



論南非全方位外交戰略及軍事法庭 符合獨立公正性

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關鍵詞：軍事外交、公平性、獨立性、戰略佈署、和平穩定

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摘 要

南非自 1994 年黑人政權迄今，不論在軍事國防、外交政策、或社會經濟環境，都有相當程度的進步與崛起。作為非洲的大國，南非繼續發揮實現和平與穩定的作用，並且支持非洲大陸為創造更好條件所做出的集體努力。21 世紀初期，南非也曾面臨軍事審判是否公正的疑慮，嗣通過外國法院判決的分析，南非軍事法庭大體上符合獨立性和公正性要件，只要軍事法庭成員稍作調整，關於公平審判的任何疑慮均可解決。誠如加拿大最高法院判決所揭，在一個軍事組織中，永遠不可能有真正完全獨立的軍事司法制度，蓋因軍事司法的一個主要利基點，就是利用訓練有素的軍官出席軍事法庭擔任司法參審角色。本文爰此探討當代南非在全球軍事、外交的戰略佈局，冀供參考。

A Study of South African Well-Rounded Diplomacy and Military Courts Conforming to Independence and Impartiality

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Abstract

Since the Black-government's ruling in 1994, South Africa has made a great progress in military defense, diplomatic policies, and social economic environments. As a big country in the African Continent, South Africa has continued to play the role of bringing about peace and stability in support of the continent's collective efforts to create the necessary conditions. At the beginning of 21th century, South Africa faced the questions of impartiality and independence in the military system; through foreign case decisions made, it was concluded that South African military courts can in general be regarded as independent and impartial although, with small changes, any doubt with regard to independence could be eradicated. In a military organization, there cannot ever be a truly independent military judiciary, because a major strength of the present military judicial system rests on the use of trained military officers, who are also legal officers to sit on courts martial in judicial roles. This paper aims to discuss the South African's global deployment in military operations and diplomatic strategies for our reference.