INTERNATIONAL LAW, MERCENARY ACTIVITIES AND CONFLICT PREVENTION IN AFRICA

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1. Introduction

There can be little hope of an effective solution to the perennial problems of peace and security in Africa, without addressing the problem of mercenary activities. Generally speaking, mercenaries are a menace to humanity. That is particularly the case in Africa. As has been observed by Mr Enrique Bernales Ballesteros, the Special Rapporteur on the question of the use of mercenaries:

Whether acting individually, or in the employ of contemporary multi-purpose security companies, the mercenary is generally present as a violator of human rights. On occasion he acts as a professional agent in terrorist operations; he takes part in illicit trafficking; he commits acts of sabotage, among others. The mercenary is an element in all kinds of covert operation. In comparison with the cost of mobilizing armed forces, the mercenary offers an inexpensive means of conducting operations, and is available to governments, transnational corporations, organizations, sects and groups, simply for payment. The mercenary is hired because he has no scruples in

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riding roughshod over the norms of international humanitarian law or even in committing serious crimes and human rights violations.¹

Mercenaries have been observed taking part in almost every armed conflict in Africa in recent memory.² Among other activities inconsistent with peace and security of humankind, mercenaries are implicated in human trafficking, blood diamonds trade, and other illicit trafficking in natural resources, weapons and narcotics: they have also been implicated in terrorist activities and organized criminal gangs.³

In November 1981, South African mercenaries were implicated in an unsuccessful attempt to stage a coup in the Seychelles.⁴ In March 2004 a band of South Africans suspected to be mercenaries were arrested in Zimbabwe, allegedly on their way to topple the government of Equatorial Guinea.⁵

2. The Convention of the OAU for the Elimination of Mercenarism in Africa

In view of the grave problems posed by mercenaries to the cause of peace and security in Africa, the Organisation of African Unity (OAU), as it then was, adopted the Convention of the OAU for the Elimination of Mercenarism in Africa [the “OAU Anti-Mercenaries Convention”]. This was done on 3 July 1977 in Libreville, Gabon. It entered into force on 22 April 1985.⁶

The OAU Anti-Mercenaries Convention was adopted at the height of the Cold War. The demobilisation of well-trained soldiers across the Western World and the former Communist Bloc, following the end of the Cold War, has no doubt created a more fertile breeding environment for dogs of war, thus compound the problem for which the Convention was adopted.

² ⁴See (http://www.contrast.org/truth/html/seychelles.html).
³ ⁵See (http://www.alertnet.org/thenews/newsdesk/L09644546.htm).