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ECONOMIC AND SOCIAL COUNCIL  
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agenda\*\*  
HUMAN RIGHTS

Measures to be taken against Nazi, Fascist and neo-Fascist  
activities and all other forms of totalitarian ideologies  
and practices based on racial intolerance, hatred and  
terror

Report of the Secretary-General

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## I. INTRODUCTION

1. At its forty-first session, the General Assembly, in its resolution 41/160 of 4 December 1986, again condemned and expressed its determination to resist all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist ideologies, based on racial, ethnic, or other exclusiveness or intolerance, hatred and terror, which deprive people of basic human rights and fundamental freedoms and of equality of opportunity; and invited all States and international organizations to submit to the Secretary-General their comments and information on the implementation of the resolution.
2. The General Assembly, in the same resolution, requested the Secretary-General to submit a report, through the Economic and Social Council, to the Assembly at its forty-third session, in the light of the discussion that would take place in the Commission on Human Rights and on the basis of comments provided by States and international organizations.
3. In compliance with that resolution, the Secretary-General sent communications to Governments, specialized agencies and international organizations requesting other comments on the above-mentioned issues. The replies received are summarized in the present report (see sects. III and IV below).

## II. CONSIDERATION BY THE COMMISSION ON HUMAN RIGHTS

4. In accordance with General Assembly resolution 2839 (XXVI) of 18 December 1971, the Commission on Human Rights maintained on its agenda, since its twenty-eighth session in 1972, an item concerning measures to be taken against ideologies and practices based on terror or on incitement to racial discrimination or any other form of group hatred.
5. Pursuant to General Assembly resolution 36/162 of 16 December 1981, the item has been considered by the Commission on Human Rights since its thirty-eighth session under the title "Measures to be taken against all totalitarian or other ideologies and practices, in particular Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences".
6. During its forty-second session, the Commission on Human Rights considered the item and adopted resolution 1986/61, in which the Commission expressed its decision to include the item on the provisional agenda of its forty-fourth session and thereafter to consider it on a biennial basis.
7. During its forty-fourth session, the Commission on Human Rights considered the item at its 38th, 39th and 40th meetings, on 26 and 29 February 1988. The views expressed during the consideration of the item are contained in the summary records (E/CN.4/1988/SR.38-40).

8. At its 55th meeting, on 10 March 1988, the Commission on Human Rights adopted resolution 1988/63, paragraphs 1 to 8 of which read as follows:

"The Commission on Human Rights,

"1. Again resolutely condemns all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences;

"2. Expresses its determination to resist all totalitarian ideologies, and especially their practices, which deprive people of basic human rights and fundamental freedoms and of equality of opportunity;

"3. Considers that the pursuit of totalitarian ideologies and practices represents a serious threat to the exercise of the fundamental human rights, including the rights to life, liberty and security of person;

"4. Considers further that free and widespread participation by all levels of the population in democratic institutions based on respect for the human rights proclaimed in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international instruments is one of the most effective forms of defence against all totalitarian ideologies;

"5. Calls upon all States to take the necessary measures to ensure the thorough investigation and the detection, arrest, extradition and punishment of all war criminals and persons guilty of crimes against humanity who have not yet been brought before a court and appropriately punished;

"6. Calls upon all Governments, the appropriate specialized agencies and intergovernmental and international non-governmental organizations to intensify measures against all the ideologies and practices described in paragraphs 1 and 2 above;

"7. Calls also upon all Governments to pay constant attention to educating the young in the spirit of respect for international law and fundamental human rights and freedoms and against Fascist, neo-Fascist and other totalitarian ideologies and practices based on terror, hatred and violence;

"8. Decides to include in the provisional agenda of its forty-sixth session an item entitled "Measures to be taken against all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences."

### III. INFORMATION PROVIDED BY STATES

#### A. Argentina

9. The Ministry of Foreign Affairs and Worship of Argentina indicates that international instruments are an integral part of the internal legal order, in accordance with the provision in article 31 of the National Constitution that treaties with foreign powers are the supreme law of the nation.

10. Thus, in its article 16, the National Constitution specifically supports the principle of non-discrimination:

"The Argentine nation does not admit prerogatives of blood or birth; in it there are no personal privileges or titles of nobility. All its inhabitants are equal before the law and admissible for employment without any other requisite than fitness. Equality is the basis of taxation and of public burdens."

11. Article 14 proclaims, among other fundamental rights, the right of citizens to publish their ideas through the press without previous censorship and to profess their religion freely. Article 19 establishes the right to privacy and the principle of legality:

"The private actions of men that in no way offend public order or morality or injure a third party are reserved only to God and are exempt from the authority of the magistrates. No inhabitant of the nation shall be obliged to do what the law does not command or be deprived of what it does not forbid."

12. In giving aliens the same civil rights as citizens, article 20 condemns discrimination on grounds of ethnic origin.

13. The Penal Code of the Argentine nation, recently amended by Act 23/077, on the protection of the constitutional order and democratic life, provides in its article 80, paragraph 4, for a sentence of life imprisonment on anyone who kills another person out of racial or religious hatred. This motive is also regarded as an aggravating circumstance in crimes involving harm to the body or health (article 82), injury (article 92) and the misuse of weapons (article 104). Religious or racial grounds constitute an aggravating circumstance in the crime of illegal deprivation of liberty (article 142, para. 1) and in cases of ill-treatment or deprivation of liberty by public officials (article 144 bis). Under article 213, vindication of the commission of any crime, including vindication of the person sentenced for a crime, is a punishable offence and article 213 bis treats as punishable anyone who "organizes or takes part in permanent or temporary groups which, though not covered by article 210 of the Code (illegal associations), seek as their primary or subsidiary objective, to impose their own ideas or to combat those of others through force or fear, by the very fact of being a member of the association". Article 226, introduced by Act 23,077 on protection of the constitutional order and democratic life, provides for the punishment of anybody "who takes up arms to change the Constitution or to overthrow the national

Government or any subdivision thereof, or to extract therefrom any concession or measure, to prevent, although temporarily, the free exercise of its constitutional functions, or its formation or renewal in the ways and terms prescribed by law". It is regarded as an aggravating circumstance if this last offence is "aimed at bringing about a permanent change in the democratic system of government, abolishing the federal organization, eliminating the separation of powers, abrogating the fundamental rights of the human person or suppressing or diminishing, although temporarily, the economic independence of the nation" or "committed by persons belonging to, employed by or attached to the military". Lastly, article 226 bis, also introduced by Act 23,077, makes it also an offence to threaten to commit the above-mentioned offences.

14. Under article 953 of the Civil Code of the Argentine Republic, the objects of juridical acts must be, inter alia, acts which are not unlawful, prohibited by the laws or opposed to liberty of action or of conscience or prejudicial to the rights of a third person. Juridical acts which do not conform to this provision are as void as if they had no object.

15. Among the laws relevant to the subject under consideration, it is worth noting the Fundamental Act on Political Parties, No. 23,298, which requires such parties to be organized democratically and also prohibits them from including in their names "words which reflect racial, class or religious antagonisms, or which are likely to provoke them" (article 16).

16. An example of another provision that protects society against the dissemination of totalitarian ideologies is Act 18,019 on the rating of films. It prohibits scenes or films in which crime is extolled, national security endangered, relations with friendly countries affected, or the interests of the fundamental institutions of the State harmed.

17. Having ratified the International Convention on the Elimination of All Forms of Racial Discrimination, Argentina has launched an international undertaking to adopt effective measures to that end and also to declare as a punishable offence "all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof" (article 4 (a)).

18. In this connection, the democratic Government, through the Executive Power has drafted a bill designed to deal with this situation. However, it has not yet received legislative approval. Another bill has been put forward in the Congress and approved by the Chamber of Deputies. It is to be hoped that one of the bills will be finally adopted shortly.

19. Lastly, it should be borne in mind that any legislation on this subject should be very precise, so as not to impair, on the one hand, the freedom of expression of ideas and, on the other, the right to act in any way that does not harm third parties or offend public order or morality. Democracy must be defended but by democratic methods and not at the cost of freedom.

20. The right to freedom of expression is both a specific human right and a guarantee of the other rights. Where men are not able to communicate freely, no other right is secure, since such a situation closes the channels that enable abuses to become known and common cause to be made against them.

21. The pluralist State guarantees the dissemination of different views even where they are radically opposed to those which it itself supports.

22. The limitations on this right should be clear, explicit and carefully defined in order to prevent any possible abuse of power. No steps should be taken to curtail speech or discussion before they take place (prior censorship), but only after an idea has been expressed and its harmful or discriminatory nature has been proved through judicial proceedings.

#### B. Australia

23. The Australian Government states that its position on this issue is explained in Australia's second periodic report under article 40 of the International Covenant on Civil and Political Rights, in particular paragraphs 496 to 508.

24. The Australian Government has no present plans to remove its reservations to article 20 of the Covenant or to article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination.

25. Since that report was lodged, the New South Wales Government established a Working Party to consider proposals for amendment to the New South Wales Anti-Discrimination Act of 1977 to provide remedies for acts of racial defamation. The Working Party has reported to the Government and legislation to deal with racial vilification has been introduced into the New South Wales Parliament.

#### C. Bangladesh

26. The Government of Bangladesh states that the Constitution of the People's Republic of Bangladesh provides for a multiparty political system having due regard to popular participation through adult franchise. This provision not only discourages but also negates the development of extremist ideologies like fascism and nazism in the country's political milieu. It may be mentioned in this connection that Bangladesh is also a party to the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid. Since independence, Bangladesh has opposed all forms of racism and racial discrimination and the abhorrent policy of apartheid in all international forums, in particular the United Nations.

D. Bulgaria

27. The Government of the People's Republic of Bulgaria states that Bulgaria is in wholehearted agreement with the position of principle set forth in many international documents, including resolution 41/160 of the United Nations General Assembly, namely that fascism, nazism, neo-fascism and all other forms of totalitarian ideologies and practices which pose a direct threat to international peace and security are incompatible with action to guarantee, and to ensure the full and effective enjoyment of, all human rights and fundamental freedoms.

28. Fascism is an ideology based on ethnic and racist prejudice, hatred and terror, consisting in the brutal, systematic violation of human rights and fundamental freedoms; a policy of seeking world dominion and the physical annihilation or enslavement of entire peoples regarded as inferior; a policy which extols militarism as the most convenient means of managing the State. Having demonstrated the excesses in ideology and practice to which a totalitarian régime can lead, the threat of fascism remains just as real more than 40 years after the end of the Second World War. We are deeply concerned at the fact that fascism continues to be preached and practised in different forms even today, in various parts of the world. Whether in the form of totalitarian dictatorships or of militarized groupings, it remains a real threat to peace.

29. The Bulgarian Government ascribes particular importance to the need to mobilize the international community against fascism, nazism and neo-fascism and all other totalitarian ideologies and practices based on racial intolerance, hatred and terror. If this campaign is to be successful, a set of provisions and conditions must be introduced in every country to safeguard the existence of a political system which can guarantee the effective enjoyment of all human rights and fundamental freedoms and direct participation by the general public in the management of society; a system under which true socio-economic and political democracy can exist. The problem of ensuring universal acceptance of the international instruments on human rights, and strict respect by all States for the norms of modern international law, is of crucial importance in this regard.

30. The Bulgarian Government believes that only through collective efforts by all States in accordance with the principles of the Charter of the United Nations can the danger of a resurgence of fascism be eliminated, the totalitarian régimes now in existence be abolished and, thus, the tensions in international relations be reduced, peace be consolidated and human rights and fundamental freedoms be effectively enjoyed. This matter assumes especial importance in the light of the need to create a global system of international peace and security, in which socio-humanitarian concerns will be an integral component. In this respect the United Nations and other international organizations have an essential role to play by making greater efforts within their fields of competence to expose the reactionary nature of the ideologies and practice of fascism, racism and other theories that preach hatred of other people and inculcating, among the younger generations in particular, a spirit of peace and friendship between peoples and respect for human rights and fundamental freedoms.



31. The Government of Bulgaria has made known its position of principle on matters relating to fascism, nazism and neo-fascism and all other totalitarian ideologies and practices based on racial intolerance, hatred and terror on more than one occasion. The same position was set forth in the Bulgarian reply to the note by the Secretary-General concerning General Assembly resolution 40/148. Bulgaria will continue to espouse these principles in the future.

#### E. Byelorussian Soviet Socialist Republic

32. The Government of the Byelorussian Soviet Socialist Republic states that it attaches great importance to the consideration by the United Nations of the question of taking action against fascism, nazism and other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror. It was the victory over the ideology and practice of fascism in the Second World War that led to the foundation of the United Nations, the international Organization which has the leading role to play in mobilizing all progressive forces in the world against nazism, fascism and neo-fascism and all forms of racial discrimination.

33. In the opinion of the Government of the Byelorussian SSR, the time has come to take general practical and effective measures against such ideologies, at the level of the United Nations General Assembly as the most appropriate forum for such action.

34. The Byelorussian SSR accordingly welcomes the appeal made to Member States by the General Assembly, in its resolution 41/160, to adopt, in accordance with their national constitutional systems and with the provisions of the International Covenants on Human Rights, as a matter of high priority, measures declaring punishable by law any dissemination of ideas based on racial superiority or hatred and of war propaganda, including Nazi, Fascist and neo-Fascist ideologies. It is also right to appeal to States that have not yet done so to become parties to the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

35. One of the first countries to sign and ratify those Conventions was the Byelorussian SSR. Strict compliance with the provisions of these and other international instruments to which the Byelorussian SSR has acceded is a principle that it follows without fail.

36. The whole political and social way of life in the Byelorussian SSR completely rules out any social, economic, political, legal, ideological or other conditions under which such phenomena as racism, racial discrimination, fascism and nazism could arise and prevail.

37. Any ideology and practical activity based on the violation of human rights and freedoms, racial intolerance or terror, including the ideologies of fascism and neo-fascism, is counter to the very nature of Byelorussian society.

38. The Byelorussian SSR expresses its concern at the revival of nazism, fascism and neo-Fascist activities and at the fact that in a number of countries the proponents of these ideologies are becoming more active and co-ordinating their activities internationally to an ever greater extent. Fascism and neo-fascism in all their manifestations and at all stages continue as before to be the most serious enemies of democracy and represent a permanent threat to peace and progress.

39. The existence of Fascist-type groups can only be explained by the unwillingness of certain Governments to take effective legal, administrative and judicial measures to put an end to their activities.

40. The fact that groups and organizations professing such ideologies exist openly in many countries shows the urgent need for effective measures against these dangerous phenomena, both internationally and nationally. It would seem desirable to undertake a comprehensive study of the measures that ought to be taken at the international and national levels against the revival of nazism and fascism and to organize an international seminar on the subject. In addition, in the Byelorussian SSR's view, consideration should be given to the idea of drafting a declaration on the subject. An urgent recommendation should be made to States that have not yet done so to incorporate in their legislation and subsequently apply in practice the various measures recommended by the General Assembly in resolution 2839 (XXVI) of 18 December 1971 to ensure the speedy disbandment and disappearance of organizations based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin or which attempt to justify or promote racial hatred and discrimination in any form.

41. Ensuring that war criminals cannot escape punishment and clamping down on any neo-Nazi manifestations is not just a legal matter. It is one's duty to the victims of fascism. It is an expression of the unswerving determination of nations to do everything to ensure that war crimes and crimes against humanity are never committed again.

42. The struggle against the ideology and practice of fascism must become an integral part of organized efforts by the international community to strengthen peace and consolidate international security.

43. The international organizations have an active role to play in this connection, particularly by intensifying efforts to expose the reactionary nature of the ideologies and practices of nazism, racism and other anti-human theories and to educate the peoples of the world, particularly young people, in a spirit of peace and friendship among nations.

44. The Byelorussian SSR considers it essential that further steps should be taken to eliminate completely any kind of activity by Fascist and racist organizations and to make any violation of that prohibition punishable by law. Vigilance is called for in the face of the threat of a revival of nazism and fascism in new guises.

45. Serious attention should also be given to the danger of terrorist acts by Fascist, neo-Fascist and other right-wing extremist organizations and groups against nuclear installations, atomic power stations and other nuclear facilities.

The commitment of these groups and organizations to terror and violence makes them a permanent source of terrorist activities that could at any time spread to nuclear targets. It is essential that the General Assembly should call upon the Governments of Member States possessing nuclear installations to take appropriate legislative, administrative and judicial measures to put an end to such activities.

46. In view of the danger that Fascist, neo-Fascist and other right-wing extremist ideologies and practices represent for the peace and security of nations, it would seem advisable for the General Assembly to decide at its forty-third session that a "Week against fascism, neo-fascism and other ideologies and practices based on terrorism, racial hatred and the denial of fundamental human rights and freedoms" should be held every year, beginning on 1 September 1989.

#### F. Canada

47. The Government of Canada provided information, as set forth below, which gives an overview of Canadian policy and practice regarding the activities of groups or organizations propounding totalitarian or racist ideologies. With regard to the debate on these questions in the United Nations, the Canadian Government emphasized its view that it should be as comprehensive and relevant as possible in its coverage of all forms of totalitarianism. Consequently, the debate should give particular attention to those forms of totalitarianism that are most widely and effectively employed in the modern day and that, as such, represent serious threats to the enjoyment of universally recognized human rights and fundamental freedoms.

Implementation of the resolution of the General Assembly entitled "Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror"

1. Measures to draw attention to, prohibit or otherwise deter activities of groups or organizations or whoever is practising these ideologies

#### (a) Section 2 (G) of the Canadian Charter of Rights and Freedoms

48. In Canada there is not a significant problem of persons or groups practising racist or fascist ideologies et al., apart from their seeking to disseminate their views as discussed in 2 below. Therefore, it has not been necessary to adopt measures against such activities.

49. As to the prohibition of the existence of such groups per se, any measures in this regard would need to be consistent with s.2(d) of the Canadian Charter of Rights and Freedoms, which guarantees the right to freedom of association. In Reference re Public Service Employee Relations Act (1987) 1 S.C.R. 313, the Supreme Court of Canada interpreted this provision to guarantee the right to form and join associations, and furthermore the right of such associations to engage in

activities that are constitutionally protected or otherwise legal for individuals. However, the Supreme Court concluded that it did not confer independent rights on the group itself. In reaching this conclusion, the Supreme Court noted as follows at pages 390 and 391:

"In considering the meaning that must be given to freedom of association in s.2(d) of the Charter, it is essential to keep in mind that this concept must be applied to a wide range of associations or organizations of a political, religious, social or economic nature, with a wide variety of objects, as well as activity by which the objects may be pursued. It is in this larger perspective, and not simply with regard to the perceived requirements of a trade union, however important they may be, that one must consider the implications of extending a constitutional guarantee, under the concept of freedom of association, to the right to engage in particular activity on the ground that the activity is essential to give an association meaningful existence."

50. The implications of s.2(d) of the Charter have not as yet been considered in the context of a racist or Fascist group, but clearly, in the light of the above decision, only those of its activities which were otherwise legal for individuals would be constitutionally protected.

(b) Measures relating to war criminals

51. The Government of Canada has recently taken steps to ensure that persons presently residing in Canada who have engaged in activities of a racist or Fascist character in other States can be effectively dealt with in Canada, in particular those who committed war crimes during the Second World War. In March 1987, the Report of the Commission of Inquiry on War Criminals, chaired by Mr. Justice Jules Deschênes, was tabled in the House of Commons. In response to this report, in September 1987 legislation was enacted to the following effect:

(a) To amend the Criminal Code to provide Canadian courts with jurisdiction to prosecute war crimes and crimes against humanity that were committed outside Canada, if these acts would have constituted an offence under Canadian law;

(b) To amend the Citizenship Act so as to deny future Canadian citizenship to those persons who are under investigation for, charged with or convicted of, war crimes or crimes against humanity as defined by the Criminal Code;

(c) To amend the Immigration Act to provide a basis for ensuring that henceforth would-be immigrants who are reasonably believed to have participated in war crimes or crimes against humanity in other countries are not allowed entry into Canada;

(d) In addition, the Government of Canada in 1987 established a War Crimes Commission, the mandate of which is to investigate and, where necessary, prosecute those persons who are alleged to have committed war crimes and who are at present residing in Canada.

(c) Apartheid

52. The Government of Canada considers apartheid to be reprehensible. It has acted both with direct measures in its bilateral relationship and along with other countries in multilateral efforts to press the Government of South Africa to dismantle apartheid and to initiate meaningful negotiations towards a non-racial representative government. For example, in October 1985, the Secretary of State for External Affairs sent a personal letter to some 20,000 government officials, businesses, community groups and individuals, urging them to "raise their voices together to protest against a system that is offensive and abhorrent". Canada has implemented fully the measures agreed to by Commonwealth Heads of Government at their Nassau and London meetings. The Canadian Secretary of State for External Affairs will chair a Committee of Commonwealth Foreign Ministers on Southern Africa established at the October 1987 Commonwealth Heads of Government Meeting. Canada has not become a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid, since the Convention contains provisions that are incompatible with the principles of international law.

2. Measures against the dissemination of ideas based on racial superiority or hatred and of war propaganda

53. The Government of Canada has taken various measures to prohibit the dissemination of racist ideas. For example, the radio and television broadcasting regulations have been amended so as to more comprehensively ban abusive comments or pictorial representations that, when taken in context, tend to or are likely to expose an individual, group or class to hatred or contempt, inter alia, on the grounds of race. Another example is that through an amendment to tariff item 99201-1 of Schedule C to the Customs Tariff, R.S.C. 1970, c. C-41, "material that constitutes hate propaganda within the meaning of the Criminal Code" was explicitly listed among the materials which is prohibited from entry into Canada. Prior to that date, hate propaganda was also prohibited entry under tariff item 99201-1, under the more general category of material of an "immoral or indecent" nature.

54. The question of the compatibility of such legislation with the guarantee of freedom of expression in s.2(G) of the Canadian Charter of Rights and Freedoms has so far been answered in the affirmative by the courts. Thus, in Taylor et al. v. Canadian Human Rights Commission (20 April 1987), the Federal Court of Appeal held that s.13 of the Canadian Human Rights Act, which prohibits the use of the telephone to disseminate hate messages, was consistent with the Charter. Similarly, in R. v. Keegstra (1984), 19 C.C.C. (3d) 254, the Alberta Court of Queen's Bench upheld the validity of s.281.2 of the Criminal Code, which prohibits the incitement of hatred of any group, and in Zundel v. R. (1987), 35 D.L.R. (4th) 338, the Ontario Court of Appeal upheld the validity of s.177 of the Criminal Code, which prohibits the spreading of false news, in the context of publications denying the occurrence of the holocaust (leave to appeal to the Supreme Court of Canada refused, 4 June 1987).

3. Refraining from practices aimed at the violation of basic human rights

55. The Government of Canada, although it may from time to time adopt measures that give rise to challenges on the basis of the Canadian Charter of Rights and Freedoms, does not adopt them with the aim of violating basic human rights. Furthermore, by entrenching the Charter in the Canadian Constitution, it has provided an effective remedy for those persons whose rights may inadvertently be infringed. Thus, s.24 of the Charter enables individuals whose Charter rights of freedom have been infringed to apply to a court for an appropriate remedy, and s.52 of the Constitution Act, 1982 provides that any laws inconsistent with the Constitution of Canada are to that extent of no force or effect. Lastly, legislation has recently been enacted to require the federal Minister of Justice to examine all proposed legislation for consistency with the Charter, and to report any inconsistency to the House of Commons (Statute Law (Canadian Charter of Rights and Freedoms) Amendment Act, S.C. 1985, c.26).

G. Colombia

56. The Government of Colombia states that Colombia has always been at pains to promote human rights and fundamental freedoms, with no distinction whatsoever as to race, colour, parentage or national or ethnic origin. The Government does not accept racial discrimination as official policy; on the contrary, measures have been enacted in favour of persons who might possibly have been placed in a position of inferiority because of their educational level or lifestyle.

57. Colombia condemns apartheid and similar racist policies, and advocates their abolition.

58. The principle of racial equality is firmly anchored in the national legal system by constitutional and legal provisions. These provisions essentially play a doctrinal and preventative role. However, when the sporadic and individual need arises to punish wrongs based on racial discrimination, the application of these provisions by the authorities enjoys the full approval of Colombian society.

59. The provisions guaranteeing freedom and equality find their basic expression in articles 16 to 53 of the National Constitution and are extensively developed through legislation and government regulations, beginning with the civil, penal and labour codes. It may be stated that those laws and regulations embody, inter alia, individual freedoms and rights relating, without racial distinction, to life and the integrity of the person (including the prohibition of the death penalty), property, work, the right to strike, criminal responsibility of public officials, due process, education, health and other public services, freedom of expression, freedom of choice in religious matters and the inviolability of the home and correspondence.

60. Colombia is aware of its responsibility as a member of the international community and of the fact that, as the United Nations has repeatedly warned, no society can rest on its laurels thinking it has eliminated racism forever. For

this reason Colombia has participated actively in the international community's effort against racism and racial discrimination and has adopted as domestic legislation the majority of the international instruments it signed.

61. Colombia is a party to the following conventions: the International Convention on the Elimination of All Forms of Racial Discrimination, 1966; the Convention on the Elimination of All Forms of Discrimination against Women, 1979; the International Covenant on Civil and Political Rights, 1966; the ILO Convention concerning Discrimination in Respect of Employment and Occupation, 1958; the Optional Protocol to the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights, 1966; and the American Convention on Human Rights.

62. The above-mentioned international instruments fill any gaps in the area of recognition of human rights that might exist in the other legislation in force as, according to Act 7a of 1944, international treaties and agreements become part of domestic legislation as soon as they are approved by Congress.

63. The provisions of the International Covenant on Civil and Political Rights may be invoked before the administrative authorities or the judges and the courts, which may, within their respective functions and powers, adopt the measures needed to protect rights or to re-establish them should they have been violated.

64. At the current legislative session, the National Congress of Colombia will discuss several of the other most important international documents in this field to complete Colombia's accession to the United Nations norms for abolishing racism and racial discrimination.

#### H. Dominica

65. The Government of the Commonwealth of Dominica indicates that Dominica is not party to any of the following Conventions: the International Covenants on Human Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity; and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

66. The Government however indicates that the country has on its Statute Books an Act briefly entitled "Nationality and Racial Offences Act, 1973" (Act No. 31/73), which imposes penalties in cases of discrimination on racial or national grounds in places of public resort, and in cases of incitement to racial or national hatred, and prohibits discrimination on racial or national grounds in the transfer of tenancies. And also the "Genocide Act, 1969" (Act No. 20/69 amended by Act No. 19/74). This law gives effect to the Convention on the Prevention of the Crime of Genocide.

## I. German Democratic Republic

67. The people and Government of the German Democratic Republic follow with concern the activities of Nazi, Fascist, neo-Fascist and racist groups and organizations, which keep increasing in a number of countries. The German Democratic Republic shares the opinion of other States that effective measures against these ideologies and practices are imperative on the international, regional and - where necessary - the national level. They represent serious onslaughts to the elementary rules of the co-habitation of nations, to fundamental freedoms and human rights.

68. The more recent historical past illustrates the necessity of resolute action by the entire international community against all attempts at reviving nazism, fascism, neo-fascism, racism and other totalitarian ideologies. The United Nations has a special responsibility to bear in the struggle against these phenomena. It was founded as a result of the victory over the forces of fascism, nazism and militarism for the purpose of saving "succeeding generations from the scourge of war" and maintaining peace and international security. Today, the United Nations has at its disposal a wide range of possibilities and instruments to counter effectively such ideologies and practices. This is also reflected in General Assembly resolution 41/160. It contains important recommendations and guidelines for eliminating the danger of a revival of fascism, nazism or other ideologies based on racial intolerance, hatred among nations or terror. The measures proposed in this document have the full approval and support of the German Democratic Republic. The German Democratic Republic considers their implementation an essential contribution to fulfilling the obligations of all Member States as laid down in the constituent act of the United Nations. The struggle against all manifestations of Fascist, Nazi, neo-Fascist and racist ideologies and practices has remained a central issue for the United Nations to this day. One of the greatest challenges in this respect is the racist and anti-human policy of the apartheid State in the south of Africa. This is a particularly clear reflection of the dangerous aspects of totalitarianism. Pretoria has raised racism, terror and hatred among nations to the rank of official government policy. To maintain its own régime of terror, the South African racist system defies any law and legislation. Crimes against sovereign neighbouring countries are part and parcel of its day-to-day political practice. What is now called for are compelling actions for the final elimination of the totalitarian racist régime in the south of Africa. The United Nations has a duty to keep stepping up its efforts along these lines.

69. To the German Democratic Republic, the guarantee of equal economic, social, political and civil rights for all citizens regardless of nationality, race, religion or sex is a major basic humanistic policy concern. Through both legislative action and legal practice, as well as the creation of a truly public-spirited and democratic social system, it has ensured that on its territory those forces that perpetrated acts condemned by General Assembly resolution 41/160 or will perpetrate such acts in the future are called to account in accordance with the national laws and the applicable provisions of international law. The German Democratic Republic considers it a task of utmost importance to uphold the legacy left behind by the democratic forces and strata involved in the anti-Fascist



struggle and to check the rebirth of fascism and chauvinism, no matter in what manifestation.

70. In this context, reference should be made to the fact that, since 1945, on what is now the territory of the German Democratic Republic, 12,876 persons have been convicted for war crimes or crimes against humanity as prescribed by international law. Out of this figure as many as 12,147 had been sentenced by 31 December 1950. By providing legal assistance, the German Democratic Republic helped with the prosecution of Nazi and war criminals also in those countries where they had committed such crimes or where they were tracked down. For instance, it made available evidence for the trial against the SS war criminal Barbie, who was recently sentenced to life imprisonment for war crimes and crimes against humanity.

71. In connection with investigations against members of the Fascist "People's Court" (Volksgerichtshof), the competent authority in Berlin (West) has so far received over 7,000 pages of evidence from the German Democratic Republic. Another case was that of Henry Schmidt, former senior official of the Fascist secret police and the SS, whose identity was uncovered after files from the so-called "People's Court" had been scrutinized and as a result of close co-operation with the Czechoslovak Government Commission for the Prosecution of Nazi and War Crimes, the Principal Commission for the Investigation of Hitler Crimes in Poland, the Committee of Anti-Fascist Resistance Fighters as well as the Association of Jewish Communities of the German Democratic Republic. Schmidt was involved in enforcing the Fascist laws and regulations for organized mass murder on whose basis the Jewish population was systematically deprived of its rights, isolated, plundered and exterminated. By submitting false personal data, Schmidt succeeded until recently in concealing his true identity and in living undiscovered in a town in the German Democratic Republic. On 28 September 1987, the Dresden County Court condemned Schmidt on several counts of the crime against humanity to life-long imprisonment on the basis of the statute of the International Military Tribunal, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and pertinent laws of the German Democratic Republic.

72. The German Democratic Republic will continue to do all in its power to ensure that perpetrators of war crimes and crimes against humanity are prosecuted and punished. It will work to the best of its abilities against the re-emergence of Nazi, Fascist and neo-Fascist, as well as other totalitarian ideologies or practices directed against democracy and the peaceful living together of nations and peoples, and will promote confidence-building and international co-operation. The German Democratic Republic expresses the hope that all United Nations Member States, as they implement the purposes and apply the principles formulated in resolution 41/160, will help restrain by appropriate measures those forces that have rallied against the objectives of that resolution.

J. Mongolia

73. The Government of the Mongolian People's Republic consistently advocates the adoption of effective measures against the threat of the resurgence of fascism and neo-fascism and other forms of totalitarian ideologies and practices. The increase in and spread of the activities of neo-Fascist groups and organizations in a number of Western countries is a cause for considerable concern. What is even more alarming is that Fascist groupings are co-ordinating their activity on an international scale, availing themselves in so doing of the support of the ruling circles of Western countries.

74. The existence of organizations that advocate totalitarian ideologies and practices based on racial intolerance, hatred and terror, among them neo-Fascist organizations, is not merely a threat to human rights and basic freedoms, but also a threat to peace and international security, and is an obstacle to the development of friendly relations between States. The activities of these organizations are contrary to all international agreements in the field of human rights.

75. The Mongolian People's Republic shares the concern of the international community that the racist régime of South Africa, relying on the comprehensive support of Western States, continues to follow the shameful policy of apartheid towards the indigenous African population. The continuing illegal occupation of Namibia and acts of aggression against independent African countries are a continuation of this policy.

76. The actions of Israel in the occupied Arab territories, acts of genocide, are also bound to disturb the international community.

77. All these circumstances call for increased efforts and the adoption of effective measures against Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror.

78. The United Nations is called upon to play an important role in this matter. The struggle against nazism and neo-fascism is an important task for the United Nations, which emerged from the struggle against fascism and expressed the resolve in its Charter "to save succeeding generations from the scourge of war".

79. Today, when the most reactionary circles of imperialism are deriving inspiration from revanchism, and are attempting to invalidate the political realities that developed in the world as a result of the victory of progressive and peace-loving forces over fascism and militarism, it is especially important that the peoples should not forget the lessons of the last war and that they should use all possible means to increase joint efforts for the preservation and strengthening of peace and international security.

80. The Government of Mongolia considers that effective measures to counter the activity of Fascist organizations must be taken in the first instance at the national level. In that connection, the Mongolian Government fully supports the appeal to Member States, embodied in General Assembly resolution 41/160, to adopt,

in accordance with their national constitutional systems and with the provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights, measures declaring punishable by law any dissemination of ideas based on racial superiority or hatred and of war propaganda, including Nazi, Fascist and neo-Fascist ideologies. The appeal of the General Assembly to all Member States that have not yet done so to become parties to the International Covenants on Human Rights remains topical.

81. On the occasion of the fortieth anniversary of the Universal Declaration of Human Rights, States should increase their efforts to halt the activity of Fascist organizations and groups. The mass media are called upon to play an important role in exposing the essence of the ideologies and practices of fascism and neo-fascism.

82. The Government of Mongolia, for its part, attaches great importance to the need to mobilize world public opinion for the struggle against Fascist and other forms of totalitarian ideologies and practices. Mongolia participates in the international agreements enumerated in General Assembly resolution 41/160 and carries out its self-assumed obligations to the full. Under the Constitution of the Mongolian People's Republic, direct or indirect restriction of the rights of citizens on account of race or nationality, equally with any advocacy of the ideas of chauvinism or nationalism, is forbidden by law. Mongolia will continue, as in the past, actively to support the efforts of the States Members of the United Nations, and of the Organization itself, to eradicate the ideologies and practices of fascism, nazism, neo-fascism and other totalitarian ideas and practices.

#### K. Panama

83. The Government of the Republic of Panama refers to its opinions and comments concerning Fascist, Nazi and neo-Fascist ideologies contained in document A/41/317/Add.1-E/1986/36/Add.1, the addendum to the report of the Secretary-General submitted to the Economic and Social Council at its first regular session of 1986.

#### L. Poland

84. The Government of the Polish People's Republic presented detailed comments on the subject-matter in its reply to General Assembly resolution 39/114. In replying to Assembly resolution 41/160, it wishes to recall again that for many years Poland has been co-sponsoring General Assembly and Commission on Human Rights resolutions on the measures to be taken against Nazi, Fascist, neo-Fascist activities and all other forms of totalitarian ideologies based on racial intolerance, hatred and terror. Poland's particular interest in the subject is based on the painful experiences of the Polish people during the German Nazi occupation, as well as on the full awareness of Poland's duty to warn everyone of the dangers of Nazi, Fascist and neo-Fascist ideologies which are again becoming popular in some Member States.

85. Nazi and Fascist ideologies based on totalitarianism, racial discrimination and hatred have in the past brought mankind immense suffering and, nowadays, they again pose a serious threat to peace and human rights.

86. In the period 1939-1945, during the years of untold racist terror, unleashed by the German Fascist invaders, the Polish people was subjected to the ruthless policy of extermination, aimed as it was to bringing about a biological annihilation of the entire nation. Never before had the civilized world witnessed the crime of genocide on a scale committed by Hitlerite Germany against the Polish people and other peoples, in concentration death camps, prisons, detention centres, labour camps, POW camps and the ghettos. As a result of the German Fascist occupation of Poland, its policies of terror and extermination, 6,028,000 Polish citizens died, of whom 644,000 perished in hostilities while as many as 5,384,000 were killed as a result of terror unleashed by the invaders. Throughout the five years of the German occupation, an average of 3,000 Polish citizens were killed by the Nazi assassins every single day. On Poland's territory alone the Nazis established 5,870 concentration and death camps. More than 50,000 mass executions were carried out in 20,000 Polish cities and villages.

87. A total of 2,841,500 Polish civilians and prisoners of war worked in slave labour camps contributing under duress a total of 32.6 million work-years for the benefit of the Third Reich. Close to 2,718,000 Poles were driven out of their homes, workshops and farms. Thousands of Polish citizens were killed for giving refuge and shelter to Jewish people.

88. In concentration death camps, Polish inmates, like those of many other nationalities, were subjected to criminal pseudo-medical experiments. Most of those who survived them were crippled for life. The high death rate among the former inmates of concentration camps was caused by illness, resulting mainly from over-arduous work, malnutrition, hunger, cold and lack of suitable sanitary amenities. Tens of thousands of people in Poland still suffer from poor health and disability owing to the consequences of Nazi practices.

89. In sum, out of every 1,000 Polish citizens, 220 died as a result of terror and crimes committed by Nazi Germany, which represents the highest rate of victims for 1,000 people among all the countries allied in the struggle against Nazi Germany.

90. Poland attaches therefore great importance to making its young generation aware of the real facts about nazism and fascism, so well illustrated by the horrible experience of its people during the Second World War, in order to make it vigilant against the revival of these phenomena.

91. It is continuously emphasized in Polish schools, books and mass-media, that during the Second World War the peoples and States of different social and ideological systems and world outlooks were engaged in a joint struggle and co-operation for the defence of freedom and independence, human dignity and basic humanistic values, and that they founded the world organization to save mankind from the scourge of war and to reaffirm faith in fundamental human rights and in the dignity and worth of the human person. It is also stressed that in 1945 the great Powers agreed that German militarism and nazism would be extirpated and the Allies would jointly take, now and in the future, other measures to ensure that Germany would never again threaten its neighbours and the peace of the world.

92. The civilized world has the moral and legal duty to prosecute the perpetrators of war crimes and crimes against humanity and those who at present disseminate and/or practise nazism, Fascist or neo-Fascist ideology and other totalitarian ideologies based on racial intolerance, hatred and terror. Their modern form is represented, too, by the policies of apartheid and all other manifestations of racism.

93. An opinion that tolerance for the activities of organisations propagating nazism, fascism and neo-fascism is proof of democratic values of a given State, is a challenge to human conscience and justice. Poland cannot accept such an approach.

94. The United Nations has made its valuable contribution to the prosecution of Nazi criminals by adopting, in 1968 - on the initiative of Poland - a Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Poland was first to ratify it more than 16 years ago. It is worth stressing that according to the Convention, no statutory limitation shall apply either to inhuman acts resulting from the policy of apartheid, irrespective of the date of their commission.

95. The Polish Government considers that General Assembly resolution 41/160 of 4 December 1986, as well as the previous resolutions concerning the subject, should be promptly and faithfully implemented by all Member States. It follows with deepest concern, on the one hand, that some Governments neglect the provisions of that and similar previous resolutions and, on the other - the existence and intensification of activities of groups and organisations which propagate totalitarian ideologies and practices, including Nazi, Fascist and neo-Fascist ones, and violate human rights and fundamental freedoms, in particular the rights to self-determination, to life, liberty and security of person and to freedom from discrimination, which threatens the purposes and principles of the Charter of the United Nations. The activities of such groups are not only tolerated but also helped and, indeed, encouraged, if only they declare themselves to be anti-communist.

96. On its part, Poland took steps aimed at the punishment of war criminals as early as August 1944 by the adoption of a special decree on the responsibility for the crimes of Nazi Germany; this includes punishment of Fascist and Nazi criminals liable for crimes and torturing of civilians and prisoners of war and the punishment of traitors of the Polish nation (Official Gazette, 1946, No. 69, item 377 with subsequent amendments).

97. The Polish legal system is based on the principle of equality of all the citizens with respect to law and a ban on any discrimination with respect to legal protection (article 67, paragraph 2, and article 81 of the Constitution of the Polish People's Republic). In pursuance of the above-mentioned regulations, all the citizens of Poland, irrespective of their nationality, race and religion, have equal rights in all the spheres of the State, political, economic, social and cultural life. This equality is further consolidated in the Constitution concerning electoral rules (article 95) and is consistently implemented in other laws.

98. None of the Polish legal regulations differentiate citizens on the scope of legal protection according to such factors as: race, colour of skin, social or ethnic roots. The violation of the principles of the equality of the citizens by any direct or indirect privileges of limitation of rights by reason of nationality, race or denomination, shall be liable to penalty (article 82, paragraph 1, of the Constitution). It is also prohibited to spread hatred or contempt, provocation of disputes or humiliation of man on account of differences in nationality, race or denomination (article 91, paragraph 2, of the Constitution).

99. The regulations of the Penal Code in force provide for severe penalty, especially for whomever in public advocates discord on the basis of national, ethnic, racial or religious differences or in public extols such differences (article 272 of the Penal Code). Qualified legal responsibility is provided in case the perpetrator of such crimes uses print or other mass media (article 273 of the Penal Code). Also, liable to the penalty shall be whosoever publicly insults, scoffs at or degrades a group of people or individual persons by reason of national, ethnic or racial affiliation (article 274 of the Penal Code).

100. In the opinion of the Government of Poland, there is an urgent need to take more effective measures at the international level against nazism, fascism, neo-fascism and related ideologies based on racial intolerance, hatred and terror. This purpose might be well served by a universal adherence to the international legal instruments, such as the International Covenants on Human Rights, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Suppression and Punishment of the Crime of Apartheid, as rightly pointed out in General Assembly resolution 41/160. Strict observance of these instruments of international law would in the first place represent an important contribution to the elimination of the present manifestations of ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred and, in particular, nazism, fascism and neo-fascism. Another important contribution to the eradication of such ideologies would be extensive co-operation among all Member States in detection, prosecution and extradition of Nazi criminals who in some countries, still at large, remain unpunished.

101. In the considered view of the Government of Poland, the agenda item entitled "Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror" should be further discussed in the Commission on Human Rights and at the General Assembly of the United Nations.

#### M. Togo

102. The Togolese Government indicates that Togo is a State subject to the rule of law in which human rights and fundamental freedoms are guaranteed by the Party's action programmes and statutes, the Constitution and the Penal Code.

103. The Party - the Rassemblement du Peuple Togolais (RPT), established in 1969 - guarantees fundamental freedoms to all, with emphasis on:

(a) Respect for the individual and for the opinions of others;

(b) The absolute need to view policy as a dialogue in which the participants are entitled to hold their own positions without fear of physical or mental ill-treatment;

(c) A standing commitment to solving problems and political disputes by political means rather than by harangues, invective, threats, blows or injuries, etc.;

(d) The peremptory obligation never to believe that one is in possession of the universal, immutable truth, that one enjoys the exclusive right to manage public affairs, or that the running of the State is inevitably the task of a single clan or group of predestined individuals.

104. By drawing attention to these points in the "Green Book", which constitutes the programme of the Rassemblement du Peuple Togolais, Togo has shown its determination to respect human rights and provide the Togolese people with appropriate conditions for the enjoyment of those rights. This determination has been reaffirmed at each of the four Statutory Congresses held to date by the Rassemblement du Peuple Togolais, the most recent of which took place in December 1986.

105. Attention should be also drawn to the relevant provisions of the statutes of the Rassemblement du Peuple Togolais, which stipulate in article 4, paragraphs 1 and 2, that: "The goal of the Rassemblement du Peuple Togolais is to work for the application of the principles contained in the programme it has devised. To that end, the Party shall wage a campaign for the establishment and maintenance of a democratic and stable political system based on justice, unity, peace and solidarity among citizens, rejecting any doctrine based on ethnic, regionalist or religious considerations".

106. In addition, articles 4 and 6 of the Constitution of the Third Togolese Republic, adopted by referendum on 30 December 1979, stipulate:

(a) Article 4: "All Togolese shall be equal in rights and duties, without distinction as to origin, sex, belief or opinion";

(b) Article 6: "The Togolese Republic shall guarantee every citizen, in accordance with the law, respect for the rights and freedoms of the human person, the family and local communities: political freedoms; philosophic or religious freedoms; freedoms relating to trade unions; the right to individual or collective property; and economic and social rights.

107. In order to protect and defend the enjoyment of these rights and freedoms, the Act of 13 August 1980, which contains the Penal Code of the Togolese Republic, includes provisions designed to check any action by groups and organizations that

flout fundamental human rights and the dignity and worth of the human person, with a view to promoting social progress and creating better living conditions for the Togolese people while respecting its freedoms. By way of example, article 46 of the Penal Code stipulates that: "Any person who voluntarily commits an act of violence against another person shall be sentenced to two months to two years in prison if the victim suffered a disability as a result of the act". Article 50 provides that "any person who, using written materials, pictures or symbols, spoken words or recorded messages, makes threats against the life or personal safety of an individual shall be punished ...".

108. Finally, mention should be made of article 59, whose provisions are more explicit: "Any person who maliciously addresses a coarse insult to another person publicly or in writing shall be liable to a fine ... If the insult contains a derogatory term which relates to the victim's ethnic, religious or national affiliation, the fine may be doubled".

109. Thus the national legal order of Togo contains a series of provisions and measures designed to ensure respect for human rights and punish violations of those rights.

110. It will also be recalled that Togo has subscribed to the Charter of the United Nations and the Universal Declaration of Human Rights and is, moreover, party to several human rights instruments, including the International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the African Charter on Human Rights.

111. The Government supports all relevant resolutions of the United Nations on human rights, including those which condemn totalitarian or other ideologies and practices, particularly "Nazi, Fascist and neo-Fascist ideologies based on racial, ethnic or other forms of exclusivity or intolerance, hatred or terror which deprive peoples of fundamental human rights, fundamental freedoms and equal opportunity", and has stated its determination to combat such ideologies and practices.

112. This legal framework, at both the national and international levels, guides and inspires the Togolese Republic in its efforts to protect its citizens in the enjoyment of their rights.

113. In any event, there does not exist in Togo any totalitarian or other ideology or practice based on racial, ethnic or other forms of exclusivity or intolerance, hatred or terror.

114. The Togolese Government is sparing no effort to ensure that human rights are respected, and it is committed to defending and protecting the enjoyment of human rights in Togo and elsewhere in the world. The existence of a National Human Rights Commission is significant in this regard.



**N. Ukrainian Soviet Socialist Republic**

115. The Government of the Ukrainian Soviet Socialist Republic states that its nation, which experienced the monstrous evil deeds of Hitler's fascism during the Second World War, consistently and steadfastly supports the adoption of effective measures against the revival of fascism and against all forms and manifestations of Nazi, Fascist and neo-Fascist ideologies and practices, and favours the intensification of international co-operation in this field. Consequently, the Ukrainian Soviet Socialist Republic has co-sponsored or supported all decisions taken within the United Nations along these lines, including General Assembly resolution 41/160.

116. The fight against aggression, nazism, fascism and any other totalitarian ideologies, based on racial hatred and intolerance, formed the basis for the establishment of the United Nations and for the elaboration of its Charter. The obligation to ensure the destruction and eradication of nazism and militarism was accepted by the Powers of the anti-Hitler coalition during the Second World War. The principle of the eradication of nazism and fascism became an important principle of the post-war world order, and was confirmed in a great many United Nations decisions and documents, in particular the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and numerous decisions of the General Assembly and other United Nations organs.

117. To ensure conditions in which Nazi, Fascist and similar forces are never again able to encroach on the peaceful labour and democratic achievements of the peoples would mean the creation of a reliable guarantee of general peace and security. At the same time, in the opinion of the Ukrainian SSR, curbing the Nazi and neo-Fascist forces is a necessary pre-condition for the enjoyment of human rights and freedoms. History shows that fascism has always constituted the most complete denial of human rights and freedoms wherever it appeared. Using force as a means of obtaining power, fascism deliberately employs terror to crush the opposition and strengthen its domination. It is well known that Fascist parties and groups preserve bourgeois democracy only until their accession to power and then they rapidly liquidate it, establishing a dictatorial, totalitarian régime and cynically and openly denying legality, democratic freedoms and human rights.

118. The danger of nazism and fascism consists both in the suppression of human rights and freedoms within the country concerned and in the conduct of a policy aimed at the preparation and unleashing of aggressive wars, accompanied by the most monstrous crimes against other countries and the rights of entire peoples.

119. That is why the threat of a revival of nazism and fascism so deeply alarms all peace-loving forces. That is why the Ukrainian SSR considers itself duty-bound to recall the crimes committed by fascism in the past and to warn people against an attitude of indifference to the current revival of fascism in a number of Western countries.

120. Fascism - both past and present - was not and is not an isolated, independent event in the international arena. It is the policy and practice of the most reactionary, most expansionist and most chauvinistic elements of financial capital. It is shameless, pathological, anti-communism, waging a ferocious attack against the forces of peace, democracy and progress. It is the reaction of the counter-revolution to the activities of democratic, revolutionary forces.

121. The Ukrainian SSR notes with alarm the direct connection existing between neo-fascism and the danger of war. The ideology of contemporary fascism, which is permeated with the cult of force, includes the advocacy of war and the glorification of military power. Neo-fascism is a natural ally of militarism. In turn, militarization and its social and psychological consequences create conditions that stimulate neo-Fascist movements. The extent of the danger arising from this ominous union between fascism and militarism is especially evident today, when there is a threat of the outbreak of nuclear war. Contemporary fascism constitutes a danger not only for democratic rights and freedoms; it is a potential threat to peace and the lives of all human beings on our planet.

122. The global nature of the problem of combating nazism, fascism and neo-fascism is further emphasized by the fact that the foreign and internal policies of a number of countries in which power is held by totalitarian régimes of the Fascist type are based on many of the most dangerous features and concepts of those ideologies.

123. The most significant examples in this respect are the racist apartheid régime in South Africa and the Zionist régime in Israel, which are based on ideological doctrines similar to nazism and fascism and on a chauvinistic internal and extremist foreign policy. Mention must also be made of the Fascist features given State forms in the dictatorial régimes of Chile, El Salvador, South Korea and several other countries and of the totalitarian features peculiar to imperialism as a whole.

124. One of the manifestations of neo-fascism is revanchism. Revanchist circles are trying to call into question the results of the Second World War and post-war developments, primarily the realities of the political and territorial situation in Europe.

125. The Ukrainian SSR firmly opposes the attempts made in the West to falsify history, to remove responsibility from those who unleashed the Second World War and helped the Fascists to come to power in Germany, and to minimize the role of the Soviet Union in defeating the Hitlerite aggressors and saving world civilization. It rejects in equal measure efforts to go back on the decisions agreed upon by the main participants in the anti-Hitlerite coalition, jointly defining the basis of the post-war order.

126. The Ukrainian SSR continues to be seriously alarmed at the steady rise in the activity of the neo-Fascist parties, movements, organizations and groups that openly exist in a number of Western countries. In many cases, the activities of these organizations and groups are not only not being stopped, but are even being directly or indirectly encouraged. In the opinion of the Government of the Ukrainian SSR, no references to freedom of speech, belief or assembly can justify

the indulgence of the authorities of some Western countries towards neo-Fascists. It is well known that, at the same time as they are protecting organizations of a pro-Fascist nature, these authorities are prosecuting participants in anti-war movements and other progressively minded citizens.

127. While supporting intensified international co-operation with a view to the adoption of effective agreed measures against Nazi, Fascist and neo-Fascist activities, the Ukrainian SSR reaffirms its view that a primary condition for progress in the fight to eradicate these dangerous phenomena is the taking by States of effective measures at the national level. In this connection, the Ukrainian SSR draws attention to the provisions of resolutions of the General Assembly and the Commission on Human Rights in which member States are requested to take, as a matter of high priority, measures declaring punishable by law any dissemination of ideas based on racial superiority or hatred and of war propaganda, including Nazi, Fascist and neo-Fascist ideologies, and also to consider adopting measures to prohibit or deter activities of groups or organizations practising such ideologies.

128. In the Ukrainian SSR, as has already been pointed out in previous communications, everything possible is being done to carry out fully these recommendations and other relevant decisions of the United Nations. The Constitution of the Republic provides that "citizens of the Ukrainian SSR of different races and nationalities have equal rights ... any direct or indirect limitation of the rights of citizens or establishment of direct or indirect privileges on grounds of race or nationality, and any advocacy of racial or national exclusiveness, hostility or contempt, are punishable by law" (article 34). Under articles 62 and 67 of the Constitution, to respect the national dignity of other citizens, to strengthen friendship of the nations and the nationalities of the multinational Soviet State to promote friendship and co-operation with peoples of other lands and to help maintain and strengthen world peace is the duty of every citizen of the Ukrainian SSR. Article 28 provides that "in the Ukrainian SSR, propaganda for war is prohibited". The system of social relationships and the legislation in force in the Ukrainian SSR preclude not only the pre-conditions for the rise in the Republic of any organizations and groups advocating Nazi, Fascist or neo-Fascist ideologies or based on racial intolerance, hatred and terror, but also the possibility of their activities.

129. Over 40 years have elapsed since the conclusion of the Nuremberg trials and the sentencing of Nazi war criminals guilty of war crimes and crimes against humanity, including genocide, which caused the death of tens of millions of people in various countries of the world during the Second World War. The Nuremberg sentences created an international legal basis for the punishment of war criminals. The Ukrainian SSR fully supports the provisions of resolutions of the General Assembly and the Commission on Human Rights, in which States are called upon to take the necessary measures for the thorough investigation, pursuit, arrest, eradication and punishment of all war criminals and persons guilty of crimes against humanity who have not yet appeared before a court and undergone appropriate punishment.

130. However, in a number of Western countries, many thousands of Nazi criminals who have on their conscience the torture and mass extermination of peaceful populations, including women and children, are still hiding from their just punishment. Moreover, many of them committed atrocities during the war on the territory of the Ukrainian SSR.

131. As pointed out in the statement issued by the Ukrainian news agency on 12 September 1987 in connection with the International Day of Remembrance for the Victims of Fascism, one out of every six persons in the Ukraine was killed during the war. Hitler's aggressors burnt and destroyed 714 towns and 28,000 villages. However, not all the Nazi war criminals who left a bloody trail on Ukrainian land have undergone the punishment they deserve. Tens of thousands of inhabitants of the Ukraine have in recent years signed appeals to the Governments of the United States of America, Canada, the United Kingdom of Great Britain and Northern Ireland, Australia, the Federal Republic of Germany, and Costa Rica, demanding the extradition to Soviet justice of the Nazi executioners living in those countries. However, to date, there has been no specific response to any of those appeals. The conclusion must be that the ruling circles of those countries are in fact hiding thousands of war criminals and attempting to prevent their just punishment.

132. However, the demands of the working people of the Ukrainian SSR are based on irrefutable documentary evidence of the guilt of specific criminals, and numerous depositions, many of which have been made available to interested Governments. The demands are also based on the rules of contemporary international law. They are in accordance with the principles for the extradition and punishment of war criminals elaborated in understandings and agreements between the leading countries of the anti-Hitler coalition (notably the Moscow Declaration of 30 October 1943, the Declaration of the Defeat of Germany of 5 June 1945 and the Potsdam Agreement) and confirmed in the statutes of the Nuremberg Military Tribunal. These principles were developed further in resolutions of the General Assembly in 1946 and 1947, in the Principles of International Co-operation in this field adopted in 1973, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and in subsequent documents and decisions of the United Nations. The Ukrainian people rightly expect them to be fulfilled by the authorities of the countries in which war criminals have taken refuge.

133. In demanding the requital of the Hitlerite criminals, their accomplices and followers according to their just deserts the Ukrainian people are not guided by vengeance, but by a feeling of justice, of duty to the victims of fascism, of universal morality and humanism. It is clear that failure to punish some crimes encourages other crimes and provides an incentive to those devising plans for new adventures capable of destroying all of mankind.

134. The inevitability of the punishment of war criminals and the need to stop neo-Nazi manifestations are political questions expressing the firm will of nations to do everything to ensure that war crimes and crimes against humanity never happen again and that a reliable barrier is set up against any recurrence or modified form of nazism and fascism. In the opinion of the Government of the Ukrainian SSR, an important condition for the eradication of these dangerous manifestations, which harbour the threat of the emergence of war and the kindling of hostility between

nations, is a consistent struggle to strengthen peace and international security, to curb the arms race and to observe strictly the principles of the territorial integrity of States and the inviolability of their frontiers.

O. Union of Soviet Socialist Republics

135. The Union of Soviet Socialist Republics states that it has been over 40 years since the end of the Second World War, in which 20 million Soviet people gave their lives in the battle against fascism. About 41 per cent of all the physical damage caused as a result of the Second World War occurred on Soviet soil. In the occupied territories of the Soviet Union the German Fascist invaders wholly or partly destroyed or burnt 1,710 towns and settlements, 70,000 villages and over 6 million buildings, leaving some 25 million people homeless.

136. The Soviet Union has consistently called for the adoption of effective measures against the threat of a revival of nazism and fascism and against neo-fascism and all other forms of totalitarian ideology and practice based on racial intolerance, hatred and terror.

137. In the new Programme of the Communist Party of the Soviet Union, adopted at the XXVIIth Congress of the Communist Party of the Soviet Union on 1 March 1986, it is emphasized that "in the political arena, neo-fascism is more and more active. Where the usual forms of repression of the workers do not work, the imperialists propagate and support tyrannical régimes to deal with progressive forces by direct military means".

138. The XXVIIth Congress of the Communist Party of the Soviet Union set out an integrated programme for the establishment of a comprehensive system of international security and worked out the fundamental principles for the system in the military, political, economic and humanitarian fields. The creation of a comprehensive system of international security includes the elimination of genocide, apartheid and the propagation of fascism and all other racial, national or religious exclusiveness together with discrimination on such grounds.

139. Any ideology or practice based on violation of human rights and freedoms, racial intolerance or terror, including the ideologies of fascism and neo-fascism, runs counter to the very nature of Soviet society.

140. The Soviet Constitution enshrines in law the principle that Soviet citizens are equal before the law and have equal rights regardless of origin, social or property status, race or nationality, sex, education, language, attitude to religion, employment or nature of work, residence or other circumstances. Any limitation of rights or granting of privileges based on racial or national grounds, like any propaganda in favour of racial or national exclusiveness, enmity or contempt, is punishable by law.

141. A new law is at present being drafted in the Soviet Union on criminal liability for crimes against the peace and security of mankind and the international rule of law, under which, on the basis of the international

agreements concluded by the USSR, it is proposed that, among other things, acts of genocide, apartheid or international terrorism shall render the perpetrator criminally liable.

142. The fight against nazism, fascism and neo-fascism and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror is for the United Nations a task which stems from its very essence and purpose. The United Nations was created precisely as a result of the victory over the forces of nazism, fascism and militarism, and it made it its purpose "to save succeeding generations from the scourge of war" and to ensure "the maintenance of international peace and security".

143. Since 1967, the General Assembly has been expressing growing concern over Nazi, Fascist, neo-Fascist and other ideologies and practices based on racial exclusiveness and terror and on the systematic denial of human rights and fundamental freedoms of the individual. It has repeatedly stressed that such ideologies and practices are incompatible with the purposes and principles of the Charter of the United Nations and represent a threat to peace and international security and has called upon States Members of the United Nations to take action against them. Since 1972, the Commission on Human Rights has included this item in its agenda. Since 1980, the General Assembly has regularly called upon States Members of the United Nations to put forward comments on measures that should be taken against ideologies and practices based on terror, incitement of racial discord or any other form of racial hatred.

144. At the same time, the actual facts of the political developments over the 20 years since the adoption of resolution 2331 (XXII) by the General Assembly on 18 December 1967 confirm the growing activity by Fascist, neo-Fascist and other groups and organizations believing in racial ideologies and practices. General Assembly resolution 41/160 of 4 December 1986 notes that the proponents of Fascist, neo-Fascist and other totalitarian ideologies have, in a number of countries, intensified their activities and are increasingly co-ordinating them on an international scale. The growth in the activities of Fascist, neo-Fascist and other right-wing extremist forces obliges one to conclude that the action taken against them has not been effective enough.

145. The Fascist system of apartheid - the oppression of the Africans and "Coloureds" by the "master race" - elevated to the level of State policy in South Africa has become an actual embodiment of the delirious ideas of Hitlerism. With the all-round support and assistance of the United States and some other NATO countries, the Pretoria authorities have in fact turned the country into a gigantic concentration camp. The South African régime is a challenge to the whole world, refusing to grant independence to Namibia, which it illegally occupies, and going so far as to engage in direct aggression and subversive activities against Angola, Mozambique and other independent States.

146. The ideas of national "exclusiveness" and "superiority", "racial purity" and "expansion of living space", which were the basis of Hitlerism, have been taken over by the Zionists. The ideology of zionism underlies the policy of aggression and territorial expansion and scandalous violation of the rights of whole peoples

pursued by Israel. Despite the fact that there are still people alive in Israel who survived the horrors of the Nazi death camps, in which more Jews were killed than are now living in that country, pro-Fascist parties and groups still operate there openly, such as Herut, Tehiya, Gush Emunim, the National Religious Party, the Greater Israel Movement, Kach, Dikuy Bogdim, etc.

147. Responsibility for this criminal policy also lies with the United States, Israel's partner in "strategic co-operation" in the Middle East.

148. The United States also gives its backing to other inhuman dictatorships. The tragedy of the Chilean people, victims of a military Fascist coup perpetrated with the participation and direct support of imperialist circles abroad, has been continuing for almost 14 years. The Fascist régime in Chile flagrantly violates the most elementary human rights and follows a policy of bare-faced terror and violence and extermination of dissidents. Thousands of people have disappeared without trace. Tens of thousands of Chileans have emigrated out of fear of persecution and annihilation.

149. Over the last seven years, as a result of the policy of genocide waged against its own people by the reactionary régime in El Salvador with active support from the United States, about 50,000 peaceful inhabitants of the country have been killed. Thousands of Salvadorians have disappeared, and about a million have become refugees. The country has been encircled by a network of "strategic villages" - the modern equivalent of the Hitlerite concentration camps. Terrorist Fascist-style organizations such as the Death Squadrons, "Orden" and the Secret Anti-Communist Army continue to operate with impunity in their role as executors of the Salvadorian régime's crimes.

150. For decades the peoples of Paraguay, Guatemala and Haiti have been subjected to massive terror and violence by the ruling totalitarian and Fascist régimes.

151. Political and racial repression has reached an unprecedented level in the United States itself over the last decade. The United States Administration not only is not taking measures against the racist attacks on the rights of the black population, but is even itself taking an active part in them.

152. John Harris, a campaigner for black rights, has been in prison since 1970. The authorities are obviously trying to make him an example to the country's other non-whites of what they can expect if they oppose the racism that flourishes in the country. It was only recently that the United States courts quashed the death sentence passed on him on a false charge.

153. The situation of the indigenous Americans is truly tragic. There are at present about 1 million Indians in the United States, compared with 12 million before colonization. Dozens of tribes have been completely destroyed. Earlier they were destroyed by force of arms, now the methods used are social, economic and political.

154. The racist policy creates a good breeding ground for such racist and Fascist-style groups as the Ku Klux Klan, the American Nazi Party, the National Socialist Party of America, the John Birch Society, the Minutemen, Posse Comitatus,

etc. These organizations combine ideological intolerance with clericalism, racism, violent anti-semitism and virulent anti-communism. According to official statements, there are well-established links between these organizations of the extreme right. Some of them have their own armed formations, weapons depots and training camps.

155. Right-wing extremists propagate their doctrines and appear on the media more or less without hindrance, all the while invoking the constitutional freedom of expression and the press.

156. With the connivance of the authorities, the members of the Ku Klux Klan and Nazis carry out acts of violence and vandalism not only against black and other "Coloured" citizens but also against Jews. Every year there are hundreds of cases of anti-semitic vandalism in the United States. But this statistic by no means reflects the full extent of the anti-semitism raging in the United States. According to the press, for every attack by neo-Nazis and racists that is reported there are several more cases whose victims keep quiet for fear of reprisals.

157. Fascist and Zionist organizations such as Herut-USA, the Jewish Defence League and Jewish Direct Action also operate in that country.

158. There are dozens of neo-Nazi organizations and groups in the Federal Republic of Germany, with a total membership of over 20,000. These organizations include the National Democratic Party, the German People's Union, German Bloc, the National Socialist-National Activist Action Front, etc. More than 25 neo-Nazi newspapers and magazines are published in the country, with a weekly press run of over 325,000 copies.

159. Immigrants to the Federal Republic of Germany are exposed to harsh discrimination. An atmosphere of intolerance and despair surrounds them. Many pro-Fascist organizations in the Federal Republic of Germany are calling for the expulsion of immigrants from the country.

160. As in the past, neo-Fascist organizations are active in Italy. They include the Italian Social Movement - National Right Force, the Revolutionary Action Movement, the National Avant-Garde, etc. Many crimes have been committed by "blackshirt terrorists" causing numerous victims.

161. In France, the leading neo-Fascist party, the National Front, which has been active for many years, has recently stepped up its activities to a marked extent. It makes racist calls for the expulsion of immigrant workers from the country - Algerians, Tunisians, Moroccans, Portuguese and Turks. Over the last five years, the membership of this leading French neo-Fascist party has risen to 70,000. At the parliamentary elections held in March 1986, it won almost 10 per cent of the vote. As a result, representatives of the National Front for the first time became members of the French National Assembly, with 35 seats.

162. About 175 Fascist and right-wing extremist organizations of various kinds are to be found in the United Kingdom of Great Britain and Northern Ireland. The largest of these are the National Front, the British Movement, the St. George's League, Column 88, SS Wotan 18, the National Socialist Party of Great Britain,



etc. The British Nazis do not confine themselves to holding marches and meetings of a racist nature, but also organize bombings and attacks on representatives of the coloured population and burn down their houses.

163. Racial discrimination has deep roots in English society. Persons from Asian, African and Caribbean countries are exposed to especially humiliating discrimination. Outbreaks of violence on racial grounds are increasingly frequent.

164. The existence of organizations and groups of a Fascist type can only be explained by the unwillingness of the States concerned to take effective legislative, administrative and judicial measures to halt their activities. They have every possibility of doing this, if only they had the will to fulfil their international commitments in this respect.

165. In a number of countries, thousands of Nazi criminals, who have millions of human lives on their consciences, are hiding from their well-deserved punishment. Their concealment is incompatible with the demands of morality and humanism and is contrary to the understandings and agreements entered into at the time of the Second World War - in particular, the Moscow Declaration of 30 October 1943, the Declaration on the Defeat of Germany of 5 June 1945, the Potsdam Agreements and the Statutes of the International Military Tribunal, which defined the category of war crimes. It also violates many United Nations resolutions and international agreements. The Soviet Union has repeatedly made legitimate requests to Western countries for Nazis guilty of war crimes who are hiding there to be extradited, but for the most part without success.

166. The particular situation that has developed in the world, marked above all by the possession of nuclear weapons by a number of States, makes it essential to adopt new approaches in assessing the threat to international security created by the activities of Fascist, neo-Fascist and other right-wing extremist groups. Competent specialists have expressed alarm at the fact that with the development and spread of nuclear weapons there is a real possibility of their unauthorized use. This possibility also exists in the case of Fascists, neo-Fascists and other extremist right-wing organizations and groups advocating terror and violence.

167. The United Nations should draw the attention of Member States that possess nuclear weapons or may do so in the future to the need for safeguards, including legal ones, to prevent persons, organizations and groups advocating Fascist, neo-Fascist and other totalitarian ideologies and practices from gaining access to nuclear weapons. The General Assembly ought to call upon the Governments of Member States possessing nuclear weapons to submit information to the Secretary-General on the measures taken in that field so that he can report to the Assembly at its next regular session.

168. With nuclear installations, particularly power stations, steadily increasing in number and spreading to more and more regions, the danger of terrorist attacks on them by Fascist, neo-Fascist and other right-wing extremist organizations and groups rises to a qualitatively new level. The commitment of Fascist, neo-Fascist and other right-wing extremist groups and organizations to terror and violence makes them a constant source of terrorist activities, which may at any time spread to nuclear installations.

169. In view of the danger that Fascist, neo-Fascist and other right-wing extremist ideologies represent for the peace and security of nations, it would be advisable, for example, to propose that the General Assembly should consider the question and take a decision to hold a "Week against fascism, neo-fascism and other ideologies and practices based on terrorism, racial hatred and the denial of fundamental human rights and freedoms", beginning on 1 September 1989. Special attention should be given to bringing young people up in a spirit of respect for international legality and fundamental human rights and freedoms and of resistance to Fascist, neo-Fascist and other right-wing extremist ideologies and practices based on terror, mass hatred and violence.

170. The Soviet Union is convinced that the problem of the fight against the menace of nazism, fascism and neo-fascism can be resolved through the joint efforts of all States. An important condition for the complete elimination of all these dangerous phenomena must be effective measures to be adopted by States within the framework of the United Nations.

#### IV. INFORMATION PROVIDED BY SPECIALIZED AGENCIES

##### A. International Labour Organisation

171. The International Labour Organisation (ILO) states that information on its activities concerning racial discrimination is provided regularly to the Commission on Human Rights in annual reports on racial discrimination submitted by the ILO in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI). The latest such report was submitted to the Commission at its forty-third session (E/CN.4/1987/30). 1/

##### B. United Nations Educational, Scientific and Cultural Organization

172. The United Nations Educational, Scientific and Cultural Organization (UNESCO) states that it has no specific report to make on this resolution. However, it states that Major Programme XII of UNESCO's medium-term plan for 1984-1989 (4 XC/4) entitled "The elimination of prejudice, intolerance, racism and apartheid", deals indirectly with this subject concerning both apartheid and the links between racist ideologies and totalitarian ideologies. 2/

#### Notes

1/ See also the report submitted to the Commission on Human Rights at its forty-fourth session (E/CN.4/1988/34).

2/ See the report submitted to the Commission on Human Rights at its forty-fourth session (E/CN.4/1988/35).