



At the end of May 2011 Global Policy Forum associate Harpreet Paul interviewed UN Special Rapporteur Richard Falk. Falk is an international law and international relations scholar who taught at Princeton University for forty years. Since 2002 he has lived in Santa Barbara, California, and taught at the local campus of the University of California in Global and International Studies and since 2005 chaired the Board of the Nuclear Age Peace Foundation.

In 2001 Falk served on a United Nations (UN) High Commissioner for Human Rights Inquiry Commission for the Palestinian territories with John Dugard, who was then the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.

In 2008, Falk replaced John Dugard as the Special Rapporteur and has been outspoken in his criticism of Israeli policy in Gaza, the West Bank and the occupied territories. He has called for sustainable peace that realizes the rights of *all* Palestinians, and is broader and deeper than ending the occupation or establishing a Palestinian state.

The interview is split into four sections. Part two covers the UN Fact Finding Mission on the Gaza Conflict (also known as the 'Goldstone Report'), the inability of the UN to enforce the findings contained within this report and the sending of peaceful flotillas to the Gaza Strip. Falk says the UN Secretary General's statements encouraging governments to refrain from allowing flotillas (carrying peaceful humanitarian assistance to be sent to Gaza in order to challenge the Israeli blockade of Gaza) "is to take the side of the unlawful collective punishment of the people of Gaza and to deny civil society the democratic prerogative of non-violent humanitarian solidarity." The interview took place before the Greek Coastal Guard prohibited the US flotilla ("The Audacity of Hope") from embarking on its journey to Gaza at the end of June 2011.

Part 2: Goldstone Report and Civil Society Action

Harpreet Paul: The UN has urged Palestinians (and those that sympathize with the fate of the Palestinian people) not to provoke Israel. What does it mean when, for example, the protests on the Nabka and the sending of peaceful flotillas are seen as acts of provocation by the United Nations rather than legitimate expressions of resistance to occupation?

Richard Falk: I think it exhibits the one sidedness that is so pervasive in the international community with respect to this conflict. That the [UN] Secretary General should use his office and influence to try to persuade governments, including the Mediterranean countries, to not allow peaceful humanitarian assistance to be sent to Gaza to challenge the blockade is to take the side of the unlawful collective punishment of the people of Gaza and to deny civil society the democratic prerogative of non-violent humanitarian solidarity. And, it is notable in relation to this conflict, that it is only civil society that has challenged the unlawful blockade. Governments have been unwilling and unable to do anything. And, whilst the UN itself has criticized the blockade, as have many world leaders, the Israelis' have learned that they can defy international law and world public opinion and suffer no adverse consequences. And, that message is sent over and over again, most notably by Washington. So, it is a very strange unusual situation where this small state, Israel, seems to be manipulating at will a dominant superpower

that is seemingly frozen with fear to challenge [Israel's] policies and yet claims to be the only country capable of mediating the conflict.

Harpreet Paul: Can you talk a little bit more about the blockade in Gaza and also about Operation Cast Lead and the following UN inquiry lead by [Richard] Goldstone and what the implications are of the report in seeking to bring about some level of accountability?

Richard Falk: The Goldstone report is one of the most prominent examples of a UN attempt to hold Israel and its leadership accountable for observing international humanitarian law. Judge Goldstone, who was a South African constitutional judge and a widely respected figure on the international scene (known for his Zionist sympathies), headed a distinguished group of four members who completed a fact finding mission that reached a set of conclusions that were nothing surprising. Lots of investigations had come to the conclusion that Operation Cast Lead (the Israeli attack on Gaza at the end of 2008) violated, flagrantly, a series of fundamental provisions of the Geneva Conventions. What the Goldstone report did was to recommend strongly that those findings be implemented by some effort to hold the perpetrators accountable. It first encouraged Israel and Hamas to do self-investigations and take appropriate action, and, if that failed, then the international community should act. What the United States has done (at Israel's urging) has been to attack the [Goldstone] report and to use its influence within the UN to prevent any implementation of the recommendations.

And so the Goldstone Report, on one level, seems to legitimate civil society initiatives such as "Boycott, Divestment and Sanctions." It lends, I think, indirect support to the freedom flotilla effort to give help to the people of Gaza but it also illustrates the inability of the UN to implement its own very credible conclusions when they run against geo-political strategies. So, you have this improvement in generating an authoritative sense of what international law requires but lacks a capacity to implement its own findings. That implementation, if it is to occur, depends on civil society initiatives such as the Palestinian Solidarity Movement that has been growing on a global level and has been widely regarded, recently, as a sequel to the campaign that was so successful in relation to South Africa in the late 1980's.

Harpreet Paul: Can you talk about the pressure that Israel and the US have put on the UN for it to retract some of its findings in the Goldstone Report?

Richard Falk: I think that what the US, at the urging of Israel, has been doing is to paralyze any effort to carry forward the recommendations of the Goldstone report. It has publically attacked the report as one sided whereas, in reality, a fair reading of the report would suggest that it leaned over backwards in several crucial respects to give Israel the benefit of doubt. First of all by placing undue emphasis on what Hamas was doing in a situation where they were being subjected to a very one sided attack and where they had almost no capacity to defend themselves. It is not that their violation should have gone unnoticed. But, in the setting of operation Cast Lead and looking at the casualty ratios, it is clear that Israel was using its superior military capabilities against an essentially defenseless Gazan population. And, in addition to that, there has been a sense that somehow pushing the accountability agenda would interfere with the prospects for negotiations and a diplomatic solution. This has always been used as an argument by Israel and the United States to insulate Israel from criticism about its unlawful policies. So we see a continuation of that pressure within the UN system that is often not very visible. Occasionally it surfaces in public statements but the main pressure is brought to bear behind scenes. It is expressed by the effort of the Secretary General to discourage governments from allowing ships to join the anticipated second freedom flotilla that's supposed to head for Gaza at the end of June and which could provoke a new kind of confrontation with Turkey and others that are countries that have refused to use their governmental authority to prevent such humanitarian assistance.

[Editor's note: At the end of June 2011, the Greek Coastal Guard prohibited the US flotilla "The Audacity of Hope" from leaving the harbor. The Greek authorities allege that the flotilla experienced technical problems and so it was unsafe for it to sail. Allegations of deliberate sabotage have been made.]

Harpreet Paul: You talked a little bit about the UN's inability to enforce its findings. How do you think the lack of an enforcement mechanism within the UN impacts upon its legitimacy?

Richard Falk: I think it's a definite limitation of the role and authority and legitimacy of the UN. At the same time, it is important to appreciate that the UN's symbolic role on issues of this type is extremely important. In other words, even if the UN cannot enforce the Goldstone report, or refuses to enforce it, it is still an authoritative judgment as to the unlawfulness of what Israel did. It has the effect of re-enforcing initiatives by individuals and civil society organizations, NGOs and others that feel more empowered to take action in light of the failure of the UN and the inter-governmental system to implement these dimensions of international law.
