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

Joint written statement* submitted by the International Federation for Human Rights (FIDH), the Palestinian Center for Human Rights (PCHR), and Ittijah (Union of Arab Community Based Organisations), non-governmental organizations 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).

The Right to Self-Determination of Palestinians

The FIDH and its member organisation the Palestinian Center for Human Rights (PCHR) note with deep concern that the right of Palestinians to exercise self-determination has continued to be denied in 2005. This was despite the much-heralded Israeli Disengagement Plan, which involved Israel's unilateral withdrawal of settlers from the Gaza Strip and four small settlements in the northern West Bank, in addition to the redeployment of Israeli Occupation Forces internally from the Gaza Strip.

Israel successfully presented the “mirage” of disengagement to the international community as the end of the occupation in the Gaza Strip. The reality, however, is that the occupation remains in its legal and physical form and Israel maintains “effective control” of the area. The Fourth Geneva Convention therefore still applies. In addition, by implementing the unilateral Disengagement Plan, Israel has managed to successfully derail international discussion on the major issues relating to the realisation of Palestinian self-determination, namely settlement expansion, construction of the Annexation Wall, the status of Occupied East Jerusalem and the ending of Israeli occupation. This situation has severely impacted the future prospects of Palestinians being able to exercise their right to self-determination.

Unilateralism

Israeli unilateralism, manifested in “facts in the ground” such as settlements and the Annexation Wall, is effectively imposing an Israeli solution on Palestinians and establishing a *de facto* border between Israel and the West Bank. Unilateralism deprives Palestinians of their right to negotiate over critical issues of the peace process such as land borders, water resources, settlements, refugees and Jerusalem, and effectively prevents Palestinians from exercising their right to self-determination. The implementation of the Disengagement Plan has been the latest act of unilateralism from Israel.

Israel's Unilateral Disengagement Plan

The Disengagement Plan, initiated by Israel while the late President of the PNA, Yasser Arafat, was still in office, underlines the unilateral approach, which now characterises Israel's policies towards the PNA. While Arafat was in office, Israel systematically excluded him from negotiations and prevented him from making decisions, which could have facilitated the exercise of Palestinian self-determination. Following the death of Arafat and the democratic election of Mahmoud Abbas as the new President, Israel applied the same policy of isolation and exclusion to President Abbas. This Israeli position proves that it is not a willing partner for peace, despite rhetoric to the contrary. The supportive approach of the international community to the Disengagement Plan has facilitated this Israeli position.

The Disengagement Process, which took place between August and September 2005, saw the removal of over 7,000 illegal settlers from the Gaza Strip and the removal of four small settlements in the West Bank (corresponding to only 2 percent of the total settler population in the OPT). The plan also included the redeployment of Israeli Occupation Forces from internal to external control of the Gaza Strip. The process was seen by many as the end of the occupation in the Gaza Strip but this has been far from the reality that has been experienced on the ground since.

The occupation remains in both its legal and physical form and, as such, the Fourth Geneva Convention still applies. The Israeli military maintains control over Gaza's land borders, air space, territorial waters and also water supplies previously used by settlers. Although the Rafah Agreement of November 2005 has improved access to the outside world for Gazans through Egypt, commercial crossings and Erez checkpoint (between the Gaza Strip and Israel) have been closed for extended periods throughout 2005, causing extreme economic and social hardship. Access between the West Bank and Gaza has not been facilitated, as laid out in the Rafah Agreement; the international airport remains closed, with no prospects of reopening in the future; and plans to develop the seaport have not progressed.

The process has therefore isolated the Gaza Strip further from the West Bank, destroying social, economic and political connections between the territories. In doing so, the process has undermined the contiguity of the territories, which is an essential element of any future process to enable the realization of Palestinian self-determination.

Settlements, the Annexation Wall and East Jerusalem

Unilateralism is also the basis of Israeli policies of settlement expansion, wall construction and the illegal annexation of East Jerusalem. These policies are rapidly eliminating the possibility of a two-state solution, the basis of past peace negotiations, by destroying the territorial contiguity of the West Bank, as well as effectively annexing valuable agricultural land and water resources, essential to any future economically viable Palestinian state.

Settlement expansion has continued in 2005, with the level of building of new homes in the West Bank settlements rising compared to 2004. About 4,000 homes are currently under construction and thousands of more are approved in the main settlement blocs. In fact, the total number of settlers in the OPT increased in 2005, despite the Disengagement Plan.

Construction of the Annexation Wall has also continued, despite the International Court of Justice Advisory Opinion of 2004, which found it to be illegal under international law. The Wall is effectively annexing large tracts of Palestinian land under the guise of security and is creating a *de facto* border which will prejudice any future border negotiations. In addition, the combined effect of the wall, expanding settlements, road networks and checkpoints is effectively dividing the West Bank into three separate areas - Jenin-Nablus, Bethlehem-Hebron and Ramallah. These Bantustan-like areas are isolated from each other, due to travel restrictions between them, and these divisions will make any future viable state impossible, simply from a practical perspective.

Occupied East Jerusalem has been disproportionately impacted by the Wall and settlements, the effects of which will soon completely isolate the city from the West Bank. The Wall incorporates Israeli settlements such as Ma'ale Adumim, while excluding dense Palestinian population centres of Jerusalem such as Shuafat refugee camp. Future plans to expand the settlement of Ma'ale Adumim under Israel's E1 plan, will further isolate the city.

Neither Palestinian political leaders nor the public can envisage a meaningful or viable Palestinian State that does not have East Jerusalem as its capital. The Wall and settlements, however, effectively eliminate this possibility by cutting East Jerusalem off from the West Bank, while also altering the demographic composition of the city. In addition, house demolitions continue on a weekly basis in East Jerusalem, with the effect of dividing the Arab population and altering the demographic composition of the city even further.

Such policies are severely undermining the Palestinian right to exercise self-determination, by creating a situation where an independent Palestinian state is simply unviable. As Israeli construction continues, the impacts of these “facts on the ground” will become irreversible and the possibility of a two-state solution will be lost, if it has not already.

Democratic Elections

The Palestinian people have had an unprecedented year in terms of democratic elections, successfully holding the Presidential and Local Council elections in 2005 and the Palestinian Legislative Council Elections in January 2006. These elections were held in a peaceful and transparent manner and confirmed the commitment of Palestinian people to democracy and pluralism. This has been all the more remarkable, when one considers that the elections were held in the context of the ongoing belligerent occupation.

The international community’s response to the results of the PLC elections, which saw a resounding victory for Hamas, have been regrettable, however, significantly undermining the Palestinian right to exercise their democratic right to vote, as well as their right to exercise self-determination. The results of a democratic and legitimate election cannot be disregarded on the basis that the result does not conform to the international community’s preference. This democracy must be supported and encouraged and the choice of the Palestinian people should be respected.

It is also worth noting that Israel’s policy towards President Abbas, which has consistently undermined his position, actually strengthened the Hamas campaign for the recent elections.

Israeli and International Obligations

Israeli unilateral policies, and the inaction of the international community to intervene against these policies and ensure the implementation of International Law and Human Rights Law in the OPT, are rapidly destroying the potential for Palestinians to exercise their right to self-determination.

FIDH and PCHR request that the Commission 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.
- Acknowledging that the unilateral Disengagement Plan has not ended the Israeli occupation of the Gaza Strip and that Israel remains in effective control of the area.

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