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REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION OF THE OCCUPIED TERRITORIES

Note by the Secretary-General

Addendum

The Secretary-General has the honor to transmit to the members of the General Assembly the attached supplementary report, which was submitted to him by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in accordance with paragraphs 3 and 5 of General Assembly [resolution 2727 \(XXV\)](#) of 15 December 1970.

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LETTER OF TRANSMITTAL

10 December 1971

Sir,

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has the honor to transmit to you herewith, in accordance with General Assembly resolution 2727 (XXV), a report supplementing the second report, which it adopted and presented to you on 17 September 1971 ([A/8389](#) and [Corr.1](#)). The supplementary report has been prepared in order to bring to your attention, and the attention of the General Assembly, certain information which was not available at the time the second report was prepared.

In the view of the Special Committee, the most important development that has taken place since the Special Committee adopted its second report was the announcement by the International Committee of the Red Cross that it had reconsidered its position as a potential Protecting Power in terms of the Geneva Conventions. The International Committee has now announced that it is prepared to take upon itself all the tasks envisaged for the Protecting Power in these Conventions. As the Government of Israel has refused to receive the Special Committee or to co-operate with it, but has allowed the International Committee to function within the occupied territories, the Special Committee considers it most desirable and necessary that appropriate arrangements be made to enable the International Committee to begin forthwith the exercise of the functions of a Protecting Power in the occupied territories in the Middle East.

Once the International Committee begins in fact to function as a Protecting Power, the General Assembly might wish to consider whether or not there is a need for the continuation of the Special Committee's activities.

Accept Sir, on my behalf and on behalf of my two colleagues on the Special Committee, the assurances of our highest consideration.

(Signed) H.S. AMERASINGHE
Chairman
Special Committee
To Investigate Israeli Practices
Affecting the Human Rights of the Population
of the Occupied Territories

His Excellency
U Thant
Secretary-General of the United Nations
New York, New York

INTRODUCTION

1. In resolution 2727 (XXV) of 15 December 1970, the Special Committee was requested by the General Assembly "to report to the Secretary-General as soon as possible and whenever the need arises thereafter".
2. On, 17 September 1971, the Special Committee presented its second report to the Secretary-General (A/8389 and Corr.1) based on information available to the Committee up to that date. Since that date, a number of developments relevant to its mandate have come to the attention of the Special Committee. The Special Committee has therefore drawn up the present supplement to its second report.
3. The information in the present report supplements that appearing in chapter III of the second report (A/8389 and Corr.1). In addition, the Special Committee has added some remarks concerning chapter V of that report, containing the recommendations of the Special Committee.
4. The Special Committee has taken note of the statement released by the Permanent Mission of Israel on 15 October 1971 (A/8472) in connection with the publication of the second report of the Special Committee. In this statement, the Government of Israel reiterated its reasons for refusing to co-operate with the Special Committee. In addition, the Government of Israel charged that witnesses "appeared before the Committee with heart-rending stories to the effect that their disabilities, such as for example blindness, were due to 'Israeli tortures', and the Committee appears to have willingly accepted such nonsense". The statement calls "utter falsehood" the "tales of mass deportation of Arabs" from the occupied territories and charges that the Special Committee "has given currency to [these] tales".
5. The statement asserts that the Arab population in the occupied territories "enjoys tranquillity, prosperity and respect for their human rights, to a degree unknown there before 1967". The statement also refers to the summer visitors scheme as "another fact which by itself should be sufficient to illustrate the falsehood of the testimony on which the Committee so readily relies in its report". Under this program, Arab visitors are allowed to visit their relatives and friends in the occupied territories and to tour Israel itself. The statement of the Permanent Mission of Israel puts the number of these visitors for 1971 as "over 100,000", compared with 17,000 in 1968, 23,000 in 1969 and 55,000 in 1970.
6. The Special Committee has also taken note of the statement issued by the Jordan Mission to the United Nations, on 21 October 1971, in connection with the report of the Special Committee (A/8478). The statement characterizes the report as "factual and objective".
7. Without indulging in acrimonious exchanges, the Special Committee deems it necessary, in the interest of objectivity, to point out that the accusations contained in the statement of the Israeli Mission are too vague for detailed rebuttal. The Israeli Mission does not refer to any specific cases mentioned in the Special Committee's report, nor has it furnished any information that could help establish the facts. As the Special Committee has stated repeatedly, it would welcome such information. As regards the Israeli Mission's contention that the summer visitors program "should be sufficient to illustrate the falsehood of the testimony" before the Committee, the Special Committee- would refer to its comments made in

this connection in its second report (A/8389 and Corr.1, para. 74) and to paragraphs 21 and 22 of the present report.

8. As stated in both its first and second reports (A/8089 1/ and A/8389 and Corr.1), the Special Committee's mandate requires it to receive evidence that relates to the existence or otherwise of policies and practices affecting the human rights of the population of the territories occupied by Israel as a result of the hostilities of 1967. The Special Committee has interpreted its mandate in the first report 2/ and reiterated that interpretation in its second report (A/8389 and Corr.1, chap. II). The same interpretation applies to the present supplementary report. Briefly stated, the Special Committee considers that it has been requested by the General Assembly to investigate the practices and policies of the Government of Israel affecting the human rights - namely, those which the Security Council referred to as "essential and inalienable" in its resolution 237 (1967) and those embodied in certain instruments of international law, such as the Third and Fourth Geneva Conventions, 3/ - of the population of those territories that Israel occupied as a result of the hostilities of June 1967.

9. In this context, the Special Committee has carried out its investigation of allegations of violations of human rights in the occupied territories. In carrying out its mandate this year, the Special Committee gave priority to evidence in corroboration of evidence previously given before it and to evidence which itself could be corroborated.

10. In drawing up the present report, the Special Committee has continued to take note of newspaper reports of incidents in the Israeli and foreign press, as well as reports by members of the Government of Israel and other Israeli leaders. 4/ The Special Committee has also taken into account the information appearing in recent United Nations documents, such as the special reports of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) on the operations in the Gaza refugee camps (A/8383 and Add.1) and related statements such as those issued by the Government of Israel (A/8432) and the Palestine Liberation Organization (A/8395-S/10328). In addition, the Special Committee has received certain additional information on cases referred to in its second report.

I. ANALYSIS OF ADDITIONAL EVIDENCE AND FINDINGS THEREON

A. Allegations of annexation and settlement

11. In its second report, the Special Committee expressed the conviction that it was the policy of the Government of Israel to annex and settle the occupied territories. It cited a number of facts that tended to support this conclusion (A/8389 and Corr. 1, para. 47), among which were express pronouncements by Israeli Ministers and leaders in which this policy, in the view of the Special Committee, was made manifest. Since the adoption of its report, the Special Committee has become aware of additional statements to the same effect, such as that made by the Prime Minister of Israel, Mrs. Golda Meir, which was reported in the Jerusalem Post on 10 October 1971. According to this report, the Prime Minister stated:

"Our borders are fixed by the people who live along them. If we retreat, the borders will retreat with us. The danger is then that somebody else will fix the boundaries for us."

12. The Special Committee has received new reports of the establishment of settlements by Israelis in the occupied territories. The Special Committee had cited similar information in its second report (A/8389 and Corr. 1, para. 48 (d)). The Special Committee feels that the following additional reports should be mentioned by way of further evidence of the existence of the policy to annex and settle the occupied territories:

(a) The report appearing in the Israeli newspaper Ma'ariv, on 13 September 1971, which quotes the Director of the Settlement Division of the World Zionist Organization as stating that, since the hostilities of June 1967, 32 settlements had been set up in the occupied territories, seven of which were set up in the past year. The same report states that six new settlements were being planned for the next year, three in the Golan Heights, two in the Jordan Valley and one in the Gaza Strip.

(b) The report appearing in the Jerusalem Post on 14 September 1971, concerning the establishment of settlements in Kfar Etzion.

(c) The report appearing in the Jerusalem Post, on 20 October 1971, to the effect that the Israeli authorities had completed the fencing off of 4,000 dunams of land near Deir el-Balah, in the Gaza Strip, "as part of a larger project to establish six Jewish settlements in the Strip". The report states that the total area of the settlements will be 34,000 dunams.

(d) The report appearing in the Jerusalem Post, on 10 November 1971, that the thirteenth settlement in the Golan Heights had been established; and

(e) The report appearing in the Jerusalem Post, on 28 September 1971, of the continued expansion of the settlements in Hebron, known as Kiryat Arba. -According to this report, the Housing Ministry of the Government of Israel has a master plan providing accommodation for 900 families. The same report refers to the founder and spokesman of the original group which moved into the Park Hotel in Hebron for Passover in 1968 "and stayed on". In this connection, the Special Committee took note of the letter, dated 3 June 1968, from the Representative of Jordan to the Secretary-General (A/7103), 5/ which states:

"In April 1968, about eighty Orthodox Jews moved into the Park Hotel on the northern outskirts of the city, (Hebron) ostensibly to celebrate the Passover holiday, but then announced that they had come to stay. They soon tried to rent houses and shops. The citizens did not comply with these wishes. The Mayor of Al Khalil (Hebron) cabled the Israel Prime Minister and asked for the removal of this group of Jews. Consequently, they abused the Mayor and asked him to withdraw his cable. Upon refusing their demand, they demonstrated in the streets and claimed that they were there to stay and their task was part of the 'redemption of the Land of Israel'. Their acts of provocation continued and the Israel Government was inactive on this matter."

13. The letter states that a delegation appointed by the inhabitants of Hebron met the Military Governor on 9 May 1968 and protested against the settlement of Jews in the city, "emphasizing that their presence was potentially dangerous for public security and that their stay would have grave consequences". The letter of the Representative of Jordan makes reference to a visit by the then Labor Minister, Yigal Allon, to the religious group when, according to the letter, the Minister "voiced his full support for them".

14. The Special Committee also noted the reply of the Government of Israel to the allegations contained in the letter of the Government of Jordan. The letter states (A/7105): 6/

"This letter magnifies and distorts the matter in question.

"A small group of pious Jews and their families have on their own spontaneous initiative taken up residence in Hebron, a town with venerable Jewish historical and religious associations.

"There is no good reason why their neighbors should not live on peaceful and amicable terms with them and so help to heal the tragic memories of the massacre of Hebron Jews in 1929."

15. In addition to the above reports, the Jerusalem Post, on 6 October 1971, reported a protest by the Mayor of Hebron, Sheikh Mohammed Ali Ja'abari, against the requisitioning of 1,000 dunams of land "for the expansion of the Jewish settlement of Kiryat Arba in the area". The same report, however, quotes an Israel radio report of a statement by a Military Government official to the effect that only 230 dunams were taken over "for security reasons" and that, in fact, only six dunams were actually seized, for which the owners had been adequately compensated.

16. In the view of the Special Committee, these letters, the reports quoted above, as well as those reports concerning the settlements in Hebron referred to in the Special Committee's second report (A/8389 and Corr. 1, para. 48 (d), (iv) and (viii)), confirm the existence of a policy of annexation and settlement.

B. Allegations of transfer of population and of the denial of the right to return

17. In its second report, the Special Committee took note of a number of newspaper reports according to which several thousands of persons were displaced from the three major camps in Gaza. The Special Committee noted that official Israeli sources had stated that these transfers of population were necessitated by new security measures, such as the construction of wider roads inside the camps in order to facilitate patrolling and the maintenance of law and order in these camps. The Special Committee noted the fact that most of the persons whose refugee accommodation had been destroyed to permit the construction of these roads, were forced to leave for the West Bank and El Arish, while a few were said to have sought refuge with other families inside Gaza (A/8389 and Corr.11, para. 48 (h)).

18. Since the adoption of its second-report, on 17 September 1971, the Special Committee has taken note of reports appearing subsequently in several newspapers, in letters addressed by Governments, as well as in two special reports prepared by the Commissioner-General of UNRWA on the effect on Palestine refugees of these operations (A/8383 and Add.1). These reports show that thousands of dwellings have been demolished in the three major refugee camps in Gaza and that their inhabitants dispersed to various areas and, in many instances deprived of the humanitarian assistance they were receiving from UNRWA. This was later confirmed in the statement made by the delegate of Israel in the Special Political Committee at its 788th meeting, on 26 November 1971.

19. Subsequent to the above reports, another report, which appeared in the Jerusalem Post on 21 October 1971, stated that the Israeli authorities had decided to move, "on a voluntary basis", in 1972, another 3,000 families from the refugee camps in Gaza to permanent housing. According to this report, 2,000 families were to be resettled in the suburbs of Gaza Strip towns and about another 1,000 families would be moved to the West Bank. The report states that this move was to be completed by the spring of 1972 with a view to relieving -congestion in the camps. The same report quotes the authorities as stating that they would be forced to resume "thinning out" operations in the refugee camps if this resettlement plan were opposed. According to the report, the new homes would cost LI 3,000 each and would be financed by the Military Government, UNRWA and the refugees themselves. In a report appearing in the Jerusalem Post on 22 October 1971, a spokesman for the Defense Ministry was quoted as denying the manner in which the alternative housing was being provided and the source of the financing of these new homes. The Special Committee notes that this official spokesman does not, however, deny the avowed intention of the Government of Israel to move 3,000 families from the refugee camps by next spring.

20. In this context, the Special Committee considers that these proposed transfers, as well as those that have taken place so far during the "thinning out" operations, are unwarranted. The Special Committee would wish to reiterate the view expressed in its second report that security reasons offer no justification for the arbitrary transfer of population to enable the Occupying Power to construct new roads in the area so evacuated. The Special Committee considers the arbitrary transfer of population as unnecessary, unjustified and in breach of the Fourth Geneva Convention.

21. In its second report, the Special Committee made reference to the so-called summer visitors program, which permits Palestinians living outside the occupied territories to visit relatives and friends during the three-month summer period. The Special Committee noted that the delegate of Israel, in the debate on the Special Committee's report during the twenty-fifth session of the General Assembly, had referred to this program as an indication of his Government's policy in the occupied territories. In its second report, the Special Committee stated that, although the summer visitors program may be considered as a positive aspect of Israeli policy towards the territories it occupies, it is no substitute for recognition of the right of the refugees to return to their home, nor does it have any bearing whatsoever on the declared policy of the Government of Israel to settle occupied territories and on the fact that several hundred persons had been deported from their homes in the occupied territories on official deportation orders purporting to be issued by the Israeli authorities under the Defense (Emergency) Regulations, 1945 (A/8389 and Corr.1, para. 74).

22. In this connection, the Special Committee notes the statement made by the delegate of Israel in the Special Political Committee at its 788th meeting, as well as reports according to which the summer visitors program-me for 1971 had been between 80,000 and 106,000 visitors. The Special Committee notes that the program ended in mid-September 1971 and that all visitors had left the occupied territories. On 3 October 1971, the Jerusalem Post reported that several thousand Arab summer visitors before leaving, had asked to remain in the occupied territories. The report quotes

the Military Governor of the West Bank as stating that such requests would be given consideration under the family reunion arrangements.

C. Allegations of ill-treatment while under detention

23. In its second report to the Secretary-General, (A/8389 and Corr.1, para. 64) the Special Committee referred, *inter alia*, to the case of Moayyad Osman Badawi El-Bahsh, 22 years of age, who was arrested in December 1967 in Nablus and deported on 7 September 1970. The Special Committee stated that El-Bahsh had appeared before it at Beirut, on 14 July 1971. At the time, he was still undergoing treatment in London. The witness' left arm showed signs of complete paralysis and he alleged that this was due to the ill-treatment that he had suffered upon his arrest. El-Bahsh had informed the Committee that he had been subjected to electric torture, with clips placed on his ears and genitals and a band around the head, and that he had also been stretched with one arm tied to a post and another to a door which had been constantly opened and closed. He stated that he had been suspended by the wrists from a window and that a soldier had jumped up and down on the shackles holding his legs together, causing paralysis of the left arm. In this connection, the Special Committee made reference to the evidence which Najib El-Ahmed, who appeared before it on 6 April 1970 and who had stated that he had met El-Bahsh in the infirmary in Nablus Prison in 1968, where they had spent more than 30 days together and that El-Bahsh had developed "partial paralysis of the left side right up to the shoulder". El-Bahsh informed the Special Committee that, in 1968, he had been visited in prison by a representative of Amnesty International.

24. In its second report, the Special Committee also stated that Amnesty International had sent a report on the case of El-Bahsh to the Government of Israel and, although this report had not been produced at that time, the Special Committee had received from Amnesty International a copy of the Government of Israel's comments on the case. The Special Committee quoted the opinion of the Israeli doctors as contained in the Government of Israel's reply to Amnesty International according to which, "medical tests had proved that from an objective point of view there were no signs of paralysis or injury caused to the left arm as claimed" and El-Bahsh's condition appeared to be one of hysterical paralysis, "where the mental state of the patient seemingly causes paralysis, without there being any objective evidence of damage to the nerves". Furthermore, the Special Committee quoted the report of the Israeli doctors which stated,

"From the X-ray taken of Moayid [El-Bahsh] on 18 February 1968 and subsequent medical tests, it is apparent that there is no basis to the complaint that his left arm had been broken 'in camp' between 24 and 29 January 1968.

"It was similarly proved by the medical evidence that during the period between 24 January and 8 March 1968, Moayid had not suffered from a break or fracture in his left shoulder or arm."

25. As of 17 September 1971, the Special Committee was still awaiting the report of the doctors by whom El-Bahsh was being treated when he appeared before the Special Committee. Since the date of the adoption of its second report (17 September 1971), the Special Committee has received a copy of the original report that Amnesty International sent to the Government of Israel, as well as the report of Dr. T.H.H. Wade, dated 8 July 1971, both of which on El-Bahsh. In his report, Dr. Wade diagnosed the condition as one of hysterical paralysis as far as the left arm was concerned; Dr. Wade further stated that, regarding the left arm, a second doctor, Mr. Donal Brooks, had independently made the diagnosis of hysterical or feigned paralysis. The report of Dr. Wade also contained a description of his observations as a result of a complete examination of El-Bahsh.

26. In the light of the evidence available, the Special Committee does not feel that it is in a position to determine whether or not, in fact, El-Bahsh had been subjected to the extreme forms of ill-treatment that he alleged before the Special Committee. The Special Committee cannot, however, rule out the possibility that paralysis was due to a mental state that was itself the result of some form of physical ill-treatment or psychological strain while under detention. The report of Amnesty International to the Government of Israel, the report communicated by the Government of Israel to Amnesty International, and the report by Dr. T.H.H., Wade, appear as annexes I, II and III below.

27. In the interim period since 17 September 1971, the Special Committee has received reports that a riot occurred in Ashkelon Prison on 30 September. According to these reports, the riot lasted for three hours and it was staged by the 480 prisoners who are held at Ashkelon. A report on this riot appearing in the Jerusalem Post, on 3 October 1971, attributes it to the lack of suitable facilities for the prisoners who serve long sentences of 15 years and over. The report attributes to Mr. Arye Kir, Prison Commissioner, a statement to the effect that the only workshop facility for the prison was outside the prison walls and that this could only accommodate about half the prison population, which was approximately 500 men. The Commissioner is reported as stating that this meant that between 250 and 300 inmates spend 23 hours a day in their cells. The same report states that most of the prisoners at Ashkelon are serving life sentences.

28. The Special Committee notes that, in an interview reported on 12 October 1971, the Minister of Police, Mr. Shlomo Hillel, was reported as stating that the Prison Commissioner, Mr. A. Nir, had appointed a special committee to investigate the riot and that the report of this investigation would be "internal and technical" and that it would not be released to the public. The report quotes the Minister as stating that the immediate causes of the riot were overcrowding, a shortage of staff, and the fact that the prisoners at Ashkelon consisted of "senior terrorist leaders and other dangerous types".

29. The Special Committee has no evidence that confirms or refutes the allegations made by persons who subsequently visited the prison at Ashkelon that the inmates had been ill-treated by way of reprisal for the riot. No disclosure has been made of the results of the investigation conducted at the behest of the Prison Commissioner. The Special Committee notes that a request by mayors from West Bank towns to visit the prison were turned down, as well as a request by a public delegation of citizens from Nablus, headed by the Mayor of Nablus, Mr. Haj Malazoud Al-Masri, which urged that the Knesset Committee of "neutral" parliamentarians be formed to investigate the conditions at the Ashkelon Prison. According to a report appearing in the Jerusalem Post on 15 October 1971, the Minister of Defense, Moshe Dayan, rejected this request and he is reported to have stated that he was opposed to the appointment of a public investigation committee. The same report states, that, following two sit-down strikes by relatives of inmates, and as a reprisal for these demonstrations, the Defense Minister decided that no citizens of Nablus would be allowed to visit relatives being held in Israeli prisons on the next scheduled visit, which was due in two weeks' time.

30. In its second report, the Special Committee expressed its conviction that general prison conditions, despite reported efforts at improvement were stated to be bad and that this was mainly due to overcrowding (A/8389 and Corr.1, para. 77). The information quoted above confirms this finding.

D. Other allegations

31. In its second report, the Special Committee noted that periodic mass arrests of young men were continuing and quoted instances where such arrests had taken place (A/8389 and Corr. 1, para. 70).

32. The Special Committee notes further reports appearing in the press, according to which this practice has not ceased. On 27 September 1971, the Jerusalem Post reported that 90 persons had been arrested during the month of September in the area north of Hebron. These arrests, according to the report, were made in groups of 19, 36 and 35. According to the Israeli news agency in the four months ending September 1971, approximately 400 residents of the West Bank had been detained on suspicion of various illegal acts.

33. In this connection, the Special Committee would reiterate the conclusion reached in its second report that, whatever their avowed purpose, these mass arrests were clearly calculated in part to be a means of destroying the morale of the people of the occupied territories (A/8389 and Corr. 1, para. 79)

II. ADDITION TO RECOMMENDATION MADE IN CHAPTER V OF THE SPECIAL COMMITTEE'S SECOND REPORT

34. In its report, presented to the Secretary-General on 17 September 1971, the Special Committee recommended an arrangement (A/8389 and Corr. 1, para. 91) whereby:

(a) The States whose territory is occupied by Israel appoint immediately either a neutral State or States, or an international organization which offers all guarantees of impartiality and effectiveness, to safeguard the human rights of the population of the occupied territories;

(b) Suitable arrangements be made for the proper representation of the interests of the large population in the occupied territories which has not been given the opportunity of exercising the right of self-determination; and

(c) A neutral State or international organization, as described in (a) above, be nominated by Israel and be associated in this arrangement.

35. The Special Committee further recommended that, under this arrangement, the State or States or international organization so nominated might be authorized to undertake the following activities:

(a) To secure the scrupulous implementation of the provisions relating to human rights contained in the Third and Fourth Geneva Conventions and in particular to investigate and determine the facts in the case of allegations of the violation of the human rights provisions of these Conventions or of any other applicable international instruments;

(b) To report to the States concerned and to the General Assembly of the United Nations on its work.

36. The Special Committee made this recommendation in the hope that the investigation of allegations of violations of human rights could be conducted on the spot, inside the occupied territories, something which could not be accomplished by the Special Committee itself owing to the Government of Israel's refusal to receive the Committee or to co-operate with it. Since making this recommendation, the Special Committee notes that the International Committee of the Red Cross, after giving careful consideration to the question of the reinforcement of the implementation of the existing (Geneva) Conventions, has arrived at the conclusion that all tasks falling to a Protecting Power under the Conventions could be considered humanitarian functions and also notes that ICRC expressed itself ready to assume all the functions envisaged for Protecting Powers in the Conventions. 7/ The Special Committee, while acknowledging the conclusion reached by the International Committee regarding its new role as a Protecting Power, considers that the humanitarian duties at present being carried out by ICRC in the occupied territories, even the limitations imposed upon it, should continue. As understood by the Special Committee, the role of a Protecting Power under the Conventions goes beyond the scope of the humanitarian duties performed by ICRC in its traditional role. The effective discharge of the Protecting Power's duties and responsibilities as contemplated by the Geneva Conventions would require ICRC, in its role as a Protecting Power, to free itself from the restraints which it has found necessary to observe in order to preserve its privileged position under its traditional role. The various resolutions adopted by the organs of the United Nations since 1967 indicate the interest, concern and sense of responsibility of the United Nations in relation to the question of alleged violations of human rights in the occupied territories in the Middle East. The Special Committee is of the view, therefore, that it would be necessary and proper for ICRC to keep the United Nations fully informed, through the Secretary-General, of its activities as a Protecting Power in addition to reporting to the States whose nationals it has been appointed to protect.

37. The Special Committee welcomes ICRC's expression of its willingness to assume the role of a Protecting Power as a development that facilitates the implementation of the recommendation contained in its first 8/ and second (A/8389 and Corr. 1), reports and it would hope that the appropriate arrangements would be made to enable ICRC to begin forthwith the exercise of the functions of a Protecting Power in the interests of safeguarding the human rights of the population of the occupied territories in the Middle East.

38. For these reasons, the Special Committee feels that the General Assembly might:

(a) Request the Secretary-General to inform the parties concerned of ICRC's readiness to take upon itself all the functions envisaged for Protecting Powers in the Geneva Conventions, and to invite them to avail themselves of the services of ICRC in dealing with the application of the provisions of the Geneva Conventions in the occupied territories in the Middle East;

(b) Request ICRC to consider the need for keeping the United Nations fully informed, through the Secretary-General, of its activities as a Protecting Power, in addition to reporting to the parties concerned;

(c) Reconsider the mandate of the Special Committee as to whether or not there is need for the continuation of its activities, once ICRC begins, in fact, to function as a Protecting Power.

III. ADOPTION OF THE REPORT

39. This supplementary report was adopted unanimously by the Special Committee on 11 December 1971 after it had met from 7 to 11 December 1971 to consider supplementary information reaching the Special Committee after 17 September 1971, when it adopted its second report (A/8380 and Corr.1).

(Signed) H. S. AMERASINGHE (Ceylon)
Chairman

(Signed) A. A. FARAH (Somalia)

(Signed) B. BOHTE (Yugoslavia)

ANNEX I

ABRIDGED VERSION OF REPORT SENT TO THE GOVERNMENT OF ISRAEL ON 29 APRIL 1969 BY AMNESTY INTERNATIONAL*

Moayad Othman El-Bahsh-Nablus Prison

The cause of the above prisoner is already of the nature of a cause celebre due to a statement prepared and submitted by his advocate Jamil Jusuf Shaloub of Haifa, together with his own testimony to the Prime Minister, the Minister of Defense and the Minister of Security of Israel. The Secretary General and Mr. Michael Williams had an interview with a Dr. Hiya of Ramleh prison, who read over to them Bahsh's medical case history as the Israelis have it recorded. They were also able to see Bahsh's advocate, who gave them up-to-date accounts of correspondence with various government departments concerning his client. Bahsh was arrested on 12 December 1967 and accused of murder. He was kept "incommunicado" until 26 May 1968 and it was not until then that he was allowed to see either a lawyer or his parents. He was charged with murder and attempted murder in September 1968, but these charges were dropped on 27 November 1968 and the case was finally closed on 26 January 1969. Bahsh is now 22 years old and, at the time of his arrest, was a secondary school student at Nablus; he is a member of a well-known local family. The purpose of an interview with him was to establish whether there was any evidence on his person which would tend to substantiate or otherwise the allegations of torture and maltreatment to which the various statements say he was subjected.

As Bahsh's English was not very good, it was suggested that Koubaa (the subject of the previous summary) be allowed to remain as interpreter. On his saying that he had been burnt with cigarette butts, he was invited to strip. He was able to do this only with the assistance of Koubaa, as he had apparently lost the use of his left arm completely. Numerous marks resembling those left by burns were to be seen on the lower parts of the body and inside of the legs. The left arm was noticeably thinner than the right. Koubaa was asked whether he or any of the other prisoners had seen Bahsh move his left arm since he had claimed it was paralyzed many months before, and he said none of them had. On being asked why he thought he was still being detained, he replied that the Governor had told him that he would not be released until he used his arm properly; this the Governor said was not true. After Bahsh had left the office, the Governor indicated that fresh charges were to be brought against him in connection with his association with the El Fatah organization. On the face of it, this seemed strange - since he has already been in prison for over 14 months, one wonders what activities he could have indulged in. As a result of this interview with Bahsh, but without the benefit of independent medical advice, it appeared that he had, in fact, a paralyzed left arm from the shoulder to the hand, and that he had been burnt in numerous places over the body. One was left with the impression that the intention of the authorities is to keep Bahsh in prison for an unspecified time.

* As received by the Special Committee on 23 September 1971.

ANNEX II

MR. MOAYAD EL-BAHSH - REPORT OF ISRAELI AUTHORITIES
SUBMITTED TO AMNESTY INTERNATIONAL*

MOAYID OTMAN AL BAHASH

(a) As Amnesty's report says, the case of Al Bahash is well known.

(b) The following are sections from the report drawn up by the officer appointed to investigate it.

(c) Testimony Against Al Bahash

1. Testimony given by Jamil Abd Al Rahman after an attempt was made to assassinate him. On 9 December 1967, two persons known to him entered his room. One of them, Azam, placed his hand over his mouth, while the other, Moayid Al Bahash, who stood at his side holding a knife, began stabbing him in the stomach. On the basis of this testimony, Al Bahash was arrested.

2. Hussein Awad, who shared the room with the above mentioned Jamil, testified that, on 8 December 1967, he saw Azam and Moayid Al Bahash in their room, and he began to suspect that they had come with the intention of murdering Jamil. In the evening of the same day, he met Azam accompanied by another person. They attempted to take him to a deserted place, apparently to murder him, but he managed to get away. Awad was later murdered by another group of Fatah.

3. Jamil Abd Al Rahman and Hussein Awad were collaborators, and the former did not hide this fact from his circle of acquaintances. Fatah admitted to attempting to murder him and to murdering Awad, and so the murder was without doubt planned in advance at one of the higher levels of Fatah, and committed by members of the organization. Fatah uses acquaintances of murder victims to carry out its aims and, in this case, Moayid and Azam were well acquainted with Hussein and Jamil, since there is evidence that there was homosexual contact between the four.

4. Nasser Shahshir, in his testimony to the Nablus Police, reported the connections which existed between Moayid and Azam and Fatah and their participation in the attempt made to murder Jamil. His story is identical with that of Jamil concerning the attempt made on his life:

"I saw him at the Alham camp (in Syria) on the twenty-second day of the Fast of Ramadan. He told me that he, together with Moayid Al Bahash, had attempted to murder Jamil, the owner of the cafe in Nablus. According to him, he blocked his mouth when Moayid Al Bahash stabbed him in his house, three times wounding him."

(d) Medical treatment

1. In every case where Al Bahash approached the medical orderly or the Nablus prison doctor, he received treatment. During the period between 14 January and 15 May 1968, he visited the prison doctor three times, and was given suitable medical treatment whenever he complained of pains.

2. Between 13 and 22 January 1968, after Al Bahash complained to the doctor of pains in his left testicle, he received treatment in the form of penicillin and streptomycin injections for a period of six days. On 4 February 1968, after he claimed that his left shoulder had been injured, the doctor prescribed treatment for him in the form of bandaging and pain-killing pills, although he found no sign that the bones were broken or dislocated.

3. On 14 February 1968, after Al Bahash reiterated his complaints regarding pains in his left shoulder, an X-ray was taken which proved that there was no fracture in the shoulder, nor were his bones dislocated. After he received treatment, his complaints stopped.

4. Since his claims that he had been injured in the left shoulder and could not move his left arm continued, Al Bahash was, on 15 May 1968 sent to Ramla prison for the continuation of the examination, and from there he was sent to a specialist at the Assai Harofeh hospital for yet further tests.

5. The treatment afforded Moayid in the Ramla prison was good, and he was given thorough medical examinations. When the results of these became known, the conclusions arising therefrom were explained to him by the doctors of Ramla prison, namely, that lack of use of the arm may cause the muscles to degenerate.

6. It should be noted that, from the physical point of view, Moayid's general state of health was good and, during the time that he spent in the Ramla prison, he did not resort to any treatment whatsoever, not even for his burns, regarding which he stated that they had "dried up".

(e) "Paralysis of the left arm" - Results of the medical examination

1. On 15 May 1968, Moayid was transferred to the Ramla prison for neurological tests, in order to examine his claims that his left arm had been paralyzed for three months and that all feeling in it had been lost. He also claimed that attempts had been made to test the sensation in his hand by burning it with lit cigarettes, and that he had not felt these either.

2. In the course of the examinations, it became clear that the Ramla prison doctor suspected from the first test on that, as a result of the following observations, which contradicted all claims of paralysis in the left arm, he had before him a case of simulated illness:

(a) Sensation in the left hand was normal;

(b) Reflexes were normal;

(c) The muscles of the left arm had not withered, which would have been a sign that they were not being used and had degenerated.

3. To confirm this diagnosis and dispel all doubt, the doctor decided to send him for a thorough examination by specialists of the Assaf Harofe hospital, where the following tests were carried out:

- (a) An examination by an orthopedic specialist, which revealed nothing;
- (b) The director of the institute for physiotherapy, after giving Moayid a special electro-diagnostic test, the results of which proved that the nerves of the arm were in order, namely, that there was no organic cause for paralysis or for the loss of sensation in the arm.

4. Further opinions given by medical specialists (among them Professor Spiro) were careful not to reach a definite conclusion that the left hand was beyond all doubt in order, and that Moayid was lying and simulating. In explaining the case, the specialists postulated the following:

- (a) Medical tests prove that, from an objective point of view, there are no signs of paralysis or injury caused to the left arm as claimed;
- (b) Situations of what is known as hysterical paralysis exist where the mental state of the patient seemingly causes paralysis, without there being any objective evidence of damage to the nerves: the patient, out of self-conviction or a desire to prove claims of illnesses and even torture, as in the case in question, unconsciously simulates. In such a case, it would be possible to extinguish a cigarette on the patient's arm without him displaying external signs that it was being done;
- (c) A person who keeps his hand motionless for a lengthy period of time, may, although able to move it, develop symptoms of secondary weakness because of the lack of activity, but not paralysis.

5. From the X-ray taken of Moayid on 18 February 1968 and subsequent medical tests, it is apparent that there is no basis to the complaint that his left arm had been broken "in camp" between 24 and 29 January 1968.

6. It was similarly proved by medical evidence that during the period between 24 January and 8 March 1968, Moayid had not suffered from a break or fracture in his left shoulder or arm. On the contrary, the hospital doctor in Nablus expressly stated that, on 19 February 1968, "he was able to manipulate his left arm and I personally saw him manipulate his left arm".

7. In accordance with the instructions given by the Chief of the Medical Department in the Prisons Services, he was again transferred to Ramla prison on 8 May 1968.

On this occasion, he was treated directly by the Chief of the Medical Department and also by a psychiatrist.

As this treatment proceeded, he again began gradually to manipulate his hand, especially as to return to Nablus prison, where he was to sit for examinations of the Ministry of Education.

He was returned to the Nablus prison on 16 May 1968.

8. Because of the same simulation of paralysis in his left arm, Moayid was, on 13 August 1968, again admitted to the Ramla prison hospital for observation. Another electric test was made of the muscles of the arm, and it was found that both the muscles and the nerves were in good order. Moayid had his state explained to him once more and he gradually began using the arm.

(f) Complaints concerning maltreatment and torture

1. All those persons who came into contact with Moayid have rejected his complaints of maltreatment. In a certain instance, he was even treated leniently in the Nablus prison, although he had been guilty of disorderly conduct and had incited prisoners against the prison authorities.

2. All those persons who, by virtue of their official function, were responsible for his conditions of imprisonment treated him in accordance with instructions and in the same fashion as they treated the other prisoners.

3. Moayid was not kept in solitary confinement in Nablus prison except for a few hours after he had acted in disorderly fashion and until he was brought for disciplinary trial. According to the testimony of the assistant commissioner of, Nablus prison, Moayid was not kept in solitary confinement even after committing a disciplinary offence. The penalty which he received was that of a warning.

4. During the entire period of his imprisonment, he was kept in a large cell in which there were 40 to 50 prisoners.

5. No persons were allowed to visit Moayid until the investigation was completed. For the same reason, he was prevented from seeing a lawyer, especially considering the seriousness of the offence. For this reason, the requests submitted by advocate Shalhov that he be allowed to meet with Moayid were rejected.

6. On the other hand, while he was detained in Ramla prison, a lawyer was allowed to visit him and visits by his family were also permitted.

7. During the entire period of the investigation, the Police refused to free the detainee on bail because of the seriousness of the offence.

8. Moayid did not complain of maltreatment to the prison authorities even once, despite the fact that he had opportunity to do so at the weekly meetings which the assistant commissioner of Ramla prison held with prisoners at their request.

9. The burns

(1) There are on record confessions by Moayid's prison comrades in which they declare that they in fact were the ones who caused the burns, after

Moayid himself asked them to burn his left arm with lit cigarettes to prove that it had lost all sensation.

(2) Evidence exists that Moayid did so himself, as well, to see whether "the hand is dead or alive".

(3) On 23 August 1968, the commissioner of Nablus prison received a letter from Moayid's father, expressing concern as to the well-being of his son.

Moayid was invited to see the commissioner and was questioned about the contents of the letter. Moayid explained at the time that there was no cause for concern and that he felt well, and he thanked the doctor, the medical orderly and the commissioner for the good treatment which he received. At the suggestion of the commissioner, he wrote a letter to his father in which he informed him that he was well and in good health, and he added that, although he had suffered from pains in his left shoulder, he felt well after receiving treatment. This was done in the presence of the orderly and the duty officer of the prison.

(4) On 1 May 1968, Moayid was brought before the assistant commissioner of the Nablus prison together with other prisoners, who had refused to accept cigarettes from the Red Cross. The assistant commissioner asked him why his left arm was tucked into his shirt. Moayid replied that it was paralyzed, and he requested that the assistant commissioner burn him with a cigarette to establish that this was so. The assistant commissioner refused and told him that only a qualified doctor could check this, and in fact he was immediately sent to a doctor.

(h) Behavior in prison

1. In all the prisons in which Moayid was detained, he behaved arrogantly, his conduct was disorderly, and he incited others to go on strikes, not to accept cigarettes from the Red Cross, not to rise when being counted, and so forth.

2. For such behavior he was twice brought for disciplinary trial, and in both cases his penalty was a warning.

3. On 12 February 1968, Moayid declared a hunger strike while in Nablus prison. After being brought before the assistant commissioner of the prison, when it was explained to him that, after a certain period of such striking, he would be fed forcibly by tube, he ceased his hunger strike.

10. Conclusions

1. More than a reasonable suspicion exists against Moayid that he is a member of the Fatah organization and that he took active part in the attempt made to murder Jamil Abd Al Rahman on the night of 9 December 1967.

2. Although Moayid was prevented from seeing his family or a lawyer for a comparatively lengthy period of time, this may be explained by the serious nature of the charges against him, and by the fact that his investigation had not yet been completed.

3. Regarding torture and maltreatment, the fact is that Moayid enjoyed the same treatment as did all the prisoners. Where it is at all possible to note exceptions which were made in his respect, they are all in his favor and not to his detriment, for example:

(a) The penalties which he received in disciplinary trial - warnings - were light, considering the nature of the offences;

(b) Moayid incited his comrades to rebel against the prison authorities, yet he was not even confined to solitary.

4. Moayid was not tortured.

5. The various burn marks on his arm were not the result of acts of torture committed as it were by one of his warders or investigators. There is no doubt that the burns were caused first by himself, and secondly by his prison comrades at his request.

6. The motive behind these acts was apparently to prove that he had indeed been maltreated.

7. With regard to the damage which was claimed to have been done to his left arm, there is no doubt that no injury has been caused to his person, and in this respect the medical opinions submitted, and their conclusions as set forth above in paragraph f, are conclusive.

ANNEX III

MEDICAL REPORT ON MR. MOYAD BAHSH, AGED 22 YEARS, DRAWN UP BY DR. T.H.H. WADE*

This patient was first seen by me on 4 February 1971, on his arrival from Amman, Jordan. The story was that in 1968, he was imprisoned in Nablus, where he was, I understand, tortured, hanged by handcuffs with chains around the wrists, and round the ankles. The exact duration we are uncertain about, but apparently he was tortured daily, and frequently fainted. His father is now dead. Two brothers were still in prison in February, although I understand one of them had been deported, and the one remaining in prison has since been released. Since then, one of these brothers was unfortunately killed in Jordan.

He told me that after one particular torture session, the next day he found that his left arm would not move. Apparently he was X-rayed, and had some electrical treatment. There was some temporary improvement in the paralysis of the left arm, but it is now as bad as it has ever been.

On examination, the points of interest were that the left arm appeared totally paralyzed, that sensory loss stopped at the shoulder girdle, that sweating was still apparent in the palms of the left hand, that the reflexes were all present, and I considered equal to those of the right arm, and that the wasting

of the left arm as a whole was not as severe as one would expect from a total nerve paralysis. Further, on shrugging, his left shoulder moved exactly as the right shoulder. My diagnosis was a hysterical paralysis.

I also examined him completely. The three-inch scar over the left frontal scalp area. There was a 1 cm. scar over the left forehead, there were some small marks on the right cheek, anterior to the angle of the right jaw. A three-inch scar on the left forearm, and a one centimeter lineal scar lateral to the scar just previously described. There were three tiny marks or scars on the left forearm extensor surface. On the left wrist, a 1 cm. linear scar. On the right forearm lateral margin, two small scars. 3.5 cm. scar on the left abdomen. On the right side of the glans penis a small mark. On the left lateral thigh, superior to the greater trochanter a tiny mark. On the left foot, below medial malleolus, some white or discolored patches. On the right medial malleolus, a small lesion. On the right lateral foot, two small marks, and some paler scars on the left knee. On the right thigh, a pale heightened scar. Urine N.A.D., blood pressure normal.

The cause of these lesions can only be deduced from his history, i.e. he says that they are due to burns, etc.

Regarding the left arm, I took him to see Mr. Donel Brooks in joint consultation, and he independently made a diagnosis of hysterical or feigned paralysis. Treatment has been persistent and regular physiotherapy and considerable improvement has been made. He has in fact been seen on several occasions. Each time there has been an improvement, although progress has been very slow. He is due to be seen again, today 9 July 1971, in joint consultation with Mr. Brooks. We are in fact hoping that full recovery will be made.

* As received by the Special Committee on 12 November 1971.

(Signed) T.H.H. WADE,
M.A., M.B., B.Ch.

Notes

1/ Official Records of the General Assembly, Twenty-fifth Session, agenda item 101, document A/8089.

2/ Ibid., chap. II.

3/ See *ibid.*, paras. 36-38; see also United Nations, Treaty Series, Vol. T5 (1950), Nos. 972 and 973.

4/ A/8389 and Corr.1, para. 36.

5/ Issued in printed form in Official Records of the Security Council, Twenty-third Year, Supplement for April, May and June 1968, document S/8609.

6/ Ibid., document S/8626.

7/ See the Report on the Work of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (Geneva, 24 May-12 June 1971), para. 553.

8/ Official Records of the General Assembly, Twenty-fifth Session, agenda item 101, document A/8089.