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SECOND INTERIM REPORT OF THE SPECIAL COMMITTEE
ON THE POLICIES OF APARTHEID OF THE GOVERNMENT
OF THE REPUBLIC OF SOUTH AFRICA

Letter dated 17 July 1963 from the Chairman of the
Special Committee on the Policies of Apartheid of
the Government of the Republic of South Africa,
addressed to the President of the Security Council

..... I have the honour to transmit herewith the second interim report adopted unanimously by the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa on 16 July 1963.

This interim report is submitted in pursuance of operative paragraph 5 (b) of resolution 1761 (XVII) adopted by the General Assembly on 6 November 1962.

Accept, etc.

(Signed) Diallo TELLI
Chairman
Special Committee on the Policies of Apartheid of
the Government of the Republic of South Africa

SPECIAL COMMITTEE ON THE POLICIES OF
APARTHEID OF THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA

SECOND INTERIM REPORT

Rapporteur: H.E. M.P. Koirala (Nepal)

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SECOND INTERIM REPORT

1. On 6 May 1963, the Special Committee adopted its first interim report drawing the attention of the General Assembly and the Security Council urgently to the explosive situation resulting from the attitude of the Government of the Republic of South Africa towards the resolutions of these principal organs of the United Nations.
2. In its conclusions, the Special Committee stated that it deemed it essential:
 - (a) that all States which maintain diplomatic, consular, commercial and other economic relations with the Government of the Republic of South Africa should be urged to adopt the effective measures recommended by the United Nations and report to the General Assembly and the Security Council at an early date;
 - (b) that a special appeal should be addressed to the Governments of the States with traditional relations with South Africa to take measures to dissuade the Government of the Republic of South Africa from its present policies;
 - (c) that the special responsibility of the small number of States which account for most of the foreign trade of and foreign investments in the Republic of South Africa and which are the principal suppliers of arms and equipment to that country, should be emphasized and that they should be urged to end all direct or indirect encouragement to the Government of the Republic of South Africa to perpetrate its policy of racial segregation; and
 - (d) that the colonial Powers responsible for the administration of territories neighbouring South Africa should be urged to take appropriate measures towards the fulfilment of the objectives of General Assembly resolution 1761 (XVII).
3. Further, the Committee considered it essential that, in view of the non-implementation of the Security Council resolution of 1 April 1960 by the Government of the Republic of South Africa, and in the light of the latest and serious developments in the Republic of South Africa, the Security Council should

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re-examine the situation, remind the South African Government of its obligations under Article 25 of the Charter and take immediate and effective steps to halt the dangerous drift of events in South Africa.

4. In transmitting the report to the President of the Security Council, the Special Committee stated that it was highly desirable that the Council should consider the report as soon as possible and take the measures called for by the grave situation at present prevailing in the Republic of South Africa, which represents a serious threat to international peace and security.

5. Pursuant to its mandate under General Assembly resolution 1761 (XVII), the Special Committee continued consideration of the question with a view to submitting further reports to the General Assembly or the Security Council or both, as indicated in paragraph 14 of its first interim report. It has followed carefully the new serious developments in the Republic of South Africa since the first interim report which are described in Annex I, and heard a number of petitioners, including the representatives of the two major African nationalist organizations in the country. It has considered a number of communications received from Member States in reply to its letter of 11 April 1963. It has also taken note of the resolution adopted by the sixteenth World Health Assembly, and the resolutions adopted in June by the Governing Body of the International Labour Organisation, concerning the racial policies of the Government of the Republic of South Africa. Finally, it has taken note of a number of communications from non-governmental organizations and individuals.

6. In the light of this further review of the situation in the Republic of South Africa, the Special Committee decided that a second interim report should be addressed specifically and urgently to the Security Council, drawing its attention to the main documents and related records of the Special Committee, as well as transmitting conclusions reached by the Special Committee in order to cope with the serious situation prevailing in the Republic of South Africa.

7. The Special Committee recalls that on 1 April 1960, the Security Council recognized that the situation in South Africa had led to international friction and if continued, might endanger international peace and security. It recognized further that this situation had been brought about by the racial policies of

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the South African Government and its continued disregard of resolutions of the General Assembly calling upon it to revise its policies and bring them into conformity with its obligations and responsibilities under the Charter of the United Nations. It deplored the policies and actions of the South African Government which had given rise to the disturbances in March 1960 and the loss of life of many Africans. It called upon the Government of South Africa to abandon its policies of apartheid and racial discrimination and to initiate measures aimed at bring about racial harmony based on equality.

8. In over three years which have elapsed since this resolution, the terms of which have been endorsed and emphasized by vast majorities in successive sessions of the General Assembly, the South African Government has shown no evidence of any inclination to comply with the decision of the Security Council. It has persisted in violating its obligations under the Charter, including those under Article 25. Indeed, it has undertaken policies and actions which are manifestly opposed to the decision of the Security Council.

9. It has proceeded with a series of new apartheid measures. It has banned the organizations opposed to the policies of apartheid, and made membership in them subject to severe penalties; it has imprisoned thousands of persons, and attempted to silence opponents of apartheid by banishment, house arrest, internment and various other types of restrictions; it has enacted increasingly dictatorial legislation in violation of the Universal Declaration of Human Rights and used military and police forces to prevent peaceful protest against its racial policies.

10. The Special Committee notes that the General Assembly, in operative paragraph 8 of resolution 1761 (XVII) of 6 November 1962, requested the Security Council to take appropriate measures, including sanctions, to secure South Africa's compliance with the resolutions of the General Assembly and the Security Council, and, if necessary, to consider action under Article 6 of the Charter.

11. The Special Committee's mandate to report to the Security Council, as appropriate, was designed primarily to enable it to assist the Security Council in connexion with all the measures envisaged in the above resolution.

12. The Special Committee notes that the Government of the Republic of South Africa has continued to act contrary to the decisions of the General Assembly

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and the Security Council, that the situation in the Republic of South Africa has continued to become graver, and that the threat to international peace and security has continued to increase. It feels that the time has come for the Security Council to initiate appropriate mandatory action to leave no doubt that the United Nations is determined to ensure the fulfilment of the purposes of the Charter in the Republic of South Africa within the shortest possible time.

13. The Special Committee submits the following observations and recommendations in order to assist the Security Council in taking such action.

14. The Special Committee notes that the Republic of South Africa has continued since the establishment of the United Nations with the practice of increasing racial discrimination in violation of the fundamental principles of the United Nations Charter. It has defied numerous resolutions of the United Nations Organs and, indeed, acted contrary to their appeals and demands. Such persistent violation of the Principles and provisions of the Charter, including those of Article 25, is manifestly incompatible with membership in the United Nations.

15. Second, the Special Committee notes the affirmation by the General Assembly that continuance of the policies of racial discrimination, and ruthless measures of repression against resistance to such discrimination, seriously endangers international peace and security. The Special Committee feels that this danger is increasing day by day as the policies of the Government of the Republic of South Africa make inevitable a conflict within the country and provoke increasing violence, by closing all means for the peaceful fulfilment of the purposes of the United Nations.

16. Any conflict in South Africa, precipitated by the racial policies of the present Government, cannot but have the most serious international repercussions threatening the peace in Africa and the world. Because of the kinship of the oppressed peoples of the Republic of South Africa with those of other independent States, and the abhorrence of the policies of apartheid throughout the world, the international community cannot permit the present Government of the Republic of South Africa to utilize military and police power to preserve the system of racial oppression and suppress resistance by violence.

17. In view of its grave anxiety over the increasing threat to international peace and security, the Special Committee emphasizes the need for international political and economic action, in accordance with operative paragraph 4 of General Assembly resolution 1761 (XVII).

18. The Special Committee draws the most urgent attention of the Security Council to the great increase in the military and police forces in the Republic of South Africa, the acquisition of expensive modern arms by the Government of the Republic, and the rapid expansion of the manufacture of arms and ammunition in the country. The Special Committee feels that these measures underline the gravity of the threat to the peace and, at the same time, enhance the dangers inherent in the present situation.

19. The Special Committee, therefore, attaches the greatest importance to the provision in paragraph 4 (d) of General Assembly resolution 1761 (XVII) requesting Member States to refrain from exporting any arms or ammunition to South Africa. It feels that this provision covers the supply of all material, from governmental or private sources, which can be used for military purposes or for the suppression of resistance to the policies and practice of apartheid, as well as all assistance, direct or indirect, for the manufacture of such material in the Republic of South Africa.

20. The Special Committee deems it essential that the Security Council should insist that all States which continue to provide such supplies or assistance cease all such supplies and assistance immediately.

21. The Special Committee has taken note with satisfaction of reports that several Member States have taken partial or total measures in accordance with the provision of paragraph 4 (d) of General Assembly resolution 1761 (XVII), and considers it indispensable that all States should report forthwith to the United Nations on the measures they have taken.

22. In this connexion, the Special Committee wishes to emphasize that Member States, in taking appropriate measures, should note that there is not merely the danger of a racial conflict within the Republic of South Africa, but that the present situation constitutes a threat to international peace and security. They should refrain from supplying not merely the small arms and ammunition, but any means to increase the mobility of the security forces, as well as material which

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can be used by the Government of South Africa to perpetuate by force the policies of apartheid and by the abnormal military build-up pose a threat to the security of the other States which abhor the policies of apartheid.

23. The Special Committee also notes, in this connexion, that the Government of the Republic of South Africa has continued to refuse to fulfil its obligations with respect to the mandated Territory of South West Africa.

24. The Special Committee, further, draws the attention of the Security Council to the special responsibility of the permanent members of the Security Council to take measures to end the threat to international peace and security, and notes with concern that the Republic of South Africa has received military supplies from certain permanent members. It expresses the hope that these members will assume their full responsibility and make it clear to the Government of the Republic of South Africa that it can count on no co-operation, direct or indirect, in the pursuit of its disastrous policies.

25. The Special Committee regards the measures to stop further increase in the military and police power of the Government of the Republic of South Africa as the first and most urgent step to deal with the situation in the Republic of South Africa.

26. The Special Committee has taken note of suggestions that, as a second step, an effective embargo should be instituted on the supply of petroleum and petroleum products to the Republic of South Africa, in addition to the embargo on military supplies. It has, further, taken note of the suggestion that this embargo should be enforced by a blockade under the authority of the United Nations. The Special Committee feels that these suggestions are important and recommends them to the Security Council for consideration.

27. The Special Committee emphasizes the importance of all other measures which have been recommended by the General Assembly in paragraph 4 of resolution 1761 (XVII) in order to bring about the abandonment of the racial policies of the Government of the Republic of South Africa. It welcomes the measures taken by a number of States, despite the sacrifices involved, to comply with the recommendations of the General Assembly. It deems it essential that the Security Council should call on all States to take all the measures recommended as speedily as possible and to report to the United Nations without delay.

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28. The Special Committee has also taken note of the suggestion by the delegation of the African National Congress, which appeared as petitioners before the Special Committee, that the Republic of South Africa should be expelled forthwith from the United Nations. The Special Committee has also noted the increasing pressures brought to bear in the affiliated bodies of the United Nations and its Specialized Agencies by certain Member States for the withdrawal by the Republic of South Africa from membership in those Organizations. Several members of the Special Committee expressed the opinion that these events, as well as the consistently intransigent attitude of the Government of the Republic of South Africa towards the United Nations Organs and decisions, call for serious consideration by the Security Council in the light of Article 6 of the United Nations Charter.

29. The Special Committee will continue with its review of the racial policies of the Government of the Republic of South Africa, and of means to ensure the fulfilment of the purposes of the United Nations in that country, with a view to submitting further reports to the General Assembly or the Security Council or both, as appropriate. The Special Committee invites the Security Council to request the Secretary-General, the Specialized Agencies and other United Nations bodies to continue to co-operate fully with the Special Committee in the implementation of General Assembly resolution 1761 (XVII).

Conclusion

30. In conclusion, the Special Committee wishes to state in brief its recommendations for the consideration of the Security Council:

(a) The Security Council should affirm its support to General Assembly resolution 1761 (XVII).

(b) It should note that the Republic of South Africa has disregarded the Security Council resolution of 1 April 1960, and has persistently violated the Principles of the Charter, and acted contrary to the decisions of the General Assembly, thus creating a serious danger to international peace and security, and putting itself in a position which is manifestly incompatible with membership in the United Nations.

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- (c) It should urge upon the Republic of South Africa to abandon its policies of racial discrimination.
- (d) It should condemn the repressive measures against opponents of apartheid and demand that all political prisoners should be released and that all those under internment or other restraints for opposition to apartheid should be freed.
- (e) It should emphasize the importance of the General Assembly recommendation, in resolution 1761 (XVII), that all Member States should cease supply of arms and ammunition to South Africa. It should note that this recommendation covers the supply of all material which can be used for military purposes or for the suppression of resistance to apartheid, as well as assistance for the manufacture of such material in South Africa. It should call upon States which continue to provide such assistance to South Africa to cease such assistance immediately and report to the Security Council. It should emphasize the special responsibility of the permanent members in this respect.
- (f) It should call upon Member States to take political, economic and other measures recommended by the General Assembly in resolution 1761 (XVII), beginning with an effective embargo on supply of arms and ammunition and petroleum. It should consider the means to ensure the effectiveness of the embargo, including a blockade if necessary, under the aegis of the United Nations.
- (g) It should invite the Secretary-General, the Specialized Agencies and other United Nations bodies to continue to co-operate fully with the Special Committee in the implementation of General Assembly resolution 1761 (XVII).

ANNEX I

Note on developments concerning the policies of
apartheid of the Government of the Republic of
South Africa since the first interim report 1/
of 6 May 1963

1/ A/5418 and S/5310.

In the first interim report, the Special Committee drew the attention of the General Assembly and the Security Council to the drastic repressive measures undertaken at the time by the Government of the Republic of South Africa, such as the imprisonment of over 1,500 persons on the allegation that they were suspected of belonging to an underground organization called the "Poqo"; the promulgation of the General Law Amendment Act of 1963;^{1/} and the detention without trial of Mr. Robert Mangaliso Sobukwe, President of the Pan-Africanist Congress, after he had completed a three-year sentence of imprisonment in connexion with the agitation against pass laws in March 1960.

These drastic repressive measures were but a reflection of a serious crisis caused by the apartheid policies of the Government, a crisis which had been noted by observers inside and outside South Africa.

Jan Styttler, leader of the Progressive Party, said in a press statement on 24 April that the General Law Amendment Bill exceeded in severity any measure passed in South Africa even in wartime, and that South Africa was becoming "an armed state where everybody walks in fear."^{2/} The Rand Daily Mail of Johannesburg wrote on the same day that it "puts South Africa virtually in a state of war - and against whom? The terrible answer is our own people."^{3/}

The Johannesburg Bar Council, on 29 April, criticized the Bill as "the virtual end of the rule of law in South Africa," and as designed "to make provision ... for a police state". It added that the creation of offences retroactively was "repugnant to all sense of justice."^{4/}

Sir de Villiers Graaff, leader of the opposition United Party, which voted for the Bill, warned that underground organizations like "Poqo" and "Spear of the Nation" were only symptoms, and that:

"If the Government continues with present policies and the present organizations are destroyed, others will arise because of the unnatural conditions under which so many people live." ^{5/}

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- ^{1/} Republic of South Africa, Government Gazette Extraordinary, 2 May 1963.
 - ^{2/} Reuters, 24 April 1963.
 - ^{3/} Reuters, 24 April 1963.
 - ^{4/} Reuters, 29 April 1963.
 - ^{5/} The Star, weekly, Johannesburg, 18 May 1963.

Mr. A. Fagan, former Chief Justice of South Africa and now United Party Member of the Senate, said:

"These are circumstances which I had never hoped to see in my fatherland during my lifetime." 1/

Mr. James Hamilton Russell, a Member of Parliament for twenty years, resigned in protest against the United Party's support of the Bill and declared on 5 May: "We have reached a point of no return for the whole country unless someone turns back now." 2/

Dr. Denis Hurley, Roman Catholic Archbishop of Durban, said that the Bill was:

"recognition of a state of siege. The information available to the Government appears to indicate that the attack of African nationalism is reaching a climax. With the break-up of the Rhodesian Federation the northern buffer is dissolving and the stage is being set for a second Algeria. In this tragic situation it is rather pointless to criticise the Bill. The real issue is whether South Africa and its neighbours are going to make it a fight to the finish for white supremacy or if they will be prepared to negotiate for nobler things." 3/

The International Commission of Jurists, in a statement on 15 May, stated that "South Africa is now more than ever a police state" and that "the measures now introduced by the South African Government call for strong condemnation by all the civilized world, as did those that preceded them." 4/

1/ The Star, weekly, Johannesburg, 4 May 1963.

2/ Reuters, 6 May 1963.

3/ Scuthern Africa, London, 10 May 1963.

4/ The Commission stated:

"The measures in the present Act that will cause grave concern to all who love liberty, fair play and justice are (1) its retroactive provisions, (2) the power to declare any organization, however lawful, to be the same as an existing unlawful organization by mere proclamation if it bears a name similar to the unlawful organization, (3) the drastic powers of arrest without warrant given to the police, (4) the shifting of the onus of proof to the accused person, (5) the drastic severity of the sentences, even to the infliction of the death penalty for 'sabotage', (6) the right to keep a person in prison indefinitely without trial, and (7) removal of the right of habeas corpus and the ousting of the jurisdiction of the Courts. A police state could hardly go further."

Yet, despite all the warning signals, the Government of the Republic of South Africa has continued with further measures of apartheid and repression. It has shown neither the intent nor the ability to stop and trace back the downhill course of more discrimination and more repression.

The South African Foreign Minister, Mr. Eric Louw, told the Senate in June that the Government was determined to maintain white political control in South Africa and "will not be deterred by attacks at the United Nations, threats at Addis Ababa, unsympathetic Western nations or difficulty in obtaining equipment."^{1/}

The Minister of Transport, Mr. B.J. Schoeman, stated in an address to white school children:

"Let them try to hand over South Africa to the blacks. We are ready to defend ourselves ... In the coming generation you must be prepared to sacrifice everything ... You must be prepared to die."^{2/}

The Prime Minister, Dr. H.F. Verwoerd, declared that his Government would not yield to any pressure to change its race policies.^{3/}

Continued Pursuit of Apartheid

The Transkei Constitution Act (No. 48 of 1963) was approved by Parliament on 17 May and signed by the State President on 24 May 1963.^{4/} Advertised as proof of the Government's sincerity in promoting "separate development", this measure for the creation of the first "Bantustan" only reflects, as indicated in the first interim report, an effort to reinforce inequality. The Transkei reserve is given symbols such as a "national" flag and a "national" anthem, but the powers of its Assembly - composed of sixty-four chiefs fully dependent on the Government, and forty-five elected members - are severely restricted. The franchise is extended to all Xhosas and other person of Transkeian origin who

^{1/} South African Digest, Pretoria, 27 June 1963.

^{2/} Newsweek, 10 June 1963.

^{3/} New York Times, 26 June 1963; South African Digest, Pretoria, 4 July 1963.

^{4/} The text was published in the Government Gazette Extraordinary, 30 May 1963. Elections for the Transkei Legislative Assembly are scheduled to be held in November.

live outside the reserves: they are, in turn, deprived of any expectation of political rights or even security of residence in their places of residence.^{1/}

The character of self-government in the Transkei is revealed by the fact that a state of emergency prevails now over much of the territory. Paramount Chief Dalindyebo complained recently:

"I am in a quandry because some time ago I received a letter from the magistrate's office stating I would have to obtain permission to hold a meeting ... How can I tell the people what they have to know and do (about the elections to the Assembly) if I have to abide by the contents of this letter?" ^{2/}

Meanwhile, the Government is pushing ahead with its policy of abolishing even the limited rights of six million Africans in the so-called "White" areas - which cover six-sevenths of the territory and, in fact, have an African majority.

The Bantu Laws Amendment Act,^{3/} recently enacted by Parliament, is designed to check the flow of Africans to the towns, to further control the kinds of work done by Africans^{4/} and to restrict the flow of labourers from the neighbouring

^{1/} Self-government in the African reserves, covering less than a seventh of the area of the country, coupled with denial of political rights in the rest of the country, is opposed by African nationalist organizations as a retrograde and discriminatory measure.

The reserves cannot support even their present population of some four million, or two-fifths of the African population of the Republic. The recent famine in the Vendaland area of Northern Transvaal was but one example of the results of confining the Africans to overcrowded reserves.

^{2/} Agence France Presse, 15 May 1963

^{3/} The Bill was originally published in the Government Gazette on 9 February and evoked wide-spread opposition not only by the Africans but also by municipalities and employers' organizations. A shortened version was then introduced in Parliament in May as a first instalment.

^{4/} The Bill only adds to the "colour bar" in jobs under previous laws which continue to be enforced. From 13 May 1963, for instance, the Government prohibited apprenticeship for Indians and Coloureds in Natal in carpentry, joinery, wood-machining, plastering, plumbing, electrical wiring and shop fitting. The Star, weekly, Johannesburg, 25 May 1963.

territories. It deprives Africans, even though born or settled for many years in urban areas, of the right to live there.

Defending the Bill, the Deputy Minister of Bantu Administration and Development, Mr. M.C. Botha, said that the Government's policy was clear and simple: Bantu workers should not be brought into the White areas in an increasing number on the basis of whole families.^{1/}

The Leader of the Opposition, Sir de Villiers Graaff, said the United Party had found the Bill so objectionable that it had no alternative but to oppose even the first reading. Under the Bill, he said, there could be no development of a Bantu middle class in the urban areas, or any to permanent residence in urban locations.^{2/} It was "further evidence that the Government regarded the Bantu only as labour units with no right to permanency in the country".^{3/}

The Christian Council of South Africa, which represents twenty-eight member churches with three million members, issued a statement that the Bill laid itself open to grave censure and criticism in its disregard of human values and as unworthy of a country which claims a Christian heritage.

"We would strongly underline our objections to this Bill as an arbitrary interference with human rights, as an enforcement of a migrant labour policy which totally undermines the sanctity of family life and as having dangerous implications in disregarding human values and the selfhood of the African man, woman and child."^{4/}

^{1/} South African Digest, 16 May 1963.

^{2/} House of Assembly Debates, 6 May 1963, cols. 5365-8.

^{3/} South African Digest, Pretoria, 4 July 1963.

^{4/} The Star, weekly, Johannesburg, 18 May 1963.

It may be recalled that Mr. Justice Snyman's report in March, which led to the General Law Amendment Act, recognized that a major cause of violence in cities like Cape Town and Paarl was the forcing of African men into single quarters, the driving away of wives and children from these cities and the plans to eliminate the Africans from the Western Cape Province. However, instead of eliminating the causes of resentment of the Africans, the Government proceeded with this new Bill to make their situation in the cities even more intolerable.

The Group Areas Act, designed to enforce segregation in urban areas, continues to be implemented with utter disregard for the interests of the non-Whites.

On 24 May, "Pageview" a non-White location in Johannesburg, inhabited by almost 5,000 persons of Indian and Pakistani origin, as well as some "Malays", "Coloureds" and Chinese, was proclaimed a White group area. The non-Whites are obliged to vacate their residential premises within three months, and business premises within twelve months, and move to a location twenty miles away.^{1/}

^{1/} "Pageview" had been set aside for non-Whites as early as 1902 and they were allowed freehold rights in 1941. In addition to their homes, and their businesses (which are valued at four million Rand or \$5,600,000), they had built two mosques and a number of other community institutions. (The Star weekly, Johannesburg, 25 May 1963.) The Rand Daily Mail described the proclamation as "the most damaging blow yet dealt" to any Indian community in South Africa.

At the same time, the Government proclaimed one of the streets in Bethal, a town in eastern Transvaal, a White area. The people of Indian and Pakistani origin in Bethal, numbering 365, are almost entirely dependent on the shops and stands on that street and their livelihood would be gravely affected by the proclamation. (Ibid.)

Repressive Measures and the Question of "Racial Conflict"

As the Special Committee recognized clearly, this policy of discrimination can only be implemented by increasing measures of repression against the non-Whites, as well as White opponents of apartheid. The General Law Amendment Act supplemented the formidable powers of the Minister of Justice and the persecution of opponents of apartheid has continued unabated.

On 10 May, "Poqo", "Umkonto We Sizwe" (Spear of the Nation) and two other organizations were banned by being declared the same as the Pan-Africanist Congress or the African National Congress. Nearly 150 persons were detained without trial under this Act by 26 June.^{1/}

The numbers of persons imprisoned under the Act is perhaps not as significant as the atmosphere of intimidation, as this Act merely supplements a series of repressive measures.

Under the General Law Amendment Act of June 1962, 2,294 persons had been indicted by 24 April 1963.^{2/} Justice Minister Vorster told the House of Assembly on 13 June that a total of 3,246 alleged "Poqo" members had been arrested by 5 June.^{3/} The New York Times of 21 June 1963 quoted the Commissioner of Prisons as stating that the number of prisoners in South Africa was at an all-time high, and gave the following additional figures:

Arrested for alleged security crimes in the past year	5,293
Arrested on charges of attempting to further the aims of the African National Congress or the Pan- Africanist Congress	2,047
Convictions for alleged sabotage	126
Awaiting trial for alleged sabotage	511
Banned from public activities	142
Under house arrest	24

^{1/} Reuters, 26 June 1963.

^{2/} House of Assembly Debates, 24 April 1963, col. 4647.

^{3/} Reuters, 13 June 1963.

The South African Press constantly reports trials for security offences: the sentences invariably are extremely heavy, even on minors. A great majority of prisoners are not put up for trial for weeks and months after their arrest.^{1/}

A reason for particular concern is the evidence in the South African courts that prisoners are frequently tortured by the police to obtain confessions or to extract information implicating others. The provision of the General Law Amendment Act concerning detention without trial is also used for extracting information from persons against whom the Government has no charges except that they may possess information.

Government spokesmen claim that the "Poqo" has been "knocked out" by the recent arrests and that now the main danger is the "Spear of the Nation" and the African National Congress.^{2/} A number of supporters of the African National Congress have recently been imprisoned.

In May, Dr. G.M. Naicker, President of the South African Indian Congress, was served with orders confining him to the Durban area and forbidding him to speak or communicate with any named Communist or person served with a banning order, or to attend any political or social gathering.^{3/} With this order, the leader of every major non-white political organization in South Africa opposed to apartheid is now in gaol or under restraint.

The present situation in South Africa makes it abundantly clear that the policies of apartheid cannot be implemented without undermining the freedom and human rights of all persons, White and non-White alike.^{4/} The Government's claim

^{1/} According to the Johannesburg Star, weekly, of 29 June 1963, more than 2,500 persons had been arrested in recent months on allegations of sabotage, conspiracy towards an uprising or furthering the aims of banned organizations. About 600 of them had appeared for summary trial. It may be months before all the cases are disposed of.

^{2/} Statement by the Minister of Justice in The Star, weekly, Johannesburg, 15 June 1963; report by Mr. Justice J. Snyman, quoted in South African Digest, Pretoria, 4 July 1963; and The Star, weekly, Johannesburg, 29 June 1963.

^{3/} Southern Africa, London, 24 May 1963.

^{4/} An example of the effect of racial policies on freedom is the recent Publications and Entertainments Act, reinforcing censorship, which has been protested by a large number of writers, artists and sculptors in South Africa. Over 100 South African writers, sculptors and artists presented a protest against the drastic provisions of the Act. (Southern Africa, 3 May 1963). On 4 June, the South African branch of P.E.N. (Poets, Essayists and Novelists) urged the Government to amend the Act, claiming that it aims at "strait-jacketing" literature. (Reuters, 4 June 1963).

of combatting Communism is largely a cover to suppress resistance to discrimination. Mr. Ernst Malherbe, Principal of the University of Natal, on 10 May said that he had made a point of asking police detectives of the Special Branch exactly what they understood by Communism. Their definitions were, by and large, either "equality between black and white" or "one man, one vote".^{1/}

Suffice it to note that one of the persons charged under the so-called Suppression of Communism Act is Reverend Dr. Arthur Blaxall, an elderly priest who has devoted his life to the service of the deaf and blind in South Africa and whom no one has accused of Communism. Mr. Jordan Ngubane, Vice-President of the Liberal Party, was banned under that Act at the end of June. Mr. Alan Paton said: "Everyone knows that Ngubane is opposed to Communism".

The result of this definition of belief in racial equality as subversion and the mass arrests of opponents of apartheid has been an increased state of tension in the country. The stability or order that the Government claims to have achieved is the virtual state of emergency buttressed by a massive security apparatus.

The present atmosphere in South Africa is eloquently described in a Reuters report from Johannesburg on 10 June. It said that pocket-sized tear gas "bombs" operated like a fly spray went on sale in Johannesburg. The canisters cost about \$12 and contain about eighty shots each - "enough to deal with a whole mob if necessary" - according to advertisements. They are sold only to the whites and the "demand has been quite brisk".

In contrast to the optimistic statements of Government spokesmen concerning race relations in the country, many observers have expressed serious concern for the future. Some of their observations are quoted below.

The Most Rev. Joost de Blank, the Archbishop of Cape Town, wrote in a recent article that South Africa:

"hits the headlines fairly constantly because its racial tensions in one form or another can no longer be hidden. The crack that has been plastered over widens into an open rift and the result is violence, oppressive police action and a further step taken in the country's disintegration.

^{1/} Reuters, 10 May 1963.

"For this is what we are facing - the disintegration of a whole society, 15 million in all of Whites and Blacks and Coloureds who have not learned to live together and who, for the most part, no longer want to - not if it means continuing as hewers of wood and drawers of water for the sake of the privileged white minority, while politicians mouth sentiments of 'separate development' that nobody believes means a true racial equality or honest mutual good will". 1/

Mr. Justice Hiemstra of the Rand Criminal Sessions, declared on 21 June, after imposing severe sentences on eight persons charged with planning an attack on white people:

"Whether they (the sentences) will deter others from the road of violence as a means of settling their grievances I do not know. I can only earnestly hope that it will be so. There is on the one hand the total failure of a planned insurrection. On the other hand there is the fact that so much hate has been allowed to grow up among a section of our people that plans like these could be made.

"These sentences will no doubt leave bitterness in the hearts of many Bantu people for a long time to come ... May God grant that in some way the revelation of these facts will lead to better understanding among all our peoples." 2/

Mr. Justice J. Snyman, in his report on the Paarl riots of last November, tabled in the House of Assembly on 25 June, called for "a special drive to educate and reform the attitudes of both the White and non-White sections of the community in respect of inter-racial affairs" and warned that this task "brooks of no delay". 3/
He told the Press on 6 July:

"We must not only change our attitude (to the Bantu) but we must also find a policy that is acceptable to the Black man or find a way to make our policies acceptable to him." 4/

1/ Southern Africa, London, 21 June 1963.

2/ The Star, weekly, Johannesburg, 22 June 1963.

3/ South African Digest, Pretoria, 4 July 1963; Reuters, 25 June 1963.

4/ The Star, weekly, Johannesburg, 6 July 1963.

International Repercussions

The situation in South Africa has stirred the world conscience as never before and has had wide international repercussions.

Reference may first be made to several recent actions by United Nations bodies.

On 23 February 1963, the Economic Commission for Africa decided again to recommend that the Republic of South Africa be deprived of membership in the Commission "until it shall set a term to its policy of racial discrimination".^{1/}

On 2 April 1963, the Commission on Human Rights adopted the text of a Draft Declaration on the Elimination of all Forms of Racial Discrimination. Article 5 of the text reads:

"An end should be put, without delay, to government policies of racial segregation and especially policies of apartheid as well as all forms of racial discrimination and separation resulting from such policies."

The draft is due to be considered by the Economic and Social Council in July and by the General Assembly at the eighteenth session.

On 23 May 1963, the sixteenth World Health Assembly adopted a resolution recalling General Assembly resolution 1761 (XVII) of 6 November 1962, and inviting the Government of South Africa to renounce the policy of apartheid in the interests of the physical, mental and social well-being of the population.^{2/}

At the International Labour Conference in Geneva in June, the African delegations, supported by a number of others, demanded the exclusion of the Republic of South Africa because its racial policies were in violation of the Organization's principles. The strength of feeling of the delegations was reflected in the resignation of the Chairman of the Conference, the walk-out of thirty-six delegations from the session, and the rejection of the credentials

^{1/} E/CN.14/RES/68 (v). The Economic Commission for Africa had adopted a resolution in 1962 recommending that the Republic of South Africa be deprived of membership. The Economic and Social Council, at its resumed thirty-fourth session in December 1962, rejected the recommendation by 9 votes to 7, with 2 abstentions, and one member absent. On 23 February 1963, the Economic Commission for Africa recommended that the Council reconsider its decision and transmit the views and recommendations of the Commission to the General Assembly.

^{2/} A/AC.115/L.13.

of the workers' delegation from the Republic of South Africa. Subsequently, on 29 June 1963, the Governing Body of the International Labour Office adopted three important resolutions on this question.^{1/}

A number of Governments have condemned the policies of apartheid and taken measures to dissuade the Government of the Republic of South Africa from its present policies. In addition to the replies received to the letter dated 11 April 1963 by the Chairman of the Special Committee,^{2/} numerous official statements on this subject have appeared in the past few weeks. Particular mention may be made of the resolutions of the recent Conference of the Independent African States at Addis Ababa.^{3/} The Scandinavian Foreign Ministers, meeting in Oslo in May, condemned the racial policies of the South African Government and called on it to co-operate with the United Nations and revise its policies.^{4/}

A large number of non-governmental organizations and individuals likewise condemned the policies of apartheid.

The International Confederation of Free Trade Unions, in memoranda to the Special Committee, supported effective measures to put an end to the policies of apartheid.^{5/} The Secretariat of the World Federation of Trade Unions issued a statement on 13 June 1963 condemning repression in South Africa and calling for immediate compliance with the decisions of the General Assembly and the recent Conference of Independent African States.^{6/} The International Commission of Jurists, in a statement in May, called for "strong condemnation by all the civilized world" of the General Law Amendment Act and the earlier repressive legislation. The International Olympic Committee has indicated that South Africa would be excluded from the Olympic games unless the South African Olympic Committee could prove to the next Congress that effective steps had been taken to reduce racial discrimination.^{7/}

1/ A/AC.115/L.12.

2/ A/AC.115/L.9 and addenda.

3/ A/AC.115/L.11.

4/ Southern Africa, London, 24 May 1963.

5/ A/AC.115/L.8; A/AC.115/SR.16.

6/ Tass, 13 June 1963.

7/ The Star, weekly, Johannesburg, 8 June 1963.

Ten church leaders in the United Kingdom, in a statement on 11 July, urged the South African Government "to take heed before it is too late" and warned it that unless the trend of recent legislation is reversed, "we can see nothing in the end but violent disaster". They appealed for assistance to the victims of repression and called for a day of prayer on 21 July for all South Africa.^{1/}

In the Scandinavian countries, public organizations - youth organizations, trade unions and co-operatives - have promoted a boycott of the Republic of South Africa. An appeal sponsored by the joint council of Danish Youth organizations calling for a boycott of all South African goods was signed by ninety-four members of the Danish Parliament, representing all the major parties.^{2/} Copenhagen dock workers refused to load or unload ships carrying South African goods.^{3/} Ko-operativa Foerbundet, the largest Swedish consumers' organization, and F.D.B., the Danish co-operative hardware and grocery chain, announced a boycott of all South African products.^{4/}

Anti-Apartheid Committees have been formed in a number of countries, particularly in Western Europe.

The world reaction to apartheid leaves little doubt about the "moral isolation" of the present Government of the Republic of South Africa.

The South African Government recognizes and admits its isolation from world opinion though it attempts to criticize the attitudes of other governments, to argue that it is not isolated economically and otherwise, and to claim high motives for its own racial policies.

^{1/} The statement was signed by the Archbishops of Canterbury and York; the Moderator of the General Assembly of the Church of Scotland, the Archbishop of Birmingham, on behalf of the Roman Catholic Hierarchy; the President of the Methodist Conference, the Chairman of the Congregational Union of England and Wales, the President of the Baptist Union, the Moderator of the General Assembly of the Presbyterian Church of England, the Moderator of the Free Church Federal Council and the General Secretary of the British Council of Churches. (The Times, London, 11 July 1963).

^{2/} Southern Africa, London, 17 May 1963.

^{3/} Reuters, 5 July 1963.

^{4/} Southern Africa, 10 May 1963; The Star, weekly, Johannesburg, 25 May 1963.

To quote from a statement by Prime Minister Dr. Verwoerd in the last week of April 1963:

"It is not our fault that we must be alone in the world today, in what we believe to be the proper development of our future, and that others cannot realize the morality of our outlook.

"We must convince the world that we stand for the preservation of Christendom and civilization, and that we may yet be responsible for saving them." 1/

A few days later, addressing the Cape Town Afrikaans Chamber of Commerce, Dr. Verwoerd said:

"I cannot understand why it is so often stated that South Africa has become isolated from the rest of the world ...

"It is perhaps true that so far as our colour policies are concerned there are great international differences. But this is by no means the only aspect of our relationship with other nations.

"In the economic sphere, and in many other aspects of our life, we still have many friends in the world." 2/

He said in May 1963 in Cape Town at the twenty-fifth anniversary of the South African Press Association:

"Our fatherland, in which we all wish to continue to exist, stands today in a world which through no fault of our own does not understand us. This is because the rest of the world does not know us nor our motives and the facts about the position here." 3/

Dr. Albert Hertzog, Minister of Posts, complained recently:

"International finance is willing to throw South Africa to the black man for the sake of mineral wealth and strategic position in the world." 4/

To counter the increasing isolation from world public opinion, the Government of the Republic of South Africa has spent much effort on propaganda

1/ South African Digest, Pretoria, 2 May 1963.

2/ Ibid.

3/ South African Digest, 30 May 1963.

4/ Southern Africa, 7 June 1963.

at home and abroad.^{1/} It has also shown concern over sanctions and has taken steps to buttress relations with neighbouring territories, particularly the Portuguese territories and Southern Rhodesia.^{2/} It has, however, shown little evidence of a genuine desire to abandon its policies of apartheid, with the

1/ Two lines of propaganda deserve special notice. The first is the claim that the conflict within South Africa is due to foreign interference. Defence Minister Fouche told a National Party meeting in Queenstown early in May 1963:

"My conviction is that the Black man in South Africa is not our basic problem. The basic problem is the unfair interference of the outside world". (South African Digest, 9 May 1963).

This interference, he said, was driving a wedge between white and black. (South African Digest, 9 May 1963).

The second is the argument that the problem is one of "survival" of the white population in Africa. In a television interview in May, the South African Ambassador to the United States claimed:

"If you were to introduce the proposals of the United Nations (on racial policy in South Africa) you would, in effect be committing another sin - committing genocide. You would be asking this Western Christian nation to be allowed to destroy itself". (The Star, daily, Johannesburg, 6 May 1963).

The Special Committee, has made it clear that it does not view the choice as between white domination and black domination, but as between racial discrimination and the acceptance of the principles of the United Nations Charter.

2/ The Minister of Foreign Affairs of South Africa, Mr. Eric Louw, visited Lisbon in May and signed an air agreement with Portugal for flights by South African Airways from Johannesburg to Lisbon with landing rights at Luanda. (Southern Africa, 17 May 1963).

South Africa has agreed to contribute funds for the construction of an airfield on Ilha do Sal, one of the Cape Verde Islands. (New York Times, 16 June 1963; Southern Africa, 21 June 1963).

Mr. Roy Welensky, Prime Minister of the Federation of Rhodesia and Nyasaland visited Cape Town and on 20 May a joint communique announced agreement on increased economic co-operation.

result that world opinion has become increasingly concerned over the likelihood of a further deterioration of the situation into a violent clash.^{1/}

1/ A few recent comments are illustrative. Dr. Ramsey, the Archbishop of Canterbury, declared that if the present trend in South Africa continued, based as it was on the fear of one part of the population towards another, it was hard to see how the outcome could be other than violent disaster. (Southern Africa, London, 14 June 1963).

Mr. Harold Wilson, leader of the Labour Party in the United Kingdom, declared recently:

"The situation in South Africa is in sight of being a threat to the peace. And if Dr. Verwoerd challenges that then let him stop the massive arms build-up in South Africa ...

"The situation in South Africa is getting worse week by week ...

"The choice before Africa - and all of us are involved in this choice - is a choice between the racial bloodbath towards which the policy of the South African Government is driving, or racial peace by negotiation." (Contact, 17 May 1963).

Ambassador Ellai Stevenson declared on 20 June that the United States Government recognized "the extreme seriousness of the situation in the Republic of South Africa" and that "its anxiety and concern about the situation is increasing day by day". (A/AC.115/SR.13).

/...

ANNEX II

Note on the expansion of military and police forces
in the Republic of South Africa and the supply of
arms and ammunition to the Republic of South Africa

1. In the first interim report of 6 May 1963,^{1/} the Special Committee expressed deep anxiety over "the rapid expansion of South African military and police forces which not only reflects the gravity of the present situation in the country but is likely to have serious international repercussions". The Committee noted that, between fiscal years 1960-1961 and 1963-64, the defence expenditure of the Republic of South Africa rose from 44 million Rand to 157 million Rand or nearly four times.^{2/} Police expenditure rose during the same period from 36 million Rand to 47 million Rand. This enormous build-up of military and police forces was one of the main reasons for the submission of the first interim report by the Special Committee.

2. The present note contains some salient facts on the recent expansion of military and police forces in the Republic of South Africa and the supply of arms and ammunition to that country.

Size of military expenditures

3. The estimated expenditure for fiscal year 1963-64 is well above the highest annual expenditure during the period of the Second World War when South African forces saw action in many theatres.^{3/}

4. The breakdown of the defence expenditures, for the years 1960-61 to 1962-63, shows that the largest increases are not in such items as salaries and related expenditures, but for the acquisition of arms and ammunition. For instance, the estimates for "Army Stores, Services and Equipment" increased from 2,620,000 Rand to 11,945,000 Rand or by four and half times; for transport equipment and petrol by over three times; and for aircraft and aviation fuel by over 2 1/2 times. The estimates for "Special equipment and Reserve stocks" increased from four and a half million Rand to over 31 million Rand or by more

^{1/} S/5310 and A/5418

^{2/} The figure for 1963-64 is the budget estimate. A Rand is equivalent to half a pound sterling or \$1.40.

^{3/} The expenditure in 1944-45 was 51,250,000 pounds or 102,500,000 Rand. (Official Year Book of the Union of South Africa, 1948, p.631.) The estimate for 1963-64 is 157 million Rand.

than seven times. The estimates for the manufacture of munitions increased from 368,000 Rand to over 14 million Rand, or by nearly forty times.

5. The budget estimates, however, do not fully reflect the scale of military expansion. Much of the increase in available military personnel is not in the standing army but in the Commandos, and this does not require a proportionate increase in public expenditure.

Strength of the Security Forces

6. The South African Defence Force consists of:

- (1) The Permanent Force, or the standing army (the Army, Air Force and Navy);
- (2) The Citizen Force, comprising volunteers and citizens drawn by ballot and enrolled in the Force; and
- (3) The Commandos, comprising volunteers and citizens not drawn by ballot for enrolment in the Citizen Force.

7. The strength of the Permanent Force is kept relatively low. It had 12,700 officers and men in 1962-63,^{1/} excluding Auxiliary services. It has expanded, however, from 8,832 in 1960 to 12,700 in 1962-63, and the Government has announced plans for further expansion.

8. The Citizen Force consists of about 10,000 men called to service annually to serve for four years, or a total of 40,000 men available at any time. Before 1961, members of this Force underwent a three-month continuous training in the first year, and a three-week training in the second, third and fourth years. Under the Defence Amendment Act of 1961, the period of training was increased to nine months in the first year and three months in the following years.

9. The greatest expansion has been in the Commando in which every able-bodied South African citizen is required by law to serve for four consecutive years in case he has not been previously a member of the Permanent Force or the Citizen Force or the Reserve unit of either. Members of the Commando are trained in the use of weapons and in combat operations, and are subject to call for service at any time.

^{1/} Estimates of Expenditure, 1962-63.

10. There are now more than 200 units of Commandos. As members of the Commando are not paid salaries, and purchase and maintain their own weapons, an increase in the strength of the Commandos does not add greatly to budget expenditures.

11. The Government has recently announced the establishment of units of Air Commandos, made up of private pilots and airplanes commissioned for service in times of emergency or war.^{1/}

12. The Minister of Defence announced in June 1963 that by next year South Africa could have 140,000 men in uniform (including the Permanent Force, Citizens Force and Commandos).^{2/} Concurrently, the strength of the school cadet force is being doubled from 65,000 to 120,000 for the purpose of providing more young men of school age with basic military training.^{3/} The Government's aim is to mobilize as many as 250,000 men at short notice.

13. The Government has emphasized the mobility and the fire-power of the armed forces. Much of the increased Government expenditure, as indicated earlier, is devoted to the acquisition of planes and trucks, purchase of modern arms and training in their use, and manufacture of weapons.

14. Special units have been trained in the regular services to be combat ready within one hour. By the end of this year, the armed forces are expected to have about 10,000 such fully trained special troops: their number is planned to be increased to about 20,000 by the end of 1965.^{4/}

15. The armed forces are entirely White, except for some labourers. One of the first acts of the National Party Government, after it rose to power in 1948, was to limit the army to Whites.

16. The police force has a strength of 27,350 men - 13,600 Whites, 12,250 Bantus, 1,100 Coloured (i.e., people of mixed descent) and 400 Indians.^{5/} Recently, the Government has begun to enrol armed Whites in auxiliary police units which are

1/ House of Assembly Debates, 1 May 1963, Col. 5145.

2/ The Star, daily, Johannesburg, 3 June 1963.

3/ Statement by Army Chief of Staff, Gen. S.A. Engelbrecht, reported in News/Check on South Africa and Africa, Johannesburg, 12 October 1962.

4/ Statement by the Minister of Defence, reported in Southern Africa, London, 12 October 1962.

5/ South African Digest, Pretoria, 4 April 1963.

planned to have a strength of several thousand. The Government has indicated that non-White units of auxiliary police would be established, but no concrete measures for this purpose are reported. The White police in general are well-armed; the non-Whites are not.

17. It should be noted that the Government has sought to establish the closest co-operation between the police and the armed forces for the maintenance of internal security. As the Defence Minister, Mr. J.J. Fouche, stated in the House of Assembly on 1 May 1963:

" ... I wish to say that from the nature of the matter the South African Police are not able to prevent or to suppress local riots everywhere. Here one thinks of an isolated outpost in a distant area manned by only two or three policemen. In the light thereof it is therefore imperative that the necessary means should immediately be available to the authorities to suppress any riots before they assume appreciable proportions. It is therefore the idea that members of the Defence Force who find themselves in the vicinity where riots occur should immediately be enlisted to assist the police." 1/

18. In recent years, the armed forces and aircraft have been frequently used to deal with disturbances in the country, particularly in the Transkei.

19. In addition to expanding the armed forces and police, the Government has encouraged and assisted military training for all the Whites. Rifle clubs and home guards have sprung up all over the country. Women and children of school age are being trained in the use of weapons.

20. Even in 1961, it was reported that probably no city in the world had as many privately owned small arms as Johannesburg - some 100,000 licensed weapons for a White population of less than 500,000.^{2/} The number of these arms is now much higher.

21. In short, the White community in South Africa is becoming an armed camp, ready for what the Government chooses to describe as the struggle for survival and what in reality is a desperate effort to perpetuate the policy of racial oppression.

1/ House of Assembly Debates, 1 May 1963, Col. 5147.

2/ The Times, London, 18 August 1961.

22. The Government's plan was recently described by the Minister of Defence, Mr. J.J. Fouche, in the House of Assembly when he said: "Our aim is to train every young man (for military service) whether he is flat-footed or not ... It cannot be done at present but we are working in that direction".^{1/}

Manufacture of Arms

23. In recent years, the Government of the Republic of South Africa has spent much effort and investment to expand greatly the manufacture of modern weapons in the country. As indicated earlier, the estimate of Government expenditure between 1960-61 and 1962-63 for manufacture of munitions increased by nearly forty times.

24. Production of automatic weapons is planned for 1964. Production of ammunition is being greatly increased in order to make the country self-sufficient in this field.^{2/}

25. The Government has received assistance from foreign companies and investors in its plans to expand arms production.^{3/}

1/ South African Digest, Pretoria, 13 June 1963.

2/ Southern Africa, London, 28 January 1961, quoted a report in Commando, official publication of the South African Defence Force, that South Africa would be manufacturing her own automatic weapons by 1964. It said that the manufacturing rights for the new Belgian FN7.62 automatic rifle, the weapon which was to replace the Defence Force's present .303, had been obtained and plans were being carried out gradually to change over from assembling the weapons to manufacturing them in Pretoria entirely from South African-made parts.

"Plans for the extension of the Government armaments factory near Pretoria are at an advanced stage, and building will begin soon. With the completion of the extensions programme and the tendering to private enterprise of the manufacture of certain parts, South African-made weapons to fulfil all the requirements of the Defence Force will be produced by 1964."

3/ The African Explosives and Chemical Industries, which concluded an agreement in January 1962 to build and operate three ammunition factories at a cost of £10 million, is partly owned by the Imperial Chemical Industries of the United Kingdom. (Southern Africa, London, 26 January 1962, p. 74)

A British-owned company, Miles Aircraft Ltd., is reported to be planning manufacture of jet trainers in South Africa (South African Information Service, 6 May 1963).

Foreign sources of arms and ammunition

26. In the meantime, the Republic of South Africa has spent enormous sums of money for the purchase of arms and other military supplies.

27. Much of the defence expenditure has been devoted to the purchase of radar and telecommunications equipment, armoured cars, aircraft and naval vessels. The Defence Minister, Mr. J. Fouche, announced in August 1962 that the striking power of the South African Navy was to be multiplied by ten times during the next few years.^{1/} Similar rapid expansion is planned for the striking power of the Air Force.^{2/} The Defence Minister stated recently that the Republic of South Africa was an integral part of the West and must prepare itself to be of value to the West. "Practically all the strategic weapons that we have purchased during the past two years are for that specific purpose."^{3/}

28. The principal and traditional source of arms is the United Kingdom.

29. Under agreements signed on 30 June 1955 in connexion with the transfer of the Simonstown naval base,^{4/} the United Kingdom and South Africa agreed on co-operation to ensure the safety of the sea routes round South Africa, and the latter undertook to purchase a number of naval vessels in the United Kingdom through the British Admiralty.

^{1/} Reuters, 17 August 1962; The Times, London, 18 August 1962.

^{2/} Southern Africa, London, reported on 12 October 1962:

"The South African Department of Defence confirmed in Pretoria that the Navy is to be further strengthened with strike aircraft... This is part of the South African Government's scheme for welding and expanding striking forces on the African continent...

"The Navy is being equipped with small, powerful craft of the most modern design which will act as watchdogs around the country's hundreds of miles of vulnerable coastline. These will work in close co-operation with aircraft of the S.A.A.F.'s Maritime Command.

"The bulk of expenditure during the next three or four years will be on modern equipment for the Air Force. This arm of the service operates mostly with obsolete Second World War aircraft, totally unsuited to modern warfare.

"Other expansion includes the production of bomb-carrying rockets, the construction of military vehicles, including armoured cars, and modern equipment for a bigger army establishment."

^{3/} South African Digest, Pretoria, 4 July 1963.

^{4/} Agreement on the Defence of the Sea Routes round Southern Africa, and Agreement relating to the Transfer of the Simonstown Naval Base. Texts in Cmd. 9520. These agreements were maintained in force after South Africa left the Commonwealth.

30. Under these agreements, the South African Navy ordered three anti-submarine frigates, as well as minesweepers and other craft, at a total cost of 23,000,000 pounds sterling.^{1/} The first frigate, President Kruger, arrived in South Africa in March 1963.^{2/}

31. In October 1962, South Africa was reported to have ordered a squadron of Buccaneer low-level strike and reconnaissance aircraft at a cost of about £20 million.^{3/} In January 1963, it was reported that the South African Air Force had ordered an undisclosed number of English Electric Canberras and Westland Wasp helicopters.^{4/} The South African Defence Minister, Mr. J.J. Fouche, announced on 24 June 1963 that naval helicopters and other defence equipment had been ordered from the United Kingdom.^{5/}

32. The South African arms contracts are apparently of considerable importance to the foreign trade and economy of the United Kingdom. On 6 May 1963, Mr. Neil Marten, Parliamentary Secretary to the Ministry of Aviation, told the House of Commons that at least fifty companies were engaged in the manufacture of aircraft and aircraft equipment for South Africa, and that the work involved in these contracts was equivalent to a year's employment for about 25,000 persons.

33. Though the United Kingdom remains the principal source, South Africa has been increasingly diversifying its purchases.

34. France has become an increasingly important source of supply. In April 1963, the South African Defence Minister told the Parliament that the French Panhard armoured car was now being manufactured in the Republic.^{6/} On 24 June, the South African Embassy in Paris announced that France had begun

^{1/} Hansard 678, 22 May 1963, col. 39 (Statement by the Civil Lord of Admiralty in the House of Commons).

^{2/} South African Digest, Pretoria, 4 April 1963.

^{3/} Southern Africa, London, 19 October 1962.

^{4/} The Star, Johannesburg, 16 January 1963.

^{5/} Reuters, 24 June 1963. It may be noted that some of the arms purchased in the United Kingdom - such as helicopters - were beyond those covered by the Agreements of 1955.

^{6/} Southern Africa, London, 12 April 1963.

delivery of sixteen jet fighters ordered last year.^{1/} French Alouette jet helicopters are already in service in South Africa.^{2/}

35. Another source of supply in recent years was the United States of America. In January 1963, South Africa received five C-130-B transport planes.^{3/} A number of Cessna 185 Skywagons - described as "ideal for field spotting and reconnaissance as well as the swift movement of small groups of men for police actions" - had already been delivered to the Defence Department.^{4/}

36. More recently, the United States was reported to have denied licenses for the export of bombers and fighter aircraft to South Africa.^{5/}

37. There is little definite information on supplies of arms from other countries to the Republic of South Africa. It is reported, however, that a number of other countries were interested in entering the market, especially in case of cessation of sales by the present suppliers. Indeed, the South African Defence Minister, Mr. J.J. Fouche, claimed on 14 June 1963, that South Africa was being embarrassed with offers from other countries.^{6/}

1/ Reuters, 24 June 1963.

2/ The Star, daily, Johannesburg, 16 January 1963.

3/ The Star, daily, Johannesburg, 16 January 1963. Altogether, seven of these planes were reported to have been delivered. New York Herald Tribune, 14 June 1963.

4/ The Star, daily, Johannesburg, 16 January 1963.

5/ New York Times and New York Herald Tribune, 14 June 1963.

6/ The Star, weekly, Johannesburg, 15 June 1963.

38. Unconfirmed press despatches and statements by petitioners before the Special Committee refer to sales or offers by other countries.^{1/}

39. In connexion with these reports concerning supplies of arms and ammunition, the statements of a number of Governments may be noted.

1/ The representative of the Pan-Africanist Congress, Mr. Duncan, told the Committee that the United Kingdom, France, United States, Spain, Italy, Czechoslovakia, the German Democratic Republic and Belgium, had supplied arms and ammunition to the Republic of South Africa. (A/AC.115/SR.16)

The delegation of African National Congress referred to sales or offers by the United Kingdom, France, United States, West Germany, Belgium and Italy. (Information supplied to the Special Committee on 11 July 1963.)

The London Observer (9 and 30 June 1963) stated that Czechoslovak rifles were being imported into South Africa and that an East German trade delegation had offered supply of small arms and ammunition.

The New York Herald Tribune (23 June 1963) stated that the South African Government had made substantial purchases of arms in Europe through the Portuguese Government.

Earlier, on 1 May 1963, the Daily Telegraph and Morning Post of London reported that several countries had made offers of arms after the demand by the Labour Party that the United Kingdom should stop arms exports to the Republic of South Africa:

"Five Western countries are hoping to capture Britain's role in providing South Africa with arms worth about £700 million over the next 10 years.

"South Africa will be spending this sum to re-equip her forces for three purposes: the defence of the Simonstown naval base and the sea lanes off her coasts, as defined in the 1955 Agreement; defence of the Union against external aggression; and internal security...

"...French and Italian training aircraft have been offered in replacement of 200 jet Provosts...

"French and United States firms are ready to provide replacements for the de Havilland 125 transport aircraft which South Africa hoped to order.

"The South African Army is ordering a complete new range of vehicles. These were to have been Bedfords and long-based Land Rovers but the contracts are being sought now by Germany and Japan..."

/...

40. The United States and Sweden informed the General Assembly that they were selling no arms to South Africa which could be used to enforce the racial policies of apartheid.^{1/} The United States reiterated this position in a statement conveyed through the Acting Chairman to the Special Committee.^{2/}

41. The United Kingdom, in statements before the House of Commons on several occasions, indicated that the Republic of South Africa was allowed to buy arms in the United Kingdom as the two countries had normal relations and, moreover, a common interest in the defence of the sea routes round southern Africa; that, in authorizing purchases, the United Kingdom takes into account the possibility that a particular type of arms may be used for measures of internal suppression; and that the arms now being supplied to the Republic of South Africa were required for external defence and were unsuitable for use in suppressing civilian disturbances or for local intimidation.^{3/}

42. The Embassy of Czechoslovakia in London, in a statement to the Press on 20 June 1963, stated:

"Recent reports in the Press that Czechoslovakia has allegedly delivered weapons to the Republic of South Africa are entirely false. The Czechoslovak Government resolutely condemns the policy of apartheid, has never granted any assistance to the South African Government, nor has it sold it military weapons or equipment.

^{1/} A/SPC/SR.329, A/SPC/SR.334, and A/SPC/SR.336.

^{2/} A/AC.115/SR.15. The United States Government was reported to have informed the Labour Party in the United Kingdom that its policy on arms supplies is covered by the following formula:

"If the normal use of the weapon or other item of military equipment is associated with police force or infantry type operations its export will not be approved. It is essentially defined for purposes of national offence, and in particular, Free World military requirements, exportation may be considered."

The Observer, London, 9 June 1963.

^{3/} See, for instance, House of Commons Debates, 31 October 1962, 19 December 1962, 22 March 1963, and 31 May 1963.

Mr. J.J. Fouche said in June that when the Simonstown Agreement had been entered into, the United Kingdom had requested South Africa not to ask to buy small arms and ammunition. South Africa, he said, had replied: "We do not buy that type of stuff. We sell it ourselves."

Southern Africa, London, 28 June 1963.

"Prior to the adoption of the General Assembly resolution of 6 December 1962 on sanctions against the Republic of South Africa individual citizens of that country bought a negligible amount of hunting arms and air-rifles. After the adoption of the resolution even deliveries of those sport arms were immediately halted and will not be restored." 1/

43. The Government of the Federal Republic of Germany was reported to have informed the Labour Party in the United Kingdom that its refusal to deliver arms to "any zone of tension" now applied to South Africa, and that "the Federal Government therefore controls the export of arms and all kinds of strategic material to the Republic of South Africa. Permission for export of offensive weapons is being refused." 2/

44. Denmark and Italy are also reported to have prohibited export of small arms to the Republic of South Africa. 3/

1/ Press release of the Permanent Mission of Czechoslovakia to the United Nations, 2 July 1963.

2/ The Observer, London, 9 June 1963.

3/ The Observer, London, 9 June 1963.

ANNEX III

Repressive Legislation in the Republic of South Africa

(Note: In its first interim report,^{1/} the Special Committee expressed its most serious concern over the repressive measures of the Government of the Republic of South Africa, which were designed to impose its discriminatory racial policies. The Special Committee noted that these measures had progressively closed the legal and peaceful means of protest and redress available to the victims and opponents of discrimination and segregation, and had greatly enhanced the dangers of a racial conflict.

The present document provides a summary of the principal repressive laws in force in the Republic of South Africa.)

1/ A/5418; S/5310.

1. The Native Administration Act of 1927 as Amended^{1/}

This Act provides that the Governor-General (now State President)^{2/} shall be Supreme Chief of all Natives in the Union (now Republic)^{2/} and shall in respect of all Natives in any part of the Republic be vested with all such rights and immunities, powers and authorities as are or may be from time to time vested in him in respect of natives in the Provinces of Natal. The relevant Natal Code inter alia empowers the State President to order the arrest of any Bantu whom he considers dangerous to the public peace and to detain him for three months without right of appeal. The courts are forbidden to rule on the validity of any act done or order given by the State President, or to grant injunctions against any officer acting as his representative unless the courts are satisfied prima facie that such officer is acting without lawful authority. The State President is empowered to make regulations inter alia for the "prohibition, control or regulation of gatherings or assemblies of Natives".^{3/} Under this authorization, regulations have been made prohibiting any person from holding, presiding over or addressing, without permission, any meeting of Bantu at which more than ten persons are present at one time.^{4/}

2. Suppression of Communism Act of 1950 as Amended

The import and ambit of this legislation as amended by Act 50 of 1951 has been dealt with in the First and Second Reports of the United Nations Commission on the Racial Situation in the Union of South Africa.^{5/} Important further

- ^{1/} Act No. 38 of 1927, as amended by the Native Administration Amendment Act of 1956 (No. 42).
- ^{2/} In this note "State President" has been substituted for "Governor-General", and "Republic" for "Union" in the appropriate places.
- ^{3/} For example, Regulation for Control of Meetings, Gatherings or Assemblies in Native Areas - Proclamation 97 of 1954.
- ^{4/} In the urban areas there exists legislation with similar effect, restricting the participation of Bantu in meetings: Urban Areas Act of 1945 as amended by Act 36 of 1957.
- ^{5/} Official Records of the General Assembly, Eighth Session, Supplement No. 16, paras. 716-717; Official Records of the General Assembly, Ninth Session, Supplement No. 16, paras. 192-199.

amendments have been made to the main provisions of the principal act by the General Law Amendment Act of 1962.

The General Law Amendment Act of 1962 enlarges the category of bodies which can be declared unlawful by the State President by providing that he can do this when he is satisfied that any organization carries on or has been established for the purpose of continuing directly or indirectly the activities of any unlawful organization.^{1/} This would tend to exclude the possibility of new organizations being formed to oppose the policies of the Government.

The Minister of the Interior is also empowered to prevent "statutory communists" and other persons furthering the objectives of communism from attending gatherings at any place or in any area during a specified period. The definition of gathering is broad enough to include a gathering of any number of persons.^{2/}

Two sections are intended to curtail the dissemination of news in particular with respect to prohibited activities and listed and prohibited persons. In the first place, publishers are required to deposit a sum of 20,000 Rand upon registration of a new newspaper, and this sum will be forfeited once the publication is banned under the provisions of the principal Act.^{3/}

And in the second place, the Act makes it an offence to print, publish or disseminate any statement by a listed or prohibited person made anywhere at any time except for the purposes of Court proceedings or with the consent of the Minister.^{4/}

A new section provides that the Minister may by notice prohibit a listed person or any other person who advocates, encourages or engages in the furtherance of communism as defined "from being within or absenting himself from any place or area ... or communicating with any person or receiving any visitor or performing

^{1/} General Law Amendment Act of 1962 (No. 76), section 2.

^{2/} Ibid., sections 3 and 7.

^{3/} Ibid., section 5.

^{4/} Ibid., section 10 (1) (e).

any act so specified in the notice". The only restriction on the power of the Minister in this respect is that no prohibition contained in the notice can debar the restricted person from communicating with or receiving as a visitor his lawyer provided that the latter himself is not a listed or prohibited person.^{1/}

1/ Two notices served on Mrs. Helen Joseph on 11 October 1962 are still illustrative. Notice in terms of paragraph (a) of sub-section (1) of section 10 of the Suppression of Communism Act of 1950 (No. 44) served on Helen Joseph:

"WHEREAS I, BALTHAZAR JOHANNES VORSTER, Minister of Justice of the Republic of South Africa, am satisfied that you are engaged in activities which are furthering or may further the achievement of the objects of communism, I hereby, in terms of paragraph (a) of sub-section (1) of section ten of the Suppression of Communism Act, 1950 (Act No. 44 of 1950) prohibit you for a period commencing on the date on which this notice is delivered or tendered to you, and expiring on the 31st day of October, 1967, from -

- (a) absenting yourself from the residential premises situate at 35 Fanny Avenue, Norwood, Johannesburg -
 - (1) at any time on public holidays;
 - (2) from two-thirty in the afternoon on Saturdays up to six-thirty in the forenoon on Mondays;
 - (3) during the hours of six-thirty in the afternoon and six-thirty in the forenoon on days other than those referred to in (1) and (2) above;
- (b) absenting yourself from the magisterial district of Johannesburg;
- (c) bring within -
 - (1) any location, native hostel or native village as defined in the Natives (Urban areas) Consolidation Act, 1945 (Act No. 25 of 1945);
 - (2) the area of jurisdiction of the Alexandra Local Area Committee as defined in Administrator's Proclamation No. 27 of the 3rd February 1958;
 - (3) any native compound;
 - (4) the premises of any factory as defined in the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941);
- (d) communicating in any manner whatsoever with any person whose name appears on any list in the custody of the officer referred to in section eight of the said Suppression of Communism Act, 1950 or in respect of whom any prohibition under the Suppression of Communism Act, 1950 is in force;

(foot-note continued on following page)

/...

3. The Public Safety Act of 1953 (No. 3)

This Act is intended "to make provision for the safety of the public and the maintenance of public order in cases of emergency". It provides that the State President may proclaim a state of emergency in the Republic or any part

(continued from preceding page)

- (e) receiving at the said residential premises any visitor other than a medical practitioner for medical attendance on you, if the name of such medical practitioner does not appear on any list in the custody of the officer referred to in section eight of the said Suppression of Communism Act, 1950, is in force in respect of such medical practitioner.

Given under my hand at Pretoria on this 11th day of October 1962."

Notice in terms of sub-section (1) of section 9 of the Suppression of Communism Act of 1950 (No. 44) served on Helen Joseph:

"WHEREAS I, BALTHAZAR JOHANNES VORSTER, Minister of Justice of the Republic of South Africa, am satisfied that you are engaged in activities which are furthering or are calculated to further the achievement of any of the objects of Communism, I hereby, in terms of sub-section (1) of section nine of the Suppression of Communism Act, 1950 (Act No. 44 of 1950) prohibit you for a period commencing on the date on which this notice is delivered or tendered to you and expiring on the 31st day of October 1967, from attending within the Republic of South Africa -

- (1) any gathering contemplated in paragraph (a) of the said sub-section; or
- (2) any gathering contemplated in paragraph (b) of the said sub-section not being such a gathering as is contemplated in the said paragraph (a), of the nature, class or kind set out below:
 - (i) any social gathering, that is to say, any gathering, at which the persons present also have social intercourse with one another;
 - (ii) 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, criticized or discussed.

Given under my hand at Pretoria on this 11th day of October, 1962.

(Signed)
MINISTER OF JUSTICE"

/...

thereof if any action or circumstance threatens public safety or order or if the ordinary laws in force are inadequate to ensure public safety and order.^{1/} While such a proclamation is in effect (or owing to special circumstances), the State President may make, with certain limitations,^{2/} any necessary or expedient regulations to provide for the public safety or to preserve public order and to terminate the emergency. The proclamations issued under this Act during the aftermath of the Sharpeville incident curtailed civil liberties and led to wide-spread arrests.

The General Law Amendment Act of 1962 introduced a new section which makes it possible to apply such proclamations even in areas where a state of emergency has not been proclaimed by the State President.

4. The Criminal Law Amendment Act of 1953 (No. 8)

This Act was intended to stultify resistance to apartheid by civil disobedience and non-violent campaign by persons in the Republic without racial distinction. Anyone convicted of an offence "committed by way of protest or in support of any campaign against any law or in support of any campaign for the repeal or modification of any law or variation or limitation of the application or administration of any law" is subject to a sentence of 300 pounds (600 Rand), three years' imprisonment, ten strokes or a combination of any two of them.^{3/} Similarly any person who causes any other person by written or spoken words or by other means to break the law by way of a protest against a law or in support of a defiance campaign is subject to a fine of 500 pounds, five years' imprisonment, ten strokes or any two of these.^{4/} At the same time, any person who solicits or receives financial or other assistance for any such campaign from any person, whether in or out of the Republic, or who has assisted another to commit a crime by way of protest is guilty of an offence and penalized as for incitement.^{5/}

^{1/} Public Safety Act of 1953 (No. 3), section 2 (1).

^{2/} Where persons are detained on summary arrest, this is to be reported to Parliament.

^{3/} Criminal Law Amendment Act of 1953, section 1.

^{4/} Ibid., section 2.

^{5/} Ibid., section 3.

5. Criminal Law Procedure Act of 1955 (No. 56)

A provision of this Act extends the general powers of search by providing that if it appears to a judge or magistrate that there are reasonable grounds for believing

"that the internal security of the Republic or the maintenance of law and order is likely to be endangered by or in consequence of any meeting which is being or is about to be held in or upon any premises ... /or/ that an offence has been or is being or is likely to be committed or that preparations or arrangements for the commission of any offence are being or are likely to be made ... /in certain premises, he may issue a warrant to enter and search and to take such reasonable steps as /such policeman/ ... may consider necessary for the preservation of the internal security of the Republic or the maintenance of law and order, or for the prevention of the commission of any offence" 1/

And if a police officer believes that the delay involved in obtaining a warrant would defeat its objects, he may enter without a warrant and

"... carry out such investigations and ... take such reasonable steps as ... /he/ may consider necessary for that preservation of the internal security of the Republic or the maintenance of law and order" 2/

or search the premises for evidence of an offence.

6. Riotous Assemblies Act of 1956

This Act empowers a Magistrate if authorized by the Minister of Justice to prohibit gatherings of twelve or more persons whenever he has reason to apprehend that the public peace would be seriously endangered by the gathering and also empowers the Minister to prohibit gatherings or particular persons from attending such gatherings whenever he has reason to apprehend that feelings of hostility would be engendered between the European inhabitants and any other section.

Moreover, any person who convenes, addresses or prints notices of a prohibited meeting with knowledge of that prohibition is guilty of an offence. The State President can prohibit the publication or dissemination of any document containing information calculated to engender hostility between Europeans and any other section

1/ Criminal Law Procedure Act of 1955, section 44.

2/ Ibid., section 44 (1).

of the population. The Minister of Justice may, if satisfied that any person is fomenting hostility between Europeans and others, by written notice to the person prohibit him from being within any specified area for a stated period.

7. Promotion of Bantu Self-Government Act of 1959

Under this Act the State President may make regulations "generally in regard to any matter which he may consider necessary for the attainment of the objects of this Act". By virtue of this provision Proclamation R.400 as amended by R.413^{1/} was issued in 1960.

Proclamation R.400 as Amended by Proclamation R.413

The substantive provisions are important once the Proclamation has become applicable to any area. All meetings, with exception of those for religious, educational and social purposes or sports, are unlawful unless they are authorized by the Native Commissioner. Surrender of all arms and ammunition is mandatory for all persons within forty-eight hours of the application of the Proclamation to any area, and thereafter possession of arms will be at the discretion of the Commissioner. It is made an offence for any person to make statements or do any act which is intended or likely to subvert or interfere with the authority of the State or to engage in any threat, boycott, or violence directed at any person or his property; it is also unlawful to organize or take part in any organized boycott of any meeting convened by an officer of the State or Chief or of any boycott directed against any person; it is provided that no interdict or legal process shall issue for any order issued, decision or direction given under these regulations; nor shall any order, decision or direction be suspended by reason of an appeal against a conviction under these regulations.

Under one regulation whenever an officer^{2/} is satisfied that any person has committed an offence or has reason to suspect that any person has or had the intention to commit an offence under the regulations or any other law, he may without warrant arrest or cause to be arrested any person whom he suspects upon reasonable grounds of having taken part in the offence or intended offence. An arrested person may be questioned and may be detained at any suitable place chosen by the officer until the latter is satisfied that the person has answered fully and truthfully all questions put to him which may have any bearing on the offence or intended offence.

1/ Regulations Gazette No. 71 of 12 December 1960.

2/ Defined as "Native Commissioner" or commissioned officer or non-commissioned officer of the Police.

Under another regulation when in detention such an arrested person shall not be allowed to consult with any legal adviser in connexion with his arrest and detention without the consent of the Minister of Bantu Affairs and Development or a person acting under his authority. Similarly a Native Commissioner, a commissioned officer or a non-commissioned officer of the South Africa Defence Force or a peace officer may with or without warrant effect the arrest of any person who has committed any offence or who is suspected upon reasonable grounds of having committed an offence under the regulations.

In this connexion attention may be drawn to the reply by the Minister of Bantu Administration and Development to a question in Parliament on the application of the Proclamation. He stated that the Proclamation is

"to protect all law-abiding persons. The Executive Committee of the Transkeian Territorial Authority have requested that the Proclamation be not repealed and recent events have also indicated that there are subversive activities afoot in the Transkei endangering peace and the lives of certain people and for these and other reasons I am not prepared to consider the repeal of the Proclamation concerned." 1/

It also was stated that as of 1 February 1963, eighty-six persons were being detained in Pondoland for varying detention periods but none exceeding three months. 2/

8. The Unlawful Organizations Act of 1960 (No. 34)

This Act was specifically passed to empower the State President to ban by proclamation the Pan-Africanist Congress and the African National Congress if he was satisfied that the safety and the maintenance of public order was seriously threatened by their activities. The Act further empowers the State President to ban other organizations which in his opinion have been established for the purpose of carrying on directly or indirectly the activities of these two bodies. The Pan-Africanist Congress and the African National Congress were banned in 1960 and have since remained banned.

Such proclamations may remain in force for periods of not more than twelve months but may be extended for further periods not exceeding twelve months at a time.

1/ Republic of South Africa, House of Assembly Debates (Hansard), 1 February 1963, column 629.

2/ Ibid., column 630.

9. Sections of the General Law Amendment Act of 1962 Covering Sabotage

In addition to the various amendments to existing legislation referred to above, this Act creates a new offence of sabotage. The relevant section provides:

"any person who 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 -

- (a) the health or safety of the public;
- (b) the maintenance of law and order;
- (c) any water supply;
- (d) the supply or of distribution at any place of light, power, fuel, foodstuffs or water, or of sanitary, medical or fire extinguishing services;
- (e) any postal, telephone or telegraph services or installations, or radio transmitting, broadcasting or receiving services or installations;
- (f) the free movement of any traffic on land, at sea or in the air;
- (g) any property, whether movable or immovable, of any other person or of the State,

or who 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 such act, or who in contravention of any law possesses any explosives, fire-arm or weapon or enters or is upon any land or building or part of a building, shall be guilty of the offence of sabotage and liable on conviction to the penalties provided for by law for the offence of treason".

The onus is on the accused to prove his innocence by showing that the commission of the alleged act "objectively regarded" was not calculated or intended to produce a long list of stated effects, including the furtherance of any political aim including the bringing about of any social or economic change in the Republic. The Act imposes a maximum penalty of death and a minimum of five years' imprisonment.

Furthermore, changes are made in the criminal procedure law with respect to trials on the charge of sabotage. Such trials are to be without jury and may be without preparatory examination, and in such cases such examination would be joined to the trial itself. Juveniles, that is, those under the age of nineteen, who are

convicted of this offence are subject to the same penalty as adults, thus excluding the degrees of punishment which are normally applied to such persons. And finally it is provided that acquittal on a charge of having committed sabotage would not preclude the subsequent trial of the acquitted person on any other charge arising out of the acts alleged in respect of the charge of sabotage.

10. General Law Amendment Act, 1963

The Act carries the process of enlarging the power of the Government in dealing with organized resistance and alleged sabotage by the Bantu population further.

In the first place the Act increases the administrative powers of certain public officials: the Minister of Justice, if he is satisfied that any person serving a sentence of imprisonment imposed under a number of Acts^{1/} is likely to advocate, defend or encourage the achievements of any of the objectives of communism^{2/} can by notice prohibit such a person from absenting himself, after serving such sentence, from a prison or any other place as directed for a stated period. While these provisions will lapse on 30 June 1964, their operation may be extended by resolution of Parliament.

In the second place any commissioned officer as defined in the Police Act is empowered to arrest without warrant or cause to be arrested any person whom he suspects upon reasonable grounds of having committed or having intended to commit any offence under the Suppression of Communism Act, the Unlawful Organizations Act of 1960, or the offence of sabotage or any person who is in possession of any information relating to any such intention or offence. Upon arrest the officer may detain or cause to be detained such person for interrogation until such time as he may have satisfactorily replied to all questions, provided that no such persons shall be detained for more than ninety days on any particular occasion when he is arrested. Detained persons may only be visited by a Magistrate once a week and no court has jurisdiction to order the release of any person so detained, although the Minister may at his discretion release such persons from custody.^{3/}

^{1/} These Acts include the present Act, the Public Safety Act of 1953, the Criminal Law Amendment Act of 1953, the Riotous Assemblies Act of 1956, and the General Law Amendment Act of 1962.

^{2/} As defined in the principal Act, the Suppression of Communism Act of 1950 (No. 44), as amended.

^{3/} It may be noticed that the scope of the power given to the police here is exactly the same as was given the police in the Transkei by virtue of Proclamation R.400 as amended and discussed above.

In the third place the Minister of Justice is empowered whenever he considers it to be in the public interest to prevent unauthorized persons from being within any place or area to declare any place or area to be a protected place. Upon such publication in the Gazette any person who without the consent of the person in charge of any such place, who enters or is found within such a place is guilty of an offence and liable upon conviction to imprisonment for a period not exceeding fifteen years.

In the fourth place any officer in charge of a post office or telegraph office may now detain any postal article or telegram which is reasonably suspected of containing anything which would afford evidence of the commission of any offence or to further the commission of any offence or its detection.

The State President is empowered to declare by proclamation that an organization in existence or which was in existence after 7 April 1960 is in fact an unlawful organization under the terms of a proclamation under the Suppression of Communism Act and was in fact at all times subsequent to 8 April 1960 an unlawful organization, with all the consequences under the Suppression of Communism Act (discussed above). It is provided that in any criminal proceedings any act or omission proved with reference to any organization corresponding to the description or known by a name corresponding to the name of a declared unlawful organization shall be deemed to have been proved with reference to the unlawful organization referred to in a proclamation by the State President. Furthermore any person who is at any time during the period between the date specified and the date of publication of a proclamation an office bearer or member of such an organization shall for the purposes of any criminal proceedings be deemed an office bearer of an unlawful organization with all the consequences following from that fact. Courts have no jurisdiction to pass on the validity of any proclamation issued under this section by the State President.

Finally the Act creates two new offences: Any person who is or was resident in the Republic and who has

- (1) "at any place outside the Republic and at any time after the commencement of this Act, advocated, advised, defended or encouraged the achievement by violent or forcible means of any object directed at bringing about any political, industrial, social or economic change within the Republic by the intervention of or in accordance with the directions 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, or the achievement of any of the objects of the definition of communism" 1/ or

- (2) "at any time after the commencement of this Act, undergone any training outside the Republic or obtained any information from a source outside the Republic which could be of use in furthering the achievement of any of the objects of communism or of any body or organization which has been declared to be an unlawful organization under the Unlawful Organizations Act, 1960, and who fails to prove beyond a reasonable doubt that he did not undergo any such training or obtain any such information for the purpose of using it or causing it to be used in furthering the achievement of any such object"

shall be guilty of an offence. Upon conviction such a person would be subject to the death penalty or at least five years' imprisonment, and young persons shall be treated on an equal footing with adults for this purpose.

1/ As defined in the Suppression of Communism Act of 1950 as amended.

