Talking Paper

The Exclusion of Israel from the Regional Group System of the UN

The legal opinion of Sir Robert Jennings on the exclusion of Israel from the regional groups system of the UN is forthright and unequivocal. The current situation is stated on be “manifestly unlawful” and a “grotesque breach of Article 2.1 of the Charter”. It is a “breach of the need for sovereign equality of treatment”.

Sir Robert is very specific that something must now be done to end this inequality. As he says “the law requires that the illegality of Israel’s exclusion now be cured.”

On this point he also writes in strong and clear language “I venture to suggest that Israel’s exclusion should no longer be tolerated”. The situation, it is clear, cannot be allowed to continue.

Sir Robert does not simply say that the Members are solely responsible, though of course they are castigated when he says that “there is a breach by Members of their obligations under the Charter”. Sir Robert specifically adds that the UN itself is also concurrently responsible for the unlawful situation and its continuance. For he specifically says (see summary, page 6, at paragraph 13) “that it is now an issue of primary importance for the Organization itself to see that it be remedied. So long as it continues, the Organization is itself in breach of its own Charter.”

These are very strong words indeed, and have very great weight coming from Sir Robert Jennings. For, in his opinion, the Organization is in breach of the Charter, so long as this continues. Furthermore “it is now an issue of primary importance for the Organization itself to see that it be remedied.” It is not therefore open to the UN Secretariat to leave the whole matter to the actions of the Members. The Organization must take steps to remedy the situation.

The self-same point is made in the first sentence of paragraph 5.1 of the Opinions Conclusion (page 30): “Israel’s exclusion from the regional groups system places the UN in breach of its fundamental obligations regarding sovereign equality”. Sir Robert adds there that “the United Nations headed by the Secretary-General has, as part of its duties under Articles 2 and 2.1 of the Charter, a duty to show leadership in this matter. The United Nations, as a separate and distinct legal person from its Members, is entitled to insist on its Members’ strict compliance with their obligations under the Charter.” Sir Robert again adds (at paragraph 5.2) “It is the duty of the United Nations to ensure that steps are taken to remedy Israel’s exclusion from the regional groups system.”
Israel clearly has the right to expect that the UN itself will now take steps actively so as to bring this discrimination to an end.