

UNRWA, Ceasefire Negotiations, and the Day After the War

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(IPC0002)

Objective: The future of UNRWA as part of a ceasefire and rebuilding Gaza

1. This paper is written in response to a Call for Evidence from the UK Foreign Affairs Committee. It is based on academic and policy research and expertise, including interviews and desk research. Parts of that research previously informed oral submissions at the UK Parliament and the Israel Knesset. Some parts of those speeches have been published on websites or circulated confidentially to parliamentarians at national and regional levels. I am submitting these recommendations in my capacity as the inaugural Chair of Law, Conflict and Global Development at the University of Reading and a leading expert on the United Nations and human right.
2. In the paper I provide evidence-based ideas to open conversations about the future of UNRWA as part of a ceasefire between Israel and Hamas, and then the rebuilding of Gaza. UNRWA has become one of the main focal points within ceasefire negotiations owing both to its role in the conflict and to humanitarian provision for Palestinians, not only since 7th October but since its creation. Realistically and politically, any changes to UNRWA must ensure that humanitarian aid and services continued to be provided on the ground. The paper begins with a brief background on UNRWA, before turning to the problem, two potential solutions, and the requirements and challenges for implementing those models.

Summary

3. The evidence about UNRWA personnel's involvement in the 7th October atrocities perpetrated by Hamas's militant wing, Al-Qassam Brigades, and other terrorist groups has been well-documented including through UN internal investigations. That involvement did not take place in a vacuum. Israel has long-documented the use of UNRWA facilities, including schools, healthcare facilities, and transport vehicles, for use in Palestinian attacks against Israel from Gaza, the West Bank, and Lebanon. The role of UNRWA is therefore a necessary discussion point for negotiations on ending the war in Gaza and discussions about the day after the war ends. This has become even more crucial since the Knesset passed a Bill banning UNRWA staff from travelling in or through Israel.
4. The proposals set out in this paper focus on reforming UNRWA while ensuring that Palestinian refugees (in Jordan, Lebanon and Syria) and displaced persons (in Gaza and the West Bank) are provided with the aid and assistance to which all refugees and displaced persons are entitled globally. The paper proposes two models as starting points for discussion: (a) turning UNRWA into a regional hub for all refugees in the Middle East / West Asia, or (b) reform and transition of UNRWA to an organisation designed to provide aid and assistance rather than – as currently is the case – being a Palestinian-state-in-waiting that perpetuates the cycle of conflict and prevents lasting peace and a two-state solution.

Background: UNRWA's mandate and work

5. The United Nations Relief and Works Agency was created in 1949 to provide emergency relief and international assistance to "Palestine refugees" from the 1948 War of Independence (Israel) or Nakba (Palestine) that resulted in hundreds of thousands of refugees from Palestine who either crossed international borders into other states or who lived in self-governing, non-

autonomous territories. The Red Cross provided them with humanitarian assistance until UNRWA was created in December 1949.

6. UNRWA's constituent document recalls UN General Assembly resolution 194 paragraph 11, which emphasises that the return of refugees is predicated on them wishing to *live at peace with their neighbours*.¹ That formulation is repeated in resolutions 212 and 302, which also "Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation".
7. The agency was supposed to be temporary. Its mandate (set out in UN General Assembly Resolution 302 (IV) is:
 - (a) To carry out in collaboration with local governments the direct relief and works programmes ... ;
 - (b) To consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance ... is no longer available."²
8. More than seven decades after its creation as a temporary agency, and with significant evidence of its complicity, at best, in terrorist attacks on Israel, now is the time for the UK to provide leadership on what models can be used to transition or replace UNRWA. While the focus is on Gaza, a ceasefire, the day after the war, and governance and reconstruction in the region, it is important to underscore that UNRWA operates in (a) Gaza and the West Bank to serve Palestinians living in self-governing, non-autonomous territories and (b) in Jordan, Lebanon and Syria to serve refugees from Palestine.
9. In Gaza, Lebanon and Syria, UNRWA provides basic services that ought to be provided by a state or government, including hospitals, schools, food, water and sanitation. As such, it has largely become synonymous with the "Palestinian state", and even referred to as "the Blue State" (blue being the colour of UN helmets). In other parts of the West Bank and Jordan, UNRWA's work focuses more on education than on development let alone relief.

The Problem

10. All refugees globally other than Palestinians come under the mandate of UNHCR (the UN Refugee Agency) created in 1950, one year after UNRWA. The Palestinians are the only people to have their own dedicated refugee agency and to be described as "Palestine refugees" rather than "refugees" or "refugees from [xx country]". They are also the only people who are all described under this umbrella term despite some having crossed international borders into other countries (Jordan, Lebanon, Syria, as well as migrating further into Gulf states, Europe, North America, and beyond) and others remaining in self-governing, non-autonomous territories. This distinction is crucial.
11. UNRWA has become a large-scale bureaucracy in Gaza and the West Bank, as well as in the areas in Jordan, Lebanon and Syria where Palestinians live and where the agency operates. Crisis Group says out loud what we all know, "UNRWA is best understood as an unofficial substitute for the state in the areas where it operates."³ UNRWA as it exists and functions

¹ "that refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or equity, should be made good by the Governments or authorities responsible."

² UN General Assembly, 302 (IV). *Assistance to Palestine Refugees*, A/RES/302, 8 December 1949, para 7

today cannot be seen as an apolitical agency, or as a neutral entity. The politics of UNRWA are offensive to the UN principle of neutrality. Key to the neutrality principle and UNRWA's own Neutrality Policy and Framework is that UNRWA *cannot* get involved in political causes; and yet it does. UNRWA needs to be neutral and not part of the Palestinian cause, and yet it is itself a brand that symbolises Palestinian national-ness.

12. Over the past 14 months there have been increasing calls for reforms to, or even replacing of UNRWA. At times, key donor states have frozen their funding to the Agency while awaiting investigations into the role of some personnel in the atrocities perpetrated on 7th October 2023. In October 2024 the Knesset passed Bills banning UNRWA from operating in Israel and prohibiting the state's authorities from having contact with the Agency or its staff. The UN Secretary-General, on the other hand, has repeatedly made clear that other parts of the humanitarian system should neither accept funding that previously went to UNRWA nor take over any of its functions or roles in delivering needed humanitarian assistance and aid in Gaza.
13. It is clear that the future of UNRWA is playing a role in the ongoing negotiations on a ceasefire, return of the hostages, and what happens the day after the war ends. Given its leadership within the UN and on this conflict, the UK has an opportunity to take forward proposals for reform that will ensure continued delivery of humanitarian aid and assistance to the Palestinians while also upholding the UN principle of neutrality and ensuring that UNRWA no longer plays a role in perpetuating the cycle of conflict in the region that ultimately blocks a two-state solution and lasting peace.

Solution (A) Regional Hub

14. Reform UNRWA to be an agency for all refugees in the region not just Palestinians. Currently the focus on funding UNRWA results in significant resources for Palestinians as compared with other refugees and displaced persons within the region. Given the many complex conflicts in the region, the dire need for humanitarian aid and assistance, and the limited resources available, this proposal would enable the UN to fulfil its aims and meet the needs of all refugees and displaced persons fairly and with equity.
15. This proposal would allow the reformed UN entity to take forward the UN Common Agenda in the region, and to promote and advance stability for the region. In this way the new version of UNRWA could become a regional hub. These types of regional hubs exist for various UN entities, including those delivering programmes and services such as the UN Development Programme and the UN Office of the High Commissioner for Human Rights. A regional hub could be brought under the umbrella of UNHCR or alternatively it could be a stand-alone entity. Models for transitioning UNRWA into the UN Hub could be based on, for example, transition of UN peacekeeping or stabilisation missions into development or human rights operations, e.g. in Haiti MINUSTAH to MINUJUSTH.

Solution (B) Reform and Transition

16. Another potential model is to divide UNRWA's operations between those dealing with Palestinians in the self-governing, non-autonomous territories of Gaza and the West Bank, and those dealing with refugees from Palestine who have crossed international borders. In this model an organisation is created for Gaza and the West Bank while UNHCR takes on responsibilities for refugees in the other countries. It is important to note UNHCR already has

³ <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/why-donors-should-not-suspend-aid>

responsibility for Palestinian refugees outside of five areas of Gaza, West Bank, Jordan, Lebanon and Syria. This reform will mean that UNHCR becomes responsible for the part of UNRWA's mandate on resettling refugees who have crossed international borders into Jordan, Lebanon and Syria, including securing citizenship that would end the ongoing perpetuation of refugee status for generations. Countries with refugees from Palestine should be encouraged to provide citizenship and full rights for them, while also noting that Jordan, Lebanon and Syria are not parties to the Refugee Convention.

17. The entity working in Gaza and the West Bank will then be able to retain some form of the role of state administration in-waiting. Such an entity could be modelled on the UN role in Kosovo or Timor-Leste, where the UN took on the roles and functions of the state while also facilitating the building of state apparatus such as functioning courts, police, and state apparatus. This will be particularly important in Gaza during reconstruction from the day after the war onwards.
18. The aim of this model is to treat refugees from Palestine as the same as all other refugees in similar situations. There are, of course, other refugee populations who have crossed borders and continue to be denied citizenship by the host state through succeeding generations, e.g. the Rohingya in Bangladesh. UNHCR is mandated to provide humanitarian aid and services to those refugees and to advocate for their resettlement. There are also populations in self-governing, non-autonomous territories for whom humanitarian aid and services are provided (including by UNHCR) by a range of funds, programmes and agencies, e.g. the Kurds and the Kashmiris. Adopting this model would enable Palestinians to be treated like other people in similar situations and enable the international community to treat the situation like other similar ones.

Requirements

19. First, any solution has to be seen as a bridge to a two-state solution rather than being the end goal if it is to succeed as operationally and also politically. At the same time, in any negotiations or diplomacy about reforming UNRWA, it is crucial to emphasise and explain that there is no "right of return" for Palestinians to the State of Israel. This is important to understand in the context of UNGA resolution 194 as discussed above, and also Article 12 of the International Covenant on Civil and Political Rights⁴ to which Israel is a party. That international treaty sets out that everyone has the right to leave and enter his/her own country and to move around freely within that state. This is not the right to return to someone else's country. Refugees from Palestine may have the right to return to a Palestinian state created in a two-state solution if –and only if– that new state produces legislation to that effect. The people living in the self-governing, non-autonomous territories of Gaza and the West Bank only have the right to move around freely in their own country of Palestine, whatever that looks like in a two-state solution, not to move to Israel. Moreover, and what must be emphasised, is that from the outset the UN General Assembly made clear that any return to any land depends on those moving there "wishing to live in peace" with their neighbours (resolution 194, above).
20. The second requirement is that any solution move away from the political and back to the United Nations principle of neutrality, that they come under UN control and follow diktats from UN headquarters. Staff may be re-hired for the same or similar jobs in other funds, programmes and agencies so as to retain their expertise and the trust in them from beneficiary

⁴ UN General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, vol. 999, p. 171, 16 December 1966

communities. That, of course, will be dependent on hiring policies and screenings that work regarding terrorism, corruption, and separation from the political in order to ensure neutrality. To that end, there needs to be accountability, inspection and audit mechanisms that are fit for purpose. Donors play a key role in ensuring that the work done by any new entity or by existing agencies on the ground are in line with the original mandate of relief and works, not of creating a pseudo or welfare state.

Challenges

21. There will be challenges at the political and practical levels. It is crucial that humanitarian aid and services continue to be provided in Gaza and the West Bank as self-governing, non-autonomous territories, and any reforms must ensure that those are provided and protected.
22. There will also be actors and stakeholders who claim that reforms are not possible politically or practically, that such changes will not be accepted by other states or entities involved, and/or that it will be too costly or difficult to implement them on the ground. These are not true. There are many examples of transitions in grave and crisis humanitarian situations. Many of those have resulted in better, stronger, and more targeted delivery of humanitarian aid and services. There are many funds, programmes and agencies capable of delivering in Gaza and the West Bank, of whom a sizeable number already operate on the ground. Calls by UN headquarters for those entities not to take donations for those programmes where they circumvent UNRWA are cynical and are designed to prevent any serious proposals for meaningful change to humanitarian aid and service delivery on the ground.
23. There will be challenges around trust from beneficiaries and communities, although these will be mitigated by the UN brand being almost as well-received as that of UNRWA, and by the presence and high-impact work that already exists from implementing partners across the region. Another major challenge to overcome will be the reluctance of some UN member states to accept changes in the region, particularly ones that treat refugees from Palestine the same as all other refugees. It is important to note that a large number of those states are not significant donors to UNRWA. Rather, many of the largest donors to UNRWA are committed to a two-state solution but without the parameters of treating refugees from Palestine as having claim under Article 12 ICCPR to a state that is not their home country.