



Article 1D: a Betrayal of Direct Responsibility?

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Abstract

On May 18, Amsterdam Law Forum invited guest speakers Irma Lammers, PhD student at the Amsterdam Centre for Migration and Refugee Law, and Isabella Leroy, Postdoctoral researcher within the DISSECT project, to talk about the implications of UNRWA defunding and Palestinian refugee realities. Stemming from the themes of their presentation, this blog examines Article 1D of the 1951 Refugee Convention and considers how the article established a distinct regime for Palestinian refugees with far-reaching implications.

Key words: Palestine, 1951 Refugee Convention, Article 1D, UNRWA, UNCCP, UNHCR

Introduction

Today, the untold suffering in Palestine continues. On June 18, The Independent International Commission of Inquiry on the Occupied Palestinian Territory published its report detailing ‘the deliberate targeting and killing of Palestinian children, including post-ceasefire.’ United Nations (UN) Human Rights Commissioner Volker Türk has stated that since the October 2025 ceasefire the Strip remains unsafe with, stating that ‘[t]he unrelenting pattern of killings reflect[ing] continuing disregard for Palestinian lives, enabled by sweeping impunity.’¹ As descendants of those exiled or forcibly displaced during the 1948 Nakba and the 1967 war, the majority of the population in the Gaza Strip displaced since October 2023 are Palestinian refugees under Article 1D of the 1951 Refugee Convention. This blog examines the distinct regime established by Article 1D. It considers how this exception has not only had far-reaching implications for Palestinian refugees but has also become intertwined with Israel's decades-long impunity.

The Article 1D exception

¹ Office of the United Nations High Commissioner for Human Rights, ‘Palestinians across Gaza Unsafe Six Months on from Ceasefire Announcement, Says UN Human Rights Chief’ (Press Release, 10 April 2026) <https://www.ohchr.org/en/press-releases/2026/04/palestinians-across-gaza-unsafe-six-months-ceasefire-announcement-says-turk>



Article 1D of the Convention comprises two clauses; the exclusion and inclusion clauses:

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.²

The ‘exclusion’ clause of the first paragraph of Article 1D,³ excludes Palestinian refugees from the Article 1A(2) ‘well-founded fear of being persecuted’ refugee definition and regime when asylum seekers are under the protection or assistance of ‘other organs or agencies of the United Nations protection or assistance’; referring to The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The second paragraph’s ‘inclusion’ clause, according to the United Nations High Commissioner for Refugees (UNHCR) interpretation, entitles ‘Palestine refugees’ and ‘displaced persons’ to automatic group protection under the convention, thus under UNHCR’s authority, when UNRWA protection has ceased for ‘objective reasons’.⁴ Together the clauses act as a distinctive regime unique to Palestinian refugees.

Article 1D: grounded in the international community’s ‘direct responsibility’

Although ad hoc and nationality-based responses to refugee questions were the norm at the time of Article 1D’s genesis,⁵ the distinction afforded to Palestinian refugees as a collective deserving of special protection should be understood as unique to the United Nations’ (UN) ‘direct responsibility’ for the UN General Assembly (UNGA) Res 181(II) partition plan.⁶ The plan, unwanted and contested by the indigenous Palestinian population, intended two democratic

² *Convention Relating to the Status of Refugees* (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137

³ In alignment with paragraph 7(c) of the United Nations High Commission for Refugees (UNHCR) statute; UNGA Res 428(V) (14 December 1950) UN Doc A/RES/428(V) (*Statute of the Office of the United Nations High Commissioner for Refugees*) para 7(c)

⁴ There are three categories of Palestinian Refugees: Palestine Refugees in the sense of UNGAR 194, 1967 ‘Displaced Persons’ according to UNGAR 2252, and ‘Palestinian Refugees’ (neither 1948 nor 1967 displaced persons, outside oPt unable or unwilling to return due to “well-founded fear of persecution” under the meaning of Article 1(A)(2): Susan M Akram, ‘UNRWA and Palestinian Refugees’ in Elena Fiddian-Qasbiyeh and others (eds), *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford Academic 2014, online edn 4 August 2014) <<https://doi-org.vu-nl.idm.oclc.org/10.1093/oxfordhb/9780199652433.013.0025>>

⁵ Francesca P Albanese and Lex Takkenberg, *Palestinian Refugees in International Law* (2nd edn, Oxford University Press 2020) <<https://doi.org/10.1093/law/9780198784043.001.0001>>.

⁶ UN General Assembly Res 181(II) (29 November 1947) UN Doc A/RES/181(II) (Palestine Plan of Partition with Economic Union).



“Independent Arab and Jewish States”, foresaw equal protection under the law, and prohibited expropriation of land.⁷ The plan also implicitly affirmed the international community’s recognition of Israel’s right to a Jewish State triggering the ensuing Catastrophe or (1948) Nakba.

From 1947 to 1949, between 750,000-900,000 Palestinians (two thirds of the then population) were exiled to the West Bank of Jordan, Gaza, Jordan, Lebanon and Syria and in smaller numbers to Iraq and Egypt.⁸ Following the Nakba, Israel passed ‘laws of nationality’ that denationalised the majority of Palestinians, leading to permanent seizure of Palestinian land and property.⁹ UNGA Res 181 therefore led to “‘independence’ and statehood for [Israel] and [the] subjugation, dispossession, exile, and statelessness for the vast majority of [Palestinians]”. According to UNGA meeting notes, Palestinian refugees were ‘the direct result of a decision taken by the United Nations itself’ and therefore the ‘direct responsibility of the United Nations’. Palestine refugees ‘could not be placed in the general category of refugees without betrayal of that responsibility’.¹⁰ Today, the exiled and forcibly displaced Palestinian population has grown to 7.5 million refugees in the Arab region and 4.5 million Palestinians in the occupied Palestine territory (oPt) - half of which are estimated to be refugees.¹¹

Article 1D: untethered from a durable solution

Recognition of the UN’s part in the 1947-49 war, and its responsibility for the fate of Palestine refugees is further reflected in UNGA Res 194 (III) of 1948. Under this (repeatedly reaffirmed) resolution,¹² Palestine refugees would not fall under the competence of UNHCR, (or predecessor the International Refugee Organization), for the ‘durable solution’ component of protection all other refugees would come to enjoy. Instead, another UN organization, the United Nations

⁷ ‘Right of Return of the Palestinian People - Question of Palestine’ <<https://www.un.org/unispal/document/auto-insert-210170/>> accessed 27 June 2026.

⁸ This population includes those who lived in historic Palestine from the 1st of June to the 15th of May 1948, and includes descendants who lost their residences and livelihood as a result of the (1947-49) war; BADIL Resource Center for Palestinian Residency and Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons 2006–2007* (BADIL Resource Center, June 2007) <https://unispal.un.org/pdfs/Badil_06-07Survey.pdf>

⁹ Susan M. Akram, *Myths and Realities of the Palestinian Refugee Problem: Reframing the Right of Return* (Social Science Research Network, 30 June 2014) <<https://papers.ssrn.com/abstract=2460899>> .

¹⁰ UN General Assembly, 5th Session, 3rd Committee, 328th Meeting (27 November 1950) UN Doc A/C.3/SR.328 <<https://digitallibrary.un.org/record/819334>> para 41.

¹¹ Francesca P Albanese, ‘Palestinian Refugees’ in Vincent Chetail (ed), *Elgar Concise Encyclopedia of Migration and Asylum Law* (Edward Elgar Publishing 2025) <<https://doi.org/10.4337/9781802204155.00074>> accessed 20 June 2026.

¹² ‘(11 December 2000) On the Occasion of the 52nd Anniversary of United Nations General Assembly Resolution 194: The Right of Return - Joint Statement Issued by Palestine Right-of-Return Initiatives in Lebanon, Syria, Jordan, Palestine, Canada-USA, and Lond’ <<https://badil.org/press-releases/2501.html>> accessed 1 July 2026.



Conciliation Committee for Palestine (UNCCP), would be responsible for leading the disputing parties towards a negotiated settlement. This included facilitating ‘the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation’.¹³ In the face of Israel’s refusal to permit Palestinian repatriation, the UNCCP shifted its efforts to maintaining property records to ensure future and proper restitution and compensation. Although legally still in existence, UNRWA’s operations were terminated in 1964, before the 1967 war when the second wave of one million Palestinians were forcibly displaced from the remainder of Mandatory Palestine.¹⁴ Since the mid 1960s, unlike refugees under the Convention’s 1A(2) regime, there is no UN organization legally mandated to pursue any form of durable solution for either group of Palestinian refugees.¹⁵ Although ‘after-the-fact resolutions’ endorse UNRWA in this respect, Palestine’s observer status at the UN, among several other factors, limits UNRWA effectiveness in this regard. This is why several scholars assert a legally untenable protection gap, one that is arguably implicated in the endless protraction of the crisis.¹⁶

Article 1D clause 1: UNRWA and its weaponization by Israel

In 1949, UNGA Res 302 established UNRWA (Art. 1D, clause 1) to provide Palestinian refugees with humanitarian relief tied to UNGA Resolution 194.¹⁷ Two intertwined factors distinguishing UNRWA have long differentially impacted Palestinian refugees. Firstly, the incremental evolution and nature of UNRWA’s work within the oPt and Arab region, and secondly, UNRWA’s vulnerability. In relation to the first point, unlike UNHCR, UNRWA has no enabling statute but instead its legal basis rests on UN resolutions.¹⁸ Since 1964, UNRWA’s work has progressively expanded beyond its initial ‘works’ and ‘direct relief’ to offering broad, essential social services, such as health provisions, large-scale education schemes in the camps, camp improvement, and programmes for microfinance and microenterprise development.¹⁹ Since the first Intifada in the West Bank and Gaza, multiple resolutions have reflected the UNRWA’s self-

¹³ Chapter 1 paragraph 1 UNHCR Statute; ‘Right of Return of the Palestinian People - Question of Palestine’ (n 7).

¹⁴ ‘UNRWA and the Palestinian Refugees: Protecting Refugee Rights While Structurally Addressing the Agency’s Financially Unsustainable Modus Operandi — Refugee Studies Centre’ <<https://www.rsc.ox.ac.uk/publications/unrwa-and-the-palestinian-refugees>> .

¹⁵ Durable solution is defined as either voluntary repatriation (return), host country integration or third country resettlement.

¹⁶ Albanese and Takkenberg (n 5).

¹⁷ UN General Assembly Resolution 302 (IV), Assistance to Palestine Refugees, 8 December 1949, A/RES/302.

¹⁸ Susan M Akram, ‘UNRWA and Palestinian Refugees’ in Elena Fiddian-Qasmiyeh and others (eds), *The Oxford Handbook of Refugee and Forced Migration Studies* (1st edn, Oxford University Press 2014). <<https://doi.org/10.1093/oxfordhb/9780199652433.013.0025>> accessed 7 June 2026.

¹⁹ Akram (n 18).



interpreted, expanding authority toward UNHCR's mandate of protection and assistance, and UNGA's accordance of this. However, this remains without legal basis, leading to a lack of clarity on its legal authority for its much of its operations.²⁰

Several factors compound the aforementioned points and render UNRWA more vulnerable. Both UNRWA and UNHCR rely mostly on voluntary donations which have been subject to growing instrumentalization. However, while UNHCR's donations have grown by 737% since 1990, those of UNRWA have increased by 429%.²¹ Further, UNRWA was only ever established as a temporary body that would cease upon the achievement of a durable solution. On top of this is the perceived non-neutrality of UNRWA which has resulted in the cessation, reduction of and/or conditioned funding. UNRWA is a lifeline for over six million Palestinian refugees, including 3.7 million receiving life-saving emergency aid. The organization employs 30,000 people, the majority of whom are Palestinian refugees, including 13,000 in the Strip.²² Despite its adaptability and resilience, some scholars have argued that UNRWA became a 'Blue State';²³ quasi-government social services that however vital became entwined in the horizonless continuation of the conflict. In this respect UNRWA has performed the obligations of the occupying power under international humanitarian law enabling a climate wherein 'peace became almost equivalent to sustaining the status quo'.²⁴ Such a situation it could be argued further enabled the international community to effectively suspend 'direct responsibility' for millions of Palestinians refugees.

Although initially UNRWA was able to expand its humanitarian assistance due to Israel's acceptance of its operations, since the late 2000s the immense scope of UNRWA's work together with its financial thus operational vulnerability, has allowed Israel to increasingly weaponize the organization.²⁵ Demonization and delegitimization through false allegations have contributed to defunding (pre- and post-October 2023), the imposition of conditions that threaten to transform UNRWA into a security agency, and the obstruction of its operations and service

²⁰ Akram (n 9).

²¹ As of 2022; Frowin Rausis, Maud Bachelet and Philipp Lutz, 'UN Refugee Agencies: Vulnerable Funding Structures and a Looming Legitimacy Crisis' (2024) 74 *Forced Migration Review* <<https://www.fmreview.org/financing-displacement-response/rausis-bachelet-lutz/>>.

²² 'Israel's Ban on UNRWA: A Calculated Attack on Palestinian Refugees' Rights and the UN System' <<https://badil.org/press-releases/15697.html>> .

²³ Referring to the omnipresent UN logo.

²⁴ Alaa Tartir, 'Three Decades and Counting: Assessing the Oslo Accords through a Security Lens' in Riccardo Bocco and Ibrahim Saïd (eds), *De/Colonising Palestine: Contemporary Debates* (Graduate Institute Publications 2025) 73

²⁵ Albanese and Takkenberg (n 5).



provision..²⁶ Israel has not only destroyed educational and health facilities that over 2 million depend on for survival, it has also targeted UNRWA archives that document the Palestinian experience and are essential to any form of restitution in the future.²⁷

Beyond the OpT: protection in neighbouring states

Included in UNRWA's fields of operation are neighbouring Syria, Lebanon, and Jordan.²⁸ In addition, Article 1D also applies to Palestinians displaced or exiled to Egypt and Iraq.²⁹ As much as 1D theoretically implies a coherent protection regime, the reality in the Arab host states looks quite different. Some Arab states, such as Egypt, have not ratified the 1951 Convention and refugees rely on UN resolutions for their status.³⁰ Together with Iraq, Egypt also constitutes one of the two major recipient states wherein UNRWA does not operate.³¹ The legal instrument that theoretically creates more coherence is the [1965 Casablanca Protocol by the League of Arab States \(LAS\)](#), which aimed to standardise the right to work, to leave and return, the issuance of travel documents and to be treated equal to citizens of LAS states.³² However, as a protocol adopted by majority decision, it only is binding upon willing states, and even among those states it has seen inconsistent compliance and practice.³³ With the adoption of LAS Resolution 5093 that subjected the implementation of the protocol to domestic legal discretion, some commentators consider that the 'Arab League has seemingly abandoned its efforts to guarantee minimal legal protection for the Palestinian refugees in the Arab host states.'³⁴ At the very least, Palestinian refugees are dependent on what the norms of a specific state dictate for their status and the rights this entails.³⁵ Jordan, for example, has widely granted Palestinians citizenship, yet some remain without it based on period of arrival and place of origin.³⁶ Without Jordanian nationality, Palestinians have a materially inferior legal status, meaning limited access to essential services such as healthcare, obtaining driving licenses, opening bank accounts and

²⁶ 'Q&A UNRWA Brochure' <<https://badil.org/press-releases/14992.html>> accessed 22 June 2026.

²⁷ Jason Burke, 'The Secret Mission to Rescue the UN's Vital Palestinian Refugee Archive' *The Guardian* (14 May 2026) <<https://www.theguardian.com/world/2026/may/14/secret-mission-palestinian-refugee-archive-unrwa-israel>>

²⁸ The Gaza Strip and the West Bank (including East Jerusalem) are the other two operational geographies.

²⁹ This blog limits its examination to the Arab diaspora.

³⁰ Albanese and Takkenberg (n 5) 244.

³¹ *ibid* 183.

³² League of Arab States, Protocol for the Treatment of Palestinians in Arab States ("Casablanca Protocol") (adopted 11 September 1965).

³³ Albanese and Takkenberg (n5) 190-191.

³⁴ Jalal Al Hussein, 'The Arab States and the Refugee Issue: A Retrospective View' *Israel and the Palestinian Refugees* (2007) 22 <https://doi.org/10.1007/978-3-540-68161-8_17>.

³⁵ Asem Khalil, 'Socioeconomic Rights of Palestinian Refugees in Arab Countries' (2011) 23 *International Journal of Refugee Law* 680, 693 <<https://doi.org/10.1093/ijrl/eer027>>.

³⁶ Albanese and Takkenberg (n 5) 203.



purchasing land.³⁷ Lebanon, on the other hand, has not gone on to grant Palestinian refugees citizenship, still considers them foreigners and treats them as such, with the restricted access to socio-economic rights and benefits this entails.³⁸ Syria was long considered the safest country for Palestinian refugees pre-2011, but the devastating effects of the war have not left this population unscathed either.³⁹

Overall, there is what can be described as a complex ‘matrix, in which legal status is not defined in general and abstract norms, but is largely dependent on contingent conditions related to the kind of Palestinians whose status is being defined.’⁴⁰ In the eyes of some commentators, this unclear and inconsistent regulation of status is the main obstacle to Palestinians obtaining civil rights in these states, especially with regard to residency rights, freedom of movement, employment, property ownership, education and social benefits.⁴¹ As such, ‘[w]hile socio-economic differences exist across Palestinians in exile, and those who have thrived in host communities are all but rare, the large majority has come to constitute a ‘politically, socially, and economically disadvantaged group that has often experienced poverty, discrimination, and, not infrequently, persecution because of their nationality, including in countries where they were initially well received and either legally or de facto integrated.’⁴² Whereas UNHCR pressures states in non-compliant rights situations, UNRWA, although claiming monitoring of non-compliance has no legal authority to do so and is in any case severely constrained by Israel’s systematic attacks of its operations. This means that in the Arab region, Palestinian refugees fall outside of the ‘entire machinery for protection and promotion of their refugee rights’; remaining in indefinite limbo as a matter of refugee law.⁴³

The right of return and a reframing that masked ‘direct responsibility’

No just and durable solution can be considered without the right of return. It is incorrect to suggest that Palestinian refugees’ right to return rests solely on UNGA Res 194, as this right forms part of customary international law.⁴⁴ Nevertheless, in the Palestinian context this right plainly plays an

³⁷ *ibid* 206.

³⁸ *ibid* 208.

³⁹ *ibid* 216, 226.

⁴⁰ Khalil (n 35) 694.

⁴¹ Abbas Shiblak, ‘Residency Status and Civil Rights of Palestinian Refugees in Arab Countries’ (1996) 25 *Journal of Palestine Studies* 36, 39, 42.

⁴² Albanese and Takkenberg (n 5) 184.

⁴³ Akram (n 18).

⁴⁴ ‘Customary IHL - Rule 132. Return of Displaced Persons’ <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule132#Fn_73C5F00_00009>.



extraordinary part in the vicious circle to which refugees have become endlessly bound, and against which they have endlessly resisted. As Bocco, citing Chiller-Glaus, highlighted in 2009;

*“There will be no Israeli-Palestinian peace agreement if the question of refugees remains unresolved, and the question of Palestinian refugees will not be resolved without the concrete prospect of an overall Israeli-Palestinian agreement”.*⁴⁵

Layered onto this is the fact that since the Oslo Accords the concept of international responsibility for Palestinian refugees has fundamentally shifted. Following Oslo, in part due to the various political interests of the international community, the narrative became one of a bilateral crisis rather than a multilateral process tied to a special UN responsibility. Additionally, this bilateral ‘peace-making’ framing further strengthened and sustained the illusion of parity between Palestine and Israel and weakened the imperative of world governments to exert pressure on Israel at the expense of Palestinian refugees’ interests.⁴⁶

Taken individually and collectively, the above arguments demonstrate how Palestinian refugees have been and are now far from the UN’s ‘direct responsibility’ implicit in Article 1D and as understood by its drafters. In the face of Trump’s legally unsound, UN-sanctioned ‘Board of Peace’, international protection including a just and lasting solution for Palestinian refugees risks becoming even more illusory.⁴⁷ As highlighted, it is impossible to consider the question of exiled and displaced Palestinian refugees since 1947 and ongoing as detached from the question of the conflict itself – inclusive of the right of return and self-determination.

Concluding Thoughts

The continued acts of Israel to displace and expel Palestinians have increasingly blurred the distinction between those who are commonly thought of as refugees and those who are not. They represent the only population without a dedicated UN organisation mandated to seek a just and durable solution. Moreover, Palestinian refugees remain without a legally mandated organisation to monitor and promote compliance with their rights. This population, numbering in the millions, remains trapped fighting for survival in war-devastated Gaza, an increasingly

⁴⁵ Bocco (n 24).

⁴⁶ Albanese and Takkenberg (n 5).

⁴⁷ Cate Brown and Aram Roston, ‘Trump’s Board of Peace Plans to Grant Itself Sweeping Immunity, Documents Show’ *The Guardian* (27 June 2026) <<https://www.theguardian.com/law/2026/jun/27/board-of-peace-legal-immunity-un>>.



dangerous West Bank and East Jerusalem, while also experiencing differentiated and insufficient protection in the neighbouring Arab states.

UN actions should represent what Albanese and Takkenberg describe as a paradigm shift to afford ‘meaningful application of the continuity of protection envisaged by the drafters [...]’ and in accordance with international law on stateless persons. World governments are, however, not without the means - or the obligation - to protect Palestinian refugees in the oPt. Israel has repeatedly been found in violation of international law by the ICJ in its advisory opinions concerning Israel's continued illegal practices and presence in the occupied territories, and its obstruction of humanitarian relief, particularly that of UNRWA.⁴⁸

⁴⁸ *Application of the convention on the prevention and punishment of the crime of genocide (South Africa v. Israel)* (Provisional measures, Order of 26 January 2024) I.C.J. Reports 2024, para 54 and conclusion; *Legal consequences from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Advisory Opinion) [2024] ICJ Rep 1 para 265-266; *Obligations of Israel in relation to the presence and activities of the United Nations and other international organizations and third states in and in relation to the occupied Palestine Territory* (Advisory Opinion, 22 October 2025).



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