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**STATEMENT SUBMITTED BY AMNESTY INTERNATIONAL TO THE
UNITED NATIONS SPECIAL COMMITTEE AGAINST APARTHEID**

Amnesty International welcomes this opportunity to submit information to the UN Special Committee against Apartheid on the occasion of the UN Day of Solidarity with South African political prisoners. We welcome the attention given by the Special Committee to the plight of victims of human rights violations in South Africa. We hope that this will contribute significantly to maintaining international focus upon the continuing detention, torture and ill-treatment of political activists and others in South Africa.

During the proceedings of the Special Session of the UN General Assembly on Apartheid and its destructive consequences in Southern Africa held in December 1989, Amnesty International urged the South African government to take a number of steps immediately in order to improve protection of, and respect for human rights. In particular: Amnesty International called on the government:

- to release immediately and unconditionally all prisoners of conscience, and to release all other political detainees unless they were to stand trial promptly and fairly on recognizably criminal charges;

- to repeal legislation providing for indefinite incommunicado detention without trial and to bring all laws fully into accordance with the requirements of the International Covenant on Civil and Political Rights and other international human rights instruments; and

- to state publicly and unequivocally that torture and ill-treatment of prisoners will not be tolerated and to establish an appropriate mechanism to ensure that all allegations of torture or ill-treatment are subject to independent and impartial investigation, with those responsible for such violations being brought to justice.

Despite some progress regarding the release of political prisoners as a result of preliminary negotiations between the government and the African National Congress (ANC), scant progress has been made towards eliminating serious human rights violations resulting from the existence and use of the powers of detention without trial. On the contrary, the security forces remain equipped with an awesome array of powers allowing them to incarcerate people without charge or trial for varying periods, including indefinitely, and often beyond the reach of the courts and independent monitors. At the same time and undoubtedly as a consequence, reports of ill-treatment, torture and deaths in custody have continued to be received by Amnesty International.

A disturbing element in the pattern of detentions this year has been the frequent and vigorous use by the police of their powers to detain people indefinitely, incommunicado and in solitary confinement, under the terms of section 29 of the Internal Security Act (74 of 1982). Between 1 January and early October 1990 at least 183 people had been held under this provision for various periods of time, of whom 126 were still being held as of 9 October. The law grants the police powers which render them virtually unaccountable for their actions. Among the dozens who have fallen victim to it are internationally-known members of the ANC, local community activists and a human rights lawyer. Cases include the following.

- Thabiso RADEBE, a member of the Thembisa Youth Congress who was arrested in Thembisa Hospital, Kempton Park, Johannesburg, where he was being treated for extensive injuries inflicted on him by a group of people who attacked him on 15 June 1990, the second violent assault inflicted on him in the space of two months. He vanished from the hospital between 18 and 19 June. Seeking his whereabouts, his lawyer was informed by the police that they were holding him under section 50 of the Internal Security Act, allowing him to be held in administrative detention, without charge, for 14 days, but permitting access to him by lawyers and family members. However, when his lawyer attempted to visit him, the police refused access on the grounds that the detainee was now held under section 29. Thabiso Radebe has suffered previous periods of detention without trial, notably under national state of emergency powers between 1986 and 1989. He was released under a restriction order in 1989 and went into hiding because of harassment and threats against his life. In late April 1990, after he had returned to live openly in his home township of Thembisa, he was attacked by a group of people who shot him in the stomach and left him for dead. The group reportedly included a person who is reputed to be an "Askari" - a name used for former members of the ANC military wing recruited to work for the South African security forces in units alleged to have carried out clandestine killings. Almost four months later, Thabiso Radebe is still held in section 29 custody. For a period in August he went on hunger-strike apparently to protest his continuing detention without charge or trial.

- J B SIBANYONI, chairman of the Ekangala Civic Association and treasurer of the National Association of Democratic Lawyers (NADEL), who was arrested on 28 June 1990 at his home in Ekangala Township in the "homeland" of KwaNdebele. On the following day the police informed his lawyer that he was being held under the Criminal Procedure Act (51 of 1977), which requires the police to either release a suspect or bring him or her before a court within 48 hours of arrest. When J B Sibanyoni's lawyer attempted to consult with him, the police terminated the consultation and denied further access on the grounds that Mr Sibanyoni was being held under section 29. Since then Mr Sibanyoni has been denied access to his lawyer and relatives. An urgent application brought in the South African

Supreme Court in July for an order for his release was unsuccessful. At the time of his arrest, Mr Sibanyoni was acting on behalf of Tshepo Matlala and Sello Mathebe, two young people who had sought his help, alleging that they were being taken to make a statement against their will before a magistrate at Mkobola Magistrate's Court in KwaNdebele. Tshepo Matlala and Sello Mathebe are currently in police custody under section 29.

- Yusuf MAHOMED, a pharmacist who was arrested by the police on 19 August 1990 in Harding, Natal province. He has been held since then under section 29.

On 22 August he was admitted to Johannesburg Hospital suffering from severe depression as a consequence of his detention conditions and the recent death of his father. He has attempted suicide on at least three occasions since his arrest, according to medical reports. Hospital medical doctors regard him as being gravely at risk were he to be further interrogated or returned to police cells. In early October 1990 lawyers succeeded in gaining an interim injunction from the Supreme Court prohibiting the police from visiting or interrogating Yusuf Mahomed in hospital - although he remains there under police guard and he is still denied access to his lawyer and relatives. On 16 October the court will consider an application for his release from detention.

- Sathyandranath "Mac" MAHARAJ, a member of the National Executive Committee (NEC) of the ANC and of the South African Communist Party (SACP) Central Committee who was detained under section 29 on 25 July 1990. On 12 September he was admitted to St Aidan's Hospital, Durban, reportedly suffering from a serious neck injury as a result of ill-treatment at the hands of the police.

In early August Mac Maharaj reportedly told the ANC Deputy President, Nelson Mandela, in the presence of a senior police official, that he had been "banged around like hell", and had his head knocked against a wall by the police after his arrest. This alleged assault is said to have exacerbated an old injury which Mac Maharaj had suffered when he was tortured during detention in 1964. Mac Maharaj continues to be held under police guard in hospital and denied visits from his lawyer, private doctor and relatives. He has, however, managed to communicate his intention to lay a charge of assault against the police.

- Jabulani SITHOLE, a mathematics lecturer at the University of Zululand and active in the ANC and Lamontville Residents Association in Durban who was detained under the terms of section 29 in mid-July 1990. Mr Sithole is an asthmatic and a paraplegic. He was detained without charge previously for approximately two-and-a-half years under the national state of emergency.

- Pravin GORDHAN, a pharmacist and an executive member of the Natal Indian Congress (NIC) who was detained under the terms of section 29 on 13 July 1990.

As a result of information that Pravin Gordhan was being assaulted, his lawyers applied to the Supreme Court for an interdict restraining the police from assaulting him. Although the police initially denied the allegation of assault, when the case came before the Durban Supreme Court on 16 August 1990, the Minister of Law and Order and the police gave an undertaking that no further assaults would occur. Pravin Gordhan was detained previously under security legislation in 1981-2 and in 1985. During his detention in 1982 he was admitted to the psychiatric ward of a Durban hospital. He later initiated a civil damages suit against the police for alleged assault while in detention. Pravin Gordhan suffers from a skin ailment, psoriasis. The police continue to deny him access to his lawyer and private doctor.

- Billy NAIR, an executive member of the NIC and SACP Central Committee member who was detained under the terms of section 29 on 23 July 1990. In 1984 Billy

Nair was released from 20 years' imprisonment for ANC activities. He was detained without charge from August to October 1985 and subsequently instituted legal proceedings against the police for alleged assault. Prior to this most recent detention he had undergone a serious operation on one of his legs. On 10 September 1990 the 60-year-old was admitted to St Aidan's Hospital, Durban, apparently after suffering a heart attack in detention. While he was undergoing treatment in hospital, the police released him from detention without charge. During his detention the police allegedly subjected him to prolonged interrogation while keeping him standing, and to sleep deprivation.

- David MADURAI, a youth and community activist with the United Democratic Front (UDF) who was detained between 16 January and 3 May 1990 under the terms of section 29. On 5 February 1990 the Supreme Court (Durban and Coast Local Division) issued an interim order restraining the Minister of Law and Order and the police from assaulting and/or threatening him by unlawful means. The order was made final on 22 February 1990 after the court received evidence from a prison medical officer and a magistrate confirming allegations that the police had subjected David Madurai to beatings, partial suffocation and threats of electric shock torture while stripped naked and held at C R Swart Square, the police headquarters in Durban. As a result of these assaults David Madurai required treatment in a Durban hospital. On 3 May he was released from section 29 detention and transferred to Durban Westville Prison awaiting trial on charges of sabotage, of wilfully causing an explosion, attempted murder and attempting to escape from custody. The prosecution withdrew all charges against him in court in 17 July 1990 and he was released.

- Donald MADISHA, a 25-year-old who was arrested in Mahwelereng township, Potgietersrus, in the northern Transvaal on 16 January 1990. He was still in police custody under the terms of section 29 until his death, allegedly as a result of suicide, on about 31 May 1990. Throughout this nearly five-month period of incarceration without charge or trial, Donald Madisha was kept in solitary confinement, at a location unknown to his family or his lawyer, and denied access to anyone other than his interrogators. Donald Madisha is one of at least 14 people who have died under suspicious circumstances in police custody during the first nine months of 1990. In only one of these cases, that of Clayton Sizwe Sithole who allegedly committed suicide on 27 January 1990 while in section 29 detention, has the government ordered an independent, judicial inquiry into the circumstances.

During his inquiry into the circumstances surrounding the death of Clayton Sizwe Sithole, Mr Justice R J Goldstone referred to what he said were the "drastic" and "serious inroads" made into the normal rights and privileges of citizens by the provisions of section 29 of the Internal Security Act. A regional commissioner of police acknowledged to Judge Goldstone's inquiry that even the ostensible safeguards contained in regulations covering the treatment of section 29 detainees were not observed by the security police. The continuing serious allegations of assault and torture, and at least two deaths in section 29 custody this year serve to underscore the urgent need for the South African government immediately to repeal legislative provisions allowing for indefinite incommunicado detention and to ensure that all members of the security forces are held accountable for human rights violations that they commit. In addition, Amnesty International believes the government should institute a full, independent judicial inquiry into the persistent allegations of torture of detainees held under section 29 of the Internal Security Act and other provisions of the law, and bring to justice those police officers found to be responsible.

These and other appropriate measures are necessary, partly as a demonstration of good faith by the government at this critical stage of the country's history, and equally importantly as a step towards regaining control over members of the security forces, who appear to have become a law unto themselves. A recent dramatic illustration of this state of lawlessness amongst those charged with responsibility for maintaining law and order occurred in the arrest and "disappearance" of John Fonono MCHUNU, a member of the ANC's military wing. Mr Mchunu "disappeared" on 5 September 1990 following his arrest in Durban apparently by a combined force of regular police and "Askaris". His family, finding the police uncooperative in their frantic search for their missing relative, made an application for a habeas corpus order in the Durban Supreme Court. During subsequent proceedings it emerged that the police had taken John Fonono Mchunu and another man arrested with him, David Shezi, to King's Park Rugby Stadium where they interrogated them from early afternoon until nearly midnight. David Shezi was released and threatened with rearrest if he revealed the whereabouts and circumstances of John Fonono Mchunu. The presiding judge commented that he found it "alarming" that the police should consider it proper to take people they wish to question to a stadium and question them until late at night, "to take them somewhere with no record of their having been booked in and nothing written in the occurrence book or any other official record of it." A further disturbing element in the story was the conflicting statements issued by the police about their involvement with and handling of John Fonono Mchunu's case. Police Liaison Officer Brigadier Leon Mellet publicly denied that an arrest had occurred. Lieutenant-Colonel Andrew Taylor of the Durban Security Police admitted that they had arrested Mr Mchunu and questioned him at the stadium and claimed that they had returned him that night to his home in Lamontville. A third senior police official stated that after the interrogation Mr Mchunu was taken to a "safe place", as he had agreed to cooperate with the police, and that he had subsequently escaped. On about 23 or 24 September, John Fonono Mchunu took refuge in the US Consulate in Durban. As a result of his allegations of abduction, assault and threats against his life if he failed to cooperate with the police in pointing out ANC members, the Durban Supreme Court issued a temporary interdict against the Minister of Law and Order, the South African Commissioner of Police and members of the forces under their control, restraining them from further assaulting John Fonono Mchunu.

On the occasion of the United Nations Day of Solidarity with South African Political Prisoners and in light of the continuing grave violations of human rights committed against political prisoners in South Africa, Amnesty International reiterates its appeal to the South African government to act without delay to repeal legislation providing for indefinite incommunicado detention and to introduce full and effective safeguards to protect detainees from torture or ill-treatment and to ensure that critics and opponents of the government are not subjected to extrajudicial execution.