



Geneva International Centre *for* Justice

www.gicj.org

February 2020



Figure 1 Proposed Border Alterations by Peace to Prosperity (2020)

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 Geneva International Centre *for* Justice

Trump's Legitimization of Injustice

Analysis of "Peace to Prosperity"

I. Introduction

Under the pretence of a detailed economic vision for the future of Palestine, the Trump administration published a "solution" for the ongoing conflict between Israel and Palestine. The proposal called *Peace to Prosperity*, released on January 28th, 2020, claims having peace and a better future for Palestine and its citizens at its centre, yet it violates existing international law, and restricts the human rights of the Palestinian people.¹

The so-called solution rather resembles a political favour, that is meant to support Israeli Prime Minister Netanyahu in the upcoming election, than a serious and well-intended proposal for peace and development. *Peace and Prosperity* is one of many seemingly incomprehensible foreign policy favours of the United States towards Israel. The phrase "America First" seems to not be applicable to the US-Israel relations. Historically, the US put their own national interest second when dealing with Israel, a political phenomenon pointed out by the political scientists Mearsheimer and Walt.² The Proposal brought forward by the Trump administration is similar in character to the "Basic Law: Israel – The Nation State of the Jewish People", established in 2018, which states that the right of self-determination in Israel is unique to Jewish people. Both documents follow a similar agenda, the suppression of the Palestinian nation. This notion becomes especially problematic considering the demand of the proposal, that Palestinian authorities need to officially recognize Israel as the state of the Jewish people. Out of 8.5 million people living in Israel an estimate of 1.8 million are Palestinian, thus a recognition of Israel as the state of the Jewish people would be like accepting and legitimizing the discrimination of 1.8 million Palestinians living in Israel.

The fact that Palestinian leaders were not consulted in the drafting process of the proposal reveals the true intentions behind the plan. The proposal depicts a dystopian future for the Palestinian people, and a way to further restrict the development of Palestinian economy and statehood. It aims at strengthening the position of Israel in the region.

The plan proposes a future in which Palestine acts as a sovereign state with a functioning economy, but the measures the plan recommends could not be any further from that. An implementation of the plan in its current state would result in Palestine not gaining any form of state sovereignty but rather the establishment of economic and political dependencies, in other words, suppression by the US and Israeli government. The purpose of this report is twofold, shedding light on the injustices that accompany the plan, and pointing out the relevant international laws that it clearly violates.

II. The History of Palestinian Territory

Historically the entire area, the current conflict between Israel and Palestine takes place in, is considered Palestine. However, after the second World War, the UN adopted Resolution 181, that decided upon the Partition of Palestine into an Arab and Jewish State, Jerusalem gaining the status of an international city, thus, neither of both parties obtaining sovereignty over it. The birth of Israel as a sovereign state culminated in conflicts during which many hundreds of thousand Arabs were displaced. The State Israel is founded upon the exodus of Palestinian population from their

¹ The White House *Peace to Prosperity* (28 Jan 2020)

² Mearsheimer, John and Walt, Stephan *The Israel Lobby and U.S. Foreign policy* (Aug. 2007)

territory. This illegal process, called Nakba, marks the beginning of Israel's unlawful settlement process at the expense of Palestinian civilians, their villages and their livelihood.

Having already conceded more than 50% of their territory due to the UN Partition Plan, Israel initiated the Six-Day-War with preemptive air-strikes directed at Egypt, thus violating the UN charter that only grants the right to self-defence if an armed attack occurred and not as a preemptive measure. Being attacked by Israel, Egypt received support by Syria, Jordan, Iraq and Lebanon but this "alliance" suffered defeat resulting in further concession of territory and displacement of people.

Since the middle of the 20th century, Palestinians experience war and terror, while Israel continues their illegal annexation of Palestine territories. Despite public condemnations by the UN and various human rights organisations, Israel declines to give up the illegal occupied territories and return to pre-1967 borders. *Peace to Prosperity* suggests a restructuration of Palestine's borders down to 15% of its historical counterpart. A plan unacceptable to the population of Palestine and the entire international community which committed itself to uphold international law and protect human rights.

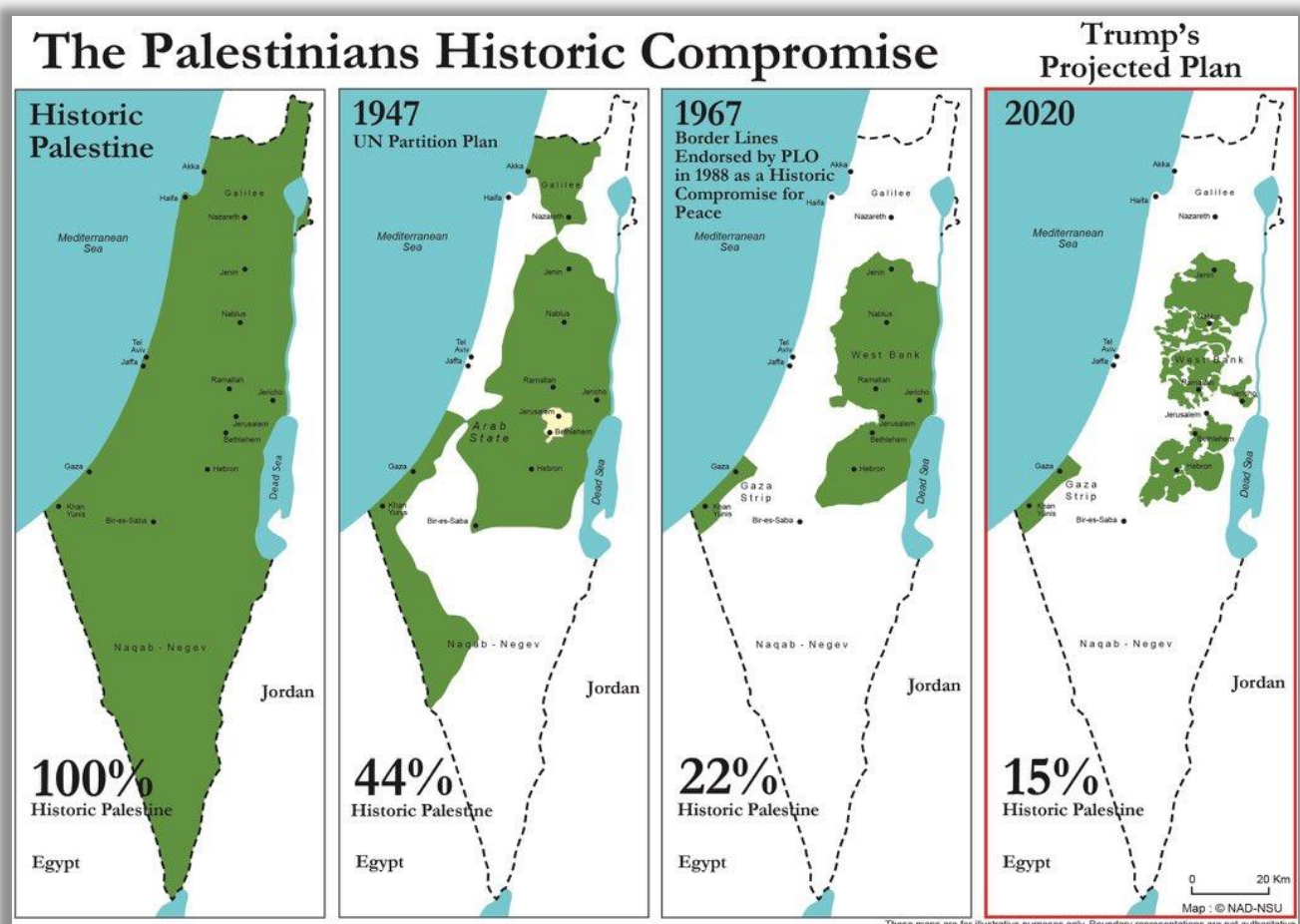


Figure 2 The Palestinians Historic Compromise, Negotiations Affairs Department of Palestine (2020)

III. A one-sided deal

The proposal attempts to hide its one-sided character beyond a captivating rhetoric, however when looking beyond flattering and promising articulations and analysing the requested policies, the true character of the plan emerges. While the plan does not impose any conditions on Israel, there are several conditions enforced on Palestine that would take away fundamental rights and neutralize everything the international community achieved during the past decades.

The Proposal demands Palestine authorities to refrain from any form of criminal prosecution against Israel or the United States. The development of an international legal system that advocates for and defends human rights is one of the major achievements of the past century. This proposal takes away the opportunity of Palestine to demand justice for all atrocities that were and are still being committed by Israel and the United States. This measure does not only disrespect all the Palestinian victims of violence and abuse, but also comes along with a subtle connotation of admitting guilt, guilt the US and Israel subtly admit but avoid bearing the consequences for. Despite the resistance towards outside jurisdiction by Israel and the United States, the ICC chief prosecutor, Fatou Bensouda, announced an investigation into alleged war crimes during the Palestine-Israel conflict on December 20th, 2019. Fatou Bensouda currently seeks approval by the Trial Chamber that the Court has jurisdiction over the area.

Next to taking all measures from Palestine to hold perpetrators, of crimes committed against them, accountable, the plan also demands the state to be fully demilitarized, which would deny Palestine every possibility of self-defence, thus further weakening its position while being under full control of the United States and Israel. General Assembly Resolution 3236 reaffirmed Palestine's rights of self-determination without external interference as well as national independence and sovereignty.³ Those basic principles of statehood are undermined by the Proposal and instead of sovereignty and self-determination, Palestine would be under even greater levels of external interference than it currently is.

IV. Geographic Implications of the Plan – Violation of International Law

While the entire international community has been restlessly working on a two-state solution, such plans received pushbacks from the United States and Israel. The two-state solution is based on the idea to return to pre-1967 borders. Efforts that *Peace and Prosperity* does not recognize. The plan proposes Israel to get full sovereign power over Jerusalem, land swaps in which Palestine gives up land in the West Bank in exchange for parts of the Negev Desert and Israel taking control of the Jordan River Valley.

The plan states that “Peace should not demand the uprooting of people [...] from their homes”¹ or in other words, Israeli settlements on previous Palestinian territory, that were illegally established, should remain. Therefore, *Peace to Prosperity* proposes Israeli Enclave Communities with access routes and security within the territory of Palestine. The plan totally neglects the fact, that Israel's settlement project is built upon the uprooting of Palestinians from their home in the first place and that those civilians are displaced ever since

The occupation of Palestine territories by Israel has been deemed illegal by the UN in various resolutions and violates the fourth Geneva convention, according to which an occupying power is not allowed to deport or transfer parts of its own civilian population in territories it occupies. Yet, the plan of the Trump administration not only legitimizes the Israeli settlement projects, that constitute to obvious breaches of international law, but also rewards the state Israel for its various

³ General Assembly, Question of Palestine, Res. 3236 (22 Nov 1974)

human rights violations over the past decades. Next to the movement of people to occupied territories, the usage of the occupied territories, such as its land, water or agricultural estates, is prohibited by the Hague Convention of 1907. The occupying power is responsible for the administration and safeguarding of the territory. The establishment of over 200 settlements, movement of over 400.000 people, destruction of Palestinian property and usage of the land, and its natural resources, violates international law.

The ongoing conflict between Palestine and Israel resulted in millions of Palestinian refugees; refugees that are protected under international law and have a right to return to their home. General Assembly resolution 194 clearly states that each refugee wishing to return to their home, has the right to do so. This right is denied by the proposed plan of the Trump administration and its accompanying border restructuring. Furthermore, the resolution states that refugees are entitled to compensations to facilitate repatriation, resettlement, and economic and social rehabilitation. Instead of adhering to established international law, granting Palestinian refugees the right to return home and compensate them for their hardships, the proposal further punishes them by legitimizing the occupation of Palestinian territories by the Israeli government over the past decades.

The Question of Jerusalem and claims of ownership are a topic that divided religion and people over centuries. Jerusalem represents a place where Judaism, Christianity and Islam get together, a place that should teach community rather than conflict. Yet, the proposal plans to move the capital of Palestine to the outskirts of East Jerusalem, behind the city walls, and thus restricting access of the Palestinian people to sacred places. The Plan proposes that the *status quo* should remain, and praises Israel for the facilitating of worshipping of all religious beliefs. Yet reality looks different, the Old City of Jerusalem lies behind the City Walls. Palestinians face restrictions when it comes to accessing holy sites. Strict closures and curfews make it very difficult for Palestinians living in the West Bank or Gaza to enter the city. While praising Israel for the facilitation and maintenance of religious and cultural sights in Jerusalem, Trump totally neglects the fact that Israel is a major driver of cultural and religious destruction, one of many examples is the destruction of the Moroccan Quarter, a 770-Year old neighbourhood formerly located in the Old-City.

The status of Jerusalem was defined in the United Nations Partition Plan for Palestine in 1947. The Plan makes clear that Jerusalem is not supposed to be the capital of any state but rather a place of no discrimination. Furthermore, it states that “each state shall control residence within its borders”. In 1967 the UN General Assembly adopted Resolution 2253 that considers measures taken by Israel to change the status of Jerusalem as invalid and calls upon Israel to desist from changing the status of Jerusalem in the future. The plan of moving the Palestinian capital outside of Jerusalem’s city walls, and granting Israel sovereignty over Jerusalem, not only restricts the possibility of Palestinians to practice Religion but also violates several resolutions adopted by the UN.

In sum, the geographic vision for the area is not only a violation of international law, but also a poorly thought through idea on how to create a peaceful and prosper solution for Palestine. Unacceptable surrender of land is accompanied by a nonsensical transportation network of bridges and tunnel.

V. Economic Development of Palestine

Next to various violations of existing international law, the plan puts forward measures that supposedly aim at helping Palestine to grow their economy. The economic plans follow a similar scheme as the geographic ones, a visualized suppression of the Palestinian state. This suppression of Palestine's economic development is illustrated on the conceptual maps the plan included. Especially in the issue area of Israel and the suppression of Palestinians, economies play a major factor, thus deserve highlighting. Israel's occupation and violations of human rights are built upon and funded by a scheme of economic measures.

Despite having access to the Mediterranean Sea in Gaza, the plan prohibits the building of ports in the area for the "foreseeable future".¹ In exchange for being prohibited to establish their own ports, Palestine gets access to Israeli Ports, where Israel not only facilitates but also supervises and controls transported goods. This process of international trade through Israeli ports is further explained in the next part of this report to demonstrate the negative economic effects that arise through it. While promising independence and sovereignty, *Peace and Prosperity* proposes outside control and dependency.

This policy proposal built upon outside control and dependency becomes even clearer when analysing the other plans that purportedly support Palestinian economy. Foreign direct investments (FDI) are proposed as the main solution for Palestine's lacking economy, while FDI generally have positive implications for the domestic economy of the recipient, they might not have the expected results in the case of Palestine. In order to effectively improve the economic development of a state, domestic investments need to be accompanied by FDI⁴ **not** *vice versa*. The notion of FDI being generally good, is always accompanied by the notion that FDI cannot be the foundation an economy can unquestionably rely on.⁵

If the plan in its current state would be implemented, the Palestinian economy would be reliant on outside investors and not gain the independence and sovereignty the plan promises. The proposed measures take away any possibility of future economic development for Palestine. As during the past decades, Israel would most likely be the main benefactor of economic developments and aid directed at Palestine.

The plan speaks of "unleashing" the economic potential of Palestine, and while it is true that Palestine's economic potential has not been unleashed in the past and that national economy has been performing poorly, it forgets that this is caused by Israel, with the support of the United States. Especially when analysing actions taken by Israel during the past decades it becomes clear that there is no interest in Palestine's economic development and that the State Israel even squeezes profit out of the misery of Palestinian people (see "VI. Israel's Tools of Economic Suppression").

The so-called "changes" the plan brings forward are just more of the same and no real changes. The entirety of the plan does not give reason to believe that the well-being of the Palestinian citizen or the Palestinian state has been considered during the drafting process.

⁴ Fillat, Carmen and Woerz, Julia *Good or Bad? The influence of FDI on productivity growth. An industry-level analysis* (2011)

⁵ Alan Beattie, Opinion: *Foreign Direct Investment: it's not all good*, Financial Times (23 Oct 2014)
<https://www.ft.com/content/6f71229d-d74d-34fa-a30d-39e4ac07de8b>

VI. Israel's Tools of Economic Suppression

- Foreign aid directed at Palestine is funnelled through the Central Bank of Israel. Palestinians are forced to purchase goods from Israel in Shekel; thus, aid is exchanged through the Central Bank resulting in growing foreign currency reserves. This enables Israel to manipulate their currency and expand the trade deficit with Palestine

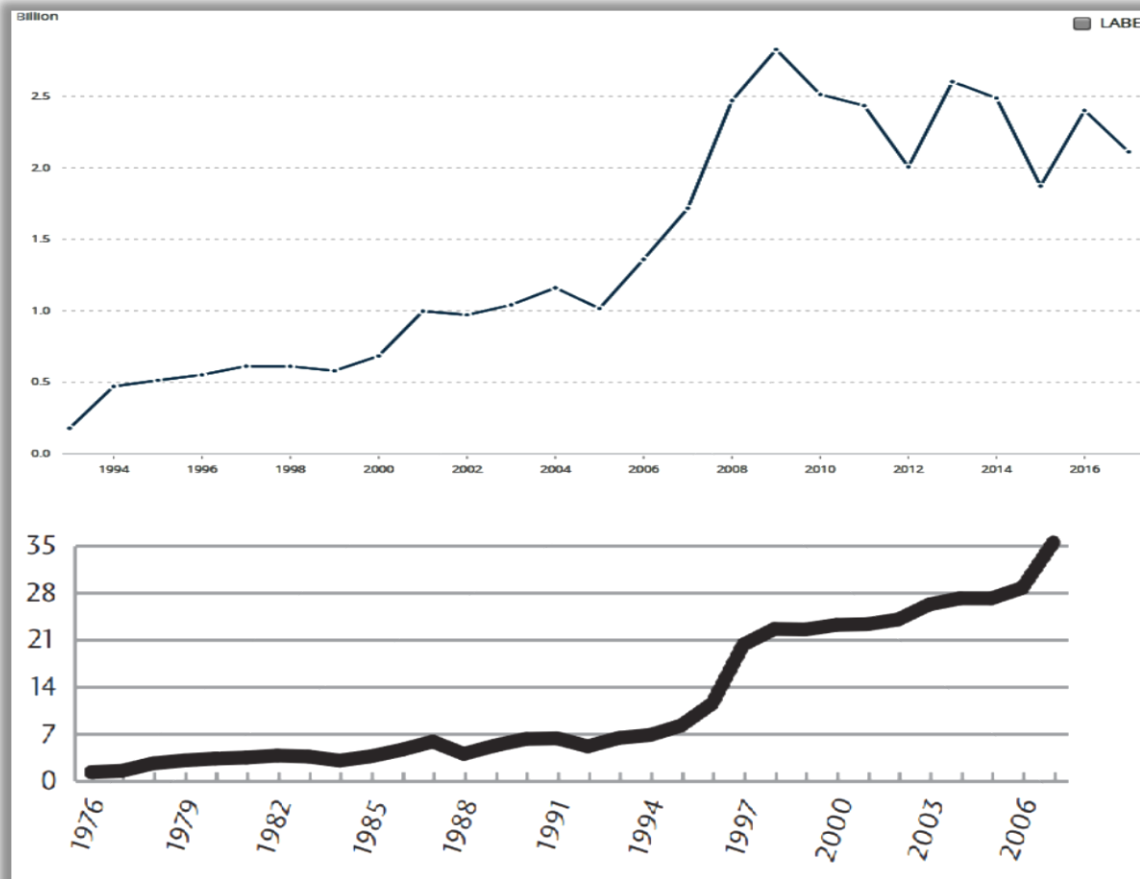


Figure 1 Foreign Aid received by Palestine at the top, Foreign currency reserves of the Central Bank of Israel on

- Israel forcefully raises transportation costs in Palestine to hinder economic development. Foreign goods, ordered by Palestine, arrive at Israel controlled ports where Israel authorities delay their transportation and charge Palestinian companies for the storage. Furthermore, goods are often stolen, resulting in a zero-sum or loss of income for companies. This forces Palestinian companies to import goods from Israel under worse conditions
- Especially for the least developed countries transportation and infrastructure are the pillars for economic development, Israel specifically targets important trade routes in Palestine to further raise the costs of transportation, thus hindering development
- Israel's closure policies between 2000 and 2003 resulted in a loss of employment for many Palestinians. The number of West Bank Palestinians permitted to enter Israel fell by 53.45 percent, and the number of Gaza Palestinians permitted to enter Israel fell by 86.66 percent. Today many Palestinians are still "employed" by Israeli companies, but the employment is unofficial, resulting in no Job security and wages below the legal requirements. This system of exploitation is sometimes the only opportunity for Palestinians to sustain their life

VII. Reaction of the International Community

While the, by the US proposed, plan has been warmly received by Israel's Prime Minister Benjamin Netanyahu, the rest of the world responded far more critical and called out "Peace and Prosperity" for what is, unacceptable and insulting. Geneva International Centre for Justice welcomes the reaction of Leaders from across the world:

- The Arab League and its 22 member states unanimously rejected Trumps proposal. Furthermore, Arab League Secretary General Ahmed Aboul Gheit states, that the plan amounts to a system of Apartheid. While Trump referred to "Peace to Prosperity" as the "Deal of the Century", President Kais Saied of Tunisia called it the "injustice of the century"
- The European Union responded less harsh but reiterated the need for a two-state solution. While not condemning the plan, the EU acknowledged that it violates existing international law
- The support for a two-state solution as well as the upholding of previous resolutions has been reiterated by the UN
- Violations of international law were also pointed out by Russia. Furthermore, Moscow doubted the viability of the plan and urged Israel and Palestine to negotiate directly

Across the world there is a consensus that the plan is by no means a valid solution for the Palestine-Israel conflict. *Peace to Prosperity* has been harshly condemned by most governments, allies to the United States reacted more conservative and acknowledged the plan as an ambitious try, yet, agreeing that it is an unacceptable solution. While GICJ embraces the worldwide rejection of Trumps plan, we call upon the entire international community to not only reject the proposal for peace but also push towards an acceptable solution for every actor in the region. Furthermore, we expect the UN and EU to rephrase their statements in a way that it harshly opposes the Trump plan.

VIII. Conclusion

Peace to Prosperity put forward by the Trump administration cannot be considered a serious proposal for the future of the region. It is an affront to all the progress, concerning human rights, made since the establishment of the UN as well as every legal document put forward by the international community. *Peace to Prosperity* displays the seemingly disinterest of the United States to find a solution acceptable to both parties.

In its current state the proposal restricts any form of national sovereignty and economic development for the Palestinian state. Furthermore, it denies the Palestinians any form of justice, that they are entitled to by law, for atrocities committed by the Israeli government during the last decades. The plan not only constitutes to a denial in justice but also rewards Israel for countless breaches of international law.

Having pointed out how the plan violates existing international law; it is important to not forget, that the economic plans brought forward by the proposal are only targeted at supporting the Israeli and US economy by establishing a tight grip on Palestine, and are not intended to result in improved living conditions for the people of Palestine.

To summarize this report, the plan proposed by the United States violates existing international law and supports continues violations carried out by Israel, denies economic development and prosperity for Palestine and restricts Palestine's state sovereignty and right of self-determination,

thus, the only reasonable response is to condemn the plan and continue to work on a solution suitable for both states.

The Proposal resulted in a harsh condemnation by most members of the international community, but analysis shows that it does not bring forth any real changes, *"Peace to Prosperity"* simply puts to paper what is the sad reality for the Palestinian people ever since 1947. The plan legitimizes past and current actions, or in other words atrocities and human rights violations, carried out by Israel. The outcry by the international community should not be directed at the plan itself but rather at the horrible conditions the Palestinians had to endure over the past decades. Every Nation State or International Organisation is aware of the situation in Palestine, the proposal is simply a written summary and legitimization of the breaches of international law since 1947. It is hypocritical to reject the plan, that simply displays reality, and not relentlessly pursue peace and a lasting solution

Recommendations

We highly recommend the United Nations to take following steps in order to create lasting peace in the region

- Urgently call for an end of all forms of violence carried out by the Israeli government against the civilian population of Palestine
- Harshly condemn all Israeli settlement projects that are carried out on Palestinian ground
- Firmly condemn all forms of discrimination carried out by the Israeli government against the people of Palestine
- Reiterate that **Jerusalem is not recognized** as the capital of Israel but rather a city open to all cultures and religions
- Take all necessary measures to finally bring an end to the prolonged occupation of Palestine and fulfil Palestinians' right to national self-determination
- Ensure the voluntary return and property restitution of Palestinian refugees and internally displaced persons. Furthermore, ensure compensation for suffered losses, such as the destruction of or damage to land, homes and property

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Independent, non-profit, non-governmental organization

GICJ is an independent, non-profit, non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights. GICJ is headquartered in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for victims through all legal means available.

Mission

GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring that rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.

Work

GICJ has been tackling issues of justice and accountability since it was established. GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidence of human rights violations and abuses as they occur in several countries. GICJ continues to bring this information to the attention of relevant UN bodies in order to gain justice for all victims.

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