

**A CRITICAL APPRAISAL OF THE UNRWA-USA
FRAMEWORK FOR COOPERATION (2021-2022)
REGARDING PALESTINIAN REFUGEES**

Hamza A.K Salman*

Shahrul Mizan bin Ismail**

Rohaida Nordin***

ABSTRACT

Recently, issues related to Palestinian refugees have been diminishing in support due to multiple attempts made by the United States and Israel, which include measures to restrict the activities of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA). These attempts escalated when former US President Donald Trump announced a complete suspension of funding for the UNRWA in 2018, plunging the Agency into an unusual financial crisis that harmed the assistance to refugees in its operation areas. However, the current US President Joe Biden announced his intention to resume funding for the UNRWA and, in July 2021, signed a cooperation framework known as "framework agreement" but its terms and details were widely rejected by the Palestinians and the general public because of political and security reasons. According to the Agreement, individuals receiving military training under the UNRWA programmes are not eligible for UNRWA health or educational assistance. The framework agreement between the US and the UNRWA tries to change UNRWA's operating mandate without the authorisation of the United Nations General Assembly. Therefore, this article follows a doctrinal analytical approach to both the framework agreement and the UNRWA's operational mandate. It also critically appraises this Agreement in light of international humanitarian law and verifies its impact on the human rights of both beneficiaries and UNRWA workers, including rights to education and freedom of speech. This article concludes that the Agreement violates the norms of public

* PhD Candidate, Faculty of Law, Universiti Kebangsaan Malaysia (UKM). Email: hamzasalman934@gmail.com

** Associate Professor at Universiti Kebangsaan Malaysia (UKM). Email: shahrulmizan@ukm.edu.my

*** Associate Professor at Universiti Kebangsaan Malaysia (UKM). Email: rohaidanordin@ukm.edu.my

international law by switching the Agency's missions and avoiding the need for an important decision-making process.

Keywords: International Law, Human Rights, UNRWA, Palestinian Refugees, US-UNRWA Framework.

PENILAIAN KRITIKAL TERHADAP RANGKA KERJA KERJASAMA UNRWA-USA (2021-2022) MENGENAI PELARIAN PALESTIN

ABSTRAK

Mutakhir ini, isu berkaitan pelarian Palestin semakin kurang mendapat sokongan kerana pelbagai percubaan yang dilakukan oleh Amerika Syarikat dan Israel termasuk langkah menyekat aktiviti Agensi Kerja dan Bantuan Pertubuhan Bangsa-Bangsa Bersatu bagi Pelarian Palestin (UNRWA). Percubaan ini meningkat apabila bekas Presiden AS Donald Trump mengumumkan penggantungan sepenuhnya pembiayaan bagi UNRWA pada tahun 2018 lalu menjerumuskan agensi itu ke dalam krisis kewangan luar biasa yang menjejaskan bantuan kepada pelarian di kawasan operasi. Walau bagaimanapun, Presiden AS Joe Biden mengumumkan hasrat beliau untuk menyambung semula pembiayaan bagi UNRWA dan telah menandatangani rangka kerja kerjasama yang dikenali sebagai “perjanjian rangka kerja” pada bulan Julai 2021. Namun begitu, syarat dan butiran perjanjian tersebut ditolak secara meluas oleh rakyat Palestin dan orang awam atas sebab politik dan keselamatan. Menurut perjanjian tersebut, individu yang menerima latihan ketenteraan di bawah program UNRWA tidak layak mendapat bantuan kesihatan atau pendidikan UNRWA. Perjanjian rangka kerja antara AS dan UNRWA cuba mengubah mandat operasi UNRWA tanpa kebenaran Perhimpunan Agung Pertubuhan Bangsa-Bangsa Bersatu. Artikel ini menggunakan pendekatan kaedah analisis doktrinal ke atas kedua-dua kerangka perjanjian dan mandat operasi UNRWA. Ia juga menilai secara kritis perjanjian ini berdasarkan undang-undang kemanusiaan antarabangsa dan menentukan kesannya terhadap hak asasi manusia ke atas benefisiari dan pekerja UNRWA, termasuk hak untuk pendidikan dan kebebasan bersuara. Artikel ini menyimpulkan bahawa perjanjian tersebut melanggar norma undang-undang awam antarabangsa dengan menukar misi agensi dan mengelakkan proses penting dalam membuat keputusan.

Kata Kunci: Undang-undang Antarabangsa, Hak Asasi Manusia, UNRWA, Pelarian Palestin, Rangka Kerja AS-UNRWA.

INTRODUCTION

Palestinian refugees are confronted with significant protection issues. They have lived as stateless and refugee individuals for more than three generations, constituting the world's greatest prolonged displacement scenario. They regularly faced denial of these most fundamental rights and have also been impacted by numerous military battles and, for some, 74 years of occupation without any resolution in sight. Palestinian refugees suffer from a protection gap due to the restricted enforcement of international refugee law on them and the absence of a United Nations (UN) institution specifically founded to assist them. As a consequence of this protection gap,¹ The refugees do not get as much protection and support as other refugees worldwide.² The Framework for Cooperation signed by the US State Department and the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in 2021-2022 represents a new gap in the protection of Palestinian refugees³ (Framework Agreement hereafter).

¹ Protection Gap; Article 1 (d) of the 1951 Convention states: "This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention." Due to the incorrect interpretation of this Article by the domestic courts of the member states, Palestinian refugees are deprived of the framework and protection rights stipulated under the 1951 Convention relating to the Status of Refugees.

² Damian Lilly, "UNRWA's Protection Mandate: Closing the Protection Gap," *International Journal of Refugee Law* 30, no. 3 (October 2018): 444-473.

³ U.S. Department of State's Bureau of Population, Refugees, and Migration, "Framework for Cooperation between the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the United States of America 2021-2022," (The UNRWA-USA Framework Agreement), accessed March 4, 2022, <https://www.state.gov/wp->

According to the Agreement, the US would give USD 135.8 million to the UNRWA for the financial year 2021-2022. On the surface, the US' restoration of financial support to the UNRWA appears to be a positive development because it enables the Agency to keep giving "life-saving services to eligible registered Palestinian refugees across the Middle East"⁴. This is especially true given the UNRWA's perpetual economic crises. Accordingly, the UNRWA Commissioner-General Philippe Lazzarini mentioned that "the signing of the US-UNRWA Framework and additional support demonstrates we once again have an ongoing partner in the US that understands the need to provide critical assistance to some of the region's most vulnerable refugees."⁵

When the Framework Agreement is examined more closely, it becomes evident that instead of giving additional financial support as mandated by the UNRWA, it imposes so-called counter-terrorism standards that require the UNRWA to implement vetting and screening methods deemed acceptable by the US. The Framework Agreement in Part II stipulates conditions to the US financial contribution by incorporating section 301(c) of the Foreign Assistance Act of 1961 (FAA), which states that the US shall make no contributions to the UNRWA unless and until the UNRWA takes "all possible measures to ensure that no part of the US contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organisation or who is engaged in any act of terrorism".⁶ The framework agreement criteria implicitly include the designation of Palestinian resistance and political groups as terrorist organisations and

content/uploads/2021/07/2021-2022-US-UNRWA-Framework-Signed.pdf.

⁴ UNRWA, "United States Announces Additional Support for Palestinian Refugees," accessed March 4, 2022, <https://www.unrwa.org/newsroom/press-releases/united-states-announces-additional-support-palestine-refugees>.

⁵ Ibid.

⁶ The UNRWA-USA Framework Agreement, Section II. Shared Goals and Priorities.

groups,⁷ which violates the Palestinian people's right to self-determination.⁸

Additionally, the imposition of the above said condition has resulted in the disqualification of a significant number of Palestinian refugees and other individuals covered by the Consolidated Eligibility and Registration Instructions (CERI), particularly those who have participated in the Palestinian resistance. Section 301(c), along with other clauses, defined how the UNRWA should indeed conduct screening and scrutinising to comply with this requirement. It is prejudicial, purely political, and advances the US-Israeli concept of terrorist activity in a contested setting with no universally accepted definition. Indeed, they aim to further an Israeli-influenced US' agenda of resolving the Palestinian refugee problem while denying the Palestinian refugees their internationally recognised rights.⁹

This article focuses only on the Palestine refugees living within the UNRWA's operational zones¹⁰, excluding all other refugees. The current work attempts to critically evaluate the framework agreement between the UNRWA and the US and its implications for Palestinian refugees. The doctrinal approach was used to critically analyse the Framework Agreement's provisions in light of international humanitarian law (IHL), with the aim of determining whether the terms of this Agreement were in line with the UNRWA's operational mandate and the reason for which it arose, or whether the US stipulates biased clauses for one party over the other in order to grant funding to the

⁷ U.S. State of Department, "Foreign Terrorist Organizations," Bureau of Counterterrorism, accessed March 4, 2022, <https://www.state.gov/foreign-terrorist-organizations/>.

⁸ Amaya al-Orzza and Rachel Hallowell, "Forced Population Transfer: The Case of Palestine – Suppression of Resistance," BADIL, accessed March 4, 2022, <https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp19-Suppression-of-Resistance.pdf>.

⁹ BADIL Resource Center for Palestinian Residency and Refugee Rights, "Trump's so-called Vision/Deal of the Century: A Move to End the Palestinian Refugee Issue through Serious Breaches of International Law," BADIL, Accessed March 4, 2022, https://www.badil.org/cached_uploads/view/2021/04/20/deal-of-the-century-refugee-issue-positionpaper-may2020-1618905452.pdf.

¹⁰ UNRWA operates in Jordan, Lebanon, Syria, the Gaza Strip, and the West Bank, including East Jerusalem, to provide assistance and protection to Palestine refugees.

UNRWA. In addition, the data collection method for this article is the library and internet methods.

There are two parts to this article. The first part covers the international legal framework that pertains to Palestinian refugees and even the protection afforded to Palestinian refugees by international law. Part two examines the Framework Agreement in light of the IHL, deciding whether it violates the norms of humanity, impartiality, and independence. In addition, the legality of the UNRWA-US Framework Agreement, as well as how the misuse of the Anti-Terrorism threatens freedom of expression, are examined.

THE INTERNATIONAL LEGAL FRAMEWORK APPLICABLE TO PALESTINIAN REFUGEES

According to a legal standpoint, those who face a safeguard disparity are the Palestinian refugees living within the UNRWA's operational zones who do not get the international assistance guaranteed to refugees in accordance with the Convention Relating to the Status of Refugees, often referred to as the 1951 Refugee Convention. Indeed, as this part will demonstrate, although Palestinian refugees get a specific situation under international refugee law, a broader legal framework is in place to protect them under international law. Within that context, it is obvious that the protection gap is caused by a lack of compliance with the applicable legislation, not by a lack of law or its inapplicability.¹¹

The Palestinian refugees, like all refugees worldwide, lose national assistance and thus must depend on host government agencies and international agencies for the protection of their rights and safety. Unlike other refugee groups and classifications, these refugees have been identified and treated differently by international refugee law. On December 11, 1948, the United Nations General Assembly passed Resolution 194 (III), establishing the United Nations Conciliation Commission for Palestine (UNCCP) to seek a diplomatic resolution to the Arab-Israeli conflict and to protect the rights and safety of Palestinian refugees.¹² Resolution 194 of the United Nations General

¹¹ Guy Goodwin-Gill and Susan M. Akram, "Foreword to Amicus Brief on the Status of Palestinian Refugees under International Refugee Law," *The Palestine Yearbook of International Law Online* 11, no. 1, (2000): 185.

¹² United Nations General Assembly Resolution 194 (III), (186th Plenary Meeting), (no.19), (adopted in 11-Dec-1948, entered into force 1948),

Assembly establishes the groundwork for resolving the Palestinian refugees' problem. By its specific words, Resolution 194, paragraph 11, subparagraph 1, establishes three different rights that the Palestinian refugees have under international law: repatriation, compensation and restitution. Additionally, Resolution 194 states that the refugees who choose not to exercise their return rights are eligible for resettlement and compensation for their losses.¹³ The UNCCP is then instructed in paragraph 11, subparagraph 2, to promote the adoption of a comprehensive set of remedies to the refugees' suffering, which includes "repatriation, resettlement, compensation, and basic economic and social rehabilitation."¹⁴

Resolution 194 paragraph 11, subparagraph 1 expresses the return right unequivocally, declaring that the General Assembly: Clears that "the 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 in equity, should be made good by the Governments or authorities responsible."¹⁵ A year later, by the United Nations General Assembly Resolution 302 (IV), the UNRWA was further founded as a UN subsidiary organisation to offer programs and assistance for Palestinian refugees.¹⁶

The 1951 Refugee Convention outlines a number of fundamental duties of State Parties, the most significant of which is *non-refoulement*. Article 33, paragraph 1 states that "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."¹⁷ Additionally, the 1951 Convention provides refugees with the

(A/RES/194), paragraph 11.

¹³ Ibid., paragraph 11, sub-paragraph 1.

¹⁴ Ibid., paragraph 11, sub-paragraph 2.

¹⁵ Ibid., paragraph 11, sub-paragraph 1.

¹⁶ United Nation General Assembly Resolution 302 (IV), (adopted on 8 December 1949, entered into force 1949), (ACRES/302).

¹⁷ Convention Relating to the Status of Refugees, Resolution 429 (V), (Adopted on 28 July 1951, entered into force 22 April 1954), (The 1951 Refugee Convention), Article 33 (1).

following specific rights: recognition of the law of personal status,¹⁸ administrative assistance,¹⁹ travel documents,²⁰ identity papers,²¹ immunity from prosecution for illegal presence or entry,²² the facilitation of naturalisation,²³ granting permission to transfer assets²⁴ and limitations on the liability to expulsion.²⁵

The 1951 Convention recognises particular rights for refugees as such and defines basic treatment standards for refugees as residents of the nation of refuge. The Convention states that refugees should be treated the same as other foreigners as a minimum safeguard.²⁶ The right to association and wage-earning work both need the most favoured national treatment.²⁷ National treatment, that is, the same treatment as nationals, is lastly to be approved in a wide variety of areas: religious freedom,²⁸ legal assistance, court access and immunity from the *cautio judicatura solvi*,²⁹ artistic rights and industrial property,³⁰ rationing,³¹ labour legislation and social security,³² elementary education,³³ fiscal charges³⁴ and public relief.³⁵

It should be highlighted that the 1951 Convention fails to address several crucial issues. Although States must, in theory, assess the refugee status of persons seeking its benefits in order to apply the Convention, no procedural criteria are incorporated in this regard. Furthermore, the Convention does not directly address the treatment of asylum applicants awaiting adjudication of refugee status. Lastly, the Convention does not guarantee refugees the right to seek asylum. The

¹⁸ Ibid., Art. 12.

¹⁹ Ibid., Art. 25.

²⁰ Ibid., Art. 28.

²¹ Ibid., Art. 27.

²² Ibid., Art. 31.

²³ Ibid., Art. 34.

²⁴ Ibid., Art. 30.

²⁵ Ibid., Art. 32.

²⁶ Ibid., Art. 7 (1); Art. 5; Art.13; Art.18.

²⁷ Ibid., Art. 15; Art. 17 (1).

²⁸ Ibid., Art. 4.

²⁹ Ibid., Art. 16.

³⁰ Ibid., Art. 14.

³¹ Ibid., Art. 20.

³² Ibid., Art. 24 (1).

³³ Ibid., Art. 22 (1).

³⁴ Ibid., Art. 29.

³⁵ Ibid., Art. 23.

right to seek refuge is contained in Article 14 of the Universal Declaration of Human Rights, but not the right to be given asylum.³⁶ Many failed attempts to integrate such a right into international law have been undertaken throughout the years. However, the principle of non-refoulment severely limits individual nations' power to reject sanctuary to refugees.³⁷ Including the 1951 Refugee Convention and the Protocol Relating to the Status of Refugees of January 31, 1967 which establishes criteria for the treatment of refugees in 130 countries.³⁸ However, most Middle Eastern nations with sizable populations of Palestinian refugees are not obligatory to the Convention and the Protocol. Lebanon, Jordan, and Syria are not signatories to any two treaties. Both instruments include Israel as a signatory. Egypt is in the same boat. Algeria, Morocco, Djibouti, Somalia, Tunisia, Sudan, and Yemen are Arab countries that have ratified both the Convention and the Protocol.³⁹

Israel is a signatory of both the 1967 Protocol and the 1951 Convention, which is home to a lot of Palestinian refugees. Most of the Convention's articles provide refugee rights to live or remain on the territory of a State Party. According to article 40 of the 1951 Convention, the term "territory" in this case refers to largely urban territory and does not necessarily encompass so-called "dependent territories".⁴⁰ Article 40, on the other hand, was not designed for conditions of lengthy occupation.⁴¹ The Gaza Strip and West Bank, which have been effectively controlled by Israel for more than seventy-four years and continue to be under Israeli administration also after forming limited Palestinian self-management, should really be deemed territory under the 1951 Convention. This approach is congruent with the growing body of international human rights law (IHRL), which focuses on the state exerting authority rather than the conventional idea

³⁶ Universal Declaration of Human Rights, A/RES/3/217 A (III), (adopted 26 June 1945, entered into force 24 October 1945), (UDHR), Art. 14.

³⁷ Atle Grahl-Madsen, "Asylum, territorial," In *The Land Beyond*, (Leiden, Netherlands: Brill Nijhoff, 2001), 280-286.

³⁸ Protocol Relating to the Status of Refugees, (adopted on 31 Jan 1967, entered into force: 4 Oct 1967), (The 1967 Protocol).

³⁹ Alex Takkenberg, *The status of Palestinian refugees in international law*, (Oxford, England: Oxford University Press on Demand:1998), 113.

⁴⁰ Ian Brownlie, "Principles of public international law," *VRÜ Verfassung und Recht in Übersee* 14, no. 1 (1980): 92-93.

⁴¹ The 1951 Refugee Convention, Art. 40.

of sovereign territory.⁴² This is potentially most relevant to the Palestinians who are staying in the Gaza Strip and West Bank because the 1951 Convention somehow does not apply to the Palestinian refugees who now obtain UNRWA aid.⁴³ As a result, it is reasonable to assume that the 1951 Convention is primarily relevant to the Palestine refugees in Egypt, and those living in Europe, the US, Canada and other Convention-covered states.

Even during the Conference of Plenipotentiaries on the Status of Stateless Persons and Refugees, which adopted the 1951 Convention, "the representative of France pointed out that the question of whether the Convention covered the Arab refugees [from Palestine] was a controversial one."⁴⁴ This is still the situation seventy-one years later since each 1951 Convention's application to Palestinian refugees is contentious. Article ID of the Convention, in particular, has shown to be a significant impediment for the Palestinian refugees who have sought to seek asylum and shelter as refugees in foreign countries after living in the UNRWA's area of operations. A lot of Western nations apply a highly narrow interpretation of article ID. As a result, relatively few Palestinians have been awarded complete refugee status in these nations.⁴⁵

While the Palestine refugees have repeatedly faced violent conflicts, IHL, the corpus of laws that deals with many elements of these conflicts, has been extremely important to them. This was especially important for many Palestinians seeking refuge in the Gaza Strip and West Bank. Following the 1967 war, Israel took control of these two locations. The plight of refugees in these areas was directly impacted when the status of these territories changed to occupied land. They are now protected by the IHL in addition to being refugees. International protection has been made available in this respect by the International Committee of the Red Cross (ICRC).⁴⁶

⁴² Lex Takkenberg, "The protection of Palestine refugees in the territories occupied by Israel," *Int'l J. Refugee L.* 3 (1991): 414.

⁴³ The 1951 Refugee Convention, Art.1.

⁴⁴ UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, "Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the Nineteenth Meeting," 26 November 1951, A/CONF.2/SR.19, Accessed March 9, 2022, <https://www.refworld.org/docid/3ae68cda4.html>.

⁴⁵ Takkenberg, *The status of Palestinian refugees*, 114.

⁴⁶ *Ibid.*, 224.

Other International Conventions Relevant to Palestinian Refugees

The 1951's Refugee Convention remains ambiguous in its application to Palestinian refugees. However, it is critical to mention other international treaties that protect the Palestinian refugees as civilians under an occupying power, particularly for refugees living in territories under actual Israeli control, such as the Gaza Strip and West Bank. This is in addition to working hard to include the Palestinian refugees in the 1951 Convention, which would grant them the right to comprehensive protection from the High Commissioner for Refugees even when other international agencies established for this purpose ceased to provide them with protection or humanitarian assistance.

Refugees are not directly listed as covered people under article 4 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War. However, because they are civilians, it is widely agreed that they are due to the required civilian protections granted by the Convention.⁴⁷ The absence of protection by state governments is the determining standard for applying the Fourth Geneva Convention: protected individuals are those who, "at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."⁴⁸ The presumption that refugees are to be regarded as protected individuals is officially mentioned in article 73 of the first Additional Protocol I of 1977, which read as follows: "Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the parties concerned or under the national legislation of the State of refuge or the State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction."⁴⁹

⁴⁷ Françoise Krill, "ICRC action in aid of refugees," *International Review of the Red Cross* (1961-1997) 28, no. 265 (1988): 328.

⁴⁸ Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, (adopted on 12 Aug-1949, entered in force 21- Oct - 1950), (GCIV), Art. 4.

⁴⁹ Additional Protocol I to the Geneva Conventions of 12 August 1949 and Relating to the Protections of Victims of International Armed Conflicts, (adopted on 07- Jun -1977, entered in force 07- Dec -1978), (API), Art.

Furthermore, the Fourth Geneva Convention grants exceptional protection to two types of refugees.⁵⁰ First, refugees who are citizens of an enemy nation are protected from abuse of power under Article 44 of the Fourth Geneva Convention, which states: "In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government."⁵¹ The second case in which the Fourth Geneva Convention affords exceptional protection is if the refugees who are occupying State citizens have previously sought shelter in the territories of the occupied state: "Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace."⁵² The refugees can benefit from the Fourth Geneva Convention's applicable provisions overall, while the Convention explicitly provides exceptional protection in some cases. As a result, Palestinians in the Israeli-occupied areas are typically deemed to be protected individuals, regardless of whether they are part of the indigenous peoples of these regions or sought shelter there due to the 1948 conflict.

In addition, States have legal duties to safeguard refugees in their territory that are not entirely derived from international refugee law. The IHRL contains essential rules pertinent to the support of Palestinian refugees in particular.⁵³ The IHRL has a greater scope than the Refugee Convention, and its responsibilities are universal, extending to all people regardless of where they live or their country. The International Covenant on Economic, Social, and Cultural Rights

73.

⁵⁰ J Patrignic, "International Protection of Refugees in Armed Conflicts," *Annales de Droit International Medical*, no. 29, (1980-1981): 95-105.

⁵¹ GCIV, Art. 44.

⁵² Ibid., Art. 70 (2).

⁵³ Brian Gorlick, "Human rights and refugees: enhancing protection through international human rights law," *Nordic Journal of International Law* 69, no. 2 (2000): 142.

(ICESCR),⁵⁴ the International Covenant on Civil and Political Rights (ICCPR),⁵⁵ the Convention on the Rights of the Child (CRC)⁵⁶, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁵⁷ are among the IHRL human rights treaties that are most pertinent to the Palestinian refugees' protection because of the unique challenges and obstacles they face. Countries that host a substantial number of Palestinian refugees have ratified human rights treaties, and hence they have certain legal duties. Treaties mandate that all people under the authority of a state must be protected against abuses of their human rights, regardless of whether they are asylum seekers or citizens.⁵⁸

On the other hand, the rules relevant to military occupation would serve the reality of Palestinian refugees, as Article 43 of the Hague Regulations establishes one of the primary rules governing the administration of the occupied territories, which states: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."⁵⁹

THE FRAMEWORK AGREEMENT AND INTERNATIONAL HUMANITARIAN LAW

The US-UNRWA Framework Agreement necessitates a number of commitments from the UNRWA in order for the US to

⁵⁴ International Covenant on Economic, Social and Cultural Rights, (adopted on 16 December 1966, entered into force 3 January 1976), 993 UNTS 3, (ICESCR).

⁵⁵ International Covenant on Civil and Political Rights, (adopted on 19 December 1966, entered into force 23 March 1976), 999 UNTS 171, (ICCPR).

⁵⁶ Convention on the Rights of the Child, (adopted on 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, (CRC).

⁵⁷ Convention on the Elimination of All Forms of Discrimination against Women, (adopted on 18 December 1979, entered into force 3 September 1981), 1249 UNTS 13, (CEDAW).

⁵⁸ Lilly, "UNRWA's Protection Mandate," 453.

⁵⁹ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, (adopted on 18 Oct.1907, entered in force 26 Jan 1910), (The Hague), Article 43.

continue providing financing.⁶⁰ According to the Annex to the Agreement, the UNRWA is required "to conform to [...] conditions on US contributions for the UNRWA," which are ostensibly intended to maintain the "neutrality" of the UNRWA beneficiaries, employees and the UNRWA infrastructure.⁶¹ The Agreement requires the UNRWA to implement security precautions and perform and document verifications of the UNRWA employees, Palestinian refugees and other qualified people, contractors, suppliers, and non-state contributors on a six-monthly basis in accordance with the UN Standard Security Sanctions List.⁶² The UNRWA is compelled to report to the US on these "section 301©-related issues" by the monthly meetings held with State Department officials and regular written correspondence, notwithstanding its mission and obligations before the UN General Assembly.⁶³ According to scholars, the said commitments or conditions are tantamount to a directive for the UNRWA to reveal details on individuals and companies participating in or obtaining assistance, imposing major administrative duties on the funded program¹¹ and raising issues about privacy and data protection rights.⁶⁴

Although these policies started as the United Nations multilateral resolutions, the US is altering their essence by adding varying degrees of subtlety and techniques, enabling it to adopt, enforce, and monitor its own counter-terrorism strategy. Instances here include reference to "terrorist activities" in section 301(c), which is broad and sufficient to include any action critical of Israel's colonisation, and the requirement for the UNRWA to report to the US independently, as though the US alone has the authority to decide

⁶⁰ UNRWA, "United States Announces."

⁶¹ The UNRWA-USA Framework Agreement, Annex: Activities Related to Conformance with U.S. Funding Conditions Pursuant to Section 301(c) of the 1961 Foreign Assistance Act, General, Paragraph 1.

⁶² Ibid., Neutrality of UNRWA Staff/Personnel, Paragraph 4; Neutrality of Beneficiaries, Paragraph 10; Neutrality of Contractors, Vendors, and Non-State Donors, Paragraph 14.

⁶³ Ibid., General, Paragraph 2 and 3.

⁶⁴ Malgosia Fitzmaurice, Olufemi Elias, and Panos Merkouris, eds., *Treaty interpretation and the Vienna Convention on the Law of Treaties: 30 years on*, Vol. 1, (Leiden, The Netherlands: Brill | Nijhof, 2010), 299, https://books.google.ps/books?id=R1Ebd0g34twC&printsec=copyright&source=gbps_pub_info_r#v=onepage&q&f=false.

whether these measures are being carried out adequately. Requiring the UNRWA to adhere to the US' own conception and doctrinaire of counter-terrorism measures is not only problematic, but it weakens the humanitarian values to which the UNRWA is bound, restricting the Agency's ability to take out its mission successfully under these practices.⁶⁵

Resolutions 2462 and 2482 of the United Nations Security Council confirm the possible effects of counter-terrorism on principled humanitarian assistance and necessitate states to follow IHL while taking antiterrorism action and to "take into account the potential effect" of counter-terrorism action on unbiased humanitarian assistance. When donor governments impose political restrictions on financing that promote their own interests at the cost of humanitarian principles, the controversy around these policies becomes even more apparent.⁶⁶

Notably, the UNRWA, as a United Nations Agency, is obliged to follow the UN Security Council resolutions and other international counter-terrorism mechanisms. To ensure that it adheres to the United Nations and international legal instruments on the use of money and the ban on supporting terrorist activities via foreign financing, it has its own systems and structures in place, independent of the donors.⁶⁷ The UNRWA performs biannual inspections of employee names, registered Palestine refugees, suppliers, and microfinance beneficiaries against lists created by the Security Council Resolution 1267 rather than

⁶⁵ Nadin Rabee, Saif Kassis, Leila Berland, and Ahmad Hammash, "USA-UNRWA Framework Agreement: Assistance Or Securitization?," Working Paper No. 29, (Bethlehem, West Bank: BADIL Resource Center for Palestinian Residency and Refugee Rights, 2022), 4, file:///C:/Users/User/Downloads/wp-29-unrwa-eng-1645448404.pdf.

⁶⁶ UN General Assembly, "Resolution 2462, Threats to International Peace and Security Caused by Terrorist Acts: Preventing and Combating the Financing of Terrorism," S/RES/2462, accessed 20 March, 2022, <http://unscr.com/en/resolutions/2462>; UN General Assembly, "Resolution 2482, Threats to International Peace and Security," S/RES/2482, accessed 20 March, 2022, <http://unscr.com/en/resolutions/2482>.

⁶⁷ The Norwegian Refugee Council, "Principles Under Pressure: The Impact of Counterterrorism Measures and Preventing/Countering Violent Extremism on Principled Humanitarian Action," NRC, 14, accessed 20 March, 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/nrc-principles_under_pressure-report-screen.pdf.

vetting against individual governments' national registers, as is UN policy. Suppliers are also checked via the UN Suspect Vendor data, and as a result of these checks, strict internal reporting systems are implemented.⁶⁸ Even according to the terms of the UNRWA-USA Framework Agreement, the Agency is required to supply the State Department with direct information and updates, putting the humanitarian values to which the UNRWA is committed at risk. Additionally, when the UNRWA members of the staff are imprisoned, the Framework Agreement requires the UNRWA to gather data from host nations and other authorities, undermining the UNRWA's humanitarian mission and transforming it into an institution that supports the US political agenda and Israel's ostensible security.⁶⁹

The UNRWA already has adequate monitoring systems in place to ensure compliance with its international commitments. It is required to carry out such actions in a manner consistent with its mission and purpose: to offer humanitarian aid and preservation to the Palestine refugees. This must be considered while implementing counter-terrorism policies, which the UNRWA has successfully implemented in accordance with applicable UN mandates and mechanisms. Indeed, the UNRWA-USA Framework Agreement wants to remove this perspective when implementing such policies, forcing the UNRWA to make a difficult choice between humanitarian values and autonomy when determining whether to take the US' conditional money. Additionally, the Israeli-influenced US emphasis on the UNRWA's project, which would enable it to serve the poor only if its targeting criteria were changed or certain classes of Palestine refugees were deleted from the beneficiary database, denotes a trade-off between human principles, impartiality, and neutrality.⁷⁰

⁶⁸ Rabee, Kassis, Berland, and Hammash, "USA-UNRWA Framework Agreement," 5.

⁶⁹ The UNRWA-USA Framework Agreement, Annex: Activities Related to Conformance with U.S. Funding Conditions Pursuant to Section 301(c) of the 1961 Foreign Assistance Act, Neutrality of UNRWA Staff/Personnel, Paragraph 8.

⁷⁰ Julia Steets, Claudia Meier, Adele Harmer, Abby Stoddard, and Janika Spannagel, "Evaluation of World Food Programme Policies on Humanitarian Principles and Access in Humanitarian Contexts," WFP Office of Evaluation, no. OEV/2016/014, accessed 20 March, 2022, <https://www.humanitarianoutcomes.org/sites/default/files/publications/evaluationofwfpolicies.pdf>.

The humanitarian idea demands the UNRWA to alleviate human suffering and pain wherever it is discovered.⁷¹ But, the Framework Agreement restricts its potential to entirely comply with this concept since it includes an extra "selective" criterion that precludes beneficiaries, limiting the Agency's ability to treat human suffering wherever it occurs. When distinguishing between civilians and combatants, the UNRWA already adheres to the exclusion criteria for providing humanitarian aid set out by the IHL. This condition is considered valid because it "regulates the behaviour of all parties to the conflict in equal fashion."⁷² This is true regardless of the individual's political, religious, or other connections. Conversely, counter-terrorism tactics impose criminal descriptors such as the stigma of terrorism across one side of a dispute over another, depending on a fluid domestic policy and the glaring international lack of an accepted definition. This results in the criminalisation of one side of the conflict. Therefore, the bounds of battle are no longer determined by a balance of military need and humanity, as necessary by the IHL, but seem to be undercut by counter-terrorism regulations, which in turn restrict the UNRWA's capacity to aid people impacted by conflict.⁷³ Put another way, there is a clear differentiation between being classified as a fighter according to the stipulated IHL and also being placed on a punishment list for a variety of reasons, most of which have no impact on an individual's civilian status by the IHL. Moreover, even if a person is designated as a fighter under the IHL, this would not justify withholding humanitarian aid from his family. This would not be the situation should section 301(c) be enacted since the UNRWA's aid to family members is often conditional on the head of the household's registration and qualifying. As a result, the Framework Agreement excludes a vast group of Palestinian families from the UNRWA programmes and support, particularly when the head of the household has been deemed a terrorist.⁷⁴

⁷¹ UNRWA, "Humanity," in Humanitarian Principles, accessed 20 March, 2022, <https://www.unrwa.org/humanity>.

⁷² Sara Pantuliano and Victoria Metcalfe, "Neutrality Undermined: The Impact of Counter-Terrorism Legislation on Humanitarian Action in Somalia," *Humanitarian Exchange* 53 (2012): 21, <https://odihpn.org/wp-content/uploads/2012/03/humanitarianexchange053.pdf>.

⁷³ *Ibid.*, 21.

⁷⁴ Rabee, Kassis, Berland, and Hammash, "USA-UNRWA Framework Agreement," 7.

In accordance with the impartiality concept, the UNRWA is expected to carry out its humanitarian action only based on needs; priority is given to the most pressing cases and creating no discrimination based on ethnicity, nationality, religion, belief, gender, class, or political opinion.⁷⁵ However, the Framework Agreement demand that beneficiaries be excluded only because of their political party connection, and therefore their political stance, whether alleged or proved, violates the concept of impartiality. In simple terms, the Agreement violates the principle of impartiality's unambiguous premise that prospective recipients of help must only be determined on a need basis.

Per the concept of impartiality, humanitarian activity, as well as that of the UNRWA, must be "autonomous of any actor's political, economic, military, or other objectives in areas where humanitarian action is being implemented."⁷⁶ On the other hand, the Framework Agreement involves clear aims that serve Israeli policies.⁷⁷ The USA-UNRWA Agreement undermines the autonomy principle that the UNRWA must adopt in its humanitarian work by needing it to vet its agencies, recipients, and distributors against the penalty roster defined by the US Department of State rather than the UN penalty roster, as every other UN organisation is needed to do. In practice, the UN Secretary-General for Legal Affairs told the US Ambassador to the UN in 2006 that "it would not be appropriate for the United Nations to establish a verification regime that includes a list of possible contractors developed by one Member State," seeing as "it [the United Nations] would not be in a position to justify and defend its decisions in respect of any individual or entity that is included in such lists." Consequently, the Security Council Resolution 1267 roster is the sole screening mechanism that the United Nations agencies and organisations may properly utilise. Indeed, in the lack of a unified code of conduct, the UN agencies have acted differently depending on the situation and contributors.⁷⁸

⁷⁵ UNRWA, "Impartiality," in Humanitarian Principles, accessed 20 March, 2022, <https://www.unrwa.org/impartiality>.

⁷⁶ UNRWA, "Independence," in Humanitarian Principles, accessed 20 March, 2022, <https://www.unrwa.org/independence>.

⁷⁷ Kate Mackintosh and Patrick Duplat, *Study of the impact of donor counter-terrorism measures on principled humanitarian action*, (UN, 2013), 11.

⁷⁸ Ibid. 107.

When it comes to the concept of neutrality, the UNRWA correctly adheres to the UN-based laws to guarantee that the Agency somehow doesn't pick sides. On the other hand, the Framework Agreement jeopardises UNRWA's impartiality by changing the nature of the Agency operations and hence its purpose, transforming it out of a UN humanitarian relief Agency into a security entity to serve the US particular ambitions and agenda. Overall, enforcing these antiterrorism metrics via framework agreements, particularly in the absence of an internationally accepted terrorism definition, changes the dynamics of the UNRWA's operations and thus hinders its grunt work by subjecting it to political factors and donor-imposed foreign policies.⁷⁹

As a result, counter-terrorism policies imposed by the US placed humanitarian standards at risk and limited the UNRWA's capacity to administer its programmes in accordance with relevant principles of humanity.⁸⁰ The political influence factors, including such counter-terrorism measures in the UNRWA financing agreements, will not simply entail stopping a project or rewriting entire programmes based on authorised implementing partners rather than the needs of the community.⁸¹ Alternatively, it severely inhibits impartial humanitarian action, disincentivising or preventing the UNRWA from reaching out to those in need. Going to deprive recipients of help under such conditions would be inconsistent with humanitarian values and thus a breach of IHL.⁸²

⁷⁹ DARA, "The Humanitarian Response Index (HRI) 2011: Addressing the Gender Challenge," (2011), 42, accessed 20 March, 2022, https://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_3597.pdf.

⁸⁰ The Norwegian Refugee Council, "Principles Under Pressure," 7.

⁸¹ The International Committee of the Red Cross, "Statement to the United Nations Security Council debate: Threats to International Peace and Security Caused by Terrorist Acts: International Cooperation in Combating Terrorism 20 Years after the Adoption of Resolution 1373 (2001)," ICRC, accessed 20 March, 2022, <https://www.icrc.org/en/document/counter-terrorism-measures-must-not-restrict-impartial-humanitarian-organizations>.

⁸² Diakonia International Humanitarian Law Center Lebanon, "Fact Sheet 4: Screening of Final Beneficiaries of Humanitarian Programmes," accessed 20 March, 2022, https://apidiakoniase.cdn.triggerfish.cloud/uploads/sites/2/2021/08/Diakonia_FactSheets_Screening.pdf.

Humanitarian activities of the UNRWA are struggling from rising increasing expenses and disrupting practical responses as a result of such more demanding and administrative procedures, notably screening and vetting processes, which damage humanitarian cooperation.⁸³ In reality, they foster an environment of conflict and suspicion among local partners, which really is harmful to humanitarian efforts. Compliance with criteria in donor financing agreements, in particular, has hindered the UNRWA's capacity to give assistance in accordance with the impartiality and neutrality principles, having an unnecessarily negative impact on attempts to provide potentially life-saving aid.⁸⁴

The connection between the donor, the administering actors, and the receivers is jeopardised by such constraints. This is especially true amid the ongoing colonisation of Palestine when the donor country has a long history of supporting one of the conflict's sides. During the Trump administration, US politics has consistently backed Israel.⁸⁵ Admittedly, beneficiaries and partners vetting, which entails assembling and interacting individual data regarding the latter to the US government, has also been interpreted as accusatory and invasive by community members, jeopardising their relationship with the UNRWA, making it much more it very hard for the Agency to gain local approval, and probably obstructing access to individuals truly needy.⁸⁶

The UNRWA, for example, is notably proactive in Gaza Strip, in which Hamas, the local administration, is regarded as a terrorist organisation by the majority of donor countries while not being included on the UN Comprehensive Sanctions List. Consequently, humanitarian projects are frequently planned first and foremost to avoid interaction with Hamas and then to solve human suffering. This is not only bad for the humanitarian intervention's effectiveness, but it

⁸³ Mackintosh and Duplat, *Study of the impact of donor counter*, 107.

⁸⁴ Interaction: A United Voice for Global Change, "Detrimental Impacts: How Counter-terror Measures Impede Humanitarian Action," accessed 20 March, 2022, <https://www.interaction.org/wp-content/uploads/2021/04/Detrimental-Impacts-CT-Measures-Humanitarian-Action-InterAction-April-2021.pdf>.

⁸⁵ BADIL, "Trump's," 8.

⁸⁶ Sara Pantuliano, Kate Mackintosh, Samir Elhawary, and Victoria Metcalfe, "Counter-terrorism and humanitarian action," *Policy* (2011): 8, <https://cdn.odi.org/media/documents/7347.pdf>.

also goes against the concept of neutrality and impartiality. In practice, many humanitarian agencies remark that working with the *de facto* authorities in Gaza is important for their operations and, in some ways, demonstrates their neutrality and impartiality. Furthermore, the UNRWA's capacity to give help to civilians is hampered by counter-terrorism, which may eventually force the UNRWA to make a decision not to undertake relief programmes in particular locations at the Palestinian people's expense.

As a result, similarly to breaching humanitarian standards, the UNRWA-USA Framework Agreement impedes UNRWA activities by putting an enormous operational and administrative load on the UNRWA, limiting its effectiveness and efficacy. The US' screening and vetting criteria essentially endanger the Agency's operations as a humanitarian entity and transform it into a security proxy.

The legality of the UNRWA-USA Framework Agreements

In 1949, the UNRWA was created by the United Nations General Assembly Resolution 302 (IV), which uncovers that the organisation was not given a specific or detailed mandate, and instead was authorised to hold out "relief and works programmes"⁸⁷ with the goal of "safeguarding and advancing the rights of Palestine refugees" and assisting them in reaching the full development of their human potential through a "broad range of activities in the Agency's five fields of operation."⁸⁸ The lack of a clear mission in Resolution 302 has been done purposefully to make sure that the requirement is flexible enough to enable the organisation to change its programmes and activities as needed. Although the UNRWA's development and humanitarian efforts are adaptable and changeable, only the United Nations General Assembly has the authority to change them. This is because the United Nations General Assembly is the main body, while the UNRWA is the subordinate unit, with authority derived from the General Assembly, especially in the General Assembly Resolutions context.⁸⁹

Given that an amendment to the UNRWA's mission requires approval by the General Assembly, the framework agreement, which tries to change the definition of the mandate without passing through

⁸⁷ ACRES/302, paragraph 6.

⁸⁸ UNRWA, "What We Do," accessed 30 March, 2022, <https://www.unrwa.org/what-we-do/protection>.

⁸⁹ Bartholomeusz, "The mandate," 454.

the proper channels, is illegal. Section 301(c),⁹⁰ as previously discussed, transforms the UNRWA from a humanitarian aid institution to a security entity. It also changes the UNRWA's mission by modifying the Palestine refugee definition and other individuals of concern as stated in the UNRWA's CERI.⁹¹ The UNRWA is prohibited from providing services to anybody who has undergone "military training" or has participated in "terrorist activities."⁹² It is worth noting that the term used in these counter-terrorism rules was crafted by the US and deeply affected by Israel. This is inferred from the framework agreement, which classifies any Palestinian action that threatens Israel's colonial operations as terrorism, as proven by the shrinking space available to Palestinian civil society.⁹³ As a result, it is apparent that if this law is strictly enforced, it would effectively disqualify a substantial number of UNRWA dependents, posing a clear threat to the status of Palestine refugees and other UNRWA recipients.

As per UNRWA, its help, protection, and humanitarian facilities are offered to Palestinian refugees who fulfil its concept of "persons whose normal place of residence was Palestine from June 1, 1946, to May 15 1948, and who lost both home and means of livelihood as a result of the 1948 conflict," as well as other people in its operational area.⁹⁴ Section 301(c) of the Framework Agreement, on the other hand, contradicts the UNRWA's CERI since it adds a new criterion that is not in the scope of the UNRWA's programmes. By eliminating the Palestinian refugees who appear to have been implicated in military activity or terrorist, the UNRWA's recipients are modified, as are the organisation's operational criteria.

Consequently, the Framework's enforcement of national counter-terrorism rules is beyond the requirement of the UNRWA's mission. Moreover, the adoption of these standards breaches the

⁹⁰ UNRWA-USA Framework, Section II. Shared Goal and Priorities.

⁹¹ UNRWA, "Consolidated Eligibility and Registration Criteria (CERI)," accessed 30 March, 2022, <https://www.unrwa.org/sites/default/files/2010011995652.pdf>.

⁹² The UNRWA-USA Framework Agreement, Section II. Shared Goals and Priorities.

⁹³ BADIL, "The GPRN Calls on the International Donor Community to rescind the anti-terrorism clauses and conditions in their granting contracts," accessed 30 March, 2022, <https://www.badil.org/press-releases/12749.html>.

⁹⁴ UNRWA, "Consolidated Eligibility," 3.

UNRWA's own policies and modifies the organisation's mission. As previously stated, the UNRWA's mission can be altered with the Agreement of its primary body, the United Nations General Assembly.⁹⁵ This same UNRWA-USA Framework Agreement thereby violates the UNRWA laws as well as international public law norms because it modifies the mandate of agencies and avoids acceptable decision-making processes.

Anti-Terror Legislation Poses a Threat to Free Expression

The UNRWA-USA Framework's antiterrorism policies have major human rights consequences for all UNRWA personnel and recipients. In principle, it is unsurprising that measures to combat terrorism frequently jeopardise basic freedoms guaranteed by human rights legislation. Dunja Mijatovic, the Council of Europe's Commissar for Human Rights, has stated unequivocally that antiterrorism actions have become Europe's most serious risk to basic freedoms, including freedom of expression.⁹⁶

The UNRWA-USA Framework Agreement requires that personnel and employees must "uphold the Agency's neutrality" and not "take sides in hostilities or engage in controversies of a political, racial, religious, or ideological nature." This contains "social media guidelines."⁹⁷ While these may appear to be essential criteria, their imprecise and ambiguous concepts, which are absent from the Palestinian Framework, render them intrusive and in human liberties violation, most notably, freedom of expression. Significantly, while the UNRWA is an international humanitarian agency, it was established to help and ensure the safety of Palestinian refugees in the midst of a continuous conflict. As a result, issues of controversies and neutrality cannot be considered empty paintings, nor can they be adopted as a blanket approach. It is critical that these measures, whether supplied by

⁹⁵ UNRWA, "UNRWA Letter to UNHCR Describing the UNRWA Mandate and Services, 22 September 2021," accessed 30 March, 2022, https://www.unrwa.org/resources/about-unrwa/UNRWA_letter_to_UNHCR.

⁹⁶ Dunja Mijatović, "Misuse of Anti-Terror Legislation Threatens Freedom of Expression," News 2018, Council of Europe, accessed 30 March, 2022, <https://www.coe.int/en/web/portal/-/misuse-of-anti-terror-legislation-threatens-freedom-of-expression>.

⁹⁷ UNRWA-USA Framework, Section II. Shared Goals and Priorities.

the US or other grantors, take into account the Palestinian situation, particularly given that the UNRWA was established only to aid the Palestine refugees.

In the context of the UNRWA employees, such issues are critical. The International Staff Regulations provide broad requirements governing some acts judged unsuitable with such international employment status for its employees who possess an international personnel position.⁹⁸ Directives for its "area staff" are more stringent, particularly when it comes to political activity and public appearances.⁹⁹ The UNRWA employees have the right to vote and join a political party as private persons as long as their participation does not result in actions that violate the regulations of staff. In this context, political involvement should be done with attention and caution, hence why staff receives regular training on neutrality and social media.¹⁰⁰ Regulation 1.4 states that area employees are not prepared to sacrifice their national feelings and political or religious beliefs, but they must "bear in mind the reserve and tact incumbent upon them by reason of their employment with the Agency."¹⁰¹ The UNRWA-USA Framework Agreement's language to "not take sides and engage in controversies" contradicts this rule since it unavoidably requires employees to give up their "controversial" national and political opinions. The UNRWA employees in the region are frequently Palestinian refugees, and this must be considered since neutrality cannot be extended to them in almost the same way as it does to foreign employees because they are also right-holders.

⁹⁸ The International Staff Regulations, promulgated under the authority of paragraph 9 of Resolution 302 (IV) adopted by the General Assembly of the United Nations on 8 December 1949, have been agreed to by the Secretary-General of the United Nations and the Commissioner-General of the UNRWA for Palestine Refugees in the Near East. See more: UNRWA, "International Staff Regulations," accessed 31 March, 2022, https://www.unrwa.org/sites/default/files/international_staff_regulations_effective_1jan2018.pdf.

⁹⁹ UNRWA, "Area Staff Regulations," accessed 31 March, 2022, https://www.unrwa.org/sites/default/files/area_staff_regulations_dec2015.pdf.

¹⁰⁰ UN Ethics Office, "Putting Ethics to Work: A Guide for UN Staff," p. 21, accessed 31 March, 2022, https://www.un.org/en/ethics/assets/pdfs/Attachment_2_EN_Putting%20Ethics%20to%20Work.pdf.

¹⁰¹ UNRWA, "Area Staff Regulations," Regulation 1.4.

The UNRWA-USA Framework also encourages the UNRWA to breach its humanitarian commitments, especially independence, by interfering in Palestinian curricula, thereby infringing on Palestinian educational rights. The UNRWA is required to "integrate enrichment materials on human rights, conflict resolution and tolerance into the UNRWA's classrooms."¹⁰² In reality, this educational content is enforced with the intention of neutralising or decontextualising the Palestinian curriculum by removing any national or Palestinian substance. In this regard, the UNRWA has released a handbook to its school employees that instruct instructors not to address any information that emphasises Palestinian people's fundamental rights, as well as any content that discusses continuing Israeli transgressions and other concerns affecting Palestinian national identity. It goes on to say that the UNRWA has to strengthen its ability to "review local textbooks and quality assure education materials it uses to identify and take measures to address any content contrary to the UN principles in educational materials."¹⁰³

The many criticisms levelled towards Palestinian school books used by the UNRWA inside the occupied Palestinian area have been founded on a very narrow understanding of the UNESCO criteria, which are primarily focused on international law-enshrined ideals of peace and tolerance. Not only does the 2015 Incheon Declaration and the 2015 Education 2030 Framework for Action assert Palestinians' entitlement to human rights education as a colonised people, but so does the 1974 Recommendation Concerning Education for Cooperation, International Understanding, and Education and Peace relate to Human Rights and Fundamental Freedoms, and the 1989 Convention on the Rights of the Child.¹⁰⁴

Without understanding the background and general value in which the UNRWA schools function, every objective analysis of the courses taught at such schools would be pointless. The ramifications of living under Israel's apartheid-colonial state must be addressed in a contextualised educational curriculum. The Framework Agreements' conditional funding on the UNRWA modifying the curriculum is thus

¹⁰² UNRWA-USA Framework, Section II. Shared Goals and Priorities.

¹⁰³ Ibid.

¹⁰⁴ UNRWA, "UNRWA School Parliaments: Good Practices Booklet," accessed 31 March, 2022, <https://www.unrwa.org/resources/reports/unrwa-school-parliaments-good-practices-booklet>.

unlawful because it violates the Palestinian people's entitlement to a context-sensitive education.

Conclusion

While the UNRWA-USA Framework provides financial aid to the UNRWA, is deeply politically driven and illegal. This is demonstrated by the term coined by the US and used in the rules of combating terrorism, which is influenced by Israeli interests and effectively considers any Palestinian activity that threatens Israel's colonial process to be terrorist activity. This definition leads to the UNRWA's refusal to provide assistance to every Palestinian receiving military training, despite the fact that implementing the Framework of national counter-terrorism rules exceeds the UNRWA mission's requirements. Therefore, USA's utmost goal is to suit these policies in Israel's best interest by resolving the issue of Palestinian refugees while denying Palestinian refugees their stipulated rights. To that end, it seeks to amend the explicit definition of the mandate, which determines who are UNRWA's recipients, without following the proper processes.

This ultimately narrows the concept of Palestine refugees, and the number of people who have rights as a Palestine refugees is reduced. Furthermore, because the Framework Agreement is not in accordance with the mission, signing it as a treaty violates the rules of public international law by changing the definition of the mandate without going through the appropriate channels. Its imposition of a different operational definition has ramifications for the UNRWA's aim, which is to safeguard and assist the Palestine refugees in attaining their full human potential. The UNRWA's capacity to carry out resolute humanitarian action is further harmed by the Agreement, which jeopardises the Agency's commitments to neutrality, independence, humanity, and impartiality.

Last but not least, the UNRWA-USA Framework Agreement deprives the UNRWA of its humanitarian and international status as a refugee organisation serving the Palestinians. Moreover, it imposes nebulous and ostensibly objective "neutrality" standards on the UNRWA officials and people without taking into account the unique circumstances of Palestine. As a result, the Palestinians' right to

expression freedom is infringed upon. With respect to the Palestinian curriculum, a similar imposition is demonstrated by the UNRWA's requirement that the Palestinian textbooks provided in its schools be reviewed and aligned with Israeli priorities by eliminating Palestinian history and identity.