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**THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO
PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN
OCCUPATION**

**Written statement* submitted by Al-Haq, a non-governmental organization in special
consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Al-Haq expresses its deep concern over the aggravated denial of the right to self-determination of the Palestinian people within the Occupied Palestinian Territories (OPT) including, and in particular, East Jerusalem. While recent months have witnessed two significant political developments: the decolonisation of the Gaza Strip and a small part of the northern West Bank in August to September 2005, and democratic Palestinian legislative elections in January 2006, these cannot be described as having fulfilled the Palestinian people's right to self-determination. Gazans remain subject to Israeli military strikes and are denied control of their borders, population registry and air and sea space. In the West Bank movement restrictions, settlement expansion and the construction of the Annexation Wall have been sustained, especially in and around East Jerusalem.

Using diplomatic manoeuvring room created by its withdrawal from the Gaza Strip, Israel appears intent on consolidating its illegal practices and policies in the OPT through the unilateral delineation of its future borders without regard for international law, UN resolutions or the fundamental rights of the Palestinian people, foremost amongst these the right to self-determination. At the recent Herzliya conference acting Prime Minister Ehud Olmert stated,

“Israel will maintain control over the security zones, the Jewish settlement blocs, and those places which have supreme national importance to the Jewish people, first and foremost a united Jerusalem under Israeli sovereignty.”

In a later interview Olmert explained that Israel intends to retain several settlement blocs located deep within the West Bank, and maintain control of the Jordan valley. If implemented, these measures, in combination with Israel's continued occupation of the Gaza Strip, would fully enclose, perforate and fragment any future Palestinian state, severely limiting, if not totally denying, the Palestinian people's right to self-determination.

The Palestinian Right to Self-Determination

The right to self-determination is a cornerstone of the UN Charter and has been repeatedly upheld with respect to the Palestinian people by the UN General Assembly, Security Council, Commission on Human Rights and the International Court of Justice (ICJ). In resolution 2005/1 the Commission HR reaffirmed that the principle of self-determination was not only “*jus cogens* in international law” but that its achievement by the Palestinian people was a “basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East.” The same resolution further described the right to self-determination of the Palestinian people as “inalienable, permanent and unqualified” and including “the right to live in freedom, justice and dignity and to establish their sovereign and independent state.” The prolonged occupation of the OPT and Israel's unilateralist approach to determining both its borders and those of Palestine, stand in stark contrast to the Commission's position, and the fundamental values inherent in the right to self-determination. Most importantly, the intransigent violation of the Palestinian people's right to self determination precludes a just and durable solution to the Israeli-Palestinian conflict.

Settlements and the Annexation Wall

A consistent feature of Israel's 38-year occupation of the OPT has been the transfer of large numbers of its civilian population into the OPT, in clear contravention of

international humanitarian law. The Israeli Central Bureau of Statistics recently reported the total settler population of the West Bank, excluding East Jerusalem, to be 244,000, located in 139 settlements. Both the UN Office for the Coordination of Humanitarian Affairs and the Israeli organisation Peace Now estimate that 76 percent of this population is located in settlements to the western 'Israeli' side of the Wall's projected route in the OPT.

East Jerusalem

Following its 1967 conquest and occupation of East Jerusalem and the rest of the West Bank, Israel extended its sovereignty over the newly-expanded municipal boundaries of the city, expropriating one-third of the Palestinian land for Israeli settlement construction. These settlements currently have a population of approximately 180,000. The majority of the remaining land was re-zoned to prevent Palestinian use, effectively creating a land reserve for the expansion of settlements, leaving roughly 13 percent for use by the Palestinian population, which today is estimated at over 230,000.

In 2005, under the cover of its unilateral withdrawal ("Disengagement"), the Israel continued the expansion of its settlements in the West Bank, including East Jerusalem. By far the most extensive project was the Israeli government's E-1 plan to develop the area to the east of Jerusalem. Part of the West Bank, this area is the location of the largest Israeli settlement outside occupied East Jerusalem and is currently home to some 30,000 settlers. The development plans included building a further 3,500 housing units in the settlement, commercial structures and a police station.

The route of the Wall around Jerusalem weaves deep into the West Bank to encompass not only the settlement of Ma'ale Adumim and the E-1 area, but also large settlements to the north of the city, and the Gush Etzion settlement bloc to the south. In weaving its intricate route around East Jerusalem and the surrounding West Bank settlements the Wall effectively severs Palestinian access to Jerusalem, and between the north and the south of the West Bank.

The serpentine path of the Wall, organically linked to Israel's illegal settlement enterprise within the West Bank, including East Jerusalem, severs the vital link between territory and the exercise of the right to self-determination. It must be emphatically stated that, as acknowledged by UN Special Rapporteur on the OPT, self-determination is closely linked to the notion of territorial sovereignty, as the right can only be exercised within a territory. In amputating Palestinian land the settlements and route of the Wall interfere with the Palestinian people's right to self-determination. The ICJ in its Advisory Opinion supported this contention, noting that, "the route chosen for the wall gives expression in loco to the illegal measures taken by Israel with regard to Jerusalem and the settlements." It then proceeded to clarify,

"that construction, along with measures taken previously, thus severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right."

Disengagement Trade-Off and Palestinian Elections

Israel has managed to deflect much international attention from its illegal construction of the Annexation Wall in the West Bank and settlement expansion through unilaterally withdrawing its military forces and settlements from the Gaza Strip and removing four small settlements in the north of the West Bank. However, this much touted development must not be allowed to deflect from the fact that prior to and after the 'Disengagement' Israel continues its efforts to consolidate its illegal annexation of parts of the West Bank, including East Jerusalem. The overall number of settlers present in the OPT is higher now than prior to the withdrawal. Israel's intentions with regard to East Jerusalem were made explicitly clear in the recent Palestinian legislative elections where only six percent of eligible Palestinian East Jerusalemites were allowed to vote within the city's municipal boundaries.

In October 2004 interview with the *Ha'aretz* newspaper, the Chief Advisor to the Israeli Prime Minister explained that the Disengagement would freeze the political process, adding

"And when you freeze the process, you prevent the establishment of a Palestinian state ... effectively this whole package called a Palestinian state, with all it entails, has been removed indefinitely from our agenda."

He later continued, "The disengagement is actually formaldehyde. It supplies the amount of formaldehyde that's necessary so that there will not be a political process with the Palestinians." Almost a year and a half later the prophetic quality of these words rings disturbingly true.

Al-Haq calls upon the Commission to raise its concerns about Israel's prolonged violation of the Palestinian people's right to self-determination by,

- Calling on Israel to recognise the right of the Palestinian people to self-determination, and allowing them to fully exercise this right according to international law.
- Urging Israel commit itself to a negotiated settlement to the Israeli-Palestinian conflict based on respect for international law, and in particular the illegality of the acquisition of territory by force, and the fundamental right to self-determination.
- Urging Israel to comply with the Advisory Opinion of the ICJ and dismantle those parts of the Annexation Wall built inside the OPT, including East Jerusalem, as it constitutes a major obstacle to the realisation of the Palestinian people's right to self-determination.

Calling on its Member States to refuse to recognise those borders of the state of Israel determined through unilateral action and which annex parts of the West Bank in contravention of international law.
