

- ▶ Does the international community consider as lawful the existence of a free market for selling security operations if that means that paramilitary forces that incorporate mercenaries can be expected to intervene in a country's internal affairs?
- ▶ What are the human rights consequences of entrusting internal order and control over civil rights to an international private security firm?
- ▶ Is the international community willing to accept and concur with the idea that the illegality of recruitment of mercenaries is applied only in very few limited cases?
- ▶ When and under what circumstances can the recruitment, financing and/or use of mercenaries be considered legal and legitimate?

Arising from these questions, the report states that the ambiguity of existing provisions, the gaps in national legislation, and the insecurity which prevails in many countries, as well as the end-of-century tendency to privatize everything in sight, have created the conditions for the establishment of this new type of company. Such companies are organized to sell security in the international market to client countries from which they obtains contracts worth millions, protection, and links to powerful companies dealing in oil, minerals and precious stones. The results are the growth and expansion of these companies and their presence in the countries with which the contractual relationship has been established. The SR did not claim that all military and police advisory assistance provided by foreigners or private foreign companies is illegal and contrary to the sovereignty of a state. He acknowledged that such advisory services do exist and, when clearly demarcated, are not contrary to international law or national constitutional provisions. The intent of the report was to draw attention to the dangerous grey areas and the limits which need legal safeguards in order to prohibit such advisory services from becoming active armed participation in internal conflicts or in matters of the internal security of citizens that are connected with the exercise of the rights and political freedoms provided for in international human rights instruments.

The report concludes with a number of recommendations, including that:

- ▶ the Commission on Human Rights reaffirm its condemnation of mercenary activities;
- ▶ the international community take adequate account of the link between terrorism and mercenary activities and the participation of mercenaries in criminal acts of a terrorist nature;
- ▶ commissions and working groups considering the question of terrorism include mercenary activities in analysis and conclusions;
- ▶ the Commission urge states to adopt legislation prohibiting mercenary activity;
- ▶ the Commission appeal to states to ratify or accede to the Convention so that it may come into force; and
- ▶ the Commission closely monitor the evolution of private legally registered companies as well as developments in national legislation and terms under which some states conclude contracts with such companies.

As happened in 1996, the 1997 session of the Commission did not adopt a resolution on the question of the use of mercenaries.

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## RACIAL DISCRIMINATION

**Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1997/71; A/52/471)**

The mandate of the Special Rapporteur (SR) was created in 1993 and renewed for a further three years by the Commission at its 1996 session. In 1997, the SR was Mr. Glele-Ahanhanzo (Benin). The main focus of the Special Rapporteur's work has been and continues to be contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism, and related intolerance. To date, the main reports of the SR have emphasized education programs to promote tolerance.

The 1997 report includes summary sections on various "target groups" which are victims of racism and racist attitudes. On the subject of negrophobia and discrimination against Blacks, the report notes the use of the Internet to spread racist messages. There are two recommendations in the report. The first is that the United Nations convene a world conference on racism, racial discrimination and xenophobia, with the question of immigration and xenophobia included on the agenda. The second is that there be action at the international level, in the form of studies, research and immediate joint action to respond to the use of the Internet as a vehicle for racist propaganda.

The section of the report addressing anti-Semitism reproduced portions of a study on anti-Semitism throughout the world in 1995 (1997/71, para. 27, section 3). The study, which included commentary on the decline in violent acts, the Jewish stereotype, Islamist and Arab anti-Semitism, and anti-Semitism on the Internet, was prepared by the University of Tel Aviv and forwarded to the SR by the Israeli government. In the report there was a paragraph which read:

One might say that while part of anti-Semitism in Christian countries in recent decades has become anti-Zionism, in the Muslim world anti-Zionism appears to be turning into anti-Jewish manifestations, thus broadening a political and territorial conflict into a clash between ideological and religious world views. The use of Christian and secular European anti-Semitism motifs in Muslim publications is on the rise, yet at the same time Muslim extremists are turning increasingly to their own religious sources, first and foremost the Qur'an, as a primary anti-Jewish source.

The inclusion of this statement was protested by a number of governments on the basis that it is an insult to Islam; the assertion is tantamount to blasphemy; the statement refers to religion and therefore should not and cannot be properly included in a report by a mechanism for which the mandate relates to racism; the statement incites hostility towards Arabs and Islam; and the statement ignores the fact that Arabs are Semites. The protesting states called for the deletion of the offending reference from the report and a statement of