

# UNRWA and the Palestinian Precedent: Lessons From the International Response to the Palestinian Refugee Crisis

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**ABSTRACT:** Considering the major refugee crises currently facing the world, this essay argues that an examination of earlier refugee crises is needed in order to devise an effective international response today. On this basis, it assesses the unique international system that was set up in response to one of the largest refugee crises of the twentieth century: that of the Palestinians. Like the Syrian refugee crisis today, the Palestinian case encapsulated the connection between global politics and mass migration. On this basis, this article evaluates the merits of the international organization responsible for serving the Palestinian refugees: the UN Relief and Works Agency (UNRWA). Identifying and assessing the key features of the UNRWA system, the essay argues that its uniqueness generated both benefits and many disadvantages for the Palestinian refugees it served. In particular, the Palestinians' ineligibility for UNHCR services has left them uniquely vulnerable when seeking international protection. Creating a similar international organization to serve Syrian refugees today is likely to cause similar problems, and will raise the question of whether other large refugee populations also need their own UN agencies. However, the internationalist rationale behind the UNRWA system is also contrasted harshly with the current imbalance in the response to the Syrian crisis, whereby a small number of countries are hosting the majority of the refugees. Thus despite its considerable flaws, UNRWA's precedent still provides important lessons for the crisis today.

**Keywords:** *Refugees, Palestine, Syria, UN, UNRWA, UNHCR.*

## Introduction

The UN estimates that nearly six million people have now fled Syria to seek refuge elsewhere.<sup>1</sup> It has described the resulting situation as the worst refugee crisis to face Europe since the Second World War.<sup>2</sup> Yet the vast majority of Syrian refugees are in the Middle East and not Europe.<sup>3</sup> Moreover, it is not the first time in recent decades that Levantine countries have borne the brunt of the fallout from a large-scale refugee crisis.

This essay argues that learning the lessons of previous refugee crises is key for devising

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1 "Syrian Refugees: A Snapshot of the Crisis in the Middle East and Europe," EU, accessed January 13, 2017, <http://syrianrefugees.eu>.

2 "Urging global assistance for Syrian refugees, European Union at the UN says 'everyone can offer help'," UN News Centre, accessed January 13, 2017, <http://www.un.org/apps/news/story.asp?NewsID=52055#.WHN9-7FnIE5>.

3 "Syrian Refugees: A Snapshot of the Crisis in the Middle East and Europe."

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an effective international refugee policy today. On these grounds, the essay assesses the historical responses to the largest and longest-running refugee situation in the Middle East: that of the Palestinians. As the Middle East is the same region now engulfed by the Syrian crisis, the Palestinian precedent is particularly salient here. The international response to the Palestinian crisis was largely channeled via the UN Relief and Works Agency (UNRWA), which will accordingly be the focus of this assessment.

Since beginning operations in 1950, UNRWA has provided large-scale welfare, health and education services to registered Palestinian refugees across the Middle East, playing a particularly important role in the camps. As the only UN Agency mandated to serve refugees from a specific region, it is unique in its status and functioning, encapsulating the intersection between international relations and migration. The central question here is whether such a system is recommendable for other refugee crises, particularly the Syrian one today.

Examining this question is complicated by UNRWA's absence from much of the relevant literature. Palestinian historiography, while acknowledging the importance of refugee history, rarely includes in-depth studies of the impact of UNRWA's work.<sup>4</sup> Meanwhile literature in the field of Refugee Studies has too often fallen prey to 'Palestinian exceptionalism' that seals UNRWA off from synoptic studies because of its unusual set-up.<sup>5</sup> The resulting literary gap is particularly glaring in view of the numerous shared features of the Palestinian and Syrian refugee crises; aside from their regional proximity, they are both large-scale and both closely connected to highly contentious regional and global politics.

This article will seek to address this gap by providing a close assessment of the UNRWA system as a case study of an international approach to a refugee crisis. Looking at how its unique setup has worked in practice, the essay identifies the key features of UNRWA's structure, and assesses the resulting advantages and drawbacks. The underlying argument is that historical precedents should always be considered when examining migration crises that share some of the same traits. UNRWA is neither an exemplar to be adopted as an ideal model, nor a disaster that should be entirely disregarded. Instead, it is a flawed case study that can provide much-needed lessons to a world currently struggling to devise

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4 See for example: Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (New York: Columbia University Press, 1997); Rosemary Sayigh, *The Palestinians: From Peasants to Revolutionaries* (London: Zed Books, 2007); Helena Lindholm Schulz, *The Palestinian Diaspora: Formation of Identities and Politics of Homeland* (New York: Routledge, 2003); Helga Baumgarten, "The Three Faces/Phases of Palestinian Nationalism, 1948-2005," *Journal of Palestine Studies* 34, no. 4 (2005): 25-48; Shaul Mishal, *West Bank/East Bank: The Palestinians in Jordan, 1949-1967* (New Haven: Yale University Press, 1978); Muhammad Muslih, "Arab Politics and the Rise of Palestinian Nationalism," *Journal of Palestine Studies* 16, no. 4 (1987): 77-94.

5 See for example: Karen Jacobsen, *The Economic Life of Refugees* (Bloomfield, CT: Kumarian Press, 2005); Margaret McGuinness, "Legal and Normative Dimensions of the Manipulation of Refugees," in *Refugee Manipulation: War, Politics and the Abuse of Human Suffering*, ed. Stephen John Stedman and Fred Tanner (Washington D.C.: Brookings, 2003), 135-66.

an effective and successful response to continuing refugee crises.

### **The role of the UN**

At its core, UNRWA signifies the UN's responsibility for Palestinian refugees. As such it is an expression of international duty towards humanitarian crises, in keeping with the rising internationalism of the post-WWII period in which UNRWA was established. The late 1940s saw the dominance of new internationalist norms, according to which refugee problems should be the responsibility of the entire world and not just the immediate region concerned. This idea was codified in the 1951 Refugee Convention.<sup>6</sup> The establishment of organizations like UNRWA thus theoretically safeguarded the concept of shared international responsibility as a way of overriding regional imbalance. In view of recent complaints from the Lebanese<sup>7</sup> and Jordanian<sup>8</sup> governments about insufficient international support for their hosting of millions of Syrian refugees, this approach is again timely and relevant.

In theory, creating a UN body to respond to specific crises avoids over-burdening the region concerned, especially when that region might already be suffering the political and economic aftershocks of the crisis. This approach should result in a comprehensive and streamlined approach that channels global opinion, or at least the opinion of UN Member States. Ideally, the representation of the international community should also promote political neutrality and with it legitimacy. In the age of globalization, the politics of any migration crisis are rarely confined to one region, and the establishment of an international organization to manage it reflects this. However, the question of whether this translates into practice remains – which is where UNRWA provides the all-important case study.

When it comes to UNRWA and the Palestinian refugees, the direct involvement of the UN has led to some obvious benefits. It has given UNRWA's work a higher profile and greater prestige than the same work might have coming from a standard non-governmental aid agency. In practical terms, its UN affiliation provides UNRWA with greater access to governments and more potential resources. In the complex setting of the modern Middle East, holding UN status has also enabled UNRWA staff to travel across regional borders more easily while carrying out their work. Arguably, these benefits to UNRWA in turn also benefit the Palestinian refugees.

Importantly, many of the refugees themselves are aware of the advantages that the involvement of a UN body brings for their cause. As most UNRWA-registered refugees are

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6 Susan M. Akram, "Palestinian Refugees and Their Legal Status: Rights, Politics, and Implications for a Just Solution," *Journal of Palestine Studies* 31, no. 3 (Spring 2002): 36-51.

7 Najib Mikati, "My country cannot cope with the Syrian refugee crisis," *The Telegraph*, January 21, 2014, accessed January 13, 2017, <http://www.telegraph.co.uk/news/worldnews/middleeast/lebanon/10587174/Lebanon-PM-My-country-cannot-cope-with-the-Syrian-refugee-crisis.html>.

8 Michael Holden, "Jordan needs international help over refugee crisis: King Abdullah," *Reuters*, February 2, 2016, accessed January 13, 2017, <http://www.reuters.com/article/us-mideast-crisis-jordan-idUSKCN0VB0WI>.

stateless, the Agency is the closest thing they have to formal international representation. Some argue that the continuing existence of a UN agency for Palestinian refugees provides a positive validation that their plight is remembered on the world stage.<sup>9</sup> In the simplest terms, UNRWA's work is taken as an indicator of the UN's ongoing responsibility for resolving the Palestinian refugee situation. The refugees' attachment to this idea is demonstrated by the intensity with which they usually protest cuts in UNRWA services, fearing that its disappearance will mean they are forgotten on the world stage.<sup>10</sup>

Yet the case of UNRWA also betrays many ways in which the theoretical advantages of UN involvement in regional refugee crises have fallen flat. In particular, rather than gaining the aura of political neutrality through internationalism, UNRWA has been tainted by the UN's political controversies. This has had a particularly damaging effect on its relationship with the Palestinian refugees – a relationship that lies at the core of the Agency's operations. While welcoming the continuing presence of a UN body for the reasons outlined above, many Palestinian refugees have at the same time held concerns over the UN's politics.

This is best explained by the historical context. Since the late 1940s, many Palestinians have blamed the UN for facilitating their dispossession by legitimizing the partition of Palestine in Resolution 181.<sup>11</sup> Numerous Palestinian refugees and observers have recorded the resulting hostility towards the UN that was commonplace in the camps.<sup>12</sup> As a UN body, UNRWA became tarred with the same brush.<sup>13</sup> From the perspective of many Palestinians, matters were made worse by the fact that UNRWA's funding came largely from the US and the UK, both Israeli allies.<sup>14</sup> The resulting mistrust is far from ideal for either the Agency or the refugees it serves. Successive UNRWA Commissioner-Generals have sought to counter such perceptions by repeatedly emphasizing that the Agency is

9 Nell Gabiam, "When 'Humanitarianism' becomes 'Development': The Politics of International Aid in Syria's Palestinian Refugee Camps," *American Anthropologist* 114, no. 1 (2012): 95-107.

10 See for example: Martin Armstrong, "Palestinians protest against UNRWA cuts in Lebanon," *Al Jazeera*, February 29, 2016, accessed January 13, 2017, <http://www.aljazeera.com/indepth/features/2016/02/palestinians-protest-unrwa-cuts-lebanon-160223151011960.html>; "UNRWA cuts trigger self-immolation, protests in Lebanon refugee camps", *Al Araby*, January 14, 2016, accessed January 13, 2017, <https://www.alaraby.co.uk/english/society/2016/1/14/unrwa-cuts-trigger-self-immolation-protests-in-lebanon-refugee-camps>; Nisreen El-Shamayleh, "UNRWA funds crisis worries Palestinian refugees", *Al Jazeera*, August 5, 2015, accessed January 13, 2017, <http://www.aljazeera.com/blogs/middleeast/2015/08/unrwa-funds-crisis-worries-palestinian-refugees-150805155300792.html>.

11 UN General Assembly, Resolution 181 (II), "Future government of Palestine," November 29, 1947.

12 See for example: Elfan Rees, Report to the Department of Inter-Church Aid and Service to Refugees of the World Council of Churches, November 1949, GB0165-0161, File 2, Box 73; Dr Leslie Houseden, Report on the Refugee Children in the Middle East, 28 August 1953, Sir Edward Spears Collection, GB165-0269, File 2, Box 15, both at the Middle East Centre Archive, Oxford University (MECA).

13 Benjamin Schiff, *Refugees Unto the Third Generation: UN Aid to Palestinians* (Syracuse: Syracuse University Press, 1995), 101. See also: Fawaz Turki, *Exile's Return: The Making of a Palestinian American* (New York: Free Press, 1994), 132; UNRWA, Note DUA/L-1, November 21, 1963, File RE150 II, Box RE3, UNRWA Headquarters' Archive (UNHA), Amman, Jordan.

14 Leila Khaled and George Hajjar, *My People Shall Live: The Autobiography of a Revolutionary* (London: Hodder and Stoughton, 1973), 56, 128.

apolitical and purely humanitarian, but the concerns remain.<sup>15</sup>

To make matters worse, UNRWA has also had to respond to the opposite accusations from other key actors. Again, these have been rooted in its UN status, usually the fact that the Agency was established by and remains answerable to the General Assembly (UNGA). Citing incidences such as Resolution 3379, which stated that Zionism is a form of racism, supporters of Israel have claimed that both the UNGA and UNRWA are inherently biased towards the Palestinians.<sup>16</sup> While Resolution 3379 was revoked in 1991,<sup>17</sup> these accusations have continued. In 2012, Middle East Quarterly journal ran a special edition containing a series of articles that condemned the Agency as prejudiced against Israel and inappropriately politicized.<sup>18</sup> UNRWA's UN affiliation has thus had the unintended effect of tainting it with the political controversies of the latter. In generating mistrust, this has also damaged the Agency's ability to work effectively.

In practical terms, being affiliated with the UN also places restraints on UNRWA's work. As a body ultimately answerable to the UNGA, the Agency must comply with UN resolutions in its actions. It therefore has limited autonomy and cannot always act as the situation on the ground may require. For example, UNRWA is required to hold to UNGA Resolution 2253 by refusing to recognize or legitimize the Israeli annexation of Jerusalem, and more generally the occupation of the West Bank and Gaza.<sup>19</sup> In practice, the Agency has needed to work with the Israeli occupying forces in order to carry out its mandated operations in these fields. It must therefore walk a tightrope in order to comply with the UN while still carrying out its mandate. This tension is the opposite of the streamlined comprehensive approach outlined earlier.

These problems would be recreated with the establishment of any new UN body to serve the Syrian refugees. Indeed, the highly controversial nature of contemporary Syrian politics makes it particularly undesirable in this case. However, this would be true of any new UN organization, not merely one based on the UNRWA model. To assess the specificities of the latter, it is necessary to look at its distinguishing features more closely.

### **UNRWA's Mandate**

Many of UNRWA's specificities and distinctions stem from its mandate. In December

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15 See for example: John Blandford Jr., Report of the UNRWA Director, A/1905, June 30, 1951, accessed January 13, 2017, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/91377BAF198AFBA6052565AE0068263D>; "Frequently Asked Questions: Final status issues and peace negotiations," UNRWA, accessed January 17, 2017, [https://www.unrwa.org/who-we-are/frequently-asked-questions#final\\_status](https://www.unrwa.org/who-we-are/frequently-asked-questions#final_status).

16 UN General Assembly, Resolution 3379, "Elimination of all forms of racial discrimination," November 10, 1975. For more on UNGA politics see: Bruce Russett and Soo Yeon Kim, "The New Politics of Voting Alignments in the United Nations General Assembly," *International Organization* 50, no. 4 (1996): 636-639.

17 UN General Assembly revocation, resolution 46/86, December 16, 1991.

18 *Middle East Quarterly: The Trouble with UNRWA* 19, no. 4 (Fall 2012).

19 UN General Assembly, Resolution 2253, "Measures taken by Israel to change the status of the city of Jerusalem," July 4, 1967.

1949, the UNGA created UNRWA as a subsidiary UN organ with a mandate “to carry out in collaboration with local governments...direct relief and works programs [for the Palestine refugees]” in five geographical fields: the West Bank, Gaza, Jordan, Lebanon and Syria.<sup>20</sup> The scope of its mandated work was humanitarian, with increasing emphasis given to long-term development in later years.<sup>21</sup> UNRWA’s creation constituted the UN’s first attempt to create a comprehensive refugee relief system, albeit in one particular region.

In view of this, it is perhaps unsurprising that UNRWA’s mandate has numerous limitations. Its aforementioned geographical restrictions mean that it does not serve all Palestinian refugees; indeed, there are significant numbers outside the so-called ‘five fields’ who are excluded from UNRWA services. Egypt in particular hosts a large population of Palestinian refugees who cannot seek support from the Agency.<sup>22</sup> It is estimated that UNRWA has registered less than two-thirds of the total number of Palestinian refugees worldwide.<sup>23</sup>

This is due not only to the Agency’s geographical limitations but also to its restrictive definition of who constitutes a Palestinian refugee. According to UNRWA, a Palestinian refugee is:

a person whose normal residence was Palestine for a minimum of two years preceding the outbreak of the conflict in 1948 and who, as a result of this conflict, lost both his home and his means of livelihood.<sup>24</sup>

This definition was developed with operational rather than legal considerations in mind. As a result, it excludes those refugees who left Palestine after 1948, with an exception for those displaced in 1967. It also excludes Palestinians who were not continually present in Palestine for the two years preceding 1948, such as those who were studying abroad. While it may be argued that such people were in lesser need, the exclusion has created inconclusive and highly-contested UNRWA records that cannot be relied upon for comprehensive figures of the Palestinian refugee population. The Agency’s patriarchal structure has created further exclusions over the years, as only the children of Palestinian refugee men – not women – can register for UNRWA services.<sup>25</sup>

The Agency’s mandate is restricted in time as well as space. Despite its continuing 67-year existence, UNRWA has retained its original status as a temporary agency, with its mandate renewed approximately every three years. Its current mandate is accordingly due

20 UN General Assembly, Resolution 302(IV), “Assistance to Palestine Refugees,” December 8, 1949.

21 Lance Bartholomeusz, “The Mandate of UNRWA at Sixty,” *Refugee Survey Quarterly* 28, no. 2-3 (2010): 452-474.

22 Ibid, 460.

23 BADIL Resource Center for Palestinian Residency and Refugee Rights, *Survey of Palestinian Refugees and Internationally Displaced Persons 2004-2005* (Bethlehem: BADIL, 2006), 49.

24 UNRWA, “UNRWA: A Brief History 1950-82,” File RE 100 III, Box RE2, UNHA.

25 Ilana Feldman, “The Challenge of Categories: UNRWA and the Definition of a ‘Palestine Refugee’,” *Journal of Refugee Studies* 25, no. 3 (2012): 387-406.

to expire in June 2017.<sup>26</sup> The reasons for this paradoxically long-term temporary status are political and largely self-evident; making UNRWA's mandate permanent would imply that the Palestinian refugee crisis will never be resolved. However, the temporary set-up is also problematic, meaning that UNRWA cannot make long-term plans and is compelled to be consistently reactive rather than strategic.

These problems are worsened by the nature of UNRWA's funding, which comes entirely from voluntary donations. As a result of this unreliable income stream, UNRWA has started every year for the last three decades with a large projected deficit for its General Fund.<sup>27</sup> The last time that all core programs were sufficiently funded was in 1986 - and even then, the Commissioner-General remarked that funds "fell far short of the assessment needed to carry out essential construction projects."<sup>28</sup> The Agency's deficit currently stands at \$81 million.<sup>29</sup> As a result, it has made significant service cuts over the last two years, reducing its provision of health and education so substantially that major protests have been organized in Palestinian camps in response.<sup>30</sup> This financial instability is arguably the most serious practical problem with the Agency's set-up, with the most serious day-to-day repercussions for the refugees it serves.

The nature of the Agency's mandate is key in distinguishing it from other organizations – particularly the UN's other refugee agency, the High Commissioner for Refugees (UNHCR). Like UNRWA, UNHCR was created with a temporary mandate to be renewed regularly; but unlike UNRWA, the wisdom of this was debated early on and finally formally abolished in 2003.<sup>31</sup> Also unlike UNRWA, UNHCR receives a subsidy directly from the UN budget, albeit only for a small proportion of its costs.<sup>32</sup> Moreover, it uses a legal rather than an operational definition to determine who constitutes a refugee, and is accordingly less exclusive in its service provision.<sup>33</sup> These differences are not merely academic but have solid concrete implications that lie at the heart of the debate over UNRWA's merit as a system. This debate is encapsulated in one particular variance, which is covered next.

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26 "History and Establishment of UNRWA," UNRWA, accessed January 13, 2017, [https://www.unrwa.org/who-we-are/frequently-asked-questions#final\\_status](https://www.unrwa.org/who-we-are/frequently-asked-questions#final_status).

27 UNRWA Annual Reports, accessed January 13, 2017, <https://www.unrwa.org/tags/annual-report>.

28 Giorgio Giacomelli, Report of the Commissioner-General of UNRWA, A/42/13, September 15, 1987, accessed January 13, 2017, <https://unispal.un.org/DPA/DPR/unispal.nsf/53936ddf3dd093a1852575530073f2e6/7c04848f7a9cc45b85256880005773e0?OpenDocument>.

29 UN Secretary-General's Remarks on the Sustainability of UNRWA, May 5, 2016, accessed January 13, 2017, <https://www.unrwa.org/newsroom/official-statements/un-secretary-generals-remarks-sustainability-unrwa>.

30 Armstrong, "Palestinians protest against UNRWA cuts in Lebanon," *Al Araby*, "UNRWA cuts trigger self-immolation, protests in Lebanon refugee camps;" El-Shamayleh, "UNRWA funds crisis worries Palestinian refugees."

31 "History of UNHCR," UNHCR, nd, January 13, 2017, <http://www.unhcr-centraleurope.org/en/about-us/history-of-unhcr.html>.

32 "Figures at a Glance," UNHCR 2015, accessed January 13, 2017, <http://www.unhcr.org/uk/figures-at-a-glance.html>.

33 Michael Kagan, "Is there Really a Protection Gap? UNRWA's Role vis-à-vis Palestinian Refugees," *Refugee Survey Quarterly* 28, no. 2-3 (2009): 511-530.

## The ‘Protection Gap’

The ‘protection gap’ is central to the question of whether the uniqueness of UNRWA advantages or disadvantages the Palestinian refugees. Again, it hinges on the details of the Agency’s mandate. UNRWA is not mandated to provide protection for the Palestinian refugees, only welfare services.<sup>34</sup> As a result, it cannot pursue political solutions to the refugee crisis. This task falls instead to the UN Conciliation Commission for Palestine (UNCCP), which was created in 1948 for this precise purpose.<sup>35</sup> When UNRWA was established the following year, the UNGA directed it to “consult with the UNCCP” on their respective tasks.<sup>36</sup>

Of course, the UNCCP was unsuccessful in achieving its objective. The Commission’s work hit a brick wall in the 1950s and by the 1960s it had become merely symbolic, holding no political weight.<sup>37</sup> Despite this, the UNCCP has never been abolished and continues to submit annual reports to the UNGA – usually stating that it has nothing new to report.<sup>38</sup> It has no budget and no staff. As a result, there is no active UN body currently pursuing solutions to the Palestinian refugees’ plight as part of working for their protection.

By contrast, UNHCR’s statute makes explicit reference to its responsibility for providing protection.<sup>39</sup> As a result, UNHCR explicitly promotes repatriation as a durable solution, and directly engages with the politics of refugee crises.<sup>40</sup> The Palestinians are exempt from this; they have been excluded from UNHCR’s mandate since its creation, due to the contemporaneous existence of UNRWA. UNGA Resolution 428, which established UNHCR, states that:

The competence of the High Commissioner.. shall not extend to a person [...] who continues to receive from other organs or agencies of the UN protection or assistance.<sup>41</sup>

In practice, this exception only applies to Palestinian refugees registered with UNRWA. No other group of refugees receives assistance from any other UN agency or organ. In

34 Benjamin Schiff, “Between Occupier and Occupied: UNRWA in the West Bank and the Gaza Strip,” *Journal of Palestine Studies* 18, no. 3 (Spring 1989): 60-75. See also: Bartholomeusz, “The Mandate of UNRWA at Sixty.”

35 UN General Assembly, Resolution 194, “Palestine – Progress Report of the United Nations Mediator,” December 11, 1948.

36 UN General Assembly, Resolution 302(IV).

37 For more on UNCCP’s early work see: Michael R. Fischbach, “The United Nations and Palestinian Refugee Property Compensation,” *Journal of Palestine Studies* 31, no. 2 (Winter 2002): 34-50.

38 See for example: Report of the UNCCP, A/66/296, August 12, 2011, accessed January 13, 2017, <https://unispal.un.org/DPA/DPR/unispal.nsf/b792301807650d6685256cef0073cb80/f089fed47e7a3779852578ef004ce076?OpenDocument>.

39 UN General Assembly, Resolution 428(V), “Statute of the Office of the United Nations High Commissioner,” December 14, 1950, Article 1, Annex.

40 See for example: UNHCR Handbook, “Voluntary Repatriation: International Protection,” 1996, accessed January 13, 2017, <http://www.unhcr.org/3bfe68d32.pdf>.

41 UN General Assembly, Resolution 428(V), Paragraph 7(c), Chapter 2.



theory, Palestinian refugees who find themselves outside UNRWA's geographical range should be exempt from the exception, and eligible for UNHCR services. In practice, they often fall through the gaps, as has been highlighted by the recent plight of Palestinian refugees fleeing Syria for Turkey, Egypt or Iraq.<sup>42</sup>

The variance between UNRWA and UNHCR has led to claims that there is a "protection gap" in the services available to Palestinian refugees. Randa Farah and Susan Akram both contend that the omission of protection services from UNRWA's mandate means that its activities in this field are insufficient and notably deficient compared to those of UNHCR.<sup>43</sup> The combination of UNCCP's long-term inactivity and the Palestinians' exclusion from UNHCR has left them uniquely vulnerable in this regard.<sup>44</sup> UNHCR's explicit promotion of repatriation only underlines the point.<sup>45</sup>

However, UNRWA management argue otherwise. Lance Bartholomeusz, Chief of UNRWA's International Law Division, claims that the Agency has "a very clear mandate for protection, which it carries out in its activities across the fields."<sup>46</sup> Similarly Karen Abu Zayd, Commissioner-General of UNRWA from 2005-2010, characterized the Agency in public statements as "a global advocate for the protection of Palestine refugees."<sup>47</sup> In 2007, she underlined the argument by appointing a Senior Protection Policy Advisor.

It is certainly the case that UNRWA's work in this area has increased since the beginning of the first intifada in 1987, for example with the appointment of Legal Assistance Officers in the West Bank and Gaza to monitor the trials of refugees.<sup>48</sup> On these grounds Michael Kagan argues that while UNRWA is limited in its ability to push for a political solution to the Palestinian refugee crisis, it does provide protection through its general welfare services, reporting on rights abuses and intervening and communicating with the relevant governments where necessary.<sup>49</sup>

Yet it is undeniable that UNRWA's activities in the field of protection are more limited than those of UNHCR, due to its separate and different setup. Modifications to UNRWA's original mandate over the years have given a new emphasis to development as well as

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42 Mai Abu Moghli, Nael Bitarie and Nell Gabiam, "Palestinian Refugees from Syria: Stranded on the on the Margins of Law," *Al Shabaka*, October 19, 2015, accessed January 13, 2017, <https://al-shabaka.org/briefs/palestinian-refugees-from-syria-stranded-on-the-margins-of-law/>

43 Susan Akram, "Reinterpreting Palestinian Refugee Rights under International Law," in *Palestinian Refugees: The Right of Return*, ed. Naseer Aruri (London: Sterling, 2011), 165-194. Randa Farah, "The Marginalization of Palestinian Refugees," in *Problems of Protection: The UNHCR, Refugees, and Human Rights*, ed. Niklaus Steiner, Mark Gibney and Gil Loescher (New York: Routledge, 2003), 167.

44 Anne Irfan, "The Unique Vulnerability of Palestinian Refugees from Syria," March 22, 2016, accessed January 13, 2017, <http://snfpop.scot/2016/03/the-unique-vulnerability-of-palestinian-refugees-from-syria/>

45 UNHCR Handbook, "Voluntary Repatriation: International Protection."

46 Bartholomeusz, "The Mandate of UNRWA at 60."

47 "OPT: Statement by UNRWA Commissioner-General Karen Abu Zayd," reliefweb, January 27, 2009, accessed January 13, 2017, <http://reliefweb.int/report/occupied-palestinian-territory/opt-statement-unrwa-commissioner-general-karen-abuzayd>.

48 Schiff, "Between Occupier and Occupied," 71; Schiff, *Refugees Unto the Third Generation*, 10.

49 Kagan, "Is there Really a Protection Gap?," 522-523, 529.

relief work, but its responsibility for protection remains implicit at best. The resulting vagueness leaves the UNRWA-registered refugees vulnerable when needing protection, with no clear and unequivocal protection service to call upon.

### **The Lessons for the Syrian Crisis**

The distinguishing features of the UNRWA system are thus clear. It is a unique UN Agency mandated to provide welfare and development services to the Palestinian refugees who meet its eligibility criteria. It does not provide protection or engage in the political nature of the refugee issue. The setup of the Agency is theoretically transient, as it has a short-term temporary mandate and is funded solely by government donations. All these features differentiate UNRWA from UNHCR, the UN body responsible for all other refugees. The result is that Palestinian refugees are served by a unique system that brings them both benefits and disadvantages; a higher profile for their cause on the international stage at the UN goes hand-in-hand with exclusion from the entitlements available to all other refugees in the world.

The question remains of what lessons this case study holds for refugee crises today – particularly that of the Syrians, which at least superficially shares many features with its Palestinian precedent. As governments around the world struggle to devise and implement an effective comprehensive response to this unfolding humanitarian disaster, should the option of establishing a new and unique UN agency for Syrian refugees be considered?

The major argument for such an agency is that it could relieve the burden currently placed on Syria's neighboring countries, many of which lack the necessary infrastructure and economies to absorb millions of new residents. In 2014, then Lebanese Prime Minister Najib Mikati warned that the country desperately needs more help from the international community on this front;<sup>50</sup> in 2016 King Abdullah of Jordan similarly argued that his country cannot continue to absorb Syrian refugees without more international support.<sup>51</sup> The establishment of a special UN body would therefore be responding to a palpable and acknowledged need and would potentially provide both reassurance and practical support in this regard.

Yet it would also create its own problems. Arguably the Syrian refugee crisis does not need a higher profile so much as it needs a more effective and efficient international response. It is questionable whether the UNRWA system could be described as either. Its short-term mandate and total reliance on voluntary donations more often engenders inefficiency and temporariness in its planning, neither of which would aid the Syrian refugees. There is a risk that creating a new body on this model would in practice be little more than lip-service to the ideal of shared international responsibility. Meanwhile, modifying the UNRWA system by creating a Syrian-specific agency with a UN budget

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50 Najib Mikati, "My country cannot cope with the Syrian refugee crisis."

51 Michael Holden, "Jordan needs international help over refugee crisis: King Abdullah."

subsidy could fuel calls for the same treatment for UNRWA.

The establishment of a new UN agency for Syrian refugees would also have implications for international policy more broadly. It would require new criteria to determine the circumstances under which refugees should be assigned to particular agencies instead of UNHCR – not to mention how long such agencies should operate for. Critics of the UNRWA set-up sometimes claim it gives the Palestinian refugees an unfair level of attention and an unreasonably high profile compared to other groups.<sup>52</sup> The creation of a new UN body specifically for Syrians might attract similar criticism, in view of the high refugee populations from other countries such as Afghanistan, Somalia and Sudan.

Some of the structural problems facing UNRWA today arguably stem from the short-sightedness that characterized its original establishment. To avoid a repeat of this, serious and detailed consideration needs to be given to any plan to create a similar model today. This is arguably the most important lesson to be taken from the case of UNRWA and the Palestinian refugees. The latter shows how short-term planning and structural flaws can lead to long-term inefficiencies and criticism. As the Syrian refugee crisis continues without either political or humanitarian resolution in sight, ignoring such lessons is especially imprudent.

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<sup>52</sup> See for example: Danny Ayalon, “The Truth About the Refugees,” December 4, 2011, accessed January 13, 2017, [https://www.youtube.com/watch?v=g\\_3A6\\_qSBBQ](https://www.youtube.com/watch?v=g_3A6_qSBBQ).

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