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The United Nations Relief and Works Agency (UNRWA): As a Violator of Human Rights

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From a Temporary Agency...

In May 1950, UNRWA began operations as a temporary agency. The General Assembly Resolution 302 (IV) of 1949, which established it, charged the agency with:

[carrying] out in collaboration with local governments ...direct relief and works programmes... and

*[consulting] with the interested Near Eastern Governments (i.e., those nations to which refugees had fled) concerning measures to be taken by them **preparatory to the time when international assistance for relief and works projects is no longer available...*** (Emphasis added)

The General Assembly, while recognizing that “

continued assistance for the relief of the Palestine refugees [was] necessary to prevent conditions of starvation and distress among them...

also anticipated that

direct relief should be terminated not later than 31 December 1950 unless otherwise determined by the General Assembly... (Emphasis added)

To an Exceedingly Permanent Agency

Yet, 63 years after this resolution was passed, UNRWA is not only still in existence, it has evolved into a permanent fixture in the Middle East, with a considerable bureaucracy and major infrastructure: One the biggest employers in the region, it maintains schools and clinics, and provides a host of social services, special programs and emergency benefits. It does not cooperate with “interested” governments in providing relief for refugees, with an eye towards termination. Rather, it has assumed a quasi-governmental role.

Thus it is necessary to consider:

- how this state of affairs evolved,
- what are its implications,
- and whether the *status quo* should be permitted to stand.

Institutionalizing an Anomaly

In December 1950, a mere eight months after UNRWA began operations, the General Assembly passed Resolution 428 (V), which established the office of the United Nations Higher Commissioner for Refugees (UNHCR).

Founded with an original focus on helping Europeans displaced by World War II, it has moved on to provide assistance to refugees around the world.

By 1951, the Convention Relating to the Status of Refugees was passed. Accepted today as the “centerpiece of international refugee protection,”^[1] it “provides the most comprehensive codification of the rights of refugees at the international level”^[2] and “endorses a single definition of the term ‘refugee.’”^[3] UNHCR works within these parameters.

It would be reasonable to imagine that UNRWA might have been folded into UNHCR once it was founded, so that all refugees world-wide would be addressed according to the same standard.

But this was not the case. In fact, UNHCR’s founding document specifically states that no assistance would be provided to anyone who continues to “receive from other organs or agencies of the United Nations protection or assistance,”^[4] by which was meant, specifically, UNRWA.

According to an explanation for this exemption found on the UNHCR website^[5]:

[Arab states] feared that the non-political character of the work envisioned for the nascent UNHCR was not compatible with the highly politicized nature of the Palestinian question.

And here we have the beginning of an understanding of how UNRWA’s unique status evolved.

While the resolution founding UNHCR stated explicitly that

the work of the High Commissioner shall be of an entirely non-political character...

UNRWA—the **only agency dedicated solely to one group of refugees**—is highly politicized.

The nature of that politicization is made explicit in a PLO document that states:

In order to keep the refugee issue alive and prevent Israel from evading responsibility for their plight, Arab countries—with the notable exception of Jordan—have usually sought to preserve a Palestinian identity by maintaining the Palestinians’ status as refugees.^[6]

What we see here is an extraordinary situation in which there is intent to sustain individuals in their status as refugees rather than helping them to shed that status as soon as possible.

A brief look at the history immediately prior to the founding of UNRWA sheds light on this situation: The Palestinian Arabs in question had become refugees—in large measure because they fled out of fear or at the behest of their leaders^[7]—as a result of an offensive war waged, 1948-49, on the nascent State of Israel by the Arab League.

Having lost that war, which was fought in an effort to destroy Israel, the Arab states sought to weaken Israel via diplomatic means. These same Arab states were instrumental in preventing UNRWA from being folded into UNHCR. For, in contradistinction to Arab goals, the resolution founding UNHCR called upon nations to “promote the assimilation of refugees, especially by facilitating their naturalization,”^[8] and the Commissioner to “...promote assimilation within new national communities.”^[9]

The Arab states also advocated within the UN General Assembly for the on-going extension of the UNRWA mandate: every three years the GA votes to permit UNRWA to continue its operation.

The Unique Parameters

There is a serious question as to whether an agency with a political agenda that is not intrinsic to the needs of its client

population can properly attend to the best interests of those clients.

This situation is not analogous, for example, to an organization that has an African-American client base and is politicized as a result of its battle to combat racism on behalf of its clients. Does it truly serve the refugees well to expect them to retain their status in order to weaken Israel?

A strong case can be made, *prima facie*, that the answer is no: It can be persuasively argued that the refugees are no more than political pawns to the Arab agenda – that, irrespective of the fiction that has been so carefully constructed, the refugees are being used rather than legitimately served.

It is instructive to consider several of the ways in which UNRWA parameters diverge from those of UNHCR. For, in constructing its unique guidelines, UNRWA has attempted to create the illusion that it actually does serve the best interests of its client base.

UNRWA, as one of its publications explains, “[performs] specific tasks of a governmental character”...and “therefore has a highly developed administrative autonomy.”^[10] This high degree of functional autonomy is of considerable significance: the agency quite literally “does its own thing.”

What we see, first, is that UNRWA has sought to maximize the number of persons maintained on its lists as “refugees”:

The UNHCR refugee definition refers to the individual who "...owing to well-founded fear of being persecuted ... is outside his country of nationality... ...or former habitual residence..."

UNRWA, however, defines a refugee as:

persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict [and their patrilineal descendants].

The fact that individuals were in Palestine for two years—as historical records indicate, very likely seeking work—does not mean that Palestine was their place of “habitual residence,” and yet they were counted, swelling the rolls.

UNRWA’s inclusion of descendants—not routinely included by UNHCR—has brought us now to the fourth generation, and ever increasing numbers. The Palestinian Arab refugee population is the only one in the world that continues to grow rather than diminish.

Similarly, while UNHCR removes from its rolls all refugees who acquire a new nationality, UNRWA does not, maintaining that only a move back to what is now Israel qualifies to dispel that status.

And it is here that we come to the heart of the matter.

The “Right of Return”

UNRWA has constructed as its *raison d’être* the ostensibly inalienable “right” of Palestinian Arabs to return to the homes and villages in Israel from which they or their parents or grandparents or great-grandparents came.

In dedicating itself to this principle, UNRWA attempts to justify sustaining refugees in their on-going temporary status: Its position is that it will have no part in encouraging the refugees to settle for another solution to their situation, for this would be to deprive them of their “rights.” As UNRWA would have it, it is working tirelessly for its client base.

In point of fact, however, this highly touted “right—predicated on a single phrase in paragraph 11 of General Assembly Resolution 194—does not exist.

Passed in 1948, while Israel and the Arab nations were still fighting, Resolution 194 was an attempt to seek an end to the Arab-Israeli conflict in its entirety. For that purpose, it called for the formation of a Conciliation Commission. A

careful reading of the full paragraph 11 makes it clear that it does not mandate an unconditional “right of return”: after the allusion to return, there is an instruction to the Conciliation Commission to facilitate a number of remedies, including resettlement.

That the General Assembly saw resettlement as an option is made even clearer when other GA resolutions of the same time period are examined. Resolution 393 of 2 December 1950 stated that...“the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement is essential...” Resolution 394 of 14 December 1950 called upon, “the Governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, will be treated without any discrimination...” These resolutions were all passed after UNRWA had been founded.

An even more fundamental miscalculation is that of relying upon a resolution of the UN General Assembly to establish a legal “right”^[11] at all. The UN General Assembly is not a legislative body and its resolutions do not have the status of international law. Its resolutions are only recommendations and as such are not binding.

The underlying **political** motivation for establishing the notion of “right of return” is quite clear:

In 1949, the Egyptian Minister of Foreign Affairs, Muhammad Saleh Ed-Din, wrote, “Let it therefore be known and appreciated that, in demanding the restoration of the refugees to Palestine, the Arabs intend that they shall return as the masters of the homeland, and not as slaves. More explicitly, they intend to annihilate the state of Israel.”^[12]

While the Lebanese paper *Al-Ziyad* stated, in 1950, “The return of all of the refugees to their homes would...on the one hand eliminate the refugee problem, and on the other, create a large Arab majority that would serve as the most effective means of reviving the Arab character of Palestine, while forming a powerful fifth column for the day of revenge and reckoning.”^[13]

And so, across several decades now, UNRWA has continued to present “return” as the rationale for its operations.

UNRWA Policies and Practices Founded on the “Right”

UNRWA serves exclusively as a humanitarian agency. It does not attempt to find permanent solutions for refugees or to communicate with governments to encourage them to absorb refugees. It has developed a huge bureaucracy, including a school system and clinics, that has become deeply entrenched.

At the same time UNRWA actively promotes the concept of the “Right” within its client population. The message is all-pervasive:

When families originally registered with UNRWA, a card was filled out assigning them a registration number that included a five-digit code of origin in “pre-1948 Palestine.” As a report on UNRWA by Badil^[14] describes it, “the village structure, as it existed prior to the 1948 war, has thus been preserved by virtue of the registration system.” These original files have now been transferred to computers.

Streets in the camps, named for villages in Israel that were allegedly left behind, reinforce this message. As do programs and textbooks in the school system.

UNRWA promotion of the “right of return” is documented in the video “UNRWA Right of Return Summer Camp August 2011.”

The trailer can be accessed at: <http://www.youtube.com/watch?v=pFSeHLVqn2A> .

Impact of UNRWA Policies and Practices

There are multiple and profound effects that UNRWA policies and practices have upon the refugees who are the agency's clients.

- Most significantly, these people have been hindered in their ability to acquire a nationality and fully get on with their lives. **This alone constitutes a deprivation of human rights.**
- In some instances they have also been prevented by UNRWA—in the name of protecting the “rights” of the refugees—from acquiring better housing or have been restrained in their freedom of movement. ^[15]
- The “limbo” situation in which they are enmeshed has generated frustration and discontent. Particularly is this so as some of the camps are less than desirable places of habitation.
- They are being fed a myth, for the government of Israel, fully understanding the consequences of allowing the refugees to “return,” will never permit this to happen. Thus are they inhibited from making healthy and realistic adjustments. ^[16]
- What is more, they are encouraged to believe that they can best acquire their “rights” via violence and jihad. Their children are taught that “martyrdom” has supreme value. ^[17] These attitudes are neither productive for their societies nor constructive for their individual development and longevity.

^[1] <http://www.unhcr.org/3b66c2aa10.html>

^[2] Ibid.

^[3] Ibid.

^[4] Ibid.

^[5] The State of the World's Refugees – Chapter 1, The Early Years.

^[6] The Palestinian Refugees FACTFILES, Palestinian Liberation Organization, Department of Refugee Affairs, Ramallah, 2000, p.22.

^[7] See Efraim Karsh, “1948, Israel and the Palestinians – the True Story,” at:
<http://www.commentarymagazine.com/article/1948-israel-and-the-palestinians%e2%80%94the-true-story/>

^[8] http://www.seoultrain.com/content/resources/unhcr_statute.pdf

[9] Ibid.

[10] UNRWA document: *A Brief History*, 1950-1985, Vienna, 1986, p.30.

[11] While the resolution establishing UNRWA relies exclusively on 194, arguments are made in some quarters that the “right” of return is established in international law because of other documents. This is tenuous.

The most universal provision dealing with right of return is in the 1966 International Covenant on Civil and Political Rights, which says: "No one shall be arbitrarily deprived of the right to enter his own country." Legal experts have concluded, however, the right of return is probably reserved only for nationals of the state, and that this is not absolute, if the reasons for denial are not arbitrary.

Moreover, the position is held that the right to enter one's country is intended to apply to individuals asserting an individual right. There was no intention here to address the claims of masses of people who have been displaced as a by-product of war. Humanitarian law conventions (such as the 1949 Geneva Conventions for the Protection of Victims of War) do not recognize a right of return.

–Drawn from a summary by Ruth Lapidot Professor of International Law at the Hebrew University and a member of the Permanent court of Arbitration in The Hague, in *Jerusalem Letter* No. 485, 1 September 2002.

[12] The Egyptian newspaper, *Al-Misri*, 11 October 1949.

[13] 6 April 1950.

[14] Information & Discussion Brief No. 6, from BADIL, the Resource Center for Palestinian Residency and Refugee Rights

[15] Example: In 1985, when Israel attempted to move refugees into permanent housing that had been constructed with support from the Catholic Relief Agency, the UN officially intervened. A General Assembly resolution – www.un.org/documents/ga/res/40/a40r165.ht – was passed that forbade Israel from moving refugees out of their temporary shelters, since this would violate their "inalienable right of return" to the homes that they left in 1948. The 1,300 homes built on a hill near Nablus were still standing empty seven years later.

[17] The video “For the Sake of Nakba” documents the inculcation of these ideas. See the trailer at: <http://forthesakeofnakba.blogspot.com/2010/07/for-sake-of-nakba.html>