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IMPORTANCE OF THE UNIVERSAL REALIZATION OF THE RIGHT  
OF PEOPLES TO SELF-DETERMINATION AND OF THE SPEEDY  
GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND  
PEOPLES FOR THE EFFECTIVE GUARANTEE AND OBSERVANCE  
OF HUMAN RIGHTS

Report of the Secretary-General

CONTENTS

	<u>Page</u>
I. INTRODUCTION . . . . .	3
II. SUMMARIES OF REPLIES RECEIVED FROM GOVERNMENTS . . . . .	3
Botswana . . . . .	3
Canada . . . . .	4
German Democratic Republic . . . . .	4
Madagascar . . . . .	8
Mauritius . . . . .	8
Mexico . . . . .	10
Norway . . . . .	10
Saint Vincent and the Grenadines . . . . .	11
Senegal . . . . .	12
Seychelles . . . . .	12
Syrian Arab Republic . . . . .	13

CONTENTS (continued)

	<u>Page</u>
III. SUMMARIES OF REPLIES RECEIVED FROM REGIONAL INTERGOVERNMENTAL ORGANIZATIONS . . . . .	13
Organization for Economic Co-operation and Development . . . . .	13
Organization of American States . . . . .	13
IV. SUMMARIES OF REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS . .	14
International Commission of Jurists . . . . .	14
International Defence and Aid Fund for Southern Africa . . . . .	14
Inter-Parliamentary Union . . . . .	14

## I. INTRODUCTION

1. In its resolution 35/35 A of 14 November 1980, the General Assembly, inter alia, reaffirmed the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle; reaffirmed that the practice of using mercenaries against national liberation movements and sovereign States constituted a criminal act and that the mercenaries themselves were criminals, and called upon the Governments of all countries to enact legislation declaring the recruitment, financing and training of mercenaries in their territories and the transit of mercenaries through their territories, to be punishable offences, and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General; reiterated its appreciation for the material and other forms of assistance that peoples under colonial and foreign rule continued to receive from Governments, United Nations agencies and intergovernmental organizations, and called for a maximization of this assistance; further called for a maximization of all forms of assistance given by all States, appropriate United Nations organs, specialized agencies and non-governmental organizations to the victims of racism, racial discrimination and apartheid through their national liberation movements recognized by the Organization of African Unity; and decided to consider this item again at its thirty-sixth session on the basis of the reports that Governments, United Nations agencies and intergovernmental and non-governmental organizations had been requested to submit concerning the strengthening of assistance to colonial Territories and peoples under foreign domination and control.
2. The present report contains summaries of replies received as at 15 July 1981 from Governments (sect. II), from regional intergovernmental organizations (sect. III) and from non-governmental organizations (sect. IV) on action taken pursuant to the above-mentioned resolution. Any additional replies will be reproduced as addenda to the present document.
3. Information on action taken by the specialized agencies will be found in the report of the Secretary-General prepared in accordance with General Assembly resolution 35/29 of 11 November 1980 (A/36/154 and Add.1-3).

## II. SUMMARIES OF REPLIES RECEIVED FROM GOVERNMENTS

### BOTSWANA

[Original: English]

[9 June 1981]

The Government of the Republic of Botswana has enacted legislation (Foreign Enlistment Act) which prohibits Botswana nationals from partaking in the activities of foreign armies unless with the authority and permission of the President of the Republic of Botswana. Accordingly, it is a punishable offence for Botswana nationals to serve as mercenaries and the recruitment, financing, training and transit of mercenaries in Botswana are equally prohibited by law.

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CANADA

[Original: English]

[24 June 1981]

The legislation which covers the question of mercenaries as it relates to Canada is the Foreign Enlistment Act (Revised Statutes of Canada 1970, chapter F-29). This act 1/ prohibits the recruitment of mercenaries within Canada or other activity inducing any person to accept any engagement in the armed forces of any other foreign State or in other armed forces operating in such a State.

GERMAN DEMOCRATIC REPUBLIC

[Original: French]

[2 July 1981]

1. The policy of the German Democratic Republic has been and continues to be based on the principle of the self-determination of peoples. Guided by this principle, the German Democratic Republic is fighting for the right of every people to enjoy national independence and territorial integrity, to establish a social order and to choose the form of government which it considers appropriate and necessary in order to guarantee the social and cultural development of the State.
2. The international struggle for disarmament, détente and the consolidation of peace is closely bound up with the struggle of the oppressed peoples for national and social liberation. Self-determination and peace are indivisible. Full implementation of and respect for the right of peoples to self-determination constitute the prerequisites for the development of friendly and equal relations between States and peoples.
3. The policy currently being pursued by the aggressive circles of imperialism of accelerating the arms race and in undermining détente is a dangerous threat to the vital interests of all peoples. The purpose of the imperialist policy of confrontation is to pave the way for a refusal, in the future as well as in the present, to grant the oppressed peoples their inalienable rights and to regain lost positions.
4. The imperialist policy of aggravating the international situation actually encourages the racist colonial forces to intensify their criminal machinations to oppress the peoples.
5. The African population of South Africa, which constitutes the majority, is prevented by a brutal reign of terror from exercising its right to self-determination. The Republic of South Africa is stepping up its acts of aggression against neighbouring independent States, thereby seriously endangering their sovereignty and territorial integrity.

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1/ Available in the files of the Secretariat.

6. South Africa continues to occupy Namibia illegally and to oppose the demands of world public opinion and of United Nations resolutions. While pretending to be seeking a peaceful solution to the Namibia problem, the South African racists and their allies are intensifying their efforts to impose a neo-colonial solution on the Namibian people.
7. The failure of the Geneva conference on Namibia, the veto cast by the major imperialist Powers in the Security Council against the proposal to institute sanctions against South Africa and their refusal to participate in the International Conference on Sanctions against South Africa which took place in Paris are further proof that these forces place their own strategic and economic interests above the right of peoples to self-determination.
8. Many United Nations documents describe the nature of the assistance that enables South Africa to pursue its inhuman and dangerous policy of apartheid and identify those who, by providing economic and financial support, are helping that régime to build up its arsenal of military and nuclear weapons. The collaboration of the imperialist Powers is a major obstacle to the implementation of the rights of the South African and Namibian peoples. Wide-ranging economic sanctions must be imposed immediately in order to eliminate this last bastion of colonialism, racism and apartheid. The German Democratic Republic strongly endorsed this position at the most recent meeting of the Security Council on Namibia. When the question of sanctions against South Africa was put to the vote, the German Democratic Republic voted in favour of all the resolutions. It is prepared to take part in concrete measures - such as those called for in a number of General Assembly resolutions and in documents of the Movement of Non-Aligned Countries and of the Organization of African Unity - to isolate the South African apartheid régime and to bring freedom and independence to the Namibian and South African peoples.
9. Israel has intensified its criminal policy of flagrant violation of the rights of the Arab peoples. The Arab people of Palestine and the Lebanese people are the main victims of Israel's policy of terror and aggression. The barbarous raid by the Israeli air force on the nuclear reactor in the Republic of Iraq is a new and dangerous development.
10. These so-called preventive actions, following the fascist model, are intended to demonstrate Israel's military supremacy in the region and to intimidate and blackmail neighbouring Arab countries. The responsibility for the spread of Israeli acts of aggression rests on all the imperialist forces which support Israel's adventurist policy in the Middle East.
11. The German Democratic Republic continues to believe that the maintenance of peace and security in the Middle East requires the complete withdrawal of Israel from all occupied Palestinian and Arab territories and the guarantee of the inalienable rights of the Arab people of Palestine, whose sole legitimate representative is the Palestinian Liberation Organization. These include their right to return to their homeland, their right to self-determination and their right to establish their own independent State.

12. The German Democratic Republic welcomes and supports the proposal put forward by the Union of Soviet Socialist Republics concerning the convening of an international conference in order to find an over-all solution to the Middle East problem.

13. Given the universal nature of the right of all peoples to self-determination, peoples from small Territories subject to colonial dependence in the Pacific, Atlantic and Indian Oceans should no longer be denied the opportunity to exercise their inalienable rights. In open defiance of United Nations resolutions, the colonial forces have recently stepped up their activities in order to perpetuate their supremacy over these Territories. They are transforming these regions into military bases and threatening the sovereignty and independence of the States in the region. This is particularly true in the Indian Ocean. The German Democratic Republic believes that this region should become a zone of peace, security and political stability and is working towards this end within the Ad Hoc Committee on the Indian Ocean.

14. The German Democratic Republic is anxiously following the activities of the United States of America in the Trust Territories in the Pacific islands. By opposing the will of the peoples and by violating international law, the United States of America is involving the Trust Territory of the Pacific Islands in its adventurist military policy. The militarization and transformation of these islands into a zone of United States military deployment in the western part of the Pacific Ocean constitutes a serious danger to the security not only of the peoples of Micronesia but also of countries in Asia and Oceania.

15. The struggle to implement the right to self-determination has entered a new phase. All but a few peoples have freed themselves from the old ties of colonial dependence. States have achieved independence and must now free themselves from the domination of foreign trusts. The eleventh special session of the United Nations devoted to economic matters reaffirmed once again the importance of economic consolidation and self-determination. The complex and universal nature of the right to self-determination requires that, having attained their independence, peoples be free to build a society free from oppression and exploitation and to cast off the economic yoke of imperialism. The international trusts and other imperialist forces do not wish to accept this. Using numerous methods of economic infiltration and aggression, they are seeking to keep the newly-independent States in a position of dependence. The brutal and overt system of colonialism has been replaced by more subtle methods of oppression and neo-colonial exploitation. The neo-colonial practices of the transnational trusts and other imperialist forces are systematically undermining these States' efforts to build an independent economy. They constitute a direct attack on the right of peoples to self-determination. The German Democratic Republic energetically supports the just demands of the developing countries that international economic relationships be placed on a democratic footing. Together with the other States of the socialist community, the German Democratic Republic is working to achieve the principles of a new international economic order. Its support for the strengthening of the right of newly-independent States to self-determination is reflected in many agreements on economic, industrial, scientific and technical and cultural co-operation with such countries.

16. In order to achieve their aims and purposes, which are contrary to international law, the colonial and racist forces are using mercenaries. The German Democratic Republic resolutely condemns these practices directed against the interests and rights of peoples and considers them a threat to peace and international security. Participation in military operations aimed at the subjection of a people and recruitment of German citizens for that purpose is a punishable offence under the laws of the German Democratic Republic (art. 23 of the Constitution and arts. 87 and 88 of the Penal Code). Within the relevant Ad Hoc Committee of the United Nations, the German Democratic Republic is actively engaged in the elaboration, on the basis of international law, of an instrument banning the recruitment, use, financing and training of mercenaries.

17. Unreserved support for peoples struggling for their national and social liberation and for countries which have won their freedom and want to consolidate and defend their independence is a fundamental principle of socialist policy. The tenth congress of the Unified Socialist Party of Germany reaffirmed the solidarity of the German Democratic Republic with the struggle of peoples to implement and defend their rights.

18. In recent years, the widespread and wholehearted assistance which the people of the German Democratic Republic have given to anti-colonial and anti-racist forces has been growing steadily. The fact that the sum of over 1 billion marks has been contributed to the solidarity fund since 1976 constitutes tangible proof of the deep-rooted support that is felt in all strata of the population. These donations from workers of the German Democratic Republic have been used to finance shipments of such goods as clothing, food-stuffs, baby foods, medical supplies, educational and teaching materials as well as to provide medical care for citizens from the developing countries. Vocational training and refresher courses and advanced training for upper-level staff from these countries is becoming increasingly important in the strengthening of their political independence, in the struggle for their economic independence, in the process of industrialization, in the development of a modern agriculture, and in the building of a national infrastructure and a series of new international economic relationships. In the last five years, more than 8,000 young people from Africa, Asia and the Middle East have been trained as skilled workers or have been accepted in schools of higher education and in technical schools with scholarships from the Committee of Solidarity of the German Democratic Republic.

19. Training centres for skilled workers from African countries have also been built with the help of such donations. The Free German Youth (FGY) is building these training workshops jointly with other national youth organizations.

20. Emphasis is also placed on humanitarian aid from the German Democratic Republic to the newly independent nations and to the liberation movements. In that connexion 1,300 wounded and sick militants have been treated in the German Democratic Republic since 1976.

21. The German Democratic Republic stands firmly behind the peoples of South Africa and Namibia and their legitimate representatives, the African National Congress (ANC) and the South West Africa People's Organization (SWAPO), in the

struggle against the illegal apartheid régime. Thanks to donations from the German Democratic Republic, small workshops have been set up in the SWAPO and ANC refugee camps. The German Democratic Republic is participating actively in the building of an ANC school at Morogoro in the United Republic of Tanzania. Support for the struggle of peoples to exercise their inalienable rights will continue to be a decisive element of the policy of the German Democratic Republic.

#### MADAGASCAR

[Original: French]

[29 June 1981]

1. The Government of the Democratic Republic of Madagascar wishes to state that no legislative measure has yet been taken at the national level to make the recruitment, financing and training of mercenaries in or the transit of mercenaries through the territory a punishable offence or to prohibit Malagasy nationals from serving as mercenaries.
2. As Madagascar is an island, it is extremely difficult, not to say impossible, for anyone to engage in the above-mentioned practices. Not only are they naturally repugnant to the Malagasy character but the Malagasy Government has always condemned such practices. However, this does not mean that the security services and ad hoc committees of the decentralized communities at all levels do not maintain constant vigilance.
3. Moreover, any individual who engages in such practices could, if necessary, be prosecuted and tried under the existing provisions of the Penal Code concerning crimes and offences against the external security of the State. Under articles 79, 83 and 85 of the Penal Code, any Malagasy national or alien who enlists soldiers on behalf of a foreign Power in Malagasy territory during peacetime is liable to imprisonment from one to five years and to a fine, and anyone who, knowing the intentions of the perpetrators of crimes and offences against the external security of the State, gives them subsidies, means of existence, housing, or a place in which to hide or meet is considered an accomplice.
4. Measures which relate more specifically to mercenaries proper will be included in the new draft Penal Code currently being prepared.

#### MAURITIUS

[Original: English]

[15 May 1981]

1. Although no specific legislation regarding mercenaries exists in Mauritius, laws have already been enacted dealing with foreign recruiting (Panel Code (Supplementary) Ordinance, sections 10-14), which provide that if any person is, within the limits of Mauritius, obtaining or attempting to obtain recruits for the

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service of any foreign State in any capacity, the Governor-General may, by order in writing, either prohibit such person from so doing, or permit him to do so subject to any conditions which the Governor-General thinks fit to impose. The Governor-General may either prohibit recruiting for the service of any foreign State, or impose upon such recruiting any conditions which he thinks fit.

2. Whosoever, in violation of the prohibition of the Governor-General or of any condition subject to which permission to recruit may have been accorded, in Mauritius:

(a) Induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any foreign State, or

(b) Knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or in any other way whatever, shall be liable to penal servitude not exceeding seven years and to a fine not exceeding one thousand rupees.

3. There is also legislation dealing with the training of troops raised without lawful authority (which would include mercenaries). Sections 63 and 64 of the Penal Code Ordinance (Cap.195) provide that:

(a) Whosoever shall raise or cause to be raised any armed troops, or shall enlist or enrol or cause to be enlisted or enrolled any soldiers, or shall supply or furnish them with arms or ammunition without the order or sanction of lawful authority, or whosoever shall form part of any meeting or assembly the object of which shall be to exercise or instruct in the use of arms, the practice of military exercises, movements, or evolutions, or shall lend aid thereunto, shall be punished by penal servitude,

(b) Whosoever, without lawful right or motive, shall take the command of an armed force, troop, fleet, squadron, man-of-war, fortified place, post, port or town,

(c) Or whosoever shall continue to hold any military command against the order of the Government,

(d) Or any commander who shall keep his army or troop embodied after the disbanding or dismissing of the same shall have been ordered,

shall be punished by death or by penal servitude.

4. There is no legislation to prevent the transit of mercenaries, but the immigration authorities have the discretion not to allow certain people to land in Mauritius or to deport undesirable elements. Obviously the main difficulty would be whether these people would openly declare whether they were mercenaries or mere tourists.

5. The Penal Code (Supplementary) Ordinance prohibits foreign recruiting, but does not say specifically that nationals of Mauritius should not serve as mercenaries. Section 15 of the Constitution protects freedom of movement. Although laws may be passed for the imposition of restrictions on the right of any person to leave Mauritius in the interests of securing compliance with any international obligation of the Government, particulars of which have been laid before the Assembly, imposing a ban on leaving Mauritius on any person intending to fight in a foreign country would be impracticable as those who wanted to go could easily leave without stating their intention or even their ultimate destination.

MEXICO

[Original: Spanish]

[29 April 1981]

The Government of Mexico has stated that it has consulted the competent authorities who are contacting the various departments directly concerned in this matter. They indicate that the result will depend on the outcome of the study of the relevant legal provisions. They also stated that, should it be found that the matter is not fully covered by existing legislation, the necessary steps will be taken to submit an appropriate bill to the President of Mexico.

NORWAY

[Original: English]

[ April 1981]

1. In the Norwegian legislation there are several provisions against mercenaries and their activity.
2. According to paragraph 53 b of the Norwegian Constitution, any person who enters the service of a foreign power shall lose the right to vote. Even if the paragraph does not say so explicitly, there is no doubt that it can be used against persons who let themselves be recruited to military service for a foreign country or rebel group within a foreign country.
3. According to paragraph 133 of the Norwegian Penal Code, those who recruit persons in Norway for foreign military service are liable to punishment.
4. Furthermore, according to a law of 13 March 1932 concerning measures to prevent anybody from participating in wars in foreign countries, provisions may be given to prohibit that,

- (a) Anybody in Norway let himself be recruited to foreign military service for a country of which he is not or has not been a citizen,

or,

- (b) Anybody leaves Norway to participate in a war in such a country.

5. In Norway no special laws or regulations against the transit of mercenaries have been passed.

6. Regarding the strengthening of assistance to colonial territories and peoples under foreign domination, the following information was submitted about Norwegian financial assistance as far as Namibia is concerned:

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|--|------------------|
| (a) Direct support to the South West Africa People's Organization  | Nkr 10.0 million |
| (b) Nationhood Programme for Namibia                               | Nkr 1.0 million  |
| (c) United Nations Training and Education Fund for Southern Africa | Nkr 4.2 million  |
| (d) Namibia Institute  | Nkr 1.0 million  |

7. In addition, Norway contributes substantially to humanitarian projects undertaken by various non-governmental and intergovernmental organizations.

#### SAINT VINCENT AND THE GRENADINES

[Original: English]

[21 April 1981]

The Secretary-General was informed that the Government of St Vincent and the Grenadines had agreed to draft legislation against the practice of using mercenaries against national liberation movements and sovereign States and to use as a guideline for so doing General Assembly resolution 35/35 A of 14 November 1980.

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SENEGAL

[Original: French]

[24 June 1981]

1. Senegal has always viewed the recruitment and use of mercenaries against national liberation movements and sovereign States as a serious action which is contrary to human rights and, in particular, the right of peoples to self-determination. Senegal has vigorously supported all United Nations resolutions condemning that practice.
2. In a resolution adopted by the Commission on Human Rights, on 6 March 1981, several Member States, including Senegal, reiterated their condemnation of any action consisting in using mercenaries against national liberation movements and sovereign States.
3. Furthermore, Senegal has always pursued a clear and steady policy in respect of self-determination and assistance to the national liberation movements. As a result, several of these movements have their headquarters in Senegal and enjoy the same privileges and immunities as diplomatic and consular missions accredited to Dakar.
4. The Senegalese Government, for its part, is prepared to participate in the elaboration of any international instrument which could encourage national liberation struggles inter alia by combating the practice of hiring mercenaries.
5. There is no Senegalese law which permits the recruitment of mercenaries. However, Senegal will not fail, if the need arises, to strengthen its legislation in order to implement General Assembly resolution 35/35 A.

SEYCHELLES

[Original: English]

[25 June 1981]

The Government of Seychelles has not yet enacted legislation relating to mercenary activities. None the less, Seychelles acceded on 16 October 1979, without reservation, to the Convention for the Prevention and Elimination of Mercenarism in Africa adopted by the Organization of African Unity at Libreville in Gabon in July 1977, making it binding legislation on all signatories, including Seychelles.

SYRIAN ARAB REPUBLIC

[Original: English]

[28 April 1981]

In its reply, the Syrian Arab Republic referred to its Permanent Mission's note No. 437/80, dated 17 October 1980, which contained information on articles 278 to 281 of the Syrian Penal Code No. 148 of 22 June 1949 on the punishment of the actions of mercenaries. The Syrian Arab Republic, in accordance with its Constitution and principled policy against the repression of the peoples, gives continuous support and assistance to the liberation movements. Consequently, the Syrian Arab Republic is applying carefully the provisions of resolution 35/35 A of 14 November 1980.

III. SUMMARIES OF REPLIES RECEIVED FROM REGIONAL INTERGOVERNMENTAL ORGANIZATIONS

ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

[Original: English]

[2 March 1981]

In its reply, the Organization for Economic Co-operation and Development stated that it was unable to submit the report since the question of assistance to colonial territories and peoples under foreign domination and control did not come within the field of its activities.

ORGANIZATION OF AMERICAN STATES

[Original: English]

[25 February 1981]

The Organization of American States sent a copy of resolution AG/RES. 501 (X-0/80) entitled "Belize", adopted by its general assembly at the tenth regular session (Washington, D.C., 19-27 November 1980). 2/

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2/ Available in the files of the Secretariat.

IV. SUMMARIES OF REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL COMMISSION OF JURISTS

[Original: English]

[1 April 1981]

In its reply, the International Commission of Jurists drew the attention of the General Assembly to its 1980 publication entitled The West Bank and the Rule of Law, analysing the military decrees by the occupying power in the West Bank. Also, the International Commission of Jurists sent a copy of a paper entitled "Self-determination and the 'Independent' Bantustans" prepared by the Secretary-General of the Commission for a special session of the United Nations Committee against Apartheid, held in New York on 27 March 1981. 2/

INTERNATIONAL DEFENCE AND AID FUND FOR SOUTHERN AFRICA

[Original: English]

[8 May 1981]

The International Defence and Aid Fund for Southern Africa sent a list of its publications relevant to the subject of General Assembly resolution 35/35 A. 2/

INTER-PARLIAMENTARY UNION

[Original: English]

[26 February 1981]

The Inter-Parliamentary Union sent a copy of the resolution entitled "Progress towards the achievement of decolonization including the full implementation of the people's right to self-determination" adopted on 24 September 1980 by the 67th Inter-Parliamentary Conference at Berlin, German Democratic Republic. 2/

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