



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/1990/14  
19 February 1990

Original: ENGLISH

---

COMMISSION ON HUMAN RIGHTS  
Forty-sixth session  
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED  
TO ANY FORM OF DETENTION OR IMPRISONMENT

Detention of international civil servants and their families

Note by the Secretary-General

INTRODUCTION

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1987/21, dealt with the issue of the human rights of United Nations staff members and expressed deep concern that some 50 staff members were still detained, imprisoned, reported missing - some having even died in detention - or held in a country against their will. The Sub-Commission further stated that it was conscious of the fact that the rights of United Nations staff members should be given particular attention in view of the responsibility entrusted to the Organization in the area of human rights, and requested the Secretary-General to submit to the Sub-Commission, at its fortieth session, a detailed report on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, in order to enable the Sub-Commission to consider those cases in the light of the international instruments relating to human rights.

2. At its forty-fourth session, the Commission on Human Rights adopted resolution 1988/41 on this subject. In that resolution the Commission referred to its resolution 31 (XXXVI) of 11 March 1980, in which it had dealt with respect for the human rights of United Nations staff members. The

Commission also referred to Sub-Commission resolution 1987/21, and requested the Secretary-General to submit to it at its forty-fifth session an updated version of the report he had been asked to submit to the Sub-Commission at its fortieth session on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the five years preceding the Commission's forty-fifth session.

3. At its forty-fifth session, the Commission on Human Rights adopted resolution 1989/28 on this subject. In that resolution, the Commission took note of the report (E/CN.4/1989/19) by the Secretary-General as an updated version of the report on detention of staff members of the United Nations and its specialized agencies presented to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fortieth session (E/CN.4/Sub.2/1988/17). The Commission requested the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of the United Nations staff members and experts and their families were fully respected and to submit to the Commission at its forty-sixth session an updated version of the report submitted to it at its forty-fifth session on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the year, as well as on the implementation of the measures referred to in paragraphs 3 and 4 of resolution 1989/28. The present report is submitted to the Commission pursuant to that request.

4. At its forty-first session, the Sub-Commission considered the preliminary report (E/CN.4/Sub.2/1989/28) entitled "Protection of the human rights of United Nations staff members, experts and their families" submitted by Mrs. Mary C. Bautista pursuant to its resolution 1989/9. The Sub-Commission adopted resolution 1989/30, in which it invited the Special Rapporteur to continue her study and to submit a report to the Sub-Commission at its forty-second session, with proposals for practical measures to improve the present system and ensure that staff members of the United Nations and the specialized agencies were protected.

5. In its resolution 43/225 of 21 December 1988 on respect for the privileges and immunities of United Nations officials, the General Assembly took note with concern of the report submitted by the Secretary-General (A/C.5/43/18), and of the developments indicated therein, in particular the significant number of new cases of arrest and detention and those regarding previously reported cases under that category. In the same resolution, the General Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, as well as the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions. The Assembly urged the Secretary-General to give priority to the reporting and prompt follow-up of cases of arrest, detention and other possible matters relating to the security and proper functioning of officials of the United Nations and the specialized agencies and related organizations.

6. Subsequently, the Secretary-General submitted to the forty-fourth session of the General Assembly his report on: "Personal questions: respect for the

privileges and immunities of officials of the United Nations and the specialized agencies and related organizations" (A/C.5/44/11) which will be circulated separately. With regard to that report and with particular reference to Annex 1, the Secretary-General would like to inform the Commission on Human Rights that Mrs. Taitu Ahmed was released on bail on 13 July 1989. The above-mentioned Report of the Secretary-General was introduced to the Fifth Committee by the Under-Secretary-General, the Legal Counsel. The text of his statement is annexed to this note.

ANNEX

10 November 1989

Introductory statement of Mr. Carl-August Fleischhauer  
Under Secretary-General, the Legal Counsel

Mr. Chairman, distinguished delegates,

1. On behalf of the Secretary-General I would like to introduce for your consideration the Secretary-General's report concerning Respect for the Privileges and Immunities of Officials of the United Nations and Specialized Agencies and Related Organizations. This report is contained in document A/C.5/44/11 of 2 November 1989. It covers the period from 1 July 1988 to 30 June 1989. As in the past, the report is presented by the Secretary-General on behalf of the Administrative Committee on Co-ordination and is based on the information provided by its members.

2. From the inception of the United Nations, it was recognized by member States that for the exercise of the functions and fulfilment of the purposes of the United Nations, it is essential that the officials of the organization shall enjoy privileges and immunities necessary for the independent exercise of their duties (Article 105, para.1). The member States therefore agreed in the Charter to respect the exclusively international character of the responsibilities of the Secretary-General and the staff (Article 100, para.2). It goes without saying that these fundamental provisions play an important role in assuring the proper functioning, not only of the United Nations, but of the other international organizations as well whose constitutive instruments contain similar provisions. As far as the organizations of the United Nations system are concerned, these basic provisions were further developed in such important instruments as the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, the Agreement on the Privileges and Immunities of the International Atomic Energy Agency, Headquarters Agreements, and the United Nations Development Programme Standard Basic Assistance Agreements which have obtained an impressive degree of participation by member States.

3. Respect for the privileges and immunities of officials of the United Nations and other organizations continues to be of the highest importance. The United Nations and other organizations have for more than one year now been entrusted by their member States with new important responsibilities in various parts of the world. Several new peace-keeping operations established during the reporting period are the most vivid examples of such expanding activities. A similar growth in responsibilities is taking place in the economic, humanitarian, ecological and other fields. All these new responsibilities shouldered by the United Nations and other organizations at the request of their member States, make it even more imperative that the privileges and immunities of international officials performing functions in connection with activities of their organizations are duly respected. It is in this spirit that the United Nations General Assembly at its forty-third session called upon all member States scrupulously to respect the privileges and immunities of all officials of the United Nations, specialized agencies and related organizations and to refrain from any acts which would impede such officials in the performance of their functions thereby seriously affecting the proper functioning of the Organization.

4. The present report is structured so as to underline the major areas still giving rise to serious concern on the part of the Secretary-General and the Executive Heads of the specialized agencies and related organizations. Particular attention is given to the alarming situation with respect to cases of arrest, detention and abduction of officials. It must be recognized with deep regret that notwithstanding all efforts, the number of cases of arrest, detention and abduction has remained extremely high during the reporting period and that the Middle East, in this regard, is an area of major concern.

5. One cannot speak without sadness and deep sorrow about the tragic events surrounding the still uncertain fate of Lieutenant Colonel William Higgins, a senior official serving with the United Nations Interim Force in Lebanon. This case, which has received particular attention because of its unprecedented nature, highlighted once again the seriousness of the situation and caused alarm about the destiny of other missing staff members, as well as those arrested and detained without any justification.

6. As indicated in the report, the number of cases of arrest and detention without charge or trial, in particular of staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, remained very high. In this regard, I would like to refer to only one of the cases that occurred after the reporting period, but serves as an example of the gravity of the situation in the area. On 18 October 1989, Israeli security forces entered UNRWA premises at one of the distribution centres in the Gaza Strip. They searched the offices of that centre and examined the official UNRWA document files. Obviously, such actions were protested by UNRWA staff members present and as a consequence these staff members were arrested with the use of force and one of them was badly assaulted. These staff members were released after being charged with offences.

7. The United Nations and other organizations continue to encounter resistance in obtaining access to arrested or detained officials in order to provide them with the necessary assistance and to determine whether there has been any breach of the respect for the privileges and immunities of the officials concerned. The organizations continue to face difficulties in obtaining adequate and timely information on the reasons for arrest and detention.

8. Detailed information regarding cases of arrest, detention, abduction or loss of life of officials during the reporting period is contained in paragraphs 8, 9, 10, 12 and 13 as well as in Annex II of the report. In these parts of the report the attention is drawn to some particularly alarming cases, such as, for example, the death in prison on 17 December 1988 of Mr. Zeidan Jassin. Annex I provides a consolidated list, prepared in chronological order of those staff members who continue to remain under arrest and detention or missing on 30 June 1989 and with respect to whom the United Nations and specialized agencies and related organizations have been unable to exercise fully their right of protection. Regrettably, it should be mentioned that instances similar to those referred to in paragraph 13 of the Report, where staff members of the United Nations and FAO were unlawfully expelled from the country, have recently occurred with three ILO staff members as well. It should also be noted that since the submission of the present report for publication as a document, a team of two ECA and two WHO officials, including a doctor, was granted access on 8 September 1989 to Ms. Guenet Mebrahtu. Information about her case is contained in paragraph 5 of Annex II of the report.

9. It should be noted, however, with some satisfaction that persistent efforts undertaken by the Secretary-General and designated officials have not been entirely in vain and have, on occasion, produced positive results. Thus, it has been possible to achieve the release of many staff members who have been previously reported as being under arrest or detention. In this regard, the strong support and tireless efforts of the staff unions should also be given due recognition. Information about these cases is contained in paragraph 11 of the report.

10. As far as the issue of travel restrictions is concerned, the Secretary-General's report notes with regret that there has been no improvement in the situation with official travel of UNRWA staff members of certain nationality into and out of the West Bank and the Gaza Strip. Similar problems were encountered by UNCTAD.

11. The restrictions imposed in previous years by the United States on travel beyond a 25-mile radius of Columbus Circle in New York City by staff members of particular nationalities were expanded to include the private travel of staff members from the People's Republic of China. As was stated in the previous report, these restrictive measures are considered by the Secretary-General as being contrary to the concept of the international civil service, since they envisage discriminatory treatment of staff members on the basis of their nationality. It is sincerely to be hoped that with a general improvement in the political climate of the international community such restrictions will be lifted sooner rather than later.

12. On a number of occasions in the past, the Secretary-General has drawn attention to attempts by certain member States to impose taxes on the salaries of staff members of their nationality. The Secretary-General on all these occasions emphasized that such actions come into conflict with existing international instruments, in particular with the provisions of the Conventions on the Privileges and Immunities of the United Nations and of the Specialized Agencies. Unfortunately, during the reporting period there were new instances of some countries trying to impose taxes on the salaries of staff members. The report in paragraph 17 addresses this problem in general terms and in paragraphs 18-21 refers to particular cases.

13. The United Nations and other organizations continued, in the reporting period, to follow the policy, the main features of which were outlined at the thirty-ninth session. The United Nations Security Committee has closely followed up the cases involving disregard for the privileges and immunities of officials and the United Nations Security Co-ordinator has served as a focal point for sharing the flow of relevant information with the United Nations system. The Secretary-General and the Executive Heads of the agencies and related organizations have personally intervened where the situation so required. In this regard, I would like to bring to your attention the part of the statement of the Secretary-General on 15 September 1989 on the occasion of Staff Day. Speaking to the staff, the Secretary-General said the following:

"You may be sure that, in my capacity as Secretary-General of this noble Organization, I shall do everything in my power to resolve all instances of injustice to staff members. I will also urge member States to extend to staff members not only the protection which they need, but also the treatment to which they are entitled by virtue of being international civil servants."

14. Respect for the privileges and immunities of officials is not a theoretical question. It is a practical requirement necessary for the independent exercise of the functions entrusted to the international organizations. It can be achieved if all member States refrained from any acts that would impede staff members in the performance of their functions, and if the staff of the United Nations and other international organizations strictly comply, while performing these functions, with the provisions of the relevant staff rules and regulations. Let me express the hope that the discussion in the Fifth Committee will contribute to the successful achievement of this goal.

Thank you Mr. Chairman.

-----