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£SOUTH AFRICA

@Oral statement by Amnesty International to the 49th Session of the United Nations Commission on Human Rights

Mr Chairman,

Despite hopeful developments in the early part of the year, 1992 ended with the majority of the country's population still disenfranchised by the constitution and living in conditions of poverty and fear. Negotiations over a new constitutional framework foundered amidst escalating political violence in which more than 3,000 people died.

In June 1992 Amnesty International published a report on the government's human rights record¹ which documented incidents of politically-motivated killings, assaults, torture and other serious human rights violations by members of the security forces or by others acting with their acquiescence. The report noted that, in the vast majority of cases, security force members and others implicated in these human rights violations had not been called to account for their actions. It concluded that the lack of vigorous and credible investigations and actions against human rights violators had reinforced a sense of impunity amongst the security forces and those forces acting with their acquiescence. This atmosphere of impunity resulting from what can at best be described as official negligence has been a major factor contributing to the perpetuation and escalation of the violence since 1990.

Amnesty International's concerns about this lack of accountability have been reinforced by later developments. These include, notably, the government's enactment last November of the Further Indemnity Act, effectively granting impunity to human rights violators; the government's failure to establish an independent judicial inquiry into deaths in

¹South Africa: State of Fear. Security force complicity in torture and political killings, 1990-1992.

police custody, despite more than 120 deaths in suspicious circumstances in 1992; and the government's failure to take steps against key senior military officers implicated in human rights violations and unlawful covert activities against opposition organizations. In addition the government continues to refuse to take responsibility for the protection of the human rights of South Africans living in the "homelands".

The government underscored the message of impunity for human rights violators inherent in the Further Indemnity Act by refusing, in the face of widespread public demand, to acknowledge the seriousness of the problem of the alarming death rate amongst uncharged detainees in police custody and order an independent judicial investigation. More than 120 detainees, held for political or criminal investigation reasons, died in suspicious circumstances in police custody during 1992.

The case of 19-year-old Simon Mthinkulu, who died soon after being arrested by police in Sebokeng township on 14 July 1992, provoked a leading South African pathologist, Dr Jonathan Gluckman, to make public his concern that the police had killed scores of people in their custody. Dr Gluckman had performed a post-mortem examination on Simon Mthinkulu and found injuries on the body consistent with eye-witness accounts of a brutal police assault on the young detainee. As a result of his public stance, Dr Gluckman was subjected to death threats and his office was placed under electronic surveillance, apparently by the authorities. The authorities released a report which obscured the evidence of unlawful police actions and attacked Dr Gluckman's integrity. The authorities' response, in our view, can only have encouraged further abuses by the police. Representatives of Amnesty International visiting South Africa only last month heard disturbing reports of continuing assaults and torture by members of the South African Police. In one case a 15-year-old boy arrested on 8 January 1993 was reportedly suspended from an iron bar and kicked and beaten into a state of unconsciousness by a police station commander and other police officers in the Natal Midlands. Scores of residents from Bruntville township, detained by police using emergency powers in force in the area in January 1993, were tortured during interrogation sessions conducted in isolated locations outside police stations.

There was one significant concession from the government in late 1992 to the allegations of torture and ill-treatment in custody, in the form of an agreement reached with the International Committee of the Red Cross (ICRC). In October 1992 the government consented to give the ICRC access to all detainees in police custody, to examine conditions of detention and recommend possible improvements. However, this agreement sets in train a confidential procedure which, although important, cannot replace the need for the Government to make a full public disclosure of the truth concerning the long-standing and gross violations of the rights of prisoners in South Africa.

On 19 December 1992 the State President announced that he had ordered the suspension from duty or the early retirement of 23 military officers for alleged involvement

in illegal political activities, including murder. President De Klerk's announcement came in the wake of the Goldstone Commission's² seizure of documents from a secret military intelligence base, which revealed that the Chief of Staff of Military Intelligence had authorized the operations of a task force aimed at destabilizing the African National Congress (ANC) and its military wing. While the State President's announcement appeared to indicate a new willingness to take action, key senior officers implicated in assassinations of government opponents and covert operations against the opposition remain in post. At the same time the government's assurances that some dismissed members of the military and their civilian collaborators will be prosecuted must be set against the record of the past three years, including two judicial inquiries in 1990 and 1991 which uncovered evidence of murder, poisoning, kidnapping, arson, perjury and destruction of evidence by members of covert military and police units. Only one prosecution - for perjury - has been initiated so far as a result of these disclosures.

On 7 September 1992, the world was treated to the shocking spectacle of unarmed demonstrators being shot down in droves as they attempted to cross the frontier of Ciskei, one of the "homelands" declared independent by the South African Government yet without any international recognition. Ordered to conduct an investigation into the killings, the Goldstone Commission condemned the actions of the Ciskei Defence Force as "morally and legally indefensible" and urged the Ciskei authorities to investigate and prosecute those responsible for the resulting deaths and injuries. There is no indication that the authorities have yet taken any action. Despite continuing human rights violations, including arbitrary detention, torture and killings - as for instance in the case of a prominent community activist, Sister Jeanette Mahongo, killed by a death squad apparently linked to the Ciskei Security Police last October - the South African Government continues to cling to the fiction of Ciskei's "independence", refusing to authorize further interventions by the Goldstone Commission. Despite their appeals for action, the "homeland's" residents remain deprived of any access to impartial policing or independent investigations of their complaints.

In addition to its concerns regarding the need for accountability within the state security forces, Amnesty International, in its December 1992 report Torture, ill-treatment and executions in African National Congress camps, called upon the ANC to ensure that those responsible for serious human rights abuses, such as torture and arbitrary killings, are never allowed to hold positions of authority within that organization or under any future South African administration. In addition, they should be brought to justice and never be put in a position where they have responsibility for law enforcement or custody of prisoners. Amnesty International is continuing to monitor the ANC's implementation of its publicly made commitment to address these issues.

²The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, chaired by Mr Justice Goldstone

Mr Chairman,

Considering the possibilities for real change that have emerged in South Africa since 1990 and the frequent government statements acknowledging the need for reforms within the security forces, it is extremely disappointing that Amnesty International needs to repeat here exactly what it said at the Commission one year ago:

"Unless and until the government takes adequate steps to demonstrate publicly and unequivocally that all members of the security forces who are involved directly and indirectly in torture, extrajudicial executions and other human rights violations will be brought to justice the current climate of fear, frustration and high loss of life will continue."

The international community, particularly the Commission, needs to send a strong message to the Government of South Africa that their continuing disregard for internationally accepted human rights standards must stop.

Thank you, Mr Chairman.