



General Assembly

Distr.
GENERAL

A/C.5/41/12
10 October 1986

ORIGINAL: ENGLISH

Forty-first session
FIFTH COMMITTEE
Agenda item 117 (b)

PERSONNEL QUESTIONS: RESPECT FOR THE PRIVILEGES AND IMMUNITIES
OF OFFICIALS OF THE UNITED NATIONS AND THE SPECIALIZED AGENCIES
AND RELATED ORGANIZATIONS

Report of the Secretary-General

INTRODUCTION

1. The current reporting period, from 1 September 1985 to 30 June 1986, has been marked by a number of negative developments: the reported but unconfirmed execution of Mr. Alec Collett the British journalist on assignment for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA); a marked increase in the number of UNRWA staff arrested and detained without charge or trial in that Agency's area of operation; little progress in obtaining clarification from the authorities of previously reported cases (see document A/C.5/40/25, pp. 3-5); and a number of new cases of abduction by unidentified groups. While the Middle East continues to be the principal focus of arrests, detentions and abductions of officials, the Secretary-General and executive heads as well as the United Nations Security Co-ordinator have been obliged to intervene in numerous other cases involving arrest and detention of officials.

2. The Secretary-General and the executive heads of the agencies concerned have continued to be personally involved in the efforts to gain respect for the privileges and immunities of officials. At the field level, the designated officials continue to encounter difficulties and delays in obtaining adequate, timely information on the arrest and detention of officials as well as access to detained staff. It is, therefore, frequently difficult, if not impossible, to ascertain whether a breach of official act immunity has occurred, even though in many instances this is not the case and prompt co-operation between the United Nations designated officials and the authorities concerned would remove any doubt on the subject.

3. Not all breaches of privileges and immunities of officials involve arrest and detention. The interference by Member States in the contractual relationship between an official and his organization while falling short of arrest and detention may have the same result for the organization concerned in that the functioning of the organization and the carrying out of specific programmes is directly affected. In the same way, actions by Member States to impose restrictions on official travel of staff members hampers the functioning of the organizations and their ability to comply with their obligations.

4. As in previous years the present report is based on information requested from all of the United Nations subsidiary organs, offices or missions, the specialized agencies and related organizations and is submitted on behalf and with the approval of the Administrative Committee on Co-ordination (ACC). The present report covers the period from 1 September 1985 to 30 June 1986.

I. ARREST AND DETENTION OF OFFICIALS

5. In the current period, a total of 95 cases of arrest and detention or disappearance of officials have been reported to the United Nations Security Co-ordinator. In the great majority of these cases, the organizations concerned were able to exercise their rights, were successful in obtaining the release of the detainee or were otherwise able to determine that no question of immunity arose. Of the remaining 20 cases, as may be seen from table 1 below, 17 concern locally recruited UNRWA staff while 3 other cases concern locally recruited employees of the Food and Agriculture Organization of the United Nations (FAO), the United Nations Disengagement Observer Force (UNDOF) and the United Nations Interim Force in Lebanon (UNIFIL). Particulars regarding these cases are contained in the reports submitted by the individual organizations which are summarized in the annex to this report.

Table 1

<u>Location</u>	<u>Agency</u>	<u>Number</u>
Benin	FAO	1
Jordan	UNRWA	2
Lebanon (Israel Defence Forces and <u>de facto</u> forces)	UNIFIL	1
Lebanon (Syrian armed forces)	UNRWA	3
Lebanon (Milicias and unknown)	UNRWA	1
Syrian Arab Republic	UNDOF	1
	UNRWA	6
Occupied Gaza Strip	UNRWA	2
Occupied West Bank	UNRWA	3

6. With regard to previously reported cases, the fate of Mr. Alec Collett, whose case is one of those in which the Secretary-General has personally intervened, is at present unknown. Reports of his execution in April 1986 have not been confirmed by United Nations sources. Mr. Mohammed Khalil, the locally recruited staff member of the United Nations Educational, Scientific and Cultural Organization (UNESCO) detained in Afghanistan on 12 December 1984 has been convicted of "anti-State activities" and sentenced to five years' imprisonment. In Ethiopia, where two United Nations staff members remain under detention, one of the staff members, Mr. Shimelis Teklu, has been charged and sent for trial. After several open sessions at which a United Nations observer was present, the trial was resumed in closed session. A request to resume the trial in open session accessible to the observer has been made to the Ethiopian authorities. In the occupied West Bank, Mr. Said Ali Abdul Hadi Banat was sentenced on 21 January 1986 to 2 1/2 years' imprisonment by the Israeli authorities. On a more positive note, further enquiries by the UNRWA Field Office have shown that three of the staff members reported as having been abducted by militias or unknown elements in Lebanon are not in detention and have returned to duty (Mr. Mohammad Hasan, Mr. Nasser Ma'Rouf and Mr. Ahmad Khatib), while nine staff members detained in the UNRWA area of operation have been released. The consolidated list of all staff members under detention or reported missing as of 30 June 1986 is set out in table 2 below.

Table 2

<u>Location</u>	<u>Agency</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Afghanistan	FAO	1	Mr. Daulat Mir	Detained 12 August 1984
	UNICEF	3	Mr. Taj Mohammed	Detained 21 May 1984
			Mr. Ghaisuddin Sabri	Detained 12 July 1986
			Mr. Mir Zaman	Detained 31 July 1984
Benin	FAO	1	Mr. Etienne Dossou	Detained 15 January 1986
Ethiopia	ECA	1	Mr. Tesfamariam Zeggae	Detained 2 March 1982
	UNHCR	1	Mr. Shimelis Teklu	Detained 2 January 1984
Jordan	UNRWA	2	Mr. Mhammad Issa Abu Marar	Detained 31 October 1985
			Mr. Hatem Mahmoud Asi	Detained 5 January 1986

/...

<u>Location</u>	<u>Agency</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Lebanon (Israeli Defence Forces and <u>de facto</u> forces)	UNIFIL	1	Mr. Yassin Y. Shaban	Detained 19 February 1986
Lebanon (Syrian armed forces)	UNRWA	3	Mr. Mufid Muh'eddin Sadeq	Detained 11 September 1985
			Mr. Zaki Hamadeh	Detained 18 March 1986
			Mr. Mahmoud Ghanem Assad	Detained 3 April 1986
Lebanon (Militias or unknown elements)	UNRWA	4	Mr. Mahmoud Hussein Ahmad	Missing 22 March 1983
			Mr. Mohammad Ali Sabbah	Missing 22 March 1983
			Mr. Alec Collett	Detained 25 March 1985
			Mr. Deeb Fahed Al Zaher	Missing 29 June 1986
Syrian Arab Republic	F.O	1	Mrs. T. Jawabri	Detained 29 December 1982
	UNDOF	1	Mr. Sami Izza	Detained 6 October 1985
	UNRWA	10	Mr. Abdala Daker Hayatli	Missing 20 April 1980
			Mr. Izzedine Hussein Abu Kreish	Detained 11 September 1980
			Mr. Ali Said Shihabi	Detained 31 March 1982
			Mr. Sa'di Mohammad Zeidan	Missing October 1983
			Mr. Abdalla Issa	Detained 6 October 1985

/...

<u>Location</u>	<u>Agency</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Syrian Arab Republic			Mr. Mohammad Kteileh	Detained 24 March 1986
			Mr. Fadel Mohammad Kheir Salman	Detained 1 April 1986
			Mr. Muwaffaq Mahmoud Sa'di	Detained 1 April 1986
			Mr. Yaser Hassan Jalbout	Detained 5 April 1986
			Mr. Yahya Abu Shaqra	Detained 10 April 1986
Occupied Gaza Strip	UNRWA	4	Mr. Mohammad Salman Abu Ghubait	Detained 27 July 1985
			Mr. Nabil Mohammad El Ajrami	Detained 27 July 1985
			Mr. Najib Mohammad Abu Nahla	Detained 9 December 1985
			Mr. Daifalla Umar Zayed Abu Samhadanah	Detained 5 March 1986
Occupied West Bank	UNRWA	3	Mr. Husni Muhsen Saleh Khashash	Detained 9 March 1986
			Mr. Ahmad Faras Mohammad Odeh	Detained 9 April 1986
			Mr. Abdul Halim Nayef Issa Assaf	Detained 17 June 1986

II. OTHER QUESTIONS INVOLVING THE STATUS, PRIVILEGES AND IMMUNITIES OF OFFICIALS

7. The Secretary-General is obliged to draw the attention of the General Assembly to the case of Mr. Liviu Bota, a staff member of Romanian nationality who is Director of the United Nations Institute for Disarmament Research (UNIDIR) in Geneva. Mr. Bota travelled to Bucharest in December 1985 on a private visit and has not been able to rejoin his post despite repeated requests by the United Nations. The Secretary-General has personally intervened in this matter and in his contacts with the Romanian authorities, he has taken the position that Mr. Bota remains a staff member of the United Nations until his resignation and that a

resignation within the meaning of the Staff Regulations is a separation initiated by the staff member which the Secretary-General may, and in this case does, require to be submitted in person. Formal procedures exist for the separation of staff members from the service of the United Nations and must be complied with regardless of whether the staff member serves on secondment or otherwise. The Chairman of the Advisory Board on Disarmament Studies and Board of Trustees of UNIDIR informed the Secretary-General that the Board, of which Mr. Bota is an ex officio member, had noted with regret the absence of Mr. Bota from his duties which had placed a great strain on the viability of the Institute and impaired its functioning. The Secretary-General was urged to bring the Board's views to the attention of the Romanian authorities at the highest level with a view to resolving the situation. In conveying the UNIDIR Board's views to the Romanian authorities, the Secretary-General once again drew the attention of the authorities concerned to his earlier cables to the President and Minister for Foreign Affairs of Romania. The Secretary-General continues to be convinced that the satisfactory settlement of this case lies in the proper application of the United Nations Staff Regulations which govern Mr. Bota's service with the Organization.

8. The question of travel restrictions placed on officials of the United Nations, the specialized agencies and related organizations has been brought to the attention of the General Assembly in previous reports. Restrictions on duty travel continue to hamper the efficient functioning of UNRWA in its area of operations. On the positive side, the Israeli authorities have lifted their restrictions on official travel of an international staff member to the West Bank and the Gaza Strip. However, five locally recruited staff members have been refused facilities to travel on duty to the West Bank and Gaza Strip, two other local staff members have been prevented from leaving the West Bank and Gaza Strip, respectively, and one has been deported from Jordan. No reasons have been given for these actions. Israeli authorities also continue the practice of summoning UNRWA staff in the West Bank and Gaza Strip for questioning during office hours and without adequate notice.

III. OFFICIAL AND PRIVATE TRAVEL OF OFFICIALS IN THE UNITED STATES

9. The official and private travel of officials in the United States was the subject of discussions between the United Nations and the United States as a result of legislation (the so-called Roth Amendment) passed in the United States Congress in 1985 which placed restrictions on travel beyond a 25-mile radius of Columbus Circle, New York City, for international organization officials of certain nationalities. The staff of the United Nations was kept fully informed of these developments and of the practical solutions found in information circulars ST/IC/85/48 of 12 September 1985, ST/IC/85/76 of December 1985 and ST/IC/86/4 of 14 January 1986. Official travel remains the sole responsibility of the Organization and arrangements for official travel continue to be made by the United Nations in the usual way. The United Nations, however, as a practical measure, notifies the host country of the official travel of all staff members in the United States.

IV. TAXATION OF SALARIES OF UNITED NATIONS OFFICIALS

10. Notwithstanding section 18 (b) of the Convention on the Privileges and Immunities of the United Nations which provides that officials of the United Nations shall be exempt from taxation on the salaries and emoluments paid to them by the United Nations, a number of Governments have introduced measures which have the effect of taxing the salaries of locally recruited officials serving regional or local offices of the United Nations and, in a small number of cases, even of officials serving at United Nations offices abroad. These measures take many different forms and may be described as "contributions" for emergency relief, family remittances or work permits. In essence, however, the measures are designed to invade the salaries of officials and give rise to an obligation on the part of the Organization to refund the amount levied to the staff member concerned. Since United Nations salaries are subject to staff assessment, the imposition of any form of national income taxation constitutes double taxation, and the Secretary-General is authorized to refund to the staff member concerned the income tax paid, such refund being chargeable to the Tax Equalization Fund established by General Assembly resolution 973 A (X) (Staff Regulation 3.3 (f)). Section 18 (b) of the Convention on the Privileges and Immunities of the United Nations is an important element in the concept of the international civil service, and its respect by Member States is of the greatest importance for a variety of reasons. The purpose of this provision is to reduce the financial burden of the Organization, to establish a uniform scale of salaries for all officials of comparable rank subject only to post-adjustment differentials, to avoid situations whereby individual host countries would derive tax benefits from the presence of United Nations officials in their territories and, finally, to eliminate the potential for interference in the functioning of United Nations offices through national taxation of officials. While the United Nations has normally been successful in obtaining the recognition of the obligation arising from Section 18 (b) of the Convention on the Privileges and Immunities of the United Nations after explaining the mechanism of the staff assessment system, difficulties persist in a small number of countries despite the representations made by the Secretary-General.

V. MEASURES TAKEN IN FURTHERANCE OF THE SAFETY AND THE SECURITY OF OFFICIALS

11. In addition to the procedures previously reported upon, the Secretary-General has convened regularly scheduled meetings of a security committee under the chairmanship of a senior member of his staff to follow up on a regular basis all cases involving breaches of respect for the privileges and immunities of officials, with particular emphasis on developments relating to pending cases.

VI. CONCLUSION

12. The relatively positive trend towards the observance of and respect for the privileges and immunities of officials of the United Nations and the specialized agencies and related organizations which was noted in last year's report has not been sustained in 1985-1986. An overall increase of the number of cases in which the organization have been unable to obtain compliance by Member States with the established procedures combined with the continued difficulty in obtaining information on or clarification of pending cases must regretfully be noted.

Annex

INFORMATION SUBMITTED BY INDIVIDUAL ORGANIZATIONS FOR INCLUSION
IN THE PRESENT REPORT

I. FAO

Mrs. T. Jawabri, an FAO staff member of Syrian nationality, assigned as a cleaner G-1 to the FAO Representation in Damascus, was arrested on 28 December 1982. The facts of this case were reported in 1983 and are set out in the report of the Secretary-General (attachment I to section A of document A/C.5/38/17 of 20 December 1983). From information received recently, Mrs. Jawabri is still under detention.

Mr. Daulat Mir, a locally recruited FAO staff member of Afghan nationality assigned as a driver G-2 to a project in Afghanistan was taken from his house on 28 August 1984 by security authorities. The facts of this case were reported in 1985 (A/C.5/40/25, annex A, p. 6). Mr. Daulat Mir is still under detention.

Mr. Mohamed Shaikh Aggaf, a locally recruited FAO staff member who is a national of the People's Democratic Republic of Yemen, assigned as a driver G-2 to the FAO Representation in Democratic Yemen, was arrested by the armed forces on 19 January 1986. After repeated démarches made by the FAO Representative, as well as by the UNDP Resident Co-ordinator, Mr. Aggaf's family was able to visit him on 5 April. Mr. Aggaf was released on 7 May.

Mr. Etienne Dossou, a national of Benin of grade G-6 was arrested in Cotonou on 15 January 1986. By note verbale dated 16 January, the FAO Representative in Benin requested the Ministry of Foreign Affairs to provide information as to the reasons for Mr. Dossou's detention and his whereabouts, as well as to arrange for the FAO Representative to visit him. By a further letter of 27 June 1986, the Director-General of FAO brought the situation to the attention of the Minister for Foreign Affairs of Benin. Mr. Dossou was subsequently released.

II. UNRWA

Between 1 September 1985 and 30 June 1986 there have been 56 cases of the arrest and detention of UNRWA staff, including 12 cases in which staff were held by one or the other militia group in Lebanon. Thirty-four of these 56 staff members have been released, including 9 who had been held by militia groups. Two of those held by militia groups have been found dead. Three staff members have been charged, tried and sentenced to various terms of imprisonment. The remaining 17 were still in detention as of 30 June 1986, as follows:

Lebanon (Syrian armed forces)	3
Lebanon (Milicias and unknown groups)	1
Occupied Gaza Strip	2
Occupied West Bank	3
Jordan	2
Syrian Arab Republic	<u>6</u>
	<u>17</u>

In no case has UNRWA received adequate and timely information on the reasons for the arrest and detention despite requests to the authorities. In the Occupied West Bank, UNRWA has had access to detained staff, but no such access has been accorded in any other field in which UNRWA operates.

There has been no further information on the two staff members (Messrs. Izzedine Hussein Abu Kreish and Ali Said Shihabi) detained in the Syrian Arab Republic since 1980 and 1982, nor on Messrs. Abdala Daker Hayatli and Sa'di Mohammad Zaidan, who have been missing in the Syrian Arab Republic since April 1980 and October 1983, respectively. a/

The consolidated list of all UNRWA staff members currently under detention or who have been reported missing is set out in table 1 below.

Table 1

<u>Location</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Lebanon (Syrian armed forces)	3	Mr. Mufid Muhyeddin Sadeq	Detained since 11 September 1985
		Mr. Zaki Hamadeh	Detained since 18 March 1986
		Mr. Mahmoud Ghanem Assad	Detained since 3 April 1986

a/ Information received subsequent to the publication of last year's report (see document A/C.5/40/25 of 25 October 1985, table 2) has revealed that three staff members, Messrs. Mohammad Hassan, Nasser Ma'rouf and Ahmad Khatib, who were thought to have been kidnapped by unknown elements in Lebanon, were in fact displaced during the camp wars. They have since returned to duty.

<u>Location</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Lebanon (Militias or unknown elements)	4	Mr. Mahmoud Hussein Ahmad	Missing since 22 March 1983
		Mr. Mohammad Ali Sabbah	Missing since 22 March 1983
		Mr. Alec Collette	Detained since 25 March 1985 (feared to have been killed)
		Mr. Deeb Fahed Al Zaher	Missing since 29 June 1986
Syrian Arab Republic	10	Mr. Abdala Daker Hayatli	Missing since 20 April 1980
		Mr. Izzedine Hussein Abu Kreish	Detained since 11 September 1980
		Mr. Ali Said Shihabi	Detained since 31 March 1982
		Mr. Sa'di Mohammad Zeidan	Missing since October 1983
		Mr. Abdalla Issa	Detained since 6 October 1985
		Mr. Mohammad Kteilah	Detained since 24 March 1986
		Mr. Fadel Mohammad Fheir Salman	Detained since 1 April 1986
		Mr. Muwaffaq Mahmoud Sa'di	Detained since 1 April 1986
		Mr. Yaser Hassan Jalbout	Detained since 5 April 1986
		Mr. Yahya Abu Shaqra	Detained since 10 April 1986

<u>Location</u>	<u>No.</u>	<u>Name</u>	<u>Date of incident</u>
Occupied Gaza Strip	4	Mr. Mohammad Salman Abu Ghubait	Detained since 27 July 1985
		Mr. Nabil Mohammad El Ajrami	Detained since 27 July 1985
		Mr. Najib Mohammad Abu Nahla	Detained since 9 December 1985
		Mr. Daifalla Umar Zayed Abu Samhadanah	Detained since 5 March 1986
Occupied West Bank	3	Mr. Husni Muhsen Saleh Hashash	Detained since 9 March 1986
		Mr. Ahmad Farae Mohammad Odeh	Detained since 9 April 1986
		Mr. Abdul Hakim Nayef Issa Assaf	Detained since 17 June 1986
Jordan	2	Mr. Mohammad Issa Abu Marar	Detained since 31 October 1985
		Mr. Hatem Mahmoud Asi	Detained since 5 January 1986

III. ECONOMIC COMMISSION FOR AFRICA

In spite of representations made by the Commission, the authorities in Ethiopia continue to detain two officials, Mr. Tesfamariam Zeggae of ECA and Mr. Shimelis Teklu of the Office of the United Nations High Commissioner for Refugees (UNHCR). The case of Mr. Belay Melake which has been referred to in successive reports of the Secretary-General to the General Assembly continues to be of concern to ECA. While acknowledging his detention, the authorities for the past several years have refused to disclose his whereabouts or his fate. He is presumed to have died while under detention but the circumstances have never been elucidated.
