

**ITEM 5: THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS
APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR
FOREIGN OCCUPATION**

**Written Intervention Jointly Submitted by Al-Haq, the Palestinian Centre for Human
Rights, and the International Federation for Human Rights**

11 February 2005

Once again, Al-Haq, the Palestinian Centre for Human Rights (PCHR), and the International Federation for Human Rights (FIDH) find it necessary to raise concerns regarding the continuing violation of the right of the Palestinian people to self-determination. Although self-determination is a fundamental and universal right for all peoples under international human rights law, the Palestinian people have been continuously denied this right.

The principle of self-determination is a core tenet of the United Nations (UN) Charter, and Common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights states that all peoples have the right thereto. Respect for this right is essential for the maintenance of peaceful and friendly relations among nations. However, Israeli authorities have failed to permit the realisation of the Palestinian people's right to self-determination, resulting in ongoing insecurity which has had implications for regional peace and stability.

Despite commitments under the Oslo Agreement that the Palestinians would be allowed to exercise their right to self-determination from 4 May 1999, this has not materialised. Rather, the realisation of this right is further from the agenda than any stage in the recent past. Of particular concern is the continuing Israeli policy of undertaking unilateral actions - such as the construction of the Annexation Wall and the proposed Gaza disengagement plan - which will ultimately eliminate any future possibility of a viable Palestinian state. Such actions will create of facts on the ground which will distance the Palestinian people from the exercise of their inalienable right to self-determination. Al-Haq, PCHR, and FIDH believe that these developments are violations of international human rights and humanitarian law, and if fully implemented, will eliminate the possibility of a just and lasting solution to the conflict based on international law.

The recent and successful elections in the OPT will not ensure that the Palestinian people are able to realise their right to self-determination. While Israeli authorities demand that the Palestinian National Authority (PNA), a debilitated political vehicle, undertake their 'security' agenda, Israel continues to undermine any sense of safety or security for the Palestinian civilian population. Further, the legal and practical restrictions imposed on the PNA prevent it from exercising either sovereignty or statehood. These restrictions, together with Israeli unilateral actions, make it impossible for the Palestinians to realise their fundamental rights.

The Annexation Wall

Al-Haq, PCHR, and FIDH would like to remind the Commission members of the International Court of Justice's Advisory Opinion on the legality of the Wall's construction in the OPT. The Court specifically found the construction of the Wall and its associated régime unlawful. It expressed its concern that the Annexation Wall creates a *fait accompli* which "could well become permanent, in which case, and not

withstanding the formal characterization of the wall by Israel, it would be tantamount to *de facto* annexation” (para. 121).

According to the UN Office for the Coordination of Humanitarian Affairs, the construction of the Annexation Wall as presently planned will leave at least 325,660 Palestinians trapped between the Wall and the Green Line (the 1967 border between Israel and the OPT). This includes Palestinians in East Jerusalem, who will be cut off from the rest of the West Bank. With 85% of the Wall constructed on the OPT, it is resulting in the annexation of land on which Palestinian houses, agricultural facilities, businesses, water reservoirs, fruit trees, and other agricultural crops are located. Palestinians are limited from accessing their homes, family, work, school, places of worship, doctors, etc.; those Palestinians living in the “Seam Zone” (the area between the Wall and the Green Line) must have a permit to access their own homes. This has an enormous impact on the ability of Palestinians to exercise their rights to adequate housing, work, health, education, and culture. Existing movement restrictions such as checkpoints have long restricted Palestinians’ ability to exercise these rights, but the Annexation Wall’s construction will permanently institutionalise such restrictions. In addition, the building of roads, destruction of arable land, and development of Israeli infrastructure in the Seam Zone also effectively formalises the Wall’s route and establish its permanency.

As repeatedly noted by the UN Special Rapporteur on the Situation of Human Rights in the OPT, the Annexation Wall is also being constructed in order to incorporate settlers - who have been illegally transferred to the OPT - within Israel. The Israeli settlement policy has accelerated despite repeated Israeli commitments to freeze expansion thereof. Further, it is illegal under the Fourth Geneva Convention for the Protection of Civilians in Time of War, a position upheld by all 15 judges of the Court. This policy is designed to change the character of the land in the OPT, dominate natural resources and land, and ultimately *de facto* expand the territory of the State of Israel.

Al-Haq, PCHR, and FIDH believe that the Israeli authorities seek to pressure Palestinians to relocate through the construction of the Annexation Wall and the development of its accompanying system. As the Court noted, there has already been a change in the demographic nature of the Seam Zone, and the Wall’s continued construction will only maintain this trend. It is clear that, ultimately, the Annexation Wall will enable Israel to exert greater control over the OPT and lessen the meaningful opportunity for the Palestinian people to achieve self-determination.

The Gaza Disengagement Plan

The unilateral Gaza disengagement plan, formulated in a series of letters between US President Bush and Israeli Prime Minister Sharon, is also intended to maintain Israeli control over the OPT whilst giving the opposite appearance to the international community. However, Al-Haq, PCHR, and FIDH believe that the plan:

- *Continues the belligerent Israeli occupation of the OPT*: The plan has been welcomed as a step towards peace, and in some quarters as an end to the occupation. However, it guarantees unlimited continuing Israeli control of the airspace, territorial waters and all the land borders (including Rafah) of the Gaza Strip. Israel reserves the right to continue or escalate (where it deems necessary) incursions, extra-judicial executions, pursuit of wanted persons and other military activities. As such, the occupation will continue in law and in practice, as Israel will remain in effective control of the OPT and thus will remain an occupying power.
- *Violates international law*: As a unilateral action, this plan is in breach of UN resolutions, policy and practise on the OPT. The unilateral nature of the disengagement plan illustrates Israel’s denial of the Palestinians’ right to participate in decisions over their own future. Further, it jeopardises their right

to self-determination by seeking to pass responsibility for security and economic matters to international actors, rather than to the Palestinian people themselves.

- *Attempts to consolidate control over the West Bank:* The decision to unilaterally disengage from the Gaza Strip, and the subsequent international political reaction, has deflected discussion away from the legal obligation to implement the Advisory Opinion on the Wall. Israel's removal of the Gaza settlements is also being used to deflect attention from the many settlements expanding their borders across the West Bank: according to Israel's Population Registry, in 2004 the population of the West Bank settlement of *Ma'aleh Adumim* increased by 6%, and *Modi'in Illit* increased by 14%.
- *Removes economic viability of a Palestinian state:* Like the Annexation Wall, the Gaza plan will completely eliminate all free passage of goods, services and people in and out of the OPT. The World Bank has explicitly stated that the policy of closure in the OPT has resulted in the worst economic depression in over 100 years anywhere in the world. An escalation in this military policy will result in further economic strangulation, making a future Palestinian state economically unviable.
- *Brings to an end the possibility of a Palestinian state:* The Chief Advisor to Prime Minister Sharon stated that the disengagement plan means that effectively "this whole package called the Palestinian state, with all that it entails, has been removed indefinitely from our agenda... [it] is actually formaldehyde."¹ As Ephraim Sneh, a Member of the Knesset, observed, "Formaldehyde...is the liquid in which dead bodies are preserved."

It is clear that the continued construction of the Annexation Wall in the West Bank and the Gaza disengagement plan aim to comprehensively eliminate any possibility for a Palestinian state. Al-Haq, PCHR, and FIDH wish to express their grave disappointment that the international community has not taken genuine and firm legal and diplomatic action to stop Israel's 38-year-long denial of the Palestinian right to self-determination.

We ask the Commission to adopt a resolution:

- calling on the Israeli authorities to respect the Palestinian people's right to self-determination by stopping the construction of the Annexation Wall in the OPT ensuring that its actions are not eliminating the practical ability of the Palestinian people to realise their fundamental right to self-determination.
- calling the international community and the Security Council to endorse the recommendations made by the International Court of Justice in its Advisory Opinion declaring illegal the construction of the wall in the Occupied Palestinian Territory including in and around East Jerusalem.

¹ A. Shavit, "Weisglas: Disengagement is Formaldehyde for Peace Process," *Ha'aretz*, 8 October 2004.