The General Assembly and its Legal Responsibility for the Continued Membership of the State of Israel in the UN

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The UN organization began dealing with the Palestinian problem, politically and legally, as one of the international issues, immediately after the government of the British mandate had put its mandate in Palestine on the agenda of the General Assembly (GA). The aim was to have the GA decide on the mandate, its destiny, and the Palestinian problem, and settle its legal status as soon as the British Mandate comes to an end.

Probably the most important action that characterizes the intervention in the Palestinian problem is the adoption of the well-known GA Resolution 181 in the second period of sessions held on 29 November 1947. The resolution called for the partition of the Palestinian territory under the British Mandate into two states â€œ an Arab and a Jewish. The Arab state was allocated 42% of the total area of Palestine, while the Jewish state was allocated 56.47% of the total area of Palestine. The City of Jerusalem was allocated 0,65% of the total area of Palestine, and was put under an international tutelage according to that resolution.

While Palestinians rejected the mechanism adopted by the GA in dealing with the Palestinian problem, and refused to implement their part in the resolution pertaining to the establishment of their own state, the Zionist movement which led the Jewish groups in Palestine implemented the part in the resolution pertaining to the establishment of the Jewish state, and declared the state of Israel May 15, 1948 immediately after the British government officially ended its mandate in Palestine.

Naturally, the Zionist movement was not satisfied with the size of the territory allocated for the Jewish state in the GA resolution. It sought to impose a de facto policy on the international community and on Palestinians as well, by occupying and acquiring by force half of the total area allocated for the Arab state. Therefore, soon after its establishment, Israel became in control of 77.4 % of the total area of Palestine. This occupation and annexation were strengthened by a policy of ethnic cleansing against Palestinian residents. Hundreds of thousands of Palestinians were displaced as a result of terror campaigns, massacres and

other means of coercive expulsion perpetrated by the Israeli forces to force the Palestinians to leave their country and properties.

In order to provide the legal dimension for the de facto creation of the state of Israel in Palestine, the Israeli leadership, only a few months later, requested to join the UN on 29 November 1948. This request was denied by the International Security Council, for several reasons, most important of which is a refusal by many governments at the time to grant that request. These governments justified their rejection by not resolving and settling the issues stated in the partition resolution by Israel, especially the issue of borders, which were to be drawn for each of the two states, the situation in the city of Jerusalem, the problem of the Palestinian refugees, which appeared following the establishment of the state of Israel.

The rejection of the international organization did not affect the behavior of the Israeli government. Soon after, the Israeli government applied again for membership, to the Security Council, on 24 February 1949. This time, the request was accepted and fully supported by the Security Council which recommended to the General Assembly in its resolution 69, dated 4 March 1949, only days after it received the request, to agree to Israel s membership in the UN.

In its recommendation of approval, taken when the Council discussed the request of Israel the second time, the Council clearly negated the legal considerations and basics, and dealt with this request on mere political considerations reflected by the US willingness. This approach was clear in ignoring facts and justifications, which prevented acceptance of the first request submitted by Israel. Applying for the second time, the state of Israel did not change its position towards the issue of borders and the issue of Jerusalem. Israel also categorically rejected abiding by the GA Resolution 194 issued of 11 December 1948, which created the United Nations Conciliation Commission (UNCCP), sought a decision on the status of Jerusalem in a permanent international system, and specified the right of refugees to return to their homes and properties from which they were expelled.

The acceptance of the Security Council therefore of the second Israeli application, despite the continued circumstances and justifications which led to the rejection of the first application, is a clear indication of the political dimension which guided the Council s decision. This was understood by the GA, which did not deal with the Israeli application the same way the Security Council dealt with it. The GA clearly and openly linked the acceptance of the Israeli request and putting it for vote, to an Israeli open clarification of a number of issues particularly the issue of borders, Jerusalem, refugees, and other issues resulting from the partition resolution and international resolutions that followed.

The GA saw in the Israeli request an historical opportunity that may not occur again, and therefore sought to invest that opportunity, in order to exert pressure on Israel to affirm many facts and legal commitments, which the GA deemed important to consolidate. The behavior of this state since it was established carried many indications pointing to the intentions of its leaders to impose a de facto situation on the international community and the Palestinians, in regards to the total area of land allocated to the Arab state which Israel wrongfully acquired and put under its control.

In order for the GA to make sure that it is using the Israeli request correctly to serve its purposes, it authorized its political committee to establish these commitments, particularly by getting clear and open Israeli assertion to respect and implement fully the provisions of Resolution 181, pertaining the partition of Palestine, and of paragraph 11 of Resolution 194, pertaining the right of Palestinian refugees to return to their homes and properties.

According to this authorization, the political committee formulated all the issues it was supposed to affirm in a group of questions. It then imposed these questions to the representative of the Israeli government in the sessions which were dedicated to discussing the Israeli request. Probably most important among these questions was whether the representative of the state of Israel could tell the Committee if the state of Israel will cooperate with the GA, in case it is accepted as a UN member, to settle the problem of Jerusalem and the problem of the refugees, or will it invoke paragraph 7 of article 2 of the UN Charter which deals with a state s sovereignty

The representative of the state of Israel answered this question by saying that in general, they had reached an opinion the year before, pertaining the GA resolutions. This opinion he said, believes that they must be very careful not to overemphasize implementing paragraph 7, of article 2, if such an implementation will eradicate the binding moral power of the GA resolutions. It is clear that the acceptance of Israel at the UN will lead to the possibility of applying article 10 of the Charter on it , and this way the GA will be able to present recommendations to the Israeli government directly, which the representative believed the government will look at as being correct and legal resolutions to a large extent, noted the representative.

After many questions posed by the special political committee, one of its members summed up the results of the questioning of the Israeli representative by saying that the representative of Israel provided an assertion that in case the country is accepted as a member at the UN, it will not consider the issues of borders, the internationalization of Jerusalem, and the problem of the Arab refugees as being within the sphere of Israel s internal authority protected from any intervention according to paragraph 7, of article 2.

In order for the GA to impart a legal and contractual dimension on the Israeli government s replies, to prevent Israel in the future from circumventing and deviating from the commitments it took upon itself before the GA when the issue of its membership at the UN was discussed, the GA adopted a proposal presented by the representative of Chile. The proposal called for inserting the official statements made by Israel underlining its absolute commitment to respect and implement GA resolutions 181 and 194, in the text of the recommendation to accept the state of Israel as a UN member. In the preamble and body of its acceptance recommendation No. 273 issued in the GA third round of sessions on 11 May 1949, the GA noted that Israel is a peace loving country according to the Security Council evaluation, capable of shouldering the commitments in the Charter. The recommendation also noted the open statement of the state of Israel in which it accepted with no reservations the commitments in the UN Charter, and pledged to respect from the first day it becomes a member at the UN. The recommendation recalled both resolutions of 29 November 1947 and 11 December 1948 and said it accepts the statements made by the representative of the state of Israel before the special political committee, and therefore decides to accept Israel as a member at the UN.

Probably the significance of including the above mentioned Israeli commitments in the resolution that endorsed the accession of the state of Israel to the UN, is the legal dimension that links the continuity of Israel s membership in the UN to the degree of the Israeli abidance by these commitments. This means if Israel violated these commitments it should lose its UN membership rights. The GA thus made the Israeli membership conditional, a thing that the GA never did before with any of the other states. This means that Israel is the only state in the international community whose UN membership is tied to the fulfillment of a number of specific commitments, in addition to the commitments already included in the UN Charter.

Following this review of the circumstances and complications of accepting Israel as a member in the UN, we may put to question the validity of describing it as a peace loving state, and one that accepts the commitments included in the UN Charter, which were the basis and justifications adopted by the GA when it decided to accept the membership of Israel at the UN.

No doubt that such a description did not apply to the practices of the state of Israel since its actual establishment. The state of Israel, as demonstrated by its practices and the behavior of its leaders over the past years and decades, did not meet any of the commitments in the UN Charter. It is not exaggerated to say that there was nothing left in the Charter not violated by this state. The Israeli indifference to the UN Charter and departments including the GA, reached a degree at which Israel openly announced its rejection to all the pledges it had made before the GA. The representative of the state of Israel said clearly before the GA political committee in 1955, that his country categorically rejects the implementation of its commitments included in paragraph 11 of resolution 194, which his country had pledged to implement before the GA political committee. The representative said that before any other consideration, Israel wants to remind the committee that it is a sovereign state, and in practicing that sovereignty it must apply its own authority, and its own estimation of this issue, of who is to enter or not enter its region.

The practices of the state of Israel over the past years showed that Israel intentionally planned and prepared for perpetrating hundreds of crimes and violations, in addition to scores of illegal acts including the following as an example:

1. The assassination of the UN mediator Count Bernadotte and his assistant on 17 September 1948.
2. Demolition of hundreds of Palestinian villages and towns and expelling their inhabitants, as was the case in the village of Ein Ghazal, Jaba , Safourya, Al-Ja ounah, Al-Barwah, Anan, Kufr Bar am, and hundreds of other villages and towns following the establishment of the state of Israel in 1948, and the demolition of three Latroun area villages â€œBeit Nuba, Yalo, and Emwas â€œ following the occupation of the West Bank and Gaza Strip in 1967.
3. Perpetrating scores of massacres and crimes of annihilation, and other brutal acts of killing against Palestinian and Arab civilian residents among many of which were the following:
   1. The annihilation crime perpetrated against the residents of the Palestinian village of Al-Qubaibeh 14-15 October 1953. 67 Palestinian citizens were killed.
   2. The annihilation crime perpetrated against the residents of the Palestinian village of Kufr Qasem, 19 October 1956, in which 47 Palestinians were killed.
   3. The annihilation crime perpetrated against the city and refugee camp of Khan Yunis in the Gaza Strip on 5 November 1956, during the occupation of the Strip by the Israeli forces, in the tripartite French, British, and Israeli aggression against Egypt. 275 Palestinians were killed.
   4. The annihilation crime against the residents of Rafah in the Gaza Strip, during the Israeli occupation of the Strip, on 12 November 1956, during the tripartite French, British, and Israeli aggression against Egypt. 111 Palestinians were killed.
   5. Air raids on the village of Al-Naqeeb in the Arab Republic of Syria in November 1962. 30 citizens were killed.
   6. Attacking the village of Samou in the West Bank on 13 November 1966. 18 citizens were killed and 125 houses were demolished.
   7. Air raid on Beirut International Airport on 28 December 1968, inflicting serious damages in the airport, and destroying 13 civilian planes on the ground.
   8. Air raid on the Khankah metal factory in Egypt on 12 February 1970. 70 workers were killed and 98 injured.
   9. Air raid on the school of Bahr Al-Baqar in Egypt, 8 March 1970. 46 Egyptian pupils were killed and scores injured.
   10. Shelling a group of villages in the Syrian republic on 8 September 1970, killing 200 Syrian citizens and injuring scores of others.
   11. Shooting down a Libyan civilian plane over the Sinai desert on 21 February 1973, killing all 106 passengers and the crew on board.
   12. Perpetrating an abhorrent annihilation crime on 16 September 1982 in cooperation with the commander of the Lebanese Phalange Forces Eli Hubaiqa whose forces perpetrated this massacre against Palestinian refugees and the Lebanese residents living in Sabra and Shatilla refugee camps in the city of Beirut. More than 2000 Palestinian refugees and one hundred Lebanese citizens were killed and scores of others were lost.
   13. Air raids against the civilian premises of the PLO in the Hamamat Al-Shat region in the Tunisian capital on 1 October 1985, killing 58 Palestinians and 12 Tunisian citizens.
   14. The Israeli forces perpetrated the Qana massacre in which 100 Lebanese citizens were killed, among them were women and children, and about 150 others were injured on 18 April 1996. The massacre occurred when the Israeli forces intentionally shelled the civilian Lebanese residents who took refuge at the compound of the UN Fijian battalion at the town of Qana in south Lebanon. The victims were seeking protection under the UN flag and immunity at a time when the Israeli forces were shelling from the sea, air, and land the villages and cities of south Lebanon during what was called the Grapes of Wrath operation carried out by Shimon Peres, then the Israeli Prime Minister, in order to crush the Lebanese national resistance.
4. Unjustified use of its armed forces to wage and implement scores of crimes and aggressions against the Arab peoples and states including the following:
   1. Occupying Gaza Strip which was under Egyptian control on 2 November 1956, immediately when the General Administrative Ruler Muhammed Fuad Al-Dagawi announced his forces surrender to the Israeli forces which invaded the Strip on 29 October 1956. That invasion was an implementation of the tripartite aggression plan waged by the Israeli, British, and French forces, against Egypt. The Israeli forces remained in the Strip until the Egyptian forces returned again to administrate the Strip on 14 March 1957.
   2. The Israeli occupation of the Egyptian Sinai peninsula at the beginning of November and continuing until March 1957.
   3. The invasion by Israel of several Arab countries on 5 June 1967, an aggression which led to the occupation of what was left of the Palestinian territory, namely the West Bank and Gaza Strip, as well as the Syrian Golan Heights and the Egyptian Sinai Peninsula. The latter was returned to Egyptian sovereignty following the signing of the Camp David Accords and the Egyptian-Israeli peace treaty.
   4. The Israeli forces raided the territory of the Hashemite Kingdom of Jordan on 21 March 1968 in what was known as the battle of Karameh.
   5. The Israeli forces invaded south Lebanon on 15 March 1978, and remained there for several months.
   6. Raiding and destroying the Iraqi nuclear reactor on 7 June 1981.
   7. The invasion of Lebanon on 5 June 1982, and imposing a strict military siege around the Lebanese capital Beirut, on 9 June 1982 until 20 August 1982. The Israeli forces imposed their control and occupation on large areas of south Lebanon.
   8. Using its armed forces to consolidate its denial of the legitimate right of the Palestinian people in self-determination and establishing their independent state, and to prevent the Palestinian people by force from acquiring their rights on their national soil.
5. Plundering the natural and water resources of the Palestinian territories and other occupied Arab territories, and refusing to abide by UN resolutions which called on Israel to stop such practices.
6. Settling its residents in occupied Palestinian and Arab territories, and categorically rejecting the Security Council and General Assembly resolutions which condemned such practices and called for stopping them.
7. Violating all its contractual commitments, particularly those related to its accession to the 4 th Geneva Convention dated 12 August 1949, and its full rejection of the applicability of that convention on the Palestinian and other Arab occupied territories.
8. Its open and categorical refusal to comply with Security Council and General Assembly resolutions which condemn the acquisition of land by force, and calling on it to stop annexing and judaizing the city of Jerusalem and the Syrian Golan Heights.
9. Its categorical refusal to comply with Security Council and General Assembly resolutions which called for the respect of the inalienable rights of the Palestinian people to self-determination and permanent sovereignty over its resources.

The Israeli crimes and violations are not limited to just the above-mentioned. Violations against the principles and rules of international law and the UN Charter since it was established are often as numerous as the above-mentioned. The slate of this state is full of countless violations and transgressions to a degree that it has become impossible that a GA session is held without having an item on its agenda related to discussing or condemning an illegal act that this state had committed. In some sessions however, the international community was forced to issue a number of resolutions condemning the practices of this state against Palestinians and other Arabs.

Through its practices and continued violations of its commitment Israel has proved that it is a state that can not in any case be described as a peace loving state which wants to abide by the rules and principles of the UN Charter as well as other commitments.

In many international resolutions, the UN acknowledged that Israel does not enjoy the status of a peace loving country. Among these resolutions were the GA resolution no. 42/209 c dated 11 December 11 1987 entitled Calling for the convention of an international conference for peace in the Middle East. ((unofficial translation)). The resolution condemned the Israeli policies in the occupied territories, and demanded Israel s full withdrawal, recognized the right of the Palestinian people under the leadership of the PLO in self-determination and establishing the independent Palestinian state, and requested all countries to stop supporting Israel . This resolution asserted in explicit terms that the state of Israel couldn t be characterized as a peace loving state, as it is continuing its violation of the Charter principles, and has not fulfilled its obligations according to the GA resolution No. 273 (D-3) dated 11 May 1949. The resolution also decided that Israel s policies and acts prove that it is not a peace loving country. The GA also adopted the same position in resolution no. 43/54 B of 6 December 1988.

The same position and literal description were adopted by the GA in its resolution 44/40 A issued on 4 December 1989, and resolution 45/83 issued on 13 December 1990. The GA even went further than mere describing Israel as such, as manifested in its decisive and open resolution 43/58 A and B issued on 6 December 1988 which stated that the description and implication of war crimes is applicable to the Israeli practices and acts perpetrated by the Israeli occupation authorities in the occupied Palestinian territories.

The same description and implication were also asserted by GA resolutions 44/48 A, B, C, D, E, F, and G issued on 8 December 1989, and resolution 45/74 A, B, C, D, E, F, and G issued on 11 December 1990 and resolution 46/47, issued 9 December 1990, in addition to other resolutions issued by the GA and other sections and departments of the UN, particularly the resolutions of the Economic and Social Council, and its committees.

With these resolutions the GA took a very important step, as it stated and asserted clearly Israel s obvious violation of its commitments according to the GA resolution 273 (D- 3) issued on 11 May 1949 regarding Israel s request to join the UN. These commitments were ignored by the GA which also ignored their discussion despite the fact that they were repeatedly violated by Israel.

Based on that, we can say that the GA awoke after a long silence on this matter, and reminded the international community and Israel itself of these commitments and of its conditional membership in the UN, no doubt raising many questions and legal problems. The most important question however is related to the kind of legal measures that the UN must take to confront this state.

Article 4 of the UN Charter states that membership in the UN is open to all peace loving countries which take upon themselves the commitments included in the Charter. Article 6 of the Charter also states that in case any of the UN members violated the Charter s principles, the GA can expel that member from the UN on a Security Council recommendation.

Therefore, for the GA and the Security Council, to respect the rules and principles of the UN Charter pertaining to state membership in the UN, the Security Council should recommend to the GA to discuss the membership of the state of Israel, and to take whatever legal measures it deems necessary to expel that state from the UN, as a legal punishment for its open and continued violation of the rules and principles of the UN Charter.

As it is established through practicing its powers and tasks according to the UN Charter, the Council did not deal with these facts and issues on such basis. It rather dealt with most of these issues from a political perspectives delineated by the interests, approaches, and desires of the countries which possess the veto right. It is therefore impossible and unexpected under current full American partiality to the state of Israel, that any proposal be put on the Council s agenda recommending the expulsion of Israel from the UN. This is so, particularly that such a recommendation needs to get a majority of nine votes of the Council members, including all the votes of the permanent members in order to be endorsed, a thing that can not be achieved in light of the biased American position. This American position does not hesitate to use the veto to abort any such draft bill. Through its repeated use of the veto right, the US prevented the endorsement of about 23 draft resolutions pertaining to the Palestinian problem.

Naturally, the Security Council s rejection of the GA demand to meet its responsibility and fulfill its role regarding the membership of the state of Israel at the UN, and recommend the expulsion of Israel, does not at all mean relieving the GA of its legal commitments and responsibilities in this regards. The GA is burdened at such a condition with the duty and responsibility of taking the initiative, and to be self-reliant in facing the American position which prevents the GA from expelling Israel from the UN. To do that, the GA should take a number of effective measures away from the Council s participation, including the use of force to put an end to the continued violation against the rules and principles of the Charter by consecutive Israeli governments, as well as their violation of their own contractual commitments before the GA.

Such a GA initiative to decide to expel Israel from the UN membership can be based on several legal justifications and bases, most important of which are the following:

* Israel s membership as we said before, is conditioned and linked to the implementation of a number of legal commitments which it pledged to respect and fulfill before the GA. These legal commitments were stated in GA resolution No. 273 pertaining the acceptance of the state of Israel to the UN.

Based on the fact that the GA is the opposite party in these commitments, it is therefore the duty and responsibility of the GA to demand and urge Israel officially to implement these commitments and to fulfill them. If Israel refuses, the GA is entitled beyond any doubt to put Israel s membership up for discussion, and also to abrogate its own resolution No. 273 issued 11 May 1949 pertaining to the acceptance of the state of Israel as a UN member, because it violated its actual commitments, which were the basis for accepting its membership.

The mere domestic nature of such an act by the GA should be highlighted. A decision to be taken by the GA abrogating its resolution which endorsed the membership of the state of Israel at the UN for the previously mentioned reasons and justifications, will be based on internal procedural rules. This means that the GA alone possesses the authority to decide on this resolution in its ordinary public sessions, without having to abide by the procedural issues stated in article six of the UN Charter, which stipulates that the GA should take a recommendation from the Security Council ahead of time, in case it decides to expel any state member from the UN.

* The GA authorized itself in several occasions , according to its renowned resolution No. 377 issued in November 1950 (Unity for Peace) , to carry out the duties of the Security Council, related to reviewing all international issues, cases and differences that threaten international peace and security. The resolution also permitted the GA to take the measures and procedures it deems fit including military intervention, if the hesitation and actual inability of the Security Council to practice its duties and legal authorities were proved, as a result of intentionally using the veto right in an arbitrary and unjustified way, by any of the veto possessing members, to obstruct the Council s efforts, and prevent its actual intervention to practice its duties.

Since the GA has given itself the right to handle one of the Security Council s powers which the Charter had given extensively to the Council, namely the power to use force, we can assume then that it is even more relevant for the GA to partake, as an alternative for the Council, in matters and powers which are not as important as the use of force, if it was proved that the Council is hesitant in carry out such power, because one of its veto possessing members is using this right in an arbitrary and unjustified way.

In order for the GA to intervene and practice the powers and tasks of the Security Council pertaining to the expulsion of states from the UN, it should first draw the attention of the Council to that state s violation of its legal commitments as a UN member. The GA then should demand the Council to take the necessary measure that should be taken in such a case, to remedy the situation, and force the violating party to retreat and stop its illegal violations.

For the Council to practice its own commitments in this regard in good intention, without any political considerations, it should discuss the situation of that state and the nature of its violations of the Charter, in order to define the gravity of the violation, so that if these violations are repeated intentionally, the Council must recommend to the GA to take the legal measures needed to expel that state from the UN. Naturally, the Security Council is not in a position to take such a measure due to the American stand that is biased in favor of that state.

Since it is proved that the Security Council is hesitant and incapable of practicing its legal powers and tasks as a result of the US using its veto right arbitrarily and unjustifiably, the GA is burdened then with the duty and responsibility of relying on its renowned resolution no. 377 issued in November 1950 (Unity for Peace), as a legal justification to practice the role of an alternative to the Council in this regard, and to decide on the expulsion of the state of Israel. This is considered a legal measure against this state s intentional violation of the rules and principles of the UN Charter.

The measures which the GA can take against the Israeli violations are not limited to the expulsion of that state from the UN. The GA has the option and the right to use other measures, the serious and actual use of which by the GA can exert pressure on Israel to control its practices, and fulfill its commitments and abide by the rules of international law and UN Charter.

Although the GA has done a good job in documenting Israeli violations and practices and making them known, as well as affirming the inalienable rights of the Palestinian people, still, we believe it did not take so far the serious and practical steps to exert pressure on Israel in order to stop its illegal violations against the Palestinians, nor did it take the steps needed to embody and implement the resolutions pertaining to the Palestinian people. If it wants, the GA can confront the Israeli violation of the UN Charter and its resolutions. It can isolate this state, and impact it through a long list of measures like boycott, segregation, severing commercial ties, preventing its accession to international agreements which regulate the rights and duties of states in various fields, preventing its participation in the GA activities of various sorts, and other measures that would force it to deal with its commitments seriously.

Finally, there is no doubt that the UN silence, whether in the Security Council or in the GA has reflected negatively on the behavior and practices of this state. As a result of this silence towards its violations and illegal practices against the Palestinians, this state has started to behave as if it enjoys immunity and being above the law. The accession of war criminal Ariel Sharon to power in that state is sufficient proof for that.

End

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Footnotes

1. Isamul Deen Hawas, Autonomy, Sovereignty Rights, and Self-Determination in Light of International Law. Al-Majalla for International Law ( Egypt), issue 37. PP. 19-20 in Arabic.

The Council s recommendation regarding the acceptance of Israel into the UN stated that the Security Council, having received and looked into the Israeli request to join the UN membership, decides that Israel is a peace loving country, capable and willing to implement the commitments included in the UN Charter, and therefore the Council recommends accepting Israel as a member in the UN. The Council adopted the resolution with the endorsement of nine members, the opposition of Egypt and the abstention of the United Kingdom.

2. Paragraph 7, Article 2 of the Charter states that there is nothing in this Charter that justifies the UN intervention in the affairs which are within state domestic authority. It also stated that there is nothing in the Charter that entails solving such affairs according to the Charter. This principle however is not violated by the implementation of suppressive measure stated in Chapter 7.

3. Article 10 stated that the GA can discuss any issue related to this Charter, and can recommend to the Assembly members or the Security Council or both together what it deems fit in such issues, with the exception of what is stated in article 12.

4. For more details on Israel s membership in the UN see: UN, The Palestinian People s Right of Return, UN Publications, New York, 1978, A.78.I.21. P. 18 and after.

5. Ibid. P. 21

The GA adopted this resolution in its session No. 207, with the agreement of 37 countries, the opposition of 12 countries namely; Afghanistan, Burma, Egypt, Ethiopia, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Yemen, and the abstention of nine countries namely; Belgium, Brazil, Denmark, El-Salvador, Greece, Siam, Turkey, Sweden, and the United Kingdom.

6. Israel is the only country among all UN member states, which was accepted as a UN member on conditions and pre-set pledges. On Israel s UN membership see:

* + G. H Janus, Israel and the UN, Conditional Membership, Palestinian Affairs Magazine, No. 49, September 1975, P. 19 and after.
  + William Thomas Malison, and Sally Malison, Analyzing Basic UN Resolutions Pertaining to the Palestinian Problem from an International Law Perspective. UN publications. New York. P. 29 and after.

7. GA powers in this regard were regulated by article 11 of the Charter which stated that the GA should look into the general principles of cooperation for the preservation of international peace and security. This includes the principles of disarmament and regulating peace. The GA can also present its recommendations regarding these principles to the members or to the Security Council or both.

8. The UN GA issued this resolution during the Korean War between North and South Korea on 3 November 1950 with the aim of supporting the UN intervention in this conflict in favor of Southern Korea. Probably the most important provision included in the GA resolution (Unity of Peace) is the assertion that the two main UN objectives are preserving international peace and security. To achieve these two objective the GA takes effective joint remedies to eliminate causes and acts of aggression threatening peace. The resolution asserted the need for the Security Council to carry out its basic responsibility in keeping international peace and security, and that it is the duty of the permanent members to try to reach a consensus and not to use the veto right except moderately. The resolution said that the failure of the Security Council in carrying out duties it is shouldering on behalf of all state members, does not relieve the member states from their commitments nor does it relieve the organization of its responsibility according to the Charter, in preserving international peace and security. Such a failure does not deny the GA its rights and does not relieve it from its commitments. It also stated that in each case where it seems that there is a threat to peace, and when the Security Council fails to carry out its basic responsibility in keeping international peace and security, that the GA should look into the matter and give suitable recommendations to the members on the collective measure which will be taken including the use of armed forces when necessary.

The GA relied on the content of the above-mentioned resolution to justify its intervention in several conflicts and international cases. Examples include the case of Hungary, as a result of the Soviet aggression in 1956, the aggression which Egypt was subjected to by France, Britain and Israel in 1956 (the tripartite aggression), the internal war in Congo in 1961, and consequent international interventions. It also threatened to use its powers according to this resolution against Israel in 1998 when it called the states party to the Geneva Conventions to a conference to discuss means and measure of imposing the application of the 4 th Geneva Convention related to the protection of civilians in time of war in the occupied Palestinian territories.

9. Ever since the Palestinian problem was raised before the Council, the repeated use of the veto right by the US in favor of Israel, prevented the Security Council from the possibility of practicing its role and legal powers towards the Palestinian problem in at least the following 21 cases:

* Draft resolution No. 10974 /S submitted to the Council on 24 July 1973, regarding the condemnation of the continued Israeli occupation of the Palestinian territories, and requesting the Secretary General and his special representative to solve the problem of the Middle East.
* Draft Law Draft resolution 11898/S submitted to the Council on 5 December 1975, regarding the condemnation of Israeli air raids on Lebanon and the Palestinian refugee camps
* Draft resolution 11940/ S submitted to the Council in December 1976, regarding the inalienable right of the Palestinian people to self-determination, the establishment of their independent state and the return of the refugees to their homeland.
* Draft resolution 1202/S submitted to the Council on 24 March 1976, pertaining to the condemnation of Israel s failure to stop altering the status of Jerusalem, and calling on it to stop land confiscation and settlement building.
* Draft resolution 121119 / Submitted to the Council on 29 June 1976, pertaining to the assertion of the Palestinian people s right to self-determination including the right of return and national independence.
* Draft resolution 13911/S, submitted to the Council on 28 April 1980, pertaining to the affirmation of the inalienable Palestinian people s right to self-determination, and independent state and the return of the refugees to their homeland.
* Draft resolution 14943/ S submitted to the Council on 5 April 1982, pertaining to the condemnation of Israel for sacking elected Palestinian officials, and condemning the violations against human rights in the occupied Palestinian territories.
* Draft resolution 14985 / S submitted to the Council on 20 April 1982, pertaining to the condemnation of the attack against Al-Haram Al-Sharif (Noble Sanctuary) in Jerusalem.
* Draft Resolution 15895/ S submitted to the Council 1 August 1983, pertaining to the illegality of the Israeli settlements established in the occupied Palestinian territories.
* Draft resolution 17459, submitted to the Council on 12 September 1985, pertaining to the condemnation of suppressive Israeli measures against the civilian population in the occupied Palestinian territories and demanding Israel to stop these measures.
* Draft resolution Rev.1 / 17769/ S submitted to the Council on 30 January 1986, pertaining to the condemnation of provocative acts perpetrated by the Israelis which violate the sanctity of Al-Haram Al-Sharif in Jerusalem.
* Draft resolution 19466/ S submitted to the Council on 29 January 1988, pertaining to the Security Council s demand from Israel to stop its policy that violates the rights of the Palestinians in the occupied Palestinian territories.
* Draft resolution 19780/S, submitted to the Council 14 April 1988, urging Israel to abrogate the deportation orders against Palestinian civilians, and condemning the Israeli violations against the Palestinian human rights in the occupied Palestinian territories.
* Draft resolution 20463/ S submitted to the Council on 17 February 1989, pertaining to the Council s condemnation of the Israeli policies perpetrated against the Palestinian people in the occupied Palestinian territories.
* Draft resolution 20677/ S submitted to the Council on 8 June 1989, pertaining to the Council s condemnation of the Israeli violations of human rights in the occupied Palestinian territories.
* Draft resolution Rev. 1/ 20945/ S submitted to the Council inNovember 1989, pertaining to the Council s condemnation of the Israeli violation against human rights in the occupied Palestinian territories. Particularly in the besieged city of Beit Sahour.
* Draft resolution 21326/ S submitted to the Council on 31 May 1990, pertaining to the formation of a committee from the Council s members to study the situation in the occupied Palestinian territories.
* Draft resolution 394/ 1995/ S submitted to the Council on 17 May 1995, pertaining to the Council s assertion that the confiscation of land carried out by Israel in East Jerusalem violates Council resolutions and the provisions of the 4 th Geneva Convention.
* Draft resolution 199/ 1997/ S submitted to the Council on 7 July 1997, pertaining to the Council s appeal to the state of Israel to stop its actions and measures including settlement activities.
* Draft resolution 241/ 1997/ S submitted to the Council 21 March 1997, demanding that Israel stop constructing the settlement located east of Jerusalem known by the Palestinians as Jabal Abu Ghnaim, and by the Israelis as Har Homa, in addition to stopping all settlement activities in the occupied territories.
* Draft resolution 270/ 2001/ S submitted by the Council 27 March 2001, pertaining to sending a UN monitoring force to the West Bank and Gaza Strip.