

Reforming UNRWA

by James G. Lindsay

It is sometimes suggested by critics of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) that the agency should be abolished and its duties transferred to the U.N. High Commissioner for Refugees (UNHCR), the U.N. organization responsible for all other refugees in the world. But it is doubtful whether such a move would change much, for it is not UNRWA's existence but rather its mission that is the root of the problem.

To be sure, as a creation of the General Assembly, it is this international body that gives UNRWA its mission; and packed as it is with an abundance of votes to prevent any alteration in UNRWA's mission, the General Assembly would need a tremendous amount of persuasion and pressure to get behind any meaningful change. Yet there are important and commonsensical changes to UNRWA that could be made outside the General Assembly. The question remains whether Washington, perhaps the only major player in this drawn-out drama with sufficient clout, is willing to take the necessary steps in this direction.

SHOULD UNRWA BE ABOLISHED?

Upon UNRWA's creation, the term "Palestine refugees" referred to all refugees—Arabs and Jews—of the 1948 Arab-Israeli war. In 1952, Israel assumed responsibility for both Jewish and Arab refugees on its territory, but the remaining Arab refugees in Egypt-occupied Gaza, Jordan-occupied West Bank, Jordan proper, Syria, and Lebanon, all subsequently referred to as Palestinians, continued to be UNRWA's responsibility.

UNRWA obviously has not been very effective

in integrating Palestinian refugees in a political sense; however, with the partial exception of Lebanon, Palestinians are largely economically integrated into the states where they have been living for the last 60-plus years. According to UNRWA, more than two-thirds of the registered refugees have moved out of refugee camps and into the general population of the countries or areas in which they live.¹ As such, its provision of refugee-specific services and grouping of refugees according to their former village arrangements (as understandable as that might have been originally) tend to emphasize separation and differences from their non-refugee neighbors—even when those new neighbors are fellow Palestinians in the West Bank and Gaza.

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1 "UNRWA in Figures," UNRWA website, Jan. 1, 2012.

2 "Overview," UNRWA website, accessed June 26, 2012.



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opposition, the U.S. government, which provides approximately 25 percent of UNRWA's funding,³ could force the agency to change via financial pressure if it had the desire and will to do so. Assuming Washington wants to help the Palestinian refugees move away from their refugee status, there are a number of graduated steps that U.S. officials could encourage though exerting financial pressure. The ultimate objective should be to bring the Palestinian refugees on UNRWA rolls of registered refugees out of their refugee status and into normal lives as citizens of their host states.

CHANGING HOW UNRWA WORKS

UNHCR staff members, so if UNRWA were to be abolished, it is likely that the 30,000 UNRWA staff (perhaps less the "internationals") would be redesignated as UNHCR staff. It is true that the mission of those newly re-characterized staff could be revised so as to match the UNHCR mission, but, in theory at least, the same objective could be attained by just revising UNRWA's mission to match that of UNHCR. However, because of UNRWA's large Palestinian bureaucracy, its unique definition of "refugee," and its advocacy on behalf of Palestinian grievances—and the support all those characteristics enjoy in the General Assembly—discussions of abolishing UNRWA or formally changing its mission to match that of UNHCR are unlikely to result in actual changes.

Further, out of humane considerations, UNRWA should not disappear overnight; a society whose members have been raised with the belief that welfare is a right and statelessness is their fate needs to be gradually weaned from those ideas. However, UNRWA can begin the process of encouraging an end to entitlement and statelessness, at least among a portion of its clients.

Despite the certainty of General Assembly

One would think that an agency that frequently complains of insufficient funding from its donors would have already come to the conclusion that aid ought to only go to those in need. In fact, UNRWA began as a needs-based provider; upon inheriting registration rolls from its short-lived predecessor, the U.N. Relief for Palestine Refugees agency (UNRPR), it did not hesitate to remove large numbers of people who were not actually in need of relief.⁴ Those early efforts were soon thwarted by opposition from the refugees and host countries. On at least one occasion—in 1965—the criticism that UNRWA was providing unnecessary rations led Washington to cut its donation level,⁵ and a long period of desultory conflict over the issue followed, with UNRWA suffering donor outrage but seemingly unable to do much about the situation. Pushed by its main donor, the United States, the agency did, in the period between the 1960s and 1982, manage to establish needs-based criteria for the provision of "rations" (principally

3 "Donor charts: All government donors, overall," UNRWA website, Dec. 31, 2011.

4 *UNRWA: A Brief History, 1950-1982* (Vienna: UNRWA, ca. 1983), p. 101.

5 Thomas Brady, "Arab Refugees Still Yearn for Their Home," *The New York Times*, Mar. 21, 1966.

food), despite the resistance of the refugees themselves and their host nations, both of whom argued for a status-based distribution. In their view, food distribution would go to those who were admittedly not in need but who insisted that since they had been registered as refugees by UNRWA, they were entitled to free food.

Perhaps because the battle over rations was so long and hard, UNRWA seemingly had no stomach for expanding the principle into its other main programs: education and health care. And given that many in the West view education and health care as public entitlements, the idea of requiring financial contributions from those who could afford to pay might have seemed draconian. (Of course, the situation in Europe and the United States is quite different from that existing in the Palestinian refugee camps where residents do not, for the most part, pay taxes to support schools and health care.) In any event, “need” was formally dropped from the eligibility requirements for these and other non-welfare services in 1993.⁶

Some might question whether scarce international aid should be used to fund relatively sophisticated programs for Palestinians—not just education and health care but also microfinance, urban planning, and so forth—rather than, say, food for starving Africans in places like Sudan. That moral question aside, why should Western taxpayers fund services to those who can afford to contribute at least a portion of the cost? Palestinians who are able to pay for at least part of their children’s education and their family’s health care should be required to do so, just as taxpayers everywhere else in the world do. In other words, all UNRWA services, not just welfare, should be provided based on need not merely on a politicized status. Of course, such an approach would spur the usual opponents to accuse the West of shirking its responsibilities for the refugees’ plight, but eliminating services based on status alone would result in additional funds being available to meet real needs.

Additionally, UNRWA presently provides aid

to a number of persons and their descendants—who admittedly never met the UNRWA definition of a refugee—the so-called “economic” refugees:

- “Frontier villagers” were persons whose homes were on the Arab side of the 1949 armistice line, but whose fields were located on the Israeli side;
- “Jerusalem and Gaza poor” were those whose homes were on the Arab side of the armistice line, but whose former jobs had been on the Israeli side;
- “Bedouin” were those nomads whose grazing lands (or some of them at least) were on the Israeli side of the armistice line;
- and “compromise cases” were people in Lebanon who were, at the insistence of the Lebanese authorities, granted access to UNRWA services even though in UNRWA’s opinion they did not meet the criteria for Palestine refugees. These Lebanese, or at least some of them, had been seasonal workers in Mandatory Palestine and had lost a portion of their livelihoods, though not their homes.⁷

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The General Assembly, at least in the period prior to 1960, had noted that UNRWA’s mandate did not extend to these “economic refugees”⁸

Given the problems with the rolls of relief recipients that were handed over to UNRWA by UNRPR in 1950,⁹ the difficulties in rectifying the rolls,¹⁰ and UNRWA’s unexacting criteria for registration, there are likely many persons on UNRWA’s

6 Christine Cervenak, “Promoting Inequality: Gender-Based Discrimination in the UNRWA’s Approach to Palestine Refugee Status,” *Human Rights Quarterly*, May 1994, fn. 63, 64.

7 “Consolidated Eligibility and Registration Instructions,” UNRWA, Dept. of Relief and Social Services, Jan. 1, 2009, para III.2, pp. 4-5.

8 Lex Takkenberg, *The Status of Palestinian Refugees in International Law* (Oxford: Clarendon Press, 1998), pp. 66-7, n. 117.

9 *UNRWA: A Brief History, 1950-1982*, pp. 4-6.

10 James G. Lindsay, “Fixing UNRWA: Repairing the UN’s Troubled System of Aid to Palestinian Refugees,” Washington Institute for Near East Policy, Washington, D.C., Jan. 2009, pp. 16-17.

rolls who were not, or whose ancestors were not, refugees from the 1948 war, even under UNRWA's definition. A careful examination of the basis for granting registration to each of the original refugees should be undertaken, and those persons for whom there is insufficient evidence, along with their descendants, should be removed from UNRWA's rolls of registered refugees.

“REFUGEES NO MORE”

The UNHCR definition of a refugee (based upon the original 1951 U.N. *Convention Relating to the Status of Refugees* and the 1967 *Protocol Relating to the Status of Refugees*) covers any person who,

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.¹¹

But the definition specifically does not apply to any person who “has acquired a new nationality, and enjoys the protection of the country of his new nationality.”¹²

On the face of it, the UNHCR definition regarding citizens is the only possible definition: If people who become citizens of another country remain refugees, what does it mean to be a refugee? In reality, a refugee is someone who does not have the protection of his country, so a person who is being protected by the country of his citizenship is by definition not a refugee.

That tautological observation is lost on UNRWA, which states that:

11 *Convention and Protocol relating to the Status of Refugees*, UNHCR, 1951 and 1967, U.N. General Assembly (UNGA) res. 2198 (XXI): 1951 convention, art. 1, para. A (2); 1967 protocol, art. 1.2, accessed June 26, 2012.

12 *Convention and Protocol relating to the Status of Refugees*, UNHCR, 1951, art. 1, para. C (3).

Under UNRWA's operational definition, Palestine refugees are people 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.¹³

The UNRWA definition makes no mention of citizenship, and UNRWA makes no effort to de-register persons who were formerly refugees but are now citizens of a state. As such, UNRWA is the only refugee organization in the world that considers citizens of a state to be refugees, and there are many of these oxymoronic “citizen-refugees” on UNRWA rolls.

Most of the nearly two million registered Palestinian refugees in Jordan are citizens of that country (the rest have residency and travel documents but are not citizens). Over UNRWA protests, the U.S. Committee for Refugees and Immigrants (USCRI) decided in 2003 that it could no longer classify as refugees the 1.8 million UNRWA-registered beneficiaries from that time who had Jordanian citizenship. According to the group, there were in 2008 about 167,000 UNRWA-registered refugees in Jordan who did not have citizenship (most of whom were probably among the 162,000 Arabs who fled from Gaza in 1967).¹⁴

The roughly 436,000 UNRWA-registered Palestinian refugees in Lebanon¹⁵ have a significantly different status from their non-refugee neighbors. But even there, many of UNRWA's registered beneficiaries are likely citizens, given that only about 100,000 Palestinian refugees entered Lebanon in 1948 and that the Lebanese have granted citizenship to some 100,000 (disproportionately Christian) Palestinian refugees in past years.¹⁶ Although an accurate figure for the number of refugees actually residing in Lebanon is not available, most observ-

13 “Who Are Palestine Refugees?” UNRWA website, accessed June 27, 2012.

14 “Jordan,” *World Refugee Survey 2008*, U.S. Committee for Refugees and Immigrants, Arlington, Va., pp. 104-5.

15 “UNRWA in Figures,” UNRWA, Jan. 1, 2012.

16 Sherifa Shafie, “Palestinian Refugees in Lebanon,” *ForcedMigration.org*, July 2007; Abbas Shibliak, “Civil and Citizenship Rights of Palestinian Refugees,” *Palestinian Diaspora and Refugee Center*, Ramallah, Dec. 14, 1995; Julie Peteet, “From Refugees to Minority: Palestinians in Post-War Lebanon,” *Middle East Report* 200, July-Sept. 1996.

ers believe that it is much lower than the UNRWA figure—perhaps not much more than half as high. In 2006, UNRWA hired a contractor to examine the living conditions of registered refugees in Lebanon, but only about 55 percent of them could be found, suggesting that there are many more refugees on UNRWA's rolls than are actually on the ground in Lebanon. According to one source, "independent research sources suggest a total of 200,000 Palestinian residents live in the country."¹⁷ The only thing allowing UNRWA to pretend that these Jordanian and Lebanese citizens are refugees is its singular definition of what constitutes a refugee.

As for UNRWA's other geographical fields, those labeled refugees in the West Bank and Gaza have exactly the same rights as the non-refugee population, including suffrage. Although neither the West Bank nor Gaza is recognized as an independent country, and thus, the inhabitants of each area are not technically "citizens," they still enjoy the same rights and privileges as their brethren. Those designated Palestinian refugees in Syria have a somewhat different status: They lack suffrage (a somewhat theoretical benefit to citizens in Syria), full property rights, and certain other privileges, so while they hold most of the accoutrements of Syrian citizenship, they are not citizens.

PERPETUATING THE REFUGEE PROBLEM

The disconnect between citizenship and refugee status is not the only inherent problem that can and should be fixed. While UNRWA did not initially consider grandchildren of refugees to be

17 Bernhard Hillenkamp, "The Challenges of Palestinian Education," Lebanese-Palestinian Dialogue Committee, Beirut, Mar. 2008, p. 2.

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According to UNRWA, more than two-thirds of the registered refugees have moved out of refugee camps and into the general population of the countries or areas in which they live. The remaining third live in camps which often resemble urban slums.

refugees,¹⁸ now all patrilineal descendents of refugees are eligible to be registered, and even persons whose connections to refugee status are quite tenuous (e.g., women formerly married to registered refugees) are eligible for UNRWA services.¹⁹ The UNRWA definition includes as refugees all the descendents of male refugees while, as critics note, the 1951 refugee convention is silent on the matter of refugees' descendents.²⁰ In general, it would seem harsh to deny refugee status to minor children of refugees. After all, refugees could hardly be expected to avail themselves of options that were closed to their children who had been born subsequent to the parents' acquisition of refugee status. However, third generation and later descendents might be viewed somewhat differently.²¹

18 Benjamin Schiff, *Refugees unto the Third Generation: UN Aid to Palestinians* (New York: Syracuse University Press, 1995), pp. 24, 53-4.

19 "Consolidated Eligibility and Registration Instructions," UNRWA, Dept. of Relief and Social Services, Jan. 2009, pp. 3, 6-8.

20 See, for example, Arlene Kushner, "UNRWA: A Hard Look at an Agency in Trouble," Center for Near East Policy Research, Brookline, Mass., Sept. 2005, p. 12; Ruth Lapidot, "Legal Aspects of the Palestinian Refugee Question," *Jerusalem Letter*, no. 485, Jerusalem Center for Public Affairs, Sept. 1, 2002.

21 See, for example, Takkenberg, *The Status of Palestinian Refugees*, p. 121.

These logical and reasonable concepts are mirrored in UNHCR practice. UNHCR provides for the children of refugees to have derivative refugee status, as would be expected. The relevant standards are found in the UNHCR publication, “Procedural Standards for Refugee Status Determination under UNHCR’s Mandate,”²² at unit 5.1. Under the standards set forth there, nuclear family members of a refugee are automatically eligible

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for Derivative Refugee Status, meaning that they as individuals are entitled to all the benefits of being a refugee (but they are not refugees themselves, through whom derivative refugee status may be claimed). Nuclear family members who automatically receive derivative refugee status are spouses,

unmarried children under 18 years, parents or primary caregivers to a refugee who is under 18, and the other dependents of such parents or primary caregivers and minor siblings of a refugee who is himself/herself under 18 years old. The granting of derivative refugee status to other persons is not automatic and depends on an individualized “family unity interview” and analysis of the “relationship of social, emotional or economic dependency” between the refugee and the person claiming derivative refugee status.

UNRWA, of course, does not use the UNHCR criteria and does not engage in the sort of analysis required by the “Procedural Standards for Refugee Status Determination.” As a practical matter, with a fourth generation of refugees now in existence, the UNRWA policy can lead to some strange outcomes. For instance, a man who fled in 1948 from what is now Israel and was registered as a refugee (first generation refugee) could have had a male child with a non-refugee; that child (a second generation refugee) could have himself grown up and had a male child with a non-refugee and then

that male child (a third generation refugee) could have had a male child (a fourth generation refugee) with a non-refugee. Although such a fourth generation refugee would have only one-eighth “refugee blood” and even though he, his parents, and his grandparents may have never set foot in what is now Israel, for UNRWA they all remain refugees entitled to repatriation to their “homes” there.

Using the UNHCR criteria would, for instance, make it nearly impossible for UNRWA to find a “relationship of social, emotional or economic dependency” for the great-grandson of a refugee who was born after the death of his refugee great-grandfather. UNRWA’s wholesale acceptance of all descendants via the male line is far from UNHCR’s careful consideration of each case and appears designed to create refugees where there are none. In fact, in one small way, UNHCR is more liberal than UNRWA vis-à-vis granting refugee status to descendants of refugees: With UNHCR, derivative refugee status can flow from a female or a male refugee while UNRWA excludes descendants of female refugees from being registered as refugees.

REMAKING UNRWA

Many, perhaps most, Palestinians are more focused on trying to live “a normal life” than on wanting to return to their forefathers’ lands in what is now Israel—regardless of how poorly they may think their forefathers were treated by the Israelis and the other Arabs.²³ However, voicing heterodox opinions is dangerous in Palestinian society—and in UNRWA as well.

In 2009, this author produced *Fixing UNRWA*, an overview of UNRWA’s history with an analysis of its current state and recommendations for its future.²⁴ One of its severest critics was Andrew Whitley, who was sent to Washington by UNRWA to attack the paper during its presentation. (He compared the paper to a Parisian prostitute—attractive on the outside but corrupt on the inside.)

22 “Procedural Standards for Refugee Status Determination under UNHCR’s Mandate,” U.N. High Commissioner for Refugees, Nov. 20, 2003, unit 5.1.

23 Author discussions with Palestinians, Gaza, Aug. 2000-Aug. 2005, East Jerusalem, Aug. 2005-Aug. 2006, Mar. 2007-Aug. 2007.

24 Lindsay, “Fixing UNRWA.”

Yet on October 22, 2010, this same Andrew Whitley, nearing his retirement from UNRWA, spoke at the Annual Conference of the National Council for U.S.-Arab Relations (NCUSAR) in Washington, saying that “although it is not a position that we [UNRWA] publicly articulate ... the right of return is unlikely to be exercised to the territory of Israel to any significant ... extent,” that “the refugees will remain where they are [in the host countries],” and that the refugees should not be “left in a state of limbo where they are helpless, but preserve rather cruel illusions that perhaps one day they will return to their homes [in what is now Israel].”²⁵

Rather than remaining silent or just noting that it had itself taken no position on the issue, UNRWA joined the outcry against Whitley launched by “right of return” supporters and asserted that “UNRWA unequivocally distances itself from the statements made by the director of its office in New York, Andrew Whitley.”²⁶ Whitley himself, no doubt under great pressure from UNRWA, subsequently sent a letter to the agency, making a humiliating disavowal of his own remarks:

I am writing following my realization that part of the remarks I delivered at a conference in Washington hosted by the National Council on US-Arab Relations, on 22 October, 2010, were inappropriate and wrong. ... It is definitely not my belief that the refugees should give up on their basic rights, including the right of return.²⁷

This incident suggests that UNRWA lacks the moral courage and philosophical inclination to make any accommodation with reality, absent the application of pressure from its donors, most importantly from the United States, but thus far, such pressure has been glaringly absent.

The relationship between UNRWA and the U.S. State Department’s Bureau of Population, Refugees, and Migration is most collegial with the bureau showing little interest in pressing UNRWA

unless it is itself first urged by Congress.

Indeed, a recent interaction between the Senate Appropriations Committee and the State Department reflects a firm desire on the latter’s part to avoid even the hint of any reform in UNRWA. In May 2012, the State Department vigorously opposed what seemed to be an innocuous amendment to an appropriations bill that would have required it to determine how many persons on UNRWA’s rolls were themselves physically displaced from what is now Israel; how many were descendants of the physically displaced; and how many were citizens of other countries.²⁸ Subsequently, the department reportedly stated that, per U.S. policy, there are five million Palestinian refugees and that descendants of the original refugees are themselves refugees (i.e., those counted by UNRWA, including descendants of refugees and the citizen-refugees).²⁹ In these circumstances, the likelihood that the executive branch of the U.S. government will apply pressure on UNRWA to reform is probably very close to zero.

While there appears little chance of major change in UNRWA in the immediate future, the questions being asked in Congress and small steps being taken by individual members of the House and Senate are encouraging. As the illogic of UNRWA positions and practices becomes more obvious, additional questions will be raised, and more politicians will demand answers from the State Department. With American eyes fixed on a struggling economy and unsustainable debt burdens, there is an opportunity to bring the U.N. agency in line with greater fiscal responsibility. UNRWA has been in existence for more than sixty-two years and has a huge bureaucracy; it can be moved in a different direction only slowly and with great effort, but change is coming.

Pressure from donors to reform UNRWA, most importantly from the United States, has been glaringly absent.

25 “Arab-U.S. Relations: Going Where?” National Council on U.S.-Arab Relations, 19th Annual Arab-U.S. Policymakers Conference, Washington, D.C., p. 13.

26 “UNRWA distances itself from the statements of its New York director,” UNRWA website, accessed June 26, 2012.

27 “UNRWA New York Director apologises and retracts comments on right of return,” UNRWA website, Nov. 3, 2010.

28 Josh Rogin, “Senate Fight Today over Palestinian Refugees,” *The Cable, Foreign Policy*, May 24, 2012.

29 *The Nation* (Karachi), May 28, 2012.

