

II. RECENT DEVELOPMENTS

Statements by the Secretary-General and the Legal Counsel

7. In a statement to the Fifth Committee of the General Assembly on 14 November 1988 (A/C.5/43/SR.30, paras. 32-38) the Secretary-General dealt with the issues raised in his report on respect for the privileges and immunities of the United Nations staff. He stated that he had received a petition signed by 4,000 staff members on the safety and security of United Nations staff members in the discharge of their official functions. He informed the Committee that the situation had deteriorated since 1987: no less than 168 new cases of arrest and detention or abduction of officials in 16 different countries or territories had been reported to the United Nations Security Co-ordinator during the period 1 July 1987 to 30 June 1988.
8. The Secretary-General further stated that it was totally unacceptable to have to face a situation in which, in violation of the Charter and of the Convention on the Privileges and Immunities of the United Nations and other applicable legal instruments, staff members were subject to arbitrary or unexplained detention or even abduction. He further stated that the situation caused even greater concern at a time when the United Nations was called upon to assume important responsibilities in various parts of the globe for the maintenance of international peace and security. Some of those operations would involve large numbers of personnel who would be carrying out difficult tasks, sometimes under extremely difficult circumstances. He recalled that in such cases as those of Lt.-Col. Higgins and Mr. Alec Collett, who were still in captivity or missing, the United Nations had so far been rendered unable to extend to them the protection which was their right.
9. The Legal Counsel of the United Nations, in his statement before the Fifth Committee (A/C.5/43/SR.30, paras. 39-41), indicated that difficulties were still encountered in obtaining timely information, and access was routinely denied to officials seeking to determine whether there had been a breach of respect for privileges and immunities. The arrest, detention or abduction of officials not only raised legal questions regarding the breach of international instruments on privileges and immunities and the violation of basic human rights but also had serious administrative and financial implications for the Organization stemming from the contractual status of the staff member concerned.
10. On 18 December 1988, the Legal Counsel made a concluding statement to the Fifth Committee in relation to its consideration of that question. In that statement, the Legal Counsel said that, in the view of the Secretary-General, compliance by Member States with very short time-limits in granting access to detainees and in providing a formal explanation of the reasons for an arrest would lessen misunderstandings that might arise as to possible functional immunity and reduce the number of cases which had to be reported to the General Assembly. With regard to the question whether locally recruited staff enjoyed the privileges and immunities of officials under the Convention on Privileges and Immunities of the United Nations, he referred to the legal position set out in the Secretary-General's report (A/C.5/43/18, para. 7) to the effect that all staff members of the United Nations were "officials" within the meaning of the Convention, regardless of nationality, place of recruitment, category or grade, the only exception being those staff members who were both locally employed and assigned to hourly rates.