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LETTER DATED 3 MAY 1949 FROM THE REPRESENTATIVE OF ISRAEL ADDRESSED TO THE
PRESIDENT OF THE SECURITY COUNCIL TRANSMITTING A REPORT ON THE
ASSASSINATION OF COUNT FOLKE BERNADOTTE AND COLONEL ANDRE SEROT

Sir,

I have the honour to enclose a report on the assassination of Count Folke Bernadotte and Colonel Andre Serot in Jerusalem on the 17th September, 1948. This report is submitted in accordance with the resolution of the Security Council dated 19th October, 1948.

I wish to draw attention to paragraph 9 of the enclosed report in which the Government of Israel declares that it does not regard the case as closed. At this time I feel impelled to renew the expression of my Government's profound sense of abhorrence of this brutal crime which cost the life of a servant of the United Nations who initiated the beneficent process of mediation and conciliation which is now showing such impressive results.

I have the honour,
Sir,
to remain,

Very sincerely yours,

Aubrey S. Eban
Representative at the United Nations

REPORT
SUBMITTED TO THE UNITED NATIONS SECURITY COUNCIL
BY THE GOVERNMENT OF ISRAEL

The following Report is submitted in accordance with the Resolution of the Security Council dated 19th October, 1948.

1. On 17th September, 1948, the murder took place in Jerusalem of Count Folke Bernadotte, the United Nations Mediator for Palestine, and of Colonel Andre Serot. The murderers, who travelled in a jeep, were wearing Jewish military uniforms. The murder took place in the Jewish held area of the city.
2. Responsibility for the assassination was publicly and unreservedly assumed by an organization styling itself Hazit Hamoledeth (Fatherland Front). Immediate enquiries instituted by the Provisional Government of Israel indicated that the Fatherland Front was in all probability composed of persons belonging to or connected with a dissident military organization called Lochamei Heruth Israel (the "Stem Group", hereinafter called "LHY")
3. Investigation of the character of the security measures in force in Jerusalem during the period immediately prior to 17th September, 1948, has revealed that the late Count Bernadotte took the view that owing to his position an armed escort was unnecessary, and that it would be undesirable that he be accompanied by such an escort. It was for this reason that no armed protection was accorded him and that even Israeli liaison officers attached to the United Nations Mediator remained unarmed.
4. Immediately upon receipt of news of the assassination the Provisional Government of Israel took strong action in an endeavour to trace the assassins and to prevent further acts of a similar nature. On instructions from the Government, camps of the LHY in Jerusalem were surrounded and occupied, persons found in the camps were arrested, and substantial quantities of arms and ammunition were confiscated. These operations were reported by the Acting Mediator for Palestine, Dr. Ralph Bunche, in a message on 19th September, 1948, communicated to the Security Council in Document S/1007. They were carried out under powers conferred by existing legislation, namely the ordinary criminal law and the emergency legislation which had been in force prior to the termination of the British Mandate and which had not been repealed. On 20th September, 1948, Emergency Regulations for the Prevention of Terrorism were promulgated. A synopsis of these Regulations was

communicated to the Security Council by the Acting Mediator, Document No. S/1008. On the same date the Government's decision proclaiming LHY and Hazit Hamoledeth as terrorist organizations within the meaning of these Regulations was also published in the Official Gazette. On 23rd September 1948 the Provisional State Council at its 19th session approved the steps which had been taken by the Government and re-enacted unanimously as an Ordinance the Emergency Regulations for the Prevention of Terrorism. The Emergency Regulations and the Ordinance did not, of course, affect the criminal liability of the individual, but provided for special measures against those participating in terrorist organizations. In accordance with normal procedures a prima facie case must be shown to exist before a prosecution can be instituted against those charged with responsibility for a criminal offense. The purpose of the Emergency Regulations for the Prevention of Terrorism was two-fold: firstly, it was hoped that as a result of the measures taken against the LHY, from among whose members the Hazit Hamoledeth was believed to have been constituted, sufficient evidence be elicited to warrant criminal charges against the actual perpetrators of the crime; and secondly, that steps could be taken against those who had fostered the atmosphere of violence which made such acts possible, even though they had not themselves taken any direct part in the assassination.

5. Up to the 23rd September, 1948, that is to say the date of the meeting of the Provisional State Council, 184 members of the LHY had been arrested in Jerusalem and 82 members in Tel Aviv and in other parts of the country. These arrests were made:

- (a) to enable a thorough screening of the members of these organizations with a view to tracking down the actual perpetrators of the crime;
- (b) to break the strength of the organizations themselves. On 29th September, 1948 two leaders of the LHY, Matatiah Shmulevitz and Nathan Friedman-Yellin, were discovered hiding in Haifa and arrested.

6. Despite these extensive investigations, no evidence sufficient to found a criminal prosecution was elicited.

The assassination itself took place in an isolated spot. The principal eye-witness was General Lundstrom, then the Mediator's Chief of Staff, who stated: "We were suddenly held up by a Jewish army-type jeep filled with men in Jewish army uniform. At the same time I saw one man running from the jeep, but I took little notice, thinking it was merely another check point. The man pushed a sub-machine gun through the window on my side of the car and fired at Count Bernadotte and Colonel Serot."

In addition, the police investigation disclosed that five children were either eye-witnesses of the assassination or saw the assailants prior thereto. The children themselves gave descriptions of the assailants, but these descriptions were so divergent as not even to form a satisfactory basis for an identification parade.

In consequence of the inconclusive results of the screenings and other investigations, the majority of those arrested were subsequently released after having been required to give written undertakings that they would sever all connection with the organizations concerned. Those not released in September were held in preventive custody until the general amnesty granted on the occasion of the opening of the Constituent Assembly on 14th February, 1949. The amnesty does not apply to murder or to other crimes for which the maximum penalty is life imprisonment or death; and the fact of the amnesty therefore will not prevent any person being brought back to trial for the murder of Count Bernadotte and Colonel Serot, should evidence thereof be forthcoming in the future.

The two leaders of the LHY mentioned in paragraph 4 above were brought trial before a special Military Court on charges of committing terrorist activities and of being members of terrorist groups in terms of the Emergency Regulations for the Prevention of Terrorism. The trial commenced on 5th December, 1948, and lasted until 2nd February, 1949, upon which date judgment was given. In the course of the trial the accused admitted their connection with and responsibility for the activities of the LHY, both in Jerusalem and in the remainder of the country. Consequently, although the defendants had not, in the absence of evidence, been directly charged with complicity in the murder, the question of the LHY's responsibility therefor occupied an important part of the trial and of the judgment. The defendants themselves denied that there was any connection between the LHY and the assassins or that there had been any decision in any of the organs of that body regarding an attempt against the life of Count Bernadotte. They doubted if any of their members in Jerusalem had perpetrated the crime and disclaimed all knowledge as to composition of the Hazit Hamoledeth, stating that it was not any part of the LHY.

8. The Court in its judgment found:

"From all the evidence which has been brought before the Court in the matter of the murder of Count Bernadotte, one thing is clear, and that is that there is no direct evidence; all the evidence is circumstantial.

"It is the established jurisprudence of the Courts of Palestine that when the evidence is circumstantial, the inferences must all point in one direction only: to the guilt of the accused without any reasonable doubt, or without any other supposition being reasonably possible.

"...After considering all the evidence which was brought before it, the Court finds that it is unable to establish with any degree of certainty that the murder of Count Bernadotte was carried out by orders of the LHY, and for that reason the LHY as an accused organization must benefit from the doubt."

Translation of the relevant parts of the judgment are given in the Annex to this Report.

9. The Government of Israel accepts the findings of the Court insofar as they relate to the murder of Count Bernadotte and Colonel Serot. It wishes to add, however, that it does not regard the case as closed. The case is marked by an extreme paucity of evidence, both direct and indirect. Nevertheless enquiries are proceeding and clues are being followed up in the hope that further evidence may be uncovered, so that the perpetrators of the crime may yet be found and brought to trial.

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The following is a translation of excerpts of Chapter 3 of the judgment of the special Military Court dealing with the murder of the late Count Bernadotte.

"The Government published its Proclamation on 20th September 1948 (declaring LHY and Hazit Hamoledeth as illegal organizations - translator), because of its suspicions that LHY was responsible for the murder of Count Bernadotte. The military prosecutor contended that the Government's suspicions were justified and that LHY was responsible for the assassination. The accused answered that they bore no responsibility for the assassination, basing themselves on the announcement of the organization calling itself Hazit Hamoledeth that it had assassinated Count Bernadotte. The military prosecutor replied that Hazit Hamoledeth was a fiction and only a camouflage for LHY in order to enable the latter to disclaim responsibility for the crime. The opinion of the Court is that if the military

prosecutor were to succeed in proving that LHY was responsible for the murder of Count Bernadotte, the Court would be fully able to find the accused guilty without entering into an analysis of the rest of the evidence which was brought before it. For this reason the Court finds it its first duty to answer the question whether LHY was responsible for the murder of Count Bernadotte or not.”

After describing the circumstances in which the murder was committed in accordance with General Lundstrom's statement quoted in para. 6 of the Report, and establishing that the murderers must have been Jews, the judgment continues:

“Witness Gabriel Zifroni told the Court in evidence (Trial Record p. 1081) that he as well as many other journalists, including a LHY liaison officer named Gabby, knew that Count Bernadotte was due in Jerusalem on Saturday, 18th September, 1948. This information reached them two or three days previously. On 16th September, 1948, that is to say one day prior to the assassination, the journalists knew that the Count had decided to advance his visit by one day. On Friday, 17th September, 1948, in the forenoon, the journalists received an official communication from the United Nations office in Jerusalem that the Count would arrive in Jerusalem in the afternoon. The same witness stated that on the same day, after the Count had reached Jerusalem and was in the YMCA building there, he spoke with him and learned from him that he was thinking of transferring his Headquarters from Rhodes to Jerusalem. This witness, who is a Jerusalem correspondent of the Tel Aviv newspaper “Haboker”, sent to his paper a full report of the movements of Count Bernadotte on the date of the murder, which report was handed in to the Court on behalf of the accused as Exhibit No. H/57.

“According to this information Count Bernadotte reached Jerusalem district about noon. He landed at the airfield at Ataroth and took lunch at Ramallah with the Arab Commander of the Arab Legion. At 1415 hours he reached Jewish Jerusalem via Mandelbaum Gate, after special arrangements had been made. He continued on his way to the YMCA building, where he was due to spend the night. He immediately commenced discussions with the observers in Jerusalem. He was accompanied by the American General Riley and the Swedish General Lundstrom. They spent a long time conferring about the situation in Jerusalem.

“At 1530 the Count proceeded to Government House, Headquarters of the International Red Cross, to which building he was considering transferring his Headquarters from Rhodes. After an inspection of the building and of the demilitarized area around it and around the Training Farm, he left at 1700 hours to return to Jerusalem, because at 1800 hours he had fixed a conference with the Jewish Military Governor of Jerusalem, Dr. Joseph.

[...] the Katamon and Rehavia Quarters near the top of the slope at [...] 1720 hours, a greyish white jeep emerged from a blind alley towards the Count's vehicles. Three men left the jeep and went up to the first vehicle which contained a Jewish liaison officer and some observers. After glancing inside it, they went up to the second vehicle. Here they saw in the back seat Count Bernadotte sitting on the right-hand side of the vehicle; next to him was Colonel Serot, and next to him General Lundstrom. The three assailants backed about one metre and one of them opened fire through the small window at the back of the car. Five shots were heard and Count Bernadotte and Colonel Serot were killed. Eye-witnesses who happened to be at the spot saw the assailants separate and flee in different directions. They also saw the jeep hurrying to escape to the other side of the city (Exhibit H/47 - story of Colonel Begley).

“Count Bernadotte had changed his plans and advanced his coming to Jerusalem by one day. He was in the city no more than three hours. In the course of this time he visited various parts of the city, and was some time in the YMCA building and Government House. The men who plotted to assail him had to keep track of all his steps and to know all his movements in order to reach at the right time the right place for the commission of the crime. Such a thing was only possible if the assailants had at their disposal an elaborate system of trained agents who could inform them with the necessary speed of the movements of the Count during the whole time of his stay in Jerusalem. Such a system could only be composed of men experienced in underground work, having in mind the fact that the route which the Count had chosen for his journey from Government House to the house of the Military Governor of Jerusalem could not have been known in advance. Also the distribution of the tasks between the assailants themselves, some of whom had to perpetrate the crime while others had to remain in the jeep in order to facilitate the escape of the actual assailants in the event of difficulty or resistance to them, shows that this assassination was organized in advance down to its smallest detail. Even the fact that the three assailants fled in different directions and the jeep in yet a fourth, proves that the assailants were men trained in the execution of terrorist activities.

“The manner in which the assailants informed the journalists and correspondents of the murder (“We have killed Bernadotte because he worked for the British and carried out their orders”) which is similar to what certain terrorist organizations used to do in the days of the British Mandate, is additional proof that the murder was organized by men of an underground movement.

“The murder as it was actually carried out and all the preparations that went with it are predicated on the following points: (a) a clear decision to assassinate Count Bernadotte and the elaboration of a detailed plan for its carrying out; (b) a complex spy network capable of keeping track of the Count's movements during the time of his stay in Jerusalem so as to enable those responsible for the operation to fix its place and time; (c) men experienced in this kind of activities or who had received in good time training for it; (d) appropriate arms and methods of communication as well as safe refuge after the murder; (e) a commander well experienced and responsible for the actual perpetration.

“The conclusion from all that has been said above is that the action was carried out in accordance with a decision and by plans and by order of an existing underground organization with considerable experience

“The Court rejects as unfounded any possibility that this murder was carried out by an insane individual or by a group which had organized itself casually and spontaneously. The Court finds as a fact that if there exists an organization calling itself Hazit Hamoledeth, its members are men of considerable underground experience.

“Relying on its knowledge of the country the Court find [...] bility than to establish that only two organizations, Irgun Zvai Leumi [...] could at that time have perpetrated a murder of this sort. Such a murder required all the essential conditions described above. In Jerusalem at that time only the Irgun Zvai Leumi and LHY maintained an underground organization and both of these had considerable terrorist experience in the past. The Court finds as a fact that if the organization calling itself Hazit Hamoledeth actually exists, its members could have been drawn only from the ranks of the Irgun and LHY.

“The activities of Count Bernadotte in the country had given rise to many expressions of disapproval in all the Hebrew press. Some newspapers published articles criticizing his activities in strong terms. LHY did not content itself merely with newspapers but went further.”

The Court quoted an article from newspaper “Mivrak”, of the 6th September, 1948, written by Friedman -Yellin, calling for an immediate expulsion of Count Bernadotte and his observers. The Court regarded this article as an instrument to the appearance of irregular groups such as Hazit Hamoledeth.

Furthermore, the Minister of the Interior, Mr. Y. Gruenbaum, gave evidence (Trial Record, page 1065) that the Commander of the LHY military unit, known as Meir, said to him: “Well, we will dissolve ourselves but nevertheless it is necessary to keep in mind the situation for which the Government is responsible being unable to do what is necessary in the struggle over the future of Jerusalem. The Government will have to accept the situation in the light of all its calculations including the general situation, the availability of forces and so on. But our members are not under any such duty of general responsibility. We can do things which the Government cannot do.” On the same page Mr. Gruenbaum stated “This was the line of their thought at that time.”

The Court then referred to a broadcast made by LHY on 2nd August, 1948 and a further broadcast on 6th August 1948, threatening to treat the observers as

spies, and continued:

“On the basis of these facts, the Court finds that amongst the members of LHY there grew up a notion that they were especially destined to carry out political acts of a certain character outside the territories of the State of Israel as they understood them, acts to which a responsible government could not put its hands, but which only a terrorist organization with regular forces such as Hazit Hamoledeth could do.”

The Court then referred to a demonstration against Count Bernadotte which was organized by LHY on 11th August, 1948, and to various broadcast threats by LHY and then turned to a letter written by Dr. Sheib, one of the leaders of LHY, to Friedman -Yellin in which the following passage occurs:

“The demonstration against Bernadotte gave rise to some dissatisfaction on the part of some of our members...Of course, it will have no adverse effect if we should decide to deal with him seriously. On the contrary: so far we have shown that we have no intention of hurting him for then (i.e. at the demonstration - translator) we stood a few paces away from him. But if he wants to get his fingers in here we will deal with him as we have decided. My own feeling is that he is finished and is working in a vacuum..”

The Court then referred to other letters written to Friedman [...] illustrating that a decision had been taken to deal with the Count [...] pressed its conviction in the light of all this evidence that th [...]

actually participated in this murder came mainly from the ranks of LHY [...] that if the organization called Hazit Hamoledeth actually existed, its [...] members personally came from the ranks of LHY. It went on:

“In order to find LHY guilty of responsibility for the murder of Count Bernadotte it must be proved that the murder was carried out on the express orders of the Movement, in accordance with Sec. 7 of the Emergency Regulations for the Prevention of Terrorism. It is essential that when a group of men organize themselves in order to carry out activities having a political aim, they should be directed by a small body, an executive, which issues orders. As the sphere of the group activities widens, or in other special circumstances, it becomes necessary for the executive to transfer part of its authority to a subordinate body, although the most important matters are always reserved to its own competence. Activities carried out on the orders of the subordinate body within the limits of the authority conferred upon it by the executive are done on behalf of the group. Activities which are carried out on direct instructions of the executive and which require a direct order from the central authority, are acts done by order of the group. In the instant case accused Friedman-Yellin has stated in evidence (Trial Report, page 257): ‘We have established that in Jerusalem the Jerusalem Branch operates as an autonomous unit in the spheres of propaganda, preparation and planning. One thing alone was left to my decision and that was the authorization of activities. The truth is that except for one action (in another part of the judgment it is established that this was the attack on the village of Deir Yassin in March [9 April?] 1948 - translator) during the whole time no action was carried out without my knowledge or without my authorization.’

“In addition to the evidence which the Court has analyzed at the beginning of this chapter, the military prosecutor relied upon other evidence which he brought to support his contention and has asked that this Court shall accept it as sufficient evidence to establish that the murder of Count Bernadotte was carried out on behalf of or by order of LHY.

“Against this the accused and their witnesses have contended sharply that there was no difference of opinion in LHY. Also the accused and all their witnesses who were members of LHY have affirmed that the first time they heard the name Hazit Hamoledeth was after the publication of the announcement on its part of the murder. They had no previous knowledge of the existence of such an organization.

“From all the evidence which has been brought before the Court in the matter of the murder of Count Bernadotte, one thing is clear, and that is that there is no direct evidence; all the evidence is circumstantial.

“It is the established jurisprudence of the Courts of Palestine that when evidence is circumstantial, it must all point in one direction, that is to say in the direction of the guilt of the accused. In Criminal Appeal No. 17/38, the Supreme Court said as follows:

“In order that the accused may be convicted on circumstantial evidence alone, the inferences to be drawn from the facts that are proved must point in one direction only, namely, to the guilt of the accused, without any reasonable doubt, or without any other supposition being reasonably possible.’

“The accused did not succeed in entirely disproving all the allegations [...] military prosecutor, but nevertheless they did succeed in leaving in [...] of this Court the impression that there is some substance in the [...] that the murder of Count Bernadotte was carried out by members of [...] e not in agreement with the political line adopted by that move- [...]

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underground movement of LHY. In particular the Court is impressed by the words of the accused Shmuelewitz (Court Record p. 1911) who said:

“‘Perhaps if I feel myself guilty it is a guilt which I do not have to explain to a Court but to the movement. If it should be established that members of Hazit Hamoledeth are really members of LHY, then we, the responsible ones of the movement, are responsible for one thing alone, namely, that there were some who were not satisfied with the fact that we had come out of the underground. The situation is analogous to the temperature which a man receives after he has had a typhus injection. If it should ever be established that Hazit Hamoledeth was composed of members of LHY who did not wish to leave an underground movement, then we can say that we are guilty because we should have regarded it not as a post-vaccinal fever but as a real illness.’

“In the same way the Court is impressed by the words of the accused Shmuelewitz in his closing speech (Trial Record p. 1913):

“‘The military prosecutor asked me on p. 723:

‘Q: I am not asking if there was premeditation. I am asking what you thought, and do you say that you cannot remember if you thought you had men in Hazit Hamoledeth?

‘A: It is possible that there were men who left or rebelled against LHY, or who were dissatisfied with the fact that LHY had left the underground. Even today I still think this possible.’

“After considering all the evidence which was brought before it, the Court finds that it is unable to establish with any degree of certainty that the murder of Count Bernadotte was carried out by order of LHY, and for this reason LHY as an accused organization must benefit from the doubt.”

May 2, 1949

