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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by BADIL Resource Center for Palestinian Residency and Refugee Rights, a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2024]

* Issued as received, in the language of submission only.



Defunding the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is a Breach of States' International Obligations to Palestinian Refugees and Internally Displaced Persons, Constitutes Collective Punishment, and Supports Genocide in the Gaza Strip

Cutting funds to UNRWA now further cripples its capacity to provide lifesaving services in Gaza, and essential services to Palestinian refugees in its other areas of operation. Not only do states' decisions to suspend UNRWA funds serve Israel's ongoing aim to eliminate UNRWA - and with it, the Palestinian refugee issue - it also contradicts the International Court of Justice's provisional measures,¹ constitutes the crime of collective punishment and a breach of States' international obligations toward Palestinian refugees.

In accordance with its UN mandate, UNRWA struggles to fulfill the humanitarian and physical component of the international protection owed to Palestinian refugees.²

However, its temporary mandate and voluntary funding structure leave it vulnerable to the goodwill of states and the political climate which is often manipulated by Israel.

Israel has led strategic defamation campaigns to discredit the Agency, exerting political pressure on donor states with the explicit purpose of defunding and dissolving UNRWA, transferring its tasks to host countries and/or other organizations and eliminating the issue of the Palestinian refugees.

UNRWA has emphasized that "[...] voluntary contributions have not been predictable or sustained. Neither have they been sufficient, over time, to meet increasing refugee needs [...]."³

This dependence on voluntary contributions has rendered the Agency vulnerable to the political inclinations of states and has resulted in resource allocation to UNRWA's emergency and project-based budgets, at the expense of its General Fund, which supports its core services.⁴

Most recently, in response to Israeli allegations claiming that 12 out of 13,000 UNRWA Gaza-based staff were involved in the 7 October 2023 operations, 17 States suspended funding to the Agency.⁵ As usual, the dossier, despite being used by many states to justify fund suspension, provides no evidence to support Israeli allegations.⁶

The deliberate Israel-led defunding campaign is aimed at precipitating its de facto decommissioning, incapacitating UNRWA in the Gaza Strip, and transferring its responsibilities to Israeli-controlled entities, which will eventually lead to the demise of UNRWA. Netanyahu recently stated "UNRWA is not part of the solution, it is part of the problem. The time has come to begin the process of replacing UNRWA with other bodies that are not tainted by support for terrorism."⁷

Impact of defunding UNRWA

Consecutive defunding has impacted essential services, led to staff reduction, inability to pay salaries, halting repairs and necessary expenditures in infrastructure, increasing classroom size to 50 students per teacher, and curtailing humanitarian assistance.⁸ The tremendous reduction of UNRWA's services and the deterioration of human rights in host states has resulted in multiple forced internal and external transfer.⁹

In the current genocidal war, the elimination of UNRWA – an ever-increasing possibility considering funding suspensions - paves the way for an Israeli-controlled replacement that will hold the humanitarian and political fate of Palestinians in Gaza hostage to Israel's interests.

Although UNRWA informs Israel of the locations of its facilities – places that are protected under international humanitarian law, Israel continues to target UNRWA structures that are serving as extremely inadequate shelters for 1.7 million internally displaced Palestinians.

Since the launch of Israel's genocidal war, Israel has killed 154 UNRWA staff, the biggest death toll suffered by any UN agency in a conflict. Further, it has damaged 150 installations, and rendered 18 out of 22 health facilities non-operational.¹⁰

UNRWA's Commissioner-General stated that "UNRWA is the primary humanitarian agency in Gaza, with over 2 million people depending on it for their sheer survival."¹¹

"Currently every single person in Gaza is hungry, a quarter of the population are starving and struggling to find food and drinkable water, and famine is imminent. Pregnant women are not receiving adequate nutrition and healthcare, putting their lives at risk. In addition, all children under five – 335,000 – are at high risk of severe malnutrition as the risk of famine conditions continues to increase, a whole generation is now in danger of suffering from stunting," UN experts stated.¹²

In short, the obstruction of unrestricted humanitarian aid and UNRWA's operations in the Gaza Strip, will result in the physical destruction of a significant portion of Gaza's population, especially children.

Special Procedures insisted that "with the ICJ alerting the international community to the risk of genocide in Gaza and ordering immediate and effective action to ensure the provision of humanitarian assistance to civilians, states must do more, including to avoid legal consequences for aiding and abetting, or possible complicity in acts of genocide." They underscored that "instead of castigating the agency that provides critical support for millions of Palestinians in Gaza, states must exhaust all efforts to avert serious violations of international law, including genocide—and this necessitates continued international support of UNRWA's vital humanitarian services."

For decades, the impact of defunding has been catastrophic in the context of the absence of political will to resolve the issue of Palestinian refugees through the realization of their right to reparations that includes return, restitution, and compensation – an international obligation.

The recognition of the right of return for Palestinian refugees and Internally Displaced Palestinians (IDPs) - exceeding 9.17 million worldwide by 2022 - must be viewed as a precondition for the realization of the Palestinian people's collective right to self-determination. Palestinian refugees and IDPs, form 66.4 percent of the Palestinian people and excluding them from exercising their right to self-determination, is a violation of this collective right.¹³

The international community is obligated to ensure the UNRWA's operation until the realization of the rights of return and self-determination of the Palestinian people.

Defunding UNRWA in the midst of the genocidal war constitutes a breach of States' international obligation toward Palestinian refugees to ensure humanitarian and physical protection until the enforcement of UNGA Resolution 194,¹⁴ the commission of collective punishment,¹⁵ and involvement in genocide.

In order to ensure that the 2.3 million Palestinians in the Gaza Strip receive the lifesaving aid and assistance they are entitled to, we call on:

- States and the UN to immediately increase their contributions to UNRWA during this life-threatening time and ensure its ability to operate in order to prevent Genocide and not inflict collective punishment on the Palestinians in the Gaza Strip;
- The UN Secretary General to urgently seek an emergency fund resolution for UNRWA by the UN General Assembly and call for an air-drop assistance convoy;
- Without prejudice of Israel's obligation as the principal actor responsible for providing humanitarian aid, States in the region, especially Egypt, to challenge Israel's genocidal policies and practices that restrict the quantity of humanitarian aid reaching the Gaza Strip;
- Companies and individuals to make and/or increase their contributions to UNRWA to bridge the financial gap resulting from states' defunding decisions.

To address the root causes, including the chronic under funding of UNRWA, we call on:

- The UNHRC and its Member States to acknowledge and condemn all Israeli-led campaigns aimed at delegitimizing and replacing the UNRWA and to reaffirm the impermissibility and illegality of transferring UNRWA's responsibilities to host countries or other organizations;
- The UNHRC and its Member States to reaffirm that UNRWA is an international agency with a permanent mandate until such time as UNGA Resolution 194 of 1948 and UNSC Resolution 237 of 1967 are put into effect;
- The UNHRC to call on the UNGA and all states to change UNRWA's funding mechanism from voluntary and vulnerable to Israel's manipulations, to obligatory on member states.

1 ICJ, "Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)", 26 January 2024, at: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-sum-01-00-en.pdf>.

2 BADIL, "USA-UNRWA Framework Agreement: Assistance or Securitization?", 22 January 2022, at: https://www.badil.org/cached_uploads/view/2022/02/21/wp-29-unrwa-eng-1645448404.pdf.

3 UNRWA, Budget Report 2020-2021 https://www.unrwa.org/sites/default/files/2020-2021_programme_budget_blue_book.pdf

5 The Washington Post, "Why countries are pulling funding from the U.N. agency for Palestinians", 29 January 2024, at: <https://www.washingtonpost.com/world/2024/01/28/unrwa-funding-suspensions-amas-gaza-israel/>.

6 Truthout, "Report Finds "No Evidence" in Key Dossier to Support Israel's UNRWA Allegations", 6 February 2024, at: <https://truthout.org/articles/report-finds-no-evidence-in-key-dossier-to-support-israels-unrwa-allegations/>.

7 Prime Minister's Office, "PM Netanyahu's Remarks at the Start of the Government Meeting", 4 January 2024, at <https://www.gov.il/en/Departments/news/spoke-start040223>

12 OHCHR, "Over one hundred days in the war, Israel destroying Gaza's food system and weaponizing food, says UN human rights experts", 16 January 2024 at <https://www.ohchr.org/en/press-releases/2024/01/over-one-hundred-days-war-israel-destroying-gazas-food-system-and>

13 BADIL, "Survey of Palestinian Refugees and Internally Displaced Persons 2019-2021, 2022, at: https://www.badil.org/cached_uploads/view/2022/10/31/survey2021-eng-1667209836.pdf.

14 UN, UN General Assembly Resolution 194 (III), 27 November 1948, at: <https://www.un.org/unispal/wp-content/uploads/2016/06/ARES194III.pdf>.

15 ICRC, "Collective Punishments", available at: https://casebook.icrc.org/a_to_z/glossary/collective-punishments.