identity of the complainants are given. It is stated that this is done in order to protect the persons concerned. However, all these statements were made to the police while the complainants were serving their sentences and formed the subject of investigations instituted by the police. They were also discussed in Parliament.

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"Only six of twenty-two statements in this document are purported to be affidavits. The others are statements made by unknown persons to unknown persons and in a number of cases apparently not signed. It is also striking that the first eight statements, although they refer to different people, detained at different places, are all dated 21 October 1963. Incidentally the ninth statement (undated) reflects very courteous questioning with coffee and scones offered by the police to the detainee.

"Document A/AC.115/L.73 (also no names or identities given)

"The first affidavit contains mostly hearsay evidence of assaults on other prisoners. Apparently a minor assault was carried out on the deponent.

"The second deponent states that he was never beaten or assaulted but he describes several assaults on other prisoners. He states that the reason for this is that he was amongst the first so-called 'political' prisoners sent to Robben Island and that he therefore received different treatment. Why this was so is never explained and appears most unlikely.

"Document A/AC.115/L.106

"This document contains some of the pleadings in a Supreme Court action instituted by Mr. Paul Joseph. This action was heard in the Supreme Court and the allegations contained in the affidavits were denied by the police. This action was dismissed by Mr. Justice Snyman in the Supreme Court.

"Document A/AC.115/L.123

"This document reflects a statement made by Mr. Washington Bongco without the aid of an interpreter. Mr. Bongco laid a claim of £2,000 against the Minister of Justice and three members of the police but this claim was dismissed with costs in the Supreme Court by Mr. Justice P.F. O'Hagan.

"Document A/AC.115/L.181

"This is a letter from Mr. Dennis Brutus who served a prison term of eighteen months. Only an unsubstantiated statement is made that Mr. Brutus saw brutality and injustice on a massive scale. No instances or persons are cited and Mr. Brutus himself apparently did not suffer any ill-treatment.

"The other two documents submitted to the Commission are memoranda from an organization in London. They contain numerous unsubstantiated allegations.

"There is no group of prisoners in South Africa who could be classified as 'political prisoners' in an even liberal interpretation of that term. The persons commonly referred to as 'political prisoners' have been tried, convicted and sentenced by courts of competent jurisdiction in respect of serious crimes against the public safety - crimes which have included actions causing death or injury of completely innocent bystanders.

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"Far from persecution no one has even been prosecuted for opposition to the laws designed to promote coexistence amongst all the cultural groups in South Africa.

"The so-called political prisoners have been stated in some press reports to number 8,000. The facts are that at no time were there more than 1,800 prisoners of this particular category in custody. The present number is 1,200 out of a population of 18 million. For the purpose of detention, treatment and training, these prisoners are allocated to the ordinary groups of sentenced prisoners to which they have been classified individually.

"Reports by objective visitors to our various prisons clearly prove that conditions in South African prisons and treatment of these prisoners as well as any other persons detained compare favourably with those in civilized countries all over the world.

"Any judge in South Africa has the right to visit any prison without giving notice in advance of his intended visit. A senior judge of the Transvaal Supreme Court for instance made it his duty to visit as many prisons as possible. (I am sure no one would impugn the integrity of any South African judge.) Visiting prisons with a total population of 13,000 this judge made use of his right to private interviews with prisoners.

"The judge concluded his lengthy report to the Minister of Justice as follows:

'Except that some prisons are very old and except for the conditions in the police cells in one particular place of which I have reported to you in detail, I am completely convinced that the allegations about torture and unhygienic conditions in prisons which I have read about in newspapers are devoid of all truth. Knowing the character of prisoners by experience as a judge and attorney for over 20 years, I had expected to find many more complaints than I did. The nature of the majority of complaints made to me proved the absence of any ill-treatment in the prisons I had visited.'

"This judge expressed his deep appreciation and admiration of the efforts at rehabilitating prisoners.

"In an article a few years ago in the 'Guardian', Mr. Bernard Newman, a lecturer, who visited Robben Island, wrote that:

'Robben Island is a prison as good as any other of its kind I have visited anywhere. I have never enjoyed so much freedom in a prison I have visited in any of the 68 countries where my studies took me. I could talk to anyone.'

"Having visited Leeuwkop prison and rehabilitation centre (near Pretoria), a famous institution in penological circles, a judge from a great Western democratic country wrote:

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'This day has been a most revealing and encouraging one for me. I am greatly impressed by the fine qualities of this truly remarkable institution, and I shall take home suggestions for our own prisons learned here by me.'

"The International Standard Minimum Rules for the Treatment of Offenders adopted in 1955 on the prevention of crime and the treatment of offenders, were accepted by the Republic of South Africa, and are also mandatorily incorporated in the relative legislation (Prison Act No. 8 of 1959) and departmental directives. These provisions are strictly applied and no discriminative application of them is tolerated.

"It was a pleasure to hear the suggestion of the learned and distinguished United States representative on 22 February to the effect that respect be had to due process. I would commend this view.

"The South African Government, like all other Government Members of the United Nations, is in general not accountable to the United Nations for the conduct of any of its internal affairs. It is because all Governments had - and have - that reservation that Article 2, paragraph 7, was written into the Charter. I have therefore furnished this information in an effort to be of help to the Human Rights Commission by way of adding to the factual material at its disposal.

"Mr. Chairman, the debate on item 24 has ranged far and wide over the alleged sins of my people - a nation which has lived and worked and made their home at the foot of the African continent for three centuries and more - and over the sins of others too, including Ambassador Carpio. I confined myself strictly in this statement to this item and I hope, therefore, Sir, that I shall again be allowed to enjoy the hospitality of the Commission to place further facts at its disposal."

40. In the above-mentioned two letters the Government referred to two visits by a representative of the International Committee of the Red Cross, in 1963 and 1964 respectively, and stated that his reports had been published. During the debates in the Social Committee of the Economic and Social Council on 19 May 1967 the Observer of the Republic of South Africa stated that the report of the visit in 1963 had been forwarded to the Secretary-General (E/AC.7/SR.566, page 16). On the same occasion the Observer made available copies of a document, which was also communicated to the Secretariat and distributed by it to the Working Group, entitled: "1. Report on Conditions in South African Prisons by Dr. Georg Hoffman, Delegate General of the International Committee of the Red Cross for Southern Africa, including Covering Letter, dated June 18, 1964 from the Director of General Affairs of the International Red Cross. 2. Report prepared by the Ministry of Justice of

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the Republic of South Africa on the Implementation of Certain Suggestions made in the Red Cross Report".^{8/} Under its first heading, the document contained reports by Dr. Georg Hoffman on his visits to eight institutions during May 1964. Under the second heading, the Ministry of Justice included an account of the effect which it had given to certain of the recommendations of Dr. Hoffman, together with commentary on other parts of his reports, including (on page 36 (e) of the document) comments on reported allegations of ill-treatment of prisoners.

41. As was stated in the covering letter of 18 June 1964 addressed to the Minister of Justice, the report of the International Committee of the Red Cross had been transmitted to the Government of South Africa and not published by the International Committee. According to the Sunday Times, London, 27 November 1966, the report of Dr. Hoffman was made public by the Government on 26 November 1966.

42. In the letter of 13 April 1967, mentioned in paragraph 36 above, it was said that "a further visit to South Africa by a representative of the International Committee of the Red Cross, for the purpose of visiting prisons and interviewing prisoners, is taking place at present". In the Johannesburg Star of 13 May 1967, it was reported that the representative of the International Committee of the Red Cross, Mr. G.C. Senn, had gone to South Africa on 1 April 1967 and had visited various prisons, including that on Robben Island, where he had private meetings with detainees.

43. Reference was also made in the letter of 13 April 1967 to visits to prisons by a South African Member of Parliament and by South African judges.

44. As regards the document whose title appears in paragraph 40 above, the Chairman, at the request of the Working Group, sent the following letter on 5 June 1967 to the Director for General Affairs of the International Committee of the Red Cross:

"Dear Mr. Pictet,

"On 19 May 1967 Ambassador Botha, Permanent Representative of South Africa to the United Nations, at the 566th meeting of the Social Committee of the Economic and Social Council, made a statement in which he referred to a report on conditions in South African prisons prepared by Dr. Georg Hoffman, Delegate-General of the International Committee of the Red Cross for Southern Africa. A copy of the provisional summary record, reporting on that statement (E/AC.7/SR.566, pp. 13-16), is attached for your information.

^{8/} Concerning this report see, further, paras. 44-45 below.

"After concluding the statement, Ambassador Botha placed at the disposal of the members of the Committee a number of copies of a paper issued by the Permanent South African Mission to the United Nations. A copy of this paper is enclosed herewith.

"The paper purports to contain a copy of Dr. Hoffman's report, a copy of a covering letter signed by you, and a copy of a report prepared by the Ministry of Justice of the Republic of South Africa on the implementation of certain suggestions made in the Red Cross Report.

"This paper was drawn to the attention of an Ad Hoc Working Group of Experts which has been established by the Commission on Human Rights in resolution 2 (XXIII) of 6 March 1967, and which had been requested to:

- '(a) Investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa;
- '(b) Receive communications and hear witnesses and use such modalities of procedure as it may deem appropriate;
- '(c) Recommend action to be taken in concrete cases; and
- '(d) Report to the Commission on Human Rights at the earliest possible time.'

"The Working Group, which is composed of five jurists serving in their capacity as individuals, expressed the view that they would reserve their position on the value to be attached to the paper until further information concerning its status was available. They requested me to forward a copy of the paper to you and to inquire:

1. as to whether or not the report on conditions in South African prisons by Dr. Georg Hoffman, set out in Part I of the paper, corresponds exactly and completely to the report prepared by the International Committee of the Red Cross;
2. as to the circumstances in which the investigation by the International Committee of the Red Cross was undertaken and, in particular, as to whether the investigation was initiated by the Committee or by the Government of South Africa;
3. as to whether the Committee has prepared or is preparing similar reports on prison conditions in South Africa or in other countries; and
4. as to whether the International Committee of the Red Cross has itself published the report.

"The Working Group further requested me to endeavour to arrange for its members to meet you and Dr. Georg Hoffman at your earliest convenience. They would prefer such a meeting to take place between 12 and 19 June 1967,

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if possible, as they have made tentative plans to be in London during that period. If such an arrangement should not be possible, they have asked me to endeavour to arrange for the meeting to take place between 27 June and 4 July 1967, when they expect to be in Geneva.

"The Working Group would appreciate receiving the information requested above, as soon as possible, as they plan to leave New York on 11 June on a trip to London and Dar es Salaam. I would be most grateful if you could address your reply to me and forward it urgently through the teletype facilities of the United Nations Office in Geneva.

"Yours sincerely,

Ibrahima Boye,
Chairman,

Working Group established by the
Commission on Human Rights in
resolution 2 (XXIII)"

45. The reply to this communication, dated 27 June 1967, received by the Working Group reads as follows:

"Dear Sir,

"We have the honour to acknowledge receipt of your letter of June 5, 1967 (reference SO 234 (13-3)) concerning visits by a delegate of the International Committee of the Red Cross to detainees in South Africa.

"Before replying to your questions we would outline briefly the line of conduct followed by the ICRC with regard to visits to detainees.

"In the case of armed conflict between States, the ICRC's activity for the benefit of prisoners of war, interned civilians and other detainees is governed by the four Geneva Conventions of August 12, 1949. ICRC reports on visits to persons deprived of their liberty are sent to the Detaining Power and the Power of which those persons are nationals or in whose army they serve.

"By analogy, the same rules are followed in the event of civil war to which, strictly speaking, only article 3, which is common to the four Geneva Conventions, is applicable.

"On the other hand, the Geneva Conventions are not applicable to visits to nationals of a State who are interned by reason of special circumstances prevailing within the State. Visits by the ICRC to such persons may only be carried out with the authorization of the government concerned. Reports we issue for these visits are sent only to the government which authorized the visits.

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"In no case does the ICRC give any publicity to these reports nor does it communicate them to third parties, whoever they may be.

"There has been no exception to this procedure applied by the ICRC and approved by governments generally. The purpose of ICRC visits to persons deprived of their freedom is solely to give them moral and material support and to ensure that they are humanely treated; in that connection the ICRC may intervene to obtain improvements in detention conditions.

"Whilst there is no secrecy about this work of the Red Cross, neither is there any publicity.

* * *

"This being said, we shall now reply to your four questions.

"1. We have checked the document you sent us against the ICRC's report to the South African Government: they are identical.

"2. The ICRC has for years been urged by National Red Cross Societies, governments, institutions and private individuals to intervene in South Africa for the benefit of persons detained under the Apartheid laws or for their opposition to the government.

"The ICRC itself asked the South African Government for permission, which was finally granted, to carry out the visits.

"3. An ICRC delegate has been carrying out a new series of visits to prisons in South Africa since April 1967 with authorization from the South African Government. This mission has not yet been completed. An interim report will shortly be sent to the South African Government.

"When authorized by governments the ICRC makes similar visits in other countries. For instance, many detainees have recently been visited by our delegates in Rhodesia, Greece, certain Portuguese territories, etc.

"4. As mentioned at the beginning of this letter, the ICRC does not publish the reports: it sends them to the governments concerned. The latter, however, are free to publish them if they desire.

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"In view of the foregoing, you will doubtless understand that we can hardly arrange for our delegates to be interviewed by members of your Working Group. We would however assure you that the ICRC will continue its activities for the benefit of detainees in South Africa and will assist them as far as it is able whenever necessary.

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"Attached hereto is a copy of the letter we are writing today to the United Nations Secretary-General.

"Yours sincerely,

J. Pictet
Director General"

46. The Observer of the Republic of South Africa, in his above-mentioned interventions in the debate in the Commission on Human Rights, made a number of statements substantially identical to some of those contained in the letters of 13 and 17 April. He added that in the period 1965-1966 an extremely thorough inquiry had been carried out into the prisons and the penal system in South Africa following the discovery of certain irregularities. Legal action had been taken and the reports of the court proceedings were public documents (E/CN.4/SR.910, page 6). He stated also that the Standard Minimum Rules for the Treatment of Prisoners of 1955 had been accepted by the Republic of South Africa and were incorporated in its legislation and departmental directives. No discriminatory application of them was tolerated (E/CN.4/SR.904, page 5).

47. Several of the reports of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa include references to denials on the part of the South African Prime Minister or the Minister of Justice or other authorities in South Africa of any truth in allegations of torture or ill-treatment of prisoners, detainees or persons in police custody in South Africa.^{9/}

48. Information on official admissions of ill-treatment appears in the report of the Special Committee, A/5707, dated 25 May 1964, annex I of which contains the following:

"68. On 24 April 1964, the Prime Minister, Mr. H.F. Verwoerd, refused to institute an inquiry into police malpractices. He said that a country-wide investigation had already been undertaken by the police themselves following the evidence in court. Mr. Verwoerd said that 'at a few places' individual policemen were found with electric shock machines, and strongly denied the 'insinuation' that such machines had been issued to the police force. He said an inquiry at that point could only point to a lack of confidence in the investigation held by the police. 45/

"45/ Republic of South Africa, House of Assembly Debates (Hansard), 24 April 1964, col. 4898."

^{9/} See documents A/5692, annex I, paras. 149, 150, 153, 159, 163 and 164; A/5823/Add.1, paras. 343, 344, 345 and 346; and A/5957, annex I, para. 172.

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"70. On 1 May 1964 the Minister of Justice stated that police and prison officers found guilty of assault on witnesses or prisoners were not dismissed in all cases. He said that 149 police and ten prison staff guilty of assault had been retained in the service. 47/

"71. On 5 May 1964 the Minister of Justice stated that fifty-one complaints in regard to treatment of detainees had been officially lodged with the police and in forty-eight instances 'no grounds for prosecution could be found'. 48/"

"47/ Republic of South Africa, House of Assembly Debates (Hansard), 1 May 1964, col. 5281. Earlier, on 25 March 1964, the Minister of Justice, Mr. B.J. Vorster, stated that 354 members of the Police and Prison Department had been convicted in the past four years of 'offences involving irregular treatment' of persons in custody (The Cape Times, 26 March 1964)."

"48/ Republic of South Africa, House of Assembly Debates (Hansard), 5 May 1964, cols. 5444 and 5445."

49. The Ad Hoc Working Group notes that at the twenty-third session of the Commission on Human Rights, the Observer for the Republic of South Africa was given an opportunity to speak freely and to express his Government's point of view. The Working Group, which was established following this discussion, was therefore entitled to expect the co-operation of the Government of the Republic of South Africa in order to throw light on certain charges made repeatedly against the administrative authorities of that State.

50. The Working Group particularly regrets that negative attitude as the Government of the Republic of South Africa regards as sufficient the reports emanating from the International Committee of the Red Cross, which visited eight penal institutions in that State in 1963 and 1964, thereby casting doubt on the objectivity and competence of the members of the Group, despite the fact that they are all better qualified, as members of the legal professions, than a humanitarian organization to carry out the task entrusted to them.

51. In view of this attitude on the part of the Pretoria Government, which is based on the provisions of Article 2 (7) of the Charter, the Working Group, bearing in mind that all the organs of the United Nations consider that those provisions

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are not applicable in this connexion and desiring to arrive at the complete truth, addressed an inquiry by letter to the International Committee of the Red Cross.

52. That organization did not consider that it was able to consent to the interviews requested by the Group, with a view to clarification of a number of important aspects of the Hoffman Report, but rather based itself upon an affirmation of its Director-General that "whilst there is no secrecy about this work of the Red Cross, neither is there any publicity".

53. In the circumstances, the Working Group considers it necessary to make the following observations.

54. Mr. Georg Hoffman, Delegate General of the International Committee of the Red Cross for southern Africa, visited certain South African prisons, with the authorization of the Government of that country, in 1963-1964. On 18 June 1964, the ICRC sent its report and its comments to the Government of the Republic of South Africa, which at first refused to publish them, asserting that it was for the Red Cross to publicize its activities if it so desired.

55. When Mr. Dennis Brutus, whose testimony is given elsewhere in this report, left Robben Island Prison in July 1965 and began, in August 1966, to publish in London, inter alia, in the Sunday Times, an account of his experience at Robben Island, the Government of the Republic of South Africa then, on 26 November 1966, published Mr. Hoffman's report.

56. On 6 March 1967, the Commission on Human Rights adopted resolution 2 (XXIII) establishing the Ad Hoc Working Group, whose primary task was to investigate the ill-treatment of prisoners and detainees in South Africa.

57. While the Pretoria Government was refusing to co-operate in any way with this group, composed of non-governmental legal experts, and while several representatives to the twenty-third session of the Commission on Human Rights considered that it would be completely unacceptable to entrust the inquiry to a single person, even to an official of the Red Cross (E/4322, para. 230), at the same time that Government authorized the ICRC to visit its prisons, as can be seen from paragraph 3 of the second part of the letter from the Director-General of the Red Cross (see para. 45 above).

58. In the light of the above-mentioned circumstances, the Working Group feels entitled to conclude that the Government of the Republic of South Africa is

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clearly seeking to create confusion by publishing another report by the Red Cross at a time when the Working Group publishes its study and conclusions.

59. The Working Group deeply regrets that the ICRC, a non-governmental organization, should have placed itself in such a position as to appear to lend itself to such manoeuvres, which are definitely intended to discredit the United Nations and its organs in the performance of their function of protecting fundamental human rights and freedoms.

60. In any event, after analysing the Hoffman report and the testimony of persons who have been detained in South African prisons, including some who were there during Mr. Hoffman's visit, the Working Group notes that: (i) political prisoners are inclined to be suspicious of officials invited by the Government of the Republic of South Africa; (ii) such persons can inspect only what the authorities care to show them; (iii) living conditions in the prisons have not changed, despite Mr. Hoffman's visit; (iv) it is clear from the testimony that when an inspection is announced, a special effort is made to bring the prisons into conformity with the rules (see para. 1020). After the inspection, however, all such efforts cease. The Working Group believes that Mr. Hoffman's visit took place in the circumstances described above and that his report must be evaluated in that context.

VI. CERTAIN RELEVANT LAWS OF THE REPUBLIC OF SOUTH AFRICA

A. The "90-day law" and the "180-day law"

61. Many of the witnesses heard by the Working Group had been at some point detainees under either the "90-day law" or the "180-day law" (See annexes II and III thereto). The former permitted and the latter still permits the detention of persons without charge or trial.

62. The "90-day law", adopted in 1963, went out of effect on 11 January 1965, but the "180-day law", adopted in 1965, is still in force.

63. With the adoption of the "180-day law", the period during which a person may be detained has been increased from ninety days to either six months or the conclusion of any criminal proceedings in which the person affected may be concerned (whichever is the shorter). The two provisions, however, contain nothing excluding the rearrest of a person released as a result of the time-limits laid down, and many persons detained under the "90-day law" were rearrested after release and some spent more than 180 days in detention under that provision (Working Paper No. 1/66 of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, page 66).

64. The "90-day law" and the "180-day law" have permitted the making of persons almost completely incommunicado. According to these laws, the detainee has to be visited at least once a week by a magistrate but any other access to him is made subject to the permission of the authorities, and the evidence before the Working Group has indicated that this permission has only been granted sparingly.

65. The "90-day law" provided that no court was to have jurisdiction to order the release of any person detained under it. The "180-day law" excludes the jurisdiction of the courts in an even more extensive manner, in that it provides that no court is to have jurisdiction (a) to order the release from custody of any person detained under the "180-day law" or (b) to pronounce upon the validity of (i) any regulation made by the Minister concerning the place of detention, (ii) any refusal of consent by the authorities to access to the detainee (except for the weekly visit by a magistrate) or (iii) any condition laid down by the authorities concerning such access to the detainee.

66. It may be noted that the "90-day law" (a) applied not only to suspects but also to possible witnesses and (b) included two subjective elements: the opinion of the commissioned officer that a person possessed certain information and the opinion of the Commissioner of Police that a person had replied satisfactorily to all questions.

67. Attention is also drawn to a subjective element in the "180-day law", permitting the exercise of a wide discretion, in that the Attorney-General may issue a warrant for the arrest and the detention of the person affected if in his opinion there is any danger of tampering with or intimidation of anyone likely to give material evidence in a prosecution of an offence referred to in part II bis of the Second Schedule to the Criminal Procedure Code, or that such a person may abscond, or whenever the Attorney-General deems it in the interest of that person or the administration of justice.

B. The "Sobukwe Clause"

68. Reference was made in evidence to the "Sobukwe Clause" (see paragraphs 167 and 664). Mention of this provision was also made by Mr. Abram Fisher, Q.C. at his trial. His trial statement is referred to in paragraph 5 of resolution 2 (XXIII) of the Commission on Human Rights and appears in document A/AC.115/L.175/Rev.1, which the Working Group discussed. The reference in question appears in paragraph 60 of this document. The term "Sobukwe clause" is a reference to section 4 of the General Law Amendment Act, No. 37, of 1963, which added section 10 (1) (a) bis - 10 (1) (a) quin to the Suppression of Communism Act, No. 44, of 1950. Up to May 1967, at least, Mr. Robert Sobukwe, President of the banned Pan-Africanist Congress, was the only person detained under this provision. According to this provision, when the Minister is satisfied that a person serving a prison sentence under the Suppression of Communism Act, or its provisions as applied by another enactment, or the Public Safety Act, No. 3, of 1953, or the Criminal Law Amendment Act, No. 8, of 1953, or the Riotous Assemblies Act, No. 17, of 1956, or section 21 of the General Law Amendment Act, No. 76, of 1962 (creating the crime of sabotage), is likely to advocate, advise, defend or encourage any object of communism, the Minister may cause that person, after expiry of his sentence, to be detained in a prison under

stated conditions. The provisions described were to expire on 30 June 1964, but could be extended by resolution of both Houses for periods of up to a year at a time. The Suppression of Communism Act, No. 8, of 1966, extended the effect of those provisions for another year, ending 30 June 1967,^{10/} and section 6 of the General Law Amendment Act, No. 102, of 1967, provided for a further extension, to 30 June 1968.

C. The Suppression of Communism Act, No. 44, of 1950, as amended

69. As may be seen from annexes II and III hereto, the "90-day law" was and the "180-day law" is organically linked with the Suppression of Communism Act. The "Sobukwe Clause" is also linked with that Act. The Act is relevant to the Working Group's inquiry also in that a number of the witnesses whom it heard had been imprisoned under the Act or for violations of administrative actions (called "banning orders") taken by virtue of the Act.

70. The text of the Act appears as annex III to document E/CN.4/AC.22/6.

71. It was pointed out in evidence that the Act had become the basis of the suppression of all radical anti-apartheid forces in the Republic of South Africa and of restrictions on the activities not only of communists but also of many non-communists and even anti-communists (Sachs, in paragraph 642. See similarly Brutus in paragraphs 207 and 233; Cotten in paragraph 722; and Mrs. Altman in SR.25, page 22). This situation arises essentially from the broad definition of offences contained in the Act; see paragraphs 15-24 of document E/CN.4/AC.22/6 and especially paragraphs 15-16 concerning section 11 (a), (b) and (b) bis of the Act. In the words of Prison Conditions in South Africa, a publication of Amnesty International, which was entered in evidence by Mr. Cotten, (pages 1-2): "The range of activities which may legally be described as communist is thus extremely wide".

72. It is stated on page 1 of Prison Conditions in South Africa that: "The Suppression of Communism Act enabled the Minister of Justice to take action restricting the freedom of expression, movement and association of any person known or suspected by him to be taking part in any activity to further the aims of communism ... as defined in the Act". Mr. Sachs in his document Rule by Law - South Africa Today, which he entered as evidence, said (page 2): "This Act

^{10/} When the Working Group was drafting the present report, it noted that according to Press reports the Parliament of South Africa had adopted the Terrorism Act. The text of the Act is annexed to this report (see annex IV). /...

gives the Government power, without further reference to Parliament or the courts, to ban periodicals, meetings, organizations and individuals." Mrs. Altman (SR. 25, page 22) said: "There is no trial and no appeal against a banning order issued under the terms of this Act". The wide range of the effects of banning orders issued under the Act is described on pages 39-40 of Prison Conditions in South Africa.

73. Banning orders may be served on persons after they have completed prison sentences and so may act in effect as a further punishment. Some of the witnesses heard by the Working Group referred to banning orders served upon them.

Mrs. Altman entered as evidence (SR. 25, page 23) the notice served upon her in September 1963 prohibiting her, for a period of nearly five years, from attending "any gathering" as contemplated in section 9, subsection (1), paragraph (a) of the Act, or "any social gathering, that is to say, any gathering at which the persons present also have social intercourse with one another", or "any political gathering, that is to say, any gathering at which any form of State or any principle or policy of the Government of a State is propagated, defended, attacked, criticized or discussed", or "any gathering of pupils or students assembled for the purpose of being instructed, trained or addressed by"

Mrs. Altman. At the time of Mrs. Altman's banning order, the term "gathering" was defined in section 1 of the Act as "any gathering, concourse, or procession in, through or along any place, of any number of persons having a common purpose, whether such purpose be lawful or unlawful".

74. Other references to banning orders which had been served on witnesses appear in paragraph 233 (Mr. Brutus), paragraph 311 (Mr. Trehwela) and SR. 24, pages 23 and 24 (Mr. Marney).

75. Mr. Sachs, in Rule by Law - South Africa Today, page 4, recalled that "The South African Branch of the Defence and Aid Fund, which helped finance the defence and support the families of thousands of political prisoners was banned last year", i.e., in 1966.

76. Mr. Brutus (paragraph 233) and Miss Jewell (paragraph 669), had been convicted for having violated certain banning orders. Mr. Trehwela (paragraph 288), Miss Neame (paragraph 318) and Mr. Mothopeng (according to a document entered as evidence by Mr. Cotten) were also sentenced under various provisions of the Suppression of Communism Act.

D. The "Sabotage Act"

77. As may be seen from annexes II and III hereto, the "90-day law" was and the "180-day law" is organically linked with the crime of sabotage. The same is true of the "Sobukwe Clause".

78. The offence of sabotage was created by section 21 of the General Law Amendment Act, 1962, Act No. 76, of 1962. Subsection (1) provides that, subject to subsection (2), sabotage is committed by a person who (a) commits any wrongful and wilful act "whereby he injures, damages, destroys, renders useless or unserviceable, puts out of action, obstructs, tampers with, pollutes, contaminates or endangers" public health or safety; law and order; any water supply; the supply or distribution anywhere of light, power, fuel, foodstuffs or water, or of sanitary, medical or fire-extinguishing services; postal, telephone, telegraph or broadcasting services or installations; free movement of traffic on land or sea or in the air or any property; (b) attempts, conspires to procure or incites the commission of any such act; (c) in contravention of any law possesses any explosives, fire-arm or weapon, or (d) in contravention of any law enters or is upon any land or building or part of a building. According to subsection (5), however, lawful actions under the Industrial Conciliation Act, No. 28, of 1956, and section 28 of the Railways and Harbours Service Act, No. 22, of 1960 (labour disputes) are not affected.

79. Subsection (2) states that the accused shall not be convicted if he proves that the commission of the act "objectively regarded" was not likely to, and was not committed with intent to, produce any of ten effects. The ten effects are to cause general dislocation, disturbance or disorder; cripple or seriously injure any industry or undertaking or production or distribution; seriously hamper or deter anyone from assisting in the maintenance of law and order; encourage insurrection or forcible resistance to the Government; encourage the achievement of any political aim, including social and economic change; cause serious bodily injury to or danger to the safety of anyone; cause substantial financial loss to any person or the State; encourage hostility between different sections of the population; seriously interrupt the above-mentioned essential services, and embarrass the administration of State affairs.

80. The penalty for an offence under this provision is either death or a minimum of five years' imprisonment.

81. When asked for a definition of sabotage according to this provision, Mr. Brooks said: "It covers what you and I would call sabotage and also such trivial things as painting slogans on walls" (paragraph 564) and Mr. Sachs said that "what it boils down to is the causing of any damage to property with a political end" (paragraph 644).

VII. RECORDS OF EVIDENCE

82. At various meetings of the Working Group, witnesses gave evidence relating to torture and ill-treatment of prisoners, detainees or persons in public custody in South Africa. In the records of evidence below, the statements of members of the Working Group are summarized and those of witnesses are reproduced verbatim.

A. Testimony of Mrs. Marie Louise Hooper

(New York, 29 May 1967)

83. Mrs. HOOPER took the following oath: "I declare solemnly, in all honour and all conscience, that I will tell the truth, the whole truth and nothing but the truth."

84. She then made the following statement:

"My name is Marie Louise Hooper. I am the Director of the South Africa Programme of the American Committee on Africa. I have lived in South Africa and have had the great privilege of working with the African National Congress there and the even greater privilege of being elected the only white member of it.

"First, I should like to say that I am entirely convinced that the document which you have before you (A/AC.115/L.53); containing a letter dated 3 March 1964 from Mr. George Hauser, Director of the American Committee on Africa (to the Chairman of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa), enclosing statements and affidavits of police brutality and torture in South African prisons, is absolutely authentic. I regret that the absence of Mr. Hauser - who is presently in Africa - and my lack of knowledge of his filing system prevent me from furnishing you with the names which he, for the sake of those writing, deleted from the papers in this document. He will, no doubt, be able to give them to you on his return, if you so desire.

"I am sure that these statements are authentic, for at least two reasons: first, I have personally talked with South Africans who have suffered abuse and torture in prison and I am, today, submitting to this working group, a copy of the statement of one of these people, Mr. Abdulhia Jassat, given to me on the occasion of our conversation in Dar es Salaam in 1964, after his escape from South Africa. Secondly, I am persuaded of the authenticity of the report submitted by Mr. Hauser because I have, myself, received a number of such affidavits and statements, sent directly to me from South Africa by my former associates in the freedom movement there, primarily by Mrs. Ruth First, who is now in London, and also from some of her associates, who are presently incarcerated in South African prisons. I can give you their names, in confidence, later, if you wish.

"I am also submitting for your information, if you care to have it, a letter from Ruth First, which mentions the transmission of documents to me by people on her instructions.

"For the working group's consideration, I am hereby submitting to you copies of four additional statements from former prisoners, which were received by me during late 1963 and 1964 (E/CN.4/AC.22/R.13). The names of the prisoners and police officers and of identifying places have not been deleted from these documents. I rely on the discretion of this working group in this regard, since I do not know whether the persons who made the statements are still in South Africa or not.

"It will be noted that there is a great deal of similarity in the affidavits submitted by George Hauser and the documents which I am laying before you today; all deal with people detained under the 90-Day Detention Act and nearly all tell of brutality, torture to obtain information and other police methods, inadmissible according to international law, but consistently used in South Africa.

"Perhaps, I should add just a few words from my own personal experience in the fort in Johannesburg, which is a very famous prison. I spent a very short time there and was given especially good treatment as an American, even to the extent of having sheets on my bed. But my cell was near the women's clinic and when we were out on exercise, I met and talked with African women, some of whom proved to be wives of my political associates in the African National Congress. I learned from them that the Africans were cold, underfed and generally mistreated in prison and that beating, especially of the men, took place for little or no reason. These stories of the beating were whispered to me as I walked slowly past the line of African women waiting for the doctor next to our cell.

"In conclusion, let me apologize for the notations and underlinings on the pages of the documents here submitted. I used these statements as material for speeches and articles on South Africa in the course of my work at that time, as West Coast representative of the American Committee on Africa, not realizing that at some stage they might possibly be useful to a committee such as yours. Thank you, Mr. Chairman, for allowing me to appear before your Committee."

85. In answer to a question put by the CHAIRMAN, Mrs. HCOOPER said:

"The African women prisoners do not have enough blankets. They have to be under them, as well as over them, because they sleep on the cement floor and when it is cold in winter, as it was when I was there - I was very cold - they have to put most of the blankets under them to keep the cold of the cement out, so they have practically nothing over them. They do not have beds. This is one very simple discrimination, but a very much disliked one; even a murderer, if he is white, has a bed, and a mattress on the bed, but the Africans, even the most distinguished Africans, sleep on the ground.

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"And the food too. As a matter of fact I did not state in my deposition what we did about the food. The people in the treason trial brought me my food. Since I was not convicted of anything, I could have food brought in from the outside, and it was much better than the prison food. I took the prison food, as we were permitted to, but I made little packages with kleenex and dropped it out of the back window of my cell to the African women who were so hungry that they queued up behind my cell every day for the food that I gave them. They were always hungry.

"And the beatings. They told me about an African man whose punishment was that he had to climb a short ladder and as he climbed a man stood by and flogged him on every step with a whip. I was told that he was all bleeding when he came down from the ladder."

86. In answer to questions put by Mr. ERMACORA, Mrs. HOOPER said:

"The names of the persons who made the statements (contained in document A/AC.115/L.53) are somewhere in the files of the Director of the American Committee on Africa. When George Hauser returns I am sure he will be able to find them and give them to you. All the names are still in the documents that I am submitting to you. There are five documents of this sort which I am submitting to you that are not included in this collection. The persons who wrote the statements are either in South African prisons or somewhere in the world as refugees, I do not know where. The statements were received through the mail from people inside South Africa, who always send such statements to me, or to Mr. Hauser, or occasionally to other people. They hope to get publicity for the plight of these people.

"The statements were not written in the prison, but were given to lawyers when the people came out, after serving their term. The lawyers of our freedom group immediately got hold of them and had them make the statements and the lawyers noted them down and had them witness them; some of them were notarized. Those were done after they exited from prison. Then they disappeared. Some of them are refugees, some of them went underground. We do not know where they are. But the statements were then sent to us, either by the lawyers, or by people like Ruth First, who was more or less leading the freedom movement, or at least one part of it, at that time."

87. In reply to a question put by Mr. JANKOVIC, Mrs. HOOPER described a day in gaol in the following terms:

"You must always bear in mind that conditions are different for white and black prisoners. But the day is more or less the same. You get up fairly early and then you have to run and get your breakfast before they throw it out, literally. If you are not there by the time everyone else has taken their breakfast, they take it away. Then you go back to your cell with your breakfast and the breakfast is apt to be some hard bread

which, however, is quite good, and coffee, and sometimes for white prisoners there would be something like oatmeal. For Africans there would be only mealy - what they call mealy meal; they think this is all Africans eat, so they give them mealy meal three times a day and it would probably be dry mealy meal for breakfast.

"You would be shut up and then have exercise time. We had exercise time between about ten-thirty and twelve, something like that. Our cells were built around a centre patio or open space, and we were allowed out there. There were even some flowers and a little grass there. I was very surprised. This was the women's part of the prison and I understand that it was not as nice in the men's part. But, of course, this was only the part for white women, and you were allowed to walk around out there. After breakfast, you immediately had to go and empty your chamber pot and wash it out and leave it in the sun and do it just exactly so, or you would be punished. If you were going to be punished they would give you a little ticket to put in your pocket. When the inspection came around, you had to stand up and the Commandant came through and looked around, and if he saw a ticket in your pocket you got some privilege taken away. With the Africans they usually took away a meal, but they never gave me any tickets. I tried to be very good and hurry up with everything.

"At night in our cells we had no running water, of course. We had a chamber pot that we had to use, and this we had to clean out in the morning. I was given a gift, because I was a greenhorn, and they all felt sorry for me. Most of the women in my department had been in many times. They were prostitutes or alcoholics; it was a short-term thing, and they felt rather sorry for me and they made me lots of little gifts. One of them brought me a gin bottle, with a top you could screw on. This was quite a gift, because, she said, 'This is to put your drinking water in at night and it will keep it fresh because it has a cover'. I appreciated that. That was your drinking water, if you were lucky enough to have a bottle. The prison did not provide you with a bottle, you had to scrounge around for it. Only the prisoners who were awaiting trial were allowed any reading material at all. The prisoners who were serving time, who were on our same corridor - the alcoholics and the prostitutes who were there for a few months - were not allowed to have any kind of a magazine, or anything to read, or anything to write with. They were supposed to work hard, and they scrubbed around a little bit, but they did not really work very hard.

"Out in the yard where the African women stood in line to see the doctor - the clinic was right next door to the cell where I was - I got to talk to the African women; they had to stand and wait - often for an hour - for the doctor. The warders were busy somewhere else at that time and did not bother us at all, so I would talk to the African women.

"Then we would have lunch. You would have to go and run for your lunch again. Everything was done at a run. I did not run, and the other

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prisoners said, 'You will be punished if you don't run', because you were supposed to run if anyone summoned you. I said, 'I'm not going to run; they can punish me if they like'. But they didn't. But the other prisoners were so worried for fear I wouldn't get my food that they ran and got my food too and brought it for me to the cell, where I made the little packages for the African women, and they watched out of the front door so the warder wouldn't see me doing it while I passed it out of the back window.

"Then we were locked in. We were let out for another short period in the middle of the afternoon, and we had our supper at three-thirty. We were locked in all the rest of the day from three-thirty on, over night. And, as I said, you were not supposed to have any reading material or anything. This was true certainly for the Africans, too. The Africans not only sleep on the ground but they are forbidden to roll out their blankets during the day time. All they can do is sit or squat on the ground; if they are caught rolling out their blankets to take a little rest or something in the day time, they are punished, since they are not allowed to, except at night.

"So this is, more or less, a prison day. It wasn't bad for me because nobody abused me. You were allowed to take a shower twice a week. One of my prison mates used to go and stand in front of the shower because there was a woman who took a dislike to me, since I had told the Commandant of some of the abuses that went on, and she threatened to kill me. So my prison mate would go and stand in front of the shower to be sure that nobody hit me on the head while I was taking a shower.

"They used older prisoners, prisoners who had been there longer, to supervise the ones who had just come, and they were very cruel to the prisoners. This I noted even among the whites, and I understand they use the same procedure among the Africans. They use prisoners who know the ways of the prison. They don't have enough warders, and these prisoners are put in charge of a group of newcomers to the prison and they are even meaner to the prisoners than the white warders are. This I heard from the Africans and this was also true in the white section. And this is what I complained about to the Commandant, though I learned you mustn't do this in prison."

88. In reply to questions put by Mr. MARCHAND STENS, Mrs. HOOPER said:

"It wasn't a warder but another prisoner who threatened me, one of the prisoners who was in charge. This was the person I was complaining about to the Commandant. The Commandant gave me an audience while I was in prison because he didn't know what to do with me. He said: 'What are you doing here? You have no charge against you.' You see, I was put in just by a letter of the Minister of the Interior who said: 'Throw Mrs. Hooper in prison', and they didn't know why. And so, I complained to him about this woman in our cell block who abused the other white

prisoners and she, then, heard about it. Evidently she was scolded. She came to me in my cell and she threatened me. She said: 'These grandmothers from California' - meaning me - 'had better watch out, or they'll never get back to California.' And my cell mate knew her and she said: 'Oh, she's a dangerous woman, I had better stay with you every time you go out of the cell.' So, after this threat from the other prisoner, the prisoner in my cell stayed with me every time I went for a walk and every time I went to the bathroom or to the shower. It wasn't a warder, but it was another prisoner who I had complained about to the Commandant. I don't think the Administration really knew about it. They were a long way away from our cell, and the matron would have been in charge of the women prisoners. She knew of course that I had complained about this woman, because she was probably the one that sent the scolding down to her, which made her angry with me. But the fact that the woman threatened me would not be known to the Administration. These things remain always between the prisoners; nobody goes and tells the matron and I had made one mistake, it seems, by complaining - although I wasn't at all sorry that I did - but I didn't think that I should make another mistake by telling the matron of this. Besides, I didn't really believe in this threat, although my friend did, and that's why she stayed with me. The other woman didn't actually hit me, she only threatened to do so. But the Administration didn't know about it. They were at least four compounds removed from our cell. The women's cell was more or less in the centre of the women's part of the prison and when I went to see my lawyer, I passed through three different barred gates, going out to where the matron would be. So, I doubt if the authorities ever knew anything about it."

89. In answer to a further question put by Mr. MARCHAND STENS as to whether any of the women prisoners she had spoken with had been detained under the ninety-day Detention Act, Mrs. HOOPLER said: "I really don't know, because we had to speak very quickly, you know, and more or less carefully, for fear that we might be seen talking. I don't know whether there were any 'ninety-day' women there. There may have been. But the ones that I talked to the most were there for ordinary offences. However, the prostitutes and drunkards I was talking about were the white women with whom I was in this cell block. You see there were two kinds of women I talked with. Some were the white women that were living in the same group of cells where I found my cell; there were the prostitutes and the drunkards, and I must say they were very nice to me. The others were the African women who came in from the African part of the prison; they were not living with us, at all. They came in only to see the doctor, and they would queue up in front of the clinic, sometimes for an hour at a time, or longer. If I happened to be outside when they were there, as I often was, then I talked to them, more or less in passing, although if the warden wasn't there we would have a good talk. I found out that one of them was the wife of an associate of mine, Alfred Nzo, of the African National Congress and I said:

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'Well Mrs. Nzo, what are you doing here?' She said: 'This is something that is quite common'. She is a lovely woman, a school teacher, and I couldn't imagine why she found herself in gaol. She said: 'Well, you know, my husband, like most men, likes a little drink once in a while, and so I went and tried to get him a bottle.' This has now been changed and Africans may have liquor, but at that time they were not allowed it except some kind of beer, you see. Africans often used to buy liquor, however, illegally, under the counter, so to speak, in an African store; the white store-keeper would sell it to them, although he knew it was against the law. So, this lady went to buy a little bottle of something for her husband for the week-end and it just happened that a policeman was in the store in plain clothes, at the time she asked for it. The store-keeper, who had sold it to her before, pretended, of course, that he had never heard of such a thing and turned her over to the policeman. That's how she landed in gaol. But the ones who told me about the troubles that the Africans had were the African women who were waiting to see the doctor. After they saw the doctor they went away and they didn't stay in our compound."

90. Mr. MARCHAND STENS asked whether the witness could explain why all the statements contained in document A/AC.115/L.53 were from men, and whether she could remember what day of the week she was arrested.

91. Mrs. HOOPER: "Yes, I do remember because I was arrested on a Sunday, and I remember they woke me up and I was very annoyed. So it was from Sunday until, I believe, the next Friday. The reason these statements are all from me is because it was the men, by and large, who were tortured. You see, these statements are all about torture and physical abuse.

"Later on, in more recent times, in the last two years, for example, they have also used a certain amount of physical torture on women. They did on Sylvia Neame and on some other women, I believe. They made Leslie Schoenbroker stand for hours while they interrogated her, which is really a very severe kind of torture, after forty-eight hours, or so. But at that time they were only torturing men and that is why the statements are all from men."

92. In reply to a question put by Mr. MARCHAND STENS as to the circumstances in which she had left South Africa, Mrs. HOOPER said: "After I got out of gaol, I

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think I was served with a deportation order almost immediately and then I fought it. As a matter of fact I fought the case of my arrest and won that; we contended that this was a false arrest, because they hadn't complied with the law. They found the law had not been completely complied with and so I got out; otherwise I could have been in indefinitely, there was no time-limit.

"At the same time, a deportation order was issued against me. As I say, we won the first case. I won £1,750 from the South African Government, which the African National Congress was happy to have. But then we tried to fight the deportation order and I lost that, of course. And so, in the spring of 1957, about three months after I got out of gaol, I decided I had better leave under my own steam, without being deported, because the American Government is not very happy about having its citizens deported, and I was afraid I might not get an American passport again if I was deported. So, I fled by night through what is now Botswana. A couple of my colleagues in the African National Congress drove me out to Palappy Road on the railroad and I stayed there until the train came through and took me out to Rhodesia. This is how I got out of South Africa, much to my regret, because I had worked with Chief Luthuli for over two years - you know, the Chief who won the Nobel Peace Prize and who is the President of the African National Congress - and the work I was doing was very dear to my heart, but I couldn't help it. So I had to sell my home at a great loss and take my furniture back to California and I left just ahead of the law, you might say."

93. Mr. MARCHAND STENS asked whether there had been any threat of ill-treatment when the witness had gone to the shower the second time.

94. Mrs. HOOPER replied: "Well, the threat did not occur in the shower. The threat occurred in my cell. About an hour after I had come back from the interview with the Commandant, at which I had complained about this woman, she came over to my cell. Evidently she had been rebuked; probably the Commandant had telephoned the matron and the matron had rebuked her, you see, for abusing these other prisoners. I told the Commandant what she made them do. One woman had water on the knee, which is very painful, and she particularly made that woman scrub the floor on her knees. She was very cruel. So she came over to my cell, where I was at the time, and threatened me, in the hearing of this other woman who was in the cell, and who was, you might say, a hardened criminal. Actually she was accused of murder, but she had taken a liking to me and she said 'I'll defend you.' I thought

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it was more or less of a joke, but she said 'No, it's not a joke.' She said 'I know that other woman.' And so from then on she went with me everywhere I went, and then there was no difficulty because she was a great big strong woman, lots bigger than the one that threatened me, and so I had no real difficulty, But the threat was in my cell."

95. The CHAIRMAN observed that prisoners in gaols were often organized and had a leader. The woman who had threatened the witness had perhaps been such a leader.

96. Mrs. HOOPER: "It could be, although she was so cruel I am sure she never would have been elected. But she was a strong character, and they never have enough warders in any prison I've heard of, and it makes their work much easier if they find a prisoner who is forceful and who will get the work done. They put this prisoner in charge then, and they say 'You're responsible for seeing that all the work gets done', and then she's almost like a sub-warder. Now, this is all very well if it's a decent person, but in this case it was not a decent person.

"Of course, they deny doing it. When I spoke to the Commandant about that, he said, 'That is not true'. He said, 'No prisoner has authority in my gaol'. And I said, 'Oh, it's well known this happens in every gaol.' 'Oh no', he said, 'no, this is not true'. But of course it was true. And I'm sure it's true in most gaols too, especially where there's a shortage of warders. And the warders were Afrikaaner women, young women, who were not a bit interested in anything in the prison. I mean, they were the most lackadaisical prison officials I ever saw. As a matter of fact, after a while I got them eating out of my hands, so that they even passed out cakes through the bars to all the prisoners after hours, if I gave them the biggest piece themselves. And the people in charge of the prisoners were very lazy - at least in the women's section. So this is what they did: they found someone who was a strong character and gave them authority."

97. The CHAIRMAN asked the witness whether she was American or South African.

98. Mrs. HOOPER: "American, but my devotion and my loyalty are South African. I became so fond of these people and so closely associated with them. You see, something like the Freedom Movement - the African National Congress - is the closest sort of association you can imagine. I suppose any revolutionary movement is. And we were closer than brothers and sisters. And I look forward to going back when South Africa is free and becoming a citizen of South Africa, when it has its rightful ruler."

99. The CHAIRMAN asked the witness how long she had lived in South Africa.

100. Mrs. HOOPER: "Three years. But I have spent a great deal of time in the rest of Africa, getting as close as I could, and I have worked for South Africa ever since I left. It has been twelve years now."

101. The CHAIRMAN asked the witness why she had been imprisoned.

102. Mrs. HOOPER: "For working with Chief Albert Luthuli, the President of the African National Congress - although they never said so. But obviously this was the reason. I hadn't done anything else to land in prison. They didn't have to tell you why they put you in, but I'm sure this was the reason they caught me. Well, actually, a document which I had written for the African National Congress and unfortunately put my name to - although they insisted on it, it was foolish - came into the hands of the police, and I was arrested shortly after that."

103. The CHAIRMAN said that it was his understanding that the witness had been arrested without a plausible reason, and then released without having been brought to trial.

104. Mrs. HOOPER: "That is why I tried to fight it. The only warrant they had, as I said, was a letter which they showed me from Dr. Donges, who was then Minister of the Interior, and which simply said 'Arrest Mrs. Hooper and put her in prison'. That's all it said. And after I was let out there was also no reason ever given for my deportation. We tried to get them to show cause. They said 'The law does not make it necessary for us to show cause', and they refused to. But it was obviously because I had worked with the Congress."

105. The CHAIRMAN inquired whether the witness had been alone in her cell.

106. Mrs. HOOPER: "The first two days I was alone in the cell. They put me in a cell over on the convicted prisoners' side, because those were single cells and I would have preferred to be alone. But after the Commandant came through on an inspection one day and saw me standing over there with the convicted prisoners but wearing normal clothes, and he could see that I didn't belong to them, he didn't like it. And so I was put on the other side, with those awaiting trial. And then there were three of us in this cell. There was this woman who guarded me. There was another woman who was a prostitute - she was accused of something else too - and

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there was a third woman, an Afrikaaner woman who had stolen a sheep. We were all together in a good-sized cell, and all shut in at 3.30 in the afternoon. That was for the other three days. I was alone for two days."

107. The CHAIRMAN asked whether there had been any separation between the political prisoners and the common law prisoners.

108. Mrs. HOOPER: "No, there was not, and that was really the point on which I got out, you see, because the lawyer contended that it was not suitable to keep a person who was not accused of anything in the same cell with an accused murderess and prostitute and thief, and so this was the point on which I was allowed out."

109. Mr. ERMACORA asked for additional information about the Roeland Street Gaol, which was mentioned in document A/AC.115/L.53 (p. 30).

110. Mrs. HOOPER: "That's a gaol in Johannesburg where prisoners are taken when they are first arrested, before they are taken to spend any length of time somewhere."

111. Mr. ERMACORA inquired who had carried out the examination of prisoners at that gaol (A/AC.115/L.53, pp. 30-33).

112. Mrs. HOOPER: "I would guess it must have been the lawyer. Or a doctor, possibly. I really don't know. And I doubt it would show in the original either, because these are copies, exactly the way we received them."

113. Mr. ERMACORA suggested that it might be possible to obtain the name of the doctor who had carried out the examinations.

114. Mrs. HOOPER: "I'm afraid not. These things on page 30 must be the medical examinations made at a police station. They were made by doctors, but we didn't get the name. The doctor evidently was afraid to give his name. You find that frequently."

115. Mr. ERMACORA asked who had sent the examination reports to the American Committee on Africa.

116. Mrs. HOOPER: "As I told you before, they were all sent to us through the mail by people who were members of the Freedom Movement. Sometimes we didn't know who sent them."

117. Mr. ERMACORA expressed surprise that a doctor engaged by the Government to perform such examinations should send the reports to the American Committee on Africa.

118. Mrs. HOOPER: "Well, the doctor wouldn't have anything to do with the sending. The doctor might have been willing to give this report telling about the bruises and the contusions and what not, to the lawyer who was also present, and the lawyer sent the documents. The doctor evidently was scared even to give his name but perhaps, if he was a little sympathetic, he would give the statement of what he found to somebody; and if they sent it, that was none of his business. They were sent to us by lawyers and various other people."

119. Mr. ERMACORA asked where and before whom the statements reproduced in document A/AC.115/L.53 had been signed.

120. Mrs. HOOPER: "They would have been signed in South Africa just as the man got out of prison, as I said about my statement. They would no doubt have been signed before a lawyer. You see, we have lawyers who take care of these cases."

121. Mr. ERMACORA asked the witness whether her organization knew the name of the lawyer or lawyers concerned.

122. Mrs. HOOPER: "I'm not sure whether we do or not. As I said, we don't always know who sent us these statements even - I mean, which lawyer. We know they came from the Freedom Movement, but if the lawyer's name is not on it we probably don't know which lawyer it would be, but simply that the statements were sworn to in front of a lawyer and sent to us."

123. Mr. ERMACORA observed that the admissibility of the evidence might be affected if the lawyer's name could not be obtained.

124. Mrs. HOOPER: "We have the names of the persons. All that are blanks, we have the names of. And also, then, we probably have the signature of the person - Mr. D., for example. But the lawyers, I'm not sure whether we have their names or not. Mr. Hauser would know more about that, because he received these statements."

125. Mr. ERMACORA asked whether the witness had submitted a complaint concerning her detention.

126. Mrs. HOOPER: "I sued them. Before I left, I sued them and, as I told you, I got a payment of £1,700, which was a pretty fair sum, from the Government of South Africa for unlawful detention on a technical ground, on a point of law. The technical point was this: the law, which was a new one - and I was the first person to be imprisoned under it - stated that people can be held without charge and without being told what they are accused of, but it said they should be held in a place to be hereafter specified - and they forgot to specify the place where they should be held. This was the point I got out on, because they held me with criminals and prostitutes. But after I got out they changed that, and added to the law the specification of where they should be held. I don't know what it was, but they amended the law so the next person would stay in."

127. Mr. ERMACORA asked the witness whether she thought that other persons - for instance, Africans - also had the possibility of seeking remedy.

128. Mrs. HOOPER: "No, I'm afraid not. As I said, they closed that loop-hole. They made an amendment to the law which said where they could be held. Besides, you see, I wasn't held under the 'ninety-day' law. The incident with me was long before the 'ninety-day' law, and the 'ninety-day' law has its own specifications, which say that you have no recourse to the courts; if you study the 'ninety-day' law you will see this is all taken care of. You have no recourse. You cannot appeal, you cannot sue, you cannot even exert the right of habeas corpus to get yourself out to talk to a magistrate. But I was held before the 'ninety-day' law. That's really how I could have recourse, I think."

129. Mr. MARCHAND STENS asked the witness in what month and year she had been arrested.

130. Mrs. HOOPER: "1957, and it was in the spring. It was either March or April. I rather think it was toward the middle or the end of March."

131. Mr. MARCHAND STENS asked the witness whether she had been able to ask for medical treatment while she was in prison.

132. Mrs. HOOPER: "No, I didn't need to, although I had a brush with the admitting officer when I arrived because I have asthma pretty badly and I have a little atomizer I use for asthma. When they took my things away from me, as

they do when you go into gaol, they were going to take this away from me, and I said 'Oh, you'd better leave that with me. If you don't I'll get so sick, and you'll have to call the doctor in the middle of the night'. And I threatened them because I did need it and, because it was Sunday and the doctor wasn't there, they let me keep it. But aside from that I had no need for medical attention; I'm sure I would have had it if I needed it. And, as far as I could see, the Africans seemed to be getting adequate medical attention, at least the women who came there."

133. Mr. MARCHAND STENS asked the witness whether she had considered that the very fact that she had been put in a cell with common criminals constituted ill-treatment in itself.

134. Mrs. HOOPER: "Yes, in a way I did. Actually, the matron, who was the admitting officer for the women, didn't want to do this. As I told you, she put me in a single cell first. She tried to be nice to me - she was a middle-aged woman, and she didn't know what I was doing there either. She said, 'Wouldn't you rather be alone?' and I said, 'Yes, I would, if it's possible'. So then she put me in a single cell and ordered clean sheets for my bed. I was amused by this. I don't know if they give some people dirty sheets, but she did order clean sheets for my bed. Most of the prisoners don't have any sheets, of course. And she put me in a single cell. But the only single cells were for the condemned prisoners - that is, those who were serving time. They all have single cells. And so the Commandant wouldn't let me stay there. This was a prison-regulation thing. It was being fussy about prison regulations. They really had wanted to be nice to me and let me stay alone. So I don't know that I can blame them for that. But all the cells for people who were awaiting trial - and that was as close as they could come to it with me because I wasn't even awaiting trial; I was just there, but they didn't know quite what to do with me really so they put me in this big cell."

135. The CHAIRMAN asked the witness whether she had met any prisoners who had been released from prison in South Africa.

136. Mrs. HOOPER: "Yes, some of my friends in the African National Congress had been in prison a good many times already; in fact, I would say all of them practically, but they didn't spend much time telling tales about prison. They went to work when they got out, but they all said of course that Africans were knocked

around pretty much in prison; for example, I didn't put this in my statement because I couldn't find the letter in which I had it, but it is well known that Chief Luthuli himself - that grand old man and Nobel Peace Prize winner - was hit in the face twice by a prison guard when he was imprisoned after Sharpeville, you know, and actually his wife wrote to me - only I've got the letter, I guess, in my summer home - at the time and said Albert was struck so that he was knocked down, and then he was left lying on the floor of the cell for quite a long time before he was given any medical attention. He is a man who has had heart trouble and the shock of being struck and knocked down resulted in his having to be in the prison hospital for several weeks, although the blow which he received really wasn't bad enough, but it just brought on his high blood pressure and heart trouble. In general, the Africans always said that being in prison was a very unpleasant experience if you were an African, because you always were dodging blows - I mean, rather casually, they wouldn't be out to beat you, they just hit you as you went by or something. It was kind of a habit practically, with the Whites. They all complained of the cold and I found that the ground was so cold that even when you had shoes on you have to get your feet up off the ground. I can imagine what it would be like to sleep on the ground; the cold comes up from under that cement floor and people really suffer with the cold and with the food because they give them mealies three times a day, and about twice a week they give them a little piece of meat. And this is rather strange, but in a way you can understand it: the Africans complained the most, talking of their food, about the fact they never got bread. They had very good bread in the prison, it was dark - it was almost black - but it was very good and very nourishing, and you got a big hunk of it, as big as my hand, every day. I never could eat it, and so I passed all of it out the window to the Africans. But they never got bread, and this to them was a kind of symbol of the discrimination: they got mealies and the white people got this good bread. I knew many people who had been in prison many times. And you'll meet a lot of those when you go to London and to other places, because a lot of them are out now and they'll be able to testify about their own experiences to your Committee."

137. The CHAIRMAN inquired whether prisoners who had been released could leave South Africa easily.

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138. Mrs. HOOPER: "Yes, they can, if they are willing to take an exit permit and never come back to their homeland. The Government is anxious to get rid of Africans, and unless you are too famous, like Robert Sobukwe, of the Pan Africanist Congress, to whom they refused to give an exit permit - I don't expect they'd give one to Chief Luthuli either, but he wouldn't ask for one either because he wouldn't leave - you can ask for an exit permit and go, but then you have to sign a statement that you realize that if you ever return to South Africa you are prepared to go to gaol - a gaol term is awaiting you if you ever return - and your wife has to sign it as well, and you can never, never come back to the country of your birth. And there are not too many Africans, unless they feel they can do political work outside, who want to leave for ever."

139. The CHAIRMAN asked the witness whether those who were arrested by the South African police were helped by attorneys selected by the African Congress.

140. Mrs. HOOPER: "Oh yes, they have lawyers. It's getting more difficult now though; it used to be easy for us to get lawyers for these people; there were many white lawyers and some Indian lawyers who would take all these freedom cases and fight them very successfully as far as they could until the Government found some law against them. But quite a few of our best lawyers have left the country because they found they couldn't live there without spending all their time in gaol, and those who are left are getting quite frightened of the Government now, especially since the Defence and Aid Fund has been banned in South Africa; this was the fund that we used to pay the lawyers with. The defence part, of course, was money for lawyers, for people accused of political crimes, and since this fund has been banned, the lawyers are afraid of doing anything that will connect them with it in any way. For example, they will not even accept money from someone if they suspect he got that money from the Defence and Aid Fund in England - there is still the Defence and Aid Fund in England, and of course we have a Defence and Aid Fund here too at the American Committee on Africa. But we have to take very devious and interesting ways of sending the money into South Africa before the lawyers will even accept the money, and they are insisting on the money now. They used to defend for almost nothing, frequently for nothing; if the African National Congress or the Pan Africanist Congress were broke, they would defend for nothing. But now they are

insisting on a reasonable fee, for one thing they've done it for too long, and then they're taking a real risk to take these freedom cases, because there is always a risk. If you are a lawyer, and you defend too many of these political cases, then the Government is apt to have it in for you, and what they often do is name you a communist; now this doesn't mean that you are a communist by any means. But it means the Government has called you a communist. And this will be enough to get you disbarred from practice very soon, because they have a law that is pending now that hasn't been passed yet, but probably will be, which will disbar from practice any lawyers who are communists or who are even called 'communists' by the Government, which will take, I must say, an awful lot of our very best lawyers. So we still get lawyers, but it is getting harder, and we have to be quite devious as to how we do it. But we do it still; people are still being defended."

141. The CHAIRMAN drew the attention of the witness to the fact that since the meeting was open, the Press could be informed of what had been said. He inquired whether the five potential witnesses on the list she had given him had been imprisoned in South Africa.

142. Mrs. HOOPER: "Yes, these five people, I understand, have all been in prison in South Africa; two of them, I know, for political offences, the last two. The others, I am not sure what they were in prison for; sometimes it is just for not having your documents. But, even so, they might very well have a story to tell of what they found in prison. I would definitely think that you should have a closed session when these people come, because they are students and some of them possibly may want to go back to South Africa. But, Mr. Chairman, I would also like to request most urgently, please, that the names in the documents which I submitted be withheld from the Press because these people, I do not know whether they are in or out of South Africa, they may be still there, and they would be punished if it were found they had sent any such documents out, even though it was 1964. They don't care; they go after them."

143. The CHAIRMAN said that if there was no objection he would take it that the Committee did not wish the names in the documents submitted by the witness to be made public.

144. It was so decided.

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145. Mr. JANKOVIC asked the witness whether she could provide additional information about the use of electrodes to torture prisoners.

146. Mrs. HOOPER: "Torture by electrodes is mentioned all through the documents and also in the new ones which I brought, of which I had a copy for each of you. This is one of the things that the man with whom I talked personally in Dar-es-Salaam, Mr. Jassut told me about. He was treated in that way, and evidently this is - or was, at least at that time - one of the characteristics of the torture used by the South Africans to force confessions. Some of them, you know, signed things that they later said weren't true because of the pressure that was put on them and the shocks that they received. He said it was done to him, that it was extremely painful and that he understood it was done to nearly everyone from whom they were trying to get information. And, actually, this has been admitted on one occasion by a police officer in South Africa... who said, 'Oh, well, yes, methods like that had often been employed', or something like that. But I think we probably have the cutting in our files at the office. This seemed to be a very common way of mistreating people, and very effective because it frightened them so. You see, first, most of the time they put a bag over their heads so they couldn't see what was being done to them. So then you are frightened to start with, and you don't know what part of the body they're going to start with. And then they give you a shock, and it's a terrible thing. Some people go all to pieces and confess all kinds of things which may or may not be true."

147. Mr. JANKOVIC asked the witness whether her organization had drafted the statement by Mr. C (A/AC.115/L.53, p. 15), and whether she could provide any additional information about the statement.

148. Mrs. HOOPER: "No. All of these statements came to us just as they are here; they came through the mail, just as they are here. And they were drafted usually by a lawyer at the dictation of the person who was tortured, as soon as they were able to get hold of him. This I was told by Ruth First; in other words, after they came out of gaol, they would get hold of them and take them to somebody's flat where they could be quiet. The lawyer would be there, and they'd say: Tell us all about it. And then the lawyer would write it down, and they would sign it."

149. The CHAIRMAN asked whether the lawyers had free access to the prisoners without any administrative or penal official being present.

150. Mrs. HOOPER: "Only after they were out of prison; they were not allowed to see them at all when they were in prison. Under the ninety-day law you are not allowed to see a lawyer or anybody. No. All of these things were done after they emerged from whatever they had been sentenced to, or after they were let out, you know after ninety days, sometimes they got disgusted with them and let them go; sometimes they made a statement and then they let them go. No, this was always afterwards."

151. The CHAIRMAN asked the witness how the statements made by prisoners while in prison had been obtained.

152. Mrs. HOOPER: "There are not, as far as I know, any statements made by people while they were still in prison. These were all made by people after they got out. They would have no opportunity for making statements while in prison. No, except people, well, I mean people like me, I was allowed to see my lawyer, but as I said I was not in under the ninety-day law. No, they were not allowed to see anybody under the 'ninety days', except the police officer, who came and asked some questions. And sometimes a magistrate would come by and say: Are you being ill-treated? and then walk off before the prisoner had a chance to answer usually. And if you told him: 'Yes', he still didn't do anything about it. But they didn't see anyone else while in prison. It was only after they got out that they were able to get the statements."

153. The CHAIRMAN inquired whether prisoners were allowed to see their lawyers.

154. Mrs. HOOPER: "No, not under the ninety-day law. The ninety days, you know, has now been changed into 180 days and I understand they are about to change that into an indefinite kind of detention. But under the ninety days, which was when these statements were written, no lawyer, nobody, was allowed to see you while you were in prison - nobody at all - except by special permission; once or twice Ruth First got permission to see her children. But this was very unusual. No. They could have a lawyer, but he wouldn't do them any good; they wouldn't get to see them."

155. The CHAIRMAN observed that the ninety-day law was a preventive detention act. During the period of preventive detention, it was considered that the person arrested was not charged with any crime or offence, and therefore could not have the services of a lawyer. He would, however, like to know whether persons who were brought to trial could have the services of a lawyer.

156. Mrs. HOOPER: "If they change the status of the prisoner from the ninety-day detention, and charge him with something specific, why then of course he has a lawyer to help prepare his case. But a large percentage of the ninety-day people were never charged with anything; they were just let go eventually. Some of them were charged, in which case they would have a lawyer, but not otherwise. Like Ruth First, for example, she was in under the ninety-day law for 117 days; in other words, that was more than one ninety-day period, and she was never charged with anything. Finally, they just let her go because they got tired of her stubbornness."

157. Mr. MARCHAND STENS asked the witness to give the name of her own lawyer.

158. Mrs. HOOPER: "Yes, well my lawyer, my chief lawyer, was Dr. Lowen, who is a Queens Counsel, and a very distinguished lawyer. And I also had another one, oh, dear, he wasn't very good. I can't recall his name at the moment, but Hyman Basner was the one who first took care of me and then he had to get a higher lawyer to fight the case in the courts. They have two kinds of lawyers in South Africa, you know, and only the one kind can take cases in the courts. So, it was Mr. Basner, and then Dr. Lowen. They won the case for me, and got me out of prison, but unfortunately couldn't win the case against the deportation. You can't win a case against that Government, really. Dr. Lowen made the main presentation at the trial. I forget his initials; I would have them somewhere. It was quite a famous case at the time, because I was an American, for the first thing, and they wondered what an American was doing in gaol in South Africa, and then it was the first case also under what at that time was a new law, and so it got quite sizable headlines in the Press in South Africa. And I remember the American Consul came to see me, very much disturbed, wringing his hands, and I said: 'What are you going to do for me?' And he said: 'Oh, oh, we can't do anything for you. You come here to this country' - and, you see, I was a permanent resident there, I had my home there - and he said: 'You are under their laws.' That was true."

159. Mr. MARCHAND STENS asked how long the witness' trial had lasted.

160. Mrs. HOOPER: "It wasn't that long; it was maybe four or five days, something like that. It wasn't very long. They had a point. You see, our Dr. Lowen had found a point that was irrefutable: you couldn't avoid the fact that they had forgotten to put this thing in the law, and they didn't really fight it very hard because they knew they were going to lose."

161. The CHAIRMAN thanked the witness for her testimony.

B. Testimony of the Reverend Gladstone Ntlabati

(New York, 9 June 1967)

162. Mr. NTLABATI took the following oath: "I solemnly declare upon my honour and conscience that I will tell the truth, the whole truth and nothing but the truth."

163. He then made the following statement:

"Mr. Chairman, and members of the Committee, I wish to extend my gratitude for the honour and privilege of having been invited to testify about prison conditions in South Africa. My name is Gladstone Ntlabati. I am an ordained minister of the Methodist Church of South Africa, and a member of the banned African National Congress of South Africa. I am a South African citizen and at present a candidate for a Ph.D. degree at Harvard University.

"I came to this country in April 1964 immediately following my release from prison in South Africa. In October 1963, I was arrested under the General Law Amendment Act of 1963, popularly known as the 'No-Trial Act'. I was imprisoned in solitary confinement until I was finally charged in January 1964, under the Suppression of Communism Act of 1961, for being a member of the banned African National Congress and for furthering the aims of a banned organization and for inciting people to commit sabotage.

"It is gratifying to note that in the midst of immediately pressing problems and the threat to the peace and security of nations - as evidenced by events in Viet-Nam and in the Middle East - the perennial question of the humiliation and dehumanization of the black people of South Africa through the oppressive policy of apartheid has not been crowded out and forgotten.

"The policy of apartheid has become a chronic, and some people would say an incurable and cancerous sore. It continues to be a dark and threatening cloud in the international sky. The South African policy of apartheid has been attacked by nearly every nation in the world and at every session of the

United Nations General Assembly since 1946. In all this time there has been no response from the South African Government, except defiance and an increase in repressive, authoritarian measures, reminiscent of Hitler's Nazi Germany.

"Whereas in the forties and, perhaps, the fifties; it seemed sufficient for this body to limit itself to issuing strong verbal denunciation and condemnation, the stage is now set - or should I say overdue - when action should be substituted for words.

"It was Ambassador Goldberg who said that we have reached a juncture in history when we must act. What I am attempting to convey is that the African people in South Africa have suffered so gravely and unjustly that there is now a growing impatience amongst them with study groups, resolutions, statements and reports by concerned groups in the world community. They are beginning to wonder how long the torture and destruction to the African people by the White totalitarian régime of South Africa will be studied. For people who are subjected to suffering, injustice and oppression, it would appear that this routine procedure is but a salving of the international conscience.

"This does not mean that the African people do not appreciate the efforts of the United Nations, the World Council of Churches and other world bodies - in fact, they look to these bodies for their salvation. For those being offered daily as victims on the altar of apartheid impatience is justifiable. Their situation calls for positive, concrete and immediate action. Failure to adopt effective measures to bring a stop to the rot that is South Africa needs someone to challenge the relevance of such a committee and the effectiveness of its resolutions.

"Many committees have been set up and hundreds of resolutions have been passed by the General Assembly and the Security Council concerning the question of race conflict in South Africa, resulting from the policy of apartheid. The South African Government has flouted all the resolutions and treated with disdain all the recommendations made by this Assembly, thus rendering all its committees irrelevant and ineffective. It is my fervent hope that my testimony today will not go the way of all such past documents, and I therefore wish to express the hope that the collection of relevant data

and information by this Committee - both here and abroad - will be but a first and preliminary step towards a change of outlook and attitude, for which I plead. I am convinced that I am not going to say anything that has not already been said by countless others on this subject within this chamber.

"For instance, the report on the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa to the nineteenth session [A/5825/Add.1], dated 10 December 1964, deals with the allegations of ill-treatment and torture of prisoners. As someone who has experienced something of the weight which crushes the spirit of those who resist, I can only confirm the statements by relating to this Committee my experiences both in and out of gaol. Experience and observation convince me that we would perhaps do well not to abstract one feature of a systematized organic and connected situation by dealing with the conditions which obtain in the numerous gaols of South Africa; we should speak of the gaol that is South Africa.

"True enough, much has been said of the third degree methods of eliciting information by psychological and physical torture, of the inhuman and brutal methods of the police, of the long periods of solitary confinement. Many have been those who, in such conditions, chose the extreme and irrevocable way of suicide, and still others have fallen victims to the cruelty and brutality and the diabolical methods of torture.

"In a country where homes have been converted into prison houses and euphemistically referred to as places of detention, under such measures as house arrest or house detention, where whole areas have been transformed into deportation centres, where men though free in other spheres have been denied communication and speech under orders, it is idle to speak of prisons as isolated centres of incarceration. It is common knowledge that South Africa is a police State. This is because of the denial of basic human rights, as contained in the Universal Declaration of Human Rights; freedom of speech, movement and assembly is denied. In urban areas Africans are at the mercy of a disrupting, demoralizing and immoral migratory labour system, which is rigidly controlled by the government labour bureau.

"Africans live in constant fear of being classified as surplus labour, or as politically suspect by an administrative officer, robbed of a job and

livelihood and transported to some remote and impoverished rural area, known as a tribal homeland. In rural areas they are reduced to serfdom by laws which make it a criminal offence for any labourer to leave his employment without the permission of his employer. The African cannot acquire freehold title to land and has been robbed of the right to live with his wife and family in an urban area; he can live only in the city as a labour unit, a commodity. His wife and family have to remain on the reserve. If the wife wishes to visit him she must apply for a permit, which is often granted on the ground that she wishes to conceive. She is allowed only seventy-two hours during which to conceive. If she is found in the city limits beyond this time-limit, she is liable to prosecution. An African who has since birth resided continuously in a town is not entitled to have living with him for more than seventy-two hours, a married daughter or a son who has reached the age of eighteen years, a niece, a nephew, or a grandchild. There have been numerous cases of prosecution of young men committing the offence of living with their parents, without having the necessary permission to do so. I could go on for hours demonstrating that the whole of South Africa is, in fact, a prison, and all black people in South Africa, prisoners. I think it is beyond every reasonable doubt that the two are inseparable and inextricably intertwined.

"The information that I have just given might sound irrelevant to this Committee, but I have given it on purpose because it is through such laws that Africans in South Africa find themselves victims of the present Government and end up tortured and beaten and murdered in gaols.

"I am going to begin with what is happening to South African farm convicts. I had the experience of being a minister in the Orange Free State, which is predominantly Afrikaner; in the Orange Free State the Afrikaners feel that they have a right to treat the Africans as slaves. There is no rule of law in the Orange Free State. The fact that South African farms employ convict labour has been widely documented. It is a known fact that the convict labourers are always starved and flogged and some are tortured to death for the amusement of their supervisors. Cases of white farmers who were prosecuted in South Africa and received mild sentences and suspended sentences for ruthless and brutal murders on these farms have been widely reported in the English Press. I conducted the funeral of one such labour convict in 1960.

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"Nor does this happen to convicts only. Farm hands have met the same fates at the hands of their savage masters. To recount some personal experiences: for three months in 1960 I was stationed in a small town in the Free State. My appointment was for a year, but at the end of three months the magistrate called the President of the Methodist Church to inform him that my life was in danger; he therefore recommended that the Church move me from the Orange Free State. I was moved at the end of three months and, indeed, my life was in danger because I could not accept the superiority of the White man in the Orange Free State and I could not keep quiet when I saw my people being destroyed every day. During this period it became clear how little the Whites in South Africa valued the life of an African. There were many instances when I saw police dogs being set upon Africans, tearing human flesh to bits for refusing to call Whites 'boss'. I was assaulted on seven different occasions. Once I was set upon by five Whites in a post office for having used English to address an Afrikaner post office attendant, asking for a telegram form to send a telegram to my father. I was thoroughly beaten up by these five men. The police came to the scene; I was thrown into a van and thrown into gaol. This happened on a Friday and I was in gaol until 10.30 a.m. on Sunday, when the leaders in my congregation came to plead with the police at the gaol to release me thirty minutes before a church service because they needed a minister to conduct a holy communion service. I was granted permission to go and some of you may not understand this. This is because the police in South Africa are Christian. The South African Government is a Christian Government and, therefore, you will find that although the things that I experienced in South Africa were horrible, I have been more fortunate than others, because I am a clergyman. I would have suffered the normal fate that befalls Africans in the police State of South Africa, if I had not been a clergyman.

"The Afrikaners particularly are a very religious people. The point here is that South Africa prides itself on its very high Christian moral standards and its heritage of Western cultural values. Thus, all the atrocities are committed in pursuance of their claim that they are preserving such values against erosion by the barbarism and savagery of the African people, and that they are obeying their Calvinist God.

"With unconscious irony, the late Prime Minister Verwoerd, in a speech in April 1963 in support of the notorious 'No Trial Act' that I referred to - under which I was arrested - said that South Africa might yet be called upon to save Western civilization and Christendom.

"It was under this self-same Act that I was later detained. I was arrested at 1.00 a.m. in October 1963, without a warrant of arrest being produced by the police. I was taken and thrown in a cell five feet by seven feet, with a very cold cement floor. This cell was empty except for two thin blankets.

"Before I was thrown into this cell the five policemen that had arrested me took me into the police office at the station and there was a teen-age policeman who must have been about eighteen years old. One of the policemen introduced me as a communist prisoner. The five policemen left and I was left with this young man who immediately took his gun and put it on the desk and said to me: 'So, you are a communist'. And he said, 'I would like you to take off your tie and your watch and any money that you might have, because we do not want you to commit suicide'. And I told him that I would never commit suicide. I was aware of the fact that many Africans had been killed in South African gaols and that the police had alleged that they had committed suicide. And I was trying to loosen my tie; he came over and said I usually take off the ties of my prisoners, and he pulled the tie and choked me. He was in the process of choking me with my tie when, fortunately, a senior officer happened to come along, ending, what to this teen-ager was fun.

"I was immediately taken to my cell. A few feet away in my cell stood an overflowing bucket of human faeces and this was my toilet for the next five days and it was never emptied. This cell, let it be noted, was a kind of efficiency apartment, serving as bedroom, lavatory and dining room.

"I was refused the services of a lawyer. No reading material was allowed. Smoking was prohibited. No visitors were allowed to see me. I was not allowed any food from home. The daily prison menu consisted of cornmeal porridge for breakfast, boiled hard corn grains for lunch and supper was the same as breakfast. This porridge was served at three o'clock, at five o'clock the lights were out and we did not eat until the following morning, when a plate of porridge was again pushed into the cell.

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"I was subjected to a daily interrogation by the police. No force was used at first. The strategy was to keep me in solitary confinement and to use psychological torture. The police made statements like: 'You are the only one who is in solitary confinement. All your friends have broken down and have given us information. You may not talk now; in due course you will talk.'

"Later, when they realized that I had made up my mind not to give information, I was subjected to beating and made to stand for long hours. When they realized that this also did not work, I was taken to court and charged under the Suppression of Communism Act of 1961 for being a member of the banned African National Congress, for furthering the aims of a banned organization and for inciting people to commit sabotage.

"After I had been charged I was taken to the gaol in Durban. I got to the gaol about 11 o'clock and I remember quite vividly that it was on a Saturday. Leaving the court we were all packed like sardines in a van. When we got to the gaol I was horrified at what I saw. I saw prisoners naked; they were being flogged by other prisoners, and also by some of the police warders. I was told to join those who were in line. I immediately told this prison warder that I was charged but that I had not been proved guilty at all and all that I wanted to do was to go to my cell. They made me wait from 11 o'clock until 4 o'clock in the afternoon, just standing, before I was finally taken to my cell.

"To my pleasant surprise, I was taken into a cell with twenty-four other people. This was a fairly small cell; but there we were, we were twenty-five. What was pleasant was the fact that all of these twenty-four people were known to me. They were people who had been arrested in South Africa, some as early as the beginning of 1963, and some of them had been in solitary confinement for nearly six months. I was fresh from outside and had information to give them about their families. We shared our experiences in solitary confinement. Some revealed scars of wounds that had been inflicted upon them. There were those who evidenced no outward molestation, but who had been taken through the mill and were on the point of a nervous breakdown. There have been cases where prisoners have been in solitary confinement and the explanation has always been that prisoners who have died in solitary confinement have committed suicide.

"At least two detainees died by hanging in their cells;

Mr. Looksmart Solwandle Ngudle died in September 1963 in Johannesburg and Mr. Sipho James Titya was found hanging in a Port Elizabeth cell in January 1964. Mr. Suliman Saloojee, an Indian leader under detention, jumped to his death on 9 September 1964 from the seventh floor of a building while being interrogated by Special Branch detectives. A number of detainees were examined by psychiatrists and afterwards they were sent to mental institutions.

"It is clear from my testimony that South Africa is not yet Nazi Germany, with its concentration camps and gas ovens, but the attitude of mind which produced such inhumanities in Nazi Germany is there and it needs only the [inaudible] of a crisis for White South Africa to throw aside its few remaining civilized pretensions and grasp in a frenzy of peril at any weapon to preserve its privileges. If there are not yet street gangs and private armies, it is because the police have so far proved a very adequate first line of defence.

"In conclusion, let me quote the words of the present Prime Minister of South Africa, then the Minister of Justice, speaking on Republic Day, 31 May 1963. He declared: 'We have reached the stage in our national life where we realize more and more that there are times in a nation's history when not only reason must speak, but blood as well, and that time is now.'

"This statement is very crude, because blood is speaking as well in South African gaols and in the whole of South Africa through the torture and destruction of my people. No more sinister pronouncement was ever made by any of the leaders of Hitler's Nazi Government at the height of their power. The appeasement of the South African Whites may yet lead to an end as destructive as its German model did. I know the Munich mind might dismiss this prospect as unprofitable. Is the world going to be so wrong and so stupid again?"

164. Mr. JANKOVIC asked whether the witness had seen any children or minors in the prisons.

165. Mr. NTLABATI: "Yes, I have seen children in the prisons. During the time after we had been charged - that is when the twenty-five of us were in the

cells - every day we were allowed half-an-hour to go and do physical exercises and it was at this time that we were able to see the mass of prisoners, and outside the gaol itself in the gaol yard there were fairly young people - juveniles - who were in the same prison. Perhaps, by telling you of one incident that I had in South Africa just after the charges against us had been dropped - I can give you an idea of the situation. What actually happened was that the people who were State witnesses in our trial in South Africa were released after they had sworn that they would be State witnesses, and they did appear as State witnesses, but in the course of the trial they decided to flee South Africa. I had an opportunity of talking to these men later, and this is again further evidence to demonstrate that people in South Africa, through torture, are forced to become State witnesses. These men had been forced through torture to become State witnesses in our trial and, when they returned to normal circumstances, they decided that rather than be State witnesses, they would flee the country - and they fled the country. One evening after the charges against us had been withdrawn, very late at night - at about 11 o'clock - I was returning from a church meeting with my wife, who was about eight months pregnant then. Now, in the townships in South Africa there is a lot of crime, and one can understand this. I refer to young people who cannot legally stay with their uncles and their fathers in the cities in South Africa. Most of these young people live in the cities as criminals. As we were walking back, both of us were nearly murdered. These were very young people - they were probably about sixteen. They had actually encircled us, with long knives but one of these boys recognized me and said 'This is our minister, this man was in gaol with us; this man has given his life for us.' This is an example to demonstrate that young people, juveniles, are in fact, gaoled in South Africa."

166. Mr. JANKOVIC asked whether the witness could tell the working group anything about the Robben Island prison or the Pretoria prison.

167. Mr. NTLABATI: "The Robben Island prison is near Capetown, on an island, and almost all the political prisoners are in Robben Island. In South Africa today there are over 8,500 political prisoners alone. Most of the prisoners in Robben Island are, in fact, the leaders in the struggle of the African people. Men like Mandela, and Sobukwe and Sisulu are in Robben Island, many of them facing life imprisonment. Sobukwe, by the way, is not supposed to be facing life imprisonment. Let me say something briefly about this man.

"Mr. Sobukwe was a professor at the University of the Witwatersrand and is the President of the banned Pan-African Congress. He was arrested immediately after the Sharpeville massacre, of which I am sure you are aware. He was sentenced at that time to three years' imprisonment. He served the three years, and he should have been released in 1963, but a few days before he was due for release the Minister of Justice got a bill through Parliament - a bill, in fact, that was really intended for this man alone - intended for one man - under which the Minister of Justice was empowered to keep a man in gaol and extend his gaol sentence for a period of one year, renewable every year, if the Minister was convinced that that particular man had not changed his mind.

"I can swear that Mr. Sobukwe will never change his mind. The millions of Africans in South Africa will never change their minds about wanting to be free, about wanting their human dignity recognized. This means that Mr. Sobukwe will remain in gaol for ever.

"In fact, the present Prime Minister of South Africa was asked in Parliament about this very law - this 'No Trial Act' and about this very provision. He was asked how many times the periods of ninety days could be renewed and his reply was 'This side of eternity',

"So, it is clear that unless something effective and something concrete comes out of the United Nations, men like Sobukwe will remain in gaol for ever."

163. The CHAIRMAN asked the witness whether a person held in prison in the Republic of South Africa was allowed to get into touch with a minister of his religion.

164. Mr. NTLABATI: "There are prison chaplains of various denominations. I speak here as a clergyman. When I was in South Africa, I was not free to visit the members of my congregation who were in gaol. Perhaps the Government would justify themselves by saying that they did not allow me to because I am a Communist, for in South Africa anybody who opposes government policy is, de facto a Communist."

170. The CHAIRMAN felt that it was a contradiction in terms to call a minister of religion a Communist. What were the witness's views on the matter?

171. Mr. NTLABATI: "You will remember that when I spoke about the white South Africans' God I did not just say 'God', I said 'their Calvinist God'. The whites in South Africa believe that they are chosen by God - that they, the white people, are the elect, and that the black people are the non-elect, that they are the damned. One of the theologians, for example, of the Dutch Reformed Church, which supports government policy, which supports apartheid, once said that if the Africans were to cut them into pieces in South Africa, they would rather be cut into pieces than agree to integration and assimilation, for these are against the will of God. So they believe that what they are doing in South Africa - that is, our torture and destruction, the denial of our human rights - is, in fact, in accordance with the will of God. So that when I say that they are religious, and when I say that South Africa is a Christian country, it is because the South Africans claim that it is and they sincerely believe that, in fact, they are religious."

172. The CHAIRMAN asked the witness to clarify his statement that the whole of South Africa was a prison and that people had to remain in a certain centre for seventy-two hours.

173. Mr. NTLABATI: "What I was trying to say is this. Your Working Group is investigating the conditions in South African prisons and I was saying that the whole of South Africa is, in fact, a prison and all the black people in South Africa, prisoners. So that to investigate conditions in South African prisons is to investigate conditions in the whole of South Africa, because the whole of South Africa is a prison.

"Now, when the present Government came into power and when we first heard of apartheid, the present Government said they had a solution to South Africa's racial problems; that they would divide South Africa realistically and give Africans independence in their own areas. And when they came into power in 1948, they started carrying out their programme, and they did divide South Africa, and they believe that they divided it realistically when they gave 87 per cent of the land to 13 per cent of the population, the white population, and 13 per cent of the land - barren land without any mineral wealth - to 87 per cent of the population, the non-white population.

"It is, therefore, forbidden for the non-white people - the black people in South Africa - to live in 87 per cent of South Africa, that is in the urban areas and in the cities, except as labour units.

"Now, this results in a breakdown of family life, because it means that the husbands, for example, working in the cities, have to leave their wives and their children in the reserves, and some of these men see their families for only two weeks out of fifty-two, when they have a holiday, and some of them cannot even afford to go back to their homes. This is true particularly with the people who are working in the mines who have to sign six-month contracts before they can go back to their homes.

"Now, about the seventy-two hours. The wife of a man in the reserve wishing to visit her husband in the city has to apply for a permit and this permit is often given on the ground that the woman wishes to conceive, and she is given seventy-two hours to visit her husband in the city. The Government, I guess, assumes that any African, just like a cow, conceives in seventy-two hours. They do not feel that the African people are human beings, that they have the human emotions of falling in love, of wanting to be with their wives and their children, and with their families and helping their children go to school, etc. And so they are forced to be in the city for seventy-two hours. At the end of the seventy-two hours if they are found in the city they are subject to prosecution. This is what I meant by the seventy-two hours."

174. The CHAIRMAN recalled the witness' statement that he himself had been beaten. Had he been beaten with a whip? Had he seen other prisoners beaten, or tortured with electrodes?

175. Mr. NTLABATI: "I was never beaten with a whip. Some of the prisoners who were in the same cell with me showed me some scars - in between their fingers and their nails. There were scars and they said they were scars of electrodes."

176. Mr. MARCHAND STENS asked how long the witness had been detained, and whether he had been compelled to leave South Africa illegally.

177. Mr. NTLABATI: "I was held for twelve days. I had difficulties in getting out, but I got out with a South African passport. Let me explain this. I was a student at Natal University and I was studying there doing an honours degree and it was during the time when I was at Natal University that the Government passed a law prohibiting non-white students from attending any of the English universities.

"For two years after this law had been passed, the English universities in South Africa, Capetown University, Natal University and the University of Witwatersrand continued to defy the Government and they admitted non-white students. They were taking advantage of a loop-hole in the law that prohibited the students from attending these universities; there was no penalty for either the registrar who would register the student, or for the student who would register. The Government realized this loop-hole and they amended the law so that there was a punishment for both the registrar and the student. They also said that they would not give any financial aid to the universities if they continued to register non-white students.

"At this time I had just finished the honours degree and I had applied for a Master's degree at Natal University. There was no provision for a Master's degree in ethics in any of the tribal colleges that the Government set up and there was no provision at the University of South Africa, or at Fort Hare, where coloured students were expected to go. I and two other white students who were my colleagues decided that we would be involved in a protest on the steps of Natal University. These two students were white students who were colleagues in the Methodist Church and as a protest the students withdrew their registration at Natal University. They said they would not study at a university where a man was refused permission to study on the basis of the colour of his skin. Let me say that I was very much moved by the protest that was made by these two white colleagues.

"The Government had said in the law that nobody would be victimized - that, in fact, those students who could not continue their studies in the tribal colleges would be allowed to continue in the white universities, but I was not given this concession. The Minister of Bantu Education said that his reason for refusal was that I had been involved in what he called a public strike. But at the end of that letter he said 'To show my sincerity that I would not prohibit any student from furthering his studies, if Mr. Ntlabati wishes to go abroad and study, he should apply to the Minister of Interior for a passport.' But he did not say where I would get the money to travel abroad, or the scholarship to go abroad. But, in faith, I just wrote letters of application to universities abroad and made it clear that by

law I was not allowed to study in any university in South Africa, and I got admitted at Yale University for a Master's degree. I waited for nine months before I could get a passport. In fact, I was refused a passport first, but I used the very letter from the Minister of Education who had assured me that if I wanted to go abroad, I would be given a passport. So, I was given a passport and it was four days before I should have left to study abroad that I was arrested. And it was clear to me that this was a way to prevent me from going abroad to study.

"Now, after I had been in solitary confinement and after I had been charged under the Suppression of Communism Act, during the Easter week-end my lawyer asked that I be given bail, and again the Government of South Africa demonstrated how religious it is and how Christian it is, because for a long time I had been refused bail, but when my lawyer said it would be immoral for a Christian country like South Africa to prevent a minister from being with his congregation during Holy Week, they immediately granted me bail. It was during this week-end that the State witnesses in our trial decided to leave South Africa and at the end of that week-end there was nobody to witness against us, and so the charges were withdrawn.

"I was released on £300 bail, but the Government - the Court - took my passport as one of the main conditions so that I would not escape. When the State witnesses disappeared, the £300 was returned to me plus the passport and my lawyer realized that we might be rearrested that same night and he hired a taxi for me - I do not know what the bill for the taxi was, but it was a 435-mile taxi ride from Ladysmith to Johannesburg. While I was travelling in this taxi to Johannesburg, he made arrangements with Lufthansa for me to leave Johannesburg. When I got to the airport at 8:20 there was hardly anybody at the airport, except for one man at the customs and the man from Lufthansa who had my ticket. The man at customs said that the police had checked the list and there was no Bantu who was leaving and so they had left the airport, and therefore he would not allow me to leave the country.

"The man from Lufthansa said, 'This man has a passport, this man has a visa to enter the United States, this man has a ticket, we have a seat for him. On what grounds will you prohibit him from leaving?' And he said, 'Well, the police

do not know.' And the man said, 'Well, this is irrelevant, the police have nothing to do with it. This man has permission to leave the country.' So, I was finally allowed to leave. As I was leaving, after having been through customs, he started calling the police. I was panicking at the time; I remember the German hostess on Lufthansa said, 'Welcome aboard' and I said to her, 'Will you please close the door?' That is how I left South Africa for Germany.

"Let me mention here that on that same night, at 1 a.m., the police were at my home to rearrest me. Out of the twenty-five of us, seventeen were rearrested that same day and were put back on ninety days' detention. They went through that whole process again of being tortured. People were broken down, they had two State witnesses and, as I speak to you, some of those men are serving ten years in prison, eight years in prison."

178. Mr. MARCHAND STENS said that there seemed to be a connexion between the suicides mentioned by the witness and in certain documents and the large number of psychiatric examinations. He would like to know whether the witness had known any of the suicides personally. Secondly, had psychiatric examinations been undertaken because the prisoners had been upset by their inhuman treatment in prison, or because the authorities wished to break them down mentally?

179. Mr. NTLABATI: "I knew one of these men, the Indian gentleman that I referred to, Suliman Saloojee. Let me say that this is an opinion that I am expressing. I have known Mr. Saloojee to be a very stable man. It is possible that he could have committed suicide. If he did, then it demonstrates that the conditions of prisoners in gaol are such that they would make a stable man commit suicide. If he did not, it also demonstrates that those who make a stand and who resist even torture in South Africa, the Government uses other means to destroy them.

"As to your second question, the men who were involved in our trial as State witnesses had been broken down and had been broken down mentally. When our trial began it was very difficult for us to believe that, for example, a man like Mr. Maponya, who was Chief Luthuli's personal secretary, could break down and give information to the police. At the beginning of our trial, in fact, he did, and when he came into court he appeared to us as if he was - you know - in an empty

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room and just didn't see faces, because he did not react at all to our presence in the court. And, let me mention here something that I had no intention of mentioning at the beginning - the fact that during the week-end, when I was out on bail, I had an opportunity to talk to the State witnesses. It was, in fact, due to my speaking to them that they decided to leave South Africa. These men admitted - all of them - that they had been pressured, that they had given statements through torture, but that they were scared that if they did not now continue to give information, they would be charged for perjury, and perjury has very serious repercussions in South Africa.

"So, a man is either faced with giving information, evidence against his own fellow men and betraying them, or not doing so and being tortured. These men decided that they would leave the country and they left the country, and one of them was Mr. Maponya, who did not live very far from where I lived. When Mr. Maponya was out of gaol, he was in fact insane.

"It so happens that my wife is in this country and in California there is a Mrs. Peggy Rubble (?) who worked for the Defence and Aid Fund and who interviewed the families of the people who had been arrested and, as a social worker, was even in contact with those prisoners who had been released. She would also agree that Mr. Maponya was, in fact, insane."

180. Mr. MARCHAND STENS asked what psychological pressure had been put upon the witness to extract information from him.

181. Mr. NTLABATI: "Well, for a person who has been using his mind, that is, reading, working in an office, interviewing people, preparing sermons and being involved in reading and activity - for such a person to be closed in a cell five feet by seven feet that is dark and be idle and not do anything, not be able to read - this in itself is torture enough. I used to talk to myself, sing, preach sermons, make speeches, just to keep myself doing something.

"And the police also pressure one by saying that everyone had, in fact, given information and that you are the only person who had not given information. Many nights, I should admit, especially after I had been beaten and made to stand for long hours, and after I had been told that all my colleagues had, in fact, given information and they were free in their homes, and after the police were telling me

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that I was being cruel to my wife and cruel to my children, and after they had told me that my wife would be deported out of Durban, because I was no longer working in the city; these loyalties - because any man has loyalties, he has loyalty to his family - and these clashes tempted me to talk. But every morning I would say to myself: 'Suppose all your friends have not spoken, and suppose this is not true.' and then I would not talk."

182. Mr. MARCHAND STENS asked the witness whether he believed that the authorities in South Africa had deliberately tried to degrade the prisoners, particularly political prisoners, by encouraging unnatural sexual promiscuity.

183. Mr. NTLABATI: "Well, I will answer the question as far as I am able to. The police in South Africa are capable of doing anything to prisoners. Let me mention, for example, the fact that when I got into the prison in Durban and these fellows were being flogged, these fellows were all naked and they were kneeling as they were being flogged. Now, what actually happens is that the police will instruct some of the prisoners who have been in gaol for five or six years - and some of these prisoners are criminals - to flog the other prisoners; sometimes they will do this themselves.

"I am not aware of this particular case that you have referred to, but I have heard of such things being done and encouraged by the police and even worse things than that."

184. Mr. WALDRON-RAMSEY recalled the witness' assertion that, when he had first been arrested and taken to the police station, a young policeman had tried to choke him. Was the witness convinced that the young policeman would have committed further acts of violence if a senior officer had not entered the room and interrupted him?

185. Mr. NTLABATI: "Well, I am convinced that he would have done further violence to me and I am equally convinced that I would have done some violence to him."

186. Mr. WALDRON-RAMSEY asked the witness whether the two very thin blankets to which he had referred had been left in the cell while he was there.

187. Mr. NTLABATI: "Yes, they remained in the cell whilst I was there. In fact, when I was taken into the cell five other prisoners were taken out of the cell and these were African prisoners, but it is clear that they were not under solitary confinement."

188. Mr. WALDRON-RAMSEY asked whether any orderlies had come to empty the latrine bucket in the cell.

189. Mr. NTLABATI: "No, in fact, the following morning I complained because, as I mentioned, this open bucket was overflowing from the use of five people. But it was not emptied until I was there for about three days."

190. Mr. WALDRON-RAMSEY asked the witness whether he could confirm once again that he had not been allowed to see his lawyer or to receive visitors or food from home.

191. Mr. NTLABATI: "Well, this is really part of the 'No Trial' act."

192. Mr. WALDRON-RAMSEY asked whether there had ever been any change in the food provided for the witness while he had been in prison.

193. Mr. NTLABATI: "It did not change while I was in solitary confinement. But, after we had been charged and we were in the cell, we were allowed visitors - and we had so much food, not from the jail but from the community, because the African people really supported us, whilst we were in jail."

194. Mr. WALDRON-RAMSEY asked whether the witness had been allowed to take physical exercise. Had he been kept standing for several hours at a time while he had been in solitary confinement?

195. Mr. NTLABATI: "Well, let me make it clear that the treatment of prisoners in South Africa really varies from police station to police station, so that within Durban itself, for example, we would have people say: 'I had this privilege in that particular gaol', or 'I was denied this in that particular gaol'. It really depends on the policeman who is in charge at that particular time. This means that every white policeman has the right to do as he pleases, so that you should not expect any uniformity."

196. Mr. WALDRON-RAMSEY asked if the witness had been interrogated only by white policemen or by white and black policemen together.
197. Mr. NTLABATI: "The policemen who took me from my cell, were Indian and African. The policemen who arrested me were all Africans, except for the drivers. The white policemen remained in the van and the Africans went to fetch me. But most of the police would do interrogation. I was never interrogated by any of the African policemen, it was done by the Whites."
198. Mr. WALDRON-RAMSEY asked whether the witness had been at Natal University at the time of the Sharpeville incident.
199. Mr. NTLABATI: "No, I was in the Orange Free State. In this place where I stayed for three months. In fact, I left the Orange Free State immediately after the Sharpeville massacre."
200. Mr. WALDRON-RAMSEY asked whether, as a theologian, the witness had been given better treatment than other African prisoners.
201. Mr. NTLABATI: "Yes, I would say this particularly about certain policemen in the gaol who were religious fanatics. It was difficult for them to beat a minister."
202. Mr. WALDRON-RAMSEY asked how the police had been able to recognize the witness as a minister.
203. Mr. NTLABATI: "I was dressed in ordinary clothing. But the day when I was charged I was dressed in my ministerial garb."
204. The CHAIRMAN thanked the witness for his testimony.

C. Testimony of Mr. Dennis Brutus
(London, 12 June 1967)

205. The CHAIRMAN invited Mr. Brutus to restrict his comments at the current meeting to questions concerning South African legislation and the police rules in force in South African prisons.

206. Mr. BRUTUS took the following oath: "I swear to tell the truth, the whole truth, and nothing but the truth."

207. He then made the following statement:

"My name is Dennis Brutus, I am forty-two years old, and I have been a teacher and writer and at present work for the Defence and Aid Fund.

"I do not claim to be an authority on the legal aspects of the situation. I wish to put in certain documents which set out very fully the legal position in South Africa with relation to apartheid. I propose to put in two publications: the first by the International Commission of Jurists, called South Africa and the Rule of Law; the second by two students of South African law, entitled This is Apartheid, published by Christian Action. In addition to this, I propose to make only one or two brief comments. .

"The basis of South African law today is racial discrimination and racial segregation. This is a legal structure imposed on the mass of the people by a small white minority. The purpose of this legal structure is to ensure the permanent inferiority of the black indigenous peoples of my country, South Africa. Not only are these laws designed to keep the majority of the population in subservience, but they are also designed to punish severely all those who seek, even by constitutional means, to change this society.

"Apartheid is a racial ideology which preaches the racial superiority of one group, and their right to remain in permanent control in the country. And the laws of the country are designed to serve this purpose. These laws extend to all areas of human existence in South Africa. They apply to the exercise of the vote, or the franchise; they apply in education, in marriage, in how people live, and where they live - all fields of human existence are

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regulated by racial laws. The prisoners on whose behalf I propose to speak - and I was myself one of them in the most notorious prison in South Africa, Robben Island - have all been punished because they have opposed this racist legislation. From the list of documents which I will put in, as part of my testimony, a complete legal structure can be seen dominating the lives of the people. But in addition to what is enjoined by law, a great deal of repression, brutality, and savagery is practised outside and beyond the racist laws of the country. Of some of this, I have had personal experience, and I testified on this when I appeared in New York before the United Nations Special Committee on the Policies of Apartheid [of the Government of the Republic of South Africa]. The testimony which I gave there is already available to this Working Group of Experts, but I propose to supplement that testimony with further, additional testimony which I believe will be of special interest to the Working Group of Experts.

"The first basic statement one must make with regard to the prisons is the same one we make with regard to the law, that in fact the prisons are racially divided, racially segregated, and that conditions for non-white South Africans - whether they be Africans or Indians or Coloureds of mixed descent as I myself am - all these people are provided with special separate facilities which are in fact inferior to those provided for white prisoners. Apart from this segregation within the prisons, there is also racial segregation in the actual administration of the legal system, so that whites and non-whites are kept separate even before trial. Once persons have been convicted and sentenced to prison, they are confined to different areas of the same prison or to completely different prisons. Here again the treatment and the provisions for them are determined on racial grounds, so that there are separate prison regulations applying to coloured, African, and white prisoners. But there is a further differentiation between prisoners who are guilty of what one would call 'criminal common-law offences' and those who are guilty of 'offences against the State, or what we would call 'political offences'. And a whole series of laws exist which are designed to punish individuals for protests or actions against the policies of the State.

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"To specify only a few of these particular laws, I should like to mention the following: The General Law Amendment Act of 1962, the General Law Amendment Act of 1963, the Group Areas Acts - some of the amended - , the Native Urban Areas Act, the Native Settlement of Disputes Act, and the famous or notorious Public Safety Act, all of which are designed to punish people for their opposition of the policies of the State. It is therefore necessary to make these two distinctions: the one on racial grounds, and the other on political grounds. One of the most notorious of these Acts, under which many people, including myself, was punished, is an Act designed to destroy all opposition to racial discrimination, and which makes it illegal to protest against racial discrimination. This Act is misleadingly referred to as the Suppression of Communism Act, but in fact is directed against all opponents of the apartheid régime.

"Two of the people who will testify, or have asked to testify, are legal persons with legal training, and they will devote some of their testimony to the legal aspects of apartheid.

"I would like to put in, if I may, the names of the other persons who have applied for permission to testify, and ask you to indicate to them personally, perhaps, whether you will require them to testify and the dates on which you will call them. The following persons, we believe, could be of use to the Working Group of Experts, and we have accordingly submitted their names: they are Paul Truwhele, who is here today, and who has only arrived from South Africa in the past week; he arrived in London on Friday of last week and his evidence is of considerable importance and is also the most up-to-date which can be obtained at this stage. We are also hoping that you will hear Mr. Livingstone Mrwetyana, who also came recently from South Africa and who has new information about a recent development in South Africa where people are now being kept in what are known as transit camps; these seem almost to be like concentration camps, and we are particularly anxious that this Working Group should examine his testimony.

The others who have expressed a desire to testify include Sylvia Neame, Thami Mhlambiso, Alex la Guma, Albert Sachs, Stephanie Kemp, Alan Brooks and Caroline de Crespigny. And we have also suggested the names of Barney Desai, Jonty Driver, M.P. Naicker, and representatives of the Amnesty and the Anti-Apartheid Movement.

"In addition, we have the longer list which we sent to the United Nations offices in New York and a further list of persons that the Working Group may wish to call."

208. The CHAIRMAN asked the witness to clarify his statement that a distinction should be made between arrests on racial grounds and arrests on political grounds. Were the two motives not sometimes combined?

209. Mr. BRUTUS: "Yes, indeed. There are cases where this coincides, where it is both racial and political. But the basis of the law is, first, the division on racial grounds, and then a further division between criminal and political offences."

210. The CHAIRMAN asked whether the witness believed that a distinction should be made between persons held for common-law offences and those held for political offences.

211. Mr. BRUTUS: "Yes, I do. I am satisfied that the man who opposes injustice, whether it be based on racial considerations or any other considerations ought not then to be punished by law and imprisoned by a system of justice, or what calls itself justice, but which is precisely that which he is opposing."

212. Mr. JANKOVIC asked whether the witness was a lawyer.

213. Mr. BRUTUS: "No, I do not claim to be that. I began legal studies. I started a law course before I went to prison and I completed the first year of that course writing my examination in prison while I was awaiting sentence, but I was not permitted to continue my studies after I had been sentenced."

214. Mr. MARCHAND STENS said that he understood that there was an Act known as the Vagrancy (or Vagrants) Act which was invoked against persons who could not be held on any other grounds. Had that Act ever been used for political purposes?

215. Mr. BRUTUS: "There is a whole series of laws which control the movement of the African peoples. It is racial in its whole basis, and in this sense it can be regarded as political, for people are being punished for their racial origins by laws which are orientated for racial discrimination. Examples of these laws are the Native Urban Areas Act No. 25 of 1945 and the Native Land Acts of which there were a series, and I refer to No. 27 of 1912. But in addition to this, there are Acts which are supposed to control vagrancy. These Acts have in fact been used for political purposes. In times of tension in South Africa, and this occurred particularly at the time when a state of emergency was declared in South Africa, this vagrancy law is used in order to arrest people and confine them, although there is no charge against them and there is no evidence that they have committed a crime. These laws are used in times of political unrest in order to arrest people who are politically active without preferring charges against them."

216. Mr. MARCHAND STENS said that, although the main purpose of the South African legislative system was apparently to promote racial discrimination, he believed that the system also served to provide cheap labour at wage rates which were amongst the lowest in the world. Did the witness believe that non-whites in South Africa were working in conditions of forced labour?

217. Mr. BRUTUS: "The premise, as stated by Mr. Stens, is correct, but it would need careful analysis by someone better qualified than myself to fully illustrate it. What is clearly true is that in South Africa there is a special section of the law, particularly that which falls under the Native Urban Areas Acts, which regulates the movement of the black population of the country and which is designed to control the movement of blacks and direct them to the areas where cheap labour is required.

"In addition, there is a complex set of laws relating to the carrying of passes or travelling documents and laws relating to influx control, which regulate the entry of Africans from what are called the reserves into the towns and out of the towns. And this network of control is designed to maintain a mobile labour force which is always at the control of those who seek cheap labour.

"In addition to this, the areas to which Africans are confined - so-called African homelands, and areas like the Transkei - are areas where there is no

industrial development, where the land is poor, where the areas may be either over-populated or there may be bad soil with over-stocking; and the result is that Africans are forced to come to the towns and work for the wages which are offered to them, and they have no choice - no freedom to bargain. This has been, in the past, one way in which the flow of labour to the mines was regulated; people were compelled to leave the reserves to come and work in the mining areas on contracts which they signed. Thus, they had no opportunity for bargaining for better wages. There has been some modification of this position because the bulk of the mining labour force today is not South African, but comes from areas on the borders of South Africa - Lesotho, Swaziland, Botswana, Mozambique. The consequence is that the mining labour force is not predominantly South African, but South African workers are still at the mercy of a system which regulates their wages and keeps them underpaid."

218. Mr. WALDRON-RAMSEY asked the witness if it were correct that the non-white members of the South African population did not participate, either directly or through representatives, in the drafting of South African legislation.

219. Mr. BRUTUS: "The statement as made by Mr. Waldron-Ramsey is almost completely correct, but in the interest of complete accuracy, I would like to point out one or two slight nuances. It is true that non-white South Africans have no real representation in Parliament and no say in the framing of the laws of the country. This is correct. At the same time, there is still some pretence that the coloured or mixed section of the population has some representation. Three members of the white population in Parliament allegedly represent the interests of the coloured section of the population; for Africans there is no representation in the South African Parliament at all. At one time Africans also were represented by whites who nominally spoke for them. But this was abolished, and the South African Parliament is now preparing to abolish also the three who are supposed to speak for the coloured members of the population. When that stage is reached, then there will be absolutely no representation, but there is still this small vestige of representation."

220. Mr. WALDRON-RAMSEY asked whether any attempt was made to explain the essence or the details of the law to the non-white sectors of the population?

221. Mr. BRUTUS: "Mr. Chairman, in the past the South African Government has not troubled to make sure that those for whom it legislated understood what the legislation was, and there is no indication that they propose to set up any machinery for informing the people of the laws which are being passed and which would apply to them. In the past, a law has been made known by publication in the Government gazettes and has been displayed in various places, but there has always been this contempt by the legislature for the people for whom it is legislating and there is no indication whatever that this state of affairs is going to change."

222. Mr. WALDRON-RAMSEY asked how, in that case, persons arrested in South Africa could be expected to understand the laws which they were alleged to have broken.

223. Mr. BRUTUS: "Mr. Chairman, I find difficulty in answering this question because of Mr. Waldron-Ramsey's assumption that we have in South Africa a civilized society. What is happening in South Africa today is in many respects a perversion of law as it is understood in other parts of the world.

"South Africa today has a law which makes it legal for a man to be held for 180 days in prison without a charge and without a trial and without a sentence. This means that the normal processes of law are being suspended in South Africa as it becomes increasingly dominated by the police, as it moves into the twilight zone of a police State. We no longer expect in South Africa the processes of civilized law-makers, and some of the people who will testify before this Group of Experts were held in prison, were never charged, and were never told why they were being held - let alone being told what the law was or the charge against them. And this, I may say, Mr. Chairman, applied to both white and black South Africans when they were opponents of the apartheid régime. They were then subject to this law which in effect is the suspension of all civilized law."

224. Mr. WALDRON-RAMSEY asked whether the legislation which applied specifically to the non-white sectors of the population was intended to prevent any form of association by the non-whites. Did the authorities fear that any form of association by non-whites might lead to a concerted attack upon the system of apartheid?

225. Mr. BRUTUS: "As a general principle, we can say that the laws in South Africa governing freedom of association are so designed that any two persons who got together to organize opposition would be found guilty of some crime or other and convicted and sentenced to prison for this. But, in fact, there are two laws of special application to this matter, and I would like to refer to those.

"The two special applications I have in mind both fall under the so-called Suppression of Communism Act. Under this Act, any person may be served with what is called a banning order, and this forbids him to attend any gatherings; and at one time, the law held that twelve people constituted a gathering, so that if you were less than twelve presumably it was legal. But subsequent cases were tried in which people were convicted when the number was less than twelve, and then it seemed that nine was the legal figure. But even that figure has shrunk, so that we do not know what in fact constitutes a gathering. We do know that a man has been arrested for attending his own daughter's birthday party, so that the law is clearly one of very wide application.

"The second application is an even narrower one which also falls under the Suppression of Communism Act. This is a banning order, and I received one the day before I was released from prison - a banning order on all social intercourse. This means that if you sit at table and drink a cup of tea with anyone, even one person, this is criminal, and if you were to go into a café or restaurant and eat a meal there, this would also be a crime. And the law can be so narrowly interpreted that if you met someone in the street and talked about the weather, this also could be construed as social intercourse, and you could be imprisoned for breaking the banning order which forbade you to have social intercourse. The net result of this is that, in fact, in certain circumstances, it would be criminal for even two people to come together."

226. Mr. WALDRON-RAMSEY asked whether the witness believed that the purpose of the legislation to which he had referred was to frustrate all efforts by decent citizens in the Republic to oppose the system of apartheid.

227. Mr. BRUTUS: "Yes, I must say that I am certain that this is correct -- that the legislation is designed to curtail the activities of people who would normally be protesting against what is to them manifest injustice, but that they are prevented by law from making precisely those protests."

228. Mr. WALDRON-RAMSEY asked what were the witness' personal reactions to the South African Government's repeated assertions that all its political opponents who were in prison had been arrested merely because they had committed offences against South African criminal law.

229. Mr. BRUTUS: "Mr. Chairman, I think this raises a great many issues at the same time, but I would attack such a contention made by the South African Government that all the men in prison for opposition to it are there simply because they are criminals who have broken the criminal law - I would attack such a contention on two grounds.

"I would like to look at the so-called criminal act which has been performed and then I would like to look at the Criminal Code under which the man was found guilty; and, if I may, I would like to refer to my own experience where I was arrested in the offices of a sports association, and I was found guilty and sent to prison for having been in those offices at a sports meeting. Now, the fact that in South Africa it is criminal for certain people to attend a sports meeting, and at that a genuine sports meeting, is to me clear evidence of the illogicality, as well as the injustice, of the law.

"It is criminal in South Africa for two people to drink a cup of tea together; and the fact that such an innocuous act can be criminal under certain laws exposes the laws, and not the act, to criticism. In addition, the laws themselves are passed by a process in which the overwhelming majority of the population have no say; they are being legislated for, and even legislated against, but they do not participate in this legislation. If law is the consent of the Government, or if Government is by the people, both these are not applicable to South Africa.

"One can attack the South African law on a further and, I think, even more important ground. When the spirit of the law is examined, it is discovered to be a system of law designed to perpetuate an unjust society, and this I think is the basic ground on which one must attack it. We are talking about a society in which 3 million white people legislate for themselves, and at the same time for more than 13 million black people who have no say in the making of the laws but who are constantly the victims at the mercy of those laws."

230. Mr. JANKOVIC read the following extract from an article which had appeared a few days previously in The New York Times:

"Eight months after taking office Prime Minister Vorster has launched a major campaign to obtain apartheid's ultimate goal, the establishment of separate nations within a framework of white and non-white States."

Did the witness believe that the South African Government's policy towards the non-white population amounted to genocide?

231. Mr. BRUTUS: "I think this particular paragraph is open to more than one interpretation. As we understand the Bantustan policies of the South African Government, particularly under Dr. Verwoerd, the idea was to carve up the whole country into a series of what were called States within a State, so that there would be a series of black States and white States under the over-all control of the white State which would be 'the State', and the other States would be within it. And that is the one interpretation of this passage.

"It is possible that by another interpretation this could be seen as not merely to imply the destruction of the freedoms that the African people have or aspire to have, but to imply their physical destruction as well. But I am not prepared to go so far in my interpretation of this passage. I would be reluctant to comment unless I fully understood Mr. Jankovic's interpretation of the passage. I am not sure how he arrived at this interpretation."

D. Testimony of Mr. Dennis Brutus (continued)

(London, 13 June 1967)

232. Mr. BRUTUS took the following oath: "I swear to tell the truth, the whole truth and nothing but the truth."

233. He then made the following statement:

"I am forty-two years old and at present I work as the director of a campaign for the release of South African political prisoners. Previous to this, I was a writer and a teacher.

"I am grateful to the Working Group for this opportunity to testify on conditions in the prisons in my country, and I trust that this information will be of use in getting the countries of the world who care about justice to take action in setting right the appalling state of affairs in my country in whatever ways are possible.

"I am grateful too that, through the assistance of the International Defence and Aid Fund, it is possible for me and for others who have had to leave South Africa to give this testimony, and so bring to the notice of the world the cruel state of injustice under which the vast majority of the people of my country are crushed.

"I propose to devote my testimony largely to conditions in the prisons as I experienced them, but it is necessary for me to give some background material to make my prison sentence intelligible. I am a South African, born of South African parents in Salisbury, Rhodesia, and have spent my life in my country, except for very short periods, only quitting it in July of last year when I was forced by circumstances to leave my country on an exit permit, that is, an undertaking that I would agree to be prosecuted if I ever returned to my country.

"In September, through the assistance of the Defence and Aid Fund, I was able to bring my family to Britain as well. After graduating from Fort Hare University College and qualifying as a teacher in 1947, I returned to Port Elizabeth, where I had spent my boyhood, and taught at various schools for

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fourteen years, chiefly at the Patterson High School where I had myself studied. As a coloured teacher at a coloured high school, that is, a school for those of mixed descent, I soon came in conflict with the inferior segregated educational system which was part of our racially divided society. The inferiority of the coloured schools became more marked as a result of a new apartheid system, which was introduced after the [inaudible - sounds like De Voss]- Malan Commission had recommended separation on a larger scale, and even more inferiority in educational standards.

"In addition, I had for many years been an active organizer and administrator in many sports bodies. This had led me into conflict with the racial divisions in sport, which made it impossible for non-white South Africans to represent their country in sport, even if they were outstanding sportsmen. As a South African who became increasingly concerned about the hardships which were imposed on non-white South Africans, and even white South Africans, who were opposed to racial discrimination in the crude form of apartheid, I became increasingly critical of increased apartheid in housing, such as the Group Areas Act, and in education - the separation of university education - as well as in other spheres. And this led me both to speak and to write against the policies of apartheid and to be active in the work for a new national convention of all South Africans, so that a new constitution could be devised.

"In this latter demand, I played an active part in my own area, and worked with those who were leading this corps, particularly Nelson Mandela and Walter Sisulu of the African National Congress, as well as taking part in the national convention meeting called by the coloured section of the population of Malmesbury in the Cape in 1961.

"In June 1961 I was suspended from my teaching position, and later banned from all teaching in both public and private schools. I was also banned from all meetings, and later it became criminal for me to have any of my writing published. Subsequently, it also became criminal for me to attend any social gathering. All these bans were applied under the Suppression of Communism Act - an Act which is designed to prevent all opposition to the policies of apartheid.

"In 1963, after I had enrolled as a student at the University of the Witwatersrand I was confined to Johannesburg for five years, and in May 1963 I was arrested in the offices of the South African Olympic Association, where I had gone to introduce some new members of the South African Non-Racial Olympic Committee of which I had been President. I was sentenced to eighteen months' imprisonment in January 1964, arising out of this charge and others which I must detail. While awaiting trial I was released on bail, and I decided that I would leave South Africa in an attempt to attend a meeting of the International Olympic Committee which was to be held in October. I crossed the border into Swaziland, and after some weeks there entered Mozambique on a legal British passport which I had been able to obtain since I had been born in Rhodesia. I was arrested on the border by the Portuguese secret police on 14 September as I entered the country, and held for three days although there were no legal grounds for doing so and no charge was brought against me. I was told by the police that they had information from the South African secret police that I was a dangerous saboteur. After three days, they undertook to release me and to return me to Swaziland, from which I had come. On 16 September I was delivered into the hands of the South African secret police and, after spending the night at Komartipoort and appearing in the magistrate's court there, I was brought to Johannesburg via Pretoria. My attempts to see a lawyer or a British consul had failed in both Mozambique and Komartipoort and so, in an attempt to inform people of my plight, I decided to attempt an escape in the main streets of Johannesburg. While removing my case from the car outside the Marshall Square police station, I was able to elude the two armed members of the special branch who were guarding me and ran about 400 yards before doubling back and running into one of these policemen who shot me at close range, the bullet entering from the back and passing through my body, piercing the large intestine.

"On 9 January 1964 I was sentenced to eighteen months' imprisonment; I was convicted of five offences as follows: (1) attending a gathering in contravention of a banning order; (2) leaving the magisterial district of Johannesburg, to which I had been confined for five years in terms of a confining order; (3) failing to report to the police weekly as required by a

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banning order; (4) leaving South Africa without legal travelling documents; and (5) attempting to escape while in police custody.

"After being sentenced and spending one night at the Fort prison in Johannesburg, I was removed to Leeuwkop prison near Pretoria where I spent two months. I was then taken to Robben Island prison in the company of other prisoners, and spent the rest of my sentence there except for a brief period of about two weeks which I spent in Pollsmoor prison while I was receiving attention at the Victoria Hospital at Wynberg. Two days before my release on 8 July 1965, I was removed to Roeland Street gaol in Cape Town and served with fresh banning orders, including one of house arrest before being brought down to Port Elizabeth prison where I was released. I might just add that the house arrest order which was served on me was for a period of five years and would apply until 1970.

"Most of the details relating to prison conditions have already been included in my previous testimony before the Special Committee on the Policies of Apartheid (A/AC.111/L.194) given in February at United Nations Headquarters, which has already been placed before the Commission on Human Rights as well, and which has been referred to in an article by the Chairman of the Commission on Human Rights, Mr. Nedbailo. I wish, however, to restate certain points in my earlier testimony, and also to select certain points for emphasis as I believe that these will be of definite interest to this Working Group and also will permit some action to be initiated.

"Conditions in prison are of almost uniform hardship and discomfort, despite the claims of the South African prison authorities and the present Government, and there is no doubt that a great deal could be done to improve them, without demanding conditions of luxury and ease. Cells are cold, the number of blankets inadequate, the food poor and often cold, and conditions generally so bleak and harsh that they are in marked contrast with both the regulations governing prison conditions in South Africa and the claims of the prison authorities.

"Two points of general import should be made and should be given special attention. The first is the total, official and severe distinction made between White and non-White prisoners, in spite of the conventions which forbid discrimination on racial grounds in prisons, conventions which the South African prison authorities claim to observe. The second is the discrimination and prejudice shown to those convicted of political offences - prisoners of conscience who have opposed race discrimination and apartheid in all or any of its forms. This discrimination too is contrary to prison conventions which the South African authorities claim to honour.

"I would like to add here an example of the discrimination against political prisoners. Shortly after we had gone to Leeuwkop prison, the political prisoners were summoned to the office of the commanding officer, and we were told that while ordinary criminal prisoners could rise from one category to another, depending on good behaviour, and would earn certain privileges after a while, the political prisoners were excluded from this system, and would not be able to move from one group to another. Since then, there have been isolated examples of political prisoners in fact, moving from category D, which is the worst, to category C or B, but generally political prisoners are denied the opportunity of rising from one group to another.

"If this Working Group and the Commission on Human Rights could give attention to these points and secure changes, then it will be a significant contribution to changing the situation of political prisoners in South Africa. In the Fort, after being sentenced, at Leeuwkop, and at Robben Island and in all the other prisons in which I happened to be, with the exception of a few days in the Pollsmoor prison, I was always required to lie on the floor, even while in the prison hospital at Robben Island for treatment. This was the lot of all the other prisoners, with the exception of a few favoured criminals, and this too is a discomfort which should be removed. But let me add that, when I say 'lie on the floor', I mean you are not allowed to lie in a bed; you were given a piece of matting so you did not lie actually on the floor, but you were not permitted to lie in a bed.

"When I travelled from the Fort to Leeuwkop, and again when travelling the thousand miles from Leeuwkop to Robben Island, I was chained to another prisoner at the wrist and ankle. Sometimes the chains and wristlets were so fastened that they caused acute discomfort and even pain, and this surely is a practice which should be abolished.

"At the Fort, at Leeuwkop and on Robben Island, I was able to witness several instances of assaults and brutality, and at Leeuwkop and Robben Island I was subjected to assaults myself. I propose to set out in some detail some of the major instances. But I should say that cuffs, blows, and swearing and insults were commonplace and that the political prisoners were not merely exposed to this as part of the groups of general criminal prisoners, but that they were very often specially singled out for them.

"Among assaults practised on others, I wish to refer to the general assault conducted on Robben Island on the day after our arrival there in March 1964, when a group of political prisoners - chief among them being Andrew Masekela - were assaulted under what was known as a 'carry-on', an instruction by an officer for the warders to strike the group at random and at will. This particular 'carry-on' was subsequently the subject of a civil action in the courts, so that it will be easy to establish the facts of this matter.

"It is also worth recalling the case of a young political prisoner who was confined for a short while in a cell near mine. At this time, I was being kept in the so-called segregation block. He had been repeatedly assaulted for refusing to consent to homosexual intercourse with criminal prisoners. At the time I saw him, he was receiving treatment for alleged insanity; he was certainly behaving abnormally and had periods of raving. I had no way of knowing what became of him after he was removed on a stretcher.

"At Leeuwkop, beatings were a daily occurrence, but they were not serious and were almost part of the routine. This is borne out by the fact that when I tried to prove that prisoners in my cell had been assaulted by referring to the blood-stains on their shirts, I was told by the chief warder that all the shirts had blood-stains in that prison. It was not sufficient proof to refer to

the blood-stains. But there were specially vicious assaults directed at the political prisoners as well, and I must make special mention of those by a young warder called /inaudible - sounds like Creel/, who not only had a special hostility for the political prisoners, but also had a special hostility directed against me. It was on his order that I was compelled to run with a group of prisoners in my cell and made to continue until I collapsed from exhaustion. The fact that I pointed out that I had not yet fully recovered from the effects of my bullet injury was ignored. The doctor - and I found the doctors consistently unsympathetic to political prisoners - told me that I ought to be fit as I had been an 'Olympic man' and that he was not prepared to intervene. It is true though that the next time my group exercised I was allowed to exercise at a walking pace.

"This young warder was responsible for beating, kicking and insulting all the prisoners in my cell - there were twenty-five to thirty, the number varied - and all attempts to get these assaults stopped were unsuccessful. Complaints to the chief warder, and even to the officers, were either ignored or dismissed.

"I would like to add one specific example of the way in which this young warder would assault people. He would stand at the entrance of the cell, and then order one of the prisoners to come towards him and stand in front of him. When the prisoner approached him rather nervously, he would suddenly lash out and kick the prisoner in the genitals; he wore heavy boots almost like army boots, and he would aim at the sex organs and kick the prisoners, and of course they would have to obey him if he ordered them to come nearby. This was typical of his behaviour.

"On Robben Island, after my initial experiences, I found things somewhat better after I had been placed in the segregation section. But it is necessary that I set out fully the assaults which took place after my arrival on the Island and before I was placed in the segregation section. On the day after our arrival on Robben Island, we were taken to the administration to be issued with our clothes, etc., and then placed in a large cell. It was from this cell that we witnessed the 'carry-on' assault on the Masondo group. Shortly after this, on the same day, we were taken to a quarry to work with the Masondo group in carrying stones. While we worked there in the afternoon, we were continuously

assaulted by a group of warders; they used batons, straps of leather, and even builder's planks from the building site. We were required to carry large, heavy stones running at top speed. If we failed to do this, we were beaten, and even if we did our best we were still beaten. There were in our party most of the sixty-odd who had travelled with me from Leeuwkop, in addition to the Masondo group. At least one of our group collapsed, but he was made to rise and continue.

"In the following week, our group was made to work in a quarry on the beach on the Island, carrying rocks out of the sea, removing seaweed, and building a wall of sand and rocks. There we were again beaten all day by the warders, and also by some of the criminal prisoners who were used to control us and who were placed in charge of us. It was here that I was assaulted after I had been unable to push a wheelbarrow which had been loaded to the point where I was no longer able to push it. I was then kicked in the stomach by one of the criminal prisoners. It was as a result of this injury to my stomach that I was subsequently taken to Pollsmoor prison and Wynberg Hospital for treatment.

"After I was kicked in the stomach, I reported the matter to the hospital orderly, and subsequently I was called by Colonel /inaudible/ and also by Lieutenant Fraser to explain what had happened. I later made a formal statement on this matter, after being removed from the big cell - in what are called the sections - and being placed in the segregation section. After being placed in this segregation section, where those are usually kept who have charges pending against them, or who are regarded as specially difficult prisoners, I was able to see much less of what happened. But, after being kept in a single cell for the entire day for most of a month, I was later taken out to work in a barbed wire camp which was known as the 'Camp of the Knife-Stabbers', where I broke stones with a hammer in the company of a group of criminal prisoners, some of them guilty of murder who had been given long sentences.

"From this section I was transferred to the Pollsmoor prison after I had made repeated requests for treatment, as I was troubled by a stomach complaint.

On my return to this section towards the end of June, I found that in the adjoining single cells was a group of prisoners who had been sentenced at Rivonia, which included Nelson Mandela, Walter Sisulu, Govan Mbeki, Ahmed Kathrada, Andrew Mlangeni, Elias Matsoaledi and Raymond Mhlaba. Two days later, we were all moved to the new section of the prison which had just been completed and where I had worked at the time when we were assaulted with the Masondo group. Here we were kept in extremely cold single cells for some time, often getting no exercise. After about a month, we were put to breaking stones in the quadrangle in the centre of the section.

"For a few days we were given uniforms to mend and were photographed doing this. This picture was widely published, but immediately after the picture had been taken, we were put on to breaking stones. Later the bulk of the group in the segregation section were put to working in the lime quarry. I was kept off this work as it was ruled to be too heavy for me. Those in the quarry were still occasionally brought in for breaking stones. This was when they needed to see the prison doctor; breaking stones is regarded as comparatively light work.

"This work, both breaking stones and working in the quarry, is not merely hard. It is also sterile and dull, and I am sure that it should be possible to do more satisfying forms of work. Shortly before my time in prison had been completed, when I was hoping with considerable uncertainty to be released, I questioned prisoners on their views, and what they wished especially to be brought to the notice of the world so that it could be improved; there were two practical suggestions, which may seem trifling to the outside world, but which meant a great deal to those in prison and which I hope will be acted on. I would like to say that these must seem small points, but they are an indication of how desperately uncomfortable conditions are that prisoners could be concerned even about small points and hope that these could be improved.

"The one point referred to the wearing of short trousers or shorts by African prisoners. It is a fact that many African criminal prisoners are permitted to wear long trousers. At the same time, prisoners like Nelson Mandela are required to wear short trousers throughout the year, and when they appeal they are told that it is contrary to the regulations to allow Africans to wear long trousers, in spite of the fact that it is constantly being done. It may seem a small thing, but it is true that it is desperately cold on the Island, and this is especially felt by those in short trousers. No prisoners are, of course, issued with pajamas at any time, or underwear - the only time we ever saw pajamas was when these were issued to the tubercular prisoners for the visit of Dr. Hoffmann of the Red Cross, and they were withdrawn immediately after he left the Island. In bitterly cold and rainy weather, one of the cruelest hardships which have to be endured is that of wearing short trousers. While this sometimes happens to some of the coloured prisoners - it happened to me for a while - it happens all the time to most of the African prisoners, particularly those jailed for political offences.

"There is the further indignity that adult men should be forced to dress like boys, and indeed they are treated like boys. This is a matter that the prisoners would ask me to raise most urgently, and I sincerely trust that this Working Group will give it their energetic attention.

"A second major concern of the prisoners was the terribly poor food given to African prisoners; it is in fact bad for all non-white prisoners, but it is particularly bad for Africans who are never permitted to have bread, and who have to face a dull, boring, unpalatable and badly cooked meal of mealies or boiled maize or corn every day of their lives in prison. There are of course very much larger issues and larger demands.

"These are men who have been in prison for fighting injustice, and whose imprisonment is itself an act of injustice they passionately resent, so that nothing will content them except freedom for themselves and their country. But as something which can be done immediately to ameliorate the harsh existence they are forced to live through, I believe that these are two issues on which

they would particularly welcome attention - on the clothes permitted to African prisoners, and on the diet provided for them.

"The real significance of the diet is perhaps only seen when it is pointed out that an African prisoner, for the entire period that he is in prison - and it may be for life - is never permitted to have bread. If you were ever found in possession of it, you would instantly be punished. There are numerous instances of brutality and assault which can be easily authenticated and which should be investigated, but I believe that it is as much the over-all hardships to which the political prisoners in my country are being subjected that should receive the urgent interest and attention of the Working Group.

"In the long run, nothing will content us but the release of all political prisoners in our country, and it is our hope and belief that the activities of this Working Group, and our campaign for the release of South African political prisoners, will contribute to this goal. It is in the light of this, and in the desire to work towards this goal, that this evidence is submitted, and that whatever particulars are required by the Working Group will be supplied. I trust that it will be possible to make a material contribution to this cause.

"The terms of reference of this Working Group, as defined in resolution 2 (XXIII) adopted by the Commission on Human Rights on 6 March 1967 and published in a release from the United Nations Press Service are as follows: (1) to investigate the charges of torture and ill-treatment of prisoners, detainees or persons in police custody in South Africa; (2) receive communications and hear witnesses, and use such modalities of procedure as it may deem appropriate; (3) recommend action to be taken in concrete cases; and (4) report to the Commission on Human Rights at the earliest possible time. In the light of these instructions, I propose to submit certain suggestions for the consideration of this Working Group.

"I believe that the work of this Group would be most fruitful and beneficial to those who are in prison in South Africa for their opposition to apartheid. If the report of this Group and its recommendations were not merely

placed before the Commission on Human Rights of the United Nations, but were also placed before the International Seminar on Apartheid, Racial Discrimination and Colonialism in Southern Africa, arranged by the United Nations, which is to be held in Dar es Salaam, Tanzania, from 15 to 28 July 1967. It is essential that the activities of this Working Group receive the widest possible international publicity and attention. I believe that this would be one of the most effective procedures this Group could adopt to achieve this aim. I believe too that, in placing these findings and suggestions before the nations of the world, it is essential that the support of all the moral forces in the world, which are opposed to apartheid, should be marshalled behind the findings, recommendations and suggestions of this Working Group.

"It must be remembered that the United Nations General Assembly has already adopted resolution 1881 (XVIII), calling for the release of all political prisoners in South Africa and the cessation of all political trials. This resolution was adopted in October 1963 by the vote of 106 countries, South Africa being the only country to vote against it. The Campaign for the Release of Political Prisoners in South Africa has set itself the aim that is declared in its title, namely, it seeks the release of all political prisoners in South Africa. Since this demand is the same as that made by 106 countries of the world, it is an aim which is backed not merely by the moral force of all who are opposed to injustice and racial oppression, but also by 106 countries which voted for the resolution.

"It thus becomes a goal to be worked towards, and which is both just and feasible. It is this powerful backing which can make this Working Group a significant element in working for a change in the South African society, and the removal of apartheid. It is the knowledge that it is so powerfully backed which must sanction this Working Group in its demand to investigate the facts relating to prison conditions wherever it is necessary. This implies that the Working Group must have the right to hear testimony and investigate facts wherever it deems necessary, both inside and outside South Africa.

"It has been reported that the South African Government has already indicated that it will not admit this Working Group in order that it might conduct investigations in South Africa on prison conditions. I have also noted that, notwithstanding this decision by the South African Government, there is agreement that the Working Group should renew its request. I trust that this Working Group will persevere in this demand until it is achieved. The knowledge that the resolution for the release of all political prisoners in South Africa was backed by the overwhelming majority of the countries of the world should fortify them in this demand.

"It is my profound hope, on behalf of all in my country who are opposed to apartheid and injustice - and particularly on behalf of those who were in prison with me and who are still in prison - that the efforts of this Working Group will contribute to our aims, and particularly to the following three aims. The three aims are: the exposure of the truth, with regard to the conditions under which political prisoners are kept; radical improvements in these conditions; and, ultimately, the release of all political prisoners in South Africa, and the establishment of a free, just and democratic South Africa."

234. The CHAIRMAN thanked the witness for his clear and detailed statement and asked him to provide additional information on the "carry-on" operation he had mentioned.

235. Mr. BRUTUS: "I was told by the warders that there is a special provision in the regulations on the behaviour of the warders which is called a 'carry-on'. I was not able to establish if this is true, but they assured me that there is provision for something called a 'carry-on'. The warders told me that, under certain circumstances, the chief officer does not have to give specific commands; he merely has to say 'carry on', and this means that after that the warders are free to act. It seems to be similar to a military command to fire at will, or

something of that sort. But it means that the warders are given permission to carry on as they see fit. It seems that this regulation is designed for cases where there is a gaol break and the situation cannot be controlled. Then the warders are allowed to do as they see fit, but, in fact, it is used in prisons as permission by the chief officer for the warders to beat up the prisoners without requiring any specific instructions.

"In the case of the Masondo group, they had been brought in from the quarry for punishment. They were lined up outside the Administration Office and facing them was a line of warders, armed with batons and sticks and then Lieutenant Fraser, who was in charge of this group, simply said to the warders quietly, 'carry on', and this was the signal for the warders to start the beatings. But not all of them had batons, so they looked for the nearest weapons. There was a shed or small shanty nearby, a tool shed, where the handles of the picks were kept, and so many of the warders took the pick handles and used these to strike the prisoners until the warders were tired, when they could not go on any longer. But the one command was sufficient for the warders to assault all these prisoners."

236. Mr. JANKOVIC asked the witness whether he agreed with the observations on page 4 of the report of the World Campaign for the Relief of South African Political Prisoners, and whether he had any further observations to make with respect to the Red Cross reports.

237. Mr. BRUTUS: "There are three comments here; I would like to deal with each of them in turn. They refer to matters of fact and the first comment is to point out that even the Red Cross report itself shows that there must have been assault, because the commanding officer on Robben Island said that he had reprimanded two warders, and this is clear evidence that there had been assaults; I am in agreement with that.

"The second point refers to a further contradiction, where the South African prison authorities claim that the prisoners do not suffer from cold in the cells, while at the same time when thirty-seven prisoners were found in one cell, the commanding officer explained that the prisoners wanted to be together to keep warm. And this is a further contradiction.

"On the third point, the South African prison officials claim that they give shoes to all prisoners, but that some Africans do not want to wear shoes in prison, and this is equally false because any test at any prison would show that the prisoners, if they were asked, would say that they would be glad to have shoes. In fact, they have been refused shoes by the prison officials.

"And with all these comments, Mr. Chairman, I would like to add one more, namely that the Defence and Aid Fund has prepared a special publication exposing the inaccuracy and inadequacy of the Red Cross report and that this publication will be given to the members of the Working Group."

238. Mr. JANKOVIC said that he would welcome further information on the question of collective sanctions. The world Press had recently published an account of a person being killed to revenge the death of a policeman in South Africa. He inquired whether that was the first case of that type, or whether such collective sanctions were a common police practice in South Africa.

239. Mr. BRUTUS: "I think that there is general agreement that in instances where a policeman has been killed the number of people subsequently executed for the act, or complicity in the act, or being accessory to the act, has always been extremely high, and we are satisfied that this is one of the ways in which collective sanctions are, in fact, imposed on those who resist apartheid; even those who have been remotely connected with such an act are in fact punished for the act itself."

240. Mr. JANKOVIC asked the witness whether he could give the Working Group any information about the use of electrodes to torture prisoners.

241. Mr. BRUTUS: "I would like to refer to one case which has been publicized and which, therefore, is common knowledge, but there are other instances where the people are still in prison and they might suffer further reprisals, if they were mentioned by name, so that they would be prevented from confirming this kind of testimony.

"One case of a man who was subjected to electric shocks, the use of electrodes to torture him to give evidence, which has been widely reported, is the case of Mr. Zeph Mothupin. This case is likely to be part of the documents submitted as testimony. But I was able to see Mr. Mothupin myself when I was awaiting trial,

when he had been brought to the court in Johannesburg, after he had been subjected to torture. He was physically in extremely bad condition, he looked a wreck, he walked badly, he shambled around the place; most of the time he sat in a corner in a heap, his hair was completely grey and he was barely coherent in his speech when people tried to talk to him. I saw him again some months later, after I had been on Robben Island for some months. I happened to see him on two occasions when I was being taken for a shower from my own segregated section, where a group of political prisoners were kept. His health had recovered to some extent at that stage, but he had not yet completely recovered.

"I know of other instances of people who were tortured but who are still in prison. I would like to refer briefly to the reports I heard from them, but I would not wish to give their names. Certain young prisoners were given a treatment known as 'giving them oats'; this was to put over their heads something like a nosebag, which you put over a horse's head when you are feeding it oats. After they had had these bags put over their heads they would have electrodes attached to their body, usually on the anus or in it, and on the testicles and the penis. The machine was then switched on, and the shocks were combined with a feeling of suffocation, because of the bag which had been put over their heads. There are people who can testify to this, but it is unwise, I believe, to mention their names."

242. Mr. MARCHAND STENS reminded the Working Group that at the twenty-third session of the Commission on Human Rights, in March 1967, the representative of South Africa had stated that his Government had adopted the International Standard Minimum Rules on the Treatment of Offenders adopted by the Economic and Social Council. In putting their questions the members of the Working Group should try to determine whether that statement had been made in good faith. He asked the witness whether he could give any additional information regarding the prisoners who were said to have committed suicide because of the inhuman treatment to which they had been subjected.

243. Mr. BRUTUS: "In this regard, I am limited to what has been reported in the South African Press; I do not have any direct knowledge. The witness who will follow me, Mr. Paul Trehwela, who came out of South Africa last week, on Friday, will be able to report some information which he obtained. We have suspicions of the way in which certain people died, we have seen reports that certain people committed suicide, even while I was in prison, but I am not prepared to go on record, because I do not have sufficient information."

244. Mr. MARCHAND STENS asked the witness whether he had any first-hand information about ill-treatment of minors in South African prisons.

245. Mr. BRUTUS: "Some of the persons who were in prison with me had been sentenced because the courts assumed, or decided, that they were over eighteen. They themselves assured me that they were not yet eighteen, but they were sentenced as if they were adults. This is the only type of activity of the sort referred to by Mr. Stens that I have knowledge of; I have no direct knowledge relating to persons under eighteen, apart from these who were, in fact, punished by the prison authorities."

246. Mr. MARCHAND STENS asked the witness for further information about the periodicity of visits to prisoners by members of their families, and others, and about the receipt of mail by prisoners.

247. Mr. BRUTUS: "I would like to start by referring to the earlier important issue raised by Mr. Stens, namely the South African claim that they had adopted the International Standard Minimum Rules for the Treatment of Offenders. If it is true that South Africa has, in fact, adopted these Rules, it would be a very important claim, because the South African prison system still has racial discrimination when the International Rules forbid racial discrimination.

"The South African prison system still treats a political offender as if he was an ordinary criminal and this too is contrary to the International Rules. So if South Africa now claims that it is a signatory and has adopted all the International Rules, I think this Working Group should pay special attention to the claim and to the way in which South Africa is observing these International Rules.

"Now, on the matter of visits and letters, here again the South African system is far more severe than the International Rules. When I first went to prison I was told I would have to wait six months before I could write my first letter and I would have to wait six months before I could have my first visit. This applies to a great many prisoners. There is a category called category B where the prisoners are limited to one visit in six months and one letter in six months and almost all political prisoners are automatically placed in this category. But even if you are permitted one letter in six months and one visit in six months, it does not mean that you will, in fact, get this letter or receive this visit because the prison officials find ways of punishing you and then, once you have been punished, you forfeit all your privileges, and letters and visits are privileges. So that you may go for an entire year without either a letter or a visit. In many instances letters are received in the prison by the prison officials but they are not delivered to the prisoners and I have had my own letters destroyed instead of being posted after I had written them in prison."

248. Mr. MARCHAND STENS asked the witness whether it was true that prisoners were denied the rights of complaint and of legal recourse.

249. Mr. BRUTUS: "It is true that in most cases prisoners are prevented from laying complaints or from receiving any attention if they have grievances. It is true that the procedure exists: once a week, on Saturday, a warder goes around with a complaints book and in this book he is supposed to enter the complaints and give them to the officer who comes round every Sunday morning. But the warder, who is supposed to receive the complaints, usually just walks past the cells without writing down the complaints. In other cases, he refuses to write down the complaint after he has heard it and sometimes the very warder who has assaulted you is the warder against whom you now have to lay a complaint."

250. Mr. WALDRON-RAMSEY asked the witness how long he had been in prison, when he had left prison and how he had managed to escape.

251. Mr. BRUTUS: "My period of sentence in prison was eighteen months. In addition I spent four months awaiting trial after I had been shot, so that the total period in prison was twenty-two months. I was released from prison in July 1965 and I was then placed under house arrest and confined to my home until 1970 - five years of house arrest.

"After I had spent one year under house arrest, I was able to leave South Africa on a document called an exit permit. This is a document I signed undertaking that I would agree to leave South Africa on an invalid travel document and that I would agree to be prosecuted for travelling on an invalid travel document if I returned to South Africa. So by signing this exit permit I was able to leave the country."

252. Mr. WALDRON-RAMSEY asked whether, prior to his incarceration, Mr. Brutus had been a member of any of the political parties in the Republic of South Africa.

253. Mr. BRUTUS: "In point of fact, it would have been illegal for me to belong to any political body once I had received a banning order. I had received a banning order in October 1961, but prior to this banning order, I had belonged to an organization called The Coloured People's Congress, which was associated with the other liberation movements in the country as part of the Congress Alliance."

254. Mr. WALDRON-RAMSEY asked whether any complaint had ever been made to his superiors concerning the behaviour of the warder at Leeuwkop whom Mr. Brutus had described as being particularly vicious in his treatment of the prisoners.

255. Mr. BRUTUS: "From the very second week at Leeuwkop, after we had discovered that there was a procedure for making complaints, we brought this activity to the notice of the chief warder and of the lieutenant, who was inspecting the prison at that time. It was on this occasion that the chief warder dismissed the evidence; when we pointed to the blood stains on the shirts of the prisoners, the chief warder said, 'But all the shirts have got blood stains on them, so this is not sufficient proof.'"

256. Mr. WALDRON-RAMSEY asked whether, when the prisoners had complained, the prison authorities had made any reference to the prison regulations.

257. Mr. BRUTUS: "There was no reference made; in fact, we were not permitted to see any prison regulations or even to ask questions about them. Several months later on Robben Island one copy of the rules relating to the conduct of prisoners - not the warders - relating to the conduct of prisoners - was circulated for one day, so that you had to look at it for a few minutes and then return it. But at Leeuwkop we neither saw the standing regulations, nor was any reference made to them."

258. Mr. WALDRON-RAMSEY asked whether there had been any reference in the South African Press or in the South African courts to the bad conditions in the prisons or to the prison regulations.

259. Mr. BRUTUS: "With regard to the courts, Mr. Chairman, it seems to me that this Working Group must take account of the fact that prisoners who complain of being tortured and of making confessions under duress have no redress as far as their own case is concerned. The magistrate or the judge will hold that matters of assault have nothing to do with the case in hand, and he will simply direct that the matter be taken up in another court.

"There have been several instances where prisoners have complained of torture. I cannot think of any case where these facts were investigated to the point where warders were dismissed or punished for having been guilty of torture. And, in fact, most of the torture is practised not by the warders in the prisons, but by policemen prior to the people being sentenced.

"On the other hand, the Press has reported on various occasions instances of brutality in the prisons and the outstanding recent examples were known as the Strachan case and the warder Teron case. Both these men gave reports which we who have been in prison know are true, but both these men were taken to court, convicted of perjury and sent to prison and even the newspapers which printed the reports were exposed to police action."

260. Mr. WALDRON-RAMSEY asked whether Mr. Brutus had been subjected to any Gestapo-like methods of interrogation such as had been described by other witnesses.

261. Mr. BRUTUS: "I was subjected to various forms of unpleasantness and ill-treatment, but they were not directed at forcing me to give testimony of one

sort or another. And the fact that I had already been shot, I think, meant that, to some extent, I was protected from the normal brutalities in the prison, so that I cannot refer to any direct hardship I suffered, in order to influence me in my testimony."

262. Mr. WALDRON-RAMSEY asked whether political prisoners were kept in cells together with other prisoners and whether Mr. Brutus would agree that if a number of prisoners, including many political prisoners, were kept together in a cell they would have an opportunity to agree on certain lines of action.

263. Mr. BRUTUS: "I am afraid that this must be a rather lengthy answer, because I must examine different situations. At Leeuwkop, an entire wing of the prison - which was known as the D section - was set aside for political prisoners; they were kept in large cells and there were usually between twenty and thirty to a cell. These were all officially political prisoners, but in most cells we found one and sometimes two prisoners who claimed that they were there for political offences, but who were even ignorant of the political acts they were alleged to have knowledge of, and who could not explain the charges which had been brought against them. And so, we were satisfied that in most cases criminal informers were placed among the political prisoners.

"On Robben Island the situation was rather different. There were large cells which held about sixty prisoners each. At this time there were about 1,300 prisoners on the Island and of these 1,100 had been found guilty of political offences. So they were divided into groups of roughly sixty each, but in each group there would be four or five or more criminal prisoners who were serving life sentences for murder or rape or repeated habitual criminal acts; so that there were in each cell political prisoners, as well as criminal prisoners.

"In addition, there was this special segregation section of the prison. This section consisted of eighty-eight single cells, each of which could only hold one prisoner. It was in this section that I spent most of my sentence. I was kept in a single cell and in the cells near me were people like Nelson Mandela, and Walter Sisulu, Zeph Mothupin, Mac Maharaj, Neville Alexander, Edward Daniels, George Peake and others in single cells. But even here some of the single cells were allocated to prisoners who were serving a life sentence for criminal acts,

and these prisoners were responsible for giving us our food, or for not giving us our food on occasions, because they were in charge of the distribution of food and they were, in fact, in charge of the supply section."

264. Mr. WALDRON-RAMSEY asked whether it was true that even the worst criminal, if he happened to be White, enjoyed better treatment in prison than the most illustrious non-White imprisoned for reasons of conscience, such as Nelson Mandela.

265. Mr. BRUTUS: "It is completely true."

266. Mr. WALDRON-RAMSEY said that it had been argued, both by some of those heard by the Working Group and by others, that the systematic policy of the South African authorities of confining the entire non-White population to the Bantustans, imprisoning the major non-White political leaders and ill-treating them in prison, and openly killing the non-White population, together with the system of slave or tied labour, constituted genocide. He wondered what Mr. Brutus thought of that argument.

267. Mr. BRUTUS: "Mr. Waldron-Ramsey has put forward a series of definitions which might fit under the general term of genocide; there are, of course, other, and even wider, definitions. I, myself, am reluctant to apply the term because I think my own definition is a narrower one, but I must stress that there are certain aspects of the apartheid society and the apartheid system which although not designed to kill off people, do, in fact, kill them off. And when the people die as farm labour, or as convict labour, whether they die in the prisons or whether they die, as thousands are still dying, of starvation, of lack of food, because of the discriminatory practices and discriminatory legislation, I am satisfied that the South African apartheid régime is guilty of the killing of countless thousands of people. But I still guard myself against the use of the term genocide. I made the point, yesterday, Mr. Chairman, that I do not set out to be equipped with the knowledge of a legal expert. Perhaps a legal expert would be satisfied that this constitutes genocide. I, myself, am reluctant to use the term."

268. Mr. WALDRON-RAMSEY asked if it was correct that complaints had been made to the prison authorities about food and clothing, but that nothing had been done to improve them. If so, he wondered why Mr. Brutus thought that the South African authorities might listen to future suggestions for the improvement of conditions.

269. Mr. BRUTUS: "I should like to reply under three heads, if I may. I refer first of all to the question concerning the reaction to complaints. It is quite true that complaints have been made about food and clothing and that nothing has been done about them. But the reply of the South African prison authorities has been that it cannot change this because it is laid down in the prison regulations. Now, while the prison authorities have made that claim on the one hand, on the other hand they have reported to the Commission on Human Rights that they have accepted the International Rules and if, indeed, they have accepted the International Rules, then they are bound to revise their prison regulations. So that it seems to me that this is an issue that must be challenged. Either South Africa continues to discriminate against Africans on racial grounds, or she accepts the International Rules, which forbid discrimination on racial grounds. She cannot hold both positions. This is the first point.

"The second one I would like to sub-divide and deal, first of all, with my own personal experience. I was given a pair of shoes on Robben Island because Dr. Hoffmann was coming to visit the Island and the patients who were suffering from tuberculosis were given pajamas when Dr. Hoffmann was coming. The sick patients who slept on the floor were put into beds for the visit of Dr. Hoffmann and subsequently then were taken out of the beds again. The point I make is that where there is investigation and scrutiny they begin to amend their own system. Now, it may be that these changes are only intended to deceive the world, but if we can continue to apply pressure, I believe we can lead to some improvement.

"Then, the third point is this: we know, in fact, that certain prisoners were limited to one letter in six months and one visit in six months and other prisoners suffered from other disabilities, especially concerning attempts to study. These prisoners have had their conditions improved since we launched a campaign in Britain to expose these conditions. So the South African Government does respond to exposure and, therefore, it is worth while making this exposure."

270. Mr. WALDRON-RAMSEY pointed out that Mr. Brutus had referred to being chained to another prisoner in Robben Island and asked whether that was customary.

271. Mr. BRUTUS: "I am sorry if I have given the wrong impression. I think the text of my testimony refers to the fact that for the distance of 1,000 miles that I travelled from Leeuwkop to Robben Island, I was chained to another prisoner. In fact, after we arrived on the Island these chains were removed. Certain prisoners are kept in chains even on the Island, but this is because the South African prison regulations allow the prison officials to put chains on a man for thirty-six days if he has attempted to escape. I believe that this is also contrary to the International Rules, but I know that prisoners wear chains - very heavy ones, which they have to drag - for thirty-six days if they attempt to escape."

272. Mr. WALDRON-RAMSEY asked whether Mr. Brutus had been in prison when Dr. Hoffmann of the International Committee of the Red Cross had visited South Africa.

273. Mr. BRUTUS: "No."

274. Mr. WALDRON-RAMSEY asked whether the prisoners had been allowed to make their complaints in full to Dr. Hoffmann, and, if so, whether many had done so.

275. Mr. BRUTUS: "Some of this is reflected in Dr. Hoffmann's testimony. He called five prisoners on one occasion in the presence of a warder and four out of the five complained that they had been assaulted. And on another occasion when he called four prisoners, three out of the four complained that they had been assaulted."

"I was not able to see Dr. Hoffmann myself and I know that many prisoners were afraid to speak to him, because they thought he was a member of the secret police who was going to try and trap them into complaining, for which they would subsequently be punished. I do not think that any prisoner spoke to Dr. Hoffmann as freely as he would have wished to. This creates a real difficulty, because unless prisoners can be assured that there will not be reprisals, they will be afraid of making detailed complaints."

276. Mr. WALDRON-RAMSEY said that, in view of the systematic herding of the non-White population in South Africa into a given area, the system of spies and arrest by stealth and without any charge, the ill-treatment in prisons, the lack of recourse to appeal, and the statement by Mr. Brutus that the South African

authorities appeared to be bent upon exterminating thousands of non-White members of the population, and bearing in mind the Fascist police States which had arisen in Europe in the past, he wondered whether Mr. Brutus would describe present conditions in South Africa as those of a Fascist police State.

277. Mr. BRUTUS: "Yes, I am well content to state, because I believe this is true, that my country has become a police State where, in fact, the police are superior even to the courts and to whatever system of justice still exists and that the system of justice which is now being created enshrines power in the hands of the police. And I am satisfied that it is a current description to refer to South Africa today as a police State.

"Much will depend upon one's definition - and people have different definitions - but, for a non-White South African today, who is completely at the mercy of the police and who cannot hope for redress from the courts by appealing to a system of justice, for them, it is a police State. Any White South African, too, who dares to oppose this system of Fascism, would find himself at the mercy of a police State."

278. The CHAIRMAN asked what was the temperature in Robben Island in the winter.

279. Mr. BRUTUS: "I am not good at these figures, I am afraid. In the winter there may be snow on the mountains at Cape Town, which is within a few miles of Robben Island. The temperature on the Island tends to be somewhat more equitable, because of the influence of the sea. The current which flows past there is a cold current, so the temperature is never at freezing point, but it can be only a few degrees above this."

280. The CHAIRMAN pointed out that Mr. Brutus had testified that the prisoners were always dressed in shorts, regardless of the temperature.

He asked whether Mr. Brutus did not believe that the fact of confining approximately 80 per cent of the population of South Africa to a very small area, where there were very few resources to be exploited, was tantamount to genocide.

281. Mr. BRUTUS: "I find myself again in difficulty. My own understanding of genocide is based on my knowledge of the practice in Nazi Germany when there

was a policy of extermination by mechanical means, when there was a declared aim to exterminate an entire section of the population. The South African Government's claim is that by forcing people into Bantustans it will be giving them a greater measure of freedom than they have now. There is no openly declared aim of exterminating people. It is true that the effect of this policy has been the death of many people, and many people will die in the future, as a consequence of this policy. So it will depend on one's definition of genocide. If this is what genocide means, a political policy which attacks people and destroys their hope of living and the conditions under which they might live, then this is genocide. But, because I limit myself to a definition based on the policy in practice in Germany, under the Nazis, I, myself, am reluctant to use the term."

282. Mr. WALDRON-RAMSEY read out articles I and II of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations in 1948. Article II of that Convention defined genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group (Mr. Brutus had stated that countless thousands had died); causing serious bodily or mental harm to members of the group (Mr. Brutus had testified to the use of electrodes for torture and the "carry-on" procedure, as well as the mental disability of a prisoner); deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part (hence his own question about a Fascist police State); imposing measures intended to prevent births within the group (which would include the laws governing the movement of Africans in urban areas and preventing wives from visiting their husbands in those areas); and forcibly transferring persons of the group to another group (those reaching the age of eighteen were obliged to leave their parents). He wondered, therefore, whether a pattern of genocide did, in fact, exist in the Republic of South Africa.

283. Mr. BRUTUS: "The definition as set out in the United Nations Convention is one with which I did have some acquaintance previously, but I must confess I had not appreciated how wide its provisions are. I think that in terms of the

definition set out there, and in terms of what is happening in South Africa, the definition is applicable, if one uses this definition. I am satisfied."

284. The CHAIRMAN thanked the witness for his testimony.

E. Testimony of Mr. Paul Trehela
(London, 14 June 1967)

285. Mr. TREWHELA took the following oath: "I solemnly declare upon my honour and my conscience that I shall speak the truth, the whole truth and nothing but the truth."

286. He then made the following statement:

"My age is thirty-five.

"I was a journalist before my arrest and I am going to become a student.

"I am in a position to give evidence about the treatment of white male political prisoners in South Africa, about the conditions under which prisoners detained for ninety days were detained and about methods of torture applied by the South African security police.

"I would like to begin by telling the world about an incident which, to my knowledge, has not been made public so far and which ought to be of particularly great concern to the United Nations.

"I was released from gaol two months ago, in the middle of April, after having served a two-year sentence, most of it at a prison in Pretoria called the Local Prison. During the period March 1966 to mid-November 1966, however, several of the white male political prisoners who had previously been held at this Local Prison were transferred to another prison not very far away, called Central Prison. During this time, several other whites were sentenced for political offences, and these were sent to Local Prison.

"By the time those of us who had been sent to Central Prison were again returned to Local Prison in November 1966, there were five such white prisoners at Local Prison. Among them were Abram Fischer, a South African Q.C. who was sentenced to life imprisonment for sabotage and who has recently won the Lenin Peace Prize. Another one was Harold Strachan, who is called by us Jock Strachan, who was released from prison a couple of days ago and is now under house arrest in South Africa, and who was sentenced to eighteen months for a series of articles which he wrote exposing the prison conditions which he experienced during a previous sentence. When we arrived back in

mid-November, these two men told us that in the middle of October they had been approached by a white warder at Local Prison, whose name I will give to the Working Group, if I may, but which I would prefer not to reveal over the microphone publicly. According to Abram Fisher and Jock Strachan, this particular warder told them that the day previously a guerilla fighter, who had been arrested in South West Africa when struggling against the conditions of oppression there, and who had been arrested under conditions of 180-day detention and since transferred to Local Prison, had hanged himself in his cell.

"The warder said that the incident had taken place as follows: There were several guerillas who had been arrested and who were being detained in Local Prison. They had complained to the prison authorities that they were not being given enough exercise. The prison authorities then gave instructions to various wardens to give them exercise, a very great deal of exercise. As a result, several of these detainees - and we believe that there were about six or seven of them - were given very intensive exercise until they dropped with fatigue. When they dropped with fatigue, water was thrown over them so that they should revive, and they were made to continue until they dropped again. And it was as a result of this that one of these guerillas decided to hang himself.

"Now, we had no way of checking-up on what this warder told us. However, it is possible that he was telling the complete truth, because on a previous occasion he gave us a little bit of information which we did not have at that time and which turned out to be correct. We were inclined to take this report seriously because from our own observations we had been able to find that a section of the gaol had been set aside for various African prisoners and that on the doors of the cells there were little notes which had 'S.W.A.' written on top of them. From our experience, which was not of a continuous duration but took place from time to time, it appeared that the people in these cells spent most of the day in their cells. We assumed these to be the guerillas arrested in South West Africa. According to reports which I read in newspapers in South Africa after my release, the guerillas who had been arrested in South West Africa, an internationally mandated territory under the supervision

of the United Nations, are still under conditions of detention and have had no access whatsoever to anybody in the outside world since the time of their arrest.

"The South African Government has recently put a bill through Parliament which is called the Terrorism Act. This Act is clearly designed to execute some of these alleged guerillas when they are brought to trial. Its provisions include a death sentence for even assisting in what is described as terrorism. They include indefinite detention - not just 90 days, not just 180 days, but indefinite detention, for ever and ever, if need be. They include the possibility for arrest without a warrant by any officer of the rank of - I believe - Lieutenant-Colonel; and they include a minimum sentence of five years for conviction under this Act. The provisions of this Act will be retroactive to mid-1962, and from our experience in prison it appears that the Act is not unconnected with another incident which, as far as we knew in gaol, had also not received publicity in the world at large.

"This concerned a new 'condemned prisoner' block being built in Pretoria with vastly expanded accommodation for death-cell prisoners. While we were at Central Prison - that is, between March 1966 and November 1966 - we saw that there was a very big building project going on behind the workshops at Central Prison in Pretoria. We were in daily contact with criminal prisoners and among these were several prisoners who were working on a building site which was very near to this new building project, and they told us that this was a new 'condemned' block being built by a private contractor for the Prisons Department. They told us that there was much more room for death-cell prisoners in this prison; they told us also that there were several levels underground, with a special ventilation system, so there was no need for the prisoners accommodated underground to have access to the air through bars or anything like that.

"From what we heard from both warders and prisoners at Central Prison, where the death cells and the gallows for the whole of South Africa are at present situated, we understood that present accommodation is far too small. At present, the 'condemned' block in Central Prison occupies what is known as

the B section. There are three sections, A, B and C, and the B section leads off from a great central hall. In B-1, which is the first floor in B section, the segregation prisoners are accommodated. Directly above them are the condemned prisoners, in what is called section B-2. Figures which have been released in Parliament by the Department of Prisons have shown that consistently, year after year, more than 100 people have been hanged in South Africa every year.

"We were able to see from a notice-board [inaudible] in the great central hall that at no stage during the several months that we were in Central Prison did the number of condemned prisoners ever fall below fifty. Executions took place approximately once every two weeks. We were able to tell this because for several days before an execution the prisoners concerned - nearly always all of them Africans - would be singing in the death cells, and when the singing stopped the execution had taken place. From figures released by the Department of Prisons, it is clear that almost every one of these sentenced prisoners is an African. This corresponds with our experience, because we often saw condemned prisoners going across this hall to receive visits shortly before they were due to be executed, and they were in almost all cases African prisoners.

"According to figures which have also been released from time to time, it appears that more than fifty - and possibly now round about sixty - Africans have been sentenced to death for offences which are basically political, for crimes of political warfare. The latest to die were a batch of nine members of the Pan Africanist Congress, who were executed a couple of weeks ago for killing a white shopkeeper who was exploiting them. However, most condemned prisoners seem to be sentenced for criminal offences.

"If this Working Group is going on to Dar es Salaam, it should be possible to take the testimony of a certain Benny Turok who was a white male political prisoner held at Central Prison at the time when three men, members of the African National Congress - Wasi Nene (?), another man called Nkaba, and another called Kayega - were executed.

"Now this is one side of the picture. But South Africa is in many ways a very contradictory place, and on the other side there is the fact that, as we were told by various warders, a new prison is being built for white male political prisoners behind the present prison, called Local Prison, and which, as we were told, would have certain improved facilities. We were told by various warders that this prison would have single-cell accommodation - that is, each cell would be for one prisoner, there would be a flush toilet in each cell; there would be hot and cold water in each cell; and, as we were told, there would be facilities for listening in to a radio. These reports were confirmed to me by a warder of the rank of chief warder - in army terms, this is probably the equivalent of a warrant officer. If the Working Group wishes, I can supply his name too. If, in fact, this is true - and we did actually see building operations going on - then we would regard this as an improvement in conditions, which up till now have been bad and clearly inferior to those experienced by white criminal prisoners.

"While we were in gaol, the white political prisoners carried on a ceaseless campaign for better conditions. We managed to obtain copies of the prison regulations; I have a copy of the prison regulations, but unfortunately I did not bring it with me here. I do not know exactly when I will be able to get hold of it; but, when I do, I wonder whether the Working Group would be interested in a copy. Now we continually pointed out to the prison authorities the discrepancy between their actions and what the regulations said their actions ought to be. Our experience is that continual protests, continual struggles, continual exposing of bad conditions of maltreatment, sooner or later, after many reverses, do begin to have an effect. While there are still very grave areas of discrimination, we have been able to secure various improvements by continual struggle. We do not think that protests are hopeless, and that is why many of my colleagues who are still in gaol will be glad to know that I have been given the opportunity to testify to this Working Group. We feel that your work can be of great assistance.

"I would now like to go into some of the details of our conditions and to start off with, I would like to emphasize one or two of the points made by

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Mr. Brutus. From our experience - first, very generally - there is a very great difference between the normal prison conditions as laid down by regulations and prison procedure as it affects white prisoners, white criminal prisoners and African criminal prisoners. By law, prison conditions are worse for Africans than they are for whites. Mr. Brutus has told you about the dress, about the food, about overcrowding in cells. All this corresponds to our experience when we have had an opportunity to look into the cells of African prisoners or to look and see where African prisoners have been passing. These opportunities have been few, because it was a deliberate policy of the prison authorities to isolate the white political prisoners as much as possible from other African criminal prisoners who were in gaol at Local Prison. When the Working Group is able to receive a copy of the prison regulations, you will see a particularly clear example of this discrimination actually written into the regulations. In a way, it's a little picture of the whole prison system. There is a clause in the regulations that deals with special privileges which are granted over Christmas. This clause says that white prisoners are able to buy various sweets and they are given a sort of Christmas pudding, but for African prisoners it says that they can have a little bit of milk if it has been left over after all the whites have been provided for. Non-white prisoners are only allowed to buy a smaller tobacco ration than the whites, when indeed they reach the groups which are entitled to buy these particular provisions. This too you will find in these regulations.

"So this is the first point - that even according to the prison regulations themselves, conditions are worse for African prisoners than they are for white prisoners. The second point is that there are a whole variety of laws, generally known as the Pass Laws, which apply only to Africans and which fill the gaols with hundreds of thousands of African prisoners every year. I do not intend to go into much detail here. Mr. Brutus has already done so. However, I think the point should be made again that hundreds of thousands of African people go to gaol every year for purely administrative, technical offences - for being in an area where they shouldn't be, not having a document that they should have, not having paid their tax, not having

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paid their rent. African prisoners would be able to describe this much more effectively to you than I can. My observations simply come from the time when, with the people who were on trial with me, I was held awaiting trial at a gaol which is called the Fort in Johannesburg. While we were there we saw, day after day, great streams of African prisoners being brought into the gaol in huge great prison trucks from the courts, most of them having been charged with technical offences. It is worth pointing out that from our observation a very heavy proportion of these looked very young too.

"There is a third instance of what I think we can call statutory discrimination, and this one applies specifically to political prisoners. The present Prime Minister, Mr. Vorster, when he was Minister of Justice made various policy statements saying that it was not the policy of his department to grant remission - which is normal for prisoners of almost every category - to political prisoners. As a result Prisons Department policy, which cannot be changed by the good intentions of any particular officer or the good behaviour of any particular prisoner, is that political prisoners have to serve every day of their sentence.

"The Working Group will be able to find out the normal conditions for remission and parole from the prison regulations, which I hope to obtain shortly and hand in to the Working Group. If I remember correctly, the normal time of remission is about one third of sentence. Now last year - 1966 - was the fifth anniversary of the Republic in South Africa, and as a result an amnesty was granted to almost all prisoners except a few categories, such as those sentenced for murder and rape and excluding all political categories. What this meant was that many prisoners who were in gaol before 1966 were able to get a remission of sentence approximately a half of their time in gaol. Political prisoners got none of this. What it means in effect is that in South Africa political prisoners have had to serve twice as long in many cases as many criminal prisoners sentenced to exactly the same length of time in gaol for criminal offences. We have often spoken to prison authorities about the injustice of this - those of us who were at Local Prison - and several months before my release in April this year I wrote a letter to the present Minister of Justice, forwarding it through the Commissioner of Prisons, setting down three main areas of complaint.

The first one was this way in which, by policy, political prisoners are forced to serve much longer sentences than criminal prisoners. I have a copy of this letter, but unfortunately I do not have it with me now. I have arrived in this country only a few days ago. When I get it I would be very happy to hand it to the Working Group as well. There was a second point which I made, which we felt particularly acutely, and this concerned the question of up-grading. Up-grading was the term we used to describe the way in which prisoners were supposed by prison regulations to be able to move from one grade to another and enjoy better conditions at each stage.

"I will very briefly recapitulate the main groups and the various privileges attendant upon them. Those, too, the Working Group will find set out in full in the prison regulations. The lowest category is D category. In this category, when I first arrived in gaol immediately on being sentenced in April of 1965, the prisoner was entitled to one visit of one person every six months. A prisoner was entitled to write and receive one letter of 500 words every six months in D group. He was not allowed to buy tobacco. The second category was C category. In this category, a prisoner was entitled to receive one visit of one person every three months, and to receive one letter every three months, and he also was not entitled to receive any tobacco. The second highest category was B category, in which a prisoner was entitled to receive one visit of two people once a month, to write two letters a month, to receive a free issue of tobacco from the prison and buy a certain amount for himself from his own money in addition. The highest category is A category, which is for specially privileged prisoners. They are entitled, I think, to receive two visits a month of two people and to receive what is known as a contact visit - that is, they can sit in a room under the gaze of a warder and be present in the same room as their visitor. This is not a privilege granted to any other category of prisoners. They are also entitled, I believe, to write three letters a month, and in addition to a bigger quantity of tobacco, which they can buy for themselves, they are entitled to buy various groceries.

"When I arrived in gaol, those who were with me were immediately put into D group, as was every single white male political prisoner with whom I have ever been in contact. We all started in D group. We were all in D group for a very long time. Up-grading to C group seemed to depend mainly on length of sentence, and since I had one of the shortest sentences I was one of the first to be up-graded to C group. However, it took nine months. After approximately another seven months, I was up-graded to B group and got no further than that. As far as I know, no political prisoner of any race has got as far as A group, but what I am certain of from my own experience is that no white male political prisoners have ever got as high as the A group category. When we questioned prison authorities on whether we were entitled to move up to A category, on different occasions we received contradictory replies. I am at this stage going to introduce the name of a certain Colonel Aucamp - and this is a name which is going to crop up several times. Colonel Aucamp is a Prisons Department official who is in charge of security in all prisons in South Africa, and who acts as liaison officer between the Prisons Department and the Security Police. He was therefore the man most directly in charge of policy for political prisoners, and he is the prison official who more than anyone else must bear responsibility for bad conditions and maltreatment.

"We came into contact with Colonel Aucamp on many occasions. The last time I saw him and was able to talk to him was on 12 April, the day before my release, when he drove me from Local Prison in Pretoria to the Fort Prison, where I was eventually released. At one time this Colonel Aucamp told one of us that no political prisoner would ever be up-graded to A group because he said that we were security risks. On other occasions he said that of course it was fully possible to be upgraded to A group, but we would have to fulfil conditions. We asked, 'What conditions?'. We were told that it was for him to decide. However the first aim, for most of the white prisoners with whom I was, was not right now to get up to A group. That was reaching for the stars. It was to get upwards into the next group, and for most of them this meant moving from D into C and from C into B. The feeling was particularly

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strong and acute among those prisoners who were still in B group. By the time I left Local Prison these prisoners included Abram Fischer, who was sentenced in the middle of last year; Ronnie Ehrenstein, who was sentenced towards the end of last year; and several other prisoners who had been sentenced during the course of last year.

"During the course of 1966, however - I think it was in May - it was announced that the quota of visits and letters for prisoners in D and C categories had been doubled up, and so that instead of getting one visit every six months a D category prisoner now received one visit every three months. This concession was given round about the time when certain articles appeared in the paper. They had been written by Jock Strachan who had then been released following a three-year prison term, and they described very bad prison conditions. Those of us in gaol - criminal prisoners as well as political prisoners, as we were all in Central then - regarded this as a concession granted by the Prisons Department after they had been embarrassed by the exposé. A couple of weeks ago, after I was released from gaol, I was told that there has since been another arrangement by which D and C prisoners now get more frequent visits and letters. I have not been able to confirm this.

"In any case, this follows a long conversation that I had with this Colonel Aucamp in the journey from Local Prison to the Fort Prison the day before my release. During this journey I pointed out to Colonel Aucamp as forcefully as I could that prison grouping arrangements meant very great hardship for people who have recently sentenced, that they meant far greater hardship for people who had the longest sentences and that - at the very time when a sentenced prisoner needs to feel that he is in touch with his family - prison regulations cut him off. Aucamp replied that regulations were regulations and said that, anyway, if he received a request for a visit on compassionate grounds, he always granted it. I pointed out that, while several people had had special visits of this sort, this was very different from being entitled to regular visits and knowing that one has the opportunity of keeping up regular contact with your family. This question of being cut off from families for very long periods of time was probably the one that the prisoners with me felt most acutely. It is also an area in which political

prisoners are very clearly discriminated against, and we were able to make absolutely sure of this when we were sent to Central Prison for approximately eight months in the middle of 1966 and where we were able to talk to criminal prisoners and find out about their life in gaol.

"Prison regulations say that newly admitted prisoners should first go through a certain period of time in what is called the 'observation section', where they should be tested for their mental balance and their aptitudes. Basically this is an attempt by the prison authorities to find out the personality structure of the men with whom they are going to have to deal. Many criminal prisoners told us that they had been in the 'observation section' for about six weeks and had then immediately been transferred into C group, with more letters and visits than others were entitled to. They also pointed out that the 'observation section' had been a very grim section where a prisoner had been on his own for a very long period of time and many of them regarded this as the worst time in gaol. However, by the time we got to Central Prison there had been a change and things were slightly better. However, very few political prisoners went through this period of observation. Instead, every single one of them went straight into D group, which was usually by-passed by criminal prisoners, and we stayed there for a very long time.

"I attached to my letter to the Minister a form - a sort of schedule - which set out the names of various criminal prisoners sentenced for a very wide variety of offences ranging from minor offences right up to murder and serving sentences ranging from a very few years right up to life imprisonment; and against these details I set the length of time which they had to spend in various categories. I appended another document setting out similar information for all the white male political prisoners with whom I was in gaol; and against this information I set out the length of time which we had had to spend in the various grouping categories. From this information, which will also be available to the Working Group when I get this document, it is very clear that there is a gross discrepancy between the way in which political prisoners receive up-grading and the way in which criminal prisoners received up-grading. We found that on average criminal prisoners received

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up-grading about two or three times more speedily than political prisoners. Now, this is very important because your grouping very largely decides your whole treatment in gaol and the conditions under which you live in gaol.

"I received no reply to my letter to the Minister. On coming out of gaol, I wrote a letter to the Commissioner of Prisons, requesting an interview to discuss the various points made in this letter with him. I received no reply from him either. I discussed the whole question very thoroughly with Colonel Aucamp in this journey which I have referred to before. I told him that it was absolutely clear from very many facts that political prisoners were being discriminated against in conditions of grouping. He replied by saying that he was not going to treat us the same as criminal prisoners because our offences had been so much more serious than theirs. He said that we had offended against the security of the State and had to be punished.

"This is an interesting statement, particularly in the light of the view which is often put forward by prison officials and which was described in writing in the Department of Justice official journal called at that time, I think, Justicia (?). In this journal the prison's chaplain, a certain [several words inaudible] that prisoners come to gaol as punishment and not for punishment. Colonel Aucamp had given us the impression that the aim of the Prisons Department is to punish us for political offences. The official policy of the Prisons Department as set out in this article is that people do not come to gaol to be punished specially for what they have done. Their prison sentence is supposed to be punishment enough. There is here a very wide discrepancy between official prisons policy as it is presented to the world and the way in which political prisoners are actually treated.

"In my letter to the Minister, I brought up a third main area of complaint. This related to prison facilities which were available to criminal prisoners and which were not available to political prisoners. At Central Prison all prisoners, including the few D group prisoners that there are, are entitled to see films. They hear news over the radio, they hear music over a sort of piped music system, they see boxing matches now and again; some of

them have facilities to play soccer over weekends; some have facilities to play [inaudible]. None of these facilities was available in Local Prison to political prisoners. When we made this point to the prison authorities, they usually said that there simply were not facilities at Local Prison to make these particular facilities available to us. They did not have the electrical apparatus. They did not have the space. Our reply was: 'Then why did you bring us back here if it was not to discriminate?' It is possible that if a new prison is being built it is an attempt on the part of the Prisons Department to give political prisoners various facilities that have been denied to us before now.

"I would like now to come on to a further point, and that is the treatment which we received from warders, and one warder in particular - a certain head warder, Barney John du Preez. This warder we found to be a very mean and vindictive man, who insisted all the time on applying regulations in such a way that we would be hurt by them. A certain warder, whose name I can provide to the Working Group if the Group so desires, once spoke to one of my fellow prisoners saying that he thought this man du Preez was a psychopath and did not realize that conditions in the Prisons Department had changed from fifteen years ago when he had joined, and that you could not kick people around like you could in those days. I would like to make the point that he never actually departed from the letter of the regulations in his treatment of us. He was too careful to do that. We had many more opportunities to see our families and to see lawyers than African prisoners in Robben Island and in other gaols seemed to have had, and we were very quick to take up any injustice. However, this man du Preez followed a consistent policy of humiliation towards all of us, and towards Abram Fischer in particular. Fischer was required to undergo many indignities. For instance, when an article was to be given to him, it was not handed to him. It was thrown on the ground and he was told to come and fetch it. He was given jobs to do like sweeping a yard with a broom with no bristles in it. He was given a job cleaning the lavatory with his hands; and, when he asked for brushes to clean the lavatory, was told that there were no brushes.

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"However, there were no actual physical assaults carried out by Prisons Department officials on white political prisoners in gaol. There was, however, a consistent policy of humiliation on the part of some of them.

"Looking out of the window from my cell, I saw many assaults upon ordinary African prisoners who were not political prisoners. I reported one series of these to the major who was commanding officer in the prison. He immediately said that he was against such things and that he would stop them. However, the warder was not removed. [ins audible] - and, while it seemed that he was more careful about slapping people and pushing them around, there is no doubt that the policy of white warders receiving African prisoners into the reception yard at Local Prison is to make them feel afraid, to herd them like animals, and to drive them through section by section as if they were goods upon a factory line.

"It appears to me that, while the Prisons Department has not been an actual perpetrator of torture upon detainees, it is an accomplice in torture. I myself was arrested for ninety days in July 1964. I was detained in Local Prison, under the same du Preez who I have been describing to you. During my stay in prison I was taken by the Security Police for interrogation. I was made to stand on my feet without sleep for three days and almost three full nights. I had very short periods of rest, usually snatched when the Security Police had lost their vigilance. I was brought for another round of standing torture by the Security Police a couple of days after that, and was then required to stand for forty hours without sleep.

"I have made a statement on this subject which I do not have immediately with me. But when I get it, I would also like to hand it to the Working Group. The Prisons Department must be regarded as an accomplice in this matter, because they knew very well what the Security Police were taking us out of jail to do. Several people who were detained with me were brought back with bruises and black eyes. One man, John Harris - he was later hanged, as he told us, over the wires, with a broken jaw.

"I would like now to draw a few conclusions. The first is that, from our experience and what we heard, African political prisoners receive worse treatment than white political prisoners. The second is that African

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prisoners in general receive worse treatment than white prisoners. The third point is that white political prisoners receive worse treatment than white criminal prisoners. The fourth point is that we have found that a continual struggle, continual protests, continual indignation, do eventually begin to bring results in a small way. The fifth point is that this is still basically a very bad system - bad for criminal prisoners and even worse for political prisoners. My colleagues in gaol asked me to stress two points - first, everything should be done to improve conditions in gaol; second, everything should be done to secure the immediate release of all political prisoners.

"One final point, which I was asked to stress to the peoples of the world: please don't be afraid to protest. Don't think that protests don't have any effect. We found that every little protest helps. And don't worry about the effects of protests upon the people who are now in gaol. Only apathy really hurts us."

287. THE CHAIRMAN asked whether the witness had been imprisoned under the Suppression of Communism Act, and where he had been detained.

288. Mr. TREWHELA: "I was imprisoned as a member of the South African Communist Party. I was sentenced under the Suppression of Communism Act, but this is a very wide act, which covers not only communists, as was the case with me, but many people also who are not communists. I was taken directly to Local Prison, in which a special section had been set aside for ninety-day detainees. I was arrested at the time of a very wide series of police raids in which very many people were arrested. Various people were arrested with me, who were later tried with me and sentenced with me; and also went through torture at the same time as I did."

289. The CHAIRMAN asked whether any Africans had been arrested at the same time as the witness.

290. Mr. TREWHELA: "There were no Africans in my trial, although there were very many Africans arrested at the same time and I did see some Africans being brought in for interrogation at the same police station to which I was taken from the prison where I was detained. I was actually subject to three main spells of interrogation. The first one took place approximately three weeks after my arrest, when two security policemen came to the gaol and in a room at the gaol asked me various questions while I was standing on my feet. This, however, only took one hour.

"I was taken from the gaol by the same two security policemen and removed to the headquarters of the Security Police in Pretoria. There I was made to stand on my feet in a single room for three days and very nearly three nights with only small snatches of rest. I was then allowed to go back to Local Prison, and I was brought back at about 12 o'clock at night, brought back to my cell, and

several days after that I was again called for by Security policemen and made to go through exactly the same procedure for a period of forty hours. This time I had no sleep whatsoever. I was standing on my feet all the time."

291. The CHAIRMAN asked how long the witness had been in prison in South Africa.

292. Mr. TREWHEILA: "I was under conditions of ninety-day detention for fifty-four days. Thereafter I was an 'awaiting-trial' prisoner; my trial took a very long time - there were thirteen of us accused, and so I was awaiting trial for almost nine months. Following that, I was sentenced to two years in gaol. I was therefore in prisons for two and three quarter years."

293. The CHAIRMAN asked the witness to describe the conditions under which he had first been imprisoned.

294. Mr. TREWHEILA: "The object of the ninety-day detention - which has since been replaced by detention for 180 days and which under the new Terrorism Act can now be replaced by detention absolutely indefinitely, for ever and ever - is to cut off a suspect from everybody else in the world except his interrogators. As a result, I was entirely on my own in the cell. However, since many people had been arrested at the same time as I was arrested, they were kept in the same building, and during the time that I was given for exercise I caught a glimpse of them. However, we were not allowed to communicate and we were kept very strictly apart."

"After those in my trial were convicted, we were sent on to Local Prison. There were two sorts of cells. One was a small cell for a single person, and the size of this cell was about thirteen feet by about eight feet. There was also another sort of cell, a double cell, in which three people were accommodated. The size of this cell was about thirteen feet by seventeen feet."

295. The CHAIRMAN asked whether the witness had been subjected to any other forms of torture after the expiry of the ninety-day period.

296. Mr. TREWHEILA: "No. I was not subjected to any form of torture in prison after I had been convicted. As far as I know, no others of the white male political prisoners who were with me were actually submitted to torture in gaol after they had been convicted, but several of them were beaten up in the process

of interrogation and were brought to this gaol while they were still under ninety-day detention with bruises all over them, and one of them with a broken jaw. Many of these wounds had to be treated by the prison doctor. I myself was brought in with very swollen ankles which required treatment."

297. The CHAIRMAN asked whether he was right in understanding that the witness had been detained with certain prisoners from South West Africa.

298. Mr. TREWHELA: "I think I would like to go through this again very carefully. The position was as follows: while the majority of the white male political prisoners were at Central Prison, several whites who had been sentenced after we had been switched from Local to Central Prison were put in Local Prison. So there were a handful of white prisoners at Local Prison at the time when the majority of us were at Central Prison. In November, we were all joined together, when those of us who were at Central were moved back to join the handful of whites at Local Prison.

"Two of the white prisoners who were there, Abram Fischer and Harold Strachan - also called Jock Strachan - told us that in the middle of October, a certain warder approached them and gave them certain information. My evidence concerns what they told us concerning what they themselves had been told. So to a certain extent this is hear-say evidence; but I have given it because it seems that this is the only sort of evidence available about a matter of very great importance of particular concern to the United Nations.

"This warder told Abram Fischer and Jock Strachan that there were several detainees - African detainees - in Local Prison who had been arrested in South West Africa for carrying on a guerilla revolutionary struggle. He said that these prisoners who were detained at Local had complained that they were not getting enough exercise. An order had been issued by the prison authorities that they should be given exercise, and a lot of it - very intense exercise. As a result, they were given a very severe work-out. It was so hard on them that several of them collapsed. They had to be revived with water being thrown over them, and then the exercises continued. As a result of this, one of the men hanged himself in his cell when he was locked up. This is the story as it was told to Abram Fischer and Jock Strachan and as they told it to me."

299. The CHAIRMAN asked whether the witness could say approximately how many prisoners there had been from South West Africa.

300. Mr. TREWHELA: "From what the warder said, and from what we saw looking down a corridor in which there appeared to be prisoners housed with a little notice marked 'S.W.A.' on their doors - about six or seven prisoners.

"I am sorry that I cannot be more specific than this, but as you can imagine the prison authorities did everything to keep us away from this section."

301. The CHAIRMAN asked whether the witness could confirm his statement that hundreds of thousands of Africans were in prison.

302. Mr. TREWHELA: "What I did say is that under the pass laws, hundreds of thousands of Africans are arrested every year and go to prison. The figure has fluctuated. In some years it is about 500,000; in some years it is less than that; in some years it is more than that. I believe that the most recent figure is round about 700,000. These figures are given in the report of the Commissioner of Prisons, which is tabled in Parliament. However, they are not all in prison at the same time. The average prison population per day in South Africa is something like 76,000, of whom all but a very few thousand are Africans, and of whom the great majority are probably prisoners arrested for technical offences, serving relatively short sentences of a couple of months, six months, up to a year."

303. The CHAIRMAN asked whether it was true that a group of nine persons, who were members of the Pan Africanist Congress, had been killed in South African prisons for assassinating a white policeman.

304. Mr. TREWHELA: "This isn't quite correct. There were reports in the paper several weeks ago that nine members of the Pan Africanist Congress had been executed in gaol for killing a white storekeeper. This was an unusually large number to be executed on one day. If I remember correctly, there are facilities for hanging five or six people at one time at Central Prison. If nine were hanged on the same day, this would have meant in two batches, one after the other."

305. Mr. MARCHAND STENS said that the witness's testimony had been extremely valuable in that it showed that there was a marked contrast between the treatment of white and black prisoners.

306. Mr. WALDRON-RAMSEY asked the witness whether he had been born in South Africa and, if so, at what age he had joined the Communist Party of South Africa. Did he know of any other members of the party who had subsequently been arrested or become well-known opponents of apartheid? What specific reason had been given for his arrest in 1964?

307. Mr. TREWHELA: "I was born in South Africa. I have lived in South Africa all my life before coming here to Britain five days ago. I first became really aware of oppression in my country at the time of Sharpeville, when I was a student at the university. I was active in student politics, fighting against differential education and very inferior education in Bantu education, and joined the Congress of Democrats, which was associated with various other organizations like the African National Congress at that time. I was arrested a couple of times on minor charges, and joined the Communist Party in April of 1963, just over a year before I was arrested. I was arrested in July 1964 because, for several months previously, a police spy had been in the same group in which I was working. It was on his reports to the police that I was arrested, interrogated and finally convicted."

308. Mr. WALDRON-RAMSEY asked how the witness had been able to leave South Africa after his release from prison.

309. Mr. TREWHELA: "I was able to acquire a British passport because my grandparents were born in Britain. I came out on an exit permit such as Mr. Brutus described yesterday, which means that if I return and am caught, I go back to gaol for several years."

310. Mr. WALDRON-RAMSEY asked whether the authorities had continued to regard the witness as a security risk after his release.

311. Mr. TREWHELA: "Yes. I was served with banning orders the day that I was released from gaol which banned me for five years. Under these I was confined to the Johannesburg magistrate's district and required to report to the police once a week. I was also served with house arrest orders, which meant that I was not able to leave my parents' place, where I was staying, between the hours of 6 p.m. and 6 a.m. I was not allowed to leave the flat on Saturday afternoons or all day Sunday."

Furthermore, the banning order prevented me from entering into social intercourse. Lawyers informed me that it would be illegal for me to have, let's say, tea with any one other person.

"There were also several other clauses. I was not allowed to attend any educational institution. I was not allowed to go into any factory. I was not allowed to speak to any other banned person. I was not allowed to prepare anything for publication. And I was also not allowed to say anything about any form of government. In other words, I was completely cut off from talking about even the most remote principles of politics.

"I wish to point out that similar orders have been served upon several of my colleagues when they have been released from gaol."

312. Mr. WALDRON-RAMSEY asked what was the attitude of the opposition party and the Press in South Africa to the opponents of apartheid.

313. Mr. TREWHELA: "The main opposition party, the United Party, agrees with the Government on 95 per cent of all the legislation that goes through Parliament. This party fully supported the Government in passing this new Terrorism Act. They made a few qualifications, but of a very minor nature. There is a representative from one other party -- the Progressive Party -- in Parliament, and this is Mrs. Helen Suzman. She is the only representative of this party in Parliament. She fights the Government much more vigorously on many questions of oppressive legislation. However, the Progressive Party, like the United Party and the Nationalist Party, does not really stand for a very, very great rearrangement of the social structure in South Africa. Nevertheless, they do want fairly serious modifications within that structure. The Progressive Party supports a policy of qualified franchise which would allow a few wealthy and well-educated Africans to get the vote but which would effectively deny it to the vast majority of workers and peasants. As regards the Press, the Afrikaans Press is tied completely to the Nationalist Party; various cabinet ministers sit on the boards of Die Vaderland, Die Transvaler and other papers.

"Concerning the English Press, the bulk of it supports the United Party. A few papers, such as the Rand Daily Mail and the Evening Post support the Progressive Party. The papers supporting the Progressive Party have carried very full reports of complaints about prison conditions, complaints about torture and so on. The ideological line of these papers is a sort of Kennedy liberalism.

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"I think there are a couple of other points I ought to make. One is that Mrs. Helen Suzman, the single representative of the Progressive Party in Parliament, has asked many questions in Parliament about prison conditions. She has fought for improvement in prison conditions and by putting pressure on a minister, managed to get permission to come and see the white male political prisoners in Local Prison a total of three times during the course of my stay in gaol there. I think that she has also been to two other prisons.

"There has been pretty wide coverage of cases of torture and bad conditions in prisons in the English Press.

"I should, however, point out that the one paper that really fought against oppression and exploitation in our country, and which would have run very full details of these conditions, was banned several years ago. This was a paper called New Age. There has been no paper to take its place."

314. Mr. WALDRON-RAMSEY asked whether, in the witness's opinion, the majority of the white opponents of apartheid were English-speaking South Africans. Secondly, did the witness consider that the United Nations, by opposing apartheid, might induce the South African leaders to change their policy? Thirdly, did the witness think that a permanent body with the same mandate as the Working Group could achieve any useful results in the face of the intransigence of the present South African Government?

315. Mr. TREWHELA: "I'd like to deal with the first question first. This really amounts to the social composition of the white political prisoners. The majority are English-speaking, though several of them come from Afrikaans homes. Abram Fischer comes from an Afrikaans home; his grandfather was Prime Minister of the Orange River Colony and the second man to President Steyn at the time of the Anglo-Boer War. Marius Schoon, another white political prisoner who is doing twelve years for sabotage, comes from an Afrikaans home; his home language is Afrikaans; he went to Stellenbosch University. A third one, John Laredo, similarly comes from an Afrikaans home; his home language is also Afrikaans; and he also went to Stellenbosch. However, all three of them are very well at home in English.

"A fairly large proportion of those in gaol, possibly as many as half, are also Jewish by ethnic origin, though not necessarily in active faith.

"As far as political ideologies go, I would say that most of us were communists, though not necessarily members of the Communist Party. Several of us were former members of the Liberal Party, which also subscribes to a sort of Kennedy liberal viewpoint, although it advocates a 'one man, one vote' franchise instead of a discriminatory qualified franchise as does the Progressive Party. There were no members of the Progressive Party in gaol. Several of the people had been sentenced for sabotage; two were doing a life sentence, one twenty years, another fifteen years, several of them doing twelve years. About a third had been sentenced for activities in the Communist Party.

"There are some very remarkable people there. I have mentioned Abram Fischer, whose father was one of the leading figures in the Boer cause at the time of the South African War. When he was on the run after having escaped bail, a newspaper carried a report saying that this man could have been Prime Minister if he'd wanted to. Instead, he chose the very difficult, dangerous life of a political worker underground. There is another man whose great-grandfather was a Cabinet Minister in Rhodes' Cabinet, and there is another person in gaol who is actually related to a present Minister in the Government and who has refused to take advantage of his connexions. One of the people in Local Gaol, a young man called Raymond Eisenstein, was one of the six or seven Jewish children to come through the experience of the Warsaw Ghetto alive. He survived because his parents put him in a little bag, and he remembers the burning buildings and so on.

"I will get on to the second point now. The question, as I understand it, is: Since I have said that protests can have some effect, would it be a good idea to set up a permanent body of the United Nations to investigate conditions and make reports? I think it would be a very good idea. I don't think that the United Nations in itself can get rid of exploitation or repression in South Africa. I think that that is basically a task for the masses and people in South Africa to do themselves. I do not think that we can rely on anybody else's help to do our job for us, but I do think that by continually examining what happens, continually

exposing bad conditions, maltreatment, oppression, it is possible to make the Government feel embarrassed. I don't think that they are totally insensitive to criticism. If they were, I do not think that conditions would have improved even for white political prisoners. They were very very much worse before I got to gaol, as Mr. Benny Turok will be able to tell you in Dar es Salaam. And even Mr. Brutus, I think, made the point yesterday that there seems to have been a slight improvement even on Robben Island. Even if it is only that assaults are not so blatant, that's a good thing, and I think that a very great deal of very useful work can be done. And that is an opinion that is shared very generally by the people who were in gaol with me; it's not a hopeless task. One must not, I think, expect the United Nations to do too much, but it can do something.

"I think, though, that I must make it very, very clear that criticisms are not enough to change the very bad situation in South African gaols. African prisoners have a terrible time: they have less food, worse clothing, worse blankets, and more hard work, than white prisoners. Basically, I do not think that we will change the prison system in South Africa until we change the social system, because it is a system based upon African convict labour. Many, many of these African prisoners are hired out to farmers, and so the prisons make a certain profit out of them. There is another aspect, and that is that the prisons are continually filled by prisoners because of these pass laws, and until you get rid of the pass laws you're going to have masses of prisoners in gaol and conditions are going to be bad for them. When we asked warders why there were not improvements, why they didn't change things, why they did not make things slightly better for African prisoners, they said it was because there were too many, it would be too expensive. As long as the pass laws continue there will always be too many African prisoners in gaol in South Africa to really make conditions good for them."

316. The CHAIRMAN thanked the witness for his testimony.

F. Testimony of Miss Sylvia Neame

(London, 14 June 1967)

317. Miss NEAME took the following oath: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth, and nothing but the truth."

318. She then made the following statement:

"I am aged twenty-nine and at the time I was arrested I was a university student.

"I wish to apologize to the Working Group for not being able to prepare proper written testimony; I'm afraid I just haven't had time, as I was informed very late.

"It seems that two fairly detailed statements have already been made to the Working Group. Many of these facts I can corroborate from my own experience, but at this stage I will not take up the time of the Working Group by dealing with them but will deal with some of the highlights of my own experience and will try and cut it as short as possible.

"I was released from prison two months ago, after being held as a detainee in prison for going on three years. My experience falls under five main headings: my first detention under the ninety-day law, which was October-November 1963; my second detention under the ninety-day law, which was July-August 1964; then my 'awaiting-trial' period, which was seven and a half months, when I was charged with being a member of the Communist Party of South Africa, and during that awaiting-trial period I served a two-month sentence for escape; the fourth heading is my trial in the Eastern Cape, when I was charged with being a member of the African National Congress and Umkonto We Sizwe, which was April to August 1965, immediately after I had been sentenced in Johannesburg for being a member of the Communist Party; and the fifth heading is the twenty months I served as a hard-labour prisoner at Barberton Prison, that is August 1965 to April 1967.

"I will deal first with my first ninety days, very shortly. My first ninety days concerned the Rivonia trial, which was starting in South Africa at that time, at the end of 1963. I was arrested in October and after spending a night in a police cell I went to Pretoria Central Prison. There I was put into a cell six feet by eight feet in a hall with fifteen other cells, which were all unoccupied. I was thus completely alone. The only reading matter I was allowed was a Bible, except for my last four days, when I was allowed a book. I was kept in the cell twenty-three hours a day, and allowed an hour out for a bath and exercise. When I arrived

at the prison I was having trouble with my stomach and the doctor who saw me said I must not eat any of the gaol food as I was constantly vomiting, and that I should go on a strict diet, which he prescribed. I didn't ever see this diet in the one and a half months that I was held.

"In the first few days - the first or second day - I decided that I could not face the solitary confinement, and I thought of attempting suicide but I got out of that one by putting it off every day. I used to say one day 'Well, I'll do it tomorrow', and when tomorrow came I said I'd do it the day after. And as a result I never did commit suicide.

"My interrogations were about once a week for one to two hours; they used psychological methods in which they tried to get me to believe that I was an unbalanced person. They told me I was unbalanced because I was involved with an Indian who was standing trial at Rivonia and they told me I was a communist and I was against apartheid, and therefore I must be unbalanced. This was the sort of line they followed the whole day through my interrogations. At the end of the interrogation, one interrogator would say to the other, 'Yes, she's definitely unbalanced'.

"I wasn't allowed newspapers at all, but two newspapers came through to me in my cell, and this was obviously calculated. One newspaper, when I opened it, had a news report at the top saying, 'Allegations of torture in Pretoria Central Prison', and then followed a story in which it was alleged that one of my interrogators was ordering electric torture on some of the non-white detainees. And this was the reason why they sent this in - it was obviously to frighten me. This man, Lieutenant Swanepoel, was present when an Indian, Babla Saloojee, died under detention a little later. The other newspaper which came in had a report that unless I was released within the next few days I would lose a scholarship which I held at the University of the Witwatersrand - and this had come up during interrogations.

"Another method they used was the 'boy-girl' line. A detective was sent to see me and made certain advances to me. Eventually I asked to see a psychiatrist, as I said that the conditions under which I was living were having an effect on my mental state. But nothing happened. Eventually one day two men whom I'd never seen before came to fetch me and took me in a direction which I did not

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know and they took me to a mental institution in Pretoria and they tried to hold me there against my will. Luckily, I knew something about the law and I told them they could not keep me there unless I was certifiable, and I certainly did not agree to stay there, with the result that I was allowed to go back to gaol. They then carried a report in the newspaper in the next few days saying that I had asked to go to a mental home so that I could escape as part of a communist plot. After one and a half months, without any warning, they took me back to Johannesburg, not telling me what they were doing, and then told me to get out of the car. And that was the end of that ninety days.

"As a result of my first ninety days and the conditions there and the techniques used against me, I had to see a psychiatrist once a week until I was arrested for my second ninety days, at the beginning of July 1964.

"My second ninety days, I was two weeks at the Pretoria Central Prison and then I was with several other women. We weren't allowed to speak to each other but we were held in that same hall where I was in my first ninety days. We went on hunger strike on the basis that we would not eat until we were charged. As a result, we were separated and we all went to separate police stations and were held completely alone. One of those women went on for forty-nine days without food; another with a heart complaint went on for thirty-five days; another one for twenty-one. I was moved to Fortsburg police station in Johannesburg. Here I was put in a cell, quite a large cell, with black walls, no running water and no proper windows - the windows had no glass at all; there were about three big windows about four feet by three feet, through which the wind blew as there was no glass - and on the other side of the cell there was a big gap in the wall. The railway station was just a few yards on the other side of the wall and so my cell was constantly covered in soot. I was allowed to bathe in a metal tub in a courtyard every alternate day, and this was in the middle of the winter; it had been snowing in Johannesburg only a few weeks before. I slept on a mattress on the floor and was allowed one sheet. I was told, when I asked for a second sheet, that the Security Branch had ordered that I would only be allowed one sheet.

"One day, while I was bathing in the tub in the courtyard, the station commandant walked in. I only had a blouse on. He took no notice of this, and

walked through my cell, having a look at it. I then asked to have the station commandant charged. This was refused, and then they locked me up in my cell for two or three days without exercise - it's normal for ninety-day detainees to have an hour exercise a day.

"I was not interrogated during this ninety days; I was just held for fifty-four days. When I asked a magistrate, who is supposed to be one of the better magistrates, whether I could have a bed, he told me to remember that I was not in a luxury hotel.

"While I was there I saw about fifty to seventy non-white prisoners who were serving sentences in a police station because the gaols were so full that they could not be crammed in. They lived there in one cell without any facilities and all they were given to eat was cold pap, a sort of porridge, which was brought in a big tin container, and this they ate three times a day every day they were there.

"I did not find this ninety days as difficult as the first, as I managed to build up contacts within the police station. After fifty-four days I was brought to court and charged with being a member of the Communist Party.

"The third period is my 'awaiting-trial' period at the Fort, which is a gaol, in Johannesburg. I was there for seven and a half months. During the 'awaiting-trial' period I was held in a cell with five other women. We had very little space, and we were often locked up twenty-three hours a day for that seven and a half months.

"I also served a two-month sentence at the Fort while I was awaiting trial, for escaping. I lived in a single cell with a sanitary bucket and a bed. The food at the Fort was poor, and I just about managed to eat it. We were locked up during the week-ends for about nineteen hours, week-days we were locked up in our cells fifteen to sixteen hours. There was no library, no books at all. There was no proper work. All we had to do was clean our section, and the rest of the day we just stood around until we were locked up. There was no recreation, there was no sport. The excuse of the authorities is that this is a transit gaol, but none the less prisoners spend many months awaiting trial there - some eleven months. There were also some long-term prisoners there. One was serving a two-year sentence when I was there and another was serving a nine to fifteen-year sentence. On 12 April 1965, I was sentenced to two years' imprisonment for membership of the Communist Party.

"Ten days after I was sentenced to two years, I was waiting to be moved together with my colleagues to another gaol where we would serve our sentence, but I was suddenly told to pack my clothes and I was told I was going. I was not told where I was going and in fact they tried to give the impression that I was going to a gaol in Pretoria. I travelled in a large prison van. I was locked up in a little cubicle in front of the van with just about enough room to move my arms. I discovered that there were twenty white men at the back of the van. They were being moved from a jail outside Pretoria to Kroonstadt Gaol which is in the Free State. In this van the men, from what I could gather, were not given proper sanitary facilities with the result that they urinated in the van and I found myself in a little river in this cubicle. I had to try to raise my feet, but I could not keep them up for the whole journey. My coat, my clothes - all got soaking wet. Some of the men from the back managed to pass me a handkerchief and I tried to mop it up.

"I arrived at Kroonstadt Gaol. I discovered from signboards that I was in Kroonstadt, and still did not know why I was there. I spent a night in the Kroonstadt female gaol, which is a long-term white women's gaol, and there I saw the conditions under which normal, ordinary white women criminal prisoners live, and which I wish to compare with the conditions under which we white women political prisoners lived in Barberton.

"In this gaol - Kroonstadt - the women had their cell section. They were never at any time locked up in their cells. Even at night they were allowed out of their cells and into the courtyard. They had a separate work room to work in; they had a separate eating hall; they had a library in a separate section; they had a hospital; they had a common room, a sort of lounge; they had organized sports once a week, and during the week they worked on machines making gaol uniforms. Also within this gaol was a chapel where they went for services every Sunday.

"I was only over-night at Kroonstadt Gaol. I left at three in the morning in the same van. This time, they unlocked the little cubicle in which I was squashed, and I was allowed into the intermediate cubicle on the other side, so that I had a little more room. In the back of the van were five African women who had been sentenced to three years' imprisonment for membership of the African National

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Congress. They told me that their conditions at the Kroonstadt Gaol, where they were in the non-white gaol, were appalling, and they said they were locked up in a cell twenty-three hours a day. They were only let out for an hour a day for exercise, and this was serving a sentence.

"I had the same problem from Kroonstadt to Port Elizabeth - sitting in a pool in the front of the van. It was also extremely cold, as they only gave us one blanket each, and the Free State can be really cold in the winter - especially if you're travelling at three in the morning. The van did not have windows that could close; it had a wire mesh. So it was extremely cold. I still did not know where I was going or why. I arrived in Port Elizabeth, which I recognized when I arrived there because that was my home town. I arrived there about six in the evening. Johannesburg to Port Elizabeth must be about 1,400 miles.

"I go on to my fourth heading - Port Elizabeth Gaol, and my Humansdorp trial - that is, my second trial. Colonel Aucamp, who had accompanied me down from Johannesburg to Port Elizabeth, still gave me no reason why I was in Port Elizabeth Gaol. I was put in a cell alone in Port Elizabeth Gaol - an extremely dirty cell - and I was forced to bathe in cold water which had been standing in a bath obviously for some months, because the plug was blocked. I was kept in solitary conditions in Port Elizabeth for two months, and eventually charged the commanding officer for holding me in solitary, as according to the regulations it is illegal. The day before my case was due to come to the Supreme Court I was taken out of solitary and the woman they put with me in my cell was an alcoholic and was having hallucinations. She had been in the gaol one or two days when she was transferred to my cell, and she was transferred for obvious reasons.

"I saw the conditions of non-white prisoners in Port Elizabeth Gaol - non-white women. They were crowded into cells. It's unbelievable how many women they manage to push into one cell - with no beds, obviously; non-white women don't get beds. They were allowed one shower a week, and they were sworn at continually; I have never heard such swearing as I heard in Port Elizabeth Gaol. And they were hit with leather key straps.

"Ten days after I got to Port Elizabeth, I was served with another charge, with membership of the African National Congress and Umkonto We Sizwe, which is a sabotage organization. The man who served me with this charge was a man called

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Sergeant du Preez, about whom I would like to give more details later. He was the big man, the big Security Branch man, in the Eastern Cape responsible, he told me with pride, for sixteen hangings and numerous fabricated cases. He was responsible for the hanging of Mini, a member of the African National Congress.

"My trial was held fifty-eight miles away from Port Elizabeth, in a small village, a place called Humansdorp. I had to travel every single day while my trial was on, for three months, fifty-eight miles to court and fifty-eight miles back. The case was held in this court because they held that witnesses would be interfered with if they held it in the city, but to me, who went through a fabricated case, and to many others, it was quite clear why they held it in a village far away from any city. No member of the public was allowed into the court. State witnesses' names could not be mentioned in the newspapers. I had a man standing behind me, about two feet behind me, with a sten gun, in the court.

"I wish to hand in two documents, one called The Purge of the Eastern Cape, which is about the trials that were going on in the Eastern Cape, the fabricated evidence, and my trial is dealt with in there; and I would also like to hand in another document called The Case of Miss Sylvia Neame, which also deals with that case.

"I just wish to give a few details of that case. I was supposed to have addressed a meeting of the African National Congress at the beginning of 1961 and to have told them that they must use a policy of violence, that the time had come to an end when they could use peaceful methods. One of the witnesses who said he was at the meeting, one of the State witnesses, we later discovered, who gave evidence of that meeting and said I was there - had never been present at that meeting at all. He had got out of politics one year before this meeting.

"Another man, a prisoner - and prisoners are in a very good position for the Security Branch to threaten them if they don't give evidence - he was a prisoner serving a sentence on Robben Island, a man called [inaudible] - was sentenced for eighteen months for this meeting, and he came to the court to say that I was there at this meeting, but in fact he himself was not at the meeting although he served eighteen months for it. Another witness called by the State had never been at the meeting, but he refused to give evidence.

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"It seemed that a meeting was in fact, held but only certain people were there. It was noticeable in this case that all the witnesses were wearing very smart clothes. One man brought from Robben Island came into the box with rather old clothes. The following day he was extremely smartly dressed and, when asked by the defence where he had got his clothes, he said he had got them from the investigating office in my case - this man Sergeant du Preez. Evidence had obviously been learned off by heart. Witnesses corroborated each other in such enormous detail that it was quite impossible. My brother, who was allowed into the court for the trial with special permission - he teaches at Rhodes University, Grahamstown - heard Sergeant du Preez, the investigating officer, pointing me out to one of the witnesses as he came into the court.. And in this box this man naturally was able to identify me.

"I was sentenced to four years at this trial. Sergeant du Preez told me that he thought I was going to get nine years but the case started cracking up, and so they were only able to give me four.

"I was sentenced to four years at about 7.30 in the evening at this place fifty-eight miles from Port Elizabeth. I then had six years - four years from this case and two years from my case in Johannesburg. All in all, I had been standing trial for just under a year, for eleven months, by the time this case was ended. At 7.30 I was put in a police cell in Humansdorp and I tried to get some sleep on a bench in the cell, and eventually I was called for at ten at night by Sergeant du Preez, Sergeant Bauer (?) who was his Security Branch colleague, a uniformed policeman called Sergeant Boas (?) and a matron who had accompanied me to Humansdorp from the Port Elizabeth gaol. The first three were all extremely drunk - the two Security Branch men and the uniformed policeman. Evidently they had been celebrating their victory in my trial and the fact that the prosecutor at the end of my trial, a young man in his twenties, had been made a magistrate. They took me to a hotel and gave me drinks in Humansdorp and tried to get information from me. I thought this was interesting, as the defence had asked some of the witnesses in the box in my trial whether they had been drinking because they behaved so excitedly in the box. Sergeant du Preez admitted at that hotel, after having many drinks, that my case was fabricated; he informed me that he was going to seduce me before the night was out; he told

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me that a man called Gerald [inaudible] - who had given evidence against me in Johannesburg, and who was a spy who had infiltrated the Communist Party - had never been a Security Branch man, although the evidence given in that case in Johannesburg was that he was a member of the Security Branch. He told me that he had expected me to get nine years in my case, and he told me that orders had been given to the Port Elizabeth gaol authorities to break me by various techniques while I was standing trial but that the commanding officer was not keen on taking instructions from the Security Branch, although his subordinates were prepared to take such instructions. I realized this. I could see this from my experience in Port Elizabeth gaol.

"Sergeant du Preez told me that he was a friend of the Minister of Justice, Vorster, and that he could help me if I co-operated with him. He indicated that I could be released immediately if I co-operated with him. I arrived back at Port Elizabeth gaol at two in the morning. By that time Sergeant du Preez admitted to having had twelve whiskies. I was moved from Port Elizabeth gaol and spent a night in the death cell in Pretoria, where there was no light; they told me the light wasn't working. They gave me food, but they refused to give me any eating utensils, and I had to struggle for hours to get a sanitary bucket. I was moved from Pretoria Central to Barberton female gaol at the beginning of August 1965. I would just like to read something that I wrote on Barberton gaol, just to give an indication of what this gaol was like.

"Barberton is a little village in the Eastern Transvaal, five hours' drive from Johannesburg and about fourteen miles from the Swaziland border. It is very hot here in the summer, as it is in the sub-tropics just outside the malaria belt.

"There are three gaols outside the village - the female gaol, the men's gaol about a hundred yards away, and a farm gaol down in the valley.

"Our relations had to travel at least ten hours' drive there and back to see us. My brother had to travel nearly two thousand miles.

"When the white women political prisoners arrived in Barberton they were not allowed to speak to each other at any time of the day or night; in fact it was a sort of communal solitary confinement. In spite of the fact that the South African prison regulations - which they were not allowed to

see - specified an hour a day in the open air, they were given no exercise. They approached the authorities for exercise and were given the magnificent concession of fifteen minutes a week on a Sunday. Otherwise, from seven in the morning until about three in the afternoon, with a break of one and a half hours in the middle of the day, they stood at the washbasins in their section, washing the clothes of the men prisoners - hard canvas jackets, shorts and shirts. There was a continual stench of sweat in our section as the African men had to wear these clothes for a week before being allowed to change, and were allowed only one shower a week.

"There was also another strange smell - the smell of sulphur ointment, which came from some of the shorts. This ointment was put on the open sores of prisoners who had received cuts. Of the clothes sent to us for washing, about five pairs of shorts a week were covered with blood and ointment.

"The various wardresses with whom we came into contact over the period I was in Barberton told us proudly that the policy of Barberton gaol, the best gaol in the country, was to break prisoners. They said that all the cheekiest African prisoners in the country - all the most dangerous - were sent there, and after one day in the appalling heat of the [inaudible] lands, and with the sisal blistering their hands, the prisoners were broken in and never gave trouble again.'

"The officer commanding confirmed that the policy of his gaol was to break prisoners so that he could rebuild them. He told one of us proudly that he had a Bantu prisoner in chains. He was a good psychologist, he told us on many occasions, and he was there to rebuild our personalities so that we would leave his gaol good supporters of apartheid under the South African Government. And so the Barberton authorities carried out a planned psychological campaign against us. Many of the techniques had already been used and improved on when dealing with ninety-day detainees. I had been held under the ninety-day law for two periods, as I have said. But now they were dealing with a group of prisoners instead of a prisoner in isolation. We very rarely saw the matron in charge, but when we did she was usually on the other side of the grill at the entrance to our section, screaming like a mad woman at one of us, and then she would slam the door in our faces before we had time to speak. If we accidentally broke one

of our dishes, she accused us of sabotage. The authorities played off one prisoner against another. They threatened individual prisoners in order to obtain information about other prisoners. They promised reduction of sentence; they tried to bribe. The wardress locked up with us and in charge of us often tried to provoke us; and, if we retaliated, we risked being locked up in a solitary cell with no food. There were no outlets for anger and frustration, no emotional outlets whatsoever, and there was a planned programme of provocation. Wardresses kept on changing the instructions. One day we could talk while marching round the court-yard; the next day we were told we had not obtained permission to talk while exercising. One day we could talk in whispers while we ate; the next day we were told we were not allowed to. They kept on giving and then taking away. We asked on many occasions to see the matron in charge so that we could complain or settle some matter with her; but she did not appear. We were locked up there for days at a time, unable to make complaints because the authorities kept out of our way. We used to wait weeks, sometimes months, to receive cleaning materials to clean our section, although they were just a few yards down the passage on the other side of our grill. They treated us as if we were on the other side of the moon, and they meant to make us feel that way.

"Often, when we were discovered speaking to each other, we were accused of plotting. They tried to confuse us by giving different and conflicting explanations of the same situation on different occasions. Sometimes they tried to give us the impression that we were all going to be released before the end of our sentences - in fact, the officer commanding told us so. At other times they tried to indicate to us that only some of us would be released early. On another occasion they would indicate that everyone would have been released already if it had not been for the provocation caused by a particular trouble-maker. They gave us dates when they said we would receive something which would make us all so happy, and nothing would happen. They lied continually and with no embarrassment, from the officer commanding downwards. On many occasions they broke their own prison regulations; and, when it was pointed out to them, they told us they could do as they wished.

"To crown it all, they informed us that they were trying to rehabilitate us. We were treated like a foreign enclave within the gaol. In the gaol, apart from us seven political prisoners, there were about 230 non-white women. We were not allowed to see them, and they were not allowed to see us. We were not allowed even to catch a glimpse of another prisoner. In most gaols prisoners are to some extent integrated into the life of the gaol, but we were kept in quarantine. Only once a week, for a few minutes, were we allowed out of our section, when we went a few yards down a passage to an office to see the officer commanding. To go down this passage was a great event in our lives. Otherwise we worked, ate, slept, exercised, lived our whole lives, in the section at one end of the female gaol.

"I could cross the roofed-in parts - that is, our working, eating and sleeping section - with twenty-two of my small walking paces one way and twenty-three the other. Our self-contained courtyard, in which we were allowed for an hour a day, was twenty-one paces one way and twenty the other. And this was largely taken up with washing lines. And for fifteen, sixteen or seventeen hours a day - sometimes twenty hours a day - we were locked up in our cells, some of the cells six and a half feet by nine feet - hen houses, as the matron-in-charge described them on one occasion. And it must be remembered that people are living under these conditions for years of their lives.

"When I first complained to the officer commanding about our very confined space, he said: 'You find the space confined, do you? Well, that's what we like. When you begin to feel those four walls closing in on you, then we are pleased, because then we know your prison sentence has really begun.'

"I want to stress the fact that we worked, ate, slept, exercised, in one section, because I wish to compare it with the conditions of white criminal prisoners in Kroonstadt. I have already given details of their conditions. For the first six months in Barberton we were D-group prisoners, the lowest grade a prisoner can be. Ordinary criminal prisoners start off with B-group, with two letters and one visit a month. As D's, we were allowed one visit for half an hour in six months and one letter. We had no news from the outside world, no newspapers, no magazines, no radio. In visits, our visitors were only allowed to discuss family matters.

"Another prisoner joined us in October 1966 - that is, about five or six months after the others had arrived there. She had a two-month sentence for helping to distribute a leaflet. After three weeks under these conditions she was hysterical. She insisted that she had to get out of there. She started screaming hysterically, falling unconscious and one day was in such a wild state that she had to be given a dose to knock her out for a whole day. The officer commanding threatened to put her in a straight-jacket in a solitary cell. We could only sense by a few indications what the rest of the gaol was like - the blood on the African prisoners' shorts, which we washed; the prisoner in chains that the officer commanding told us about; the wild screams that we sometimes heard coming from the other side of the gaol; the bandage on the hand of the wardress who had just beaten a non-white prisoner; and the prisoners undergoing the breaking-in process in the heat in the [inaudible] lands and the two gun shots we heard, which killed two African prisoners instantly. There was a woman in the gaol who had a very bad ulcer and had already had one operation. She was put on spare diets for a month - she was one of the women we heard screaming.

"We fought for better conditions in the gaol. We took up every issue with every official in the gaol, and with every visitor; and in August 1966 after the others had been there about fifteen months, our conditions improved rapidly and we were reclassified to B-group - that is, the initial category for ordinary prisoners.

"The authorities indicated to us that they had not been able to break us. When I left Barberton Prison, we were getting regular exercise; we could play chess; we could play scrabble; we had a table-tennis table; we played [inaudible]; we were allowed to buy a gramophone and we were allowed to buy fashion magazines and cigarettes. But, as I have indicated, these women are still being discriminated against because they are political prisoners; they are still living in a very confined space, still very isolated, still no newspapers, no radio; they are not allowed to hear what's happening in the rest of the world. But these things we managed to get did make an enormous difference to our lives, and we were able to study, which also helped.

"There are still several prison regulations which they are breaking, which I don't think it's necessary to go into. While I want to stress the way we were

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treated for the first fifteen months we were in Barberton, it is because I think it is the aim of the authority to hold us in conditions like this. It is very difficult for them to maltreat white prisoners physically, because they feel it gets too much publicity, and so they use other techniques - psychological techniques. For instance, the white women, under ninety-day detention were never physically tortured as many non-white detainees were. They could only use psychological techniques against us, and in Barberton gaol they are using psychological techniques. And a statement was made by the Minister of Justice that political prisoners were treated like any other prisoners, when it is clear they are not; we always start as 'D' prisoners, whereas all ordinary prisoners start as 'B', so they are determined that we should go through a breaking-in process. They are also very keen to isolate us from all other prisoners, firstly because they want to make it unpleasant for us, secondly because they are afraid that we may expose what is happening to other prisoners.

"I don't want to be misunderstood when I say that white women detainees are not physically tortured, because under the 180-day detention law white women have been kept awake for days and days in an attempt to extract information from them."

319. The CHAIRMAN observed that, if the South African authorities were capable of treating a young woman with such barbarity, the treatment of male prisoners was in all probability even more barbarous.

He asked the witness to describe the circumstances in which she had made her escape.

320. Miss NEAME: "I had just come out of my second ninety days, and I'd been out about two weeks, I think, and I was being held as an 'awaiting-trial' prisoner at the Fort, and I was taken to the dentist in a car from which I made my escape, and I was recaptured after getting round the block."

321. Mr. MARCHAND STENS asked the witness if she could remember the names of the people who had gone on hunger strike with her.

322. Miss NEAME: "The woman who didn't eat for forty-nine days, the woman called Pixie Benjamin, she had been a member of the Congress of Democrats. This was an organization which was in alliance with the African National Congress, and

it had been banned. She had already served a six months' sentence before she was detained this time. Another woman who was on hunger strike - and she lasted out thirty-five days, even though she had a heart condition - was Mrs. Esther [inaudible] who is still in gaol in Barberton; she comes out in April next year. Another person who managed to stay on hunger strike for some time - she didn't eat for twenty-one days - was Sheila Weinberg, a young girl of nineteen. Her mother is now in gaol in Barberton and her father is in gaol at Pretoria Local. Several of the rest of us stayed on hunger strike for about twelve days."

Mr. WALDRON-RAMSEY said that, according to the witness' testimony, the commanding officer of the prison had on one occasion passed through the witness' cell while she was undressed and washing. After the release, had the witness complained publicly of that outrage?

Miss NEAME: "One suffers many indignities in South Africa in detention; and, when one is serving a sentence under the bad material conditions of the ninety-day law, one becomes very sensitive to these sort of things. But when I came out of my ninety days and was an 'awaiting-trial' prisoner, a thing like this seemed very small in comparison with what the non-white detainees had suffered - the torture and so on - and what the white men in my trial had suffered by having to stand for days and days. And so I felt that this sort of thing was too small to take up after I came out of detention."

The CHAIRMAN thanked the witness for her valuable testimony.

G. Testimony of Mr. Livingstone Mrwetyana
(London, 15 June 1967)

326. Mr. MRWETYANA took the following oath: "I solemnly declare upon my honour and my conscience that I shall speak the truth, the whole truth and nothing but the truth."

327. He then made the following statement:

"My age is twenty-six. I have no profession at the moment; I am still studying.

"I must point out, from the outset, that what I am to report is what I actually saw and experienced while serving my sentence in gaol in South Africa. I do not pretend to know what is going on now in the prisons. But, if I were to be told that there had been some improvements, I would very much doubt this, because of what I have personally experienced.

"What I noticed while serving my sentence was that the authorities were against any improvement for political prisoners, especially on Robben Island.

"I shall attempt now to give a brief summary of what happened in the period before my arrest. I was arrested on 4 September 1964 by two security officers in Uitenhage. On the following day, I was transferred to Cape Town to be detained under the ninety-day clause. While in detention in Cape Town, I was not allowed to communicate with anybody from outside. On 11 November 1964, I was released in order to go back to Uitenhage, but I decided to make my way to the border of South Africa and Bechuanaland. I was arrested on 15 November 1964, near a town called Tomburke. After we had had a car accident, at the time of arrest, I was bleeding through the left ear and had minor bruises as a result of the accident. The man I was travelling with incurred minor injuries too. We were then taken to Neilstrooem where, on arrival, we were told we would be moved to Pretoria the following day.

"Since my ear was still bleeding, I asked for medical attention, but the police would not listen to me.

"After two weeks' solitary confinement in Pretoria, I was transferred to Uitenhage under police escort, and in Uitenhage, on 17 December 1964, I was served with an indictment. The charges laid against me were the following: membership of the African National Congress (ANC), and furthering the aims of the ANC. On 21 December, I appeared before the magistrate in the Regional Court in Humansdorp. On the 22nd, I was found guilty and sentenced to four years' imprisonment. Four State witnesses testified against me. However, on appeal, the sentence was reduced to two years.

"From court, I was taken to the Port Elizabeth gaol. About this gaol, I can briefly mention the following: that I found evidence of physical torture on several political prisoners who were in the cells and that although we were supposed to have thirty minutes in the morning for exercise and thirty minutes in the afternoon, we in fact had less than thirty minutes the whole day. Also, we were not allowed to wear our shoes.

"We had to stand on the cement floor on our bare feet, and most of the day the mats, the blankets, and everything of ours were taken out, and the cell was left bare. On 5 January 1965, we were handcuffed and taken in the trucks to Cape Town. I must say that the trucks were fully packed, one had just to stand all the way from Port Elizabeth to Cape Town. And on the way we did not have a break at all; we didn't have any food. At the Cape Town docks, we were bundled into the hold of a ferry that transported us to Robben Island. Reception on arrival on Robben Island was pretty baffling. Afrikaans was the spoken language, and most of us did not understand it, and this was a disadvantage. A warder would shout an order once in Afrikaans and, before we knew what was happening, we would be set upon by an ever-willing group of young warders. Mr. Kleinhans and Head Warder Silli were the most vicious of the lot. I cannot say how the two of us, handcuffed together, climbed into the lorry that took us from the Island docks to the prison proper. When we got there, nobody told us to climb down. Warders began to attack and, to avoid further blows, we had just to work our way down.

"The warders greeted us with, I quote: 'You have been claiming South Africa and the Government has accordingly decided to concede and grant you the Island. I hope you will enjoy your stay. Here the motto is: "less food, less trouble".'

"Two days later, I was taken to the quarry on bare feet. The stones were sharp, and they cut deep into the flesh, but we were forced to work, and we were forced to push fully loaded wheel-barrows of sand. Three minutes before we knocked off for the day, our tickets were collected. I must explain here that tickets are little cards, identity cards, that each prisoner has, and on it is written the number of the individual prisoner. And we were soon to learn that the collection of these tickets inevitably meant punishment. When we got back to the yard, the warder who had taken our tickets brought us before the Chief Warder, and the charge was that we were idling; we had not worked the whole day. We were not given a chance to state our defence. Chief Warder Theron punished us with 'three meals'. We had to serve three meals. This means staying without food the whole day. We served the meals the following Sunday in the 'zing' section - the section that is set aside for criminals. The following Monday, I remained in the yard and we were taken - all those who remained in the yard - were taken to cells and were locked up. Later on, Chief Warder Theron came and charged us for making a noise. We were inevitably punished and given 'two meals'.

"General atmosphere of the quarry: in the quarry, prisoners toiled under Head Warder Delport's iron hand. The work itself was aimless. Sometimes we would be ordered to dig a trench at an incredibly high speed, and then when we were just about to reach the required level, we would be told to fill it up again at the same speed. On days like these, we used to know that our 'tickets would fly', as we call it colloquially. On particularly hot days, we would all be thrown into the quarry, where it was unbearably hot. Very few would remain working - grinding stones into gravel, where at least there was always a breeze from the sea.

"Whenever a warder was speaking to a prisoner, he wanted to be addressed as 'boss'! I know a few who were subsequently punished for refusing to refer to warders as 'boss'. The language that was used by the warders was very bad indeed. And 'kaffir pogo' was a very common term on the Island, and 'pogo' in fact meant a political prisoner, that is, as far as the warders were concerned.

"I would also like to mention warder Kleinhans as one of the most vicious men I have seen. He encouraged homosexuality; he used to force the young political prisoners to have sexual intercourse with the criminals. The last day I saw him he was working us in the gang near the aerodrome. At lunch-time he forced us to have our meal squatting. It was terribly cold, and all this time he was watching from afar and criminals were busy preparing fire for him.

"The Island day by day: Monday to Friday - that is, during the week - we woke up at 5.30 a.m. and had our breakfast between 6.15 and 7 a.m. Breakfast consisted of mealie-pap with no sugar, half a pint of black coffee, and half a pint of tasteless soup. By 7.15 a.m. all gangs had to be out of the yard, and most of the people who worked at the quarry were political prisoners - criminals having better jobs in town. Our lunch consisted of mealies and a half a pint of a thickish substance called [inaudible]. Supper at about 5 o'clock, and by 5.30 the cells were all locked up. As for those who were studying, they were allowed to study from 8 p.m. to 11 p.m. During week-ends, we woke up at 6 a.m. and the cells were opened at about 6.30 a.m. when the warders came to count. We were then let out for breakfast. We had our lunch at 10 a.m., and then supper hour is at 2.30 p.m.

"We were not satisfied with the food we were given. We also complained of the medical treatment at the hospital. We also complained about the condition of our beds, of our blankets. They were always full of lice, and they were dirty, and whenever a prisoner tried to wash his blankets, he would be punished if caught.

"If the officials noted that you complained regularly about conditions, they would lock you up in isolation cells. Baba Mbatyoti is one prisoner that I have in mind who was a frequent visitor to the isolation cells. At one time he had numerous 'spare diets' to serve as a result of complaining, and he was generally regarded as a trouble-maker. When a judge from the Eastern Cape visited the Island, he complained, and later on he was punished, no real reason being given for this. Of course, we knew that it was because he had complained.

"In March 1966, the atmosphere was very tense because prisoners had been complaining for so long, and their complaints had so far fallen on deaf ears.

We had a new officer in charge, Lieutenant Bosch - a very arrogant man who, just before the strike, used to boast that he had been given a medal in 1952 for controlling rebellious convicts. I remember clearly one occasion when Marcus Solomon, myself, and some other political prisoners went to complain about the food. Lieutenant Bosch said, 'Either take the food or leave it'. This was two days before the strike began. On Friday, the strike began, and it began at the quarry. Lunch-time, people did not take food; Lieutenant Bosch was called, and when he wanted to know why people were not taking food we all shouted 'Half-rations' because the food that was served was in fact very little. He left immediately afterwards, leaving strict instructions to Head Warden Delport, who was in charge of the quarry, to make us work hard.

"I shall not go into the details of what happened during the strike. These are contained in this document I am submitting, but I would all the same like to say that during the whole period of the hunger strike the political prisoners were very much disciplined. We strictly obeyed orders, so as not to give the ever-willing young warders a chance to attack. During the strike no prisoner received visitors from outside, and I was later told that during this period even the warders were not allowed to spend their leave on the mainland. Amongst the immediate victims of the strike were Gwentshe and others, who were subsequently sentenced to 'spare diets' for allegedly instigating the strike. I am not aware that, during this period, the doctor who usually visited the Island ever came. I know that many people, especially on the fifth day of the hunger strike, collapsed and were treated at the hospital, but I am sure that the doctor was not informed about the conditions at that particular time.

"On the question of study in gaol, I would like to point out that whenever prisoners go to complain, they are simply told that study in gaol is a privilege, not a right, and subsequently you, as a prisoner, cannot complain. They do also some things to discourage us from studying; I remember in Victor Verster, where I had to write my exams, we were told by the commanding officer that we would have to write our exams in the cells, and it was a very uncomfortable place, and we did in fact write our exams in the cell, and in the middle of exams I was transferred to another prison in Lady

Frere, and this actually upset me, and the following Monday I could not write. When I got to Lady Frere I found that no arrangements had been made for me to write exams. However, through the assistance of Head Warder Maree in Lady Frere prison I was able to write at a later stage.

"At Lady Frere, we found that criminal prisoners were afraid to complain, and in fact complaining was simply not done. We politicals were in fact forced to complain because of the appalling conditions we found there. Outstanding among these was the condition of the blankets. They were very filthy indeed, and full of lice. On 21 December, I was released from Lady Frere prison, and an account of what happened after my release is contained in a report on Welcome Valley, written by me, which I am afraid has not yet been published. I understand that the Defence and Aid Fund will make the report available to the members of the Working Group of the United Nations as soon as it is published. I can say about Welcome Valley at this point that all ex-political prisoners speaking Afrikaans are sent there immediately after being released. Life is pretty tough there, and most of the ex-political prisoners are banned and restricted to that area. The Government offers them work at £8.5.0 a month, out of which they are expected to feed and clothe themselves and pay rent at £1.4.0. a month.

"I would like strongly to recommend to the Working Group this suggestion: that it should try to investigate the conditions of ex-political prisoners, that is, people who have been released from jail and people who are thrown into these transit camps. I have experienced a transit camp, and I know what is going on there. We seem to be given an extra-judiciary punishment. Thank you."

328. The CHAIRMAN asked the witness what kind of physical torture he had had to endure at Port Elizabeth.

329. Mr. MRWETYANA: "Some prisoners I saw had scars at the back, and some I used to know before they were arrested had their teeth completely knocked out. They were broken; you could see that the tooth had not been extracted properly, but broken."

330. The CHAIRMAN asked whether the witness had been tortured with electrodes.

331. Mr. MRWETYANA: "No, I was not."

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332. The CHAIRMAN asked whether the witness had ever heard any talk about that kind of torture.
333. Mr. MRWETYANA: "No, I never heard any."
334. The CHAIRMAN asked how long the witness had been in prison and how long had he been on Robben Island in particular.
335. Mr. MRWETYANA: "I was in prison for two years. I was on Robben Island for about one year two months."
336. The CHAIRMAN asked whether he was right in understanding that the witness had been able to study and take examinations in prison.
337. Mr. MRWETYANA: "Yes."
338. The CHAIRMAN asked whether it was true that the witness had been able to study until 11 p.m. each night.
339. Mr. MRWETYANA: "Yes."
340. The CHAIRMAN asked whether there had been any lights in the cells.
341. Mr. MRWETYANA: "Yes, on Robben Island and in Victor Verster we had lights."
342. The CHAIRMAN asked how many prisoners there had been in one cell.
343. Mr. MRWETYANA: "I should say, roughly, about sixteen, Sir."
344. The CHAIRMAN queried the figure of sixteen.
345. Mr. MRWETYANA: "Sixty, sixty, sixty."
346. The CHAIRMAN asked whether the prisoners had had beds in that cell.
347. Mr. MRWETYANA: "No."
348. The CHAIRMAN asked whether the prisoners had had tables.
349. Mr. MRWETYANA: "In the study cells, there were some desks along the walls."
350. The CHAIRMAN asked where the witness had taken his examinations.
351. Mr. MRWETYANA: "I was taking them at University in South Africa, in fact through a correspondence course with the University of South Africa."
352. The CHAIRMAN asked whether the material for the course had reached the witness regularly in prison.
353. Mr. MRWETYANA: "It was very irregular, in fact, because sometimes library books from the University of South Africa were kept in the office

deliberately and we would be given the books just before they were due, and we could not even have a look at the books; we had to return them to the University."

354. The CHAIRMAN asked what sort of ill-treatment the witness had himself experienced, and for what reasons he had been punished.

355. Mr. MRWETYANA: "The most common ill-treatment I experienced was going without food for days at a time. I should say that on several occasions I had not committed a crime, but inevitably I would find myself being charged for sometimes refusing to say 'boss' to a warder; and I must emphasize this point, that whenever a warder had a grudge against you he would, at any time when he felt like it, take you to the Chief Warder and fabricate a crime.

356. The CHAIRMAN observed that Mr. Mrwetyana seemed to have received the most privileged treatment of all the ex-prisoners who had testified so far.

357. Mr. MRWETYANA: "I wouldn't say so."

358. The CHAIRMAN recalled that the Working Group had heard a white student witness who had not been given any opportunity to study in prison.

359. Mr. MRWETYANA: "As I have tried to emphasize, whenever we went to complain we were always told that study in gaol was a privilege, and I think the reason for allowing certain prisoners to study is to sort of enhance the image of South Africa in the world, that is, at least to give the impression that South Africa - the Government of South Africa - is generous, and liberal-minded, that it is granting privileges or rights even to 'pogos', as they call us."

360. Mr. JANKOVIC asked the witness whether he had been ill-treated in his own cell or in a separate room.

361. Mr. MRWETYANA: "They were not regular about it; they would sometimes take you to the isolation cells, and they would ill-treat you there. Sometimes they would manhandle you right in front of other prisoners. I can quote here a case of Lewin Chisholm (?), a lawyer from East London. He was manhandled by a warder called [inaudible] in front of other prisoners, and subsequently complained; but as far as I am aware the warder was never charged."

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362. Mr. JANKOVIC asked whether the witness had ever seen any Indians in prison in South Africa.
363. Mr. MRWETYANA: "On Robben Island there were some."
364. Mr. MARCHAND STENS asked the witness whether he had experienced or witnessed any collective penalties.
365. Mr. MRWETYANA: "I am not sure what he means by 'collective penalties'."
366. Mr. MARCHAND STENS explained that he meant collective punishment meted out by guards or warders under the "carry-on" system. Had the witness seen anything of that sort?
367. Mr. MRWETYANA: "No, I am afraid I never have."
368. Mr. MARCHAND STENS asked whether the witness had seen any minors in any of the prisons in which he had been held.
369. Mr. MRWETYANA: "Yes."
370. Mr. MARCHAND STENS asked whether the minors had been treated in the same way as the other prisoners.
371. Mr. MRWETYANA: "Yes."
372. Mr. MARCHAND STENS asked the witness to state whether he had been in category A, B, C or D.
373. Mr. MRWETYANA: "I started in D category. Later on, I was promoted to the C category. I left prison in the C category."
374. Mr. MARCHAND STENS asked how often the witness had been allowed to receive visits and mail.
375. Mr. MRWETYANA: "When I was in the D category, I was allowed to receive a letter once in six months, and a visit once in six months too. And in the C category, twice in six months - a visit and a letter twice in six months."

376. The CHAIRMAN asked how long the witness had remained in category D.

377. Mr. MRWETYANA: "I am not sure, but I think it was approximately nine months."

378. Mr. MARCHAND STENS asked what kind of medical care the witness had received in prison.

379. Mr. MRWETYANA: "As I have pointed out in the report, by right we were allowed to see the doctor, but it was very difficult. I remember Head Warder Fourie (?) on Robben Island who used to employ all sorts of methods to discourage people from going to see the doctor. He would sometimes take them into the showers, cold showers, before they could see the doctor, and they would go to the doctor under the threat that, if the doctor found that they were not sick, they would be punished. But people went, and I know of some people who were in fact charged and were later acquitted."

380. Mr. MARCHAND STENS asked how the witness had managed to leave South Africa and whether the authorities had facilitated his departure.

381. Mr. MRWETYANA: "I experienced quite a hard time before I could get my exit permit. In the first place, I was given a wrong form, which was called a 'temporary exit permit'. And after some time, when a representative of mine in Cape Town asked about my application in Parliament, he was told that I had replied on the wrong form. At a later stage, they then sent me the correct form. I had already missed my boat, the first boat; I was supposed to have left South Africa on 24 March."

382. Mr. WALDRON-RAMSEY asked what grounds Mr. Mrwetyana had for saying that he would very much doubt that prison conditions had changed since he had been in gaol.

383. Mr. MRWETYANA: "I made this bold assertion because of what I saw on the Island. The commanding officer during the strike did not even want to see us; he did not even come to see us and hear our complaints, and the Captain - who took the rounds for inspection on Sundays - was very bitter and used very rude language, saying that in South Africa political prisoners - or 'pogos' - would never, never have any improvements in their conditions, and that what we were doing was absolutely futile. And I also say that I would be dubious because it is very

difficult to know whether there has been a change on the Island or not. I am under the suspicion that all people who visit the Island go there at the invitation of the Government of South Africa, and surely the South African Government will not invite any people who might be impartial and who might try to expose the really nasty conditions under which prisoners live on the Island."

384. Mr. WALDRON-RAMSEY asked the witness to explain why he had not been subjected to any ill-treatment, physical or mental, as he had said in reply to the Chairman.

385. Mr. MRWETYANA: "I must say I must have interpreted the Chairman's question wrongly. By torture, I thought he meant physical torture, that is, being beaten up, and I am afraid I was never beaten up. But they use all other sorts of methods of ill-treatment and I personally was subjected to some of these. For instance, I have quoted the question of being 'given meals', being forced to starve, being manhandled by warders, being brought before the Chief Warder for refusing to say 'boss' to a warder, and being taken sometimes to the 'cooler-guts', and now I remember in 1965 I was visited by Father MacCrystal (?) from Cape Town. He was a Minister of a Methodist Church, and after the visit Lieutenant Modee (?) wanted to know what my connexion was with this white man from Cape Town. Well, I said I was a Methodist Church member, and he had come to visit me for spiritual affairs. Later, I was taken to isolation cells, since Lieutenant Modee said that he was not satisfied with what I had said."

386. Mr. WALDRON-RAMSEY asked how many years the witness had been a member of the African National Congress.

387. Mr. MRWETYANA: "Before my arrest, I had been in the ANC since 1958."

388. Mr. WALDRON-RAMSEY asked whether the witness had been very active in the ANC.

389. Mr. MRWETYANA: "I was not very active because, at the time, I was at school".

390. Mr. WALDRON-RAMSEY asked why, then, had the witness been arrested.

391. Mr. MRWETYANA: "I should say that during 1964 it would seem that the police were very much interested in locking up numerous hundreds of Africans, especially in the Eastern Cape, and many Africans fell victim to this. I do not

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deny that I took part in ANC activities; but, all the same, the evidence that was given in court against me was in fact fabricated, and I should say to some extent I was a victim of the situation in that area."

392. Mr. WALDRON-RAMSEY asked what were the particulars of the charge against the witness. Had he been charged merely as being a member of the ANC, or as being a member of the ANC and as having committed certain offences as well?

393. Mr. MRWETYANA: "There were two charges facing me: one, that I was a member of the ANC officially; and the other that I had taken part in its activities by distributing leaflets - strike leaflets - and attending meetings of the ANC."

394. Mr. WALDRON-RAMSEY asked what was false in the charge that Mr. Mrwetyana had been a member of the ANC. How could he say that that charge had been fabricated? Had he in fact distributed leaflets for the ANC?

395. Mr. MRWETYANA: "I did not deny that I was a member of the ANC before it was banned. But after the banning of the ANC, nobody was a member of the ANC because, legally, there was no ANC. True, there were some study groups and these were led by Zolan Nuane (?), a former student of Fort Hare. He was very much interested in education and because I had matriculated at [inaudible] and I could not go to University that year because of my financial position, he helped me quite a lot in coaching, and we used to go and gather round him on Sundays, and he would give a lecture on history and sociology - that is, the course he was doing at the time through Rhodes University. But when the witnesses gave evidence, they said that these meetings were ANC meetings, that these were in fact study groups of the ANC, and that in these meetings ANC policy and PAC^{11/} policy were discussed to the exclusion of any other subject of academic interest."

396. Mr. WALDRON-RAMSEY asked who had defended the witness and who had paid his lawyer's fees. Was it usual for African political prisoners to appeal against their sentences, as he had done?

397. Mr. MRWETYANA: "I was assisted by Defence and Aid Fund organization in South Africa; those are the people who financed me. And I wouldn't call my case an exceptional case; I would say I was perhaps fortunate in that I happened to know some people in Cape Town who volunteered to help me."

^{11/} Pan Africanist Congress.

"There are numerous other prisoners in gaol today who, I feel, would not be in gaol if they had had a chance or an opportunity to be defended. I know of several men from Port Elizabeth who were sentenced to four and a half years for taking part in the pass strike in Port Elizabeth in 1961. When they appealed, their sentences were reduced. I think they were reduced to nine months, I am not sure. They are now out, and some of them are scattered all over South Africa; they are being sent to the transit camps. There is another group from Cape Town who were sentenced to periods of five to six years, and then were later released on appeal in 1965."

398. Mr. WALDRON-RAMSEY asked why the witness had not been involved in the larger trials - such as the Rivonia case - which had been held at about the time of his arrest.

399. Mr. MRWETYANA: "If I understand you well, I think in fact I was caught up in this Rivonia trial - that is, our arrests were in fact the results of the Rivonia group having been arrested; the Security Police in Port Elizabeth felt that Port Elizabeth was an ANC stronghold and that somehow the people would do something."

400. Mr. WALDRON-RAMSEY asked whether the witness had first-hand evidence of warders conniving at or encouraging homosexual practices between criminals and political prisoners.

401. Mr. MRWETYANA: "To some extent, I should say, I have witnessed this. I remember criminals used to go to Warder Kleinhans; that is, criminals were more or less trusted by Kleinhans and would go to him and ask him to approach a certain young political prisoner on their behalf. If the prisoner refused, Kleinhans would fabricate a charge against that particular young prisoner, and he would eventually be taken to isolation cells and be punished on a fabricated charge. The criminals themselves would boast about this - that they had their 'boss Kleinhans', as they called him, and if anyone rejected their advances they would take him to Kleinhans, and Kleinhans would mark him, and he would inevitably fall a victim to punishment."

402. Mr. WALDRON-RAMSEY asked whether the criminals who approached Kleinhans for that purpose were African or white prisoners. Were arrangements actually made for criminals, who had approached him for that purpose, to visit their victims in the isolation cells?

403. Mr. MRWETYANA: "May I just point out that there are no Whites on Robben Island. In fact in all the prisons where I have been there were no Whites, and the criminals who were approaching young political prisoners for sexual purposes were in fact a mixture - you could have criminal Africans, criminal Indians and criminal Coloureds doing the same thing. On the question of isolation, I think I haven't made myself quite clear. The purpose - the real purpose - of taking a man to the isolation cell is to break him down. The isolation cell is where you are taken when you are punished, where you have to serve your meal. When a man comes out of that - especially a young man - he would definitely think twice before he rejected a criminal's proposal again, because he would know that inevitably he would go back to the isolation cells; he would be punished by Kleinhans."

404. The CHAIRMAN asked whether the witness could give the name of any young prisoner who had admitted participating in unnatural acts.

405. Mr. MRWETYANA: "Yes, I could give a name here. His name was Masiza Duru - and the criminal who approached him was nicknamed Bortjies. In fact, later Masiza told me that Kleinhans had proposed him on behalf of Bortjies. I want to make it clear that it was not necessary for Kleinhans to arrange a venue. There were always cells open in the yard, and criminals who were used to prison could always arrange things, and could always manoeuvre their 'girl friend' into the 'zing' section, where they would have sexual intercourse. But I wouldn't say that I actually witnessed this practice.

"I can also give the names here of people on whom criminals attempted rape. These were young political prisoners: one is Sile from East London. Another is Deek (?) from Alize (?). They were serving their meals in the 'zing' section, and it was at night, and there were some criminals who were also punished. According to their story, the criminals started making advances, and when they rejected them they started to beat them up. So they fought back, shouting of course,

and trying to attract the attention of the night guard, the night warder. The warder came and peeked through the window; he saw what was going on, but he did not take any steps to try and quell the quarrel. It was only at a very late stage that, because of the shouts and screams, he was forced to silence the criminals. Although I am not sure of this particular warder, the story I have heard about him is that he was also interested in encouraging this sort of practice. I know for a fact that the three people involved later laid a charge against these criminals, but as far as I am aware the criminals were never punished for this sort of thing. They could advance evidence to show that the criminals were trying to rape them, but this was not accepted."

406. Mr. WALDRON-RAMSEY asked the witness to explain further what exactly was meant by the term "transit camp".

407. Mr. MRWETYANA: "The concept of a transit camp should be examined against the background of what the Government of South Africa is doing. At the moment it is forcing Africans out of urban areas, and dumping them in reserve areas, in absolutely barren places, completely desolate. Most victims of this drive are old-age pensioners and what they describe as 'undesirable elements' in urban areas. They are driven to these areas. Political prisoners, when they are about to complete their sentences, are moved to an area or to a prison which is next to one of these areas; in my case, when I was released I was told to go to the chief magistrate - this happened also to many of the other political prisoners who were later released. The magistrate told me that I had in fact no choice; I had to accept the offer to go to Welcome Valley, to settle there, and to be a labourer in the quarry at £8.5.0 a month. I was later to learn that I was being in fact banned and confined to that area. Welcome Valley itself is about nine miles from an urban area, which is Queenstown, but a person who is banned and confined to Welcome Valley cannot go to Queenstown for shopping for that matter. He has to go to Lady Frere, thirty-seven miles away, and transport is poor. Indeed, it is very, very difficult for a man under these circumstances to go to Lady Frere. As I said, this is a form of extra punishment that is meted out without recourse to a court of law, because this is done by the security people

in conjunction with the magistrate. You are not formally taken to court. You are just told by security people that you have to go to Welcome Valley."

408. The CHAIRMAN thanked the witness for his testimony.

H. Testimony of Mrs. Caroline de Crespigny
(London, 15 June 1967)

409. Mrs. de CRESPIGNY took the following oath: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."

410. She then made the following statement:

"I am a British subject and a citizen of the United Kingdom. I was resident in South Africa from September 1954 until May 1966. On 8 December 1965, in the evening, without warning and without any chance to settle my domestic affairs, I was arrested and detained under the 180-day clause, as a so-called potential State witness. I would like to summarize the various aspects of this detention which, I feel, basically contravene human rights.

"One, I was charged with no offence. I was held under the 180-day clause at the Attorney-General's pleasure, in solitary confinement, without being brought before any court. I was forbidden access to a lawyer.

"Two, the purpose of my detention was to compel me by illegal means to give: (a) information and (b) evidence. At one stage, from 20 to 22 December 1965, I was interrogated for forty-eight hours by the Special Branch, deprived of sleep, subjected to brain-washing techniques and threatened with a truncheon.

"Three, I believe that the pressure of total solitary confinement, in which I spent 144 days, was, in itself, a contravention of human rights.

"Four, my house in Cape Town was bugged by means of tape recordings for one year. None of these tapes carried evidence of any illegal activities. The Security Police used this invasion of my personal privacy for psychological purposes during interrogation.

"Five, when I was arrested as a so-called potential State witness, it was in connexion with no specified case. Later I was told I had been detained

in connexion with a case which only started a month after my detention. Until that time the accused in this case had also been a 180-day detainee. The case for the prosecution, in this case, ended weeks before my release. I was detained, therefore, for a considerable period, both before and after it would have been possible for me to be brought to court as a witness.

"I think these points summarize the basic contraventions of human rights to which I was subjected and I shall be happy to answer questions on any aspect of them."

411. The CHAIRMAN asked the witness why she had been arrested.

412. Mrs. de CRESPIGNY: "I believe it was because I was an opponent of apartheid. I had been a member of the Defence and Aid Fund in South Africa. I had written journalistic pieces critical of the régime, some of which had appeared in a roneo-ed publication which was sent out to people, and I had many friends involved in politics, of whom I saw a great deal."

413. The CHAIRMAN asked the witness whether she had always lived in South Africa.

414. Mrs. de CRESPIGNY: "Since 1954."

415. The CHAIRMAN asked where she had lived before 1954.

416. Mrs. de CRESPIGNY: "In England. I am English, a British subject."

417. The CHAIRMAN asked the witness to describe the brain-washing technique to which she had been subjected.

418. Mrs. de CRESPIGNY: "Well, I believe that the Security Police seek to break you down to get you to give information to them, first by the obvious pressures that I mentioned such as depriving you of sleep, threatening you, and swearing at you, and constantly changing the interrogators in different shifts. One will come in by himself and say he feels so sorry for you and he's terrified what they are going to do to you and he only wants to help you. Then, another one will come in and threaten you. All this, combined with being kept awake and forbidden to sleep - in my case for a period of forty-eight hours - and combined with these constant shifts in the way they interrogate you from kindness to rudeness to threats of violence - this, I think, is a form of brain-washing. They

are trying to break down one's personality and I feel this should also be taken into account together with the fact that before interrogation one has been held for a considerable period - in my case for two weeks in total solitary confinement - which is a preparation for these methods of interrogation."

419. The CHAIRMAN asked whether the witness had been put in a cell alone or with other people.

420. Mrs. de CRESPIGNY: "I was in a cell alone, first in Pretoria then in Cape Town, throughout my 144 days detention."

421. The CHAIRMAN asked the witness what were the dimensions of her cell.

422. Mrs. de CRESPIGNY: "The first one, which I heard was the condemned cell, in Pretoria Penal Prison, was about 7 paces by 5, I would think, on the spur of the moment here. The second one, in Cape Town, was about the same width but about 9 paces long and about 5 paces wide."

423. The CHAIRMAN asked whether the witness had been kept in a section of the prison reserved only for women.

424. Mrs. de CRESPIGNY: "Yes, in both cases."

425. The CHAIRMAN asked whether the witness had ever been treated with brutality during her detention.

426. Mrs. de CRESPIGNY: "No, I was never treated with brutality during my interrogation. At one stage this truncheon, or baton, was brought into the cell and placed against the wall while they interrogated me, and at a later stage I was left alone with one member of the Special Branch who came very close to me and started banging this thing on the floor and hitting it against the walls while demanding that I should talk. I believed that they would hit me, but they did not do so."

427. Mr. JANKOVIC asked the witness whether she had had any opportunity, while she was in prison, to discuss the ill-treatment of prisoners with other women prisoners.

428. Mrs. de CRESPIGNY: "Well, this was very difficult because the whole aim of the solitary confinement is to keep one totally isolated from the other prisoners. In Pretoria I would hear the ward mistress shouting and screaming at the African women prisoners up and down the passages, but I was not able to speak to the other prisoners. In Cape Town I was kept in police cells, as opposed to a prison like the prison I was kept in in Pretoria. There it was a transient population consisting of people who were going to appear in court the next day, and I would hear them being brought into the other cells. On the non-White side, I would hear them being shouted at as they were brought in and, on several occasions, I heard them being hit. But, because of the solitary confinement, I was not able to communicate with other prisoners."
429. Mr. JANKOVIC asked whether the witness could give the names of any other prisoners with whom she had been in contact during her detention.
430. Mrs. de CRESPIGNY: "Well, I wasn't able to speak to any other prisoners."
431. Mr. MARCHAND STENS asked for details of the case in connexion with which the witness had been arrested. Why had it been thought that she might be able to give evidence?
432. Mrs. de CRESPIGNY: "The case was the case of Fred Carneson, which took place in Cape Town during my detention at the beginning of last year. He and his wife were extremely close friends of mine. They were banned people, so they were allowed to see only one other person at a time. Many of their former friends were also banned and they were unable to see them, so, as I was a friend of theirs who was not banned, I spent a very great deal of time with them. I had many political discussions with them. I occasionally took messages for Mr. Carneson, who was confined to the Cape Town magisterial district and, I think, because I had been so much in their company, the Special Branch thought I might have information about Mr. Carneson."
433. Mr. MARCHAND STENS asked whether mental torture had been used to induce the witness to testify against her friends, or to force her to sign a statement.

434. Mrs. de CRESPIGNY: "Yes, constantly, throughout the entire interrogation. The purpose of the interrogation was to get me to sign a statement and, after the interrogation, the Special Branch consistently visited me and informed me that if I did not give evidence they would see that I spent a long time in prison. I refused to give evidence, and they would come back again and again and say that they would get me as much as eleven years inside. These visits from the Special Branch were frequent throughout my detention."

435. Mr. MARCHAND STENS asked whether the witness had been accused of belonging to any political group, or of supporting any political ideology.

436. Mrs. de CRESPIGNY: "They constantly talked about Communists and Jews, being against the Afrikaners, because I was English - I mean, they would collect every sort of accusation to level at one. I should add that the thing about being held under the 180-day clause is that one is not charged. One is a prisoner, a detainee without being charged under this clause."

437. Mr. MARCHAND STENS asked whether the witness had asked to see a lawyer, a friend, or the British Consul, and, if so, whether her request had been granted.

438. Mrs. de CRESPIGNY: "I asked to see a lawyer, and it was refused. I was granted two business interviews with a friend of mine with whom my daughter - aged ten - was staying, one to fix up disposing of my flat and sorting out my financial affairs, the other to arrange for my daughter to go to her father in Australia, because I thought I was going to be in prison for a long time. I was allowed business visits for these two purposes. The British Consul was allowed to visit me and I complained to him at the time of my treatment. I believe that the fact that the Consul came to see me was responsible for my not being further interrogated by the methods which had been used the first time they interrogated me."

439. Mr. MARCHAND STENS asked the witness to describe the food, clothing and medical facilities in prison, and the furnishings of her prison cell. Had she had a bed and blankets?

440. Mrs. de CRESPIGNY: "I'll start with the diet. In Pretoria I had the same food as other White women prisoners, I imagine. I was not allowed to have food sent in to me from outside in Pretoria. The diet there was very, very poor, I thought. Porridge in the morning, and a piece of bread and a plate of indistinguishable mash in the middle of the day, which was always cold by the time it was brought to my cell, and bread with some jam in the evening and soup and a cup of tea.

"In Cape Town, the position was far better because friends of mine in Cape Town were allowed to send me a meal in every afternoon and so I was not dependent on the food of the gaol.

"Clothes: I was allowed to wear my own clothes. When they arrested me, I packed a suitcase and brought clothes with me to Cape Town. In Pretoria, I washed these out during my exercise period of one hour, in which I had to take exercise, have a bath and do my washing. In Cape Town I was allowed to send clothes out to be washed, through the friends who brought me food.

"Furniture: In Pretoria I had a bed with blankets and sheets. In my cell there was a small cabinet and a chair and a wash-stand with a basin and jug on it. In Cape Town there was only a bed with blankets, no sheets. But I was later allowed to have sheets sent in to me by friends. Otherwise the sole furnishings of the cell were another bed and one shelf stacked up with all the blankets for the cells.

"In connexion with the items asked for, in Cape Town I had the flu at one stage and they sent the medical officer down. He gave me some tablets, which I took, and examined me and I think he gave me some sort of penicillin or something, which was quite adequate, and some aspirin."

441. Mr. MARCHAND STENS asked whether the witness had at any time during her detention been put in a cell with another prisoner, either criminal or political.

442. Mrs. de CRESPIGNY: "During my whole detention I was never placed in a cell with another prisoner, either political or criminal. The only time I saw another prisoner was once when I was flown from Pretoria to Cape Town in an aeroplane at the same time as Fred Carneson. We were told we were not allowed to speak to each other."

443. Mr. MARCHAND STENS asked how long the witness had been forcibly prevented from sleeping during her interrogation.

444. Mrs. de CRESPIGNY: "They took me to interrogate me at lunch-time on 20 December. I had got up at about six that morning, and at lunch-time they took me to interrogate me. They interrogated me straight through to the 21st and straight through to the 22nd, when shortly after lunch they took me back to the prison; so it was approximately forty-eight hours of interrogation during which I was not allowed to sleep."

445. Mr. MARCHAND STENS asked whether the authorities had ever threatened to exert pressure on the witness' daughter or her friends.

446. Mrs. de CRESPIGNY: "No, they did not threaten to do anything to her."

447. Mr. MARCHAND STENS asked how the witness had left South Africa. Had she had any difficulty in doing so, or had she been compelled to leave?

448. Mrs. de CRESPIGNY: "When I was released from the 180-day detention, I think, actually, the authorities were most anxious for me to leave the country. They told me they were laying charges against me, charges which I am convinced would never have stood up in a court of law, under the Suppression of Communism Act, connected with articles I had written for this roneo-ed publication. One of these articles, they said, showed contempt of court in terms of the South African courts.

"The British Consul got in touch with the authorities and asked whether they would drop these charges if I was prepared to leave the country. They said 'yes' and I left the country on my British passport."

449. Mr. WALDRON-RAMSEY asked whether the witness had been charged in court or called upon to give evidence against anyone.

450. Mrs. de CRESPIGNY: "I was brought to court. They told me they were laying these charges against me. I was brought to court. I was given bail and in that week the British Consul approached the authorities and within another ten days they dropped the charges.

"As far as giving evidence was concerned, I refused consistently to give evidence. They said they would bring me to court and get me a sentence of a year, which you can get for refusing to give evidence. But, in the end, they did not call me as a witness at all."

451. Mr. JANKOVIC asked whether the witness had seen any people of Jewish or Indian origin in prison.

452. Mrs. de CRESPIGNY: "As I said before, other people belonging to these groups were in prison, but as I was in solitary confinement I didn't see them."

453. Mr. JANKOVIC asked why the witness had wanted to testify to the Working Group.

453A. Mrs. de CRESPIGNY: "I wanted to testify because I feel so very strongly about what people are undergoing in South Africa's prisons, including many friends of mine, and most particularly non-Whites, whose prison conditions are so outstandingly horrifying. And I've known people who have been tortured, and so on. In my case, I know I was not tortured, I was merely subjected to these mental pressures, but I felt that, perhaps, it would be worth while for me to tell you about the 180-day detention clause as I experienced it. Under that type of detention many non-Whites who are not in England now, who are in prison in South Africa, have been subjected to actual torture. I was in a very protected position, being a British subject in whom the Consul was interested, and so I would not be subjected to physical torture. If I, who was in such a particularly fortunate position, was still given the keeping-awake, insults and brain-washing treatment for forty-eight hours, I do feel it is confirmatory evidence that many South Africans, particularly non-White ones, are having a very much worse time than I did."

454. The CHAIRMAN thanked the witness for her testimony.

I. Testimony of Mr. Lyttleton Mngqikana
(London, 15 June 1967)

455. Mr. MNGQIKANA took the following oath: "I swear that I will speak the truth, the whole truth and nothing but the truth."

456. He then made the following statement:

"My age is twenty-eight, I hold a B.A. degree and I am a student at the moment.

"For purposes of clarification, I shall divide my testimony into five categories. That will be in respect of the prisons I have been in in South Africa.

"Firstly, I shall deal with my detention for three weeks, under the ninety-day law. On my arrest I was taken to a police station; hereafter it will be called Fleet Street police station in East London. After a thirty-minute interrogation, I was taken to the cells. I was told that I was being detained under the ninety-day clause. On being taken to the cell, I was offered some blankets and a mat. These, I must bring out, were thoroughly ragged, especially the blankets. The blankets were threadbare. Also, the same applies with the mat. One thing I noticed immediately about the blankets was the condition in which they were. The blankets were covered with dried vomit, with dried human sperm, with dried faeces, with dried blood stains. And, of course, as in no matter what sort of prisons, these blankets were full of bugs and lice.

"On the first night, I could not sleep, I couldn't tolerate the smell of these blankets. I here also wish to bring out, to draw a picture of the cell itself. In the cell there was a drainage hole, which was supposed to be used for sanitary purposes. This drainage hole was stinking, and it was in that condition for all the time I was there. Why this drain hole stank was because it could only be flushed from outside the cell by a policeman at the request of the inmates of the cell. An interesting thing about this was that one had to shout at the top of his voice to call the police to come and flush this drainage hole. Now, the flushing therefore depended on the response and on the discretion of the policeman.

"Also, I think I should make it clear that the cell blocks were about twenty to twenty-five yards away from the main police station building. Inside this cell there were six other detainees, as I came to understand. Now, I'll come to

the type of food that was given to us. For breakfast quite amazingly we were given eggs, porridge, bread and coffee. For lunch we had some beans and some meat, and usually the supper was the same as the lunch. We had no drinking water in our cell, and how we got water was through the same process as the one through which we got the toilet flushed. Therefore, we had to shout for the police to provide us with water. We had our own clothing which, in my case, I was only able to change once in the three weeks that I was under the ninety-day detention. After some time, we were allowed food from outside. With regard to the washing facilities - which were really very disgusting - we complained, we wanted to be provided with washing facilities. In response to this protest, a bucketful of water was brought into our cell with some soap, and we were told that we were going to wash in the same bucket - there were nine of us by this time - and that we were going to use the same water, the nine of us. This was really a revelation to me and a very unhygienic and inhuman thing to be subjected to. What we did throughout the three weeks of detention was sit in the cells. We were not allowed any reading material. We did request the Chief Investigating Officer for such, and this was refused. Throughout the three weeks of detention we were never allowed exercise or allowed to go out of the cell, except, in my case, when I was taken out for interrogation.

"In fairness to the investigating officer in my particular case - but, at the same time, contrary to what I was made to understand he is - I was never at any time assaulted; I was sworn at, some brutal and vulgar language was used very threateningly, but at no time was I physically assaulted. This is in reference to Detective Sergeant Card who is very popular in the Eastern Cape. He testified in the Rivonia trial. In testimony I shall have to relate some things which didn't directly affect me, things which I heard of which were done by this man Card whom the detainees subsequently charged and had convicted. I will sort of illustrate these assaults by two or three examples: one was a young boy of about eighteen or seventeen at that time, who had recently undergone an operation - appendicitis, I think it was; this young man said that seven days after the operation had taken place, he was taken by Detective Sergeant Card and his squad to some remote place, about twenty miles out of the centre of town, and there he was hung on a three branch and beaten until he fainted. To me such stories do reveal the brutality, and to me such stories are not

exaggerations; in fact, they are a statement of fact of what really happens to the African detainees under the police - under their interrogators.

"The second illustration will be one of one chap who said he was electrocuted.^{12/} He said he was sent into a room where it was said to him that he was going to meet The Captain. He supposed this machine was The Captain because, when he got to this room, there was no human captain there - only this machine, and the story goes that he was electrocuted.

"One can go on at length about this, but my point here is to show the brutalities that are perpetrated on the African detainees. It is difficult for one not to believe this, because these people are not out to discredit the South African Government, other than depicting or revealing the atrocities that have been perpetrated against them.

"After three weeks under detention we were formally charged for being members of an unlawful organization, the African National Congress or Umkonto We Sizwe, so one charge was furthering the aims of this organization and subscribing to this organization. After being charged we were taken to the East London prison, where on arrival we were made to queue in a corridor and instructed to strip off and be naked; we were a group now of about sixty, people coming from different areas or different police stations in East London. The fact that we had to strip shows to me an assault on human dignity, and that old men were subjected to the same treatment as we young people were showed a tremendous amount of disrespect on the part of the prison authorities. The whole atmosphere, as far as I judged, was dominated by the use of foul, vulgar language by the authorities on some of us and on some of the other criminals awaiting trial and prisoners as well.

"Although none of the political prisoners awaiting trial - that is, my group - was assaulted at that time, I did see some assaults perpetrated on the other group of criminals which were directly opposite us as we were standing in this corridor. One thing that sort of struck me in this was to see young boys of the age of twelve or thirteen or so also in this same

12/ Note: The reference is apparently to torture by electrodes.

prison with men of fifty, etc. It became a dominant feature of the prisons to see African prisoners being assaulted, being insulted, being slapped by either warders or the other assistants who were usually also criminal convicted prisoners. There were few occasions that I did see this, because we were in a secluded portion of the prison, but I dare say that on the few occasions that I did come across or see criminal prisoners, I did witness some assaults on them.

"The attitude of the warders, in general, in this prison was very hostile. In fact, I was once assaulted by a warder for a reason which I couldn't understand at the time of assault. I was ejected out of my cell, I was clubbed many times, and when I tried to protest and find out why I was assaulted, I was just shoved into the cell. Incidentally, I brought this up with my attorney. I related all things to him. After some conversation he dissuaded me from pursuing this, but for record purposes I did indicate to him what had happened to me.

"Assaults need not necessarily take a physical form in South African prisons. As I indicated, the fact that one is subjected to the indignity of having to strip naked in the presence of a crowd of fifty or so people is an assault in itself. Another form of assault is that of being punished without due hearing, without putting your case across, or sometimes without knowing what really you are being punished for. This became rife in this particular prison, as we insistently made demands to the authorities to grant us fair time during our visit days.

"I would like to bring to the notice of this Working Group what type of visits we had. Although the law says that we are entitled to thirty minutes visit for a period of about five months, I personally hardly had a visit - nothing more than three minutes. The reasons for this are that, firstly, there were many of us, there was a crowd of about a hundred politicals, excluding the prisoners awaiting trial on criminal charges. It meant that the authorities had to cope with about 200 or so people - within a period of two to three hours - for visits. When it was suggested to the authorities that this system could be improved in that we could be given alternate days with the criminals, this was refused under the pretext that they hadn't got time and they were not going to change the status quo in the prison.

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"One disgusting thing, besides the insults which we awaiting trial were subjected to, was also the fact that these insults were extended to our relations who visited us in the prisons. Some of them were called 'black baboons', as my mother was at one time. All these examples I am giving show that assaults needn't be physical ones. Such insults are unbearable.

"I would also like to bring out the condition of the food that we were given in these particular prisons. In the morning we got porridge, which was sometimes hardly salted or sugared; for lunch we had mealies, which was sometimes mixed with bottle and stone particles. It was difficult to eat such stuff. Sometimes it had weeds also. Now, it is apparent that these mealies were taken from a bag without being cleaned and being put into a cooking pot. In the evening we had porridge again, with vegetables and meat on alternate days. It is also remarkable that the vegetables were also covered with soil during the period I was in this particular prison. Before I finish off with this particular prison, I would like to point out that I was punished more than three times. As I indicated, I was also assaulted, but I am prepared to answer questions on how and why was I punished. Lastly, I would like to make the comment that I found this prison full of foul language. The warders were very abusive, rude and uncouth.

"The next prison I went to was in /inaudible: possibly 'Alwar Nort'/. On arriving in this particular prison, we were told to take off our shoes and were made to stand on a lawn, which was damp because it was winter time in South Africa and the time was about six o'clock. We protested against this type of treatment and the man in charge assured us that he wouldn't do it again and that he would keep our shoes safe. In fact, we objected to the fact that our shoes were left in the open. After he had made this assurance that the shoes would be kept in a safe place, the following day we got up and found our shoes dumped in an open space. We thereupon decided that we were not going to co-operate with him, we were going to put our shoes on. In fact, the thing went the way we wanted it to.

"The food was virtually the same as in the previous prison. We were entitled also, because we were still awaiting trial, to visits twice a week.

But I had only one visit. After I had been released I was given to understand that attempts were made to visit me, but the prison officials were instructed not to give us any more visits.

"One significant thing about the visit I had is that for the first time I and my visitor were instructed to speak in one of the South African languages - English or Afrikaans. This was threateningly said, and the condition of the visit was: 'Either abide by the instructions or otherwise the visit will be cancelled.' The state and the attitude of warders was still one of hostility, still one of being abusive, rude. I will not dwell on my trial, which took place at this time.

"On being convicted we were later transferred to Bloemfontein - I won't say much about Bloemfontein, because I only stayed there for three days. But I'll say something about Kroonstad, where I served a month's sentence. The daily routine in Kroonstad was one of getting up at about 5.30 in the morning and having breakfast at seven, lunch at twelve and dinner at about four. The food in Kroonstad was not far different from the other prisons, but now, for the first time, we were given what I would call the normal prison treatment that is given to Africans. Our cell block was about 150 yards from the kitchen where we used to get food. Every day, in the morning, on leaving our cells, we were made to run this distance of 150 yards - literally, we were chased like sheep. On arriving at the kitchen, again we were subjected to some form of ill-treatment. There was a special warder standing opposite to where we had our food who used to pass remarks or slapped prisoners as they passed. Assaults were very frequent in this kitchen. Firstly, I suppose it's because even some of my co-politicals were assaulted, some of them for stealing plates of food, and this can only be justified, or can be explained by the fact that these people were being underfed. The condition of the kitchen itself was very dirty, and the food was unappetizing and inedible."

457. The CHAIRMAN asked whether the witness had been beaten at that prison.

458. Mr. MNGQIKANA: "Yes, I was."

459. The CHAIRMAN asked with what the witness had been beaten.
460. Mr. MNGQIKANA: "By hand."
461. The CHAIRMAN asked whether the witness had himself been subjected to torture by electrodes.
462. Mr. MNGQIKANA: "I was never subjected to electrodes."
463. The CHAIRMAN asked whether the witness had been among the young political prisoners.
464. Mr. MNGQIKANA: "Yes, I was."
465. The CHAIRMAN asked the witness whether, to his knowledge, young political prisoners had been required to have unnatural relations with criminals.
466. Mr. MNGQIKANA: "Well, not to my knowledge, at this particular prison."
467. The CHAIRMAN asked whether there had been unnatural relations between prisoners in other prisons.
468. Mr. MNGQIKANA: "Well, I didn't sort of come across this."
469. The CHAIRMAN asked the witness how he had left South Africa.
470. Mr. MNGQIKANA: "Well, I left South Africa on an exit permit."
471. The CHAIRMAN said that he would like to know why the witness had been arrested and put in prison. Had the witness been a member of a political movement, or a trade union movement?
472. Mr. MNGQIKANA: "I was, and still am, a member of the African National Congress."
473. The CHAIRMAN asked how long the witness had been a member of the African National Congress.
474. Mr. MNGQIKANA: "Since 1959."
475. Mr. MARCHAND STENS asked how long the witness had been in prison.
476. Mr. MNGQIKANA: "Well, I was in prison for eleven months awaiting trial and I only served a month as a convicted prisoner."

477. Mr. MARCHAND STENS asked what had been the final outcome of the witness' trial.

478. Mr. MNGQIKANA: "Well, to put it shortly, I was sentenced to a year, eleven months of which were suspended for three years on condition I was not convicted under any of the conditions of the Suppression of Communism Act in that period."

479. Mr. MARCHAND STENS noted that the witness had said that at the outset he had been given a very good diet including meat, eggs and other palatable foods, and that at other times the prison food had been very bad indeed. Did the witness have any idea why, in a prison with filthy and lice-ridden bedding, decent food had nevertheless been provided?

480. Mr. MNGQIKANA: "Well, I said that initially I was under detention in a police station which is a different thing from a prison. And it is there that I had the eggs. And the comparison between a diet with eggs and bugs, really, I personally cannot understand. But, in any case, this is what happened. I cannot explain either why I was given eggs in this particular place, whereas I was given mealies in the prison. And secondly, due to the fact that I have been a bit mothered, I will try to draw a comparison which, I feel, should be put across to this Working Group. When a prisoner is promoted from a D Group prison to a C Group prison, that doesn't in any way improve his position in so far as the African is concerned. In fact, the only difference that arises is that of having more visits than you normally get. And the question arises now whether the African benefits from such a visit. Now, such issues have to be weighed. For instance, the Africans cannot afford to stay away from work to travel 600 miles to go and see one's relatives or something. I am bringing this up to clarify to the Working Group that the fact that one prisoner has been promoted from a D Group to a C Group doesn't in any way improve his position.

"The same thing with the food. I cannot explain why I was given eggs and why I was given mealies at another place."

481. Mr. MARCHAND STENS said that, if he had understood correctly, the witness had not been subjected to any physical maltreatment, although he had undergone certain mental ill-treatment. Had the witness had any friends who had intervened

in his case, or who might have brought pressure on the South African authorities to prevent them from ill-treating him?

432. Mr. MNGQIKANA: "I was not subjected to physical torture whilst I was undergoing ninety days' detention - that is, the initial three weeks I was under detention. Nobody pressured my investigators into not physically assaulting me. Therefore, I would say I was fortunate in a way that I was not assaulted. Secondly, I did indicate that throughout my stay in the East London prison, I was assaulted once, and in Kroonstad prison, I was also assaulted. It is a pity I was not given the opportunity of describing the last assault in Kroonstad, but even in Kroonstad I was assaulted."

433. Mr. MARCHAND STENS asked the witness whether he had been able to consult his attorney freely during his trial, and whether he had had the impression that the evidence against him had been fabricated.

434. Mr. MNGQIKANA: "First of all, with regard to consultation with my attorney, very little difficulty was put in the way of my seeing him.

"In the course of the trial itself, I pleaded guilty to the count which specifically said that I was a member of the African National Congress. This was under a proviso, a sort of a defence agreement with the prosecution, that the other two charges would be withdrawn. So, therefore, I can easily say, since I pleaded guilty, that no evidence was fabricated against me, because I admitted being a member of the African National Congress."

435. Mr. MARCHAND STENS asked the witness whether he himself knew of any persons who had died in prison.

436. Mr. MNGQIKANA: "I do not know of any deaths in the prisons I've been to during the time I was in these prisons. I do not know whether the question is confined to the prisons in which I was. I only heard of deaths reported in newspapers. So, that is all I know."

437. The CHAIRMAN thanked the witness for his testimony.

J. Testimony by Mrs. Stephanie Kemp Sachs

(London, 15 June 1967)

488. Mrs. SACHS took the following oath: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth, and nothing but the truth."

489. She then made the following statement:

"My name is Stephanie Sachs, my maiden surname was Kemp. I am twenty-five and a physiotherapist.

"I was arrested on 12 July 1964, and detained under the ninety-day law. I was held in solitary confinement for eighty-six days and thereafter charged. During this time of solitary confinement I was assaulted by a member of the Security Police and at the end of the eighty-six days I was charged with sabotage, but later pleaded guilty to the alternative charge of membership of an unlawful organization - the African Resistance Movement. I was sentenced on 11 November 1964 to five years in prison, with three years suspended.

"I served my sentence in various prisons in South Africa. In Cape Town, Kroonstad, Pretoria and Barberton prisons. I was released on 3 December 1965 - that is seventeen months after my arrest. I was released on parole after representations had been made to the Minister of Justice by my parents.

"I brought a civil action against the Minister of Justice, who was then Mr. Vorster, and members of the Security Police who assaulted me. In August 1966 I was paid 1,000 Rand (which is £500) plus Supreme Court costs, by the Minister of Justice, in settlement of my charge of assault against them. The case was settled out of court.

"I wish to hand in a statement which was made by me in 1964 on my assault. Attached to it is a statement by Mr. Brooks on his assault; he will be giving evidence later before the Commission."

490. The CHAIRMAN asked the witness what sort of ill-treatment she had had to endure.

491. Mrs. SACHS: "After three weeks of solitary confinement and being interrogated two and three times a day, for two to four hours at a time, I was interrogated for approximately fourteen hours at one stretch. I was made to

stand for most of this time. At the end of this period a member of the Security Police hit me on either side of my face, pulled me by my hair to the floor and beat my head on the floor, until I was semi-conscious. I then made a confession. I confessed to having been involved in cases of sabotage as a member of the African Resistance Movement."

492. The CHAIRMAN asked the witness if she had actually been engaged in sabotage.

493. Mrs. SACHS: "This was never established by the courts."

494. The CHAIRMAN asked the witness if she had been subjected to any other forms of ill-treatment.

495. Mrs. SACHS: "No other ill-treatment of a direct physical nature. But, after my sentence, I was held for a further eight weeks in solitary confinement in the death cell in Pretoria. But I wasn't physically harmed again."

496. The CHAIRMAN asked the witness if she had been alone in her cell.

497. Mrs. SACHS: "Yes."

498. The CHAIRMAN asked how large the cell had been.

499. Mrs. SACHS: "Well, I was held in various cells. In three different police cells in Cape Town in one prison. This was for the first three months, during my solitary confinement. Thereafter, I was serving a sentence in different prisons, where I was with other prisoners. The actual sizes of the cells varied. I am afraid I am not very good at judging sizes, but I should say about 7 square feet would be an average."

500. The CHAIRMAN asked the witness what sort of clothing she had worn in prison.

501. Mrs. SACHS: "While under detention, I wore my own clothing. Once I was sentenced I wore underwear provided by the prisons, khaki overalls provided by the prisons and shoes provided by the prisons."

502. The CHAIRMAN asked what kind of clothing had been provided.

503. Mrs. SACHS: "A kind of blouse. And shoes."

504. The CHAIRMAN asked the witness to describe the food she had been given.
505. Mrs. SACHS: "There was a distinction. During my detention, the first three months, I was provided with food by the various station commanders. The food was fairly good. I was also allowed one meal a day from my mother. But, once I was sentenced, I ate the ordinary prison food which varied from prison to prison. At the Kroonstad female prison the food was good, at Barberton the food was good, but at Pretoria Central and in Cape Town the food was of a poor quality, badly served and not appetizing. It does not vary at all. It is the same every day."
506. The CHAIRMAN asked what food had actually been served.
507. Mrs. SACHS: "Porridge and black coffee in the morning; meat and two vegetables at lunch; bread, tea and soup in the evenings."
508. The CHAIRMAN asked the witness if her parents were also South African.
509. Mrs. SACHS: "Yes."
510. The CHAIRMAN asked if they had remained in South Africa.
511. Mrs. SACHS: "Yes."
512. The CHAIRMAN asked the witness how she had managed to leave South Africa.
513. Mrs. SACHS: "I left on an exit permit, after being refused a passport, which means I can't return."
514. The CHAIRMAN asked the witness if she had any brothers and sisters.
515. Mrs. SACHS: "I have two sisters; one in South West Africa and one in South Africa."
516. The CHAIRMAN asked the witness if the authorities had taken any action against her relations.
517. Mrs. SACHS: "No."
518. Mr. JANKOVIC asked the witness if she could provide any further information about the ill-treatment of women prisoners.

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519. Mrs. SACHS: "I was in a particularly good position to see the difference in the treatment of White criminal prisoners and White political prisoners. Kroonstad female prison is the prison for White female criminals in South Africa, of which there are about thirty serving a long-term sentence, that is over two years. I was there for four months and I was also at Barberton, the maximum security prison for White female political prisoners, for seven months.

"The treatment of the White criminals was good and the attitude of the prison staff to the prisoners was good, perhaps in the spirit of one of the South African prison regulations which said that the self-respect and dignity of prisoners should be fostered. They had plenty of facilities for recreation, such as films once a week, library facilities and sporting facilities. They were given concerts on occasions and they were never locked up singly into their cells; they had single cells, but the doors were left open, so that they could communicate freely. The work they did was needlework or sewing with machines.

"Only three of the prisoners were not in one of the two highest groupings; of the three, two of them had escaped and were, therefore, in C Group, and the other one had been charged with or sentenced for soliciting, and was, therefore, in C Group. I, however, was put immediately into D Group, which is the last Group, and I never came across another White criminal prisoner in that Group. I was not permitted to make use of any of the facilities at the prison. I did the same work as them while I was there, but I wasn't allowed to see films, I wasn't allowed to smoke, I wasn't allowed to receive newspapers, or any of the other things which they were permitted. And, later, when I was sent to the maximum security prison at Barberton the discrimination against political prisoners became more evident. I established while I was there, from Colonel Aucamp, who is the officer in charge of political prisoners in South Africa, that he had instructed the prison staff to treat us with hostility and contempt, that he had instructed the warders that we were not to be trusted, we were not to be treated in any manner, except an extremely hostile manner. In fact, when we arrived there, five or six of us, we were all made to strip completely naked and one of us was asked to jump into the air separating her legs, which is a method used to see whether you are hiding anything between your legs. We were not permitted to talk to one another, we were not permitted to do anything,

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really, except work. Our work was washing the clothes of other prisoners - the male prisoners - and study. After some effort we were permitted to study. But otherwise we were under twenty-four-hour surveillance and had no relief from this at all.

"In addition to this discrimination against political prisoners, everywhere I went I also saw evidence of the utter contempt with which Africans - and particularly African prisoners - are treated.

"In Cape Town, wardresses walked about with planks with which they indiscriminately hit out at African women prisoners and they used foul language when addressing them and there was no idea of any respect shown to them as human beings. At Central Prison, in Pretoria, I heard a young nineteen-year-old matron giving corporal punishment to African women prisoners who had made a noise. I also saw a wardress sitting on a bench throwing stones at African women prisoners who were working in the court yard.

"At the same prison there was a child who had been born in prison - an African child - it was then eighteen months old. It had the appearance of a child who had been undernourished; it had bandy legs and the appearance of a child with rickets. In fact, I played with this child and found that it ate soil - the soil in the courtyard. I also saw an adult African woman eating soil in this prison.

"The only White woman criminal prisoner that I saw ill-treated was at Kroonstad, where a White woman prisoner was put into a strait jacket one night. She was hysterical. She was a lesbian and she had had a fight with a girl who was her girl friend and she was hysterical as a result. So, instead of giving her sedatives, they put her in a strait jacket."

520. The CHAIRMAN thanked the witness for her testimony.

K. Testimony of Mr. Alan Brooks

(London, 16 June 1967)

521. Mr. BROOKS took the following oath: "I swear that I will speak the truth, the whole truth and nothing but the truth."

522. He then made the following statement:

"My name is Alan Keith Brooks. My age is twenty-seven. I am a post-graduate student.

"I was arrested in July 1964 and imprisoned under the ninety-day law. In October and November 1964, I was tried in the Supreme Court at Cape Town and sentenced to four years' imprisonment, of which two years were suspended for three years. I was released in June 1966. During the twenty-three months of my imprisonment, I experienced, among other things, the following types of ill-treatment which are contrary to the United Nations Declaration on Human Rights and also contrary in certain respects to the law of South Africa:

"(a) A total of approximately ten months of solitary confinement;

"(b) Physical torture and assault resulting in various injuries; I refer in this connexion to the statement handed in by the witness, Mrs. Stephanie Sachs, to which my statement is attached, giving the details of the torture to which I was subjected in August 1964. I'd like to make one correction in that statement. I refer to paragraph 7 on the first page, the sentence reading: 'I was lying on the ground on my stomach and Spyker Van Wyk stamped on my back with his foot.' This is not quite accurate. It would be more accurate to say that I was lying on the ground on my stomach, while Spyker Van Wyk - that is, a member of the Special Branch, Security Police - ground his foot into my back. Otherwise, the statement is entirely accurate.

"(c) I experienced prolonged and illegal interrogation over a period of two and a half days in January 1966.

"(d) Grim and arduous treatment at the hands of the South African Prisons Department. I refer in this connexion to my detailed evidence in the Defence and Aid pamphlet commenting on the Hoffmann report which has been, I understand, or will be, submitted in evidence to you. Also in this connexion, I wish to submit

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in evidence a few comments which I have made on the Hoffmann report - this is the report on South African prison conditions by the Red Cross observer - pointing out some of the shortcomings of the investigation which he conducted, based on my own observation and experience. These comments should be read in conjunction with the Hoffmann report and the Defence and Aid pamphlet.

"I shall now make six brief points illustrating the conditions of political prisoners.

"Firstly, on hygiene: when I was in Durban in 1965, my cell was invaded every night by cockroaches. In Cape Town I have seen rats in cells.

"Secondly, as regards prisoners' dignity: it is frequent practice to strip prisoners naked in order to search them. This is done more frequently and in a more humiliating manner than is necessary for ordinary security purposes.

"Thirdly, as regards prisoners' relations with the outside world: throughout 1965, I made protracted attempts to receive a letter from my parents, to which I was legally entitled but which the authorities prevented me from receiving.

"Fourthly, in Cape Town during 1966, when at various times I had to share cells with criminals, I was on one occasion locked up in a small cell with two other criminals and a third who was an alcoholic. He suffered from delirium tremens and spent the night shouting, screaming and trying to climb the walls.

"Fifthly, during the three weeks - perhaps the worst three weeks of my life - that I spent in solitary confinement in Pretoria at Central Prison, the night's silence was often shattered by the singing of prisoners in the condemned cells a few yards away. These men await their execution and sing continuously in the three days or so before their death.

"During the same period that I am referring to, when the nights were sleepless for the reason I have mentioned, the days were disturbed by the ravings of a criminal who was half mad and who needed sympathetic psychiatric treatment but was treated by the warders with contempt and brutality.

"Now, instead of taking up your time with further details of this kind, I would like to make one general point about the treatment of political prisoners which I don't think has come out sufficiently clearly in evidence so far, but which I can illustrate from my personal experience. I'd like to illustrate the way in which

the South African Government used the ninety-day law and now uses the 180-day law against political prisoners. Like most dictatorial régimes, the South African Government is concerned to preserve a façade of legitimacy while crushing all political opposition which challenges the basic racialist premises of the South African State. Thus all political prisoners have to be brought before the courts at some stage before they can be imprisoned for long periods. By and large, court proceedings are public, evidence is led, and witnesses are cross-examined. Now, political opposition to apartheid in South Africa covers the full range of political activity, from speeches and pamphlets and normal activity of that kind to sabotage. Much of this activity is illegal in South African law, and some of it is legal but subject to non-judicial administrative reprisal - for example, bans and house arrest. Now the ninety-day law used to be used, and the 180-day law is used, to detain persons suspected of political activity, to wear them down with solitary confinement plus physical torture, as happened to me in August 1964. And here it is significant, I think, that the period is sufficiently long for normal injuries - such as those sustained in assaults of the character that I suffered myself - to heal. As a result, when I appeared in court in October 1964, although I had had a leg in plaster previously, by the time I made my public appearance I appeared to be in a normal condition. Alternatively, if not subject to physical torture, a political prisoner will be subjected to deprivation of sleep, prolonged interrogation and brain-washing of the sort I experienced in Pretoria in January 1966, and of which you have heard previous testimony.

"In either case, whatever the method used the intention and the result is usually to produce a sworn statement by the detainee. He is then trapped. Four possibilities are open to him: he may be charged, convicted and sentenced, as happened to me in 1964; secondly, he may repudiate the political principles which motivated him, give evidence against his associates and earn the justified condemnation of all opponents of apartheid; or, in the third place, he may give evidence against associates, but false evidence, to protect them, and he is then open to a charge of perjury; or, fourthly, he may refuse to give evidence, in which case he commits a crime and is again subject to imprisonment.

"The result is that, once a person believed to have been active in opposition to apartheid is arrested, he can be reasonably certain of being subjected to any of the forms of maltreatment which I have mentioned and which I have experienced."

523. The CHAIRMAN asked the witness where he had been at the time of his first arrest. Had he been taken to a police station or a prison?

524. Mr. BROOKS: "In Cape Town. I was kept in police cells for seventy-odd days and only transferred to prison when my trial began."

525. The CHAIRMAN asked whether it was correct that the witness had not been charged until his trial had begun and that he had not been held in preventive detention but detained pending trial.

526. Mr. BROOKS: "May I clarify this? When one is held under the ninety-day law, the law as it stood was that a person could be held for ninety days at a time, and repeatedly interrogated until he answered questions satisfactorily - that is to say, not necessarily pending trial. A trial might or might not result."

527. The CHAIRMAN asked the witness whether he had been struck during the period when he had been detained pending trial.

528. Mr. BROOKS: "Yes."

529. The CHAIRMAN asked the witness what he had meant by saying that a member of the Special Branch had "ground his foot into (his) back".

530. Mr. BROOKS: "The policeman placed his foot on my back and ground his heel into the region of my back just above my kidneys."

531. The CHAIRMAN asked how long the policeman had continued that form of torture.

532. Mr. BROOKS: "I find it difficult to recall with any exactness, but perhaps ten or fifteen minutes."

533. The CHAIRMAN asked whether the policeman had been a big, heavy-set man.

534. Mr. BROOKS: "A man of about my size."

535. The CHAIRMAN asked what kind of shoes the policeman had been wearing.

536. Mr. BROOKS: "Ordinary brown leather shoes."

537. The CHAIRMAN asked whether the policeman in question had been a white policeman.

538. Mr. BROOKS: "Yes."

539. The CHAIRMAN asked what had been the exact charge brought against the witness.

540. Mr. BROOKS: "I was charged initially with sabotage or, alternatively, with having been a member of an organization trying to bring about a change in Government policy by illegal means. I pleaded guilty to the alternative charge and was convicted."

541. The CHAIRMAN asked the witness whether he had pleaded "Not guilty" to the first charge.

542. Mr. BROOKS: "Yes."

543. The CHAIRMAN asked whether in fact the witness had been a member of a sabotage network. The witness need not answer the question if he did not wish to.

544. Mr. BROOKS: "I was a member."

545. The CHAIRMAN asked the witness whether he had been detained in Pretoria Central or Local Prison after he had been charged and taken into preventive custody.

546. Mr. BROOKS: "I was in the Local Prison from November 1964 to January 1966, when I was transferred for three weeks to Central Prison, Pretoria."

547. The CHAIRMAN asked whether any advance announcement had been made of the date of execution of the condemned men whom the witness had heard singing in Pretoria Central Prison.

548. Mr. BROOKS: "No public announcement was made. I believe that the standard practice is for the people who are to die to be told three days in advance. While I was there executions took place perhaps once or twice a week every week."

549. The CHAIRMAN asked the witness whether he meant "One or two executions a week" or "One or two persons executed a week."

550. Mr. BROOKS: "No - one or two executions a week. And there would be up to six people in a batch."
551. The CHAIRMAN pointed out that in criminal law, as he understood it, each execution should involve only one person. He asked how many persons had been executed while the witness had been in Pretoria Central Prison.
552. Mr. BROOKS: "I cannot give an exact answer to that because I didn't know, on each occasion when executions took place, how many people were being executed. Working on the basis of two batches of executions a week during my three weeks there, and perhaps three in each batch, that would have been eighteen executed. A hundred and thirty-nine people were executed in the course of 1966, according to figures released by the Government itself."
553. The CHAIRMAN asked the witness whether he had been ill-treated at Pretoria Central Prison.
554. Mr. BROOKS: "I was not physically assaulted. I was, however, kept in solitary confinement and given very little exercise, and it was during this period that I was subjected to the two-and-a-half days continuous interrogation by the Security Police."
555. The CHAIRMAN asked the witness why he had been interrogated by the police after he had already been charged and had appeared before the examining magistrate.
556. Mr. BROOKS: "I was interrogated the second time because, in the months between my original trial and the second interrogation, further evidence of my political activity had come to the notice of the police."
557. The CHAIRMAN asked whether the persons who had been condemned to death had all been Africans.
558. Mr. BROOKS: "I don't know, because they were kept locked up in their cells during all the times when I was out, and I was locked up when they were out. I would imagine from the voices singing that most of them were."
559. The CHAIRMAN asked whether any white people had been executed.
560. Mr. BROOKS: "I can't say with any definite knowledge."

561. Mr. JANKOVIC asked the witness what subjects he was studying.

562. Mr. BROOKS: "I have studied law and I did post-graduate work in government."

563. Mr. JANKOVIC asked the witness how sabotage was defined in the laws of South Africa.

564. Mr. BROOKS: "The clause defining sabotage is about a page long. It covers what you and I would call sabotage and also such trivial things as painting slogans on walls. I'm afraid I can't reproduce it without reference to the Act."

565. Mr. JANKOVIC asked the witness why he had been convicted.

566. The CHAIRMAN said that the witness need not answer that question if he did not wish to.

567. Mr. BROOKS: "I will attempt to answer the question. I have never committed successfully - I regret - an act of sabotage. I made an attempt which [inaudible: 'fell' or 'failed'] within the definition of the Act. For the most part I was simply a rather minor member of an organization which sought to make symbolic acts of protest."

568. Mr. JANKOVIC asked the witness whether he had witnessed the ill-treatment of other prisoners.

569. Mr. BROOKS: "I did, yes."

570. Mr. JANKOVIC asked the witness to describe how other prisoners had been ill-treated.

571. Mr. BROOKS: "Certainly. In Pretoria Local Prison there is a great deal of casual violence - that is to say it's not designed, like the torture I experienced, to elicit information. It's part of the system. Men are smacked, hit, kicked, just in the normal course of their lives in and around the prison. This is so common as to not evoke comment ordinarily in a day's life in a South African prison.

"I can give you two specific incidents. I was working as a cleaner in the corridor, that is to say, I had to clean the floors and polish the brass. And one day at the other end of the corridor I saw a large warder pick up a small prisoner

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by the ears - he was much bigger than the prisoner. He picked him up and threw him down. And this was a joke as far as he was concerned. The second incident I saw several times: I was able to look into the reception yard where African pass offenders - that is to say people who have been convicted of not carrying the pass - were stripped naked and their clothes taken, new clothes issued, and their fingerprints taken. When they came to the desk where the fingerprints were taken a white warder would take their hands, put their thumbs in the ink and then put them on the pad. For a successful print the prisoner had to relax his arm and his hand when the warder took it. Many prisoners - not knowing the routine, or being frightened - would be tense, and the solution for this was for the warder taking the print and holding the man's arm to hit him in the face a few times."

572. Mr. JANKOVIC asked the witness whether the comments he had submitted on Mr. Hoffmann's report were his own comments, and whether he had anything to add to them.

573. Mr. BROOKS: "Yes. I think it's sufficient."

574. Mr. MARCHAND STENS asked the witness to describe conditions in the prisons, including medical facilities, clothing and sleeping accommodation.

575. Mr. BROOKS: "I would be very glad to answer this question in the detail it requires, but it is all in the evidence in writing which I have referred to. I will answer the question if you would like me to go into all the details."

576. Mr. MARCHAND STENS asked the witness how long he had been deprived of sleep during his interrogation.

577. Mr. BROOKS: "The interrogation started on a Friday morning. After twenty-four hours or so I realized - and I had been told this - that the interrogation would continue, if necessary, for a week in this manner, until I made a statement. I decided to make a statement and after about thirty-six hours I started to make this statement. I was exhausted and incoherent, and the police allowed me to lie down for about six hours so that I could make a more coherent statement. I didn't sleep during that period, and after that six hours I was again questioned, made a statement and interrogated through until late on Sunday."

578. Mr. MARCHAND STENS asked the witness whether he had had any direct or indirect experience of torture by electrodes or of the "statue" method of interrogation.

579. Mr. BROOKS: "I have had no personal experience of electrical torture. I remember reading the press report of a trial of a policeman in Bloemfontein who, in cross-examination, said, I believe, that every police station in the country has an electric shock machine.

"As to the 'statue' method of interrogation, I knew that this was a common practice, some of my fellow prisoners having experienced it. When the police started to interrogate me in January 1966 they tried, casually at first, to make me stand. But I realized that standing would sap my strength and I refused to stand. Such is the nature of this process of wearing down that by the Sunday evening I was standing, and stood for several hours."

580. Mr. MARCHAND STENS asked the witness whether he had any evidence to suggest that the prison authorities encouraged homosexual practices, particularly in order to degrade the political prisoners.

581. Mr. BROOKS: "Aside from the general consenting homosexual practices which I am aware of, I have not seen - although I have heard of - the forced sodomy of young political prisoners, and I have heard - although again I haven't seen it - the screams of prisoners in over-night police cells who have been subjected to forced homosexual relations."

582. Mr. MARCHAND STENS asked the witness whether the prison authorities encouraged animosity between white criminal and political prisoners.

583. Mr. BROOKS: "No."

584. Mr. MARCHAND STENS said that the witness' testimony was very valuable, particularly as it gave the Working Group a clear idea of the differences in the treatment meted out to white and non-white prisoners. He asked whether the witness had any information, or wished to make any comments, about persons committing suicide after interrogation or as a result of ill-treatment.

585. Mr. BROOKS: "As regards myself, I considered suicide very seriously in periods of great depression, but never attempted it. For example, after I was assaulted in 1964, and after I was interrogated at length in 1966.

"I know of three attempts at suicide involving two political prisoners - one on two occasions. Both of them had been subjected to long periods of solitary confinement after their sentence and trial. These were white prisoners. I don't know of cases of non-white prisoners other than by hearsay."

586. Mr. MARCHAND STENS asked for the names of the persons concerned. If the witness did not wish to give the names in open meeting, he might submit them to the Working Group in a document which would be treated as confidential.

587. Mr. BROOKS: "I won't mention the names orally because of the relatives and other considerations."

588. Mr. MARCHAND STENS asked whether the police or the South African authorities took any reprisals or made any threats against the relatives or friends of political prisoners.

589. Mr. BROOKS: "My own family was resident in Rhodesia and therefore not exposed to this sort of thing. Other prisoners I know have been threatened with the imprisonment, for example, of their wives - and this has, in fact, happened in a number of cases."

590. Mr. MARCHAND STENS asked the witness, as a law student, to comment on the attitude of the judges in trials such as his own. Were the judges strongly under the influence of the South African police, and had they therefore become mere interpreters of the policies and decisions of the police, even to the point of endorsing evidence which was obviously fraudulent?

591. The CHAIRMAN pointed out that the Working Group would shortly hear Mr. Albert Sachs, a practising attorney who had much more experience of the matter than the present witness, who was merely a law student.

592. Mr. BROOKS: "In passing, I may say that Mr. Sachs was one of the lawyers who defended me, and I have confidence in his judgement. In reply to the question, I would say that in general Africans, none of whom sits on any judicial bench in South Africa, feel that they will not get a fair trial in what they regard

as a white man's court. The apartheid system works to separate the people who become judges and magistrates in every aspect of their lives from the sort of people who stand before them as accused.

"On the point - which occurs frequently in political trials - as to whether the accused has been assaulted, there is a very widespread tendency among judges and magistrates to assume that this is a fabrication made for purposes of political propaganda, to assume also that non-whites are perhaps more inclined to tell lies of this character than whites. I know from my own experience how very difficult it is, and how much determination it takes, to raise a complaint of assault by the police, when the only people to whom you can make this complaint are the police and the administrative system itself."

593. The CHAIRMAN thanked the witness for his testimony.

L. Testimony of Mr. Albert Sachs

(London, 16 June 1967)

594. Mr. SACHS took the following oath: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth, and nothing but the truth."

595. He then made the following statement:

"My full name is Albert Louis Sachs, I am thirty-two years old and until I left South Africa in July last year I practised as an advocate of the Supreme Court in Cape Town. I had been in practice for nine years.

"To begin with, I would like to hand in a short statement setting forth my qualifications and mentioning the periods during which I was in prison.

"I have prepared a short survey of the law in South Africa today, particularly as it affects the administration of justice, and there is a French translation. I don't speak French, so I haven't checked the accuracy, but I believe that it is an accurate copy.

"In the survey, I first deal with some of the main apartheid laws. I then mention the Suppression of Communism Act and the Sabotage Act, which have been the main laws for the suppression of radical opposition to apartheid. Afterwards, I deal, on the basis of my experience, with the institutions concerned with the administration of justice in South Africa. I point out how apartheid applies inside the courts, not only to the laws but inside the courts themselves, and how it applies to the Department of Justice. I also refer to the composition of the police force and also to the prisons, showing the inequality of treatment for ordinary prisoners on the basis of race, I mention, for example, that generally white prisoners sleep on beds, coloured prisoners sleep on mattresses, and Africans sleep on grass mats. But political prisoners of all races - their treatment generally is worse than that of murderers and rapists and bank robbers.

"There is a general rule that political prisoners do not get any remission of sentence for good behaviour, although they are usually persons of finer sensibility and greater morality than the ordinary prisoners, and only in exceptional cases will the Minister authorize any remission in their case.

"I refer also to the legal profession and suggest how they have reacted to the situation and I mention the examples of Mr. Vorster, who is a lawyer and now the Prime Minister, on the one side, and Nelson Mandela and Abram Fischer, two lawyers, on the other side. And then I deal with procedures, referring to the impact of the ninety-day law and the 180-day law on judicial procedure in South Africa. I mention that at least five prisoners detained under those laws have been known to have committed suicide; one jumped from a seventh-floor window to his death and three others are known to have hanged themselves.

"I think it might be useful to mention to the Working Group that persons are held in custody in three main circumstances. The first is under the ninety-day law, and more recently the 180-day law, for purposes of interrogation by the police. The courts have no jurisdiction to investigate the circumstances of the detention at this stage, and the detainee has got no access to lawyers or to any persons other than the police. At a stage when the police are ready for it, they might release the persons concerned and bring them to trial - I'll just conclude this - or hold them as witnesses to be used in evidence against other persons.

"The second stage is as an 'awaiting-trial' prisoner, and the third stage is as a convicted prisoner, and the circumstances vary from stage to stage. In addition, my experience is that circumstances are very uneven from place to place and from time to time and from person to person.

"In the last section, which is particularly relevant to this inquiry, I mention how the population is being conditioned to accept violence from the State as being part of the natural order. Policemen stand with sten guns outside court

in some political cases. One finds mass trials being held throughout the country. One finds prisoners sometimes coming to court in chains. Flogging is a very common form of judicial punishment, and executions are up by anything from 10 to 20 per cent every year, and last year the figure, in fact, was 123; the previous witness, acting on what I told him, told you 139. The real figure is 123 people executed, a number of them for crimes with a political background.

"The courts on two occasions have had the opportunity to investigate claims of torture made by detainees in notes which were smuggled out, and they refused to carry on an investigation there and then, postponed the matter or said that they did not have jurisdiction to investigate it because it was a police matter.

"And I conclude by saying that, if the Government can get away with torturing individuals now, it may feel safe in massacring whole populations later.

"Now, from my general experience and practice, I would say that the standards of procedure in the Supreme Court in South Africa are still fairly high, but that justice is not often arrived at because the police have control of the witnesses. You still have the ordinary rules of evidence applying; you have barristers defending the clients; and you have all the forms of a proper trial. But at the same time the police will have had the opportunity of processing witnesses for up to six months, keeping them in solitary confinement, subjecting them to various forms of pressure, some of which I myself underwent, and then taking them straight from the cell to the court to give evidence there. And so, although the form of justice is maintained, the real substance is gone, and it is the police who decide on the guilt of the accused in practice. And all the judges do really is to decide what sentence to impose. This is, in practice, what is beginning to happen.

"In the lower courts the standards are much lower and often even the forms of due procedure aren't properly followed.

"Now, as far as ill-treatment of prisoners is concerned, I first came across this during my practice, and I might say that until 1960 it was very unusual to find political prisoners complaining of any ill-treatment. But after 1960 the position got progressively worse.

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"First, one client of mine claimed that he had been assaulted, and he handed me, in the police cells, his tooth, which had come out afterwards, and which we were going to use as an exhibit in a subsequent action for damages. Four other prisoners showed to the magistrates burn marks which they had on the little fingers of the hands, where they said that electrodes had been attached while they were given electric shocks during interrogation.

"Another client of mine who had been arrested in the Free State - it could be the 'Police State' - said that a canvas bag was placed over his head; he felt wires being attached to his fingers, and he heard the policeman saying, in the way of a joke, 'We are now going to get through by telephone to your leaders', and he heard the sound of a handle being turned, which is the same sound that you get on what we call the farm telephones - manually operated telephones - and then felt burning shocks throughout his body. He gave this evidence in court, and the magistrate held that he had a doubt about the validity of the confession extracted in those circumstances. But the magistrate, without saying that he believed what this man said, at the same time did not disbelieve evidence given on oath to this effect.

"I have heard from other clients - but not in cases in which I was involved - that in Pretoria they too were subjected to electric-shock treatment. One of these was a person who was detained in the same police station where I was detained, and I heard this from a co-worker of his afterwards, but I didn't have any direct knowledge of that.

"The case in which the use of electric torture was exposed irrefutably was a trial which took place in the Orange Free State in 1964, which was reported in The South African law reports, in which policemen admitted having beaten two African suspects, having hung them from the ceiling and dropped the one onto a concrete floor, causing severe brain damage, having applied electric-shock treatment, and having beaten the suspects with various instruments and their fists. The one African suspect died. The policeman in charge of the police station - the station commander - tried to hide what had happened, and eventually he and three other policemen were tried and convicted in the Supreme Court of doing what I have just mentioned and sentenced to long periods of imprisonment.

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"Now this is one case where the suspect died. It was a non-political case, and the matter was thoroughly investigated and properly publicized."

596. Mr. WALDRON-RAMSEY asked the witness to give the exact reference of the case to which he had referred, and the names of the persons involved.

597. Mr. SACHS: "Unfortunately, off-hand I can't give the reference. It was in the 1964 South African law reports, and I will be able to obtain it and at a later stage I can furnish it to the Working Group.

"Finally, with regard to what I learned from my practice, I would like to mention an extraordinary murder case in which I was involved in 1965, in which four criminals at Bellville prison serving long sentences made confessions to magistrates of a murder which had taken place ten years earlier. It seemed extremely unlikely that they could possibly have committed that murder, and it turned out the reason why they made those confessions was that they wanted to be brought before a court so that they could get out of that prison. The conditions were so bad, and it was so impossible for them to make any complaints or to receive any satisfaction after making complaints, that they were prepared to risk being sentenced to death in order to be moved from that particular prison."

598. The CHAIRMAN asked if the persons concerned had been criminals.

599. Mr. SACHS: "Yes. At the trial, the representative of the prison said he couldn't understand their complaints. In the previous year only one prisoner committed suicide and several had cut their tendons, but otherwise the prisoners were very satisfied with their conditions.

"In October 1963, my status in relation to the law changed from being a barrister to that of prisoner, and I saw the law from what I would call an inside point of view. I was detained under the ninety-day law for interrogation and held in solitary confinement for five and a half months, at the end of which I was released without any charge being brought against me. I never discovered exactly why I was being detained; I refused to answer any questions unless brought before a court of law, and of course they did not bring me to a court

of law. And to this day I don't know exactly why they held me or what information they hoped to get from me. Immediately after my release, I wrote in secret in Cape Town a full record of my experiences during this imprisonment, setting out the physical conditions, the kind of interrogation, the emotions that one feels when you are alone with yourself for hour after hour, day after day, week after week, with nothing to do but sit and stare at the wall. And this record has been published in Britain, and now in America, under the title The Jail Diary of Albie Sachs, published by Harvill Press in Britain and McGraw-Hill in America, and with the Chairman's leave I would like to hand it in. I don't propose reading the whole book to the Working Group.

"I'd just like to mention that at one stage the person who conducted most of the interrogations said that the solitary confinement was a form of torture. But, he said, this was legal torture, and generally speaking the law authorized everything that was done to me at that stage. I returned to my practice and for two years continued as an advocate, until January of last year, when I was detained under the 180-day law as a potential witness against one Fred Carneson.

"I was held for another three months in solitary confinement and during this period I was subjected to a far more intensive kind of interrogation than I had had before. And in fact this time it was not legal torture but it became illegal torture which the police practised against me. I would like to mention briefly what happened at about 4.45, late one afternoon, when I was in the Police Headquarters in Cape Town. I was taken to a special interrogation room on the first floor of the main building. It's a small room with dazzling white panelled walls, and a team of six interrogators headed by Captain Swanepoel kept up non-stop interrogation, working in groups of two, generally four hours on, eight hours off. They went right through the night. I was given food and allowed to go to the toilet.

"At first it was merely a sort of political harangue and pleading, followed by periods of quiet, in which they would just sit there and watch me. And I was told that I would not be allowed to leave that room until I made a statement. As the night wore on, I got more and more tired, and in the early hours I was

extremely fatigued. Whenever my eyelids closed, there would be a bang on the table or my name would be shouted out, or my body would be touched, tickled or pushed. The position got worse and worse. My mind and body became numb, and eventually I collapsed off my chair onto the ground. Cold water was thrown on me, but I lay exhausted on the floor. I was picked up, placed on the chair, and I collapsed again. This process was repeated several times. Then the whole team crowded around me, propping me up with their hands, holding my head up, and when my eyes closed Captain Swanepoel pushed them open with his fingers.

"As the morning progressed, I found my body recovering a little bit, and at one stage I walked towards the door and said I was going to return to my cell. They forcibly held me back but did not assault me. When I went to the toilet, I passed a wall next to a courtyard which was about thirty foot below, and I had thoughts of throwing myself over that wall to either injure or kill myself. But by the time when I decided seriously to do that, the police saw me looking there and they watched me so closely that I was unable to attempt that.

"It was quite clear that the police would have gone on for ever if necessary, and I decided - to use a legal term - to settle on the best possible terms. And eventually, after having gone right through the night and the next day, I was released.

"I got out of that room. I made complaints to the police in the charge office. I was just shuffling along; I was unshaven, but my first reaction was to protest, and I continued on every possible occasion protesting afterwards, and the police laughed and said: 'Where are the injuries? Where is the blood?'.

"But the next day a more sympathetic senior officer listened to me seriously and subsequently I made a full statement to a visiting magistrate which was sent to the Secretary of Justice."

600. Mr. SACHS: "I would like to deal with only one more point and that is that although just about all the police - white police - and all the warders are racists, not all of them are brutal. But it only requires a few brutal men in positions of authority to make life intolerable for all prisoners in their particular institution, particularly if there is no proper procedure for laying complaints and if no action is taken against the persons responsible for brutality.

"Perhaps even more important, I would like to mention my conviction that the Prime Minister, Mr. Vorster, is himself a party to the torture being practised on political prisoners in South Africa, and he is aided in this by the head of the Security Police, Major-General van den Bergh. Now, I realize it's a serious accusation to make against a Prime Minister, but I feel that there is sufficient evidence to demonstrate, beyond doubt, that the accusation is correct.

"To begin with one has to refer to the fact that Mr. Vorster and Major-General van den Bergh were detained in the same prison during the war for their pro-nazi sympathies. And, last year, in an interview given to the Press, Major General van den Bergh said that the reason why the police had had so many successes had been the past understanding which existed between him and Mr. Vorster, then Minister of Justice, an understanding which had first been built up in prison and which had continued throughout the years.

When Mr. Vorster became Minister of Justice in 1961 or 1962, he said to the police, 'Tell me what powers you want and I'll give them to you.' He said this in public and he immediately promoted van den Bergh from the position of being Captain - or thereabouts - in the police force to second-in-command of the police force and head of the Security Police. He was promoted above the heads of many other people senior to him.

"The ninety-day law was passed the year after as a result of police discussions with Mr. Vorster, and although there were many complaints afterwards of the police having used the ninety-day law to torture dozens of political suspects in very brutal ways, the Minister refused to have any public inquiry into this, and his whole aim and object was just to protect the police and to attack people who tried to expose torture.

"More specifically, one finds that there is now a team of interrogators including, in my case, two captains, two lieutenants and two sergeants and senior police officers who had travelled a thousand miles from one police headquarters to another to conduct the interrogations. They could not have done this without the knowledge of the head of the Security Police; and, from statements which they made to me during my interrogation, I was left in no doubt that they knew not only that they had the protection of Major-General van den Bergh, but they had the support of Mr. Vorster, as well, for what they were doing.

"The head of this investigation team, Captain Svanepoel, was the person conducting investigations when a young Indian jumped from the seventh floor window. He was also at the head of the investigation when an African, Looksmart Solwandle Ngudle, was subsequently found hanged in his cell. He has figured in literally dozens of affidavits and, instead of being removed from his position, he has become the chief political interrogator who travels around the country going from one set of police headquarters to another.

"Witnesses in court, witnesses for the State, have given evidence about how they have been deprived of sleep and interfered with by the police. These were not defence witnesses, they were prosecution witnesses, and a vast body of evidence has been collected and sent to the authorities and no investigation by any independent investigating authority has been carried out at all.

"In my personal case, two days after my sleep deprivation I made a full statement to the Chief Magistrate in Cape Town, who transmitted that statement to the Secretary of Justice - which means it would have reached Minister Vorster on the same day. I read in the newspaper a few days afterwards - through court proceedings fought by a colleague of mine - that the same team of people were subjecting another detainee to the same type of interrogation that very same week.

"After my release I approached my professional body, the Bar Council in Cape Town, to try and arrange an interview for me with Mr. Vorster, on a colleague-to-colleague basis, so that I could tell him, as one advocate to another, what had happened to me. After a long delay he wrote back an abusive letter refusing even to hear what a fellow advocate had been through.

"I am satisfied, in view of all that evidence, that not only does Prime Minister Vorster connive at the use of torture, particularly sleep deprivation, to break down the mind and the spirit and the will of the prisoners, but that he is a supporter of it, that he condones it and that, if he hasn't actually encouraged the police to do so, he has nevertheless specifically authorized them in using those methods.

"I would like to mention, in conclusion, that when he became Prime Minister, after the death of Dr. Verwoerd last September or August, he gave up his general position as Minister of Justice but he retained his special position as Minister responsible for the police, and subsequently he still retained special responsibility as Minister for Security. He has not handed over that portfolio - in other words, he feels he has such a strong personal interest in it that he has not been prepared to hand it over to another member of his own Government."

601. The CHAIRMAN thanked the witness for his extremely important statement. As an advocate who had practised in the Supreme Court, had the witness been able to plead in the lower courts as well?

602. Mr. SACHS: "In all courts, at all levels."

603. The CHAIRMAN asked the witness how long he had been held at the police station after his arrest.

604. Mr. SACHS: "I had two periods. The first was five and a half months and the second was three months. In fact, during the second period, which was two years later, I spent most of my time in Roeland Street prison in the hospital section; I was under the immediate charge of the warders, but under the supervision, the custody, of the police."

605. The CHAIRMAN asked the witness how long his interrogation had lasted.

606. Mr. SACHS: "It started in the afternoon of Friday and it ended in the early evening of Saturday."

607. The CHAIRMAN asked the witness whether he had been taken to a prison after leaving the police station.

608. Mr. SACHS: "The cells were in police headquarters - which meant I was taken from one portion of the headquarters to another, to my cell. Eight days later I was transferred to the prison, but I was really being held more like a police detainee than a prisoner."

609. The CHAIRMAN asked the witness whether, even after being transferred to prison, he had still been considered as a person awaiting trial rather than as a person in preventive detention.

610. Mr. SACHS: "No, I was never a person awaiting trial. I was being held legally as a potential witness, and the law says that one of the reasons is that they feel you might be intimidated. You could be held as a witness. In fact, the only people who intimidate you are the police and I was held so that I could be supervised by the police, until I came to court. But I was never called as a witness in court."

611. The CHAIRMAN asked whether a potential witness could legally be arrested in South Africa.

612. Mr. SACHS: "Yes, that's the 180-day law; it empowers the Attorney-General to sign a warrant authorizing the police to hold potential witnesses for 180 days incommunicado. It is supposed to allow them only to hold you as a potential witness, but, in fact, it is used for interrogation - and unlawful interrogations - even against persons who subsequently become the accused. It is like holding a person as a witness when he is on trial."

613. The CHAIRMAN asked the witness whether - in a confidential document, if he preferred - he could give the names of those of his clients who had said that they had been subjected to torture by electrodes.

614. Mr. SACHS: "The allegations were made in court by the clients concerned themselves, so there is no secret about them. Unfortunately, I do not recollect the names. I had literally hundreds of clients during that period

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charged with similar offences, and I would be able to give some sort of references to the cases, but I don't know the names now.

"The electric shock allegations were made by two lots of four people and by one person in the early part of 1963, when the police were investigating the activities of the Pan-Africanist Congress (also known as Pogo) and the allegations which I have made were published in the Press at the time, and the statements made in court were repeated in the Press at the time."

615. The CHAIRMAN asked the witness whether the clients he had defended had been Africans or Whites.

616. Mr. SACHS: "Africans, Whites, Indians, Coloureds, but mainly Africans."

617. The CHAIRMAN asked whether those who had been subjected to torture by electrodes had all been Africans.

618. Mr. SACHS: "All Africans."

619. The CHAIRMAN asked the witness whether he could give the Working Group the names of any persons who had committed suicide in prison.

620. Mr. SACHS: "I mentioned two names. The first was Looksmart Solwandle Ngudle. He was an African. I would like to comment here that many people feel that he was, in fact, killed by the police, and there was strong evidence at his inquest to the effect that he received very brutal treatment.

"The second was Suliman Saloojee, a young man of Indian descent who jumped to his death from the seventh floor of the police headquarters building in Johannesburg.

"There was another African who, they claimed, hanged himself. I think I was in detention at the time, so I only read about it afterwards. I do not know his name.

"More recently two Chinese South Africans held under the 180-day law were found hanging in their cells. The name of one was given in the Press - I don't know it - and the other name, as far as I know, has been withheld."

621. The CHAIRMAN asked whether the Press had stated that the persons concerned had committed suicide, or had given some other reason for their death.
622. Mr. SACHS: "Inquests are held and, until the inquest is held, the Press says the matter is sub judice. At the inquest of Looksmart Solwandle Ngudle, the counsel for the relatives of the deceased proposed to lead evidence of the use of torture on a massive scale on prisoners held in similar circumstances at the time of the death of the deceased. The magistrate held that that evidence was irrelevant, the counsel withdrew from the case and the magistrate eventually found that it was suicide, with nobody to blame. The police suggestion was that people hang themselves because of their guilty consciences."
623. The CHAIRMAN asked the witness whether he thought that the persons concerned had committed suicide out of despondency or despair, or because they could no longer endure the torture and ill-treatment.
624. Mr. SACHS: "As far as the first two whose names I gave, I personally have no doubt that it was because of the torture to which they were being subjected. As far as the third one is concerned, I have no information and as far as the last two are concerned, I have no information."
625. The CHAIRMAN asked the witness whether, in the cases in which he had taken part as an attorney, the judges had been impartial or biased.
626. Mr. SACHS: "I felt that as members of the white community they shared the general attitudes and opinions of the white community. They shared the biases and the conceptions about Africans and other non-white people, which nearly all whites have in South Africa.
- "I would say that as far as the judges are concerned, most of them were fairly conscientious men, preferring not to look beyond the actual evidence given to them. I would say that the general tolerance towards police illegality has increased very much over the years. Whereas before 1960 a judge would have been indignant at any suggestion of torture, now a judge might feel that he is being a bold man if he excludes evidence because of the possibility of torture. But he won't call for an inquiry, he won't reprimand the police, he will just leave it at that.

"The courts have had the opportunity in some important cases to investigate fairly well authenticated allegations of torture and they prefer to interpret the law in such a way as to evade that responsibility, and say that this is a police matter, not a judicial matter. So I would say then that, although most of the individuals in the Supreme Court are persons of some integrity and conscientiousness, their standards have deteriorated seriously over the past few years and they are not showing the vigilance which one would expect of a really sincere judicial officer. Far too often, instead of insisting upon just procedures, they hide behind the technicalities of the law.

"As far as magistrates are concerned, the position varies. A number of magistrates show a lot of antagonism from the bench towards the accused, whereas others behave in the way I have mentioned in connexion with the judges.

"While I mention it, there was an article in the South African law journal last year by a professor of psychology and a professor of law, stressing that the judges were failing in their responsibility to investigate ill-treatment of prisoners. Unfortunately, again, I haven't got the exact reference, but I hope to get it by Monday."

627. The CHAIRMAN noted that, when the witness had complained before a judge that his clients had been assaulted and ill-treated, the judge had ruled that the matter was not within the jurisdiction of the court. He asked what regulation or law the judge had invoked in support of that decision.

628. Mr. SACHS: "It wasn't actually my complaint. The complaints I was referring to were the two cases which went to the Appeal Court - that is the highest court in the land - and which were reported in the South African law reports. The courts there held that the terms of the ninety-day law and the 180-day law provided that during detention witnesses or suspects were solely and exclusively in the hands of the police, and the judges had no authority to intervene. Quite often, in ordinary cases before - say - a magistrate, if you complained that your client had been assaulted, you would be told, 'We are only

interested in whether your client committed the crime and we are not interested in what happened after the crime. You must refer your complaints elsewhere.'"

629. The CHAIRMAN asked if that meant that the Court of Appeals would not hear cases concerning offences committed against people arrested under the ninety-day or the 180-day law.

630. Mr. SACHS: "That is so."

631. The CHAIRMAN said he assumed that the Supreme Court was a higher body than the Court of Appeals. Was it not possible to request the Supreme Court to hear a case of that kind?

632. Mr. SACHS: "The statute in South Africa is that you have the Magistrate's Courts at the lowest level. Above them is what we call the Supreme Court. Each province has its own Supreme Court and the highest court of the land is the Court of Appeals, which only hears appeals.

"We do not have a Constitution in South Africa which guarantees certain rights. We have a procedure similar to that in Britain where Parliament makes the law and the courts always hide behind that. They say, 'Well, Parliament has made the law'. The complaint against the courts is that often Parliament will just make a general proposition and the courts can interpret it in favour of protecting the subject or in favour of the police, and they have always done so in favour of the police.

"I personally had an experience of that when I was detained. A case was brought on my behalf to allow me to get pencil and paper and books while I was being held in solitary confinement. The judges of the Cape Supreme Court held that the law was open on that point and the rights of the subject must be preserved, that Parliament doesn't take away a subject's right to have ordinary civilized amenities, and he must have them. The Court of Appeals said, 'No, the law is intended to be hard, it is intended to punish people. Accordingly, he is not entitled to have books, or pencil and paper.'"

633. The CHAIRMAN asked whether attorneys in South Africa enjoyed any immunity when pleading.

634. Mr. SACHS: "Just to get the terminology correct, I was an advocate. The attorneys are a separate profession in South Africa. But the principle is accepted that communications between clients and their legal advisers intended to

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be used for trials are privileged. That principle is part of the law and, in fact, when I was detained for the first time, the police spent several hours searching my chambers; they went through all my briefs and, when I said that those documents were privileged, they said they were the judges now, and they sort of laughed at me. I, myself, and other advocates I know who appeared in cases of this kind, were satisfied that our movements were kept under observation; we worked on the assumption that our offices were subjected to chronic eavesdropping, that they ~~were~~ 'bugged'. We knew that, in the building opposite the building where all the advocates had their offices, there was a room in which the Security Police had an office. There was a small blind there which always used to be open, so that they could watch people coming in and out of our building, and presumably they also had electronic equipment there for recording conversations taking place in our chambers. Naturally, they were very interested in what clients said.

"Of course, one does not have direct proof of this, but speaking quite seriously and realizing the seriousness of this allegation, I have no doubt whatsoever that such supervision was maintained in my case."

635. The CHAIRMAN asked whether the witness had been present at the trial of Mr. Nelson Mandela.

636. Mr. SACHS: "No. In fact, I did not even know that he was being tried because he was taken from Robben Island at a time when I was in the middle of my ninety-day detention and I only discovered it afterwards."

637. The CHAIRMAN asked whether the witness had been present at the trial of Abram Fischer.

638. Mr. SACHS: "No. At that time I was restricted to Cape Town and his trial took place at Pretoria."

639. The CHAIRMAN asked whether the witness now knew why he had been arrested.

640. Mr. SACHS: "As far as the first arrest was concerned, I quite honestly don't know and I would have to guess at the reason. I know the background. I was quite openly against apartheid, I spoke publicly against apartheid. In addition,

I was involved in many cases defending people charged with political offences. I had often to cross-examine the police in the witness-box and accuse them of ill-treatment and lying and that sort of thing. But, specifically, I do not know. So far as the second detention was concerned, they did give me one document there mentioning that I was a witness detained in connexion with the trial of Fred Carneson, and I had some years earlier - more than two years earlier - I had had political associations with Fred Carneson.

"I might mention I was paid witness fees for my second detention and, being a professional man, I got extra fees. They try and maintain the fiction that you are a witness, even to the extent of paying you daily fees. In fact, I even asked for hotel expenses, but they refused to pay that."

641. Mr. JANKOVIC asked the witness whether the Suppression of Communism Act affected persons other than members of the Communist Party.

642. Mr. SACHS: "The Suppression of Communism Act has become the basis of political suppression of all radical anti-apartheid forces in South Africa. The first targets were the communists but, in addition, the provisions of the Suppression of Communism Act have been used to effect the banning of the African National Congress, the Pan-Africanist Congress, the Congress of Democrats and, more recently, the South African Defence and Aid Fund."

"I might mention, as far as the latter organization is concerned, that most of its members in South Africa were not only not Communists, but were anti-communist."

"In addition, the Act gives the Minister of Justice authority to impose restrictions without trial on the holding of meetings and on individuals. More than 600 persons have been what we call "banned" in terms of the Suppression of Communism Act. Possibly, maybe 200 of them are Communists, or sympathetic to communism, but the majority are not Communists; they would be African nationalists, some would be liberals, some supporters of Gandhi and some, possibly, even anti-communist; in fact, some are known to be anti-communist."

"The same would apply to the banning or prohibition of meetings and to all other fields of political organization."

643. Mr. JANKOVIC asked how sabotage was defined under the Sabotage Act of 1962.

644. Mr. SACHS: "As a previous witness indicated, the definition is a very long one, but what it boils down to is the causing of any damage to property with a political end. In fact, though, sabotage has been conducted on a wide scale in South Africa - this was after other forms of protest were made illegal - and so you have action and reaction developing then."

645. Mr. JANKOVIC asked the witness to provide some further information on the Group Areas Act, to which he had referred in his written statement.

646. Mr. SACHS: "Yes. It was passed as one of the first measures introduced by the National Party Government after it came into power in order to separate all the population groups in South Africa, in terms of land ownership and residence. As far as Africans are concerned, already, in terms of the Native Land Act, Africans are prohibited from owning land in 97 per cent of the country's territory and, in terms of other acts, in open areas they have to live in locations under the control of a white superintendent. The Group Areas Act was designed primarily to deal with the position of so-called Coloured people and of so-called Indians. It provides that the Government can proclaim certain areas, particularly in towns, to be areas in which members of certain specific racial groups - and they alone - may work or occupy premises or own land. It also includes things like attending cinemas and public entertainments. A recent provision or proclamation under the Group Areas Act made illegal any multiracial attendance at any public performance or entertainment of any kind without a permit. It is popularly known as the Ghetto Act."

647. Mr. JANKOVIC noted that the witness in his written statement had mentioned the Natives (Urban Areas) Consolidation Act, the Population Registration Act and another Act. As a jurist the witness was undoubtedly familiar with the United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Did the witness believe that the application of the Acts to which he had referred was tantamount to genocide?

648. Mr. SACHS: "I would say that the combination of racial attitudes in South Africa, and the power that the Government has, approaches the policies which led to genocide in Europe in recent decades. If by genocide one means the actual physical extermination of populations - that is, the extreme form of genocide - I would say that stage has not yet been reached in South Africa, and one hopes that international exposure and pressure will be sufficiently strong to prevent it from ever being reached. If one used an extended definition of genocide to include humiliation of populations on the grounds of race, deprivation of facilities, of the fundamental human rights on the grounds of race, then I would say that not only is genocide carried on, but it is part of the official policy of the Government in South Africa, as experienced in its legislation."

649. Mr. JANKOVIC asked whether the witness believed that the so-called Ghetto Act was designed to destroy a people.

650. Mr. SACHS: "It has been used in the most ruthless fashion to destroy the livelihood, in particular, of members of the Indian community who in a number of areas have been uprooted from their homes and their work and forced to live and trade outside the area in which they lived before. But the word 'destruction' can be understood in the physical sense and in a broader sense. As far as the physical sense is concerned, I think it would be inappropriate to refer to genocide in South Africa today. As regards the question of the ability to exercise elementary human rights in the fields of residence, work, education, movement, political rights, and so on, I would say that the policy of apartheid to that extent involves the destruction of the rights and spirits and amenities of whole populations on grounds of race."

651. Mr. JANKOVIC recalled that a few weeks previously the world Press had reported that nine prisoners had been killed as an act of vengeance for the murder of a policeman by a single person. Was collective punishment a common practice in South Africa and was it sanctioned by the legislation of that country?

652. Mr. SACHS: "The case actually involved the murder of a shopkeeper, and it wasn't a collective sanction in the sense that some principle of collective guilt was involved; the principle was that each of those nine persons had to some extent actually contributed towards the killing of that one shopkeeper. Where one felt a sense of deep shock at this was that so many people should have been hanged - irrespective of what one feels about hanging - for the death of one person, and that no attempt was made to distinguish between the leading personalities and the lesser personalities. The impression which I gained was that the fact that there was a political background to the killing aggravated the situation and was the reason why there were no reprieves and no attempt was made, as is normally done, to punish the ringleaders - as they are called - most severely and to relieve the others."

653. Mr. MARCHAND STENS noted that Mr. Sachs had said that in South Africa witnesses were paid, and paid well. Were fees paid both to State witnesses and to witnesses for the accused, or only to State witnesses?

654. Mr. SACHS: "As far as payment is concerned, the rule is that witnesses who have to travel more than six miles from their residence to court get paid according to a set tariff. I might mention that the tariff varies according to race, with whites getting the most, coloureds getting the intermediate figure, and Africans getting the least. This tariff has been applied to witnesses detained under the 180-day law. I'm not sure what happens to a person who is detained under that law and is afterwards charged himself. I don't know if he can get payment for being a witness when he is the accused. The payment isn't handsome; you don't get rich on it. But, being a professional man, I was paid at the highest remuneration. It was all very ironical. My practice closed down completely, but to maintain the form of the law, I was paid £1.10.0 a day for the time of my detention."

655. Mr. MARCHAND STENS asked what sort of document it was that had been obtained from the witness by force.

656. Mr. SACHS: "It had two main parts. One was information about my background and activities over a period of a number of years, and the substantial portion was concerned with my association with the person who was due to be charged, Fred Carneson."

657. Mr. MARCHAND STENS asked whether the witness had been released after he had signed the document.

658. Mr. SACHS: "I was allowed to go out of that room and was escorted back to my cell. I was held in the cell for three months and, if the trial had followed the ordinary course, I would have been taken straight from the cell to the witness box to give evidence.

"I must say those three months were some of the worst of my life: a feeling of deep depression, of confusion, anxiety; I was desperately keen to speak to someone from outside. Even though I was a lawyer and had been in many cases like that, the law was so complicated that I felt I needed legal assistance, and the pressure on me to give the kind of evidence which the police wanted was tremendous. I like to feel that I would have resisted their pressure, but I was made aware myself of the weight which bears upon a witness taken from the police cells straight into court, with the same policeman who tortured him, either physically or mentally, sitting in court watching him give the evidence.

"I forgot to mention that, comparing my experience in 1964 and in 1966, I found that my material conditions improved very, very much; I was actually in a large hospital room, but the interrogation was much worse than anything I had had before."

659. Mr. MARCHAND STENS asked the witness whether charges had been brought against him on the basis of the evidence which he himself had given.

660. Mr. SACHS: "That happened to the accused in that case. But it did not happen to me. Of course, you always have the fear that it might happen."

661. Mr. MARCHAND STENS recalled that at the last session of the Commission on Human Rights the Observer for the Republic of South Africa had stated officially that his country had accepted the International Standard Minimum Rules for the Treatment of Offenders and had incorporated them in the relevant legislation and departmental directives. Had the Standard Minimum Rules, in fact, been incorporated in South African legislation or merely in the relevant administrative regulations? In some countries, such as his own, an administrative regulation carried less weight than a legislative act, which was binding on the State itself.

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662. Mr. SACHS: "South Africa has many laws. Most of them are bad and a few of them are good. The bad laws are well enforced, and the good laws are badly enforced. An example of good laws being badly enforced would be the prison regulations which read very well on paper but are applied very poorly in practice. I just remembered myself one day during my detention being very surprised to see the warders or the policemen running around and placing wooden knives, spoons and forks, and clean napkins and soap next to the different cells. I was surprised to see this happening until I discovered that there was about to be an inspection. As soon as the inspection was over the eating implements and washing implements and materials were removed very quickly, in case the prisoners used them and dirtied them.

"The same kind of thing, I would suggest, might apply in general as far as inspections of many prisons are concerned. For example, Robben Island is off the mainland. You can only get there by special boat or helicopter; it is impossible just to roll up there in your motor car, and so preparations can be made. Visitors can be brought at times which are convenient, when cells are empty and people are going about their business, and it is extremely difficult for an outsider - even a conscientious person who is concerned - to get a clear indication of what happens. The way the South African authorities deal with complaints of breaches of the prison regulations by and large is by saying: 'We have investigated those complaints and we have found them all to be false.' But when you examine who carried out the investigations, you find that those are the very people against whom the complaints were made.

"I would like to just add this. Some of the prisons are quite good, and improvements have been made as far as, particularly, ordinary white criminals are concerned. But, by and large, the general level, based on my experience and observation and what I have heard, is very, very low and falls far short of world standards and even for ordinary persons, even for white prisoners, there is scope for very much improvement."

663. Mr. MARCHAND STENS asked whether any magistrates, judges or attorneys were actually involved in the campaign against apartheid, apart from the persons whose names were already well known. He would like to have some information on the

Sobukwe clause, which Mr. Fischer had called a legal rule which usurped the power of the courts. Lastly, was there any discrimination between whites and blacks in respect of appeals under the law and other remedies?

664. Mr. SACHS: "The practice in South Africa is for the judicial officers not to participate in politics or to express any political opinions while they occupy those positions. This is fairly rigidly adhered to. After they retire some judges become active in politics, and the tendency until the 1950's was for judges to be more liberal - rather, in the South African context, what one might call mild critics of apartheid and supporters of the rule of law in general terms. A number of these judges, when they retired, associated themselves with mildly liberal organizations and groups. A former Chief Justice, Centlivres, attended many protest meetings until he died last year some time. I can mention the names - which I prefer to do in writing - of two retired judges who have openly criticized the deterioration of standards in South Africa. But to what extent they might be prepared to help this Working Group in any way, I don't know. They still feel tied to the system and they would not like to - as they would see it - betray the system to which they belong. But I can mention their names.

"As far as legal practitioners are concerned, there are very many of them. There are some in prison now. Abram Fischer, who has a life sentence, was the leader of the Bar in Johannesburg, the son of a judge, a Judge President, and there are many in this country in exile who practised both as advocates and as attorneys.

"You asked about the Sobukwe clause. That is just a popular name for a provision which enables the Government to keep a person in detention after he has finished serving the sentence imposed upon him by law, by the courts. At the moment this provision is being used only for Robert Sobukwe, whose judicial term of imprisonment ended in 1963, and he is still held in isolation on Robben Island.

"This clause has to be renewed each year, and there is a fear that it will be used against other people as well.

"With regard to remedies available to black and white, there are both practical and legal difficulties which apply more to black people than to white people. There is a problem of poverty affecting black people. There is the problem that a

white person tends to be believed more quickly than a black person in court. There is a problem of lack of familiarity with the courts, lack of confidence that justice will be meted out properly by a white man judging a black man. By and large, the procedural law - as opposed to the substantive law - does not discriminate between black and white, but there is one law which says that Africans specifically are debarred from getting an interdict or an injunction against removal orders made by the Government banishing them to different areas, or expelling them from certain areas. That applies only to Africans."

665. Mr. WALDRON-RAMSEY thought that the testimony provided by Mr. Sachs was more important than any of the evidence which the Working Group had heard at earlier meetings. The written statement submitted by Mr. Sachs should, like the testimony which he had given orally, be included in extenso in the total body of evidence which the Working Group would consider when it came to draw up its report. It was gratifying to know that South Africa still numbered among its citizens men like Mr. Sachs who, in spite of the difficulties facing the opponents of apartheid, were prepared to continue the fight until justice was done for all citizens of South Africa.

At the end of his written statement, Mr. Sachs had said: "If it /the South African Government/ can get away with torturing individuals now, it may feel safe in massacring populations later. The duty of people everywhere is clear". Did Mr. Sachs believe that, in spite of the overwhelming power of the South African authorities, the international community was nevertheless making a useful contribution by constantly drawing attention to conditions in South Africa? And could he suggest any other ways in which the international community, and the United Nations in particular, could continue to exert pressure of that kind?

666. Mr. SACHS: "I have probably had more experience presenting evidence than others, and possibly that is why my remarks might have made an impression, more than they merit, compared to the experiences which others have undergone.

I think that it is worth while pointing out at this stage that the worst victims of discrimination and brutality are either dead or in prison and are not in a position to testify at all. This makes it all the more important that persons who are available to testify should do so, and that any evidence which can be given should be publicized as widely as possible. Those prisoners have to be protected from extermination; populations have to be protected from extermination. One feels that if there had been more exposures in the thirties about the treatment in concentration camps by the nazis of Jews and political prisoners, the extermination of whole populations in the forties might possibly have been avoided; and that is one of the reasons why one feels strongly that the more publicity given to the illegalities - by any standard of justice - being committed in South Africa today, the more the hand of the Government there and the authorities will be restrained from effecting yet greater crimes against yet larger sections of the South African population.

"So even if it is not possible to achieve what one would like to achieve - namely, the liberation of these prisoners and the ending of these practices - nevertheless, the focusing of attention on what is going on and the exposures of what has been happening are likely to exercise something of a brake on the authorities.

"I feel that already some brake has been exercised to the extent that things would have probably deteriorated beyond the present position, if there had not been the exposures in 1963 by prisoners from Robben Island and if there had not been exposures by a white political prisoner - Harold Strachan - which achieved a lot of publicity.

"I feel that torture is something which is carried out in private, in the dark. One of the ways of preventing torture is to open the doors, to throw light on it, because nobody in the world today will stand up and publicly claim that they believe in torture and that they think torture is a good thing. That is why I hope that the work of this Group and its findings will not end up as a roneo-ed report, merely being sent from one official to another and being placed in pigeon-holes in various government departments.

"I hope that the findings based on the evidence given will be carefully prepared and given maximum publicity in the world Press, radio and television, so that the people in South Africa who inflict these crimes upon defenceless victims know that their crimes are being recorded and - what is equally important - so that the victims may know what is happening to them does affect people outside, and that people are concerned, and that people are on their side and want them to live, to be strong enough and healthy enough to survive their imprisonment, to take their place ultimately in the Government of a free South Africa."

667. The CHAIRMAN thanked the witness for his testimony and said that the Working Group would do everything in its power to ensure that the widest possible publicity was given to all the testimony laid before it, and to its own conclusions.

M. Testimony of Miss Gillian Jewell

(London, 19 June 1967)

568. Miss JEWELL took the following oath: "I swear to speak the truth, the whole truth, and nothing but the truth."

669. She then made the following statement:

"I am thirty-six. I was a lecturer in French in South Africa, and I am at present studying for a Ph.D. degree in French Literature at Warwick University.

"I have twice been held as a political prisoner in South African gaols - once in 1964 and once in 1966. I would like to deal first with the experience in 1966.

"On 27 January 1966, I was arrested by the Cape Town Special Branch and held in solitary confinement for three months as a witness under the 180-day law in the trial of Mr. Fred Carneson. On my arrest, I was taken to Maitland police station and placed in a cell the walls of which were painted black to the halfway mark, but during the day I was moved to a larger but rather dark cell giving on to a courtyard. I remained in this cell for the whole period of my detention. On my arrival at Maitland police station, I had with me books, including the prison regulations and writing paper, but they were all removed from me the next day on the orders of the Security Police, and I was left with nothing but the Bible. I went on hunger strike from the time of my entry into Maitland police station in protest of my arrest. On 3 February 1966, I was taken by the Security Police to Caledon Square police station, and subjected to insults and abuse for about two hours. I was then taken back to my cell. I had already seen the visiting magistrate and had protested to him about the conditions of my detention as an abuse of the prison regulations, and explained to him the reasons for my hunger strike. My protests had no effect. On 5 February 1966 I was again taken to Caledon Square police station for interrogation; I was told that I would be held there until I made a statement, for ever if need be. I was interrogated by Lieutenant Nell (?), Lieutenant Erasmus, Captain Fenter (?), Captain Vikter, Captain Swanepoel and others whose names I do not remember. They were all from Pretoria. No wardress was

in attendance until later in the evening, and she remained outside in the passage. It was a small room, which appeared to have sound-proof material on the walls and door. I was told to make a statement and, when I refused, was subjected to methods of interrogation designed to break my resistance.

"Psychological pressures are brought to bear on detainees held as witnesses in various ways. My interrogation consisted of insults and questions, alternating with periods of relaxation in order to keep me in a state of emotional tension. These methods of interrogation went on without any respite. In addition, I was subjected to various forms of psychological torture. I was threatened with the arrest of a friend who had young children to look after. Veiled threats were made about my fiancé serving a twelve-year prison sentence in Pretoria local prison for sabotage, and I was told that I had killed my twin sister who had committed suicide not long before. Towards evening, I attempted to break my leg in order to avoid any further interrogation, but only managed to bruise myself rather badly and I became hysterical. At about 10 o'clock that evening, I decided to make a short statement before I lost complete control. After my statement, I was taken back to my cell in Maitland police station.

"The following morning, my books and writing materials were returned to me, and I was taken to see the district surgeon at Bellville for a medical examination. I was told that it was because of my hunger strike. I ended this hunger strike on the tenth day of my detention. My repeated and detailed protest to the visiting magistrate about the illegal methods used during my interrogation were without any effect. After any interrogation, and until my release, I only saw the Special Branch on two occasions, when they came to my cell to ask me to be photographed for their records. I refused, because it was illegal, and they did not insist. The only visitor I had during the whole period of my detention was my sister, and I was allowed to see her in the presence of the Special Branch, once for ten minutes and once for half an hour.

"However short a statement a detainee makes to the Special Branch under these conditions, he is left to face the psychological shock of having been forced, against his will and his deepest convictions, into some form of betrayal. For days

I was a prey to the traumatic effects of this betrayal, analysing, justifying, turning over and over the possible consequences in my mind. I suffered from constant headaches, and they grew progressively worse. Six weeks after my arrest, I went completely insane, and remained so until after my release when I had to receive psychiatric treatment. I do not wish to dwell on what was a personal nightmare, except in so far as it illustrates the techniques of mental torture now widely used by the Special Branch in South Africa, and the cruel effects of solitary confinement on the individual.

"As is well known, the relationship between twin sisters is especially close and deep. I was a frequent visitor to and then lived in, a house in Cape Town where the Special Branch had made 383 tape recordings of conversations. They were aware not only that I had guilt feelings about my sister's suicide, but also that I was receiving medical treatment for a depressive reaction following on her suicide. They used this information deliberately to create feelings of guilt in me, and my period of insanity during my detention was the direct outcome of their methods of interrogation.

"I started to imagine that my food was poisoned and I ate and drank very little. I suffered from paranoia and thought that my cell was 'bugged', that a two-way mirror had been placed in the ceiling, and that I was being constantly spied upon and watched. The anti-Jewish statements made during my interrogation by the Special Branch - who, on arresting me, told me: 'We wish we had another Adolf Eichmann here; he would shoot you dead' - preyed on my mind and led me into thinking that I was being gassed and that I was in some kind of gas chamber. I started to live like a hunted animal, constantly hiding objects, sleeping on the floor next to the door, drinking my lavatory water for fear of poison. I refused to leave my prison cell even for exercise, imagining that objects were being stolen. I had constant hallucinations, both visual and aural, and lost all sense of time. I also suffered from complete dissociation of act and thought, and the psychiatrist I saw after my release was unable to determine whether I had actually written statements on my cell walls or whether they had been hallucinations on my part.

"So strong were my hallucinations and my belief that I was being poisoned and gassed that I finally decided to do anything in order to be moved either

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into hospital or into another cell. I swallowed various objects, safety-pins both open and closed, buttons, hairpins, etc., and informed the policeman on duty that I had done so. A doctor came, asked me whether I felt any pain, and then left without prescribing any treatment. The following day I swallowed a pin two inches long. I was told by the Lieutenant in charge of the police station that I could be an ostrich if I wanted to be one, and I was left without any medical attention. In the morning, instead of opening my cell to give me my food, the policeman on duty kept the door locked for some time and I was told that the key had been lost. This was to punish me for wanting to leave my cell. Finally, that afternoon, I was taken for an X-ray. I was not told the results of the X-ray, and the matron in charge of me informed the nurses that I was lying. Desperate, the next day I smashed a bottle and cut my wrists. I also swallowed a number of pieces of broken glass. The next day I was released, fortunately before I hanged myself, which was the next step I had planned. A week after my release, I was sent a message from the Special Branch at Caledon Square telling me to go for a further X-ray. This was the only acknowledgement of my illness that I received from them.

"For some weeks after my release, I was still subject to delusions and had to seek psychiatric help. The psychiatrist told me that any further strain could involve permanent insanity. Acting on medical and legal advice, I left South Africa. As an after-effect of my prison experiences, I had a nervous breakdown six months ago and am still receiving medical treatment. Hallucinations and nightmares have been frequent, and I have suffered from difficulties relating to memory and ability to concentrate. One of the most painful aspects of my detention was that my almost total isolation - except during exercise periods, when the matron spoke to me - was only broken by hearing the sufferings of African and Coloured prisoners brought into the police station as 'awaiting-trial' prisoners. They were treated with contempt and brutality and the sound of blows was frequent. They were locked up in cells in the courtyard on to which my cell gave; these cells were completely empty except for a lavatory in one corner, and had cold cement floors. The prisoners were given blankets and slept on the floor. Bread delivered in tin tubs was their only food, and no drinking water was available. Day and night came the cries for 'water please, Sir' and their cries went unheeded or were laughed at. Once or twice a day they were let out to

wash their faces under a tap, and to snatch a quick gulp of water. Frequently young girls were brought in and their hysterical sobbing and cries of fear went on for long periods during the night. I never once heard a kind or reassuring word addressed to any prisoner. They were all treated with the same arrogant scorn.

"My cell was kept scrupulously clean by the convicts who did all the rough work at the police station, but the walls were filthy and covered with obscene drawings, pictures of tombstones, and inscriptions of all kinds. These inscriptions were a depressing testimony to the sufferings of former ninety-day detainees. Someone had written 'A hundred and twelve days, suicidally depressed'. Norman Bromberger (?), Stephanie Kemp, Albie Sachs, Adrian Leftwich, Ria Miller McConkey, and others had left records of the slow sad days spent in isolation. Norman Bromberger (?) had written: 'Caledon Square, 3 to 6 August, interrogation. No sleep or sitting'. Adrian Leftwich wrote: 'Now held for 104 days in solitary confinement'. And there was a living presence to remind me of the sufferings of others. Another 180-day detainee was held in the same courtyard, and during exercise time he passed my cell. I sometimes heard his voice in conversation with his gaolers and once I heard him say in despair to a police officer: 'Why do you not commit suicide?'. His words were the echo of the obsession with suicide and the spiritual torment of so many detainees in solitary confinement.

"I also want to talk about my experience in Roelan Street gaol. In 1964 I spent a month, from 10 November to 9 December, in Roelan Street gaol, Cape Town. I was serving a prison sentence for having broken my banning order by communicating with my fiancé who was also banned. My treatment in Roelan Street gaol was absolutely correct, and I do not wish to draw attention to any personal aspects of my detention, but to describe the conditions of other prisoners. Roelan Street gaol is not in some ways a typical South African prison because it is a very old gaol due to be demolished and is used to house 'awaiting-trial' prisoners and as a clearing-house for other prisons in South Africa. White prisoners serving sentences of over six months are not normally kept in Roelan Street gaol but many Coloured and African prisoners serve sentences of

up to two years there, and while I was there one of them was serving nine years. There were about 350 African and Coloured women prisoners, and the number of white women prisoners ranged between six and ten. As is usual in South Africa, conditions were different for white prisoners and black prisoners. Even clothes were different. The white women wore beige tunics; the Coloured and African prisoners were dressed as servants, and many of them walked barefoot whatever the weather. The really hard work in the prison, heavy laundry work for Government departments, was done by the Africans and Coloureds. White prisoners did sewing. The African and Coloured prisoners worked fairly long hours, but were shut up in their cells from about 5 or 6 in the evening until morning.

"I had the opportunity of visiting the African and Coloured quarters of the prison. In the white cells were beds and fresh linen, and the cell I was in was large and airy, painted green and white. The African and Coloured prisoners were in cells with unpainted rough cement walls and slept on blankets on the floor. Their cells were windowless. There was only a small grating for fresh air above the door. The numbers in one cell varied between six and seventeen. They had a bucket and an urn of drinking water in each cell, but were allowed to keep nothing else in those cells. These cells were kept clean and were scrubbed out every day by the prisoners. European prisoners had access to hot water for washing, but the African and Coloured prisoners washed in cold water in old iron troughs in the open courtyard in the morning and evening.

"I do not know what the African and Coloured prisoners did when it rained. The buildings of Roelan Street gaol were old and ugly, and the cells of the African and Coloured prisoners were cheerless, dark and depressing. There was no dining-room for any of the prisoners in Roelan Street gaol. The white prisoners ate in their cells, sitting on their beds; the Africans and Coloureds had their main meal in the open air, either sitting on the ground, or squatting on their haunches. The food for white prisoners was of better quality and more varied. At midday, the African and Coloured prisoners were given mealie-meal mixed with small pieces of meat, and occasionally vegetables - unscrapped carrots, for instance. I believe they had dried bread for breakfast.

"There are no educational facilities of any kind in Roelan Street gaol - no library existed. The white prisoners were allowed to read any books or magazines they - or other prisoners - had with them, but could not obtain any other reading material. The African and Coloured women were not allowed to have books or magazines in their cells; I believe a few were allowed the Bible and all prisoners were allowed to attend church services on Sunday. No games or sports facilities existed, and exercise was unheard of. The most depressing aspect of Roelan Street gaol was, indeed, the total absence of any attempt at rehabilitation.

"Since there was no rehabilitation, I was a witness to the degrading effects of prison life on both white and black prisoners who were locked up for long periods in their cells, especially over the week-end, without any form of mental stimulus. Lesbian relationships developed amongst both black and white prisoners and were manifested quite openly. Prisoners were frequently depressed and displayed anti-social tendencies, which assumed various forms such as fighting amongst themselves. Bad language and swearing were used by prisoners and wardresses alike. Rough treatment for black prisoners was common. They were always shouted at and frequently hit with sticks; but this brutality, although common, was not a deliberate form of cruelty.

"The wardresses were overworked, underpaid and lacking in adequate training. Several of them were about nineteen, and one was only seventeen years old. They displayed the customary white South African contempt for Coloureds and Africans, and always treated the white prisoners as superior. But I did witness individual acts of kindness towards both black and white prisoners on the part of wardresses and the matron in charge. Conditions for prisoners in Roelan Street gaol are extremely depressing and prisoners suffer a great deal. This is mainly due to the lack of any policy designed to help them to adjust towards society and to rehabilitate themselves. Roelan Street gaol is not a prison; it is a work camp."

670. The CHAIRMAN asked whether the witness had been informed of the reason for her arrest.

671. Miss JEWELL: "In 1966, I was detained as a witness in the case against Mr. Carneson. In 1964, it was because I had spoken to my fiancé against the regulations."

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672. The CHAIRMAN asked whether the witness had been restricted to her residence.

673. Miss JEWELL: "Yes, I was restricted - banned."

674. The CHAIRMAN asked whether the witness had been arrested under the ninety-day law.

675. Miss JEWELL: "No, the first time, in 1964, I was put in prison as an ordinary political prisoner."

676. The CHAIRMAN asked why the witness had not been allowed to speak to her fiancé.

677. Miss JEWELL: "It was prohibited. We were both banned, and we were forbidden to speak together."

678. The CHAIRMAN asked whether the witness had been living in the city at the time.

679. Miss JEWELL: "Yes."

680. The CHAIRMAN asked whether the witness and her fiancé had been forbidden even to see each other.

681. Miss JEWELL: "Yes."

682. Mr. ERMACORA asked the witness how she had known the names of the police officers who had interrogated her.

683. Miss JEWELL: "Some of these policemen have reputations, and I specially asked them their names because I wanted to remember them. Captain Swanepoel and Captain Vikter, in particular, are very well known in South Africa."

684. Mr. ERMACORA asked the witness what information the police officers had wanted her to provide.

685. Miss JEWELL: "Any information I had about Mr. Carneson. They did not always specify what they wanted in the statement; they said: 'You are going to make a statement.'"

686. Mr. ERMACORA asked the witness whether she had ever complained officially of the ill-treatment she had suffered.
687. Miss JEWELL: "No."
688. Mr. ERMACORA asked the witness whether she had any medical certificate relating to her ill-treatment and its consequences.
689. Miss JEWELL: "I could get a statement from the psychiatrist in Cape Town."
690. Mr. ERMACORA asked how the witness had known about the conditions of the other prisoners.
691. Miss JEWELL: "In the case of my detention under the 180-day law, I know about the question of water because I heard about it. I know the conditions of the cells because during exercise time I walked round the yard and looked into their cells."
692. Mr. ERMACORA asked the witness how she had been able to visit the prison in 1964.
693. Miss JEWELL: "I am afraid I did that on purpose. I asked another prisoner who was authorized, who was in a position of responsibility in relation to the other prisoners, to take me round the prison and the wardresses did not know that I had seen it."
694. Mr. ERMACORA asked the witness how she had been able to remember the names of other prisoners who had been in the same prison.
695. Miss JEWELL: "Because they were written on my wall."
696. Mr. ERMACORA pointed out that the witness had said that she had suffered from some loss of memory.
697. Miss JEWELL: "Yes, well, there are certain things that you remember and certain things that you don't remember. I also wrote the dates of my detention period on the wall, and I also kept a record and took it out with me - I kept a record of everything that was written on my cell walls."
698. The CHAIRMAN thanked the witness for her testimony.

N. Testimony of Mr. Clare Cotton

(London, 19 June 1967)

699. Mr. COTTON took the following oath: "I solemnly declare on my honour and conscience that I shall tell the truth, the whole truth, and nothing but the truth."

700. The CHAIRMAN said that he understood that, although the witness had no personal experience of conditions in South African prisons, he was an active member of Amnesty International and wished to give the Working Group some information about the case of Mr. Zeph Mothopeng.

701. Mr. COTTON replied: "That is correct."

702. He then made the following statement:

"My name is Clare Cotton. My age is thirty-nine, and I am a journalist.

"We have submitted to you a brief paper with respect to Zeph Mothopeng, and I want to submit further the only copy I have left of a petition to the Supreme Court in Pretoria which sets out the evidence of torture, which will be called in his civil action against the Minister of Justice for damages sustained under torture. Under South African law, a prisoner who can prove in court that he has been tortured by a warder or police officer is entitled to collect damages. Mr. Mothopeng is suing the Minister of Justice for £2,500. The first sessions of this case were heard June a year ago; it has been adjourned since, but we hope that it will be resumed shortly. I would very briefly like to amplify the statement you have been given on a couple of points.

"The first is the torture, for which the damages are being sought, which occurred on 3 October 1963 in the central police barracks in Pretoria. The petition, which I will give you, sets out in detail the torture received, in particular electric shock. The basis of the suit against the Minister of Justice is this petition and the evidence Mr. Mothopeng will give, as well as the evidence of scientific witnesses, in particular, the Professor of Pathology at Pretoria University. This particular physician examined Mr. Mothopeng toward the end of October 1963, that is, several weeks after the torture, when he had been called to give evidence at the inquest of Looksmart Solwandle, a detainee who hanged himself in gaol in Pretoria while still under detention.

"These will be the two main bases of the plaintiff's case in this action against the Minister of Justice, and I would like to amplify, first, on the point of the difficulty of suing the Minister of Justice in South Africa under these circumstances. The first step was to have a petition to sue in forma pauperis and I will submit to you the only copy of that petition which I have. It was granted by the Supreme Court in Pretoria.

"When the case was called by the Court for 1 April 1965, Mr. Mothopeng was at that time in Robben Island serving a sentence of eighteen months under the Suppression of Communism Act. The case was called for 1 April. On 11 March, the solicitor acting for Mr. Mothopeng was sent a bill by the Prisons Department in the amount of 509 Rand, or approximately £254, this being the cost of transporting the plaintiff - that is, Mr. Mothopeng - from Robben Island to Pretoria and back - that is, four days travelling and two days in court, together with approximately 40 Rand or £20 for each additional day in court.

"At that particular time, the solicitor estimated that the cost of a two-day action against the Minister of Justice would be in the vicinity of £500, and I would remind you that this is after the plaintiff had been granted permission to sue in forma pauperis - that is, his legal fees could be carried by other sources. And, further, the £254 would have to be paid to the Prisons Department before the trial could open. Mr. Mothopeng was later transferred to Greenpunt prison, which is much closer to Pretoria, and he was there when the first days of the action took place in June, 1966. The paper which we have given you reports the fact that he broke down in the opening days of this case, and the case was then adjourned in order that he might be examined by expert neurological and psychiatric witnesses for both plaintiff and defence - the defence in this case, of course, being the Minister of Justice.

"The group of which I am a member has been supporting the Mothopeng family, as well as defraying a part of the legal costs of this action. Before it became illegal, the Defence and Aid Fund had contributed very substantially to the legal costs of various cases involving Mr. Mothopeng in order that the details of this torture may become a part of the public record of a court in South Africa. It would not be really honest for us to say we have a great deal of hope of actually

winning a judgement in the amount of £2,500 against the Minister of Justice, but we do hope we make these studies of torture a part of the record of a South African court.

"The present status of Mr. Mothopeng is that on 13 May he was released from prison. He was secretly taken, without notice either to his attorney or his wife, from Pretoria to Witsieshoek, an isolated area near the Lesotho border, that is, several hundred miles from Johannesburg where his wife is living. There he was released and his whereabouts was unknown to his attorney and his wife for several days. We hope that his action against the Minister of Justice will soon be renewed. We do not know, in fact, whether he has been banished or restricted; we have asked our solicitor to find out, but he gets very conflicting and contradictory stories from various police and prison officers as to what the status is.

"During his time in prison, Mr. Mothopeng had been anxious to remain unmarked by further legal action which would compromise either his position and freedom after prison or this civil action. When he was transferred in August 1965 from Robben Island to Greenpunt, he was accused by a warder at Greenpunt on the first day of insulting him by calling him 'an old bladdy cow' - it is my impression that 'bladdy' is roughly the same as the mild English expletive 'bloody'. He was taken to the head warder. This became a very important matter to Mr. Mothopeng, and what I report to you is taken from a further petition to the Supreme Court, Orange Free State division - an action between Mr. Mothopeng and Lieutenant M.C. Pelser (?), who appeared as his prosecutor in this prison action. I bring this up only because it gives some indication of what goes on with African prisoners in prison.

"He was taken to the head warder who said he would be punished by missing three meals. I quote: 'Now I was trying to explain to the head warder that I was the aggrieved party and that I had a complaint against Warder Muelman (?)'. He said that he was told that he could have his lawyers, and on Friday, 20 August, I quote - 'Head Warder Van Staaden (?) came to my cell and gave me a piece of paper and a pen. This was just after breakfast. I then wrote a letter to my lawyer, and I beg leave to refer the honourable court to it. The letter is marked X and attached to this application. On Saturday, 21 August the prosecutor aforesaid came

to my cell and told me that I was facing a serious charge. He asked me to explain why I had used such words to a warder. I asked him what words, and he then said that I knew. I replied that I did not know. He then said that, in any case, he was not going to allow the case to be postponed and he was going to get his conviction and ask the court to give me lashes. I told him that he was wrong, and that I could not get lashes as I was too old. He said this was a matter in the court's discretion, and that lashes could be given up to the age of sixty. He said that I would be surprised on Monday, and that he had sufficient witnesses to convict me.' He was in fact convicted on Monday, his lawyer being unable to attend because he had only received notice that morning, and was in the event given six days' spare diet, which, if I understand the prison regulations in South Africa, means three days of water in which rice has been cooked, followed by one day of regular meals, followed by three more days of rice-water.

"I should add that Mr. Mothopeng is fifty-one, which is the relevance of the age of sixty with respect to lashes, and the actual prison trial was conducted in Afrikaans, a language which Mr. Mothopeng does not speak, although he attempted to be his own lawyer in that case.

"I have no personal experience of these conditions, but anything in respect of this case that I can amplify and which your Working Group desires, I will be glad to tell you."

703. The CHAIRMAN said that, as he understood it, Mr. Mothopeng had been held first in Robben Island.

704. Mr. COTTON: "That is correct."

705. The CHAIRMAN asked why Mr. Mothopeng had been arrested.

706. Mr. COTTON: "He was arrested for this particular case (this is his second stay in prison since Sharpeville) on 6 April under the detention Act as a member of the Pan-Africanist Congress (PAC); he is an executive of that. It is one of the unfunny ironies of Mr. Mothopeng's case that he is alleged to be the Minister of Justice in the shadow cabinet of the PAC. He was held from 6 April to 7 August in Johannesburg; he appeared in open court - magistrate's court - for the first time on 7 August 1963; the charges against him were then withdrawn; he was arrested immediately under the ninety-day detention clause. In May 1964

he was tried on two counts involving the PAC under the Suppression of Communism Act, was sentenced to eighteen months concurrently on each count, and was sent to Robben Island."

707. The CHAIRMAN asked whether Mr. Mothopeng had participated in the Sharpeville incidents.

708. Mr. COTTON: "No, not to my knowledge, but he has been involved. Before Sharpeville, his life apparently was that primarily of a teacher in this township, Johannesburg. But since Sharpeville he has been more or less continuously in prison."

709. The CHAIRMAN asked what was the present status of Mr. Mothopeng's action against the Minister of Justice.

710. Mr. COTTON: "Adjourned."

711. The CHAIRMAN asked whether it had been adjourned because of Mr. Mothopeng's state of health.

712. Mr. COTTON: "During the second or third day, I believe it was, of the action in June 1966, the leading barrister acting for Mr. Mothopeng, in order to show the effect of his electric shock treatment, had him in court grasp bare wires, which were attached to a hand-cranked generator. During this time - I was not there, you understand, but I am only telling you what the solicitors told us - and during the subsequent questioning, Mr. Mothopeng broke down in the witness-box. The defence - that is, the Minister of Justice - alleged he was shamming; the plaintiff - that is, our side - said that this was an indication of the impact his tortures had had on his person. The case was then adjourned for him to be examined by neurologists and psychiatrists of both sides, and has remained there since. He has, incidentally, been examined; I do not know what the State side would show, but I know that the psychiatric examination by independent neurologists, including the very extensive psychological testing arranged by our solicitor, led to an expert conclusion that he was not shamming."

713. The CHAIRMAN noted that Mr. Mothopeng's prison trial had been conducted in the absence of his attorney and in the Afrikaans language. What was the official language of South Africa?
714. Mr. COTTON: "It is two languages - English and Afrikaans."
715. The CHAIRMAN asked whether Mr. Mothopeng spoke English.
716. Mr. COTTON: "He speaks English and African languages."
717. The CHAIRMAN said he would assume that in normal circumstances, where there were two official languages, the person on trial would be allowed to choose the language in which the trial was to be conducted.
718. Mr. COTTON: "Yes, that's my impression. This was an action in prison conducted by prison officers; this was not a court action outside."
719. The CHAIRMAN noted that Mr. Mothopeng had not been offered any choice; the trial had been conducted in Afrikaans.
720. Mr. COTTON: "Yes. And that fact was a part of this petition to allege that he had been wrongly treated."
721. Mr. ERMACORA noted that Mr. Mothopeng had belonged to the Pan-Africanist Congress and had been arrested under the Suppression of Communism Act. Was membership of the Pan-Africanist Congress specifically forbidden in the Suppression of Communism Act?
722. Mr. COTTON: "To my knowledge and belief, no. It is my impression that anyone who opposes the present régime in South Africa is considered to be eligible for trial under the Suppression of Communism Act."
723. Mr. JANKOVIC asked whether the witness was familiar with any other cases, or only with that of Mr. Zeph Mothopeng.
724. Mr. COTTON: "In detail, only this case."
725. Mr. JANKOVIC asked whether the witness had any general knowledge of other cases.
726. Mr. COTTON: "I should think, after your week of hearings, less than you. I have read the books."

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727. Mr. MARCHAND STENS asked whether Mr. Mothopeng was a white or a non-white.

728. Mr. COTTON: "African - non-white."

729. Mr. ERMACORA asked how the witness had come to know of the case.

730. Mr. COTTON: "In February 1964 the neighbourhood group of Amnesty International - twelve people of which I am one - adopted Mr. Mothopeng as a prisoner of conscience for whom we would work. We have since that time raised something in the neighbourhood of £500 to support his family and certain of the legal costs, and, as you can see, we are in fairly continuous correspondence with his wife and his solicitor."

731. Mr. ERMACORA asked the witness to give the names of the solicitor and the barrister acting for Mr. Mothopeng.

732. Mr. COTTON: "That's certainly a matter of record. The solicitor is Mr. Joel Carlson; the leading barrister is Mr. Lowen (?) - he is a Q.C. - and his junior is Mr. Wentzel. This is for the civil action."

733. The CHAIRMAN asked whether the witness knew where Mr. Mothopeng was at the present time.

734. Mr. COTTON: "We have been told that he is in a corrugated-iron hut, twelve feet by nine feet, in the area of Witsieshoek, near Harrismith, which is on the Lesotho border. He has the clothes on his back. He was given no money when he was taken there, and he has been offered a job as a farm worker at the rate of sixty-five South African cents a day."

735. Mr. MARCHAND STENS asked what was Mr. Mothopeng's profession.

736. Mr. COTTON: "He was for seventeen years a teacher of mathematics and music in the public schools of this inaudible."

737. The CHAIRMAN thanked the witness for his testimony.

O. Testimony of Mr. Abdul Minty

(London, 19 June 1967)

738. Mr. MINTY took the following oath: "I solemnly declare on my honour and conscience that I will tell the truth, the whole truth, and nothing but the truth."

739. He then made the following statement:

"I am South African. I have been in Britain for some nine years studying here and, although I am a full-time student, I am the Honorary Secretary of the British Anti-Apartheid Movement, and I appear here on behalf of the British Anti-Apartheid Movement."

740. The CHAIRMAN asked the witness whether he had ever been in prison in South Africa.

741. Mr. MINTY: "No."

742. The CHAIRMAN asked the witness how long he had lived in the Republic of South Africa.

743. Mr. MINTY: "All my life, eighteen years. I was born in the Republic. I left in 1958."

744. The CHAIRMAN observed that the witness would not appear to have any up-to-date information about prison conditions in South Africa.

745. Mr. MINTY: "I should perhaps make it clear. I have not come here to give actual testimony about conditions obtaining in South Africa today. I have come here on behalf of a British movement which has always been concerned about the conditions of people in prisons in South Africa, and the purpose of my coming before this Working Group, while it is visiting London, is simply to make a short statement to the members of the Working Group showing the concern of the British people for the conditions of South African political prisoners and detainees. This is my object here, rather than to give personal testimonies of the kind which other expert witnesses have given to this Working Group."

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746. The CHAIRMAN asked the members of the Working Group whether they thought it would be useful to hear such testimony.

747. Mr. ERMACORA thought that the witness would not have any relevant testimony, but he would not be opposed to hearing him if the other members of the Working Group wished to do so.

748. Mr. JANKOVIC pointed out that the witness might have visited South African prisons before 1958 and might be able to provide useful information.

749. Mr. MARCHAND STENS thought that the witness might be able to provide background information obtained through his organization.

750. Mr. WALDRON-RAMSEY said that, if the witness could provide either first-hand information concerning prison conditions in South Africa prior to 1958, or more recent information obtained through the organization which he represented, then his testimony would be relevant.

751. The CHAIRMAN agreed. He invited the witness to confine his testimony to those two points. He pointed out that the Working Group was a technical and not a political body.

752. Mr. MINTY: "As I said earlier, I appear before this Working Group, not in any personal capacity, but on behalf of the British Anti-Apartheid Movement which founded the World Campaign for the Release of South African Political Prisoners. Our movement has been the first movement to take an interest in the conditions of political prisoners in South Africa. We have, indeed, not only publicly campaigned for this but requested the United Nations to inquire into these conditions. I appear on behalf of British people - politicians, actors, writers, and other public figures - who have concerned themselves with the conditions of political prisoners. I appear on behalf of those people, first of all, to relate to you the little work that we have done directly in relation to political prisoners in South Africa and also to explain the representations we have made to the British Government in regard to South African political prisoners who have escaped into British territories, and so forth.

"I do not have any prepared information about living conditions in South Africa before 1958. I left Africa when I was eighteen years old. Of course, there are experiences of individual school children, like myself, who were

subject to police brutality and detention at times when we protested against the Government. The purpose of my coming here was to show the concern of the anti-apartheid movement initially, when we ourselves heard directly from prisons in South Africa, and to describe the nature of the work in which we participated here in order to draw the attention of the world to this question. In 1963, the anti-apartheid movement set up the World Campaign for the Release of Political Prisoners for the sole purpose of concentrating on questions relating to prison conditions and demanding the release of prisoners. The World Campaign Committee, which is now administered by the Defence and Aid Fund, has already submitted specialist information to this Working Group. There are two very simple points that we, as a movement, wish to make to this Working Group.

"The first one is, as I said before, to express the concern of British people at the conditions which exist in Southern Africa, and the action that British people have taken to express that concern. This dates back to 1962 when more than 170 members of Parliament of all parties sent Christmas messages to people who were in prison in South Africa, and to the national leaders of the liberation movement. Later on, on successive Christmases, messages were sent to people in prison, to people who were subjected to detention under house arrest and to relatives of people who were in prison or had been executed or had committed suicide. And it was our experience from the letters that our members received back from political prisoners in South Africa that it was extremely important for them to know that the rest of the world cared about their conditions.

"The point that we wish to make is that the concern of individuals who have sent messages to the peoples of South Africa, as well as the fact that this very Working Group is now concentrating on amassing all the evidence that is available on this question, does in itself bring encouragement to the people who are in prison in South Africa for political reasons.

"The second point of some substance we feel we would like to make is to suggest that this Working Group should not concentrate solely on the torture and ill-treatment of people who have been charged primarily for political offences. The conditions of the large number of South African citizens who are continually

flung into gaol for so-called non-political offences should also be taken into account. When we say this, we mean particularly the thousands of people who are imprisoned for offences against the pass laws and other laws like that.

"Indeed, many of us who work in movements as we do feel that, because of the system of apartheid, all the non-white people of South Africa are, in a sense, imprisoned by the laws of apartheid, and these apartheid laws are of course extended to conditions in prisons - white prisoners, for example, are treated differently from Coloured prisoners.

"Maybe, in view of some of the questions that have been raised, it would be relevant for us to point out that, on several occasions when the British Government was responsible for the Protectorates of Basutoland, Bechuanaland and Swaziland, we heard of cases of people being kidnapped from these British territories by the South African police who crossed over the border, and being taken back or kept in detention. In one such case - the case of Anderson Garnily (?), the South African Government even stated that it did not have such a person in custody, and it was only as a result of constant protest in Britain and the intervention of the British Government that this particular person was subsequently released.

"So we have experience of this kind on behalf of political prisoners in South Africa. The only other point that we wish to make is to welcome the fact that this Working Group has been set up - since it was the World Campaign which, on our initiative, suggested to the United Nations in 1964 that such a body should be set up - and to offer this Working Group all the co-operation that it wishes to have from us.

"As for the British people who are concerned about conditions in South Africa, we look forward to the report that this Working Group will present to the world. On the basis of that, it will be the responsibility of other organizations and other technical groups to suggest any course of action that they feel appropriate for the situation in South Africa.

"That is all I have to say, except that our President, Mr. David Steel, M.P., who is a member of Parliament for a Scottish constituency, is unfortunately delayed in Scotland and was therefore unable to appear on behalf of the anti-

apartheid movement today. I am simply taking his place. We felt, as an act of courtesy, and in order to show you the interest of the ordinary British people in the work that you are doing, that we should take up a few minutes of your time simply to make the few points that we have made."

753. Mr. WALDRON-RAMSEY noted that the witness had suggested that the Working Group should concern itself not only with the ill-treatment of political prisoners but also with the conditions of prisoners gaoled for so-called non-political offences. What kind of procedure could the witness or his organization suggest to the Working Group, or to the United Nations as a whole, for improving the conditions of the non-white population of the Republic of South Africa?

754. Mr. MINTY: "We feel that it is the suffering of those South Africans who are, for example, arrested for technical offences, such as forgetting their document at home, and who are then flung into prison without their families being told about it - the kind of suffering that is caused to the families when a breadwinner is taken away without them knowing, and so on - it is the suffering of these people, too, that this Working Group should consider, because they, too, are political prisoners in such a situation. They are victims, not of offences like traffic offences; they are victims of essentially political laws which are aimed at subjecting the mass of the people to a system of race oppression. Therefore all those people who come up against those laws are, in that sense, political prisoners. Unfortunately, in a sense, we have got used to talking about political prisoners as being those people who are leaders of political movements, and who are arrested for making specific political demands. We would argue that there is a case to be made for those who claim that all the people in the prisons of South Africa who are there because of the arbitrary laws of South Africa are political prisoners and that their conditions should be investigated, and the rest of the world should demand that these laws should be repealed.

"As for what proposal we would put forward for improving the conditions in South Africa, both of people who are imprisoned and people who are likely to be imprisoned, we can do no better than echo the call of the United Nations General

Assembly in December 1963 when it called on South Africa to abandon all political trials and to release all political prisoners. These are of course the kind of calls that our movement would make itself, but the point we would like to make is that more attention should probably be paid to those whom one might normally call ordinary offenders, but who are basically political offenders in the South African situation."

755. Mr. MARCHAND STENS suggested that the witness should submit to the Division of Human Rights a list of students who were known to his organization to have been held in prison in South Africa.

756. The CHAIRMAN thanked the witness for his testimony.

P. Statement by Mr. Dennis Brutus on behalf of Canon John Collins

(London, 19 June 1967)

757. Mr. BRUTUS expressed his regret that Canon John Collins, President of the International Defence and Aid Fund and Chairman of the World Campaign for the Release of South African Political Prisoners, had been unable owing to other commitments to accept the Working Group's invitation to testify before it.

In a letter addressed to the Chairman of the Working Group, Canon Collins had said that he had been directly concerned with the problems of a great many South African political prisoners, and that the Defence and Aid Fund was extremely well informed about the conditions of their imprisonment. The Fund would shortly be publishing a pamphlet containing a detailed description of the treatment of the prisoners concerned, and also some comments on the report on South African prisons by the International Committee of the Red Cross. Copies of the pamphlet would be made available to the Working Group; and Canon Collins, through the Defence and Aid Fund, would be glad to provide any other assistance which the Working Group might require.

Q. Testimony of Mr. Abdulhia Jassat

(Dar es Salaam, 22 June 1967)

758. Mr. JASSAT took the following oath: "I solemnly declare upon my honour and my conscience that I shall speak the truth, the whole truth and nothing but the truth."

759. He then made the following statement:

"I was born on 12 June 1934. I am a politician.

"It is with some pleasure that I will give evidence to this Working Group, in the sincere hope that the evidence I give will assist in alleviating the present conditions existing in South Africa at the moment. I will start by telling you of my experiences in 1963, when I was arrested and detained for a period of over four months.

"I was arrested on 17 April 1963, at 4 a.m., at home. There was a large contingent of police - at least twenty to twenty-five of them - who raided my house with sten guns and various other arms and ammunition. They raided my house, searched the place thoroughly, and after about an hour, I was taken away to the Johannesburg police station.

"Upon arrival at the police station I met one other colleague of mine who had similarly been arrested at home an hour before I was. He told me that three young Indian youths had been arrested that morning on a charge of sabotage. He also informed me that all three of them had been very, very badly beaten up. One of them had been shot through the left shoulder; the other was beaten to such an extent that he was beyond recognition, and the third person was beaten up and his right arm broken.

"I was then locked up in a cell alone until 4 p.m. At 4 p.m., we were taken out of our respective cells, put into a car, and taken to the Johannesburg railway station. We were put in a little room about ten feet by ten feet, which appeared to be a changing room for the Special Branch, and were warned not to converse with one another.

"At approximately 6.45, the person I mentioned (with the broken arm) by the name of Reggie Vandeyer, who incidentally had not been given any treatment up to that time, was called and taken away. He returned again after ten minutes. I was

then called and taken into a large hall or room with three tables. Approximately twenty-five policemen were seated around. I was asked to sit in front of one of the tables, facing the policemen, and they told me to give them whatever information I had on the political movement in South Africa. I refused, telling them that I had no information whatsoever to give to them. They then told me to stand up and, as soon as I got up, a Hessian bag was pulled over my head, and it was tied at my knees. I was then lifted by my feet and swung in the air like a pendulum, with my head knocking the ground every time, with every swing. While they were doing this, they removed my shoes and socks. I was then laid flat on the ground, and the policeman lit a match and threatened to burn me if I refused to give information.

"I then felt them tying some string or something to my toes. I was told that they were going to pass electric shocks through my body. I was also told that they were going to start with a 25-volt current. While they were torturing me, they kept my body flat so that I couldn't move my knees up and they continuously asked me to give them whatever information I had regarding the political movement and also the military wing of the political movement in South Africa - namely, Umkonto We Siswe, ~~that~~ is, the Spear of the Nation.

"This they did for intervals of from three to five minutes. The shock treatment they continued on 25 volts for between three to five minutes. And then they stopped, and they increased the voltage to 50. This went on until they had got the maximum voltage of 220 volts. I had no conception of time, but it must have taken at least an hour and a half. I was then lifted up and the Hessian bag was removed from my body. I could not stand on my two feet, and when I leaned against a table I was beaten up.

"When I fell to the floor, I was lifted up again and told to stand without any assistance. I forced myself to do this. They then took various instruments, like pencils and sealing wax and other items, and put them between my fingers and held my arms outstretched while two people pressed my fingers down. Thereafter they made me do various exercises, like standing on one foot, jumping, kneeling, and also a tall policeman stood in front of me with his arm outstretched and he forced me to run on the spot, forcing my knees to touch his palm.

"When I was exhausted, they again asked me if I was prepared to tell them what they wanted to know. By this stage I couldn't talk, because my mouth was completely dry. When I asked for water, they refused to give me any. I was then

taken by two policemen and pushed through a window with my body hanging outside and they held me by my two feet. Every now and again they would release one foot. We were on the third floor of the building. After some time they pulled me back into the room.

"They again asked me to give them the information they wanted, and when I refused again they beat me up and threw me onto the floor, kicking me and using their fists every so often. Thereafter they again made me do various funny things like running on the spot, and then the policemen threw down a six-penny piece, which is a five-cent piece, and they told me to put my thumb on to the coin and run around the coin without removing my thumb from the coin. I had to do this for about twenty-five to thirty minutes until I was grovelling on the floor and I fell flat, unable to move any further. They then lifted me up and carried me into an adjoining room, where I was allowed to sit down.

"While I was sitting there, the policeman ran into the room and he grabbed a Hessian bag with some weight in it, which I presume must have been a dynamo, or something with which they could control the current. Then he went out again. Ten minutes later, I heard the screams of another person, and I realized that it was another colleague of mine by the name of Chiba, who is now serving a twenty-year term of imprisonment in Robben Island.

"I had been in the torture room for at least 3 1/4 hours. And likewise with my friend, who was eventually taken out of the room at about 1.30 a.m. We were then taken back to Marshall Square police station. The next morning, we were again taken back to the Johannesburg railway station and kept in the same room where we had been the night before.

"I was then taken back into the torture room where I met a top-ranking Special Branch man, whose name I do not know. He, of course, asked me to give whatever information I had and when I raised the question of the torture with him, he said that they knew nothing about it at all. I, of course, refused to tell him anything or give him any information whatsoever. He then threatened me that they would try me for sabotage or being a member of the underground movement and said that they would either give me the death sentence - he would see to it that I would get the death sentence - or life imprisonment.

"On 19 April, the five of us appeared in court at the Johannesburg magistrate's court. Our lawyers raised the question of the torture and the beating up, but the

magistrate refused to have anything to do with it. He said it was beyond his jurisdiction. Three of the accused were eventually sentenced to ten years' imprisonment after our trials had been separated.

"On 21 May, Chiba and I appeared again before a magistrate in the basement of the Johannesburg magistrate's court. The prosecutor withdrew the charge against us, the magistrate left, and we were immediately rearrested under the ninety-day detention law. We were not allowed out, nor were we allowed to see our families or our lawyer. We were then taken to Marshall Square, and locked up in separate cells. We were not allowed any books - no reading material, no newspapers - and we had to sit in the cell for twenty-four hours a day. The only thing we could do was pace around in the dark cell for twenty-four hours. At one stage, our families held a demonstration outside the Johannesburg Marshall Square, demanding our release. Thereafter, the food which we were allowed from home was stopped as well.

"We then learned that there were a number of other detainees at the same police station, including Moosa Moolla, who will be giving evidence before this Working Group.

"On 10 August 1963, Chiba was released on condition that he would not lay any charge against the police for torture. And the same night a policeman visited me and, I believe, Moolla as well, and virtually threatened us that if we did not give them the information they required, they would give us 'the works' as they called it, they would torture us again.

"During my period of detention, I fell ill on a number of occasions, and when I asked for the doctor, he was sent after two days, and he just asked me what was wrong without bothering even to use a stethoscope. And he would then prescribe a liquid for me to drink. At that stage I did not know what was wrong with me.

"On 12 August, Moolla and two other detainees, Harold Wolpe and Arthur Goldreich, and myself managed to escape from the Marshall Square police station. We eventually made our way to Dar es Salaam. While in Dar es Salaam, I again fell ill on a number of occasions, and on checking up, it was found that I was suffering from a form of epilepsy caused by the electric shock treatment - torture - and I am, even at this moment, suffering from epileptic attacks.

"I think that is a brief résumé of my life in prison. If there are any questions that the Working Group would like to ask, I would be prepared to answer them."

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760. The CHAIRMAN noted that the witness had said that he was a politician. Of which political group in South Africa had he been a member?

761. Mr. JASSAT: "The Congress Alliance, made up of the African National Congress, the South African Indian Congress, The Coloured People's Congress, and the South African Congress of Trade Unions."

762. The CHAIRMAN asked how the witness had known exactly what voltage was being administered at each stage of the electric shock torture.

763. Mr. JASSAT: "When they started, they informed me that they were going to start with 25 volts, and it appeared that every time they changed the voltage they had to make the necessary adjustment on whatever equipment they had. While they were making these adjustments, they informed me that they were now increasing the voltage up to 50, 75, progressively, as the time went along. Of course, they believed that by this means they would virtually force me through fear to give them whatever information they wanted."

764. The CHAIRMAN asked whether the shocks had been very severe. Had the witness felt a trembling through his body or a convulsion after each administration?

765. Mr. JASSAT: "The shock waves go right through your body, and after a while you cannot really gauge whether it is stronger or weaker, because you are virtually numb at that stage. It is very, very difficult to gauge the strength."

766. The CHAIRMAN asked whether he had been right in understanding the witness to have said, first, that Mr. Chiba had been sentenced to twenty years of forced labour and confined to Robben Island and, later, that Mr. Chiba had been released.

767. Mr. JASSAT: "Yes, he had been released three days prior to my escape, and a month later he was rearrested and charged for being a member of the underground movement."

768. The CHAIRMAN asked whether he had been right in understanding that the witness had been taken to the basement of the magistrate's court, released, and immediately rearrested.

769. Mr. JASSAT: "The charge was withdrawn in the basement of the magistrate's court, and immediately after the charge had been withdrawn the magistrate left and the police rearrested us under the ninety-day law."

770. The CHAIRMAN asked the witness to describe the circumstances of his escape from the police station. Had it been easy to escape?

771. Mr. JASSAT: "Well, it was. We managed to make contact with the other detainees and we worked out a whole plan of action, and of course we had managed to get some notes out of the police station to some of our colleagues outside. Unfortunately, we cannot reveal the details of the whole method of escape, because I think it would involve quite a lot of the people who are still in South Africa, and they would definitely be victimized for whatever aid they had given us in the escape."

772. Mr. ERMACORA asked whether the witness knew the names of the policemen who had tortured him.

773. Mr. JASSAT: "Most of them were new faces, but I definitely know one policeman - a Special Branch man, as he was called. His name was Lieutenant Van Wyk."

774. Mr. ERMACORA asked how many policemen had been present when the witness had been tortured.

775. Mr. JASSAT: "There were at least twenty policemen."

776. Mr. ERMACORA asked whether all twenty policemen had been present all the time.

777. Mr. JASSAT: "Yes, during the whole thing."

778. Mr. ERMACORA asked whether all twenty policemen had participated in the torture.

779. Mr. JASSAT: "Well, they would sort of take turns at beating you up."
780. Mr. ERMACORA asked whether Mr. Chiba was still in prison.
781. Mr. JASSAT: "He was sentenced to twenty years in prison."
782. Mr. ERMACORA asked whether he were right in understanding that at one stage Mr. Chiba had been released on the condition that he would not bring a charge against any policeman.
783. Mr. JASSAT: "A day prior to his release, Chiba had been visited by a Special Branch man who had a lengthy talk with him, and the Special Branch man had told him that they were going to release him on condition that he doesn't lay any charge against the police for torture. But if he would dare to lay a charge, they threatened him that they would have him rearrested within five minutes and he would never see daylight again. Now this he managed to convey to us through various means of contact which we had established between the various detainees."
784. Mr. JANKOVIC said that he was convinced that the inhuman methods of torture used by the South African police were highly perfected. They were comparable, in fact, to the methods used by the nazis during the Second World War. Could the witness name any of the policemen who had tortured him, apart from Lieutenant Van Wyk?
785. Mr. JASSAT: "I do not know the names of the other policemen, because most of them were new faces. But this one person, Lieutenant Van Wyk - I remember the name distinctly because he was in charge. They had one policeman in charge of each detainee, and he would visit you once or twice a week to try and get information from you. That is why I distinctly remember his name."
786. Mr. JANKOVIC asked how many policemen had been present when the witness had been given electric shocks.
787. Mr. JASSAT: "I couldn't say, because I was on the floor with the Hessian bag on me. All I could see was just figures. You couldn't recognize

faces, nor could you see very much, because of the Hessian bag. But when I was taken into the room there were at least twenty policemen, and after they had removed the bag, I could still see at least fifteen to twenty policemen when they were beating me up."

788. Mr. JANKOVIC asked whether reprisals were taken against the families of refugees from South Africa.

789. Mr. JASSAT: "Well, in certain cases the authorities did take reprisals. They tried to get information as to the whereabouts of refugees, what they were going, and so forth, but we don't know all the details of this because there is very little contact between Dar es Salaam and the people in South Africa. After our escape, we knew for a fact that Moolla's wife was taken to the police station on numerous occasions to try and find out where Moolla was exactly. I think even Harold Wolpe's wife had been arrested and likewise Arthur Goldreich's wife.

790. The CHAIRMAN asked whether the witness still had any relatives in South Africa and, if so, whether any reprisals had been taken against them.

791. Mr. JASSAT: "Yes, they are still there. My brother was detained, I think for a period of two and a half months. That was subsequent to our escape."

792. Mr. MARCHAND STENS asked the witness whether, during his detention, he had heard anything about cases of suicide, or cases in which death had resulted from the ill-treatment of prisoners.

793. Mr. JASSAT: "During my period of awaiting trial, although I did not hear of any deaths, there were numerous instances where people just disappeared at night, and the next morning you would wake up and you wouldn't find the person there. That happened on a number of occasions and I know for a fact, on three or four occasions when people were taken away at night and beaten up and brought back early the next morning - that was while I was awaiting trial."

794. Mr. MARCHAND STENS asked the witness whether he had any evidence to suggest that prisoners were actually induced to engage in homosexual practices, as part of a system of personal degradation.

795. Mr. JASSAT: "To the best of my knowledge, I do not know of anyone having been forced into this. Of course, in any prison you would find homosexuality taking place - the act taking place - but I was never subjected to that, nor do I know of anyone who was forced into this situation."

796. Mr. WALDRON-RAMSEY asked the witness whether his activities in South Africa had been exclusively political?

797. Mr. JASSAT: "My activity in politics was not exclusive; my time was not spent exclusively in politics. I had to work, but all my spare time went into the work of the political movement in South Africa, since at least 1948."

798. Mr. WALDRON-RAMSEY asked the witness whether, at the time of his arrest, he had had reason to believe that he was being arrested for political reasons, rather than as an ordinary criminal.

799. Mr. JASSAT: "Yes."

800. Mr. WALDRON-RAMSEY asked the witness whether he had felt any desire or tendency to commit suicide during the period of his detention.

801. Mr. JASSAT: "During the whole period, I never thought of committing suicide. One of the reasons was because I had been in the political movement for a very, very long time and it wasn't the first time that I had been arrested, nor the first time that I had been forced to stay in prison without any reason. And the other reason was that I had always felt that to commit suicide would be an act of giving in to the police, by a person who is maybe a bit unstable. But I have always held the opinion that it would be wrong to commit suicide under any circumstances, that it would be better to go through, under any conditions, to the bitter end. It would be a defeatist attitude to commit suicide."

802. Mr. WALDRON-RAMSEY noted that the witness had said that, in his and other cases, the magistrates had refused to entertain motions on the question of

torture. Did the witness believe that the judiciary condoned the torture of political prisoners?

803. Mr. JASSAT: "In my case, after the torture and after we had appeared in court and the magistrate had refused to have anything to do with the topic raised, our lawyers raised the matter with the Attorney-General, and we were allowed to have a medical check-up by six of the top doctors in Johannesburg - three of them from our side, and three from the South African Government, from the medical section. They gave us a proper check-up, which lasted for at least half a day, and they found the marks of the place where the electrodes were tied to our toes, where the pencils and instruments were put between our fingers - all these left definite marks. People couldn't walk properly, and so forth. A report was drawn up, I believe, but nothing ever came of this. After we had completed the 'awaiting-trial' period, we were immediately put into detention, with the result that we had no contact with the lawyers whatsoever. And I believe that, although the lawyers made several attempts to raise this issue, they were never successful. I am also convinced that the South African judiciary connives completely. It is completely controlled by the South African authorities, by the Special Branch. It is virtually dictated to by the fascist police force in South Africa.

"One other point is that, under the ninety-day detention law, you are entitled to a visit once a week by a magistrate, to whom you should put your complaints and whatever problems you have, and so forth. The magistrate did come once a week and we put forward our case, asking for books, reading material or certain other items like food, etc., and he would just simply make a note. He would arrive again the next week and we would ask him what had happened, and he would tell us 'Look, I can do nothing about it; I can just take down your requests - what you would like, what your complaints are - and I then hand them over to the South African Special Branch and it is up to them.' Now where in this whole issue does justice come in? What is the purpose in having a magistrate visit detainees if he is not in a position to do anything about their legitimate complaints and demands? When he goes back to the police, who in turn do nothing about it, it is just a vicious circle. This business - the question of the magistrate visiting us - is just window-dressing for the outside world.

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804. Mr. WALDRON-RAMSEY recalled that the South African Government had asserted that the Working Group's investigations were unnecessary because South African prisons were regularly visited by magistrates and judges. Would the witness still maintain that visits to prisons by magistrates were a mere façade? During the visits, did the prisoners report cases of torture and ill-treatment?

805. Mr. JASSAT: "Firstly, the question of magistrates and judges visiting prisoners is completely false. I do not think you will find a single prisoner who will confirm the statement that he was ever visited by a magistrate. Magistrates were allowed to visit the detainees only after the tremendous uproar that was created both inside and outside the country. And, as I said, although we drew the attention of the magistrates to various problems about conditions, about time in the open and so forth, after a while it became pointless even to raise these issues. What was the point in raising them? The magistrate came week after week. You put problems to him; he would say, 'I will raise the issue'; and the next week he comes back. You put the question to him, 'What has been done?' and he would say, 'I don't know what has been done; I have just put your case to the Special Branch, and it is up to them to do whatever they have to do.' And that is the way it ends. What authority has the magistrate got, as such? Nothing. No authority whatsoever."

806. Mr. WALDRON-RAMSEY asked whether the doctors whom the witness had consulted had determined that the epilepsy from which he was now suffering was a direct result of the torture to which he had been subjected in the Republic of South Africa.

807. Mr. JASSAT: "While in hospital I had three very very severe attacks, which the doctors were able to observe. I stayed in the hospital for about three and a half months, and it was the doctors who came to the conclusion that the epileptic attacks were due firstly to the shock treatment, and also to the period of detention in solitary confinement which added to the shock treatment. It just made things a bit worse. That was the conclusion they came to."

808. Mr. WALDRON-RAMSEY asked the witness whether the lawyers who had defended him had been subjected to any persecution by the South African authorities.

809. Mr. JASSAT: "My lawyer, a person by the name of Harold Wolpe, was also detained in the same police station where I was, and he was one of the persons who escaped with us. That can give you some idea of the conditions that the lawyers had to work under, and I am sure you should know by now that various lawyers have been named, as you would call it, under the Suppression of Communism Act, for participating or assisting the liberation movement, and they are thus named communists. These lawyers are now debarred from even practising. Once your name has been placed on the list of communists, then you can be debarred from doing any type of work. You are banned from gatherings, you are banned from social functions, and now they have even gone to the extent of banning them from their profession."

810. Mr. WALDRON-RAMSEY asked the witness whether most political detainees had suffered the same severe treatment as he had himself.

811. Mr. JASSAT: "I think my case was a rather mild one. We know of numerous cases where people have been tortured even more brutally. I know of a personal friend of mine who was tortured to such an extent that the police claim that he eventually jumped through a window and committed suicide. But we have got some information from South Africa - from his wife, as a matter of fact, by letters coming through devious routes - which told us of the tremendous torture this man underwent. His fingernails and his toenails were pulled out; his hair was pulled out; and he suffered various other tortures. When they received the body, they could see all these marks: the burning - his fingertips had been burned, and so forth. And his wife, who subsequently wanted to leave the country to go to London, has been refused a passport, and has even been refused an exit permit, which they have to grant to any political person, provided he does not come back. They are keeping his wife there in South Africa because they are scared that if she does go out, she will be able to expose the conditions and the treatment her husband had received at the hands of the police. And we are also convinced that this man, Saloojee, did not commit suicide; he was pushed through a window of the Special Branch building from the seventh floor."

812. Mr. WALDRON-RAMSEY asked the witness whether he would agree that the torture inflicted on prisoners in South Africa was reminiscent of Hitler's treatment of the Jews.

813. Mr. JASSAT: "I would completely agree with the conclusion that you have drawn, namely, that the regime in South Africa and the methods which they are using are identical, if not worse than, the fascist methods used in Germany during and prior to the last world war."

814. Mr. WALDRON-RAMSEY asked the witness whether, on the basis of his political and personal experience in the Republic of South Africa, he would say that the South African authorities were making a concerted and systematic effort to annihilate any particular sectors of the population.

815. Mr. JASSAT: "I will not make a definite comment to the effect that the South African Government wants to annihilate any of the groups, but I will say that it is the policy and the purpose and the aim to make the non-white people virtually illiterate - hewers of wood and drawers of water. And they want them to stay in that situation for the rest of their lives. Therefore they have passed various laws, like the Bantustan Act, the Group Areas Act, and the general apartheid laws whereby they are trying to push groups into reserves which are complete deserts with no means of production, and thereby force them to work at below bread-level wages.

"The Group Areas Act is another Act which tends to break down whatever trade and business the other communities have at the moment. Under the Act, all the middle class and the fairly well-off non-whites would be forced into the same position as the poorer non-whites - the Africans and others - and they would eventually be pushed into the reserves as well, so that there would be a constant cheap labour force. The authorities did make an attempt, not to annihilate any community, but to remove one community from South Africa completely. That was the Indian community with a total population of half a million. When the Nationalist Government came into power in 1946, it tried to induce the Indians to accept a grant of £40 and free passage back to India, provided that they wouldn't attempt to return again. This, of course, none of the Indians was prepared to do, and after this the Government passed this Group Areas Act, under which they can confine you in separate groups. You aren't allowed to trade in any particular

area, you aren't allowed to work in any particular area, and so forth. I think one of the aims of the Group Areas Act is to put the Indians, and also the other communities, in such a position that they would voluntarily give in, or leave the country.

"I have answered your question in the sense that the authorities have made attempts to annihilate whole communities or whole sects within the country. As I said, they haven't as yet done so. But all these laws and acts which have been passed, and the regrouping of people and placing them in strategic positions or in positions where they can be located and so forth, have a purpose behind them, as you correctly pointed out. Even in Germany this was done, and the purpose was to subjugate and to control these people. I won't say that they want the population to waste away completely, because that would be suicide for the whites themselves, but they want to keep the non-whites at a subsistence level in order to do the necessary work for the whites, because the South African industries cannot live without the labour of the black people in South Africa. So the authorities cannot completely annihilate the non-whites as such, but, by putting them into these group areas, into the various reserves and so forth, if there is any trouble, the white Government is in a position where it can annihilate whatever groups it wants to. The reserves are completely blockaded. Group areas are situated in places where there are mountains on three sides and one opening, and so forth, with the result that if there is any trouble or any uprising, they have only very limited spaces to guard, and they can virtually control, if not annihilate, the non-white people."

816. Mr. WALDRON-RAMSEY asked the witness what was the South African Government's attitude to international investigations of the type which the Working Group was at present conducting. Did such investigations give confidence and hope to political leaders who were trying to better the conditions of the non-white population, and did they provide encouragement to prisoners and to the non-white population in general?

817. Mr. JASSAT: "With regard to the first question, I think it is a well-known fact that the South African Government has continuously refused to allow various commissions on various issues to enter South Africa to take evidence and

so forth in connexion with their particular work. In connexion with the issue of South West Africa a commission was refused permission to enter the country. Various attempts have been made by Amnesty International to send in commissions to inquire into present conditions. This has been refused, so I think it is quite clear that the South African Government does not approve of any of the commissions whatsoever.

"On the other question of what influence commissions of this nature may have on the South Africans, I think they do quite a bit to boost the morale of the people both inside and outside the prisons. That is, of course, when the people in the prisons are able to get the information. Then, I am also convinced that the findings of commissions of this nature will also encourage certain people and give some of the world Powers an idea of conditions existing in South Africa and thereby force them to take some action, which they have up to now refused to take. And I think it generally would have a tremendous amount of benefit from all aspects."

818. Mr. ERMACORA asked the witness what procedure had been used for bringing the question of torture before the courts.

819. Mr. JASSAT: "Firstly, it was raised with the magistrate when I first appeared in court, with a view to bringing it to the notice of the authorities - the Government - the magistrates and the courts themselves - and of course, the police force, who claimed no knowledge of these things, no knowledge of the torture and the conditions which we underwent. That was the first instance.

"Subsequently, after the medical check-up and so forth, we came to the conclusion that we should lay charges against the South African regime for the torture, and also claim compensation for it. Of course, then we were put in prison under the ninety-day detention act, and so was my lawyer, with the result that the whole thing fell through thereafter. We were not in a position to do anything about it subsequently."

820. Mr. ERMACORA asked the witness where the lawyer who had escaped with him was living at present.

821. Mr. JASSAT: "He is in London at the moment."

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822. Mr. MARCHAND STENS asked the witness to give the names of the doctors who had attended him in Dar es Salaam.

823. Mr. JASSAT: "There was one doctor by the name of Dr. Parekh. He is an ordinary medical practitioner. And then, I had treatment in the Soviet Union, in Moscow, for three and a half months in 1964."

824. The CHAIRMAN thanked the witness for his testimony.

R. Testimony of Mr. Moosa Muhammed Moolla

(Dar es Salaam, 22 June 1967)

825. Mr. MOOLLA took the following oath: "I solemnly declare on my honour and on my conscience that I will tell the truth, the whole truth and nothing but the truth."

826. He then made the following statement:

"I am a journalist.

"Briefly, I would like to state that it will be an honour for me to give evidence to this Working Group and I hope that whatever evidence I give will help in some way to relieve the position of South African political prisoners and that it will lead eventually to their release.

"I have been arrested on at least five or six occasions: the first being in 1952 and the last in 1963. The periods of imprisonment ranged from two weeks to six months.

"In 1956 I was arrested, together with 156 other Africans, including Chief Luthuli, Nelson Mandela and Walter Sisulu, on allegations of high treason. I was released eventually when the prosecution failed in its case and the accused were discharged in 1961, after four and a half years.

"In 1963, I was one of the fourteen detainees arrested on 10 May in South Africa. I was kept in indefinite detention for ninety days, released and re-arrested for a second spell of ninety days. But I was fortunate enough to escape with the previous petitioner and two other colleagues of mine.

"I would like to preface my brief story by stating that I am one of the fortunate ones - as far as political prisoners are concerned - because I have not been physically tortured. But I have undergone mental torture - ninety days' detention.

"On 10 May 1963, in the evening, I was arrested by about four Special Branch members of the South African police and taken to Marshall Square, where I was warned that I was a victim of the new law that came into being, namely the ninety-day detention act.

"I was told that I would be held incommunicado, that I would not have the right of habeas corpus, that no lawyers would be able to see me and that I would have no visits from friends or family.

"I was immediately told that unless and until I answered questions to the satisfaction of the South African police, I would be kept indefinitely and I was threatened that, if I did not answer questions, physical force would be used on me.

"Fortunately, presumably since I was one of the first detainees and publicity was given to my case, at that stage violence was not used on me.

"Now, let me give you some ideas as to detention in a South African prison.

"From the very moment of my arrest, the Special Branch member in charge - if I remember, I believe he was a warrant officer, but his name was Vivires (?) - asked me a question on the way to the police station as to where a friend of mine by the name of Ahmed Kathrada was. Ahmed Kathrada went into hiding as the result of a house arrest order placed on him and the police were looking for him. They thought that I knew his whereabouts.

"Of course, I refused to answer the question and I was told 'You will talk in due course'. This was the beginning of the process of mental torture - not only for me but for hundreds of other South African prisoners as well.

"The evening of my arrest I was taken to Marshall Square - which is a police station in Johannesburg. I was locked into a cell which was about eight feet by eight feet, given a few vermin-infested blankets - this was my bedding - and the warders were informed that I was not allowed to have any communication with any other prisoner whatsoever.

"A day or two later a magistrate came to see me; it was stipulated in the Act that detainees were allowed visits by magistrates to whom they could complain and make any requests. I shall in due course show the fallacy and the farce of the so-called 'magistrate's visits'.

"A few days after my detention, the Special Branch visited me and asked me to make a confession. They promised to release me if I made a statement to their satisfaction. Of course, I refused to do this. I believe that I was detained because at the time I was a full-time organizer of the Transvaal Indian Congress which was a constituent body of the South African Indian Congress and a member of the Congress Alliance.

"Prior to my arrest, some sabotage acts had already taken place in South Africa and one of the persons arrested was the previous petitioner - Mr. Abdulhia Jassat.

"The Special Branch made a point of visiting me at least once a week and on many occasions they were there just for a few minutes asking me whether I had any statement to make and, if I replied in the negative, they immediately left.

"This, I later realized, was part of the process for destroying the detainee mentally. On each occasion they told me 'If you do not answer any questions, you will be kept here this side of eternity', because the law stipulated that a detainee could be kept for successive periods of ninety-day detention.

"I was kept in a cell which was about ten feet by twelve feet, given a mattress - a very thin one, about four inches deep - and kept twenty-four hours of the day in solitary confinement. I was allowed half an hour in the morning and half an hour in the afternoon for exercises. This, of course, was only allowed to me after about two weeks or so. I was allowed no reading matter, no writing material, no newspapers, no books, nothing whatsoever.

"For a few weeks after my detention, I was allowed food from home but, as soon as members of my family and other friends demonstrated outside the police station demanding my release, as a reprisal for this action food was withdrawn.

"When I was at Marshall Square, the first time I was together with a colleague of mine by the name of Wolfee Kodash (?), who is in London at the moment. But, of course, he was kept separately from myself and later other detainees were brought to Marshall Square. They were all kept in solitary confinement.

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"I managed during periods when I was allowed to go to the toilet to see some of them and to meet them for a few minutes. On one such occasion, I managed to meet the Director of the World Campaign for the Release of Political Prisoners in South Africa, Mr. Dennis Brutus, who was arrested for attending a meeting in defiance of a banning order and was brought to Marshall Square for a few days.

"I realized my position, because I knew what happened to other political prisoners. The day before my arrest I was at court where Abdulhia Jassat, Reggie Vandeyer, Ingris Nido (?), Shrees Nanavi (?) and Laloo Chiba were appearing for sabotage and I heard details of the torture that was inflicted on them.

"Accordingly, when meeting Brutus I informed him that, in the event of torture being inflicted on me, I would communicate with my family by not sending my soiled clothing home. This should be an indication that torture has begun on me, and that I would go on a hunger strike.

"Now, let me give you some idea as to the days of detention. There was no question of awaking at a specified time. You could sleep the whole day; you could walk around the cell the whole day; you could do anything you liked, providing, of course, you did not while away your time with more fruitful matters such as reading, etc.

"The magistrate's visits normally lasted about five or ten minutes every Wednesday and he asked you what were your complaints, what were your requests. On each occasion he was informed that we needed books and reading matter and that we wanted to know why we were being detained, because no charge was made against us. He made notes and said he would convey them to the relevant authorities, but during the following week he asked us again what our complaints were.

"Well, the position was repeated, week in and week out. Finally, I asked him what was the purpose of our complaints and what was the purpose of us making requests when he was helpless. And the magistrate - I remember his name, Mr. Harris - at the time said that he himself was unable to do anything because all our requests went to the Special Branch and the Special Branch said they would look into the matter.

"Two or three members of the Special Branch had visited me. I knew them already because on a number of occasions they had raided our offices and also my home and I had some dealings with them in the sense that I was arrested on various charges before that. They told me that, if I made a clear breast of things, I would be released immediately; if not, the process of detention would continue. And I was told that if I had any idea that I would be released in Johannesburg, for instance, I should forget about it, because I would be taken out of town to a remote police station or prison where I would be released and, accordingly, re-arrested. This, in fact, happened.

"Now, I started by saying that I would try to show how ninety-days' detention affects the mind and this torture, though not physical, has broken many people in South Africa. Psychologists have discovered through practical examples that solitary confinement for a certain number of days affects people's minds. I would like to show here too that the mental torture inflicted on people is combined with physical torture, as was inflicted upon a friend of mine - Babla Saloojee - who is dead now and upon another colleague of mine, whom I don't know but who was found hanging in his cell, according to the reports of the police. His name was Looksmart Solwandle. This happened, of course, subsequent to my escape from South Africa.

"For instance, Babla Saloojee, whom I have known for at least eighteen years, never displayed any suicidal tendencies. He was a hard-working young man and when I heard - in 1964 - that he had committed suicide, this was rather difficult for me to believe.

"Knowing conditions in South African prisons and knowing what the South African Special Branch are able to do, I came to the conclusion that Babla Saloojee either committed suicide - if, indeed, he did commit suicide - because of the extreme pressure placed on him, or did not commit suicide but was killed by the police. His body was thrown out of the window and, as a cover-up story, it was stated that the man committed suicide.

"Now, this happens in South Africa. It has happened on a number of occasions to many people, who were taken and shot, and the excuse was that they attempted to escape, for instance. It is the old story that was used by the Nazis and which the South African Government and most of the /inaudible/.

"You have said that, according to the South African Government, people have committed suicide. For instance, Babla Saloojee, Looksmart Solwandle - and there was another detainee - I don't remember his name now, but I think it was Sele (?) or something like that.

"This is a shocking indictment of the South African way of life, especially prison conditions. We must ask ourselves why people resort - in the final analysis - to suicide. Conditions must be of such a nature that good people, fine people, some of the finest sons and daughters of the country have been completely made into human wrecks. People who were healthy and strong suddenly decide after a short spell of time now to suddenly end their lives. I myself did not have any suicidal ideas; I did not contemplate suicide at all. But other detainees, whom I met after my escape and who arrived in Dar es Salaam subsequently, told me that they were in a very, very difficult position and seriously contemplated suicide.

"At Marshall Square, as I said earlier, I managed to make contact with some other detainees. One of them, who is serving a fifteen-year gaol sentence at the moment, is Andrew Mashaba. He told me - and I saw him once - the way he was beaten up in order to confess. I was together with the former petitioners Abdulhia Jassat and Laloo Chiba who occupied cells adjoining mine. Now in the case of Jassat, I have known him since 1948, I know his family and I know that he did not suffer from any serious illness at all, and that he did not suffer from epilepsy or any manner of fits whatsoever. After being with him for nearly sixteen years, the first time I realized that he had fits was when he came to Dar es Salaam. I assume this was a result of the torture and the electrodes applied, which affected his mental faculties and did some serious damage to the brain.

"As a result of the exposures of torture - both internationally and locally - the South African Government has changed its methods of applying torture. For instance, in recent times they have used what is known as the 'statue' method, in which detainees are forced to stand for sixteen or seventeen hours at a time without food or sleep, so as to induce them to speak. Of course, you realize that this method leaves no marks whatsoever. One friend of mine who is also serving a

gaol sentence of five years at the moment - Mr. Ivan Schermbrucker - smuggled a letter out to his wife, in which he said that he was at the end of his tether and could not take it any longer.

"But at the early stages - in fact, as recently as 1964-65 - physical torture was still extensively being used. For instance, another friend of mine, who is at the moment living in London - Mr. Paul Joseph - and a colleague of mine - Mat Mahabagh (?) - who is serving an eighteen-year gaol sentence at Robben Island, were very severely physically tortured. Both of them testified that their testicles were squeezed in order to make them confess.

"During my first term of imprisonment, for instance, in 1952 during the defiance campaign, although it was just for a mere fourteen days, I saw at the time the ill-treatment - at that time, we were quite numerous - not of political prisoners but of the ordinary prisoners in gaol. Subsequently, while awaiting trial in 1956, I also saw acts of brutality being committed against prisoners.

"On my eighty-ninth day of detention, I was told in the morning that I should pack my bags, because I was to be released. I accordingly packed my suitcase and in the afternoon the sergeant in charge told me to accompany him. Of course, I was told not to take my bags along. At about half past four or five in the afternoon, I was taken to a police station known as Mondeor which is about ten miles from Johannesburg, and kept at the police station.

"The following morning, at about 11 o'clock, I was asked to sign a document which stated that I was being released and I was released accordingly. Of course, I had no money on me and I did not know how to contact people at all. It was difficult to make a phone call. I left the police station and must have walked for about 150 to 200 yards, when a Special Branch car which followed me picked me up and brought me back to Marshall Square in my old cell. Well, I was back amongst friends, I should say, again.

"That same night the Special Branch visited me and told me that from now on they would tolerate no nonsense and that, if we did not answer questions, they would be forced to use other means. By 'other means' I understood physical violence. Four or five days after my second detention, together with Abdulhia Jassat and two other detainees - Arthur Goldreich and L. Golpe (?) -

we managed to escape and made our way to Dar es Salaam. I was in the country after my escape for at least six weeks and during that time a very extensive search was being conducted for our capture. The police, of course, immediately arrested my wife, who was pregnant at the time and later the wives of both Arthur Goldreich and L. Golpe (?) as well. The idea was a form of reprisal designed to ascertain whether they knew our whereabouts.

"Soon after that I was in Dar es Salaam and that is the end of my story as far as detention is concerned. But I would just like to point out at this stage the attitude of the courts to the question of torture as far as South African political prisoners are concerned.

"It is particularly sanctioned by law that the hands of both the judges and the magistrates are tied, that whenever questions of torture - especially concerning political prisoners - are raised in the courts, the excuse of magistrates and judges is simply that it does not fall within their jurisdiction, that it is not relevant to the case and that therefore they cannot do anything about it. This, of course, gives the upper hand to the Special Branch in order to continue with their methods of torture.

"For instance, ninety-day detention was withdrawn and replaced by 180-day detention. Recently a new bill has been passed known as the Terrorism Act, under which there is indefinite detention. The maximum sentence is death and the minimum sentence is five years, for anyone aiding and abetting so-called 'saboteurs or terrorists'.

"We know from actual experience that, according to South African terminology, any persons opposed to nationalist tyranny, opposed to the accepted views of the Nationalist Party and to the fascist régime, are automatically hounded and branded as communists, saboteurs and what have you.

"We have seen how religious personalities, trade unionists, pacifists, Quakers, people from every walk of life who dare speak up and who dare oppose the South African way of life, are branded as enemies of the State and accordingly meted out with punishment which in South Africa even the most hardened criminals do not obtain."

827. Mr. ERMACORA asked who had invited the witness to address the Working Group.

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828. Mr. MOOLLA: "I received a letter from the United Nations Committee, the Special Committee."
829. The CHAIRMAN said he himself had invited the witness to come and make a deposition.
830. Mr. JANKOVIC asked why the witness' wife had been arrested.
831. Mr. MOOLLA: "She was arrested after I escaped in order to find out from her where I was."
832. The CHAIRMAN asked whether the arrest was a form of reprisal.
833. Mr. MOOLLA: "Yes, I presume it was a form of reprisal, because my wife was not politically involved at all, and I take it that it was a form of reprisal."
834. The CHAIRMAN asked how long she had been under arrest.
835. Mr. MOOLLA: "She was kept, I think, about a day or two. I received a letter from her subsequently in which she said that they threatened her, they took her to the Special Branch headquarters and, I think, about ten or fifteen policemen surrounded her asking her questions."
836. Mr. MARCHAND STENS asked whether the witness had detected any pattern of mental torture. He wondered, for example, whether methods had been used to keep him awake.
837. Mr. MOOLLA: "At that stage no efforts were made to keep me awake, but the mere fact that I did not know for what purpose I was detained and that I had no idea as to whether I would be kept without being tortured for a long period was enough to keep me awake and cause anxiety."
838. Mr. MARCHAND STENS asked whether the witness had been allowed to keep any track of time, either by a watch or by a calendar.
839. Mr. MOOLLA: "In fact, my watch was taken away and when I asked for it they told me, 'You don't need a watch in jail'."
840. Mr. MARCHAND STENS asked the witness whether he had been able to contact an attorney or to take any remedies under law.

841. Mr. MOOLLA: "Do I understand the question to be whether I was allowed to contact any attorney inside or outside gaol? There would be very few attorneys inside gaol, I think. But, outside gaol - I was held incommunicado. You had no contact whatsoever with the outside world, absolutely no contact, with your attorney, with your family, with your friends; nobody whatsoever. The only people with whom you had contact were the magistrate, the warders and the Special Branch."

842. The CHAIRMAN asked whether the witness had been held under the ninety-days act.

843. Mr. MOOLLA: "Yes."

844. The CHAIRMAN noted that those held under that act were not allowed to contact attorneys.

845. Mr. MARCHAND STENS said that under the Universal Declaration of Human Rights all persons were entitled to invoke certain legal remedies on their behalf. He noted that the witness had been given blankets that were vermin-infested, and asked whether prison conditions were equally bad in other respects.

846. Mr. MOOLLA: "Well, in all fairness I should state that, after I had been moved from one cell to another in the final cell in which I was placed the blankets were comparatively clean.

"As far as sanitary conditions are concerned, Marshall Square has a flushing system of toilets, so that was also quite clean.

"The food, of course, in South Africa - even in gaols - is divided according to the categories, according to the different nationalities. For instance, white prisoners receive better food, Asiatic and Coloured prisoners are a little bit worse off and African prisoners receive the worst food. For instance, I know some of the African detainees were receiving hot porridge three times a day - morning, afternoon and evening - and the food for non-whites is very unwholesome and, shall we say, not appetizing at all.

"I would like to mention my detention following the Sharpeville massacre. I was kept for six months in the Pretoria Central Prison and there conditions were

much worse. Five of us were kept in a very small cell and at night, once the cell was closed, we were given a small bucket which was used as toilet facilities, and our drinking water was kept next to it."

847. Mr. WALDRON-RAMSEY asked the witness whether the attitude of the South African authorities towards political activists had changed between 1952 and the early sixties.

848. Mr. MOOLLA: "I will try to answer the question in the following manner. The difference between 1952 and the sixties is as follows:

"In 1952 the African National Congress, together with its ally, the South African Indian Congress, embarked on the campaign of defiance, known as the campaign for the defiance of unjust laws, and it was an open act of civil disobedience in which over 8,500 people took part and were carted off to prisons. At that time the laws were not so stringent. For instance, if a man defied the law, he was sentenced to a term of imprisonment and was released; he was charged, he appeared before a court and, accordingly, was either sentenced or discharged. But in the sixties, that is, after Sharpeville, the African National Congress was outlawed and the whole political situation changed, so much so that whereas in the fifties there was what was known as due process of law, in the sixties this ceased to be. They enacted what was known as the General Law Amendment Act, which is popularly known as the Sabotage Act. Under the Sabotage Act, people could be arrested without a magistrate's warrant and could be kept for twelve days without being brought before a court and this was subsequently increased to ninety days.

"As I told you yesterday, the ninety-day law stipulates that any person whom the South African Government or the Special Branch suspects of having information could be arrested without a warrant and could be kept in indefinite detention for as long as the Government feels it necessary.

"Basically, that has been the difference: whereas at one stage there was due process of law, at a later stage that has been completely degraded.

"In 1956, I was arrested for high treason and together with my colleagues - 155 other South Africans - was brought before the court and charges were laid against us. Eventually, after 4 1/2 years, we were discharged; but we appeared and charges were laid against us. In 1963, however, when the ninety-day

detention law came into being, over 1,000 or nearly 1,000 South Africans of all shades and colours of opinion were arrested, were detained, without any charge being laid against them. And out of that 1,000 or so, charges were preferred against about 240; the rest were released after whatever period of detention they were kept for."

849. Mr. WALDRON-RAMSEY said that in most civilized countries, even when political activists were detained in the interests of national security, the authorities did not harass and ill-treat them. He asked whether the South African authorities' treatment of political figures such as Chief Luthuli, Nelson Mandela, and Babla Saloojee was in accordance with civilized standards.

850. Mr. MOOLLA: "I would say that civilized standards appear to be an alien term to the South African régime in so far as all political prisoners are concerned. And when you take the category of people like Nelson Mandela, Walter Sisulu, Chief Luthuli, it even becomes worse, because somehow or another in South Africa people, especially Africans who have acquired a certain standard of education, are regarded and held with contempt. For example, take the position of Chief Luthuli, a Nobel Peace Prize winner, one of the most outstanding sons of the continent: today he is hounded and has been banned, has been confined to an area known as the Groutville Mission, which is about fifty miles from Durban. Now Chief Luthuli, in 1954, suffered a very severe stroke - he was banned at the time - and a lot of appeals were made that he should be allowed to go to the hospital for treatment; this was refused but eventually, to put public opinion at rest, he was allowed to receive medical treatment.

"Now we see in the papers that Chief Luthuli will be going blind in one eye - I think it is the left eye - and this is a direct result of the stroke he suffered in 1954. Immediately he felt the pain in the eye, he applied to the Government for permission to be treated at the Durban McCord (?) Hospital. His letter was not even acknowledged. Finally, the pain became unbearable and he had to make another application. And this time, which I think was two or three months hence, his permission was granted. And the doctors at the Zulu McCord (?) Hospital said that the chance of him going completely blind was very possible, because the left eye is practically useless and it has already affected the other eye.

"I can speak from experience because, during the state of emergency in Pretoria in 1962, I have seen how the ordinary people, the ordinary warders, and the colonels and the senior officers as well, treated people like Mandela, Sisulu, Luthuli and others. They made it a policy to insult them to make life as unbearable as possible, and to let the Africans feel - especially when the African has acquired a certain standard of education or is a man of high standing - that his position in life is that of shall I say, a hewer of wood and a drawer of water.

"Dume Nokwe, the Secretary-General of the African National Congress, for instance, was assaulted by the police. This was some years ago. There were civil proceedings and, if my memory serves me well, I think he was awarded damages, but that was, of course, in the fifties.

"And similarly Mandela, during the Rivonia trials, when he was sentenced to life imprisonment, made repeated statements in court that he was being ill-treated. For instance, most of the accused in the Rivonia trials were kept incommunicado, although they were charged for very long terms, and two of the other prisoners, Elias Matsoaledi and Andrew Mlangeni, were very severely beaten up and tortured."

851. Mr. WALDRON-RAMSEY asked whether the South African authorities had used the Sharpeville incident as an excuse for imprisoning political leaders, with a view to destroying the leadership of the political movements.

852. Mr. MOOLLA: "Sharpeville, as you remember, took place on 21 March 1960, and thousands of people gathered, in a peaceful manner, to protest against what is known as the obnoxious pass system and, without any warning, or with a few seconds of warning given to the people to disperse, the police opened fire on peaceful demonstrators, and within a minute or two sixty-nine people were killed in cold blood, and over 100 injured.

"Now, as a result of Sharpeville the whole political situation in South Africa changed to the worse. The South African Government, of course, took into account what was happening in the African continent and elsewhere and what

was known popularly as the winds of change that had taken place, and it became jittery. They decided at that stage, or subsequently, that they must do everything in their power to destroy the liberation movement and, as a first act - I think it was on 30 April - the African National Congress (ANC) and the Pan-Africanist Congress were outlawed. A state of emergency was declared and nearly 8,000 to 10,000 people were detained.

"After Sharpeville, when the emergency was lifted in 1960 - I think it was about August or so - of course, things returned to a sort of calm on the surface, but the whole position did not remain the same as it was before 1960. The Government and the present Prime Minister, who was then the Minister of Justice, Mr. Vorster, introduced what is known as the General Law Amendment Act, popularly known as the Sabotage Act, and the detention clause. Its basic purpose was to destroy any form of opposition and any form of resistance by the people, especially by the non-white political organizations. Later on, of course, the sister body of the Congress Alliance, the South African Congress of Democrats, which is a European body, was also outlawed.

"But I should say quite emphatically that the idea was, and still is, to annihilate any form of resistance to nationalist tyranny. The laws subsequently have become harsher: first it was the twelve-day detention law; this was increased to ninety days, and more recently to 180 days; the General Law Amendment Act has been further amended; and there is now a new law known as the Terrorism Act in which the minimum sentence is five years and the maximum sentence is death. So the pattern has been the same all the time."

853. Mr. WALDRON-RAMSEY said that earlier witnesses had described the Republic of South Africa as one vast prison. Did the witness agree with that description?

854. Mr. MOOLLA: "I would most emphatically say that South Africa is a vast prison-house or a vast concentration camp. For instance, let me give an example of how people are forced to reside in the country. The question of passport is not a right, but a privilege. I, as a South African Indian, could not move from one province to another province without obtaining a special permit. I was born in the Transvaal; I could not go to the Cape or to the Free State.

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In fact, South Africans of Indian descent are not allowed to stay in the Free State at all. Africans cannot move from one area to another area without a special permit; there is influx control. Any African leaving a rural area and coming to an urban area must report to the superintendent within seventy-two hours or must leave the urban area in seventy-two hours, failing which he is immediately arrested and sentenced. Finally, sentence means that they are sent to farm colonies to work for the white farmers under extremely difficult conditions, where exploitation is rife.

"Well, you have heard evidence as far as South Africa is concerned on the question of South Africa being a vast prison-house. Let us take the question of freedom of speech; it is non-existent. Freedom of assembly is non-existent. There is fear, there is the position where you fear your neighbour; you are afraid to speak to a companion for fear of informers. For instance, in my case, when I was detained, people who were my good friends and companions made a point of not visiting my family at all for fear of becoming the next victim. So the description is fairly accurate when you say that South Africa is a vast concentration camp, or a vast prison-house."

855. Mr. WALDRON-RAMSEY asked what effect international action was likely to have on conditions in South African prisons and on the general political situation.

856. Mr. MOOLLA: "I would say that international seminars and commissions most certainly have an effect on the South African régime, and they go a long way in helping and ameliorating the conditions of South African political prisoners. If there is one thing that the South African authorities would really like, that is the complete absence of any form of discussion on the aspect of prison conditions, and there is no doubt that since prison conditions have been exposed both locally and internationally, the authorities have to some extent bettered the position of our political prisoners at home. But much more needs to be done. Their conditions, from reports, have sort of changed, but to a very small extent; essentially, the question of torture, etc., still remains."

857. The CHAIRMAN reminded members of the Working Group that they had been instructed to investigate charges of ill-treatment and torture of persons held in South African prisons, and he asked them to direct their questions to that subject. The general political situation in South Africa was being investigated by another United Nations body.

He asked how the witness knew that Chief Luthuli had suffered a stroke and had been refused medical treatment.

858. Mr. MOOLLA: "Well, Chief Luthuli suffered a stroke in 1954 and that was extensively published in the South African papers, because his life was in danger. That was common knowledge in South Africa.

"As far as his eye is concerned, recently, information concerning the operation and the effect has been ascertained from reports in the South African Press and also a letter has been written by Chief Luthuli's wife, I think, to our office in London, either to the London committee or to the World Campaign for the Release of South African Prisoners, and also South African papers had extensive reports recently on Chief Luthuli's condition. Also the United Nations Office based on Dar es Salaam is in contact with people at home and receives regular communication, and this has been verified."

859. The CHAIRMAN thanked the witness for his testimony.

S. Testimony of Mr. Benjamin Turok

(Dar es Salaam, 23 June 1967)

860. Mr. TUROK took the following oath: "I swear to tell the truth, the whole truth and nothing but the truth."

861. He then made the following statement:

"I am aged thirty-nine and I am a land surveyor by profession.

"I have prepared copies of an outline of the evidence I would like to give, if the Working Group would like to have them.

"I very much appreciate the opportunity to speak to you; I feel that every prisoner in a South African prison looks forward to the day when he can tell people like yourselves about conditions in the prison. And the reason for this is that conditions in South African prisons are so drastically different from normal life that every prisoner is fully aware that he is undergoing a very special treatment.

"The statement that I would like to make is based on experiences and observations arising out of a three-year sentence that I served in an ultra-maximum security prison in Pretoria, South Africa. I was given a sentence arising out of an attempt at sabotage in 1962. I should say that I was found guilty against the weight of evidence and in the face of a widespread view that the evidence was insufficient to commit me. The sum total of evidence - I don't know if this is pertinent - was one fingerprint on a piece of paper. There was no other surrounding evidence. On the basis of this evidence, I was convicted and sentenced to three years in prison.

"The main features of my evidence will centre around two points and I would like to say at the outset that I personally did not undergo any physical torture, nor did I undergo any physical beating of any kind. But the fact on which I would like to speak to you is the fact of isolation. I was held for two and a half years in a cell, alone, for almost the whole day. The minimum time that I was in the cell was twenty-two hours a day and the maximum was twenty-four. This, I would say, constitutes serious mental torture and it is about this partly that I want to talk.

"A second major point that I would like to make is that for half of my sentence I was not allowed to speak to any other human being. The system of isolation and non-communication used in South Africa - with which I will deal at length later on - is one of the major factors in my allegation that I was held under conditions of mental torture.

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"As an opening point, too, I would like to emphasize that political prisoners in South Africa are treated very much worse than ordinary prisoners. This is a rule, and it is a fact that has been emphasized to me on many occasions by superior officers in the prisons. I will substantiate this, too, in various ways.

"I spent my sentence in a prison called Pretoria Prison, which consists of three sections. There is Pretoria Central Prison, which is an ultra-maximum security prison for European long-term prisoners; the most dangerous prisoners in South Africa, with the longest sentences, are held in this prison, and all long-term prisoners in South Africa are sent there. Also in this complex is a women's prison, where my wife was held for some time. I believe she will be giving evidence here on Monday. A prison which holds 1,000 African prisoners is also part of this complex. I spent half of my sentence in this African prison and at present all the European political prisoners in South Africa are held there, among them Abram Fischer, who received a life sentence recently, and Denis Goldberg, who received a life sentence in the Rivonia trial during which Nelson Mandela, Walter Sisulu and others were sent to prison. All these European prisoners are held in this African prison in order to keep them away from the ordinary criminal prisoners.

"I should like to add that all the condemned prisoners in South Africa are also held in Pretoria Central Prison, and at any particular time you will find some sixty prisoners in this prison waiting to be hanged. Hangings take place at an average of two or three times a month throughout the year.

"I should like to start off by describing the cells in these prisons. I was held for one and a half years in the section called 'Observation'. This is a section which is used to introduce prisoners to prison life and all the prisoners in South Africa who receive sentences of over two years are sent to Pretoria Central Prison, where they are placed in cells seven feet by seven feet and twelve feet high. Some of the cells have a window facing on to a grass yard, but half of the cells have opaque windows high in the wall, facing an enclosed passage. Very little air comes into the windows, and the general atmosphere in the cell is one of stagnant, stuffy and stifling air. The windows are high up in the wall, about seven feet above the ground, and it is an offence to look through them.

"In the cell there are two mats for the prisoner to sleep on the floor. During the day these mats are rolled up. There are four blankets which are very filthy and dirty, and were never washed during the time that I was in prison.

A prisoner is given a little pillow and pyjamas and the toilet arrangements are an enamel pot with a lid on which stands in the cell. Some prisoners also receive a small table and a little bench on which to sit. It is an offence to stand on the bench or on the table; it is an offence to raise both your feet off the ground at one time, either for the purpose of looking through the window or for any other reason.

"During observation, a prisoner is allowed nothing whatsoever to distract his attention. For my first week, I had no books whatsoever; I was entitled to a Bible, but it was not given to me. After my first week, I was given a Bible and for the rest of my initial observation period I had nothing to read whatsoever, apart from the Bible. The intention of the observation period for ordinary prisoners, which lasts from four to six weeks, is that the person should think about his crime. The idea is that the prisoner should be introduced to prison at its very worst, and that he should then realize that it is up to him to behave well and then he will be given better treatment. Whereas ordinary prisoners are normally kept in the section from four to six weeks, I was kept there for one and a half years, which is a record in the prison.

"The cells are in sections, each of which had thirty cells, fifteen cells on either side of a three-foot-wide passage. These passages have no outside windows at all, and I just want to describe them to you because I took my exercise in these passages, instead of in the yard which was available for the ordinary prisoners.

"The main sources of punishment are as follows: firstly, these cells are very small, but they are also very cold. The walls in this prison are very thick; something like eighteen inches. There is one vent about three feet above the ground, another about eight feet above the ground, and there is a gap below the door. In winter, in Pretoria, it can be very cold indeed, and there is a constant draft going through the cell - so much so that one is unable to sit still after a while, and in the winter it becomes very, very bad for one's health.

"Furthermore, the prisoner is not allowed to make any noise whatsoever in the cell. You may not whistle, you may not talk to yourself, you may not jump around, you may not do anything. There is a peep-hole, and the observation officer is constantly returning to look through the peep-hole to see what you are doing, and he can see you at any time in the cell. You are not allowed to speak to anyone

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whatsoever. You may not even address a warder, and many a prisoner has been punished severely for saying so much as 'Good morning' to a warder when he opens the cell in the morning.

"Normal prisoners exercise in a yard adjacent to the section. The process of exercising is carried out as shown by Van Gogh in his painting, where people walk in a circle, five yards apart, one behind the other. It is an offence to look up to the roof; it is an offence to look anywhere except directly in front of you; and any person who so much as makes the slightest sound to another prisoner will be punished in a way which I shall indicate soon. For example, if the person behind you should call you, or say 'Psst' - as some prisoners do, sometimes - and you turn your head that way, you are liable for punishment immediately. So that your attention must be focused immediately in front of you, to the person who is five yards in front of you.

"The regulations stipulate that all prisoners are supposed to get half an hour's exercise in the morning and half an hour's exercise in the afternoon. This is not often carried out, and the cutting-down is done in two ways: either the warder does not give you exercise at all or, if he does allow you to go out into the yard, you do not get the half an hour. You sometimes get ten minutes, twenty minutes, and so on. For instance, one of the techniques - and you will forgive me for boring you with it - is that a prisoner is supposed to empty his toilet pot during his exercise time. Now, if there are thirty prisoners in a section, then all the prisoners have to line up in a row to the bathroom to empty the pot, and this time is counted as part of your exercise, so that normally the actual exercise time that you get may be five or ten minutes. In addition to this, for a long time we had to wash our own clothes, towel, and pyjamas during exercise time, in the yard, in cold water in a basin.

"I forgot to mention that in the cell one has a pot, a basin for washing, and another small open basin for drinking water. You are not allowed to cover the drinking water in any way; on one occasion I made a cardboard cover for my drinking water and I was threatened very severely for this. The drinking water, for some mysterious reason, has got to remain open, perhaps for inspection purposes.

"I would like to deal with the punishments handed out in Pretoria Central Prison. Discipline is very strict indeed; the normal punishment - that is, the

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every-day kind of punishment - is the loss of three meals a day. This means that you have your supper on the one afternoon, and nothing more until the second breakfast, so that you have about thirty-eight hours without food. This punishment can be handed out to a person for not having his buttons closed on inspection, for turning his head while he is walking in the exercise yard, or any similar offence. Saying 'Good morning' to a warder can earn you 'three meals', as they call it.

"The other punishments are lashes - six lashes with a heavy cane - which are handed out frequently in the prison. The lashes are given to a man as he is tied onto what they call a 'horse'. This is a wooden structure, and the prisoner's wrists and ankles are lashed to this horse and the warder will give these lashes to him with a cane four feet long and half an inch in diameter. I have seen this very many times, when I broke the regulations by standing on my table and looking through the window into the yard outside, and on all occasions the flesh was broken and the blood was pouring down the man's buttocks.

"Another kind of punishment is the spare diet. The system in this prison is that, for a serious offence, a man will get three days' spare diet, which consists of rice water for three days. The rice water is water in which rice has been boiled, and then the rice is strained off and the prisoner is given two quarts of rice water per day. The purpose of the rice water is to prevent the stomach from collapsing, because apparently after the second day the stomach walls can collapse, and this causes serious permanent damage. So prisoners get three days of rice water, then one day of half-rations, then three days of rice water, then one day of half-rations, and thereafter for fifteen days they get half-rations, for a maximum of twenty-one days, although some prisoners that I know got three sets of twenty-one days. During the course of the last twenty-one days, one of the prisoners committed suicide.

"Prisoners under spare diet have an even smaller cell than the one I had. It is usually five feet by seven feet; there are no windows at all, and it is in a very silent section of the prison. Exercise is given in an enclosed chicken-coop - I can call it nothing else - which is a triangle of two brick walls, ten feet high, with an enclosed brick roof, and one side is open for the door, which is of chicken wire. The size of the triangle is about as large as this area here, which is about

eight by ten, perhaps, and this is where the prisoner takes his exercise. He is not allowed to see any human being during this period, apart from the warder. He is not allowed to speak to anyone, of course. This is solitary confinement.

"A further punishment is segregation. Segregation consists of confinement in a cell like the one I was in for a period of up to three years. During this period, the prisoner may not speak to anyone; he may be given books, depending on his behaviour. He is given mailbags to work during this time. The prisoner works from 7 in the morning until 2 in the afternoon at the mailbags, and thereafter the day is his.

"The hours of work, in the prison, are as follows: a prisoner has to rise at six in the morning; at half-past six the door is opened for inspection. Breakfast is then served in the cell - that is, a tin plate of porridge is pushed under the grille. I ought to say that a cell door consists of a grille, and then the door itself, so that the door is opened and the grille is still there, and the food is pushed under the grille to the prisoner inside. The prisoner has a mug and a spoon; no knives and forks are allowed. So that the times of the prison are as follows: at 6.30 a.m., you are unlocked and breakfast is given to you. You wait for your first exercise, if you get it. Lunch is served at 11.30; then you wait for your second exercise, if you get it, and then at 2 o'clock or half-past two, the prison is locked up for the rest of the day. So the actual hours in the prison are between 6.30 and 2.30 - perhaps 3 - in the afternoon.

"A further form of punishment is confinement in a strait jacket, and I would like to tell you of one case that I saw myself. One young boy was brought into prison and placed in a cell opposite mine, across the passage. I saw him a few times during inspection, when the doors are quickly opened up, so that the colonel who passes down the passage on inspection is able to see the prisoners if he chooses to. I saw this young boy and I could see that he was under very great strain. He had, I found out later, been sent to prison for six weeks for being drunk on a bicycle. As it happened, when he was taken to the police station, he tried to escape. For this he was taken back to court and was sentenced to a further six weeks for attempted escape, which meant that he now had three months. Now, under the rules of this prison, any prisoner who attempts to escape is held in segregation for the full period of his sentence if it is less than nine months.

So this young lad, for being drunk on a bicycle, had to serve the full three months in segregation. As it happened, he was not in good mental health, and I could see that immediately, and I heard it, too, because facing on to the passage there are slits in the wall, and through these slits you can hear what is going on in the passage. I could hear that this fellow was constantly in trouble with the cleaners because, for example, when he was asked for his empty dish for food, he sometimes produced his pot, or sometimes his mug, and he urinated in his food dish too, on several occasions, with the result that the cleaners were very angry with him and the warder, too, was often shouting at him.

"One night, at about 7 o'clock, I heard him banging on the walls, and attacking the wall with some implement. It sounded to me as though he was using his tin dish to try and break through the wall. I shouted at him through my vent, because I was able to get up on my grille, to try and get him to be quiet, but he wasn't listening to anybody. An hour later, when the warder came round on inspection, the warder heard the noise and he looked through the peep-hole and saw this man attacking the wall with a tin dish. The wall, I may say, is eighteen inches thick and made of very strong concrete. The warder then flung open the door and shouted at the man, but the man did not listen to him, and continued attacking the wall. At this stage I jumped up on my grille; I was able to look through the slits into the passage, and I could see what was happening. The warder then went away, and brought back three other warders. They opened the grille, and one warder stayed outside the grille, holding the grille closed, like this. Three of the warders went into the cell itself and drew their batons. They drove this man over into a corner of the cell and raised the batons, like this, and threatened him, pushing him around, shouting at him and asking him what he was trying to do. The man was cringing down in the corner of the cell and saying that he wanted to get out, he just wanted to get out. They said: 'Where would you go if you got through the wall?'. He said: 'I would get into the passage'. They said: 'Where would you go if you got into the passage?'. He said: 'Well, maybe I could get out.' But, in fact, it was ludicrous, because this passage was in fact in the heart of the prison. There were numerous big strong steel gates between him and the outside, and it was a very ridiculous idea. But clearly, the man was driven half insane, and I could see that he was in fact in a terrible condition. The

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warders then hit him once or twice with their batons and then they went out again and left him there. Half an hour later they came back with a strait jacket. Here again, they opened the door. I was able to get on my grille and look through the slits and I watched them putting him into the strait jacket. The procedure was that they pushed him on to the floor on his stomach and placed this large piece of canvas, with a rope attached, on top of him. They then tried to tie him into the canvas, and he resisted. So they turned him on to his back and banged his head on the ground, on the concrete - I should have said that the floors in these prisons are concrete - like this, repeatedly, turned him over, and repeatedly tried to tie him into the canvas. Eventually they succeeded, and then they finally dragged him out of the cell by a piece of rope and down the passage, tied up in this strait jacket. He was away for five days, during which time he was kept in isolation in the strait jacket, and five days later they brought him back. He was very much subdued and, I would say, completely broken.

"On one occasion a warder told me that he had an African prisoner under him who was pretending that he was mad. He said his remedy was to place this prisoner in a strait jacket and hang him by his heels for two days, from the ceiling. After two days, he said, the man was right as rain.

"I would like to tell also of a riot that took place in the prison while I was in the section. At the time, there were sixty condemned prisoners, of whom fifty-five were Africans and five were Europeans, and the fifty-five Africans were held in a separate section, just outside the main prison itself. They were held in large communal cells, and on one Sunday afternoon somehow or other they grabbed the keys from a warder and started assaulting him and breaking free. Within minutes the alarm had sounded; and, by standing on my table and looking out of the window into an adjacent yard, I was able to see police and reservists and warders rushing to the scene, armed with Sten guns, revolvers, rifles, and so on. I counted thirty-eight shots that afternoon during the course of the riot, and I understand that three prisoners were shot dead and several very seriously wounded. Two warders were seriously injured.

"As I was looking through the window, I could see the prisoners being returned to the main block. The system used was that six of these prisoners, who had been stripped naked, were ferried through the yard by a group of warders. One of the warders carried a long whip, of about ten to fifteen feet long, and he lashed the prisoners with this whip as they were walking through the yard. The prisoners were completely naked, and the whip wound itself round the prisoner and cut him open as it landed on his body. The prisoners, I may say, were in very, very good morale indeed. They were condemned prisoners, but they were actually laughing and smiling at the warders as they walked through the yard. They taunted one warder, after he hit one of the prisoners with a whip, and he hit them again. It was a remarkable experience; one I shall never forget.

"A general comment about the treatment by warders: generally, as far as white prisoners are concerned in South Africa, there is very little physical violence against their persons. I shall talk about African prisoners a little later, although I do want to say that in the section that I was in at one time we had a warder who made himself a whip out of mailbag string. A certain kind of tarred string is used for repairing mailbags, and he plaited himself a rope of this string and used this rope to whip prisoners and cleaners constantly. He was very bored with his job, and this is the way he amused himself. He would frequently chase prisoners round and round the section during exercise time to amuse himself. The prisoners were too afraid to complain, of course, and endured it all the time.

"Generally, the treatment of prisoners by warders in this particular prison reflects an intense intention to humiliate. I myself, for instance, suffered no personal physical violence, and yet I can say that after a few months I hated the warders with the strongest loathing possible, more than I had ever hated or detested any human being in my life, simply because the warder makes it his duty to humiliate you, day and night. Every request made to him is treated in a sarcastic or bullying manner and refused or evaded, so that in the end the prisoner feels that he has no rights whatsoever and, in fact, that is the position. One of the things that prisoners always say in this prison is that you can never

win, because if you should dare to complain against the treatment of a particular warder, the treatment is intensified. As for the higher authorities, my experience is that the more senior the officer, the more sadistic his inner streak, his inner soul, is. My experience is that the warders and commanding officers in the prisons that I was in are men who have been promoted after many, many years of prison service, and I have myself seen the process, in the course of three years, of how a young warder can steadily harden and get worse and more harsh as he stays in the prison himself.

"I ought to say that the conditions of the warders themselves are not good in the prisons. The warders are locked in for the whole day in a particular section and, just as a prisoner will suffer from the constant lock-up, the warder, too, suffers from this lock-up, and you will find that he goes through various moods, directly ascribable to the fact that he is himself locked up in the section. In the Central Prison, the rules are that a warder may not read while on duty; he may not sit down while on duty; he may not smoke while on duty. So that the warder has to spend all these hours during the day in gaol, literally, and this has a very bad effect on the staff. While it is true that warders in South Africa are chosen from the lowest dregs of the white strata - the unemployed, the uneducated, the illiterate, the backward, the rural peasantry - and while it is true that you have the lowest type of persons in the prison service, it is also true that the very conditions of the prisons and the conditions in which they have to work make them far worse.

"There are Prison Regulations in South Africa and these Prison Regulations state that they should be available to every prisoner at any time. I may say that, during the course of my three years in prison, I never saw the Regulations as such. On one afternoon I was given a little Handbook for prisoners, which I had to return within an hour, but the Regulations themselves I never saw and it is more than a prisoner's comfort is worth to ask for the Regulations. Any man who asks for the Regulations is obviously going to make trouble. One of the clauses in the Regulations - in fact, the preamble - stipulates that the rule for prisoners shall be association at work and segregation at rest. Well, I can only tell you my experience, which is that I was segregated, both at work and rest, for two and a half years.

"I would like to make one point too, under this general head. It is difficult for an ordinary person to appreciate what it is like to be in the hands of one man for a long period of time, particularly when this man is of the opinion - as all the warders are - that conditions in the prisons are far too good. I have heard many warders say that conditions in the prisons are far too good and the reason or explanation they give is that this is why all these men come back again. Their explanation for recidivism is that the conditions are too good. Therefore, each warder undertakes himself to see to it that the conditions are made worse and, when you are living under such a person, life becomes absolutely intolerable. Think of it this way: to have a drink of water, you have to obtain the agreement of one man - this warder; if you want to use the toilet very often, you have to get the permission of one man; if you want to say one word, you have to get the permission of one man; if you want a piece of soap, you have to get the permission of the same man; if you want a piece of paper, if you want a piece of anything - in fact, almost in order to breathe - you have to get the permission of this one man. This situation goes on for month after month after month and in the end a kind of nexus develops - a kind of psychological reaction between you and the warder - in which case you are completely at the mercy of this man. And I would say that the vast majority of prisoners are constantly in the position of begging for favours. The prisoners cringe. In prison in South Africa, by the way, you speak Afrikaans, not English, because all the warders are Afrikaners. If you do not know Afrikaans, you learn Afrikaans; anyone who tries to speak English is in difficulty. The Afrikaans word for 'sir' is 'Mynheer', and the normal way of addressing a warder is 'Mynheer' this and 'Mynheer' that, instead of 'Sir, may I do this, may I do that?' It is 'sir, sir, sir' all the time.

"And so I would say that the normal condition of a prisoner is one of cringing and pleading for what he is entitled to under the Regulations. And I would like to ask the Working Group to try and place itself in the position of a man who is under the control of a brute, month after month and year after year.

"I would like to deal now with the question of privileges. There are grades in South African prisons - grades A, B, C and D. Grade D is the worst;

it is a segregation situation, where a prisoner is entitled to one letter and one visit every six months. Now all political prisoners in South Africa start off in this category - one letter and one visit in six months. The visit is of one person and it lasts for half an hour. The letter must not contain more than 500 words. The visits are supervised by a warder and you may not speak of anything other than family matters - no political comment, no comment about conditions. You may not discuss prison conditions during a visit, so that if anything should happen to you which is unjust, there is no external outlet. You can either appeal to the commanding officer or not at all. If you so much as mention any incident in the prison during the course of the visit, you will be punished and your visit will be cut, stopped forthwith.

"I myself was in D group in my first year, which meant one visit and one letter every six months. After the first year I was placed in C group, in which you can receive one letter and one visit every three months. Special letters and special visits may be applied for. They are not given very easily. I should say, under this heading, that while I was in this category I received a letter from my wife to the effect that my mother was due to have a very serious operation - a hysterectomy - and I suspected cancer. I asked the commanding officer for permission to send a special letter to my mother - and I think you must try and place yourselves in the condition of a man who is alone, with no contact. The letter was refused. Actually, the conversation went like this and I think it is worth placing on the record.

"I asked the commanding officer for a special letter, in view of the serious operation that my mother was having - and my mother is not a young woman - and he said: 'What are you going to write in your letter?' I said: 'Well, what does a man normally write to his mother, when she is just having a serious operation?' And he said: 'No, the letter is refused.'

"Now I would like just to go back a little on one point - the effects of all these years in isolation. It is hard to explain to an ordinary person what prison does to a man in isolation. I would say it is impossible to explain it. It is hard even, in a way, to recapture yourself the effect it has. But on the whole the constant isolation from external impacts on your sensibilities creates moods

of instability, changeableness and depression. A prisoner at times is unable to control his emotions and this is very dangerous because, if you lose your temper, if you answer back rudely, you are punished very severely. So one of the things is a certain inability to control your nerves and your temper. Depression is frequent - deep depression. Many people in prison actually go insane. First, they are put in a strait jacket, as I explained, and then later on they may be removed to some other institution. Also, there is an extraordinary loss of memory. At a later stage, I was given permission to study and I found that I couldn't even read the lightest novel. I found reading a novel a serious strain, bringing on a sort of nervous tension which I could not control. So, in preference to reading a novel, I preferred to sit and do nothing. I developed a technique of doing absolutely nothing day after day after day, just sitting on my bench and doing nothing. I think an ordinary person will find it difficult to understand that in a cell where there were books - and I had some quite interesting novels and study material - I preferred to do nothing rather than read. And I may say that I am a student, normally.

"I would like to turn now, I hope briefly, to the Local Prison - this is the African part of the prison complex - where I was sent. After I had completed a year in the Central Prison, Harold Strachan, a man just released from prison in South Africa for perjury, and I were placed in a separate section in this African prison. The reason for our removal from the white prison was because the authorities were afraid that we would get in touch with the European prisoners and feared the effect that our presence in the prison would have on the others. Apparently, the other prisoners were always talking about the two of us, although they never or seldom saw us. However, we were the talk of the prison and apparently this had a bad effect on the others, who were stimulated by our presence to - I won't say rebellion - but to certain resistance to authority. So we were put into this African prison and, although we were never in contact with Africans at all, we could constantly sense their presence: we could hear them and we could see them through our windows.

"I frequently got on my table. In fact, the only real relief from the lock-up of the prison cell was to stand on the table and look out of the window and I did this frequently. So I am completely familiar with the life of African prisoners in South Africa and I can tell you it is a horrifying experience. African prisoners in South Africa are always thin; they are emaciated - not just thin, but emaciated. They are battered about from morning to evening, physically. I said earlier that white prisoners are not assaulted but Africans are assaulted all the time. In the prison I was in, the white warders had batons and to the batons were attached leather thongs. The African prisoners were beaten with these things all the time. Also, the African warders carried long staves about an inch thick and three to four feet long. These were used to beat the prisoners all the time. For instance, my window faced the hospital yard of this prison and every morning new prisoners and prisoners who were there before, who were ill, would have to report in the yard to the doctor. The prisoners were lined up in double rows; they were made to strip completely naked whether it were summer or winter - and I can tell you that Pretoria, on a winter day, is bitterly cold and there is frost on the ground - and had to stand there for half an hour, perhaps an hour, perhaps more, waiting for the doctor's examination. During this time, any prisoner who talks to another prisoner will be hit with a stick. When he has finished the examination, which merely consists of walking up and down the row - I haven't seen a doctor actually touch anyone in the course of his examination of new prisoners - the doctor certifies that the men are suitable for work on the farms. Later in the day, and for the rest of their sentences, these African prisoners are sent out in gangs to work on farms in the neighbourhood.

"There are two incidents that occurred in this hospital yard which I really must tell you about, because they were typical. The first one concerns smuggling of tobacco. It is illegal for an African prisoner in this prison to have tobacco or to smoke, unless he is a monitor. Now, somehow or other, prisoners who go out to work on farms frequently manage to get a little tobacco somewhere. If a warder should sense any tobacco in a cell, the process is as follows. All the prisoners are marched into the hospital yard. Empty toilet pots are placed on

the yard floor a few paces apart; all the prisoners are stripped naked and made to use these pots, if they can. The prisoners are sitting in a row at this stage and any prisoner who is not able to do anything is beaten. I saw, on one particular occasion, that they were beaten with a blackjack - a small rubber truncheon in the form of a curve; it has a handle and the prisoners are beaten on the back to encourage them to use these pots. One prisoner was in discomfort and couldn't do anything; and the warder caught hold of him, pulled him to one side of the yard and put on a rubber surgical glove. Then he made the prisoner bend over and inserted a finger into his anus, for examination purposes. He examined him and found something in the anus, pushed right in. This is the normal thing in South African prisons; people who smuggle tobacco do it this way. The warder pulled out a small piece of plastic paper - a small parcel wrapped in a piece of plastic. The parcel fell on the floor at the feet of the prisoner. The warder then assaulted the prisoner severely. He beat him with his stick, he beat him with his fists, he knocked him flat on the floor, until he was bleeding all over. Finally, he opened the piece of paper and there, inside, was a tiny piece of tobacco. The prisoner would obviously get solitary confinement, for smuggling tobacco. This kind of treatment took place frequently in the yard.

"Another incident which will always live with me was that of a prisoner who screamed in his cell throughout the night. He was shouting 'Hallelujah, hallelujah, Lord' right through the night at periodic intervals. In the morning, I heard this man being carried down into the yard and, when I looked through my window, I saw him lying on the floor of the yard in a strait jacket, still shouting 'Hallelujah'. The warders were very angry with him for doing this and they kicked him on the floor as he lay there. They kicked him and kicked him but obviously the man was completely insane. His hair was long and unwashed, his eyes were crazed and he was completely out of control. They kicked him, they hit him with a baton and finally one of the warders pulled out his baton, squatted at the head of this man and tapped him on the head every time he shouted. He hit him on the head like this every time the man shouted 'Hallelujah'; he hit him on the head with his baton. It had no effect of course; the man was clearly out of

his mind. This treatment didn't happen once; it happened on several occasions that I saw myself. May I just add that I heard subsequently that this man was a political prisoner, an African political prisoner who had actually been insane at the time.

"I may say that, on the way to exercise in the yard, we passed the African sections in this prison every day, morning and afternoon, and I frequently saw fifteen prisoners housed in a cell the size of mine - and in this prison my cell was seven feet by twelve feet. And if you work that out, as I did, it meant that each man had to lie on his side. There was not enough space for each man to sleep on his back. He had to sleep on his side. In a corner of the cell, there is a small pedestal and on the pedestal was a large open bucket - no lid, no disinfectant - which smelt terribly as we walked past the cell. This was for defecation and urination in the cell. The prisoners in the morning would take this bucket, which was about one and a half or two feet high, and empty it in the yard further down the passage. Many of these prisoners were short-term prisoners; many of them were in for short stretches for pass offences.

"About medical facilities: theoretically, a prisoner is entitled to see a doctor at any time. He is supposed to hand in his card to the warder and the warder then informs the doctor, who comes to the cell, in the case of segregation prisoners, to see what is wrong. In practice, the doctors do not care. The doctor's examination is extremely cursory; the doctor's examination is also public in many cases. I have seen a prisoner who had some anal troubles stripped in public - in the section in front of other prisoners. He was obliged to bend over and this doctor was examining him anally, in front of several dozen prisoners, and nobody thought that this was unusual.

"African prisoners get even worse treatment as far as medical facilities are concerned. Any illness is treated as a minor ailment; aspirins are dished out, and a prisoner who reports sick is very often assaulted for causing trouble to the warder. One of the men with me had cardiac trouble - a man by the name of Norman Levy, who came into prison with a heart complaint. He was there for six months before the doctor so much as bothered to discuss the matter with him, even though the doctor knew about it. He was made to sleep on the floor in the same conditions as anybody else.

"During almost my entire prison stay, I had to wash in cold water. We were allowed to shower, most of the time once a week - one shower a week - in the yard with cold water. The result is that your pores get more and more full of dirt and you get dirtier and dirtier.

"Also, as I said before, in the yard in Pretoria it is bitterly cold and very often immediately after a shower one had a sensation of terrible pain in the head from the cold and we always had colds, running noses and 'flu'.

"After six months in prison, I was given study privileges. This meant that I could enter for various courses at the University by correspondence. I took this course and I was allowed to have a certain number of books in my cell and to write tutorials and letters to the University. I would like to emphasize one point: having given us the privilege of studying, they made us regret it. Simply because, when a man has something, he has something to lose and you are able to use this against him. The man who has no books cannot be punished by the confiscation of books. The man who has books has something to lose. If your floor is dirty, the prison authorities will take your books away for a week; they did this in the case of one man just before his exams.

"In my case, every time my cell was searched the books were thrown on the floor, they were turned upside down, pages were torn out, all my papers were made into a mess, and so on. So that study was a method of intimidation and persecution. One may be surprised by this but that is the situation. A warder would show you a book. He would say 'I received this book' - a book that you required for your studies - and say 'I'll give it to you'. And you would wait week after week after week and you would never see that book. And if you dare to ask for the book, there is trouble for you.

"I would like to make three points in conclusion. The first is that, of the prisoners I left behind, two are serving life sentences in the European section, one is serving twenty years, one is serving fifteen years, three are serving twelve years, one is serving nine years, two are serving seven years, several are serving five years, three years and two years. The reason I make this point is that I am myself convinced that those people will never come out of that prison sane if they stay there for their full sentences.

"Their conditions are intolerable. No human being can continue like this in isolation, locked up in this persecution, in this humiliation and come out sane. Of that I am convinced. That is my first point.

"My second point refers to visits by outside agencies. I welcome visits by outside agencies, and I think that the United Nations should continue to do everything it can to send visitors to these prisons. But I am fully convinced that no single visitor has ever seen the South African prison as it really is. It is not possible. I have been locked up in my cell when all sorts of visitors have walked past. The preparations that go on before a visit are numerous. The place is cleaned, the place is polished, everybody is prepared. The prisoners themselves are prepared, so that not a single human being can see a prison as it really is. The story I have told you today is true in every respect and you will never gain this truth by a visit yourself, unless you make a visit which is not pre-arranged, which is spontaneous and on which you can speak to the prisoners without any warder being present. And even then you have to cope with the question of microphones. Political prisons are wired. Our cells were wired. I am referring now to the last five months of my stay, when I was placed in a cell with two other men. We were three in a cell and a microphone was placed in the cell - we know this.

"So, apart from this question of wiring, a visitor cannot - and I believe has not - really seen a prison as it really is. Nevertheless, the visit of an official makes the officers afraid. It throws a spotlight on the situation and there is a tendency for the warders to be more afraid of prisoners after and during such a visit.

"My final point is that I do not believe that ordinary people can understand what prison is like and what prison does to you. I don't believe this. And I do not believe that my testimony can be fully comprehended by the members here. I don't think I fully conveyed to you what prison is like, even though I have gone into detail, even though I have tried to avoid emotional words, even though I have not exaggerated in any way. I don't believe it would be possible for people who have not been in prison fully to understand conditions in prison.

"Therefore, I would like to suggest that the United Nations make facilities available for former prisoners to speak to various organizations and bodies about conditions in prison. I think this direct communication by former prisoners with organizations can get far closer to the facts than any written document or statement by the United Nations itself.

"And now I ask you to forgive me for having spoken for so long."

862. The CHAIRMAN asked whether he was right in understanding that white prisoners were kept in the Pretoria Central Prison.

863. Mr. TUROK: "I was moved several times between the Local Prison, which is part of the Central Prison complex, and the main block of the Central Prison itself. I, myself, was moved four times between these two prisons."

864. The CHAIRMAN asked whether the purpose of transferring certain white political prisoners had been to segregate them from other white prisoners.

865. Mr. TUROK: "Yes. The separation had a twofold effect: one was to keep us away from other white prisoners in Central Prison itself and the other was to keep us, at the same time, from African prisoners. The fact is that the South African situation is highly political and even criminals are highly political. The presence of political prisoners in a prison is unsettling, because even white criminals are very strongly anti-Government and African prisoners are even more so. White political prisoners, or any political prisoners are therefore associated with rebellion and a rebellious attitude. But above all, segregation enables the authorities to give the worst treatment to political prisoners."

866. The CHAIRMAN asked the witness why he had been arrested.

867. Mr. TUROK: "I was arrested for an attempt at sabotage."

868. The CHAIRMAN asked the witness whether he had committed sabotage.

869. Mr. TUROK: "Yes."

870. The CHAIRMAN asked what kind of sabotage.

871. Mr. TUROK: "Arson. It was an attempt to set fire to government buildings."

872. The CHAIRMAN asked the witness whether he had been tried and sentenced.

873. Mr. TUROK: "Yes."

874. The CHAIRMAN asked whether the witness could give the name of any prisoner who had committed suicide after being placed on a spare diet.

875. Mr. TUROK: "I am afraid not. Because I fear that I will get other people into trouble, I can't describe how we got the information. However, a certain prisoner slipped a piece of paper under my door stating that he and three or four others were sentenced to three periods of twenty-one days and that one of them had committed suicide. In this note the prisoner asked us desperately to communicate this to people outside so that they could get legal representation. This was his request. The reason for this punishment was that they discussed politics in prison. I also knew one man - a white criminal prisoner - who slashed his throat and his tongue while he was in segregation."

876. The CHAIRMAN asked whether the witness knew the name of that prisoner.

877. Mr. TUROK: "Fred. I could give the dates when he was in prison. It was in 1962. He was in the observation section and was then an A group prisoner. He was serving a habitual criminal sentence - which is nine to fifteen years - for the crime of fraud. He was released during my time.

"There was another case of a man who cut his throat in a cell in a section next to mine when I was awaiting trial. This man now has been hanged. He was a rapist and he was hanged in Central Prison when I was there. His name was Steyn."

878. The CHAIRMAN asked whether the man in question had been white.

879. Mr. TUROK: "Yes."

880. The CHAIRMAN asked whether it was possible to prevent prisoners from communicating with each other for as long as three years.

881. Mr. TUROK: "Yes, because of the physical situation. The cells are small and a man is in his cell twenty-three hours out of twenty-four and for three years. At exercise time, the warders take care that a space of five yards is kept between each prisoner, so that there is no opportunity for communication. It is possible to speak to one's neighbour at night through the vents in the passage but the warders are very vigilant about this and, if a man is caught, he loses a day's food."

882. The CHAIRMAN asked the witness whether he knew the name of the young man who had been forced into a strait jacket by the warders. When exactly had the incident occurred.

883. Mr. TUROK: "I think his name was Labuschagne. I believe it is a French name, but I am not sure. The incident took place on Christmas Eve 1962."

884. The CHAIRMAN recalled that the witness had stated that a man had been hung by the feet for two days as a punishment. Did the witness believe that a person could remain hanging by the feet for two days?

885. Mr. TUROK: "I was told this by a warder. I did not see it.

"I don't know what a man's capacity is in this position - all I can say is that I would not put it past a warden in this local prison to do a thing like this, whether a man is capable of standing up to it or not. If the man should die, there are no investigations."

886. The CHAIRMAN asked the witness why he had been promoted from category D to category C.

887. Mr. TUROK: "It is normal for prisoners to be promoted after serving a certain period. For instance, a normal prisoner who had a three-year sentence, as I did, would start off in C category and after about four months would be promoted to B category. Under B category he could smoke, he could play football and have various other privileges."

888. The CHAIRMAN said that he had asked that question because all the previous witnesses, except one, had remained in category D.

889. Mr. TUROK: "Among the twenty-one people with whom I shared the section, I was one of the short-term prisoners. A man with a twenty-year sentence will wait perhaps three, four or six years before he is moved up. Let's say it's three to six years before he's promoted."

890. The CHAIRMAN asked whether prisoners had been able to hide large amounts of tobacco on their persons.

891. Mr. TUROK: "Incredibly large - four ounces. Simply by practice. Apparently the rectum has an infinite capacity for expansion and regular prisoners - prisoners who go in and out of prisons - steadily increase the size of the rectum and can put in as much as four ounces of tobacco by rolling it up into a very tight ball. Forgive me for the details."
892. The CHAIRMAN said that the Working Group might also be interested to know how the prisoners had succeeded in hiding matches.
893. Mr. TUROK: "In the same way. The matches are wrapped up in either silver paper or plastic paper."
894. The CHAIRMAN observed that although official visitors to South African prisons did not see prison life as it really was, frequent visits might compel the prison authorities to improve living conditions considerably.
895. Mr. TUROK: "I agree with that fully and I would strongly support every effort being made by the United Nations to visit, because even a visit which is organized discloses the physical conditions. For instance, the size of a cell: in Pretoria Central Prison, for example, three prisoners are frequently held in a cell seven feet by seven feet because of the overcrowding. Now, this kind of fact cannot easily be hidden and three prisoners in a cell seven by seven leads to very serious overcrowding."
896. The CHAIRMAN suggested that, as the prisoner had been prevented from expressing his views in a democratic way, he had tried to set fire to a government building as a means of drawing the Government's attention to his complaint.
897. Mr. TUROK: "Perhaps I can just make one or two points about my personal background, which will enlarge on these points. I was a so-called 'native representative' in South Africa. I was elected by the people of the Western Cape, in Cape Province, to represent them in the Cape Provincial Council. I was a member of this Council for five years and I was only removed by a change in the law which did away with African representation entirely. I frequently challenged the ruling party to fight an election with me, but they didn't take up the challenge. When I stood for election I was unopposed and therefore did not

have to fight a contest. I was banned from addressing meetings for many years; I was confined to the magisterial district of Johannesburg for many years, I was arrested on many occasions, I was involved in the treason trial together with Chief Luthuli - what more is there to say?

898. Mr. ERMACORA asked whether there had been any possibility for a prisoner to complain to a higher authority about ill-treatment in the prisons.

899. Mr. TUROK: "Technically, there are many avenues, but in fact there are none. You may not be aware of the fact that one of my fellow-prisoners, a man by the name of Harold Strachan, gave a statement to The Rand Daily Mail in Johannesburg on his release from prison. As a result of these articles, which were very courageously published, there was an uproar in the country, questions were asked in Parliament and the parents and wives of the prisoners rushed to Pretoria headquarters and demanded an explanation from the authorities. As a result of the uproar, one father was allowed to come to the prison to interview his son in the presence of a lieutenant from the headquarters, and the instruction was that he should be given free access to his son and that his son should make a full statement on conditions and the lieutenant was to take notes of the interview and convey these notes to the Commissioner direct. This interview took place; the son - who is a life prisoner - took his whole future in his hands and spoke bravely and courageously of everything, he spoke of every bit of persecution in that prison. We waited anxiously for the improvements to come and the improvements didn't come. When I was released two months later, I personally went to interview the Commissioner of Prisons in Pretoria. I spent two and a half hours in his office, telling him what I told you this morning. He again took notes; but in the course of the interview, when I asked him why he expressed surprise about these conditions, even though he himself has spent something like twenty years of his life in Pretoria Central Prison as a commanding officer, as a head warder, as a warder - he expressed surprise. When I asked him why the previous interview with this father had not brought improvement, he slipped out that he had not had a chance to look at the notes of the lieutenant. That is the situation.

"This was the most magnificent 'breakthrough' - to use an Americanism - that we had. We had this wonderful opportunity to go right from the low level to the very top to get it on record and for me to go and to confirm this story - and nothing happened. I should add one thing, that Strachan was subsequently sentenced and served a year in prison for these articles and the first three months of that sentence he served in complete isolation."

900. Mr. ERMACORA asked whether he was right in assuming that the authorities turned a blind eye to the ill-treatment of prisoners.

901. Mr. TUROK: "I would say it is a conflicting situation. They do tolerate it, they are aware of almost everything, but they have a technique of self-justification. My experience with warders is that even the biggest savage or sadist has to live with himself and, while he can see something in front of him, he finds it difficult to evade it. But when he goes home he invents a mythology, a psychological retreat which closes off this knowledge and, in fact, the day the superior officers in the Prisons Department in South Africa leave a prison to go to headquarters they have a technique of forgetting. So you can fairly say that they do not know, but on the other hand you can say fairly that they know very well indeed.

"A few years ago the South African Prisons Department decided to adopt a new policy in promoting officers, which was to stress education, so that any officer with a degree was more or less promised promotion. But regrettably this was in theory only. The old guard, the old warders were, in fact, pushed to the top. They had control of the Prisons Department and they stopped educated people from being promoted, and those who were promoted were carefully selected on the basis of their agreement with the existing policy."

902. Mr. ERMACORA asked the witness whether he had had any personal experience of prison visits.

903. Mr. TUROK: "My wife came to visit me."

904. Mr. ERMACORA explained that he had meant "official inspections of prisons".

905. Mr. TUROK: "Yes. On several occasions we heard, either through the warder, or through some prisoners talking out loud in the yard, that a visit was expected. But, even without hearing, it was obvious that a visit was expected because everybody started working very hard. Even the present Prime Minister visited our prison when I was there. We knew about this. He visited the prison and the place was cleaned up. All the dirty cells were locked up. Every section has a store where you keep polish and tins and pieces of rags and rubbish. All the stores were double-locked and the Prime Minister was not given the key."

906. Mr. ERMACORA asked whether the witness knew the name of the man who had been repeatedly beaten for crying "Hallelujah".

907. Mr. TUROK: "I was told that a certain political leader in South Africa was in prison at the time, and that he was in a strait jacket. I have reason to believe that this was the man. I am reluctant to disclose his name because of his family. I would be prepared to do it in private, but not in public."

908. Mr. JANKOVIC asked whether the witness could give the names of any warders or policemen who had been responsible for ill-treating prisoners.

909. Mr. TUROK: "I have such a list in my possession at home and will gladly produce it. Most of the people on it were called as witnesses in the case against Strachan."

910. Mr. JANKOVIC noted that, according to the Red Cross report, the prison authorities had stated that no political prisoners had died in Pretoria Prison. Did the witness wish to comment on that statement?

911. Mr. TUROK: "Well, firstly there was, of course, this man who was hanged. Many men are hanged in that very same prison. But that, you would say, is judicial murder. I think that Looksmart somebody - I forget the surname - died or was killed - I don't know which - in this prison. Certainly he died in Pretoria. Apart from that I don't think at the moment I can give any other information."

912. Mr. JANKOVIC asked the witness whether he had seen any minors in prison. If he had, could he describe how they were treated?

913. Mr. TUROK: "Yes, we had minors in the Pretoria Central Prison. We had one young man who was in for a sex offence. He apparently interfered with a young girl - they were both under age - and he was sentenced to six months and served the six months in this prison. I personally saw the very rapid change that he underwent in this prison because he was working and mixing with the most serious, dangerous criminals, who had the longest sentences. There are many such cases."

914. Mr. MARCHAND STENS asked the witness whether he could give the Working Group any information concerning the behavior of the non-white warders.

915. Mr. TUROK: "Regrettably, the non-white warders are as bad as the white warders. As I indicated, in the local prison they carry long sticks and use them all the time."

916. Mr. MARCHAND STENS asked whether the witness could provide any information on the use of electrode shock treatment, the "statue" method of interrogation, or, the practice of keeping prisoners without sleep.

917. Mr. TUROK: "I was fortunate in that I was arrested a month before the ninety-day law was passed, so that I did not, myself, undergo consistent interrogation. But I would say that one of my worst experiences in prison was to see my old friends - whom I knew very well - coming into prison towards the end of my sentence after they had been through the ninety-day treatment. When after some time we were allowed to talk to each other during exercise, we spent many, many days walking around the yard, half an hour at a time, and they would tell me their experiences. Many of them have suffered very severely, and I don't think many of them will ever be the same again. There is something about the ninety-day treatment which crushes and breaks something in a human being. They told me stories of how they were made to stand holding a chair above their heads for hours. One man, John Laredo, a very sensitive man, and not, should I say, a physically strong man, threw down the chair and ran to the window to throw himself out, because he felt he was breaking. The warders caught him at the window and held him there and then said, 'Well, if you want to jump you can. We will help you'. But the chain in his mind had been broken, and at that stage he no longer wanted to jump. This is the kind of experience these men had.

"Another man, Eisenstein by name, was involved in the African Resistance Movement of which Harris, the man who was hanged, was a member. Eisenstein was interrogated for a long time, and during the course of this interrogation, Eisenstein - who is a very strong personality, a very resilient personality - was made to stand for twenty-eight hours. At the end of this time he still would not speak and sat on the floor, at which stage, he tells me, he was kicked and beaten. He said that he was seized by the testicles, lifted up bodily, taken to the window and held by the window and threatened with dropping. At this stage he decided to make a statement. He made a statement which was all lies and he got away with it.

"Dave Kitson, for example, was made to stand for days and days. Another man, a young man of about twenty-one years old, extremely fit, in very good physical condition, stood for seventy-two hours at a stretch without giving information until he tired the interrogators. They let him alone for two days, they brought him back again and they made him stand for fifty-six hours, at which point he collapsed and made a statement. John Matthews, an elderly man over fifty years old, was made to stand for a long time, and so on.

"These men also told me of a technique that was used against Mr. Eisenstein where a team of policemen punched him on one spot on his arm for three hours. They took turns in beating him - not hard, just steadily. In the end the arm was swollen; it was terribly sensitive, until he could not stand the pain any more. They told us stories of a technique in which a piece of wood with a nail stuck through it was used. The nail in the wood was placed on a table - like this - and the man's sexual organ was placed on the nail and beaten with a piece of wood."

918. Mr. MARCHAND STENS asked the witness to give the Working Group any information which he had concerning the system described by other witnesses as the "carry-on" system; to give the name of the attorney who had handled his case in South Africa; and to describe how he had left South Africa.

919. Mr. TUROK: "I don't know of the system called 'carry on'. I have a feeling that this may be some phrase which people have used to describe some technique, because if there was any system, I think that I would have heard about it. So it may be only a question of words, 'carry-on'. If you could give me some indication of what is intended, what is meant, perhaps I can give some information on this.

"As to the second question, my attorneys were Kantor and Partners, of Johannesburg. Mr. James Kantor, the attorney, is now in London. One of the partners of the firm, Mr. H. Wolpe, is also in England.

"The third question - when I was released from prison I was placed under a form of house arrest and, without going into any details, after six months I decided that the time had come to leave the country. I hired a car, drove to the vicinity of the borders of Bechuanaland and found other means to cross into Bechuanaland. At that stage I surrendered myself to the police there and was eventually conveyed elsewhere to a refugee camp. In time, I made my way to Zambia, then to Kenya, and from there to Tanzania.

920. Mr. MARCHAND STENS said that under the "carry-on" system as he understood the term, the warders were given complete freedom to assault prisoners. The system was used primarily against non-white prisoners.

921. Mr. TUROK: "I have no doubt in mind that warders in the local prisons certainly have carte blanche to commit assaults any time they wish to. But I do recall specifically a story, something told to me by a warder. When I asked him what happened to prisoners who attempted to escape and he told me that he had had a case like that two days previously, where he had been out in the fields with a gang of African prisoners. One of them had tried to run away. They had caught him, they had brought him back to the prison to the chief warder, and the chief warder had said, 'Well, take him back to his cell and show him what for.' This the warder had interpreted that he was required to beat up the prisoner. He said

that he went to the cell and he beat him up. This is not unusual, it is normal. At times the prison officers do not wish to go to the trouble of trying prisoners, because it is an elaborate procedure and in such cases they take spontaneous ad hoc action.

"But, in general, as far as African prisoners are concerned, there are no limitations on the warders at all. And this is not something that is hidden from the authorities, because any person entering an African prison will immediately see African warders carrying long staves, three to four feet long. There can only be one purpose for these staves. This is not hidden. You could say that a warder carries a baton in his pocket for emergency purposes - I imagine this is a world-wide custom - but to carry four-foot staves in hand at all times seems to be taking emergency action a little bit too far.

"I was asked yesterday to bring in a list of warders and officers who were in charge of political prisoners during the time that I was in prison. I have done so. I have not brought in a comprehensive list; it would be too long. I have brought in a list of the officers principally responsible, and also I have added the name of a doctor who was in charge. There were three other doctors who were part-time prison doctors - I cannot remember their names. They had a private practice in Pretoria and they took turns on duty in the prison. Should I hand this in or read it out? I have some other copies if you need them."

922. Mr. ERMACORA asked the witness whether the persons he had listed were still in office.

923. Mr. TUROK: "I could go through the list and tell you quickly which of them are still there. Most of them are still there.

"Well, Brigadier Steyn, I think, is still Commissioner of Prisons, and Colonel Jacobz is still in the prisons department. Colonel Aucamp, I would say, is the main figure in the whole prison drama in South Africa, as far as political prisoners are concerned. He was - and is still - the head of the political section of the Prison Service, the man responsible for the movement of political prisoners, and he is responsible for the conditions of political prisoners, he is the liaison officer with the political police. He is in charge of delivering prisoners for interrogation to the political police. He was also in charge of me personally for, I think, most of my stay in prison.

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"Colonel Aucamp worked under the personal direction of Mr. Vorster when he was Minister of Justice; he was frequently absent from the prison and we were told that he was consulting the Minister in Cape Town.

"Finally, there is just one point that I think is important. Colonel Aucamp is the head of a special security section within the Prison Service itself. This is, I would say, a form of Gestapo inside the main body of the Prison Service. The people recruited for this particular section are especially chosen and I believe that the choice is decided on political reliability and so on."

924. Mr. WALDRON-RAMSEY recalled that the Working Group had been anxious throughout its proceedings to abide by the principles of natural justice; and it was therefore unfortunate that the meetings of the Group were not being attended by a representative of the Government of South Africa who could have commented on the witness' statements and confirmed or denied them as the case might be.

Since no representative of the South African Government was present, he would like for a moment to put himself in the position of counsel for the Republic of South Africa, and to ask the witness a number of questions which a representative of the South African Government might reasonably have been expected to raise. First, had anyone in authority in the prison administration in the Republic ever admitted directly or indirectly to the witness - as the latter had alleged in his written statement - that political prisoners were, as a matter of policy, kept in special sections in conditions intended to be worse than the conditions of confinement of ordinary prisoners?

925. Mr. TUROK: "May I just start by saying this. The authorities frequently denied that there was such a category as 'political prisoner'. We were told we were ordinary prisoners; there's no such category as 'political prisoner'. This is frequently the line taken. Yet our visitors' book was a separate book - it was called 'political prisoners' - and, when visits were recorded there and in Central Prison on the board where the tally of prisoners was written down, separate figures were given for 'Observation Prisoners', 'Segregation Prisoners' and 'Political Prisoners'. So we were a separate category. This is apart from the fact that we were always segregated. I mention this because the whole treatment, in fact, was different. Now, the system in the prisons there is

that every six months, every year, the prisoner is interviewed by the Prison Board. This is an opportunity to make complaints, to make requests. The Prison Board calls you in. It consists of at least two senior officers, one civilian representative, and one representative of the prison itself. This Board usually took the opportunity to harangue political prisoners on the evils of their crime. They launched attacks on our political views, they attacked us severely for the type of crime that people were in for, and they frequently told us that we were worse than murderers and that we should not expect leniency, and statements to that effect, and that in fact we would have a very much harder time than any other criminals. This was by the Prison Board. Secondly, when I was in Central Prison, I was told by a number of warders that our conditions were worse than those of any other prisoners in the whole place. And Central Prison is the most severe prison for Europeans in South Africa. This they told us and, when we made some rejoinder, they said, 'Well, it is intended that this should be the case'."

926. Mr. WALDRON-RAMSEY observed that the South African Government had always claimed that all persons in prison in South Africa were ordinary criminals who had committed offences against South African criminal law, and that no international body was entitled to interfere in the domestic affairs of South Africa. Did the witness believe that he had been imprisoned for a criminal offence - attempted arson - or a political offence - namely, sabotage? And did he believe that the South African authorities were deliberately persecuting all persons who were opposed to apartheid and were resorting to acts of sabotage merely because they were denied the opportunity of expressing their views in any other way?

927. Mr. TUROK: "The Chairman asked me a similar question on Friday and I felt very unhappy about the reply that I gave then, and with your permission, I would like to elaborate a little on those points.

"Throughout my prison stay I was made to understand daily that I was a political prisoner. There was no question about it. For instance, my introduction to Central Prison, on the very first day, took place in this manner. Together with four other prisoners, I was brought from the Johannesburg Prison to the Central Prison, taken to the reception office and made to stand

outside the office. We were then made to strip and as I was standing there a warder came past and said in Afrikaans 'Who is the exploder here?' I didn't reply. Frankly, I was terrified. He asked the question again and the man next to me pointed at me and the warder then said 'Well, we have been waiting for you', and in bad language he indicated that I was going to have a hard time. So, that this was my first introduction to the prison and, throughout my stay there, from the lowest officer to the highest they lost no opportunity to attack me on political grounds.

"Now, having said that, I would like to go a little into the background. I think the Working Group is aware of the fact that Mahatma Gandhi started his political life in South Africa. He introduced a system of passive resistance for the Indian people, which was used widely for something like thirty years to resist various residential segregation. His influence was very strong and Chief Luthuli has often admitted it. In fact, the African National Congress and the whole political struggle in South Africa has been influenced by the idea of passive resistance, and therefore it did not come easily to us in South Africa to change. But change we did. Some would even say we changed too late. But, as the situation deteriorated, even the people who were known to be moderate elements in the liberation movement in South Africa changed their outlook and in the sixties - perhaps even the late fifties - it became apparent that legal methods of struggle were no longer of any value in this situation.

"When the African people realized this, the Indian leaders realized this, too, and people like myself were fully in accord with the new outlook. We had tried everything. I have told you that I was relieved of my office as a representative of the African people, where I was able to put a point of view over in the legislative bodies of the country. It was not a viewpoint that was ever listened to seriously, but I was able to do this. I was eliminated by the Government by an Act of Parliament.

"In attempting to explain my attitudes and my approach to politics to the people, I was prevented from doing this in every way. I was arrested in the treason trial and discharged after four years. Gradually - in fact one could say rapidly - at the end of the fifties all avenues of opposition were closed,

and only those people who were afraid or who could not see the only way forward avoided or objected to policies of violence. The situation was, as I say, that it became hard for us in South Africa to turn to violence because of this long tradition. But, once the decision was taken, anyone who understood and was not afraid took the necessary action. I have said here, under oath, that I took part in sabotage attacks and I am proud of that. There are many others who have done the same. Undoubtedly the struggle in South Africa will be an extremely violent struggle. It is unavoidable at this stage. One might even go further and say that one may expect a great deal of bloodshed in South Africa."

928. Mr. WALDRON-RAMSEY, assuming once again the role of "counsel for the Republic of South Africa", put it to the witness that the allegations made in the affidavits by Mr. Constantinos Gazides and Mr. Norman Levy (document A/AC.115/L.106, annexes A and B) were completely unfounded and deliberately misleading and constituted a gross exaggeration of the position in South Africa; that no Gestapo tactics were used by the police authorities, because South Africa was a civilized and Christian country; that the allegations were evidence only of the existence of an international conspiracy against the Republic of South Africa; that there was no public or private antagonism in South Africa against the liberals, the United Nations, the Jews or individual African States; that the United and Progressive Parties and the Congress Alliance were allowed to function without interference; in short, that the allegations contained in the affidavits were nothing more than malicious slander.

929. Mr. TUROK: "It is because of statements like this that violence has broken out in South Africa. It is because of such statements and defences of the system that violence has broken out. The statement made by 'counsel' is not untypical at all; it is normal phraseology, a normal formulation of problems in South Africa. It is because of these past formulations and past statements that these people have resorted to violence, because a people will only resort to violence when there is no longer any rapprochement between the oppressed and the oppressors, when there is no longer an avenue between the ordinary people and the people who govern. I was asked on Friday by

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Mr. Ermacora whether there was not any avenue of appeal. Of course there are avenues of appeal. You will find the statute books littered with them. There are many in theory but, in practice, there is no real contact between those who govern and those who are governed. There is no relationship between the law and the people who are ruled.

"Let me illustrate this point. The warder in our section on one occasion was studying the Regulations. Every time we had exercise he would bring his Regulation book and stand there. The poor ox of a man had to try and push into his head page after page of Regulations, and it would not go into his head. So, I said to him one day: 'Would you please show us the Regulations?' He said: 'No. These Regulations are not for you; the only reason for the existence of the Regulations is to punish us warders.' Now that is, in fact, a true statement of the situation. The rule of law does not exist for the people. The defences put up by the rulers - defences such as that given here - have no relationship to the situation in South Africa at all. Apologists of the Government make speeches which, in themselves, are very consistent. The late Prime Minister, Dr. Verwoerd, was a master of logic. He was a professor of psychology and, when you heard him speak, one point followed another in admirable sequence. But somehow or other the whole thing had a false basis. He himself, perhaps, was not able to see this.

"So these are the answers to the statement made here. In addition, the answer is that there are 70,000 prisoners in prison in South Africa every day. The answer is that well over a hundred - between 150 and 200 - men are hanged in South Africa every year. The answer is that thousands of lashes are given in the prisons in South Africa every year and hundreds and hundreds of prisoners are kept in segregation every year. I don't know how many people die in South African prisons every year. In fact, the submission made by 'counsel' is false, both in fact and in formulation."

930. Mr. WALDRON-RAMSEY asked how the witness had come to know about the plight of the epileptic prisoner and the prisoner with gout and a slipped disc.

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And had the witness himself ever been obliged to take a cold shower in an open yard?

Speaking once more in the role of "counsel for South Africa", he put it to the witness that the allegations concerning the epileptic prisoner and the cold showers could not possibly be true, because they implied that the prison authorities in South Africa were very inhuman and had no consideration for the delicate susceptibilities and frailties of the human person.

931. Mr. TUROK: "In the group of prisoners with whom I was myself kept, there was one man who suffered very severely from gout; his name was Hirson. He has gout bumps all over his fingers and his legs and gout in his spine and in his hips. He was made to sleep on the floor - as I was - on a thin little mat, which he found agony every night, and he had a sentence of nine years.

"Another prisoner suffered from narcolepsy and cataplexy, which are forms of epilepsy. He was never given any facilities different from mine and had never had a bell in his cell, even though he frequently had fits.

"Another prisoner named Barsel, who was in for ninety days, suffered from epilepsy and my information is that he was given no special facilities at all.

"Norman Levy is the man I referred to previously with cardiac trouble. He was examined by a district surgeon while awaiting trial and it was stated on his admission card that he was to be given a cardiogram, X-rayed and so on, every three months. Yet after six months he had still not been inspected by the doctor. In fact, on admission the doctor came to check up, placed the stethoscope on his chest and walked away down the passage. The prisoner called the doctor back and said: 'By the way, I suffer from cardiac trouble'. The doctor hadn't noticed it, because the examination is just a cursory one. So he had to tell the doctor about this, but the doctor took no steps whatsoever.

"I would say the answer to this kind of defence is to let the Working Group visit the prisons of South Africa so that it can make an independent examination of witnesses and prisoners without the presence of warders. Then the truth can be ascertained."

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932. Mr. WALDRON-RAMSEY, speaking once more as "counsel for the Republic of South Africa", contested the witness' statement that the warders themselves were confined to the prison area and found an outlet for their irritability by harassing and assaulting prisoners.

933. Mr. TUROK: "The situation in the prisons - both Central Prison and the local prison in Pretoria - is that it is a rule that a warder may not leave his section during the day except to go to lunch. There is no such thing as a tea break. He may not leave the section. If something urgent should crop up, he has to knock on the gates of the section and the warder in the next section will pass on his message. There is no free movement through the prison and the principle - this is a security measure - is that a man in one section does not have the keys for another section, except in unusual circumstances. It is thus impossible for a warder to move about at will.

"It is also a principle that a warder may not leave prisoners in his charge. If two cleaners, for example, are busy polishing a passage, he has to be with those men at all times. He may not leave them for any reason. If he should wish to leave them, he has to take them out of the section and lock them up in another cell and then do whatever he wanted to do, if he has permission.

"Thus, by the very structure of the prison, warders are, in fact, locked up in sections in passages. I did not intend to imply that the warder is locked up twenty-four hours a day, but the hours are very long indeed. A warder comes on duty before 6 a.m. and, apart from a lunch break, he will perhaps not go off until 5 p.m. When there is a miscount, as often happens, at the daily tally at 3 p.m., every prisoner in the whole prison has to be recounted. A warder has to stay on the premises until this is corrected. The warders are, in fact, locked up in sections. They may not move around freely. Some of these sections are very dark, some of them have no outside windows and I would say it would be a superman who did not find this oppressive. I knew one head warder who had been in Central Prison for thirty years. He had never been transferred to any other prison and he frequently complained of feeling depressed because of the circumstances.

"Secondly, on the question of irritation, warders are not allowed to read on duty and they are not even supposed to smoke on duty, although many of them do.

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They are not supposed to converse with prisoners. In the observation section, the rule is that there must be absolute silence at all times. Prisoners are not allowed to speak and they are supposed to be sealed off from all noise. There should be no noise impinging on the observation section and for this purpose they built a wall at the one end of the passage, which keeps the noise out. The effect is, in fact, to isolate and insulate the whole section against noise from outside. So that the warder is, in fact, kept in this glass case, a cotton wool-reinforced glass case, for the whole day, day after day. And warders only get one day off a week; there is no week-end for them. All this would reinforce the natural brutality of the warders."

934. Mr. WALDRON-RAMSEY recalled that the witness had stressed the importance of maintaining public interest in the fate of South Africa's political prisoners, whose very lives depended on world vigilance. Did the witness still believe that investigations by United Nations bodies could help to improve prison conditions in South Africa?

935. Mr. TUROK: "I did not lightly say that the lives of the prisoners are in danger. I used this phrase deliberately because it is a phrase that was frequently used by the prisoners themselves. Rightly or wrongly, justifiably or not, this is the way prisoners talk in South Africa, particularly prisoners who have long sentences to serve. They feel - and I think they are probably correct - that there is a danger to their lives if they remain in prison for a long period of time. This is why I am here to bring you their words and their feelings on this matter.

"On the question of improvements, I think it is wrong to take a static view of the situation in South Africa. For instance, the Strachan articles that appeared in the Rand Daily Mail aroused a storm of indignation. There were letters to the Press, meetings of various organizations, questions in Parliament; above all, the relatives of the prisoners themselves became tremendously alarmed, dropped their previous lack of energy and went to the headquarters of the Commissioner of Prisons and demanded interviews and improvements.

"This is why I say I am against a static view. If something happens to jolt a situation, there is a response. Here there was this tremendous exposure, which jolted even the relatives of the prisoners. They forced the authorities to allow interviews with prisoners. This, in itself, was an improvement and immediately after these articles, a large number of visits were granted to relatives to interview the prisoners. This was an improvement.

"Actually, subsequently, some improvements did take place in the prison as regards work and exercise. Unfortunately, those improvements have now been lost. My latest information is that conditions are now back to where they were before the Strachan articles.

"But the situation is not static and every blow for improvement is something worth while. So I would urge this Working Group not to take a static view of the situation. Improvement may possibly be won and brought about by goodness alone knows what methods. This is not to say that the Government is going to yield to any representations easily. But improvements can be won in many ways.

"Thirdly, I would like to say that even the political situation in South Africa is not static. I myself am a little alarmed at the resignation of people in the world to South Africa. Despite verbal protests, there is a certain underlying resignation to the political situation there. This is wholly wrong. There are few countries in the world so riddled with conflicts as South Africa. The conflicts cut across every direction. Conflicts exist between the races, between the colours, between the rich and the poor; serious conflicts exist between English and Afrikaners; conflicts exist between the immigrants, who are now fairly numerous, and the old inhabitants; conflicts exist within the Nationalist Party itself; and conflicts exist between the appearances - the image South Africa wishes to have - and the reality of the situation. So, I would say, there are few countries which have more conflicts than South Africa. Thus the situation is not by any means static. I would say that this is the only correct approach to the situation there. It is for this reason that I originally urged that the Working Group should try to visit South Africa, to interview prisoners and to do everything possible.

"My last point is that nothing is impossible in this world. If everyone in the world was aware of the situation in the prisons in South Africa, this would be a basis on which to get people to do something about it. If people in the countries that trade with South Africa were fully aware of the conditions, it would be easier to get them to take certain actions. I myself object to cynicism, I don't like resignation and it seems to me that this Group has a task to perform in that it should carry this information to the people in the widest possible way. The United Nations itself should use these facts to obtain the widest possible support for action against South Africa."

936. Mr. ERMACORA asked the witness whether he knew why he had escaped torture.

937. Mr. TUROK: "I was extremely fortunate in being arrested before the bulk of political prisoners in South Africa were arrested. I was one of the first. The ninety-day law had not yet been passed. The system of torture, standing and all this, had not yet been introduced fully into the Special Branch. Once events started escalating, I was forgotten, I think, to some extent. I was in prison; the Special Branch's attention was not on me. My colleagues were very courageous; they took very bold actions and there was a very serious danger to the security of the State, to use the official language. In fact, there was a very serious situation, and the total strength of the Special Branch was rapidly increased to meet this threat. They were busy putting their fingers into the holes in the dike.

"May I add that it has been the experience in South Africa that, if a prisoner does not show any indication that he is likely to respond to treatment, they sometimes do not tackle him so directly. Let me say this: at no stage did I show any indication of co-operation with the authorities. This does not mean to say that they would not in the end - if they wanted information - have used tough tactics on me. But I think they felt that they would handle more immediate problems."

938. The CHAIRMAN thanked the witness for his testimony.

T. Testimony of Mr. A.B. Ngcobo

(Dar-es-Salaam, 26 June 1967)

939. Mr. NGCOBO took the following oath: "I swear to tell the truth, the whole truth and nothing but the truth."

940. He then made the following statement:

"I am thirty-five years old, and I am the Treasurer of the Pan-Africanist Congress of South Africa.

"I should like to thank you, Mr. Chairman and distinguished members, for the opportunity that you have given me to give testimony as to the prison conditions in South Africa.

"First of all, I wish to make the statement that, in coming here to give testimony as to the prison conditions in South Africa, I believe that when I give this testimony it is not because we are people who are cringing in gaol or people who are mourning. My colleagues, who are presently in prison today, are people who have undergone many trials and tribulations and who have withstood immeasurable pain during their sojourn in gaol, and therefore I would be doing them irreparable harm if I come here to address you, or to give this testimony, and say that I am doing so because they are mourning, they are cringing, and they have not courage to withstand that. These people, as I have mentioned, are people who have - some of them - gone into prison knowing very well what the conditions are and, because of their desire to change the whole set-up of the South African social system, they have gone there knowing these things.

"My principal aim in coming here is to expose the prison conditions in South Africa because I know very well that the prison conditions flow from a political situation in South Africa, and I do not hope that, by solving at once the prison conditions, the whole situation in South Africa would change. As a matter of fact, the system that obtains in South Africa now is a sort of vicious circle, because I don't think anyone can hope that changing the conditions of prisoners would affect the political situation.

"On the other hand, as we have always held, no one can ever succeed to wade out of water in a flooded room as long as the tap that gives water is open. The most important thing is to close the tap first, and then you can wade out of the water and thereby you can succeed to stop the flow of the water.

"I wish to emphasize the point that the situation in South African prisons flows from this social system, and therefore it must be regarded in that context,

that the conditions in South Africa are a result of a political system and the only effective way of improving conditions in South Africa would be, naturally, to get rid of the social system that obtains in South Africa.

"Mr. Chairman, distinguished members, I am not at all underestimating the work that this Group is doing; in fact it will have a great effect on the prison system in South Africa. But, as I have said, because the system still exists, you will get these intermittent interludes in the system and again it will revert back because of the system that obtains in South Africa.

"I wish to state that the mass arrests took place around about 1960. Facing and analysing the situation in South Africa, my own organization found that the system continues in South Africa because there has been this inhuman degradation of the African people, their humiliation in every aspect of life, which is demonstrated amply in the prison system of South Africa. My organization, at that time, prepared a campaign, and it knew that this campaign would eventually lead them into the prisons and thereby face to face with the harsh realities of the South African system as found in the prison system. My organization challenged the pass laws in South Africa and these pass laws were the apex of humiliation in South Africa, because a man could be stopped at random under these pass laws. So my organization realized that the only way to change the system there was to inculcate confidence in the mass of the African people who had been degraded for centuries upon centuries, and then they decided to challenge these laws and face whatever consequences there be, including going into prison.

"I am now going to direct myself to the prison conditions. I have served more than 900 days in prison, including 'awaiting trial', detention under the state of emergency, as well as serving a prison sentence of two years. I am going to deal primarily with prison conditions as they affect Africans in South Africa.

"As I stated earlier on, the prison conditions in South Africa, as a projection of the system, are pervaded by a continuation of humiliation. At the 'awaiting trial' stage you get a conglomeration of prisoners there, and they are not given the opportunity of knowing the prison conditions when they first enter prison; however, from time to time, people know of the existence of the prison regulations and they know what they mean. As it has been stated elsewhere, these prison regulations are merely a façade, and in fact what happens in gaol is quite different from what is presented through the prison regulations.

"On entry into prison, prisoners are classified; and, of course, the prisons themselves are classified. Usually, there are some group D prisons and group C prisons, which are usually named 'maximum' and 'ultra-maximum' security prisons, where most of the political prisoners are held.

"It is true that there is no division that is known as 'political prisoners' in South Africa. All prisoners are regarded superficially as the same, all falling under the same category. However, when one is classified, first of all the classification is whether a prisoner is serving a term of sentence which is under two years or a term of sentence which is above two years. The term of sentence which is under two years allows the prison authorities to state, on the very first day, the date of discharge of a given prisoner, and remission is given on the same date, and so you know that you have been given remission or not, as far as the prison conditions are concerned. But as for those people arrested for political offences, this remission is not given on that first day, even if they are [serving a sentence of] under two years, for the simple reason that political prisoners, or prisoners that have been arrested for political offences, are not given the privilege of remission which is extended to other prisoners in South Africa.

"Similarly, the prisoners who are serving terms of sentence above two years and who get their remission through being interviewed by the Prison Board are not afforded the privileges of remission if they are arrested for political offences.

"I want to begin with when one enters the prison. When one enters the prison, Africans are given short pants and some jerseys or shirts. On the first day of imprisonment, they are not given anything to wear on their feet, they go barefoot. Then they are required to see the doctor. When they see the doctor, they are made to strip naked for the duration of the time that they are expecting a doctor, and until they are called and their period of examination by the doctor is over, they have to walk about naked. As I may say, this is extremely humiliating for a grown man to be made to walk up naked in a yard which is usually about 200 by 50 yards.

"I want also to mention the facilities that one finds in gaol when he first enters. Well, with ordinary prisoners, usually you have a cell of about seven by nine feet, occupied usually by sixteen prisoners in extremely crowded conditions.

There is one mat; there are two blankets in summer, and a third blanket is added in winter. Whatever the changes of weather or climate are - even when, perhaps, in some parts of South Africa it does occasionally snow - there is no change as far as these issues of blankets are concerned.

"Another point I wish to make is the question of when there is an issue of these facilities - blankets, and so forth - some of them are found to be extremely infested with lice and other vermin found in prison, and the prison authorities just don't take any care about this. So you find that most of the prisons are infested with lice, vermin, bedbugs, and so forth. On most of the prison walls you will find that there are a lot of bloodstains where people tried to eliminate these bedbugs and other vermin as they are seen creeping around.

"When shorts, or short pants, are issued, they are issued at random, without any care given to what size a man puts on. You might be given very small trousers and you are forced to put it on and, if it tears, unfortunately it is a prison offence to wear something that is torn. Although you are given a small size and then you are allowed to put it on, when it tears, then it is a prison offence which can earn you three meal-times without food.

"According to the prison regulations, all prisoners are supposed to be given footwear, but you will find that in practice, African prisoners, for the first few weeks when they are in observation, are made to go barefoot and are not issued with shoes, sandals or socks. Only later, when they are transferred to prison where they do manual work, they are given sandals instead of shoes. As I might add, discrimination, of course, in prison is much more acute than even in outside life. I want to come, when I mention this, to the question of dietary facilities and classifications.

"The food for African prisoners in gaol is beyond any description. I will try to describe it, but I am almost sure that you, having not been in South Africa, may not be able to appreciate the type of diet that is given to African prisoners. African prisoners are given a diet that is called F. I know that the people of Asiatic and of Coloured descent are given food that is diet number D, and then I presume that the white prisoners get anything from A to C, but I am not sure about this fact. But what I am sure of is that Africans get F, and people of Asiatic descent and Coloureds are given a D diet. The F diet consists

of porridge from millet-meal maize or cornmeal in the morning. Because of crowded conditions in gaol, it is usually dished up three hours or so before, so that in winter you usually get this icy cold porridge, which you have to take. If you have completed four months in gaol, then you also get a mouthful of coffee, which is always cold again in this instance. For lunch, African prisoners are given maize which is boiled, without anything - just ordinary maize that has been boiled in water - and usually this maize you get at lunch one day is maize that has been prepared during the previous day, and because of crowded conditions and the heat, it is usually sour, stale, and so forth, and people are made to eat this maize without any other ingredient whatsoever.

"Supper consists of porridge again, and meat if it is a meat day. Usually there are three issues of meat per week; the dates vary as the prison authorities think fit. This food is so queer that it usually upsets your bowels as soon as you enter prison after coming from the outside world.

"The nature of feeding again is a bit queer. For instance, take on Sundays. On Sunday, one gets up at 6.30 and at 7 one gets breakfast. You are given your lunch at 9 on Sundays. Because prison warders are usually keen to lock people up early on Sundays, you find that supper is given to prisoners at 12 o'clock, say, and that makes it very, very difficult because, before you could digest your breakfast, you are given lunch, and before you are through with your lunch you are given supper, and you are made to rest for the rest of the day.

"The African diet in prison is responsible for the most acute state of ill health. Sometimes people with weak teeth are made to eat these boiled meals, and they can't even digest it very well, and the result is a great incidence of such things as diarrhoea and other ailments of the stomach.

"Coming to medical facilities, medical facilities are also provided in the prison. You have your nursing warders - warders who are trained in nursing and, I suppose, in some elements of dispensary. You also have your prison doctors. But, as we have stated elsewhere, these warders are very, very cruel. They don't issue out medicine. In fact, they issue one type of medicine for all ailments. I remember they were issuing a type of medicine which they called a 'black draught'. Whenever a prisoner complains that he has an ailment, they issue him with a measure or a dose of 'black draught' and that's all.

"The prison doctors do very little to care for the prisoners. In fact, many a time they are refused treatment, and in fact I have always thought that some of these doctors are never fit to be retained in the register of the Medical and Pharmacy Act in South Africa.

"I have thought that if Hippocrates could realize how some of these doctors behave, he would move in his grave, because their behaviour is contrary to all medical ethics that one can think of. There is no doubt that many of the prisoners, during their sojourn in prison and after leaving prison, are emaciated, and many of these prisoners have died immediately after leaving prison. I would mention one prisoner here who died only two weeks after having been discharged from prison, and he was a colleague of mine during the prison, and his name is Stephen [inaudible]. He was one of the persons who had been first to be banned under the Suppression of Communism Act in South Africa, and he had been in the forefront in the liberation movement. He died immediately after his discharge - two weeks or three weeks thereafter.

"As a rule, African prisoners in gaol usually get chronic diseases and they have become incurable for the rest of their lives.

"I want to come to the question of ill-treatment, torture, and so forth. I, personally, was never tortured. I think that was particularly because the case for which I was charged was carrying on the activities of an illegal organization that has been proscribed by law. The evidence in my case had been documentary evidence, and I had been convicted for it, and then there was no question of getting additional evidence as far as I was concerned.

"But torture, even among ordinary prisoners, is very, very prevalent in gaol. I would mention the question of assault. Well, assault in gaol, if you are a prisoner, is a daily affair. For instance, if you are required and orders are given that you go out through that door, a warder will wait outside, and then, as you go out, he will knock your head. This is a usual affair, and it is something that sometimes is just taken for granted. If you are called to go through some entrance or some hall, you always get knocked down.

"As it has been said, the question of complaints exists. Yes, it does exist, but again it is so difficult to make a complaint in gaol because in any case you complain against the man who is in charge of you, or who is likely to be in charge

of you until you are discharged. And then if you complain against him, the only inevitable thing is that his actions will be intensified and you will suffer more. Also, according to the prison regulations, there is a provision that it is an offence for a prisoner to give false evidence against a warder or an official of the prison, so that most of the time even if you make a genuine complaint, and the warder denies it, and you have no other evidence to call upon because other prisoners are reluctant to give such evidence, then you, in turn, are charged for having given false evidence against an officer in prison. So that most of the people don't even try to make these complaints, for fear that their case may not be sufficiently substantiated and therefore they will, in turn, suffer the consequences of being found guilty under the relevant prison section and then be sentenced to various prison sentences, like the 'spare diet', loss of three meals, or whipping. A 'spare diet', as has been mentioned elsewhere, is usually a period of six days - it starts from six days - of rice-water. First of all, it is three days, and then you are given a free day when you may eat, and then come the other three days that you are doing if it is six days. But in the case where you are given twelve days' 'spare diet', you first do your three days, then it's a free day, another three days, and then the rest of the six days is half rations, where you are merely given about two spoons of food and then it is finished. And this is the most emaciating thing that can befall anyone, and this can continue up to the maximum of forty-two days.

"At the beginning of my experience, no system had been laid out, and then I was in a group of three prisoners, and the first attempt was to mix us with the ordinary prisoners, so that they should avoid classification of ourselves as political prisoners, because I think at the time they thought that being classified as political prisoners entailed certain privileges. So, in order to withhold such privileges, they put us together with ordinary prisoners. And my experience in this gaol, first of all, Leeuwkop, which is near Johannesburg, was that they always want to break the backs of people convicted of such crimes as political offences, and of those convicted of crimes like highway robbery and such crimes of violence. There are certain working 'spans', and they assign these prisoners to 'spans' where

you work on the quarry, and the road construction 'spans'. When you work on the quarries, you are expected to carry stones in wheelbarrows without resting, either delivering them to another gang - say 500 yards away - and perhaps, when you return to the other side, having carried the heavy stones, you must either carry cement or some other thing to deliver to the opposite end, and now they do not want you to have any rest, although prison regulations do say that prisoners must work hard but they must work with a certain amount of rest. But this doesn't happen in the case of political prisoners and such other prisoners as I have mentioned - those convicted of highway robbery and so forth. So they continue like this.

"You will find that some prisoners have been so much having blisters on their hands that they are no more able to carry or to push their wheelbarrows, and sometimes you find pathetic spectacles where a man has to get a wire in order that, instead of pushing his wheelbarrow with his hands, he can tie the wire around his neck, so that his hands may not hurt because they are full of blisters.

"This continues on and on, on and on, until people are emaciated and with lack of good diet, they become thin and lose weight. I think during my stay in that prison, I lost more than fifty pounds of weight.

"The other aspect, of course, is also the question of the extreme humiliation. There is a system which they call in South Africa 'tausa'. This is a system where, after working, if you have gone out of the gate and then you come back, you are searched so that they make sure that you don't bring in any harmful instruments through which you can perhaps break the gaol, or bring in tobacco and other prohibited stuff. So they search you; you strip naked and then you skip about, opening your mouth and turning around and showing them your backside, see? And this is extremely, extremely humiliating and this is one of the insults that one has just got to get used to in prison.

"I wish also to mention that, in this type of searching, if a prisoner is seen to swallow something, a warder would rush up to him to throttle him, because they always suspect that prisoners usually swallow money and hide it in their bowels, so that if you appear to be swallowing something, a warder would come along and try to squeeze you here, so that you can spit out whatever you appear to be swallowing. And it is the same system that they use when people once enter prison, and if they suspect that you are well off or you are likely to be having money in

your cell, then they give you a night-soil bucket and give you a laxative in order to make sure that in your bowels no money, no tobacco, is hidden.

"I personally had an experience. I had brought myself an ordinary nail-clipper, because I thought that it would be very awkward without having a nail-clipper in prison, because a razor blade is not allowed to be used, so I brought a nail-clipper. Well, I didn't even hide it, and then I had it, and then I was punished for having a nail-clipper, and subjected to a loss of three meals.

"But this degradation goes on and on.

"I would also like to explain why I was in the ordinary section of the prison for only a few months and then I was taken back to Pretoria, and then there formed the embryo of political prisoners in Pretoria. One day, when I was working in these quarry 'spans', I was assaulted by a white warder. This white warder assaulted me because they had got so used to intimidating prisoners, you see, that whilst I was drinking water, he opened a hose on me, and other prisoners ran away laughing, see? In fact, I think he was cracking a joke, but I felt that a joke whereby a man just sprays you with a hose of water is not a good joke for me. So I snubbed him, I just looked at him, and then he poured water until I was wet. And then I didn't move, and then he said I was a spoiled Kaffir, and I needed a bit of drilling. So he assaulted me, using his baton, see? Because I caught hold of the baton, he reported to a superior officer that in fact I was attempting to assault him. So there was a prison case for me; I was put in isolation. However, as political prisoners, when we are there, we talk to other prisoners as to why we are in prison and so forth, and we had extremely organized the prison about our cause there; and, when we had explained why we were in gaol, there was a threatened hunger strike in the whole of four sections of the prison, involving about 1,500 prisoners. So my case was immediately withdrawn, and I was transferred to Pretoria that very same day.

"I must mention in this connexion that, during my sojourn in Leeuwkop, I was able to tell the people of the corrupt, inhuman and anti-human system in South Africa, and many of them were converted to our cause. I would mention that one man, who had been earlier admitted as an ordinary prisoner - when he left gaol, he went to organize for the Pan-Africanist Congress. He was later found guilty on some offence of having killed a Special Branch policeman, and that colleague of mine has now been executed in South Africa's prisons.

"It was when I was transferred to Pretoria prison that we were segregated and isolated from other prisoners in the Pretoria gaol. I remained in this position for about eighteen months of my sentence, having the usual thirty minutes' exercise in the morning and in the afternoon, which meant that twenty-three hours of every day I spent in the cell. Of course, the cell was just as usual, like other prisoners' cells, in that you had only your water bucket and your night-soil bucket in the room. And although I had been given permission to study, I was not even provided with a table, and so forth. So whenever I wanted to read or write anything, it could only be done in a sedentary position. Of course, this isolation and living in a cell can be very, very depressing, and whenever you are in such a situation, you very much wish to escape. In fact, I myself, like all other prisoners, had always thought that if I had an opportunity of escaping, I would escape, because life is dull and frustrating and affects one's mind terribly when one is under isolation. So we only did exercises in the morning and in the afternoon and nothing more.

"I also wish to point out what I should have mentioned earlier, that you rarely get an opportunity of washing yourself. You are supposed to wash only on Saturdays, and then you only go through a shower for about two minutes and then the man says 'Now it's all over', and then you go out even before you can properly clean yourself up, because there are no towels; there is only a piece of soap. Then you feel very nasty with yourself not having any shower and you are dirty.

"What the warders do is that, during winter, if they want to punish a prisoner, when the water is extremely cold, they can always say to a prisoner: 'I think you are dirty; you don't wash. You go under that shower there.' And then that is how they punish you. But in summertime, you aren't given the opportunity to wash. As a matter of fact, when I was in the observation section, I remember for three weeks we were there without washing at all, and it is a very nasty and inconvenient experience.

"Although I was allowed to study in prison, I found that conditions made it extremely impossible that this should be carried out effectively. For instance, there is censoring of books. Most of the prison warders are not people of any learning at all, but they can always censor books. I don't know how they manage to do this. I remember I had ordered from the library two history books - a history

of South Africa by Eric Walker and a history of South Africa by, I think, Vandaryk (?), an Afrikaans-speaking man. So they thought they are not going to give me this book by Eric Walker because English writers and the English Press are usually fond of distortions. So they gave me the book written by the Afrikaans man; of course, ironically, the man who had written the Afrikaans book is a known liberal in South Africa and the other book, the English book, has quite a lot of historical distortions in it. But then that is how they use arbitrary methods of censoring books. I also remember that a friend of mine provided a book by Bertrand Russell for me to read. It was called Power. Once they saw the title Power, then they said 'No, no, you can't read such a book as Power in prison', so it was taken away from me.

"So you find a lot of such instances. At one time they said that you cannot get books from friends; books must come directly from the publishers, because they thought there was a possibility, if books come from friends, that certain messages may be inscribed in these books in such a way as to bluff the prison authorities. So that you found that even getting these books and studying was quite a fuss, because you couldn't get the books you want, or, if you have bought the books you want from wrong sources, they said 'No, we won't allow these books unless they come directly from publishers', you see, and this proved very, very inconvenient.

"Although during my sojourn in Pretoria I was at that time never assaulted nor were my colleagues assaulted - and among my colleagues who were in the prison at the time were such personages as Robert Sobukwe, Nelson Mandela and others - but we could witness through windows incidents where prisoners were assaulted indiscriminately in the yard, in the hospital and so forth. So I wish to sum up now by saying that my experiences in prison were such that I was convinced that the whole prison system in South Africa is a projection of the whole system in South Africa and was a big, huge conspiracy on the part of the white minority in South Africa to commit genocide against the Africans. I saw many people who died - some of natural causes - whilst in prison, and when I saw this I concluded that it was a calculated plot to ill-treat Africans in prisons so that they may die off. I have mentioned this before, in my testimony before the political

committee of the General Assembly and before the Special Committee on Apartheid: it is my conclusion that this treatment that is meted to Africans is conducive to such."

941. The CHAIRMAN asked whether he was correct in assuming that torture was used only in cases where the authorities did not have enough evidence to secure a conviction and were therefore trying to extort a confession.

942. Mr. NGCOBO: "I cannot say with certainty why they didn't torture me, because I was not the man doing the torturing; I only deduce from circumstances that since there was a prima facie case in my own case, where there was documentary evidence - I don't say it was sufficient, but there was a prima facie case since some of the documents had been found with me - they did not have to resort to torture. But where, for instance, people were suspected and there was no readily available evidence and the only evidence would be a man's confession, then they definitely resorted to torture. I know of cases where they had no other proof and tried torture, but in vain.

"I would quote the case of Zeph Mothopeng, who was a colleague of mine; his case has been mentioned here. He was tortured because apart from the case of conducting the affairs of an illegal or proscribed organization they wanted to connect him with the whole plotting of Poqo in 1963. So they resorted to torture but they couldn't break him down and, as you may know, he sued the Minister of Justice for damages incurred during that torture.

"In some other cases, I also think there was no torture because they were merely starting to find out about the activities of a proscribed organization, but they had not got the details of those activities. That's why they did not torture me, but torture in South Africa was going on even before I went into gaol in 1960. For instance, there is a lot of torture in questions of ordinary robbery, theft, housebreaking, where they want a man to make a deposition or a confession which they can use against him thereafter. So cases of torture are quite prevalent, and I don't think it is a secret any more that these third-degree methods are used in South Africa."

943. The CHAIRMAN asked the witness when he had been imprisoned for the first time.

944. Mr. NGCOBO: "I have been imprisoned for political offences since 1952. But I think I would put that aside - and also the time when I was arrested for [inaudible] in 1956 - and start in 1960. I was imprisoned on 21 March 1960, and convicted the following day for failing to produce a pass - that was during the pass campaign. I was given a relatively short sentence and then, after discharge from that sentence, I was detained under the Emergency Regulations up to the end of August 1960. Then, after August, I came out and continued my political activities; I was arrested two months thereafter and then I remained awaiting trial until I was sentenced the following year - in 1961 - when I was sentenced to two years. I came out of prison in June 1963."

945. The CHAIRMAN said he assumed that the witness' arrest on 21 March 1960 was connected with the events at Sharpeville.

946. Mr. NGCOBO: "It was connected with the organization of that campaign, because Sharpeville was merely one theatre of the campaign and Langa was another. I was connected with the actual organization of that campaign which resulted in the Sharpeville-Langa massacres of 1960, and participated in it."

947. Mr. ERMACORA asked whether it would be correct to say that torture was practised mainly at police stations.

948. Mr. NGCOBO: "Torture occurs primarily in police cells, but some people who are charged or detained are detained in prison. They spend their 'awaiting trial' period in prison and are either interrogated in the prison or taken out to the police cells. So there is never a categorical distinction as to whether torture occurs in the police cells or in prison. It can occur in both places, because some people are charged for the second time while they are already prisoners, and then subjected to torture to find out what the offence is."

949. Mr. JANKOVIC drew the witness' attention to articles I and II of the Convention on the Prevention and Punishment of the Crime of Genocide, and asked him to restate and explain his views on the question of genocide.

950. Mr. NGCOBO: "I have consistently alleged - and I am sure I will do so in the future - that the whole set-up in South Africa, and not just the situation in the prisons, constitutes the crime of genocide. The prisons confirm this, however, because they are reminiscent of the hitlerite régime in that you get a philosophy of apartheid, reminiscent of the philosophy of nazism. So you have an ideological basis which forms the springboard for such attacks. And then, of course, if you look into the South African situation you find that deliberate malnutrition among the population kills 400 to 450 babies out of every thousand, which, in round figures, would mean for every two children born one dies. And if that is not really killing, you would be dreaming. Then there is the South African prison system itself. People get emaciated and the life-span of any person who has spent five years in South African prisons is so short that it will take him another two years and then he dies.

"Furthermore, the crime of genocide, under international law, can be committed by mere conspiracy or attempt, even if it has not been completed. We have many instances of attempt and conspiracy which pervade activities in all spheres of life in South Africa. For instance, there are cases of child labour and you find that children become stunted, they do not grow, and I think perhaps it might even affect their own reproductive system. That is what I call an ample demonstration of an attempt or a conspiracy to commit genocide.

"I should like to add, for instance, in regard to article II, paragraph (d) - 'Imposing measures intended to prevent births within the group' - that there have been ministerial statements in South Africa that there should be birth control, though all of us here are aware that South Africa is not afflicted with over-population. Birth control is now directed against the Africans in South Africa and, therefore, I say that this is a direct contravention, or attempted contravention, of article II, paragraph (d) of the Convention on Genocide.

"People have argued against this. They have used the argument that the white minority in South Africa cannot attempt genocide because they value cheap labour and so forth. Our reply to that is that their reservoirs of cheap labour in South Africa are on the border, so that they could very well do away with the black

population in South Africa and then get cheap supplies of workers from Mozambique, the neighbouring Territories of Lesotho, Botswana and Swaziland or, even as they do now, from Malawi and Angola. The motive for doing so is clear. If the black population is exterminated in South Africa, there can be justifiable pretensions on the part of the white group, who can say: 'We are a democratic society now since there are Whites only, and we are giving everybody in the country democracy'. They might even extend to those few who are left such things as democracy, but they know now they are in firm control and can do what they like. Of course, while they advocate birth control for our side, they are also keen on immigration of whites from Europe, you see, so this is quite a contradiction. It shows clearly what their motives are, but of course they won't admit them openly."

951. The CHAIRMAN observed that, when the Group came to draft its report, it would have to determine whether sufficient evidence had been presented to enable it to conclude that genocide, as defined in the Convention on Genocide, was in fact being committed in South Africa.

952. Mr. MARCHAND STENS recalled that the witness had said that he had had an opportunity in prison to engage in what might be called political recruitment; he had been able to get in touch with other prisoners who, when they had left prison, had joined his political movement. Did that mean that there was some freedom in prison for conversations of that kind, or was it very difficult to engage in such conversations?

953. Mr. NGCOBO: "I stated earlier in my evidence that for about three to four months I was relegated to the ordinary section of the prison. In this area you find that cells are big; you get huge cells, I think about 15-20 feet x 10 feet, or something like that, which can house forty to fifty prisoners, and after lock-up there is quite a lot of time for communication. Actually, what we were concerned with was explaining that we were in gaol as a result of the social system obtaining outside. For instance, many people had been in gaol firstly, because they were not allowed to work in the city of Johannesburg; they were left with the alternatives of going to the mines or to the farms, where they were paid slave wages. In order to survive after being arrested for a pass and then being unemployed, people break or

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steal. We used to explain to them that this is not because they are bad, but because of the system. We found that many people now realize that they are condemned, not because there is something wrong with them, but because the operation of the system in South Africa makes them criminals. It is the system that tends to make them what they are and which keeps them in gaol. By doing this we are able to convince quite a lot of people.

"Even today, the work which started during those days has spread, and you will find that the overwhelming number of prisoners who are ordinarily called criminals are now full of this political realization of their situation in South Africa. As a result of this, many of these ordinary prisoners who had come into prison charged with ordinary crimes have, during their sojourn in gaol, been termed political prisoners because they have been charged under the Political Offences Act with all the political offences, like continuing to be or becoming officers of a proscribed organization. Some have made gaol breaks, which had a political motivation. Some have even been sentenced to be hanged in prison for what are called political offences, motivated by the political situation, which they committed while they were in prison."

954. Mr. MARCHAND STENS inquired whether the witness had any information obtained from other prisoners - or even from third sources - concerning the encouragement of homosexual practices in prison.

955. Mr. NGCOBO: "These immoral practices are prevalent in gaol; I might add that during my sojourn in that part of the prison where there was mixing with ordinary prisoners I was able to explain the situation and sort of curb this immoral practice, particularly among those people I had convinced of our mission and of our purposes. However, it is prevalent and it is connived at, and encouraged by, the authorities in gaol. When young prisoners enter gaol the authorities usually give them to the older prisoners serving sentences like nine to fifteen years - what they call habitual criminals. The authorities say that, if they offer young boys to these habitual criminals, they tend to discourage them from escaping from prison because perhaps they think they could give them some sexual satisfaction during their sojourn in gaol. But what is important is that this is a system that is encouraged and connived at by the authorities in gaol.

"Many people who know the ordinary cultures of the African people - particularly in South Africa - know that, in fact, homosexuality did not exist in the African societies; it was when the Whites came into South Africa that Africans came into contact for the first time with this moral perversion which has been forced on our people in prisons. This thing is even being foisted on Africans by the authorities in the mines."

956. Mr. WALDRON-RAMSEY said that the testimony which the Working Group had just heard was of the utmost importance, for two reasons: first, because of the witness' long personal experience of political activity, which had enabled him to place the prison situation in the proper sociological and political contexts and, secondly, because of the witness' first-hand experience of South African prisons.

In his first statement the witness had said that the South African prison system was part of a calculated plot to exterminate Africans in South Africa, and that the intention to commit genocide undoubtedly existed. That was a serious charge to bring against the South African Government, and he wondered whether the witness wished to maintain it. Secondly, he asked whether the police had fired on the Sharpeville demonstrators without first calling upon them to disperse.

957. Mr. NGCOBO: "To answer the ancillary question first, I still hold the view that prison conditions in South Africa are contributory to a huge concerted plot to commit genocide in South Africa. I am saying this out of my experience in a number of prisons. I have been an inmate of the [inaudible] Central Prison, an inmate of the Fort, the Johannesburg Prison, an inmate of a local prison near Johannesburg, an inmate of the Pretoria Local Prison in Pretoria and in all these places I have gathered that all inmates come out so emaciated and so physically incapacitated that they can never hope to live for a decade after having been released from prison, if they have served for more than five years. So I am of the opinion that there is no question about it.

"Concerning the substantive question, the whole question of the killings at Sharpeville and Langa during the campaign conducted by my organization provides additional testimony to the fact that the Whites in South Africa are keen on killing the members of the African group, because at Sharpeville and Langa there was no necessity whatsoever for the sporadic firing, without warning, of automatic

rifles and Sten guns at peacefully demonstrating crowds. Usually the police issue a warning saying 'We call upon you to disperse after three minutes', or 'after five minutes'. In this case, there was no such warning; there was just sporadic shooting.

"We had anticipated this ourselves by calling on the police saying that they must never use the failure to disperse as an excuse for using violence. We knew that huge crowds were going to respond to the call of the positive action campaign, and we insisted that when people were asked to disperse they must be given reasonable time to do so peacefully and successfully. But despite all this, there were these sporadic shootings at Sharpeville, Langa, Vanderbijl Park and Durban, and as a matter of fact, although seventy-two persons were killed on the first day, by the end of a month, when the campaign was ended, we found that more than eighty-five persons had been killed and more than 385 people permanently disabled. So this is the question. And Langa and Sharpeville are not the first; there have been these massacres, particularly when there have been protests - massacres in the 1920's, massacres during the miners' strikes in 1921 and in 1946, and several other massacres where the police minority, white police, took the advantage and then mowed down the African people throughout South Africa. So this, coupled with the conditions in the farms and in the farm prisons where there are a lot of people - there have been cases in South Africa where prisoners have been found buried in these huge fields in the farm prisons - you can see from this that they are a group of people concentrating all their efforts on exterminating another group."

958. Mr. WALDRON-RAMSEY recalled that in one of the depositions which had been communicated to the Commission on Human Rights by the Special Committee on Apartheid a prisoner had testified that he had been buried in the ground in the prison compound and that one of the warders had actually urinated in his mouth while he was so incapacitated. Had the witness seen or heard of any similar incidents?

959. Mr. NGCOCO: "Although I have not personally experienced this, I know of such instances of extreme humiliation. For instance, there are cases where a warder would say, 'This is an offending prisoner', or 'This is a prisoner whose back is not broken yet', and he would order an ordinary bucket full of night soil

to be poured over the prisoner. So this is not at all new. And, as you say it, Sir, I believe that it is so because there are these ceaseless incidents of humiliation and of mental torture of an indescribable nature."

960. The CHAIRMAN thanked the witness for his testimony.

U. Testimony of Mr. David Sibeko

(Dar es Salaam, 27 June 1967)

961. Mr. SIBEKO took the following oath: "I declare solemnly upon my honour and conscience that I will tell the truth, the whole truth and nothing but the truth."

962. He then made the following statement:

"I am aged twenty-eight, and I am Chief Representative of the Pan-Africanist Congress in Dar es Salaam.

"I do have experience of the ill-treatment meted out to prisoners in South African gaols, having been an 'awaiting-trial' prisoner for seven months in two of South Africa's gaols myself. I was charged originally under the Suppression of Communism Act, and later I faced two counts under the Sabotage Act.

"I was arrested on 11 April 1963 in a bus travelling from Johannesburg to Rustenburg, which is a small country town on the north-western part of the Transvaal. I was with a comrade of mine who is now a refugee in Lesotho. We were taken at gun point by about half a dozen Special Branch police. They had been looking for us for conducting certain activities, which were regarded by the South African régime as illegal, in pursuance of the aims and objectives of the Pan-Africanist Congress of which I am a member.

"We were then taken to Vereeniging police station, which was the regional headquarters of the police in the area where most of our activities had been undertaken, and upon arrival at the police station we were subjected to several threats and - on a comparative basis - light beatings by the Special Branch police, particularly Sergeant Versluis (?), who was at the time Deputy Head of the Special Branch in the Vereeniging area. We were actually being pushed around because we refused to answer questions put to us by the Special Branch police. We demanded that we be given facilities to contact our lawyers and, since it was late at night when we were taken to Vereeniging police station, we had demanded that we be given the right to contact our lawyers a day later - on Saturday morning, because the following day happened to be Good Friday.

"The Special Branch were obviously very annoyed by this, but perhaps it did have its advantages because we were not as thoroughly thrashed as I have known other prisoners to be; perhaps because this was a little town outside the main area of the political activity in the Transvaal, which is Johannesburg, the Special Branch police were rather cautious about prisoners who might make trouble for them later through the services of lawyers.

"I would like to recall that one of the reasons why we were beaten up was because my colleague refused to speak in Afrikaans and I had told one of the white police that my surname starts with the letters 'Si' instead of 'Se'; and this, to them, was a sign of arrogance on our part.

"However, on that night we were locked up in different cells. Of course I was with about ten other people in my cell. I found these people to have been brought in on charges varying from petty pass offences to charges of housebreaking and theft. We were all Africans, of course. I found the atmosphere to be quite hostile towards me, until one of them questioned me on what I was in for and I explained that I was in for being a bek man, for activities that are regarded as hostile to the Government. I must say that I was then treated with some amount of respect, and even offered thin grey blankets to put between my bones and the concrete floor, which was damp. Lying out on that night was completely out of the question, because the floor was damp for some reason or other which I can't tell.

"The most offensive thing in the cell, in the physical sense, was the odour of human waste and stale urine. You found two buckets for the two purposes in the same cell as we were in, measuring about fifteen feet by ten feet; there were about ten of us in there.

"My friend did not encounter the same luck as I in his cell. There happened to be a man in there, quite tough-looking when I saw him the following day, who had been shot in the back in two places for attempting to escape - as I learnt later on - from a train that was taking him to his homeland in the Transkei for having fallen afoul of some pass law or other during his period of employment in Johannesburg. The train from Johannesburg passes through Vereeniging, which as I said, is about twenty-six miles away, and, apparently, when this train made a stop there, this man had tried to escape and he had been shot by the railway police.

Now in the cell this man appears to have been taking it out on his cell-mates and, later on, about an hour or so after we had been locked up, I heard shouts from the direction of the cell where my friend was locked up; and much, much, much later the police opened up and we were able to see part of the activity outside by sort of standing on each other's shoulders - in turn, you know - and I could see, when the cell door was opened, that my friend had blood all over his clothing, and I learnt the following day that he had been struck with one of those buckets on the bridge of the nose, suffering a slight break of the nasal bone, and the waste from the bucket had spilled all over him. As I say, from what I could see from atop of the window, the police were quite amused by that incident and, of course, they took him to hospital for stitching and returned him; and the following day we were then taken to our respective homes under heavy police escort, handcuffed, and further searches were conducted. Though the police drew a blank at my own house, unfortunately - they had been tipped off, apparently - they dug up some five mortar bombs from the garden of my friend's home.

"Back in Vereeniging we were taken to our respective cells and, stiff as I was, I couldn't afford to lie down because the dampness hadn't completely evaporated and there was pain all over my body and, of course, I was subjected to a great deal of mental strain over the discoveries that the police had made, and our very arrests were full of gloomy prospects.

"The following day, which was Saturday, we were taken to Vereeniging magistrate's court for formal remand. We applied for bail and we were told by the magistrate that the Attorney-General of the Transvaal was totally opposed to this. Though I cannot profess to know anything about law, this sounded to me rather strange, and I brought it out to the magistrate that I felt that the Attorney-General and his staff and I were two contesting persons in this court, and the onus was not on him to refuse or grant me bail; this was completely the responsibility of the Bench. The magistrate, however, stuck to his point and said that the Attorney-General was opposed to our getting bail and we were remanded in custody and taken to Vereeniging prison, which is called Leeuhof; the literal translation means 'lion's court'. This prison is about two and a half miles from the graves of the sixty-seven Africans who were massacred at Sharpeville.

"We were to meet more insults from the gaol warders, who insulted us for being 'Poqo'; 'Poqo' is the sort of Mau Mau title for the Pan-Africanist Congress in South Africa. And though we were not beaten up we were subjected to lots of insults like being called derogative names like Kaffir. They said, 'What do you think you can do to the white man? Don't you know that the white man is your boss? Here you are going to learn that this is not your mother's house'; and so on, until we were finally stripped quite naked and asked to do the tausa dance. The tausa dance is a method of searching in South African prisons. As you are stripped naked, you are asked to click your tongue against your upper jaw like this and, as you make this sound, you have to clap your hands above your head and jump as high as you can while spreading your legs so as to show the searching warder that you are concealing nothing, either in your mouth or in the private parts of your body. You can well imagine how humiliating that is, especially if it is done in the presence of a number of people.

"I was then taken to an isolation cell, which measured no more than seven feet by four or five feet. They gave me a rope mat for a mattress and two rough grey blankets, no pillow; I was given a bucket for relieving myself and I also got just one mug of water. There were at the time twelve of us, all political prisoners, all accused of PAC activity, and all locked up in our separate isolation cells, but totally prohibited from speaking with each other. If you dared even to greet any of your comrades, you were subjected to the punishment of three meals: this three-meal punishment means that you do not have your breakfast, lunch or supper; instead you have what they call ryswater. Ryswater means rice-water. It is not actually rice, but is crushed maize; the name for it is mealy rice. All you have is this rice-water for your breakfast, lunch and supper.

"April is also mid-autumn in South Africa, and it was quite cold. Vereeniging is a particularly cold place: this is where you have the large South African dam - the Vaalbank Dam - and the Vaal River also runs across this area; it is quite cold during that time. I was soon to have trouble with tonsillitis and, despite several appeals to the Chief Warder who came on patrol every morning to take complaints and inspection, I didn't get treatment for this until seven days had elapsed. And even then I was merely given a gargle and two tablets in the

Vereeniging gaol hospital, which is in the same premises, but is more of a clinic and casualty ward than a real hospital. The man in charge is an Afrikaner male nurse who prefers to be referred to as 'doctor'.

"We were denied the privilege of washing; we were also denied the privilege of going for what is called exercise - that is, thirty minutes' walk in what sunshine is available- which I think all detained persons are entitled to in South Africa. So that, in addition to the very cold nights, we also had to feed bugs and lice on our bodies. When we complained to the Chief Warder about the washing and the exercise, he said that his prison was understaffed - although there must have been over 100 warders, and I don't think there were any more than 300 to 400 prisoners in the whole gaol - and that it took too much police to guard us if we were to go for a wash every morning and if we were to get these exercises. I should like also to mention that we were also denied visits from our families and friends; and when we complained about this to the Chief Warder, he said that he had instructions from the Special Police that we were not to be granted this facility. So that, for the fourteen days that our case was remanded, we had no contacts with our families or anybody beside the Chief Warder, the warder in charge in our section, and the man that was cleaning the corridor. The only man we could say anything to was the Chief Warder himself because, as for the warder looking after us, we were only entitled to ask him to take messages to the Chief Warder, or to ask him for water - which he would give only when he felt like it - and nothing more. So we were kept in total isolation, locked up for twenty-four hours of the day. We had no communication with the world, and you can imagine the mental strain that one suffers.

"For our meals we had very cold soft porridge in the mornings with some concoction of soup, which is more like dish-water than soup; then for lunch we had half-boiled maize and some drink that is called 'toozamanza' (?). Literally translated into English, it means 'take strength'. This drink is a mixture of water and soft porridge which has some flour, I think, and some ingredients that make it sour; for supper, we had soft porridge once more and black beans which were ill-sorted and had lots of fine stones.

"We were denied all reading matter except for the government propaganda booklets, mainly the booklet called Bantu, which glorified the Government's policies of separate development and projected Bantustan policies.

"Of course we raised these matters fourteen days after we were detained when we appeared before the magistrates on formal remand again, and he told us that, according to some amendment of the South African Prisons Act of 1959, he as a magistrate had no jurisdiction over South African prisons. This, of course, is true and a lot of noise was made about it in the South African Press some years ago. He said, however, that he would speak to the authorities on our behalf on the question of washing and the question of visitors, but he didn't promise that he would be absolutely successful. Some time later, we were allowed to wash once a week; but as far as the health facilities were concerned, we were still denied adequate health facilities, such as seeing a doctor as regularly as one's illness demanded. We were also given the slight privilege of a walk in the prison yard - about twenty-five square yards - once or twice a week.

"At the back of my cell there was a window measuring about four feet by two feet. I used to take my bucket, fold my blanket and stand on this and watch activity in the section of the prison that was for convicts, and I saw some of the ugliest sights of my life in this part of the prison. Almost daily three or four prisoners were strapped onto a horse-shaped bench with their back parts thoroughly exposed and were given lashings, ranging from six to twelve, with painful-looking chains that had been soaked in water along the pavements of the lawns in this part of the prison. And once the 'spans' (that's what prisoners' working columns are called) were coming back, they were of course subjected to this tausa treatment, stripped of their clothes and so on, and as one prisoner was jumping higher during the tausa act, I saw him relieving himself and he collapsed there and then. Instead of anybody running to his aid, the warders, both African and white, started kicking his man; in the end he was dragged to his cell by mates. The following day, in the morning, I saw a corpse being carried out from the same cell; the man must have died during the night. I was lucky to be able to see through my window; if I had ever been caught it would have meant very serious repercussions for me. The advantage of it was that there was a mesh wire on this window, and this type of set-up prevents the person outside from seeing what's going on inside,

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and most of the time our doors were locked and, therefore, the warder patrolling along the corridor would not be able to see. That was our plight in Vereeniging for the six months or so that I was there.

"Of course, I should like to mention that later on some of us were given bail. In fact, all of us were granted bail, but it was put at such a fee it was obviously intended that we should not be able to afford it. My friend and I, who were the main accused persons, were put at £400 each. His family bonded their property, bailed him out, and he managed to escape to Lesotho before our trial. When he escaped, my own bail was withdrawn, despite my complaints to the magistrate that I did not think it proper that I should be judged on the activities of another person, or what the court anticipated I would do, but rather on what I had done if anything at all. I was then transferred to the Johannesburg Fort Prison, but on the day of my transfer I appeared in Johannesburg at the Supreme Court before one of South Africa's most notorious judges, Mr. Justice Ludorf. On this very day Justice Ludorf sentenced four of my colleagues to death for their PAC activities; amongst them were Richard Menchoome (?), Zwaledi (?) and others.

"At this stage I should like to bring out another side of South African apartheid, a side that is rarely, if ever, exposed: that is the apartheid of the so-called white liberals towards the African people. The relevance of my bringing up this side of apartheid is that, in 1963, it contributed to the victimization of hundreds of PAC young men who were charged with sabotage. When I appeared before Justice Ludorf on formal remand on 1 October 1963, I was informed by my family that they had been told by the Defence and Aid Fund representatives in Johannesburg that the Defence and Aid Fund was not prepared to assist in the legal defence of people appearing on charges under the Sabotage Act, ostensibly because such assistance would make the Government believe - mark you, the Government hadn't said so - that Defence and Aid was encouraging violent opposition to the South African racist régime.

"Defence and Aid in South Africa, before it was banned, was dominated by the so-called liberals in South Africa and also by certain members of the Congress of Democrats which is associated with other Congresses in the Congress Alliance.

There were no members of these political groups who had ever been charged with sabotage in South Africa up to 15 October 1963. And it was on 15 October that the Rivonia trial opened.

"Among those charged in the Rivonia trial was Bob Alexander Hepple, a South African lawyer, an advocate to be more precise. His father was Chairman of the Defence and Aid Fund, Alex Hepple, a former member of the Labour Party in South Africa. The Constitution of the Defence and Aid Fund was then reviewed so as to accommodate people that are charged under the Sabotage Act. There were three whites in the Rivonia trial, among them James Kantor and another one, Denis Goldberg. Bob Hepple became a State witness against his colleagues and was released; he escaped whilst he was a State witness and is now living comfortably in London. James Kantor was acquitted; Denis Goldberg is still serving life imprisonment; Mandela and others are on Robben Island.

"As I said, the significance of this is that hundreds of my colleagues, as from June 1963, had been tried on sabotage charges all over South Africa, and the Defence and Aid was adamant that they were not going to give defence to people charged under the Sabotage Act as long as it was PAC that was appearing, because we have been branded black chauvinists in South Africa for saying that Africa belongs to Africans. After all, President Kennedy himself said, 'If it doesn't belong to Africans, who does it belong to?' And you couldn't call him a black chauvinist for saying so. This is their contribution.

"I got legal assistance - but not from the Defence and Aid Fund. I had made some acquaintance with a journalist friend who was now in London, and he started a fund on my behalf and raised £400. I was defended by a leading South African advocate, Mr. John Coker (?), who put up a very big battle, and I was acquitted on the two counts under the Sabotage Act under which I was appearing on 1 November 1963."

963. The CHAIRMAN asked the witness to confine his remarks to the question of the ill-treatment and torture of prisoners in South Africa, and not to raise political questions which were outside the competence of the Working Group.

964. Mr. SIBEKO: "I will back down on that point, but with this slight observation: I did say in my opening of that particular bit of evidence that the

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point for my bringing up that issue was because this attitude had resulted in the conviction of hundreds of our activists, who are now suffering under the same type of political torture, so that wittingly or unwittingly these people are contributors to this persecution. I am prepared to withdraw it so as not to complicate the work of the experts and in order, too, that we might proceed towards much more relevant points."

965. The CHAIRMAN asked how long the witness had been in prison.

966. Mr. SIBEKO: "I was in prison from 11 April to 31 October, and released on 1 November from the Supreme Court in Johannesburg."

967. The CHAIRMAN asked on what grounds the witness had been arrested.

968. Mr. SIBEKO: "I was originally charged under the Suppression of Communism Act for furthering the aims of a banned organization and being a member of a banned organization; and later, on 1 October, my charges were changed from that and I was charged on two counts under the Sabotage Act, the first being that I had incited Africans in the area of Vereeniging, Vanderbije Park and Evaton to rise up against whites, to massacre whites, and the second being that I had been found in possession of five mortar bombs."

969. The CHAIRMAN asked why the witness had had the bombs in his possession.

970. Mr. SIBEKO: "Well, they were not found in my possession; as I said, they were dug up in the garden of a friend and, since our activities were linked together, the prosecution held that I was found in possession of these bombs, and when they elaborated in giving further details in court, they said that I had possessed these bombs by agency, since I was Regional Chairman of the PAC in that area and this man was working under me."

971. The CHAIRMAN asked whether he was right in understanding that the witness had never been beaten but had been subjected to humiliation.

972. Mr. SIBEKO: "Yes."

973. Mr. ERMACORA asked whether the witness had been imprisoned before the ninety-day law had been enacted.

974. Mr. SIBEKO: "Yes, it was before the ninety-day law was passed. It was passed, I think, late in May or June but later than I was [inaudible]."

975. Mr. WALDRON-RAMSEY asked whether African warders dealt with African prisoners only, or with white prisoners as well.

976. Mr. SIBEKO: "To my experience I have known African warders to be attendant only to African prisoners, although white warders do attend to African prisoners".

977. Mr. WALDRON-RAMSEY asked the witness whether the African warders had ill-treated African prisoners on their own initiative, or only because they had been instructed to do so by white supervisors.

978. Mr. SIBEKO: "I found that it was usually upon the directions of the white warders for the African warders to maltreat fellow Africans who were prisoners; but, also, there were some who were very eager to impress the white warders that they were thorough on their jobs, and these would just carry out these actions on their own."

979. Mr. WALDRON-RAMSEY asked whether there were any Africans in the Special Branch.

980. Mr. SIBEKO: "Yes, in two categories: first, in the category of being policemen themselves and being members of the Special Branch, and also the large network of informers for the Special Branch."

981. The CHAIRMAN asked whether the witness knew the names of any Africans in the Special Branch.

982. Mr. SIBEKO: "There is Peter Nki, who is a sergeant with the South African Special Branch police in the Vereeniging area and stationed in Evaton at the time I was in South Africa."

983. The CHAIRMAN thanked the witness for his testimony.

V. Testimony of Mrs. Mary Turok

(Dar-es-Salaam, 27 June 1967)

984. Mrs. TUROK took the following oath: "I swear to tell the truth, the whole truth, and nothing but the truth."

985. She then made the following statement:

"My name is Mary Turok, I was born in 1932, and I am a social worker.

"I was arrested in March 1962 because I was caught sticking up a poster which had been issued by the African National Congress. It was a poster criticizing the Government for its tremendous arms expenditure and pointing out that, if the Government was going to arm itself against the African population, then the Africans would retaliate. This was this general line of the poster. The African National Congress was banned at the time. I was a member of the Congress of Democrats, which was not banned then but only later, and we were asked by the African National Congress to put up their poster in areas where Europeans lived in Johannesburg. We did it. Unfortunately, we later discovered that one of the members of the Congress of Democrats was a police informer and so they knew about our whole plan and eight of the people involved were arrested.

"There were four women in the group - myself and three others - and we were sentenced at the end of 1962 to eighteen months' imprisonment; twelve months being suspended for three years. We lodged an appeal, but as time went on we realized that, if we waited for the appeal to be heard - sometimes appeals take a year to be heard in South Africa - we were likely to get a heavier sentence, because we could see from the way cases were going that penalties were getting heavier and the Government had announced it was going to pass new legislation. So we decided we would surrender ourselves before the hearing of the appeal in the hope that the court would then take a more lenient view and not increase the sentence - because the Supreme Court is entitled to increase the sentence. So we surrendered ourselves in January 1963.

"We were the first group of white women prisoners to present ourselves to serve a sentence in one of the prisons, and the Government hadn't at that stage quite decided how it was going to treat political prisoners. At first, therefore, we went to the Johannesburg Fort and the matron instructed us that, while we wouldn't have a separate section to ourselves, we were not supposed to communicate with the other prisoners - the other white women prisoners. This became unworkable, because there were not many white women prisoners there - only about thirty - and

it was impossible to distinguish between us and to prevent people from communicating. So this whole thing gradually fell away.

"The authorities evidently didn't want us to remain in Johannesburg, although we were short-term prisoners, so they transferred us to the long-term prison, which was in Pietersburg, in the Northern Transvaal, about 200 miles from Johannesburg. En route to Pietersburg we spent about a week at Pretoria Central Prison, where there is a section for women and then we went to Pietersburg and I remained there for the rest of my sentence - until July 1963.

"At the Fort in Johannesburg there are mainly short-term prisoners and it's an 'awaiting trial' prison. It's very, very crowded, even in the women's section, and so, although they are trying to keep the African prisoners away from the white prisoners, it's very difficult; their paths are always crossing.

"In Pretoria Central, there aren't really facilities for white prisoners, so they use one of the cells in the prison, which is entirely an African prison, and, although their conditions are better than those of the African prisoners, they are in the same passageways and are almost part of the general set-up in the prison.

"Pietersburg, on the other hand, is called a rehabilitation centre and is supposed to be one of the South African model prisons. There are about 300 African prisoners - women prisoners - and about thirty European prisoners. The European prisoners have a separate section and never meet the African prisoners at all; they are not allowed to communicate and they don't meet at all.

"The white prisoners are never allowed outside, particularly the women, although I think this applies to a certain extent to men as well. It is considered a terrible disgrace for any white women in South Africa to be in prison; the whole country is made to feel responsible for this failure and, therefore, they keep them very well hidden. If a white prisoner does go out, then she changes from her uniform into her civilian clothes; the wardress changes from her uniform, and they accompany each other as if they were just two women. I had to go to court for a further charge while I was in the Fort, and then we just dressed as if we were ordinary civilians; there was no sign that anybody could see that I was actually a prisoner. In other countries it doesn't seem unusual, because it is correct to protect a prisoner from public censure. But the contrast in South Africa between that and the treatment of African women - who are transported in open meshed vans, in large batches and always in uniform - is startling.

"Pietersburg is a long way from Johannesburg and the main towns from which most of the prisoners come and it is, therefore, very isolated; most prisoners don't get any visits from the outside. There is nothing to break the monotony of the prison routine. Some of the prisoners who are serving life sentences for murder never get outside the small yard, measuring about fifty feet by fifty feet, or the cells in which they sleep and work during the day. The effect of this is very bad; some of the women are very, very hysterical, very irritable and very often give a lot of trouble to the other prisoners. There is a lot of quarrelling, and bickering and, sometimes, fighting among them.

"In fact, in South Africa, the whole approach to the rehabilitation of prisoners is distorted by the question of race. For instance, although the matrons of these prisons have a university degree - they can get a degree in Prison Management at Pretoria University - they are young women. The matron at Pietersburg was about twenty-five and was in charge of the entire prison; she had a university degree and was considered to be an expert on prison reform, management and so on. In fact, because she herself had such contempt for white prisoners and because she herself was so very much against the Africans, her whole approach to the prison and the whole way in which she ran it suffered rather than benefited by her extra education. For instance, she couldn't resist the temptation to ridicule the prisoners - I am talking now of the white prisoners, because I don't know from first-hand experience what happened with the African prisoners.

"There was one particular prisoner who had been given fifteen years for murder; she had, apparently, shot her husband point-blank with a rifle. I must tell you that as soon as I saw her I thought that she must be sub-normal; she was extremely tense and difficult to communicate with. But the previous matron at the gaol had taken pity on her and had made her an 'A' group prisoner. When this matron came she resented the fact that the woman was an 'A' group prisoner and decided that she was going to have her demoted; and so she began her work. Some of the prisoners used to do crochet work, making table-cloths which the farmers' wives think are very nice to put on their dining-room tables, and we also used to work on sewing machines making running pants for the police reservists in their training camps. This girl could never keep up with the production quotas which were established by the

matron; she was always behind-hand and her work was always being torn apart and she was made to re-do it. She couldn't read books properly. She was made to try and read books, and then criticized because she wasn't reading properly. Eventually, she got into such a state - her whole face, I remember, was full of wales because she used to tear at her face. I heard subsequently, after I had left, that she had been demoted to 'B' group; presumably, then, the persecution abated somewhat. This particular prisoner didn't have any teeth. She had had her teeth removed when she got into prison and then they had told her that, if she wanted to get dentures quickly, she would have to pay for them herself, which of course she couldn't do. She was on a sort of waiting list, I imagine, but she had already been in prison for three years and she still hadn't got any teeth. So she would eat very slowly, and this was another excuse for the wardresses and the matron to persecute her and try to hurry her on all the time.

"I haven't much more to say, except that my personal reaction to imprisonment was that I found myself quite ill-equipped to cope with the kind of atmosphere that prevails in prisons in South Africa - the constant shouting, the vindictiveness against myself personally and the other prisoners, the fact that a person is not considered to have any rights at all and is not entitled to express an opinion and is expected to stand and wait for somebody to tell her what to do. You are left waiting outside an office sometimes for an hour or two hours. Nobody attends to you, nobody tells you where to go or what to do and, if you try to use your initiative, you get shouted at and perhaps punished. This sort of atmosphere I find very difficult to cope with.

"The matron particularly resented people who had any education, because most of the prisoners are not educated. She herself was rather weak in speaking English. The whole prison was conducted in Afrikaans and, although I could understand it, I was not very clear myself and so I used to speak English, and she resented this very much, partly because she wanted me to speak Afrikaans, but partly because it showed up her own weakness in English. So this was also cause for a certain amount of trouble."

906. The CHAIRMAN asked the witness whether she had been married at the time of her arrest.

987. Mrs. TUROK: "Yes."

988. The CHAIRMAN asked whether her husband had been in prison at the time.

989. Mrs. TUROK: "He was already in prison. He was arrested in May 1962 and I began serving my sentence in January 1963."

990. The CHAIRMAN asked whether it would be correct to conclude that the witness had suffered psychological maltreatment but had not been physically ill-treated in the two prisons in which she had been held.

991. Mrs. TUROK: "Yes."

992. Mr. ERMACORA asked the witness whether she herself had been victimized as a result of her husband's detention.

993. Mrs. TUROK: "Yes, in South Africa you always suffer a certain amount of interference, if you are a European and people know that you are engaged in activities against the Government. For instance, you get anonymous phone calls. People telephone you and make threatening remarks over the phone to you. Once somebody threw a rock over the fence and it almost went through the window of the house."

994. Mr. ERMACORA asked whether the warders in the prisons where the witness had been detained had been women or men.

995. Mrs. TUROK: "Only women. All the wardresses that attend to white prisoners are white, but there are African wardresses for African prisoners."

996. Mr. MARCHAND STENS asked the witness whether she had been subjected to psychological ill-treatment while she was being interrogated.

997. Mrs. TUROK: "No, I was not interrogated at all. The ninety-day law had just come in at that time, but it was not used against us. We were simply charged, and once you are convicted, you serve your sentence. If they want you as a witness in another case, they can interrogate you, but they didn't interrogate me."

998. Mr. MARCHAND STENS asked what types of penalties or punishments were inflicted in South African prisons.

999. Mrs. TUROK: "If it is just a sort of minor offence, like being cheeky to the wardress or fighting with another prisoner - not actually physically assaulting them - then they usually stop three meals or six meals. If it is an offence for which you can be charged under the prison regulations - and in the women's prisons they don't normally charge you, although theoretically they can - then you can be sentenced by the commanding officer of the prison to what they call 'rice water', which the previous witness described. This they can give you for a certain number of days - six days or twelve days, depending on the seriousness of your offence. You can also lose remission or part of your remission, but we didn't get remission ourselves. For certain political offences, remission is not permitted, so we were not entitled to remission."

1000. Mr. WALDRON-RAMSEY asked the witness whether she had seen, or heard of, any other prisoners who had been physically maltreated by the prison authorities.

1001. Mrs. TUROK: "I remember, in Pretoria Central, we used to have our exercise in the yard where the African women were hanging out laundry. They do laundry there for various government departments in Pretoria. Quite a number of the women have babies in prison with them, which they carry strapped to their backs or, if they are working, they sometimes put them down on the ground. We used to try and make friends with these children, and we noticed that they were very unfriendly and used to cry if we came too near them. Then one day, while we were sitting there, the wardresses were sort of cajoling the prisoners - they tend to sort of play with them as one would play with a cat, with their straps. They have key straps; they are not actually armed, the wardresses, and they sort of flick them with these straps. It is obvious that they are rather nervous of the prisoners, and they don't actually make an outright attack, but they tend to sort of just flick them with these straps. Once this wardress was doing this to an African woman prisoner, rather harder. This woman had a baby on her back, and the wardress flicked it with the strap and hit the baby right across its back, and the child let out a scream of pain and we realized that in these circumstances it wasn't surprising that the child hadn't wanted to make friends with us."

1002. The CHAIRMAN asked whether the wardress in question had been black or white.

1003. Mrs. TUROK: "In this prison, there were only white wardresses."

1004. Mr. WALDRON-RAMSEY recalled that the witness had stated that white women prisoners were supervised only by white wardresses. Were black women prisoners supervised only by black wardresses?

1005. Mrs. TUROK: "The case varies from prison to prison. In the Fort there are some black wardresses and some white and, although the white wardresses seem to go into the African section, the African wardresses are not permitted to have any relationship with the white prisoners.

"In Pretoria there are only white wardresses and, since there are not often white prisoners there, they more or less concentrate on the African prisoners. In Pietersburg there were white wardresses for the white prisoners and African wardresses for the African prisoners.

"I think I might mention that the one thing which the white prisoners seem to have left to them is their whiteness, and they are extremely conscious that this should be at least recognized. So you find that the African wardresses try to keep away from the white prisoners, because a white prisoner may, for instance, ask an African wardress to do her a favour - smuggle some tobacco in with her, or something. If she refuses, then the white prisoner will straight away run in and report her to the matron and she will be in trouble. If the African wardress communicates with a white prisoner, this is an excuse for the latter to say that she was being insulted. The favourite thing is to say 'I am a white person, I am not an African.' This is the big thing which they are always saying if the wardress wants them to do certain work. They say 'I won't do it; I'm white; it's not white person's work.' This is a big thing in prison, and for this reason the African wardresses keep as far away from the white prisoners as they can."

1006. Mr. WALDRON-RAMSEY asked whether there were any Afrikaners among the European opponents of apartheid.

1007. Mrs. TUROK: "They are mostly English-speaking. It is very, very difficult for an Afrikaner to oppose the Government, first of all because of the way he's brought up - his whole outlook, the indoctrination which he gets from an early age - and secondly because, if he does stand out against the Government or make a statement or in any way show that he is critical, then there is the most tremendous campaign to try and bring him back into the Government fold. I remember one man who was a member of the Congress of Democrats, a man called Oestheyser (?). We were never sure that he wasn't a police spy, because he was a real Afrikaner, and this was most unfortunate, but you never really know. And we knew that there must be spies sent by the Government. The Special Branch used to persecute him. They made his wife leave him; she went away and she took the children as well, which made him very upset. The Special Branch were always visiting him, and eventually he lost his job as a result of this. Eventually he committed suicide; he turned on the gas oven and killed himself. We couldn't help feeling that perhaps this was because we hadn't actually drawn him into our ranks firmly enough. But this kind of thing happens in South Africa."

1008. Mr. WALDRON-RAMSEY asked whether copies of the prison regulations were made available to prisoners.

1009. Mrs. TUROK: "No. Copies of the regulations were not shown to us or pasted up anywhere. In fact, when you come into the prison, the worst part is that you feel you have come to a place where you don't know the rules. I remember once, when we prisoners were cleaning, I was standing on a table cleaning a window because, being tall, I was the only one who could reach it. This was at the Fort. The assistant matron came round on her daily rounds. She was rather like a sergeant-major, and she was marching round the prison, and I went on cleaning the window. She screamed at me in Afrikaans 'Aandag' which means 'Attention!', and I didn't even know what she meant. Somebody explained to me, and I had to jump off the table and stand at attention next to the table, as she walked past. This is one of the routines. Gradually, with the help of other prisoners and the wardresses - who usually give you one warning - you sort of learn what the general rules of the place are, that you are not allowed to whistle or all this sort of thing. This is the only way to learn it, though. Nobody briefs you when you arrive."

1010. Mr. WALDRON-RAMSEY asked whether there was any established procedure for dealing with complaints by prisoners. During the period of the witness' detention, had any of the prisons in which she had been detained ever been visited by magistrates, as prescribed in the ninety-day law? If so, could the witness corroborate the testimony of other witnesses to the effect that, even when magistrates had visited the prisons, they had refused to listen to complaints or had told the prisoners that complaints were considered by the Special Branch alone and did not come within the jurisdiction of the magistrature? Lastly, did the witness have any comments to make on the South African Government's contention that judges had visited all prisons in South Africa and had found conditions to be satisfactory?

1011. Mrs. TUROK: "The first appeal you have, if you consider that you have been done an injustice, is to the matron of the prison. If a wardress refuses to do something for you, or insults you in any way, you may say to the wardress: 'I want to see the matron'. She is then supposed to carry this message to the matron, who is then supposed to accord you an interview. Of course in some prisons it works fairly smoothly; in others you have to wait for days. You have to keep reminding the wardress and, if she gets angry, then you are likely to wait a few more days. But eventually you usually get to see the matron. Then of course there is the question of your word against the wardress' word, and it's usually the wardress' word which counts. So most prisoners try to get witnesses, so that there can be two of them against the wardress. Well, this sometimes works, except that witnesses, in my experience in prison, don't tend to be very reliable and you don't get very far this way.

At Pietersburg, and in fact all the prisons, the matron is only in charge of the women's section - the commanding officer, who is a man is in charge of the whole prison. He comes round to the women's section once every few days on a tour of inspection. You may be sitting working one morning, and suddenly the word goes round that he is coming. The door opens, and he marches through, followed by the matron and the assistant matron, and a couple of warders. He says: 'Any complaints?' and marches on, at which stage you are supposed to jump forward and say: 'Yes, Mynheer, I've got a complaint'. I have never seen anybody do it, but

honestly, I suppose that you could. But the question 'Any complaints?' is asked in such a brisk way, and he goes on so quickly, that obviously he doesn't expect anybody to reply. The prisoners generally feel that he is very much 'in' with the matron, and that you can't get very much further with him than you got with her.

"On the question of the magistrates, this only applies with ninety-day detentions. In Pietersburg there were no ninety-day cases, because they would have had to be people who were arrested in Pietersburg and presumably there were no white women arrested in Pietersburg for ninety days. There were no ninety-day arrests in the Fort, either, when we were there, although one of the women who was sentenced together with me, called Pixie Benjamin, was arrested about a year later, under the ninety-day law, and she was in the Fort to start off with. Then she went on a hunger strike, and she was moved to one of the small police cells in Johannesburg. You know there's the main prison, and then each police station has a few cells where they can hold people. She was moved to the cells in one of these small places, and she was on hunger strike and was very weak after about a month. She asked the magistrate to see a doctor, and she managed to get her own private doctor to come and see her, but this man was so afraid that it didn't get her very far. I have no direct experience of the question of magistrates' visits to prisons.

"As far as the judges' visits are concerned, this also came later, really, but at Pietersburg we did get visits twice a year from the Prison Board, which is in charge of all the prisons and decides questions of remission and parole. Every prisoner goes before the Prison Board once or twice a year, to have his case reviewed. Before this one visit, the whole prison was spring-cleaned from top to bottom. I remember particularly about one of the doors. There was a nest of cockroaches which had been there ever since I arrived. Before the Prison Board came, somebody even got up there and cleaned down the cockroaches. The walls and everything are spring-cleaned, so that by the time the visit takes place, the prison is really looking immaculate, and I must say that, when outside bodies do manage to visit the prisons, it is much more effective if there can be an element of surprise in their visit."

1012. Mr. WALDRON-RAMSEY recalled that most of the previous witnesses had complained of the extremely unhygienic conditions prevailing in the prisons, and had suggested that those conditions, combined with the general persecution to which the inmates were subjected, tended to cause suicidal tendencies in some prisoners. Had the witness herself experienced any suicidal tendencies during her imprisonment, and did she know of other prisoners who had thought of committing suicide? Had she been subjected to any humiliating experiences such as that described by Miss Neame, whose cell had been visited by the commandant while she was undressed and washing (E/CN.4/AC.22/SR.20, p. 14)?

1013. Mrs. TUROK: "Well, first, on the question of the general conditions leading to suicide tendencies: I think on the whole that the conditions of white women in South Africa are better than the conditions of any other prisoners, certainly from the physical point of view. I think the Fort was the only prison where there were no proper toilet facilities, and the prisoners in some of the cells had to use these pots and then empty them into an open drain in the morning. But at the other prisons there were adequate toilet facilities and adequate washing facilities, and generally, I certainly didn't find the hygienic or the physical conditions oppressive in this way. I personally didn't have any suicidal tendencies, but then I was only doing six months. There were women who had very long sentences. There was one who was in for murder, who had life imprisonment, and she was always threatening to kill herself. But the only precaution which anyone took was that when she got really sort of violent, she would be locked up in a cell on her own to think about it. Otherwise, every night they used to take the scissors out of the work store, in case she should take a pair of scissors and use it during the night. There were no psychiatric arrangements available for prisoners at Pietersburg. In fact, specialist treatment of any kind was very difficult.

"As far as personal humiliation is concerned, I can't say that I had warders walking through while I was bathing, but privacy generally is very inadequate in prisons. You bathe more or less in public, and the toilet arrangements are not very private either. You are always together with other women, wherever you are. There are six or eight women in the cell with you, and the toilet is just in one corner of the cell without even a wall around it. There is always a warder

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in the doctor's consulting room when you go to see the doctor. I don't know what he's there for, but there is also a wardress there who is supposed to look after you. Some women found it a little embarrassing. Otherwise, I have no personal experience."

1014. Mr. WALDRON-RAMSEY asked the witness, as a social scientist, to describe and explain the deterioration of the South African social system, and to suggest possible remedies for the present situation.

1015. Mrs. TUROK: "Yes, South Africa is a sick society. The attitudes, the relationships between people, are extremely abnormal. It is impossible to form relationships between people across the colour line any more in South Africa. Six months after I was released from prison, I was put under suburb arrest. I was not allowed to move out of the suburb where I was living, and I found most of the people in the suburb extremely hostile - not really hostile, but anxious not to get involved. Most English-speaking people have this attitude now; economically they are reasonably well-off and they prefer not to think any more about other things. They don't want you to involve them by telling them about how you view things. They don't like to read the newspapers, or to hear any point of view which may, perhaps, disturb their sleep at night. The African people, on the other hand, are extremely hostile to all whites. I am sure that if you meet somebody in the street and you ask him whether he knows whether there are some whites who are against the Government, he would tell you that he does know it, because the African people in South Africa are very politically conscious. They have been involved in politics for a long time. On the other hand, in his every-day relationships he is extremely hostile towards all whites. I found that, even walking in the streets, you can feel the hostility and the resentment of the people. The whole atmosphere is tense and verging on violence all the time.

"The roots lie a very long way back. Of course, the whole thing has got much worse the last two years. But I don't think I could really answer that question.

"The remedy is the difficult question. I think that sooner or later the Africans are going to take things into their own hands in South Africa, because this is certainly the atmosphere, and there is going to be some sort of violent

revolt. The whites are not going to permit of any sort of gradual relaxation. Once there is a revolt, I have no doubt that a lot of the whites, if they feel they are on the losing side, will not be any serious danger to African majority rule in South Africa. A lot of them will leave the country, but there will still be a potential fifth column, which will be a big problem."

1016. The CHAIRMAN thanked the witness for her testimony.

Appendix I to chapter VII

Rule by Law - South Africa Today

/Submitted as evidence by Mr. Albert Sachs/

THE LAWS

South Africa is the only country in the world that proclaims the inequality of its citizens in its laws.

The South Africa Act, 1961, declares that only white persons may become members of the all-powerful Parliament.

The Native Land Act, 1912, provides that Africans may not own land in 87 per cent of the country's territory.

The Group Areas Act, 1950, empowers the Government to proclaim ghettos for ownership and occupation by people of mixed descent and of Asian origin.

The Native Urban Areas Act, 1945, restricts entry of Africans into the towns and compels Africans in the cities to live in locations subject to the control of white superintendents.

The Native Abolition of Passes Act, 1952, makes it compulsory for every African man or woman over sixteen to carry and produce on demand to any policeman a book containing his photograph, number and the various permissions he needs relating to residence, movement and work.

The Population Registration Act, 1950, obliges every South African to have himself racially classified, and creates special race courts for investigation of "borderline cases".

The Reservation of Separate Amenities Act expressly authorizes separate but unequal facilities in public places for persons of different races.

Lawyers throughout the country draft, peruse and look for loop-holes in a great accumulation of statutes, ordinances, by-laws, proclamations, government notices and ministerial directives, as amended, with amendments to the amendments. Divided into sections, subsections, paragraphs and clauses, they are replete with whereas's, wherefore's, notwithstanding's and hereintofores.

For the public the literature is simpler, signs reading "Whites Only - Slegs Bankes"; "Non-Whites Only - Slegs Nie Blankes". These signs are on poles standing

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in playgrounds, parks and beaches; they are painted on benches, stencilled on telephone boxes and nailed over the entrance to sports fields, concert halls, post offices and railway stations. No place is too lowly for them - the urinals are strictly segregated, and no complications too great - at new stations they have separate counters for white luggage, for non-white luggage, and for white luggage to be fetched by non-white persons. The colour bar applies to sex, with policemen shining their torches through windows to catch white and black in forbidden embraces (Immorality Act); it applies to disaster, with white ambulances being prevented from carrying non-white casualties (Hospital Board Regulations); and it applies to death, with burial grounds racially zoned to ensure that the bodies remain as divided in death as they were in life (Group Areas Act).

The Government claims that apartheid belongs to the natural order of things and corresponds to both the Divine will and the wishes of all sections of the South African population. In case citizens are not aware of their wishes and as a supplement to Divine wrath, the apartheid laws all carry penal sanctions. As a further precaution the law ensures that weapons-training is confined to white youths only, and that only whites may possess fire-arms. It is not surprising, too, that the law has made extensive efforts to ensure the survival of the order it has created. The major piece of legislation for outlawing opposition has been the Suppression of Communism Act, 1950, which has provided the legal foundation for the banning, not only of the Communist Party, but also of the African National Congress, the Pan Africanist Congress, the Congress of Democrats, and, last year, the South African Defence and Aid Fund. This Act gives the Government power, without further reference to Parliament or the courts, to ban periodicals, meetings, organizations and individuals. In 1962 the Sabotage Act created a special offence of sabotage which was widely defined and made punishable by a maximum sentence of death and a minimum sentence of five years' imprisonment. It was under this law that Nelson Mandela and other leaders of resistance were sentenced to life imprisonment in 1964.

THE INSTITUTIONS

South Africa has a highly sophisticated and well-developed legal system. Apart from dealing with the ordinary run of commercial, matrimonial and criminal matters, the judicial structure is important in the enforcement of apartheid.

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The Courts: Justice is placed by law firmly in the hands of the whites. Judges, juries and magistrates are always white, as are all prosecutors. Nearly all court officials are white, and in every jurisdiction except one there are separate docks for white and non-white accused, separate witness boxes for white and non-white witnesses, and separate seating areas for white and non-white spectators. Magistrates are drawn from the government service, but judges are appointed from the Bar, and may not be removed from office. The atmosphere in the courts is usually determined by the judicial officers in charge who vary from aggressive persecutors to kindly men whose conscientiousness extends to the carrying out of apartheid laws in as quiet a manner as possible.

The Department of Justice: Apart from cleaners, a few court orderlies, some interpreters and junior clerks, the membership of this large and important bureaucracy is confined to whites only, most of whom are enthusiastic supporters of apartheid.

The Police Force: The power and importance of this body has grown so much in recent years that it has become the most important organ of government, not only in the execution of policy, but in its determination. Its 30,000 men are divided roughly half and half into white and black, but there are no non-white commissioned officers. White police use helicopters, Saracens (armoured cars), Sten guns, rifles, bayonets and pistols, whereas non-white police are issued with batons and whistles. After the Sharpeville killing in 1960, the Security Branch increased its size six times and it has now become the dominant section of the whole police force, with a special budget, special equipment and a special status.

The Prisons: The average daily prison population is over 70,000, i.e., twice as much as that of Britain, which has nearly four times the total population of South Africa. The great majority of prisoners are Africans sentenced for contraventions of apartheid laws. Apartheid applies to both prisoners and prison staff. All senior warders are white; no non-white warder may ever be placed in charge of a white prisoner. White and non-white prisoners are strictly segregated, with different diets and different work regimes. Tens of thousands of non-white prisoners work on privately owned farms, the farmer paying 9d a day per prisoner. The quality of prisons varies greatly, but generally white prisoners sleep on beds, coloured prisoners on mattresses, and Africans on mats. Political prisoners are

usually treated more severely than rapists and robbers, having to spend long periods in isolation doing degrading work. Except in very rare instances they are never given the normal remission of sentence for good behaviour, nor are they allowed out on parole. As a result of exposures by ex-prisoners, followed by international pressure, some of the worst practices against political prisoners, such as assaults by the warders, have become rarer, but conditions are still harsh. The security police frequently interrogate convicted prisoners, and on completion of sentence, Africans are often recharged with political offences and returned to prison for periods averaging about seven years.

Legal Profession: The law so dominates South African life that lawyers have come to occupy the position held by doctors and priests in other societies. The legal profession is large and well organized and lawyers play a leading role in political affairs. Thus three out of five Prime Ministers since the war, including J.B. Vorster, have been lawyers, while Nelson Mandela and Bram Fischer, two heroes of the resistance movement, were also members of the legal profession. The profession is divided into two groups: advocates of the Supreme Court (several hundred), and solicitors (several thousand); less than 5 per cent of the total are non-white. In the past the lawyers' associations have tended to criticize many new laws on the grounds that they allowed persons to be penalized without trial, and so on, but in the more recent period fewer and fewer lawyers have been prepared to speak out. The Government exercises patronage in the form of judicial appointments, and the sending of work to favoured lawyers; on the other hand, it has now taken powers in terms of the Suppression of Communism Act to strike lawyers off the rolls of practitioners on purely political grounds. Left-wing and liberal lawyers have been raided by the police, banned, placed in solitary confinement and imprisoned on political charges. The South African Branch of the Defence and Aid Fund, which helped finance the defence and support the families of thousands of political prisoners, was banned last year. Bram Fischer, Q.C., son of a Judge President and himself a former leader of the largest Bar Council in South Africa, was placed on trial for his life in 1966.

"It was to keep faith with all those dispossessed by apartheid", he said, explaining to his colleagues in court why he had gone underground, "that I broke my undertaking to the Court, separated myself from my family, pretended I was

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someone else and accepted the life of a fugitive. I owed it to the political prisoners, to the banished, to the silenced and those under house arrest, not to remain a spectator, but to act. I felt responsible, not to those who are indifferent to the sufferings of others, but to those who are concerned. I knew that by valuing their judgement I would be condemned by people who are content to see themselves as respectable and loyal citizens. I cannot regret any condemnation that may follow me." He now sews mailbags at Pretoria Prison as part of a life sentence, and his colleagues had him struck off the Roll of Advocates.

PROCEDURES

Criminal procedure in South Africa is based on the English accusatory system. Until recently the standards of judicial practice, particularly in the Supreme Court, was relatively high, and an African could, for example, expect to receive a better hearing from a judicial officer than from a government official. Nevertheless racial prejudice and the inability of most non-white prisoners to afford legal defence inevitably led to unfair judgements aggravating unfair laws. Last year, for example, four white hooligans raped an African woman and assaulted her companion - the punishment they received was cuts with a cane. In a case in which I was involved some years ago, the facts were similar, but the racial position reversed. Two out of the three accused were sentenced to death and hanged. Similarly violence against suspects has been carried out for many years in many police stations. In recent years, however, procedures have deteriorated drastically, and it has now become officially sanctioned practice to subject suspects and witnesses to various forms of torture. The "90-day" law of 1963 empowered the police to detain suspects in indefinite solitary confinement for purposes of interrogation. Over a thousand persons were held under this section. Most are now serving sentences, some have been executed, one leapt to his death from a window and two hanged themselves. This law was replaced in 1965 by the 180-day law, in terms of which potential witnesses may be held for six months and more in solitary confinement under the control of the police. Based on my own experience as a prisoner under both laws, I would say that although material conditions might have improved a little, the use of torture has become more wide-spread and is supported by the head of the Security Police, Major-General van den Bergh, and the Prime

Minister, Vorster, who were detained together during the war because of pro-Nazi activities and who in the words of van den Bergh have maintained a close working association ever since. The form of a proper trial is maintained, but the witnesses in political cases have been so processed by the police that the substance of a fair trial has been destroyed. In his speech from the dock Bram Fischer spoke of the "result of an attempt to use the criminal law to suppress political beliefs. The administration of criminal law changes its character. It ceases to have integrity", he pointed out, "it becomes an inquisition instead".

STANDARDS

Evidence which a few years ago would have aroused indignation in judicial officers and newspaper editors is now met with a shrug. Parliamentarians declare that "communists and saboteurs are not entitled to human rights". It is stated that political prisoners are never tortured, and that they deserve the torture they get. People who oppose the 90 and 180-day laws are accused of supporting sabotage; critics of torture are alleged to be enemies of the police and of civilization in southern Africa. The population is being conditioned to accept violence from the State. In some cases, policemen stand with Sten guns outside court; mass trials are held throughout the country, often behind closed doors, with prisoners sometimes being brought to court in chains; flogging remains a common form of judicial punishment, and hangings by the State increase each year, so that in 1966 the total was 123. In two cases the courts refused to investigate allegations of torture on the grounds that they could not interfere in a matter entrusted by Parliament to the Police. After his release, the judges said, the alleged victim could bring an action for damages.

The Government claims that emergency measures are needed to deal with emergency situations and that law-abiding citizens have nothing to fear from the Police. The emergency measures are never repealed, and the citizens accept them as normal. The gap between white and black increases: Africans will believe any allegation against the police, however far-fetched, while whites refuse to accept any criticism, however well documented. Armed struggle against white rule in southern Africa has begun. As it becomes more wide-spread, legal procedures will probably be abandoned entirely by the Government. If it can get away with torturing individuals now, it may feel safe in massacring populations later. The duty of people everywhere is clear.

Appendix II to chapter VII

List of names of police and other officials reported to have
ill-treated prisoners or to have taken part in interrogations

A

1. The following list contains names of persons who are or have been officials in South African police and prison authorities. These names came to the knowledge of the Working Group through oral or written statements made before it. In the oral and written statements the following persons have been named as responsible for ill-treatment either during interrogations or in prisons:

Colonel Aucamp (paragraphs 286, 318, 519, 909*, 923, document of Trehela, page 8)
Head Warder Boschoff (paragraph 909*)
Chief Warder Breedt (paragraph 909*)
Head Warder Delport (paragraph 327) (Robben Island)
Head Warder Sergeant Du Preeze (paragraphs 318 and 909*, document of Trehela, pages 7 and 8)
Lt. Erasmus (paragraph 669) (as interrogator)
Warder Ken Ferreira (paragraph 909*)
Major Gerieke (paragraph 909*)
Colonel Jacobz (paragraph 909*)
Mr. Kleinhans (paragraphs 327, 401, 405) (Robben Island)
Chief Naude (Mhlambisoo's written statement, pages 3 and 13)
Warder Pieterse (paragraph 909*)
Major Roussow (Mrs. Sachs' second statement, page 2)
Head Warder Silli (paragraph 327) (Robben Island)
Chief Warder Leon Steenkamp (paragraph 909*)
Brigadier J.C. Steyn (paragraph 909*)
Colonel Steyn (paragraph 909*)
Captain Swanepoel (paragraphs 318, 599, 600, 669, 683 and La Guma's first statement, page 1)

* These names are contained in the written list communicated by Mr. Turok (para. 909).

Miss Taljaard (Mrs. Sachs' second statement, page 6)

Chief Warder Theron (paragraph 327) (Robben Island ordering "two meals")

Major Gen. van den Bergh (paragraph 600, Mrs. Sachs' second statement, page 3) (alleged to be the head of the security police)

Detective Sgt. "Spyker" van Wyk (paragraph 522, Mr. Brooks' statement, pages 1, 2 and 3; Mrs. Sachs' first statement, page 4)

Lt. van Wyk (may not be the same as "Spyker" van Wyk, since Mr. Brooks on page 1 of his statement mentions "another detective van Wyk" in addition to "Spyker") (paragraph 773)

Chief Warder Ventner (Mhlambisco's statement, page 8)

Captain Vikter (paragraphs 669 and 683) (interrogation team 1966 - Caledon Square Police Station)

Detective Sgt. Zandberg (Brooks' written statement, pages 1 and 3)

2. In certain oral testimony there can be found further names of persons relevant to the task of the Working Group, the spelling of which names may, however, not be correct; therefore only reference is made to the paragraphs in which the names can be found, i.e., paragraphs 233, 318, 379, 456, 669 and 962.

B

3. The following list of names is taken from documents A/AC.115/L.106, annexes A, B, C, D, E and F, and A/AC.115/L.53. They are names of police officials said to have taken part in interrogations:

N. van Rensburg (A/AC.115/L.106, annex A, page 4; annex B, page 4 and annex C, page 5)

Smith (A/AC.115/L.106, annex A, page 4)

Geyser (A/AC.115/L.106, annex A, page 4; annex B, page 4; annex C, page 4)

Piet Ferreira (A/AC.115/L.53, page 4; A/AC.115/L.106, annex A, page 4; and annex C, page 4)

Deysel (A/AC.115/L.106, annex A, page 4; annex B, page 4; and annex C, page 4)

Piet van Rensburg (A/AC.115/L.106, annex A, page 4)

Crossman (A/AC.115/L.106, annex A, page 4; and annex B, page 4)

Sgt. Van Zyl (A/AC.115/L.106, annex A, page 4; annex C, page 4; and annex E, page 2)

R. van Rensburg (A/AC.115/L.106, annex B, page 4; annex C, page 4)

Van Heerden (A/AC.115/L.106, annex A, page 4)

Crosswell (A/AC.115/L.106, annex C, page 4)
Lt. Van der Merwe (A/AC.115/L.106, annex C, page 4 and annex F, page 1)
Van Deventer (A/AC.115/L.106, annex C, page 4)
Erasmus (A/AC.115/L.106, annex D, page 2 and annex E, page 2 - see also under A of this appendix)
Captain Swanepoel (A/AC.115/L.106, annex D, page 2 - see also under A of this appendix)
Lt. Muller (A/AC.115/L.106, annex D, page 2 and annex F, page 1)
Lt. Vikter (A/AC.115/L.106, annex F, page 1 - see also under A of this appendix)
Sgt. Greef (A/AC.115/L.53, page 5)
Diepenaar or Depenaar (A/AC.115/L.53, page 7)
Detective Sgt. Donald John Card (A/AC.115/L.123, pages 2-6)
C.E. Bowen (A/AC.115/L.123, page 3)
T. Tshikila (A/AC.115/L.123, page 3)
Lt. Fraser (A/AC.115/L.899, page 4)

VIII. GENERAL COMMENTS ON THE TESTIMONY AND DOCUMENTS EXAMINED
BY THE WORKING GROUP

1017. The testimony given indicates that persons detained at police stations particularly under the "90-day law" and the "180-day law" are systematically ill-treated and tortured during interrogation. In prisons, non-whites and particularly Africans, held under laws designed to establish or strengthen the policy of apartheid, are systematically ill-treated. Ill-treatment of white detainees is regularly tolerated. In addition, there is discrimination between ordinary prisoners and political prisoners, who are accorded worse treatment than the former. Prisoners are classified in a number of categories, but political prisoners are generally placed in category "D" and have no possibility of being placed in a category higher than "C". It should also be noted that political prisoners cannot obtain any reduction of their sentence, even if entitled to claim it on grounds of good conduct. The torture and ill-treatment of prisoners tends to vary with the individual police station or prison and the officer in charge of the station or head warden. In particular, a special interrogation service has systematically used inhuman treatment and torture to obtain information and confessions regarding the activities of political personages. Such ill-treatment and torture includes:

- (a) Electric shocks (para. 759);
- (b) Requiring prisoners to remain standing for periods as long as twenty-eight hours and longer (para. 759);
- (c) Compelling prisoners to remain standing during interrogation (para. 491);
- (d) Beating prisoners and the use of various methods to prevent them from sleeping (para. 418);
- (e) Brainwashing (paras. 669 and 826).

1018. Various types of inhuman treatment have been reported. This inhuman treatment was part of the normal life of political prisoners in South African prisons. Types of inhuman treatment have been in particular the humiliation of persons by forcing them to stand and walk naked through yards and rooms, and to walk barefoot in summer and winter-time and by giving them bad food, in particular the so-called rice water. Mention was also made of the clothing of black prisoners and of the isolation of prisoners, as a disciplinary measure.

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Cases of suicide have been reported (para. 620) and also deaths of prisoners not registered correctly (SR.12, page 4). The "carry-on" practice has also been reported (para. 233), as well as the notorious practice of the "tausa dance".

1019. One of the main legal problems of the prisoners has been that of effective remedies against the abusive behaviour of the police and of prison organs, because the facilities for lodging complaints were either non-existent or totally ineffective; it was almost impossible to have proof of wrong-doing by the prison officials accepted by the authorities concerned. The administrative or judicial authorities to which such questions came declared themselves to be incompetent to deal with these questions (paras. 286, 626, 803, 805, 819 and 899).

1020. Concerning the question of visits to prisons by inspecting authorities and outside agencies, a reference was made to the Red Cross report and to the visit of Dr. Hoffman in Robben Island (para. 233). In this context, it was pointed out that the prisoners' pyjamas were taken away after the visit of Dr. Hoffman of the Red Cross. On the other hand, the witnesses reported that, if an official visitor was announced, the prison was brought up to its best condition (paras. 861 and 905). In fact, a visitor could not and has not really seen a prison as it was (paras. 861 and 1011).

1021. Although it is true that the testimony in this report and as generally commented on above came from twenty-five persons only, it should be stressed that the South African Government has not collaborated with the Group in finding the truth. Nevertheless, the Group was convinced that the testimony gives a representative picture of the present and potential situation in South African police stations and prisons, particularly in respect of so-called political prisoners detained there.

1022. It must be reported that several witnesses concluded from their experiences that the behaviour of the South African authorities tends to be or is genocide, against Africans, within the meaning of the United Nations Convention on Genocide, and gave details of this crime (Jassat, paras. 813 and 815; Sachs, paras. 648-652; Ngcobo, paras. 950 and 957; Brutus, para. 267; Moolla, para. 854). In this context also belongs the statement that certain measures taken by the South African authorities against prisoners are "collective penal sanctions" (Brutus, para. 239; Trehwela, para. 304; Sachs, para. 652).

1023. Several references were made to the treatment of children and juveniles in police stations and prisons (Ntlabati, para. 165; Mrs. Turok, para. 1001). In

particular, reference is made to testimony which was not given in public (SR.11, page 10, restricted document), where it is stated:

"Even boys of sixteen, or even less - a boy can be fourteen or fifteen and look very big because Africans really look big - are arrested. A boy mightn't know his age or when he was born. But the police would give him an age. I am talking about what I have seen and what I have experienced. In some cases I tried to query it and they tell you 'you have communistic ideas' and things like that. These boys don't even reach this thing and they are starving. They go to gaol, and there the food is terrible. They don't have good food at all. It's only on Sundays or some special days when they are given beans. But they do survive. And then, of course, the best thing goes to the old-timers, the prisoners who are serving longer terms. The food is never good; I have seen it and tasted it.

"Another terrible thing about this which I'll have to mention is that a boy might be about sixteen years old, but the police will say he is eighteen in order for the State to be able to deal with him; they will raise his age because you can't prove he is not that. It just depends on how he looks; if he is strong and big, they give him any age. These boys go to places like Modderbee, probably whilst they are awaiting trial, and so on. And they experience terrible things, because in Modderbee they have people from other towns like Benoni. These people have been in gaol for a long time, and some boys have been in gaol several times. The boys who are there for the first time experience terrible things. Some of the boys have come back from gaol just terrified, because they try to make them women in the gaol and try to sleep with them; and especially boys who come from the country and don't know a thing about it are really terrified when they see that."

The same witness stated further (SR.11, page 13, restricted document):

"As far as children are concerned, in most cases they would be arrested. Young boys are sentenced to be given strokes when they are really young, but they usually send the girls to reformatories. That is just as bad. The boys are supposed to see a doctor before they are actually given the strokes, but in some cases they don't even see the doctor. They are just given the strokes without getting a doctor's certificate that they are fit to be given these strokes. Sometimes little girls are exposed to the police. The white police would do anything with black girls, even prisoners. Sometimes they take them around in their cars on some excuse, only to ask the girls to sleep with them and then let them go. This happens with the black women. Some police will keep a girl as if she was working for them, but actually she's a sort of sexpot."

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IX. TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT INFLICTED
UPON PRISONERS, DETAINEES AND PERSONS IN POLICE CUSTODY IN
THE REPUBLIC OF SOUTH AFRICA

A. During interrogations

1024. It was pointed out that torture was used during the interrogation of a prisoner. That is to say that all prisoners arrested and detained under the "90-day law" and under the "180-day law" could expect such an inhuman conduct. During interrogation many deplorable measures were taken.

1025. First of all mention must be made of the method of electrodes for extracting information or confessions. Mr. Jassat described in full and in the most impressive way what he himself had suffered during his interrogation by that method (para. 759). He said the following:

"I then felt them tying some string or something to my toes. I was told that they were going to pass electric shocks through my body. I was also told that they were going to start with a 25-volt current. While they were torturing me, they kept my body flat so that I couldn't move my knees up and they continuously asked me to give them whatever information I had regarding the political movement and also the military wing of the political movement in South Africa - namely, Umkonto We Siswe, that is, the Spear of the Nation.

"This they did for intervals of from three to five minutes. The shock treatment they continued on 25 volts for between three to five minutes. And then they stopped, and they increased the voltage to 50. This went on until they had got the maximum voltage of 220 volts. I had no conception of time, but it must have taken at least an hour and a half. I could not stand on my two feet, and when I leaned against a table I was beaten up."

1026. One witness explained that he had never heard about the use of electrodes (Mrwetyana, para. 333). However, other witnesses referred to the use of that method, not from their own experience but from hearsay (Mngqikana, para. 456; Sachs, para. 595, about a non-political case; Ntlabati, para. 175).

1027. During the interrogations also other methods of torture have been described. Mr. Jassat further reported that the interrogators took various instruments, like pencils and sealing wax and other items, and put them between his fingers and held his arms outstretched while two people pressed his fingers down. Then he reported various exercises, like standing on one foot, jumping, kneeling and

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so on (para. 759). The witness, Mr. Sachs, describes in para. 599 other methods of torture during interrogation: "Whenever my eyelids closed, there would be a bang on the table or my name would be shouted out, or my body would be touched, tickled or pushed. The position got worse and worse. My mind and body became numb, and eventually I collapsed off my chair onto the ground. Cold water was thrown on me, but I lay exhausted on the floor. I was picked up, placed on the chair, and I collapsed again. This process was repeated several times. Then the whole team crowded around me, propping me up with their hands, holding my head up, and when my eyelids closed Captain Swanepoel pushed them open with his fingers."

1028. Besides the method of interrogation described in paragraphs 1025-1027 the following may be mentioned: one person had been brought into gaol with a broken jaw (para. 296), one other person had his teeth completely knocked out (para. 329), and brainwashing techniques are described very carefully by Mrs. de Crespigny (paras. 418-434). Miss Jewell stated (para. 669):

"I started to imagine that my food was poisoned and I ate and drank very little. I suffered from paranoia and thought that my cell was 'bugged', that a two-way mirror had been placed in the ceiling, and that I was being constantly spied upon and watched. The anti-Jewish statements made during my interrogation by the Special Branch - who, on arresting me, told me: 'We wish we had another Adolf Eichmann here; he would shoot you dead' - preyed on my mind and led me into thinking that I was being gassed and that I was in some kind of gas chamber. I started to live like a hunted animal, constantly hiding objects, sleeping on the floor next to the door, drinking my lavatory water for fear of poison. I refused to leave my prison cell even for exercise, imagining that objects were being stolen. I had constant hallucinations, both visual and oral, and lost all sense of time. I also suffered from complete dissociation of act and thought, and the psychiatrist I saw after my release was unable to determine whether I had actually written statements on my cell walls or whether they had been hallucinations on my part."

B. During detention in prison

1029. Tortures and cruel, inhuman and degrading treatment in prison were described during the hearings. In particular, Mr. Turok said (para. 861):

"If a warder should sense any tobacco in a cell, the process is as follows. All the prisoners are marched into the hospital yard. Empty toilet pots are placed on the yard floor a few paces apart; all the prisoners are stripped naked and made to use these pots, if they can. The prisoners are sitting in a row at this stage and any prisoner who is not able to do anything is beaten. I saw, on one particular occasion, that they were beaten with a blackjack - a small rubber truncheon in the form of a curve; it has a handle and the prisoners are beaten on the back to encourage them to use these pots. One prisoner was in discomfort and couldn't do anything; and the warder caught hold of him, pulled him to one side of the yard and put on a rubber surgical glove. Then he made the prisoner bend over and inserted a finger into his anus, for examination purposes. He examined him and found something in the anus, pushed right in. This is the normal thing in South African prisons; people who smuggle tobacco do it this way. The warder pulled out a small piece of plastic paper - a small parcel wrapped in a piece of plastic. The parcel fell on the floor at the feet of the prisoner. The warder then assaulted the prisoner severely. He beat him with his stick, he beat him with his fists, he knocked him flat on the floor, until he was bleeding all over. Finally, he opened the piece of paper and there, inside, was a tiny piece of tobacco. The prisoner would obviously get solitary confinement, for smuggling tobacco. This kind of treatment took place frequently in the yard."

X. EFFECTIVENESS OF REMEDIES

1030. The legal order of the Republic of South Africa provides a series of remedies which could be used by persons alleging offences on the part of police or prison authorities.^{13/} The oral and written evidence presented to the Working Group on the one hand, and the jurisprudence of South African courts on the other hand, prove clearly that the remedies provided are not effective. This is shown not only by the experience of persons not trained in law but by that of persons with legal training.

1031. The ineffectiveness of remedies began in the prison itself. Although the internal prison rules provide for the possibility of complaints in the prison itself, Mr. Sibeko stated (para. 962): "When we complained to the Chief Warder about the washing and the exercise, he said that his prison was understaffed." Mr. Brutus stated (para. 233): "This young warder was responsible for beating, kicking and insulting all the prisoners in my cell... and all attempts to get these assaults stopped were unsuccessful. Complaints to the Chief Warder, and even to the officers, were either ignored or dismissed." Mr. Brutus describes very

^{13/} For instance, regulation 103 of the Prisons Regulations, 1965, provides:

"(F) Complaints and Requests

"Duty of Head of Prison

103. (1) The head of a prison shall see every prisoner daily, investigate every complaint and request submitted by a prisoner and, as far as possible, dispose thereof.

Attention and Disposal by Commanding Officer

(2) The head of a prison shall without delay submit any complaint and request, which he is unable to dispose of, to the commanding officer for suitable attention and disposal.

Request for Interview and Disposal thereof

(3) (a) If a prisoner has valid grounds for requesting an interview with the Commissioner, Deputy or Assistant Commissioner or Chairman of the Prison Board, he may submit a written request for such interview, together with the grounds in support thereof, to the commanding officer.

(b) The commanding officer shall forward the request referred to in paragraph (a) to the Commissioner or the Chairman of the Prison Board, as the case may be, and the Commissioner, Deputy or Assistant Commissioner or Chairman of the Prison Board may, on the occasion of his next visit to the prison concerned, grant an interview to the prisoner in regard to the subject matter of such request."

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fully the procedure of making complaints in the prison: "But the warder who is supposed to receive the complaints usually walks past the cells without writing down the complaints. In other cases, he refuses to write down the complaint after he has heard it and sometimes the very warder who has assaulted you is the warder against whom you now have to lay a complaint." (para. 249). Mr. Mrwtyana (para. 327) made a statement that if the officials noted that a person "complains regularly about conditions they would lock you up in isolation cells". Further, it was reported by Mrs. Turok (para. 1011) that "the commanding officer at Pietersburg and in fact, in all the prisons asked every morning 'Any complaints?' and marches on, at which stage you are supposed to jump forward and say: 'Yes, Mynheer, I've got a complaint'. I have never seen anybody do it, but honestly, I suppose that you could. But the question 'Any complaints?' is asked in such a brisk way, and he goes on so quickly, that obviously he doesn't expect anybody to reply". Mr. Sachs (para. 599) said "I got out of that room. I made complaints to the police in the charge office. I was just shuffling along; I was unshaved, but my first reaction was to protest and I continued on every possible occasion protesting afterwards, and the police laughed and said: 'Where are the injuries? Where is the blood?'". The question of effectiveness of complaints against prison conditions was explained also by Mr. Turok (para. 899) where he reports on a personal interview with the Commissioner of prisons in Pretoria for two and a half hours and on the latter's expressed surprise after having heard about the prison conditions.

1032. In the testimony of Mr. Sachs (paras. 595-666) the behaviour of the courts in respect of complaints about torture and ill-treatment is explained. Mr. Sachs draws conclusions from his own professional experience. He gives (para. 664) his impression of the behaviour of judicial officers and explains that after 1960 judges tended to justify actions in prisons and during interrogations. This also has been stated by Mr. Turok (para. 901): "They do tolerate it, they are aware of almost everything, but they have a technique of self-justification".^{14/} Another problem in respect of the effectiveness of remedies seems to be the burden of proof placed on the complainer. In reality, the person who is tortured or ill-treated

^{14/} See also Singh vs. Attorney-General Transvaal and another (1967) (2) SA 3 and 5.

has no direct witness of these facts and the officials involved try to defend themselves. Another example of the ineffectiveness of remedies in respect of torture is "that the magistrate or the judge will hold that matters of assault have nothing to do with the case in hand, and he will simply direct that the matter be taken up in another court. There have been several instances where prisoners have complained of torture. I cannot think of any case where these facts were investigated to the point where warders were dismissed or punished for having been guilty of torture. And, in fact, most of the torture is practised not by the warders in the prisons, but by policemen prior to the people being sentenced." Along the same lines is the statement of Mr. Jassat (para. 803), where he describes and underlines the same facts as had been reported by Mr. Brutus: The Court and the magistrate have refused to have anything to do with the topic raised and the lawyers have had no contact with the complainers during the "awaiting-trial" period. 1033. Mr. Sachs has also drawn the attention of the Group to a series of court decisions refusing to accept evidence of ill-treatment and torture: State versus Weinberg, 1966 (4) S.A. 660; State versus Gouender, 1967 (2) S.A. 121; Singh versus Attorney-General Transvaal, 1967 (2) S.A. 1. Analysis of these decisions indicates clearly that the courts and other authorities, although aware of ill-treatment of detainees and witnesses by police and prison authorities, have left this problem untouched. The courts, in proceedings against witnesses who refused to repeat evidence which they had given earlier in police stations, have not accepted the plea of those witnesses that such evidence had been extorted from them by ill-treatment and torture. The courts decided, in each of the above-mentioned cases, that this plea for not repeating evidence did not constitute a "just excuse" in the meaning of the law, and accordingly refused to hear any evidence concerning the alleged ill-treatment and torture.

1034. All these facts prove that the system of remedies against torture or ill-treatment in South African prisons and in South African police stations is ineffective and in fact non-existent in so far as a trend of self-justification hinders the establishment of facts and the correct evaluation of facts by the authorities.

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XI. ANALYSIS OF THE EVIDENCE

1035. Taking into account the statements quoted in para. 35 above, the Working Group examined, in the light of the Standard Minimum Rules for the Treatment of Prisoners, the principal and subordinate legislation of the Republic of South Africa relating to matters before it,^{5/} and the oral and documentary evidence which it had received.

5/ The principal legislation is contained in the Prisons Act, 1959, Act No. 8, of 1959, as amended by (i) section 104 of the Children's Act, 1960, Act No. 33, of 1960, (ii) Section 37 of the General Law Amendment Act, 1964, Act No. 80, of 1964, (iii) the Prisons Amendment Act, 1965, Act No. 75, of 1965, and (iv) sections 10-14 of the General Law Amendment Act, 1966, Act No. 62, of 1966. The subordinate legislation is contained in the Regulations in Terms of the Prisons Act, 1959 (Act No. 8 of 1959), as Amended. These regulations were enacted under authority of section 94 of the Prisons Act and appear in Government Gazette Extraordinary, No. 1326 of 31 December 1965.

A reference should be made at this point to the scope of the Standard Minimum Rules and the Prisons Act.

The Standard Minimum Rules provide:

"4. (1) Part I of the rules covers the general management of institutions and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to 'security measures' or corrective measures ordered by the judge.

"(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit."

Of the rules referred to below rules 67 et seq. fall into part II and deal (as indicated) with persons under sentence or persons under arrest or awaiting trial.

Section 1 (x) and (xi) of the Prisons Act, 1959, provides the definition of prisons and prisoners:

"(x) 'prison' means any place established or deemed to have been established under this Act as a place for the reception, detention, confinement, training or treatment of persons liable to detention in custody, and includes all land, outbuildings and premises adjacent thereto and used in connection therewith and all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of imprisonment, detention, labour, treatment or otherwise, and all quarters of members of the Prisons Service used in connection with any such prison; and for the purposes of any offence committed under this Act by or in respect of prisoners further includes every place used as a police cell or lock-up;

.....

(xii) 'prisoner' means any person, whether convicted or not, who is detained in custody in any prison."

1036. In preparing the analysis of testimony which appears below the Working Group has placed greater reliance on the testimony of the witnesses whom it heard and was able to question than on the documents mentioned in para. 7 above as having been forwarded by the Special Committee on Apartheid to the Commission on Human Rights, or on the statements submitted to it by persons who did not appear as witnesses. No part of the analysis of evidence is based only on these last two categories of evidence. At the same time, the Working Group must observe that, in all their main features, the allegations made in the documents of the Special Committee on Apartheid were supported by the evidence given by the witnesses who appeared before, and were questioned by, the Working Group.

A. Discrimination between prisoners

1037. Section 23 of the Prisons Act, 1959, provides:

"23. (1) In every prison -

.....

(b) as far as possible, white and non-white prisoners shall be detained in separate parts thereof and in such manner as to prevent white and non-white prisoners from being within view of each other; and

(c) wherever practicable, non-white prisoners of different races shall be separated.

(2) Any prison or any portion thereof may be restricted to the detention, training or treatment therein of a specified race or class of prisoners."

1038. Regulation 89 (5) of the Prisons Regulations, 1965, provides:

"(5) A White prisoner shall be searched only by a White member or White special warder, and a non-White prisoner only by a non-White member or non-White special warder, of the same sex as the prisoner: Provided a non-White prisoner may also be searched by a White Member or White special warder of the same sex as the prisoner."

1039. The Regulations differentiate between racial groups in the matter of food; see para. 1070 below.

1040. In accordance with the policy of apartheid, the evidence before the Working Group revealed a strict separation between white and non-white detainees and prisoners in jails and prisons, and, to some extent (depending possibly upon their numbers), those referred to in the legislation of South Africa as "coloured" persons were also imprisoned separately.

1041. Evidence of racial segregation is contained in paras. 207, 233, 286, 318, and 985 above, and in the documentary evidence submitted by Mr. Trehela, Mr. Sachs and Mr. Cotton.

1042. There was shown to be a serious discrimination against non-white detainees and prisoners in many other respects. Most of the evidence of violence, including physical torture, related to these groups (see paras. 1107-1110). In general, psychological torture was used on whites in preference to physical violence, though the whites were by no means immune from the latter. Further evidence of discrimination against non-white detainees or prisoners appears below in paras. 1049, 1051, 1062, 1063, 1066, 1067, 1071, 1078, 1082, 1104, 1109 and 1113.

1043. There was evidence of discrimination on grounds of language, in that several witnesses pointed out that the prison warders were, in their experience, predominantly Afrikaans-speaking and that English-speaking prisoners were at a disadvantage in not understanding instructions given them. Again, the trial of one prisoner for a disciplinary offence was said to have been held in Afrikaans, although the prisoner understood only English, the other official language of the Republic of South Africa (see paras. 713-720).

1044. Evidence of discrimination on grounds of language is contained in paras. 327, 702, 714, 716, 718, 720, 861, 962 and 985 above.

1045. There was also overwhelming evidence of discrimination on political grounds in that political detainees or prisoners were given treatment which was often far worse than that given to common criminals. By "political detainees or prisoners" the Working Group means those suspected, accused or found guilty of committing offences against the State or offences involving opposition to apartheid or those thought to have information on such offences.

1046. The provisions of the "90-day law" and the "180-day law", with the restrictions implied thereby (see annexes II and III) have been applied essentially to political detainees. The same is true of the various forms of torture reviewed in paras. 1107-1108 and 1119-1121 below.

1047. Many witnesses stated that persons found guilty of political offences were almost invariably placed in "category D", which meant that they were allowed to receive and to send only one letter of a maximum of 500 words every six months and to receive only one visitor during the same period, and it was said that even those

provisions were regarded by the prison authorities as privileges which could be taken away from the prisoner as a disciplinary measure. It was also stated by many witnesses that the promotion of a political prisoner from "category D" to "category C" was much more difficult and slow than it was for a common criminal ("category C" prisoners were allowed to write and receive one letter and to receive one visitor every three months). It was also stated in evidence that no political prisoner was ever allowed a remission of sentence or allowed out on parole. Within the prisons political prisoners were treated with hostility and contempt by the authorities. Some witnesses said that they knew of political prisoners who were the objects of homosexual advances or assaults on the part of common criminals, and it was said that in some instances the warders connived at or even encouraged those practices. It was also said that political prisoners were denied privileges like tobacco which common criminals enjoyed and that the common criminals were encouraged by the warders to maltreat the political prisoners. One witness said that common criminals had been put in charge of political detainees while at work and had used the opportunity to maltreat him as a political detainee.

1048. Evidence of discrimination on political grounds is contained in paras. 207, 233, 247, 265, 286, 318, 327, 373, 375, 377, 383, 401, 403, 480, 519, 595, 861, 865, 925, 927, 940 and 999 above, and in the documentary evidence submitted by Miss Neame, Mrs. Sachs, Mr. Brooks, Mr. Sachs, Mr. Cotton and Mr. Mhlambisco.

1049. The Working Group had evidence that untried prisoners, such as detainees under the "90-day law" and the "180-day law", were sometimes not kept separate from convicted prisoners (see paras. 87 and 108). It should be noted that political prisoners and ordinary prisoners were all held in the same premises. Similarly, detained minors were frequently imprisoned together with adults and given the same treatment, especially among the non-white prisoners. There was evidence that that was deliberately done by the authorities in order to corrupt the morals of young persons and minors and to encourage homosexual and lesbian practices (SR.11, pp. 10 and 13; SR.15, page 12; and paras. 183, 669 and 955).

1050. The Standard Minimum Rules provide:

"6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

"(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

.....

"8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

(d) Young prisoners shall be kept separate from adults."

B. Accommodation

1051. In addition to some evidence of the incarceration of individuals in excessively small cells, there was considerable proof of overcrowding of cells and of prisons, especially those occupied by non-white prisoners, and this was said by some witnesses (see paragraphs 286, 302 and 861 above and the documentary evidence submitted by Mrs. Altman) to be the result of the wholesale arrest of Africans for technical offences such as failure to produce upon demand a pass or a receipt of income tax paid. Reference was made to cells each occupied by one person which measured seven feet by four (documentary evidence submitted by Mr. Mhlambisco), seven feet by five (see paragraph 181) and seven feet by four or five (paragraph 962 and documentary evidence submitted by Mr. Trehwela) and to cells measuring twelve feet by seven each holding fifteen persons (see paragraph 861) and cells measuring nine feet by seven each holding sixteen persons (see paragraph 940). Some witnesses added that one purpose of the above-mentioned large-scale arrests was to supply cheap convict labour for the agricultural sector of the economy of South Africa (see paragraph 315 above, document E/CN.4/AC.22/SR.25, pages 19-20 and the documentary evidence submitted by Mrs. Altman).

1052. Even when the cells were not overcrowded, many ex-prisoners complained of the cold in the prisons and of the lack of natural light and proper ventilation. That was due to the fact that the windows were very narrow and placed in an unusual position. In many prisons, and particularly Robben Island, where climatic conditions were severe, some African prisoners contracted chronic diseases, as was pointed out by the witness Mr. Ngcobo in his testimony (paragraph 940).

1053. Evidence concerning accommodation is contained in paragraphs 181, 233, 237, 286, 315, 318, 342-345, 422, 440, 456, 499, 522, 669, 826, 861, 940, 953 and 962 above; in documents A/AC.115/L.53 and L.87, and in the documentary evidence submitted by Mrs. Hooper, Mr. Brutus, Mr. Trehwela, Miss Neame, Mrs. Sachs, Mr. Brooks, Mr. Marney, Mr. Cotton, Mr. La Guma and Mr. Mhlambisco.

1054. The Standard Minimum Rules provide:

"10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

/...

"11. In all places where prisoners are required to live or work,

"(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

"(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight."

C. Sanitary installations

1055. Many witnesses complained of the inadequate sanitary facilities provided in cells. Flush toilets appear to have been provided for no one except some of the white prisoners. There were frequent references to the provision in cells of toilet buckets and to these being filled to overflowing, through having to serve too many persons and being infrequently emptied, and to their being without covers and being placed in proximity to the prisoners' drinking water. The supply of toilet paper was frequently referred to as entirely inadequate.

1056. It seems that where vehicles were used to transport prisoners over long distances from one prison to another, not only was nothing done to enable them to relieve themselves, but no stops were made for this purpose. There was testimony that workers in the open air on Robben Island were sometimes denied access to toilet facilities when needed.

1057. Evidence concerning sanitary installations is contained in paragraphs 87, 163, 189, 233, 237, 318, 456, 669, 846, 861, 940, 962 and 1013 above; in documents A/AC.115/L.53 and L.73, and in the documentary evidence submitted by Mr. Brutus, Mr. Trehwela, Miss Neame, Mrs. Sachs, Mr. Brooks, Mr. Marney, Mr. Cotton, Mrs. Altman, Mr. La Guma and Mr. Mhlambisco.

1058. The Standard Minimum Rules provide:

"12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner."

D. Facilities for health and cleanliness

1059. The Working Group received evidence of inadequate facilities for bathing, of a number of prisoners being required to use the same water, of soap being supplied to prisoners with insufficient frequency and of prisoners having to take cold water showers in the open air, whatever the season. Many witnesses

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complained that by having to take baths in the open air during the cold season of the year, in cold water, they experienced sensations of terrible pain in the head and other parts of their bodies as a result of these very unreasonable conditions provided for ablutions. Consequently, they suffered continuously from colds, running noses and influenza.

1060. Evidence concerning facilities for health and cleanliness is contained in paragraphs 318, 456, 669, 861, 940, 962 and 1013 above; in document A/AC.115/L.53, and in the documentary evidence submitted by Mr. Trewhela, Mrs. Sachs, Mr. Brooks, Mr. Cotton and Mr. La Guma.

1061. The Standard Minimum Rules provide:

"13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

....

"15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness."

E. Clothing

1062. Many witnesses drew attention to the discrimination shown to African prisoners in the matter of prison clothing. Most African prisoners had been issued with short trousers, instead of the full-length trousers given to the whites. They were given no underwear or socks. Attention was drawn to the humiliation directed especially against non-white prisoners, in forcing them to wear shorts instead of trousers. Africans were usually not issued shoes or sandals and that caused considerable hardship to those who worked in the quarries on Robben Island and to the prisoners in general in view of the cold cement on stone floors in prison cells. In addition, clothes were thrown to them regardless of their size. It was said that the lack of adequate clothing provided for non-white prisoners, caused particular hardship during the winter in the Robben Island prison.

1063. A former white prisoner said that white prisoners were supposed to wear their own clothing when they left the establishment but that that privilege was denied to non-white prisoners.

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1064. Evidence concerning clothing is contained in paragraphs 233, 237, 286, 327, 440, 456, 500-503, 861, 940 and 985 above; in document A/AC.115/L.73, and in the documentary evidence submitted by Mr. Brutus, Mr. Trehwela, Mr. Mngqikana, Mrs. Sachs, Mr. Brooks, Mr. Cotton and Mr. Mhlambisco.

1065. The Standard Minimum Rules provide:

"17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

"(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

"(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing."

F. Bedding

1066. White prisoners were given beds and bedding, and "coloured" persons appear to have had mattresses to sleep on, but the African prisoners were made to sleep on thin mats which did not protect them from the cold of the concrete floors of their cells. The number of blankets provided to the non-white prisoners was usually inadequate, and there was great suffering during the cold weather.

1067. Many witnesses also drew attention to the worn, unclean, malodorous and unsanitary condition of the blankets supplied to the African prisoners, which were said to be infested with vermin and rarely washed.

1068. Evidence concerning bedding is contained in paragraphs 85, 136, 233, 318, 327, 456, 669, 826, 846, 940 and 962 above; in document A/AC.115/L.53, and in the documentary evidence submitted by Mrs. Hooper, Mr. Brutus, Mr. Trehwela, Mrs. Sachs, Mr. Brooks, Mr. Sachs, Mr. Marney, Mr. Cotton, Mr. La Guma and Mr. Mhlambisco.

1069. The Standard Minimum Rules provide:

"19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness."

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G. Food and water

1070. Regulation 132 (4) of the Prisons Regulations, 1965, provides:

"(4) Subject to the provisions of section eighty-two of the Act, a prisoner awaiting trial or sentence shall be provided with food according to the prescribed diet scale applicable to his sex and race group."

1071. The food issued to African prisoners was said by many witnesses to have been not only badly cooked and entirely inadequate in quantity, but also was served to them in a brutal way. The diet for Africans consisted largely of mealies in various forms, meat being provided occasionally. The over-all result was much hardship and illness. There were complaints that Africans were sometimes without eating utensils. For the non-African prisoners, the food was somewhat better. A common observation made however was that the diet in prisons was exceedingly monotonous and lacked nutritional value.

1072. Drinking water was not always available to the prisoners when needed. For instance, it was said to have been denied sometimes to the outdoor workers on Robben Island when needed and it was said to have been available in another prison only when the prisoners succeeded in attracting the attention of the warders, whose quarters were some distance from the cells.

1073. Evidence concerning food and water is contained in paragraphs 85, 87, 136, 163, 233, 286, 318, 327, 440, 456, 480, 504-507, 669, 826, 846, 861, 940 and 962 above; in documents A/AC.115/L.53, L.73 and L.87, and in the documentary evidence submitted by Mrs. Hooper, Mr. Brutus, Mr. Trehwela, Mr. Mngqikana, Mrs. Sachs, Mr. Brooks, Mr. Marney, Mr. Cotton, Mrs. Altman, and Mr. Mhlambisco.

1074. The Standard Minimum Rules provide:

"20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

"(2) Drinking water shall be available to every prisoner whenever he needs it."

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H. Exercise

1075. Many witnesses, especially those under detention for interrogation under the "90-day law" or the "180-day law", stated that their exercise periods were limited to half an hour in every twenty-four hours, or even less. Some said that their exercise periods had to be used also for tasks such as emptying their toilet buckets.

1076. Evidence concerning exercise is contained in paragraphs 165, 233, 286, 318, 327, 554, 669, 861, 940 and 962 above; in documents A/AC.115/L.53 and L.116, and in the documentary evidence submitted by Mrs. Hooper, Mr. Brutus, Miss Neame, Mr. Mngqikana, Mrs. Sachs, Mr. Brooks, Mr. Marney, Mr. Cotton, Mrs. Altman, Mr. La Guma and Mr. Mhlambisco.

1077. The Standard Minimum Rules provide:

"21. (1) Every prisoner who is not employed in out-door work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

"(2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided."

I. Medical services

1078. There was much evidence that the medical services in the prisons were inadequate. It was often stated that medical care was not forthcoming when requested by a prisoner or otherwise known to the medical authorities to be needed. That neglect was said to lead to much unnecessary illness and suffering and many deaths. It was said that prisoners were punished if they requested medical attention and the medical authorities felt that such attention was not needed. The provision of medical care to African prisoners was particularly inadequate, and there was also some evidence that political prisoners were shown scorn or neglect by prison doctors.

1079. Evidence concerning medical services is contained in paragraphs 233, 318, 327, 379, 440, 519, 522, 861, 931, 940, 962, 1013 above; in documents A/AC.115/L.53 and E/CN.4/L.899, and in the documentary evidence submitted by Mrs. Hooper, Mr. Trehwela, Mr. Mngqikana, Mrs. Sachs, Mr. Brooks, Mr. Marney, Mr. Cotton and Mr. Mhlambisco.

1080. The Standard Minimum Rules provide:

"22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

(3) The services of a qualified dental officer shall be available to every prisoner.

...

"24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

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"25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

"(2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment."

J. Discipline

1081. In connexion with discipline and punishment, it was said that much depended upon the person in charge of the police station or prison in question. In some places, it was an accepted practice to allow the individual warder to decide whether disciplinary punishment was called for and the form which it should take. Corporal punishment, whether or not following upon the proper procedures laid down by the prison regulations,^{16/} was very frequently inflicted, and in many cases it was meted out in a disorderly and unregulated fashion, and in such a way as to detract severely from the self-respect of the prisoner. Other common punishments were solitary confinement, the imposition of a spare diet and depriving the prisoner of certain meals. Regulation 101 (1) (b) of the Prisons Regulations, 1965, provides:

"(b) 'Spare diet' consists of a daily ration of -

"(i) eight ounces of rice or mealie rice boiled in four pints of water, without salt, for males; and

"(ii) six ounces of rice or mealie rice boiled in three pints of water, without salt, for females."

1082. At this point mention may be made to a method of searching non-white prisoners referred to by various witnesses as the "tausa dance", and resented by prisoners for the humiliation involved. This required a prisoner to remove his clothes and leap in the air while stretching out his arms and legs.

^{16/} Sections 51 and 54 of the Prisons Act and corresponding provisions of the Prisons Regulation, 1965, envisage trials, by magistrates and by commissioned officers respectively, of contraventions by prisoners of, respectively, the Act or regulations.

1083. Relevant evidence is contained in paragraphs 327, 355, 385, 519, 522, 861, 881, 940, 962 and 999 above; in documents A/AC.115/L.53 and L.73, and in the documentary evidence submitted by Mrs. Sachs, Mr. Marney and Mr. Cotton.

1084. The Standard Minimum Rules provide:

"27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life."

K. Employment of prisoners in a disciplinary capacity

1085. There was evidence that in some instances certain prisoners had been placed in a position of authority over others and were even allowed to ill-treat them. In particular, common criminals were sometimes given authority over political prisoners.

1086. The Standard Minimum Rules provide:

"28. (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

"(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment."

1087. Evidence concerning the employment of prisoners in a disciplinary capacity is contained in paragraphs 87, 88, 96, 163, 183, 233 and 456 above, and in the documentary evidence submitted by Mr. Marney, Mr. Cotton and Mr. Mhlambisco.

L. Punishment for offences

1088. Regulation 99 of the Prison Regulations, 1965, lays down as follows offences for which prisoners may be legally punished:

"99. (1) A prisoner who contravenes, or fails to comply with, any provision of these regulations, or who -

"(a) wilfully gives false replies to questions put to him by a member or other person employed in a prison; or

"(b) disobeys a lawful command or order by a member or special warder or ignores any regulation or order; or

"(c) is insolent or disrespectful towards a member or any other person employed in a prison or towards an official or any other visitor to a prison; or

"(d) is idle, careless or negligent in his work or refuses to work;
or

"(e) swears or makes use of slanderous, insulting, obscene, threatening or other improper language; or

"(f) conducts himself indecently by word, act or gesture; or

"(g) commits any petty assault; or

"(h) converses or communicates in any other manner with another prisoner or any other person at a time or place when he is not permitted to do so; or

"(i) sings, whistles or makes unnecessary noise or causes unnecessary trouble or is a nuisance; or

"(j) without permission leaves his cell or place of work or any other place to which he is assigned; or

"(k) in any manner disfigures or damages any part of the prison or any article therein or any other State property; or

"(l) has in his cell or possession any unauthorized article or attempts to obtain any such article or commits a petty theft; or

"(m) without permission receives from or gives to any person any article or obtains possession thereof in any other manner; or

"(n) causes discontent, agitation or insubordination among his fellow-prisoners or participates in any conspiracy; or

"(o) lodges false, frivolous or malicious complaints; or

"(p) makes false and malicious accusations against a member, a fellow-prisoner or other persons; or

"(q) in any manner shirks work; or

"(r) wilfully loses, destroys, alters, defaces or barter an identification card, document or other article issued to him; or

"(s) commits an act with the intention of endangering his life, injuring his health or hampering his work or otherwise conducts himself to the prejudice of good order and discipline; or

"(t) in any manner acts contrary to good order and discipline; or

"(u) attempts to commit any of the aforementioned acts or incites or instigates or commands or procures a member or special warder or other person or another prisoner to commit any such act;

shall be guilty of a contravention of these regulations."

1089. There was massive evidence of the punishment of prisoners by warders without observance of proper procedures. In many instances, violence inflicted could in no way be regarded as a penalty for a disciplinary offence (see paragraphs 1109-1111 below).

1090. No interpreter was provided to the prisoner (mentioned in paragraph 1043) who was sentenced for allegedly committing a disciplinary offence, in proceedings which were conducted in Afrikaans, a language which he did not understand.

1091. The Standard Minimum Rules provide:

"29. The following shall always be determined by the law or by the regulation of the competent administrative authority:

"(a) Conduct constituting a disciplinary offence;

"(b) The types and duration of punishment which may be inflicted;

"(c) The authority competent to impose such punishment.

"30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

"(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

"(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter."

M. Corporal punishment

1092. Among the punishments which a commissioned officer is permitted by section 54 (2) of the Prisons Act, 1959, to inflict on a prisoner for a contravention of a regulation appears the following:

"(d) corporal punishment, not exceeding six strokes, if the prisoner is a convicted male prisoner apparently under the age of fifty years;"

1093. The Standard Minimum Rules provide:

"31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."

N. Communication

1094. There was evidence that detainees or prisoners who were foreign nationals were given reasonable facilities to communicate with the consular representative of their States, but South African nationals were given very inadequate opportunity to communicate with their families and friends. Reference is made in paragraph 1119 below to the almost complete isolation from the outside world of detainees under the "90-day law" and the "180-day law" and in paragraph 1047 above to the very infrequent visits and letters allowed to prisoners in categories C and D. The Working Group noted, in addition, that detainees and prisoners were sometimes lodged in prisons far removed from their homes, making visits on the part of their families, friends and lawyers very difficult.

1095. Evidence concerning communication with family, friends, etc., is contained in paras. 158, 246, 286, 410, 438, 450, 456, 484, 595, 669, 759, 803, 826, 841 and 962 above; in documents A/AC.115/L.53, L.87 and L.106, and in the documentary evidence submitted by Mrs. Sachs, Mr. Brooks, Mr. Cotton, Mr. La Guma and Mr. Mhlambisco.

1096. The Standard Minimum Rules provide:

"37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

"38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons."

O. Access to news

1097. Persons who had been held under the "90-day law" or the "180-day law" and who were questioned by the Working Group had been deliberately kept in isolation from developments in the outside world (see para. 1119); they therefore had had no access to news media.

1098. The Standard Minimum Rules provide:

"39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration."

P. Religious activities

1099. One witness stated in his additional written evidence that attendance at religious services was obligatory during his time in one prison.

1100. The Standard Minimum Rules provide:

"41. ...

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected."

Q. Contact with family on imprisonment or transfer

1101. The Working Group had evidence of failure on the part of authorities to communicate with the families of prisoners in the event of their detention or of their transfer from one place of incarceration to another.

1102. Such evidence is contained in the documentary evidence submitted by Mr. Cotton and Mr. Mhlambisco.

1103. Rule 44 (3) of the Standard Minimum Rules provides:

"(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution."

R. Transport of prisoners

1104. The evidence contained reference to injury to personal dignity involved in the way in which arrested African prisoners were crowded into open vans, conveyed to police stations in full view of the public, and subjected to physical abuse on their way there. The Working Group has already mentioned the lack of sanitary facilities in vans in which prisoners were conveyed over long distances from one prison to another.

1105. Evidence concerning the transport of prisoners is contained in paras. 163, 286, 318, 327 and 985 above, in document E/CN.4/AC.22/SR.25/L.19, and in the documentary evidence submitted by Mr. Cotton, Mrs. Altman and Mr. Mhlambisco.

1106. The Standard Minimum Rules provide:

"45. (1) When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them."

S. Use of force

1107. Several witnesses stated that they personally knew people who had received electric shock treatment during interrogation in South African police stations or prisons. Some of those people had had marks on their bodies where the electrodes had been placed (see paras. 241, 595 and 614). One witness, an ex-member of the South African police force, had heard about electrical shock treatment from other policemen who had had direct experience in using it. The testimony of three witnesses (see paras. 146, 579 and 595) mentioned that the use of electrical torture by the police had been admitted by a police officer; this is clearly a reference to testimony given in the "Bultfontein Trial", in which several police officers were found guilty after trial on charges of murdering one prisoner and assaulting another with intent to murder.^{17/} Two witnesses (para. 259 and documentary evidence of Mr. Cotton) referred

^{17/} See Reports of the Special Committee on Apartheid dated 23 March 1964, document A/5692, annex I, paras. 165-166; 25 May 1964, document A/5707, annex I, paras. 63-66, and 10 December 1964, document A/5825/Add.1, paras. 339-341.

to a statement made by a former head warder of a prison in South Africa to the effect that electrical shock treatment had been used during questioning in his prison.^{18/} 1108. In addition, the Working Group heard the testimony of a witness who had himself been subjected to that form of torture at a police station in Johannesburg after having refused to answer certain questions on political movements in South Africa (see paras. 759, 763 and 765). A sack had been placed over his head and wires attached to his toes. He had been told that he was going to be subjected to electrical shocks of increasing intensity. He had felt shocks throughout his body lasting for periods of from three to five minutes and after each such period he had heard the police adjusting their electrical apparatus. This treatment had continued for an hour and a half.

1109. The Working Group also had before it proof of wholesale violent ill-treatment by the police and prison officials of non-white detainees and prisoners, especially Africans. In addition, it had evidence of brutalities suffered by some white detainees during interrogation by the police. This evidence was given both by persons who had experienced such treatment and by white ex-detainees or prisoners who themselves had either heard the treatment of non-white prisoners or had contrived to see it despite the efforts made to separate white and non-white prisoners. It was said that ill-treatment of African prisoners was so routine in one prison as usually to arouse no comment among the prisoners. The violence took many forms, including kicking, slapping and striking or beating with fists or with batons, key chains, whips, leater straps, sticks or other implements. It was often accompanied by verbal abuse and foul language.

1110. The evidence revealed no observance of any requirement (such as that made in rule 54 (1) quoted below) that prison officers should report to their superiors any use of violence by them against the prisoners under their jurisdiction. Furthermore, the evidence showed an excessive and indiscriminate use of violence against non-white prisoners on the part of warders, who in some prisons appeared to have had carte blanche to use violence whenever they felt inclined to do so. The statement was also made that in one prison the commanding officer would sometimes give the order "carry on" to his subordinates and that would signify that the warders could use violence against the prisoners in general, without reference to their individual responsibility for the incident which led to the giving of the order.

^{18/} See Report of the Special Committee on Apartheid dated 10 August 1965, document A/5957, annex I, para. 172.

1111. Relevant evidence is contained in paras. 84, 85, 136, 146, 163, 175, 183, 233, 235, 237, 241, 255, 286, 296, 298, 318, 327, 329, 361, 385, 428, 456, 460, 522, 528, 530, 532, 534, 536, 571, 579, 581, 585, 595, 597, 599, 614, 618, 620, 622, 624, 669, 702, 712, 759, 763, 765, 773, 811, 826, 861, 917, 921, 940, 942, 948, 957, 959, 962, 996 and 1001 above; in documents E/CN.4/AC.22/SR.25/L.19, A/AC.115/L.53, L.73, L.106, L.116 and L.123, and E/CN.4/L.899, and in the documentary evidence submitted by Mrs. Hooper, Mr. Mngqikana, Mrs. Sachs, Mr. Brooks, Mr. Sachs, Mr. Marney, Mr. Cotton, Mrs. Altman and Mr. Mhlambisco.

1112. The Standard Minimum Rules provide:

"54. (1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use."

T. Prison labour

1113. Complaints heard by the Working Group in relation to the work in the prisons principally concerned its heavy, non-productive and non-rehabilitating character and the indignities with which it was often accompanied, such as beatings for not working sufficiently hard. The work was said to constitute one means of breaking the morale of political prisoners. Many African prisoners were said to have been handed over to private employers, especially farmers, and made to work for their profit as an abundant source of cheap labour (see para. 1051 above).

1114. Evidence concerning prison labour is contained in paras. 163, 233, 327, 940 and 953 above; in documents A/AC.115/L.53 and L.73, and E/CN.4/L.899, and in the documentary evidence submitted by Mr. Brooks, Mr. Marney, Mr. Cotton, Mrs. Altman, Miss Benson and Mr. Mhlambisco.

1115. The Standard Minimum Rules provide:

"71. (1) Prison labour must not be of an afflictive nature.

(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

(4) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.

(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform."

U. Education

1116. The Working Group heard several references to detainees' or prisoners' being permitted access to a copy of the Bible but to no other printed matter. A few were allowed to undertake or continue scholastic studies, but under conditions which required considerable dedication on their part. Difficulties were placed in their way, either deliberately or by indifference or inefficiency on the part of the authorities.

1117. Relevant evidence is contained in paras. 87, 318, 327, 336-339, 353, 359, 456, 669, 861, 940 and 962 above; in documents A/AC.115/L.73 and L.116, and in the documentary evidence submitted by Miss Neame, Mrs. Sachs, Mr. Brooks, Mr. Cotton, Miss Benson, Mr. La Guma and Mr. Mhlambisco.

1118. The Standard Minimum Rules provide:

"40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

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"77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

"78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners."

V. Untried prisoners

1119. One clear purpose of the adoption of the "90-day law" and the "180-day law" was to permit the detention of persons ~~thought~~ to be able to give information relating to certain crimes, including political offences (see annexes II and III). Many witnesses who had been detained under these laws described the psychological torture (sometimes combined with physical violence) which they underwent while under interrogation. The two laws entitle the detainee no contact with the outside world beyond a weekly visit by a Magistrate. Any outside contact beyond that is within the discretion of the authorities, and in most cases described to the Working Group even access to legal advice was denied. The element of isolation was clearly intended to be part of the process referred to by witnesses as "breaking" the detainee, that is to say, undermining his morale and so compelling him to sign a statement satisfactory to his interrogators. Isolation was continued within the prisons in that detainees were, in the typical cases, kept in solitary confinement and forbidden to communicate with fellow prisoners. Detainees were usually denied writing materials and reading matter (except in some instances for a copy of the Bible) and were given little exercise.

1120. In many cases, the questioning, conducted by relays of interrogators, was accompanied by a deliberate denial of sleep. Some witnesses referred in particular to the "statue torture", in which a detainee was compelled to stand for many hours, sometimes in a closely defined area marked on the floor, while undergoing questioning. Such questioning had been inflicted on some witnesses for periods which they described as "almost three days", "forty hours" and "fourteen hours".

1121. The course of interrogation sometimes made use of the detainee's ignorance of events outside his cell; he would be told, for instance, that certain friends had already given information and were free. The helplessness of the detainee's situation would also be exploited; it would be pointed out, for instance, that his detention could be continued indefinitely. He would be threatened with violence or

death, and threats of harm to his family were also made in some instances. The attitude taken by interrogators would often alternate between friendliness and hostility. Abusive remarks were reported to have been made, including anti-semitic comments in some cases.

1122. Relevant evidence is contained in paras. 91, 154, 163, 181, 286, 290, 294, 318, 410, 418, 434, 444, 456, 491, 522, 554, 577, 599, 600, 606, 658, 669, 826, 861, 881 and 917 above, in documents A/AC.115/L.87 and L.106, and in the documentary evidence submitted by Mrs. Sachs, Mr. Marney, Mr. Cotton, Miss Benson and Mr. La Guma.

1123. The Standard Minimum Rules provide:

"84. (1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as 'untried prisoners' hereinafter in these rules.

(2) Unconvicted prisoners are presumed to be innocent and shall be treated as such.

(3) Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special régime which is described in the following rules in its essential requirements only."

XII. CONCLUSIONS

1124. The Working Group finds that the "90-day law", the "180-day law" and the "Sobukwe Clause" all constitute violations of article 9 of the Universal Declaration of Human Rights, according to which: "No one shall be subjected to arbitrary arrest, detention or exile".

1125. The Working Group considers that, in all their main features, the allegations made in the documents transmitted by the Special Committee on Apartheid to the Commission on Human Rights have been supported by the evidence given by the witnesses who appeared before, and were questioned by, the Working Group.

1126. The testimony adduced gives a representative picture of the present and potential situation in South African police stations and prisons in respect of so-called political prisoners detained therein.

1127. The Working Group finds that the legislation of the Republic of South Africa, or the practice of the South African authorities, or both, in the matter of the treatment of prisoners and detainees, violates many of the Standard Minimum Rules for the Treatment of Prisoners. In some respects the practice of the authorities violates not only the Rules but the Prisons Act of 1959 and the regulations made thereunder. In particular, the "90-day law" was and the "180-day law" is contrary to the general principles of law and to the concept of the rule of law, which is part of the heritage of civilized nations. Prison conditions are made especially inhuman for non-white prisoners. Food, sanitary conditions, clothing, bedding and accommodation in South African prisons fall short, lamentably, of all international and civilized standards.

1128. The laws and practices illustrate the effect of the policies of apartheid in that there has been found to exist gross discrimination on grounds of race in the treatment of detainees and prisoners. Open discrimination was also noted between political prisoners and common-law prisoners.

1129. Action taken against those opposed to the policies of apartheid has involved, not merely the punishment of what would in most countries constitute normal political activities, but also discrimination on political grounds in the treatment of political detainees or prisoners.

1130. South African prisons are generally very crowded.

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1131. African and other non-white political prisoners imprisoned on Robben Island live under the harshest and most cruel of prison conditions.

1132. Due to the generally bad conditions in prison, and the ill-treatment and torture administered to prisoners, many of them suffer incurable, chronic diseases after leaving prison.

1133. Homosexuality and lesbianism are deliberately and knowingly encouraged by the warders and prison authorities with the effect of humiliating political prisoners and opponents of apartheid.

1134. There exists no effective machinery for receiving complaints from prisoners regarding ill-treatment and torture in prisons at the hands of prison authorities; and there are no effective or comprehensive remedies available to prisoners and detainees.

1135. Taking note of the "banning orders" issued under the Suppression of Communism Act, the Working Group observes that considerable restrictions are imposed on the movement and activities of persons after release from prison. Hence, the Group feels that, for persons opposed to the policy of apartheid, the Republic of South Africa is tending to become a vast prison house.

1136. The Working Group feels that, for opponents of apartheid, the apartheid laws and the treatment of political detainees and prisoners is turning or has turned the Republic of South Africa into a police state and the laws and methods in question increasingly resemble those adopted under fascist régimes.

1137. The intention of the Government of South Africa to destroy a racial group, in whole or in part, not being established in law, the evidence nevertheless reveals certain elements which correspond to the acts described in article II (a), (b) and (c) of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide and which may, as such, establish the existence of the crime of genocide.

1138. Article 5 of the Universal Declaration of Human Rights provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". There has, however, been evidence of gross violations of this article in that detainees have been submitted to physical and psychological torture and that prisoners have had cruel, inhuman and degrading physical treatment inflicted on them on a massive scale. A system of torture and of

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cruel, inhuman and degrading treatment of prisoners and detainees does exist in South African police stations and prisons.

1139. Political prisoners and opponents of apartheid are accorded especially cruel, inhuman and degrading treatment and are tortured by the South African prison authorities.

1140. All political prisoners and opponents of apartheid detained under the "90-day" and "180-day" laws, are tortured under interrogation with the hope of extracting confessions and information.

1141. As a general rule this system of torture, and cruel, inhuman and degrading treatment continues beyond interrogation, into prison life, especially in respect of non-white prisoners and detainees, and is tolerated by the authorities.

1142. Many conceivable methods of torture, cruel, inhuman and degrading treatment are used, ranging from the psychological to the most inhuman, like the use of electrodes or the infamous "tausa dance".

1143. The procedures and methods utilized by the Special Branch and police for interrogation of detainees and arrested persons are very similar to, if not identical with, those reported to have been used by the Gestapo under Hitler's Nazi régime of Germany.

XIII. RECOMMENDATIONS

1144. The Working Group, impressed by the opinions of witnesses that investigations such as those being carried out by it do have an impact within the Republic of South Africa, recommends that the widest publicity be given to the present report.

1145. The Group recommends that the Government of South Africa should bring the present factual conditions in prisons as described in the present report into conformity with the Standard Minimum Rules on the Treatment of Prisoners, and in particular that: (a) young persons and juveniles should be kept away from older prisoners in every case; (b) political prisoners and opponents of apartheid should not be especially ill-treated because of their opposition to the policy of apartheid; (c) Mr. Robert Sobukwe should be immediately released; (d) non-white prisoners on Robben Island in particular should be provided with shoes at all times; (e) the inhuman practices known as the "tausa dance" and the "carry-on" should be terminated immediately in the South African gaols; (f) action should be taken to put an immediate end to the institution of cheap African convict labour; (g) the authorities should make every effort to put an end immediately to the encouragement by prison officials of the practices of homosexuality and lesbianism amongst prisoners and detainees; (h) food given to non-white prisoners should be improved to increase the nutritional value by the addition of meat in particular and a variation in the courses; (i) the clothing given to African prisoners should be such as is given to all other prisoners and as is adequate for the climatic conditions at all times; (j) the bedding provided for prisoners should be adequate and should meet varying climatic conditions and beds should be provided to all prisoners; (k) toilet facilities provided in cells should be so constructed and located as to meet reasonable hygienic prison conditions; and (l) due care and attention should be taken to ensure that only a reasonable number of prisoners of the same sex be placed in any prison cell.

1146. The Group recommends that the Government of the Republic of South Africa should bring to an end in every case torture and cruel, inhuman and degrading treatment of detainees or prisoners during interrogation and during detention in prison.

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1147. The Working Group recommends that the supervising authorities should keep a close watch on the behaviour of the police and prison organs, in conformity with the international rules concerning detainees, and that the Republic of South Africa should establish an effective system of remedies against violations of human rights in South African police stations and prisons.

1148. The Group recommends that the South African Government investigate the violations mentioned in this report and hold responsible the persons listed in appendix II to chapter VII above.

1149. It is suggested that the authorities of the Republic of South Africa give an opportunity to all persons who have suffered damage to receive indemnification.

1150. The Working Group recommends that the South African Government abolish the system of detention without charge or trial inflicted on adversaries of the policy of apartheid, which is at present provided for in the "180-day law" and the Terrorism Act.

1151. The Group recommends that a thorough study be undertaken to ascertain whether the elements of the crime of genocide exist in the system at present prevailing in South Africa.

1152. Similarly, a study should be undertaken to ascertain whether collective sanctions are imposed systematically in South African prisons.

1153. The Working Group also makes the general recommendation that the Government of South Africa should take steps to repeal all the principles embodied in the "180-day law", the Suppression of Communism Act, the Terrorism Act and the "Sabotage Act", and other similar laws it has enacted and to refrain from incorporating these principles in other laws.

1154. Basing itself on the testimony bearing on this point, the Group considers that, to ensure the efficiency of its action both in the South African Republic and elsewhere, it is essential to continue its investigations and inquiries on the system of apartheid in a permanent manner.

XIV. ADOPTION OF THE REPORT

1155. The Working Group unanimously adopted the present report at its forty-fourth meeting, on 15 August 1967. The report was prepared and signed by the members of the Working Group, as follows:

Mr. Ibrahima Boye, Chairman-Rapporteur

Mr. Felix Ermacora

Mr. Branimir Janković

Mr. Luis Marchand Stens

Mr. Waldo Emerson Waldron-Ramsey

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ANNEX I

STATEMENT TO THE WORKING GROUP MADE ON 22 JUNE 1967
BY MR. M.D. BOMANI, ATTORNEY-GENERAL OF THE UNITED
REPUBLIC OF TANZANIA

Mr. Bomani said that his country had been gratified to learn that the Working Group had selected Dar es Salaam as an appropriate centre for pursuing its investigations. The Tanzanian people not only condemned unreservedly the oppressive policies of the South African régime, but also welcomed every attempt to promote the freedom and equality of men throughout the world. Every nation had the right to pursue the domestic policies which were best suited to its own particular conditions; that, indeed, was the essence of sovereignty and independence. But no country was entitled, in the interests of national sovereignty, to disregard the principles of the freedom and equality of men. Racial discrimination, and the practice of holding men as political prisoners, were a negation of freedom and equality and should be condemned wherever they occurred. South Africa was, obviously, the most blatant offender. The ideal course would have been for the Working Group to pursue its investigations in South Africa itself. But the South African régime had been afraid to authorize an objective investigation of conditions in South Africa; and, as expected, it had refused permission for the Working Group to enter its territory. The Working Group had realized the importance of hearing witnesses in a place as close as possible to the scene of the violations of human rights, and had accordingly decided to conduct its investigation in the United Republic of Tanzania. His country would do everything in its power to justify the trust which had been placed in it, and would co-operate with the Working Group in every possible way.

The report of the Working Group would be eagerly awaited not only by all States Members of the United Nations, but also by all individual persons who were anxious to know the truth for themselves. An objective report - based on a thorough investigation of the evidence by a group of acknowledged experts - would be of the highest value, since the enemy always felt most hurt when his weakest points were exposed in a manner which excluded the possibility of any excuses or rebuttals. The Working Group's report should, therefore, be given the widest possible publicity; and, for his part, he hoped that some practical measures would be taken on the basis of the report.

ANNEX II

SECTION 17 OF THE GENERAL LAW AMENDMENT ACT,
ACT NO. 37 OF 1963 (THE "90-DAY LAW")

1. Subsection (1) of section 17 of the General Law Amendment Act, Act No. 37 of 1963, authorized any commissioned police officer to arrest or cause the arrest without warrant of anyone (a) whom he suspected on reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950, or that enactment as applied by the Unlawful Organizations Act, 1968, or sabotage, or (b) who in his opinion possessed information relating to such offence or intended offence. He was empowered then to cause that person to be detained at any place he thought fit, for interrogation in connexion with that offence, until the detained person had in the opinion of the Commissioner of Police replied satisfactorily to all questions. No such person was to be detained for more than ninety days on any particular occasion when he was so arrested.
2. No person, other than one authorized by the Minister or a commissioned police officer, was to have access to a person so detained, except that each was to be visited at least once a week by a magistrate (subsection (2)).
3. No court was to have jurisdiction to order the release of any person so detained. The Minister could order release at any time (subsection (3)).
4. These provisions were to remain in force until 30 June 1964 and for such further periods, not more than a year at a time, as the State President might determine by proclamation (subsection (4)). They went out of effect on 11 January 1965.
5. The text of section 17 reads:

"17. (1) Notwithstanding anything to the contrary in any law contained, any commissioned officer as defined in section one of the Police Act, 1958 (Act No. 7 of 1958), may from time to time without warrant arrest or cause to be arrested any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organizations Act, 1960 (Act No. 34 of 1960), or the offence of sabotage, or who in his opinion is in possession

of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connection with the commission of or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person shall be so detained for more than ninety days on any particular occasion when he is so arrested.

"(2) No person shall, except with the consent of the Minister of Justice or a commissioned officer as aforesaid, have access to any person detained under sub-section (1): Provided that not less than once during each week such person shall be visited in private by the magistrate or an additional or assistant magistrate of the district in which he is detained.

"(3) No court shall have jurisdiction to order the release from custody of any person so detained, but the said Minister may at any time direct that any such person be released from custody.

"(4) (a) Subject to the provisions of paragraphs (b) and (c), sub-sections (1) to (3), inclusive, shall be in operation until the thirtieth day of June, 1964, and for such periods thereafter not exceeding twelve months at a time as the State President may from time to time by proclamation in the Gazette determine.

(b) Any proclamation under paragraph (a) may be issued at any time whether or not the said sub-sections have then ceased to be in operation.

(c) The State President may at any time by like proclamation suspend the operation of the said sub-sections or withdraw any proclamation issued under paragraph (a)."

ANNEX III

SECTION 7 OF THE CRIMINAL PROCEDURE AMENDMENT ACT,
ACT NO. 96 OF 1965 (THE "180-DAY LAW")

1. Section 7 of the Criminal Procedure Amendment Act, No. 96 of 1965, added a section 215 bis to the Criminal Procedure Act of 1955.
2. Subsection (1) of the new section 215 bis of the Criminal Procedure Act states that whenever in the opinion of the Attorney-General there is any danger of tampering with or intimidation of anyone likely to give material evidence in a prosecution of an offence referred to in part II bis of the Second Schedule to the Criminal Procedure Act, or that such a person may abscond, or whenever the Attorney-General deems it in the interests of that person or the administration of justice, he may issue a warrant for his arrest and detention. Part II bis of the Second Schedule, added by the amending statute, specifies the following offences: sedition; murder; arson; kidnapping and child-stealing; contravention of certain specified provisions of the Suppression of Communism Act, No. 44 of 1950; sabotage (i.e., contravening section 21 of the General Law Amendment Act, No. 76 of 1962); any conspiracy, incitement or attempt to commit any of the above-mentioned offences; treason; robbery or attempted robbery, or housebreaking or attempted housebreaking with intent to commit an offence if the Attorney-General is satisfied that aggravating circumstances were present.
3. Subsection (2) states that any person so arrested must be detained at the place mentioned in the warrant or any other place determined by the Attorney-General from time to time in accordance with regulations made by the Minister. According to subsection (3), unless the Attorney-General orders his earlier release, he is to be detained until the conclusion of the criminal proceedings or six months after his arrest, whichever is the shorter period. No one other than a State official acting in the performance of his official duties may have access to the detainee, except with the consent of and subject to the conditions determined by the Attorney-General or a State officer deputed by him (subsection (4)). A detainee has to be visited in private at least once a week by a magistrate of the district (subsection (5)). He is entitled to witness' fees for the whole period of his detention (subsection (6)).

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4. Subsection (7) provides that no court shall have jurisdiction to order the release from custody of any person detained under subsection (1) or to pronounce upon the validity of any regulation made under subsection (2) or the refusal of the consent required under subsection (4) or any condition referred to in subsection (4).

5. Unlike section 17 of the General Law Amendment Act, No. 37 of 1963, section 7 of the Criminal Procedure Amendment Act, No. 96 of 1965, remains on the Statute Book until its repeal by the legislature.

6. The text of section 7 reads:

"7. The following section is hereby inserted after section two hundred and fifteen of the Principal Act:

"215 bis. (1) Whenever in the opinion of the attorney-general there is danger of tampering with or intimidation of any person likely to give material evidence for the State in any criminal proceedings in respect of any offence referred to in Part II bis of the Second Schedule or that any such person may abscond, or whenever he deems it to be in the interests of such person or of the administration of justice, he may issue a warrant for the arrest and detention of such person.

"(2) Notwithstanding anything in sub-section (3) of section twenty-nine contained, any person arrested by virtue of a warrant under sub-section (1) of this section shall, as soon as may be, be taken to the place mentioned in the warrant and detained there or at any other place determined by the attorney-general from time to time, in accordance with regulations which the Minister is hereby authorized to make.

"(3) Unless the attorney-general orders that a person detained under sub-section (1) be released earlier, such person shall be detained for the period terminating on the day on which the criminal proceedings concerned are concluded or for a period of six months after his arrest, whichever may be the shorter period.

"(4) No person, other than an officer in the service of the State acting in the performance of his official duties, shall have access to a person detained under sub-section (1), except with the consent of and subject to the conditions determined by the attorney-general or an officer in the service of the State delegated by him.

"(5) Any person detained under sub-section (1) shall be visited in private not less than once during each week by the magistrate or an additional or assistant magistrate of the district in which he is detained.

/...

"(6) For the purposes of section two hundred and eighteen any person detained under sub-section (1) shall be deemed to have attended the criminal proceedings in question as a witness for the State during the whole of the period of his detention.

"(7) No court shall have jurisdiction to order the release from custody of any person detained under sub-section (1) or to pronounce upon the validity of any regulation made under sub-section (2) or the refusal of the consent required under sub-section (4) or any condition referred to in sub-section (4).

...

"16. The Second Schedule to the principal Act is hereby amended by the insertion of the following Part after Part II:

'PART II BIS

OFFENCES IN RESPECT OF WHICH THE ATTORNEY-GENERAL MAY UNDER SECTION ONE HUNDRED AND EIGHT BIS ORDER THAT THE ACCUSED SHALL NOT BE RELEASED ON BAIL OR UNDER SECTION TWO HUNDRED AND FIFTEEN BIS ISSUE A WARRANT FOR THE ARREST AND DETENTION OF A WITNESS

Sedition
Murder
Arson
Kidnapping
Childstealing

Contravention of the provisions of paragraphs (a), (b), (b) bis, (b) ter, (c), (d), (d) bis or (d) ter of section eleven of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or that Act as applied by any other law.

Contravention of section twenty-nine of the General Law Amendment Act, 1962 (Act No. 76 of 1962).

Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

Treason

Robbery (including an attempt to commit robbery), where the attorney-general is satisfied that aggravating circumstances were present.

Any offence, either at common law or under any statute, of housebreaking or attempted housebreaking with intent to commit an offence, where the attorney-general is satisfied that aggravating circumstances were present."

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ANNEX IV

THE TERRORISM ACT, 1967

1. In this Act, unless the context otherwise indicates -
 - (i) "Commissioner" means the Commissioner of the South African Police; (iii)
 - (ii) "detainee" means a person detained under section 6; (i)
 - (iii) "Minister" means the Minister of Justice; (iv)
 - (iv) "organization" includes any association of persons, incorporated or unincorporated and whether or not it has been established or registered in accordance with any law; (v)
 - (v) "Republic" includes the territory, except in sections 4 (3) and 7; (vi)
 - (vi) "terrorist" means any person who has committed an offence under section 2 or an act which had or was likely to have had any of the results referred to in section 2 (2); (vii)
 - (vii) "the territory" means the territory of South-West Africa. (ii)
2. (1) Subject to the provisions of subsection (4), any person who -
 - (a) with intent to endanger the maintenance of law and order in the Republic or any portion thereof, in the Republic or elsewhere commits any act or attempts to commit, or conspires with any other person to aid or procure the commission of or to commit, or incites, instigates, commands, aids, advises, encourages or procures any other person to commit, any act; or
 - (b) in the Republic or elsewhere undergoes, or attempts, consents or takes any steps to undergo, or incites, instigates, commands, aids, advises, encourages or procures any other person to undergo any training which could be of use to any person intending to endanger the maintenance of law and order, and who fails to prove beyond a reasonable doubt that he did not undergo or attempt, consent or take any steps to undergo, or incite, instigate, command, aid, advise, encourage or procure such other person to undergo such training for the purpose of using it or causing it to be used to commit any act likely to have any of the results referred to in subsection (2) in the Republic or any portion thereof; or

- (c) possesses any explosives, ammunition, fire-arm or weapon and who fails to prove beyond a reasonable doubt that he did not intend using such explosives, ammunition, fire-arm or weapon to commit any act likely to have any of the results referred to in subsection (2) in the Republic or any portion thereof,

shall be guilty of the offence of participation in terroristic activities and liable on conviction to the penalties provided for by law for the offence of treason: Provided that, except where the death penalty is imposed, the imposition of a sentence of imprisonment for a period of not less than five years shall be compulsory, whether or not any other penalty is also imposed.

(2) If in any prosecution for an offence contemplated in subsection (1) (a) it is proved that the accused has committed or attempted to commit, or conspired with any other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured any other person to commit the act alleged in the charge, and that the commission of such act, had or was likely to have had any of the following results in the Republic or any portion thereof, namely -

- (a) to hamper or to deter any person from assisting in the maintenance of law and order;
- (b) to promote, by intimidation, the achievement of any object;
- (c) to cause or promote general dislocation, disturbance or disorder;
- (d) to cripple or prejudice any industry or undertaking or industries or undertakings generally or the production or distribution of commodities or foodstuffs at any place;
- (e) to cause, encourage or further an insurrection or forcible resistance to the Government or the Administration of the territory;
- (f) To further or encourage the achievement of any political aim, including the bringing about of any social or economic change, by violence or forcible means or by the intervention of or in accordance with the direction or under the guidance of or in co-operation with or with the assistance of any foreign government or any foreign or international body or institution;

- (g) to cause serious bodily injury to or endanger the safety of any person;
- (h) to cause substantial financial loss to any person or the State;
- (i) to cause, encourage or further feelings of hostility between the White and other inhabitants of the Republic;
- (j) to damage, destroy, endanger, interrupt, render useless or unserviceable or put out of action the supply or distribution at any place of light, power, fuel, foodstuffs or water, or of sanitary, medical, fire extinguishing, postal, telephone or telegraph services or installations, or radio transmitting, broadcasting or receiving services or installations;
- (k) to obstruct or endanger the free movement of any traffic on land, at sea or in the air;
- (l) to embarrass the administration of the affairs of the State,

the accused shall be presumed to have committed or attempted to commit, or conspired with such other person to aid or procure the commission of or to commit, or incited, instigated, commanded, aided, advised, encouraged or procured such other person to commit, such act with intent to endanger the maintenance of law and order in the Republic, unless it is proved beyond a reasonable doubt that he did not intend any of the results aforesaid.

(3) In any prosecution for an offence under this section, any document, book, record, pamphlet, publication or written instrument -

- (a) which has been found in or removed from the possession, custody or control of the accused or of any person who was at any time before or after the commencement of this Act an office-bearer, officer, member or active supporter of an organization of which the accused is or was an office-bearer, officer, member or active supporter;
- (b) which has been found in or removed from any office or other premises occupied or used at any time before or after the commencement of this Act by an organization of which the accused is or was an office-bearer, officer, member or active supporter or by any person in his capacity as officer-bearer or officer of such organization; or

- (c) which on the face thereof has been compiled, kept, maintained, used, issued or published by or on behalf of an organization of which the accused is or was an office-bearer, officer, member or active supporter or by or on behalf of any person having a name corresponding substantially to that of the accused,

and any photostatic copy of any such document, book, record, pamphlet, publication or written instrument, shall be admissible in evidence against the accused as prima facie proof of the contents thereof.

(4) No person shall be convicted of an offence under subsection (1) committed at any place outside the Republic, if such person proves that he is not a South African citizen and has not at any time before or after the commencement of this Act been resident in the Republic and that he has not at any time after such commencement, entered or been in the Republic in contravention of any law.

3. Any person who harbours or conceals or directly or indirectly renders any assistance to any other person whom he has reason to believe to be a terrorist, shall be guilty of an offence and liable on conviction to the penalties provided by law for the offence of treason: Provided that, except where the death penalty is imposed, the imposition of a sentence of imprisonment for a period of not less than five years shall be compulsory, whether or not any other penalty is imposed.

4. (1) Notwithstanding anything to the contrary in any law or the common law contained any superior court or attorney-general in the Republic shall have jurisdiction in respect of any offence under this Act committed outside the area of jurisdiction of such court or attorney-general, as if it had been committed within such area.

(2) If the Minister so directs the trial of any person for an offence under this Act shall take place at such place in the Republic as the Minister may determine.

(3) Whenever the trial for an offence under this Act committed in the territory or elsewhere outside the Republic, takes place in the Republic, whether or not on the instructions of the Minister, the laws relating to procedure and evidence of the Republic shall apply in respect of such trial and whenever the trial for such an offence committed in the Republic or elsewhere outside the

territory so takes place in the territory, the laws relating to procedure and evidence of the territory shall so apply.

5. Notwithstanding anything to the contrary in any law or the common law contained -

- (a) any person charged in the Republic, excluding the territory, with having committed an offence under this Act, shall be tried by a judge without a jury as if the provisions of sections 109 and 110 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), applied in respect of his trial;
- (b) the trial of any person accused of having committed any offence under this Act may, subject to the provisions of section 4, be held at any time and at any place within the area of jurisdiction of the division of the Supreme Court of South Africa concerned;
- (c) whenever two or more persons are in any indictment, summons or charge alleged to have committed, whether jointly or severally, offences under this Act, such persons may be tried jointly for such offences on that indictment, summons or charge;
- (d) any person accused of having committed an offence under this Act shall be tried summarily without a preparatory examination having been instituted against him;
- (e) the procedure prescribed by law in respect of a criminal trial in a magistrate's court shall mutatis mutandis apply in respect of the trial of any such person before plea;
- (f) no person detained in custody on a charge of having committed an offence under this Act, shall be released on bail or otherwise, before sentence has been passed or he has been discharged, unless the attorney-general consents to his release;
- (g) no person shall on trial for or conviction of an offence under this Act be dealt with under section 159, 342, 345 or 352 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), or the corresponding provisions of the Criminal Procedure Ordinance, 1963 (Ordinance No. 34 of 1963), of the territory;

- (h) acquittal on a charge of having committed an offence under section 2 shall not preclude the arraignment of the person acquitted on any other charge arising out of the acts alleged in respect of the charge of such offence.

6. (1) Notwithstanding anything to the contrary in any law contained, any commissioned officer as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958), of or above the rank of Lieutenant-Colonel may, if he has reason to believe that any person who happens to be at any place in the Republic, is a terrorist or is withholding from the South African Police any information relating to terrorists or to offences under this Act, arrest such person or cause him to be arrested, without warrant and detain or cause such person to be detained for interrogation at such place in the Republic and subject to such conditions as the Commissioner may, subject to the directions of the Minister, from time to time determine, until the Commissioner orders his release when satisfied that he has satisfactorily replied to all questions at the said interrogation or that no useful purpose will be served by his further detention, or until his release is ordered in terms of subsection (4).

(2) The commissioner shall, as soon as possible after the arrest of any detainee, advise the Minister of his name and the place where he is being detained, and shall furnish the Minister once a month with the reasons why any detainee shall not be released.

(3) Any detainee may at any time make representations in writing to the Minister relating to his detention or release.

(4) The Minister may at any time order the release of any detainee.

(5) No court of law shall pronounce upon the validity of any action taken under this section, or order the release of any detainee.

(6) No person, other than the Minister or an officer in the service of the State acting in the performance of his official duties, shall have access to any detainee, or shall be entitled to any official information relating to or obtained from any detainee.

(7) If circumstances so permit, a detainee shall be visited in private by a magistrate at least once a fortnight.

7. (1) Notwithstanding anything to the contrary in any law contained, any warrant, summons, subpoena or other process issued under any law of the Republic or of the territory in connection with any criminal proceedings, shall be of force and effect throughout the Republic and the territory.

(2) Whenever any person has been arrested in the territory under any warrant aforesaid issued in the Republic, or has been arrested in the Republic under any such warrant issued in the territory, he shall, as soon as possible, be taken to the place mentioned in such warrant or, if no such place is mentioned in the warrant, to the place where the warrant was issued, and if such person has escaped or has been rescued from custody, he may be arrested without warrant at any place in the Republic or the territory by any person.

8. No trial for an offence under this Act shall be instituted without the written authority given personally by an attorney-general or acting attorney-general.

9. (1) This Act, except sections 3, 6 and 7, shall be deemed to have come into operation on the twenty-seventh day of June, 1962, and shall, notwithstanding anything to the contrary in any law or the common law contained, apply also in respect of or with reference to any act committed (including the undergoing of any training or the possession of anything) at any time on or after the said date.

(2) This Act and any amendment thereof which may be made from time to time shall apply also in the territory, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the territory.

10. This Act shall be called the Terrorism Act, 1967.
