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 three looks at the relationship between the US and the UN, the ‘Responsibility to Protect Doctrine’ and the rule of law. Permanent membership and veto powers within the UN Security Council for China, Russia, US, UK and France allow such countries to further their own geo-strategic politics.

---

**Part 3: US – UN Relationship**

**Harpreet Paul:** The UN and the International Court of Justice as well as the European Union have commented on the illegality of the settlements that Israel has continued to develop on the occupied territories, but the US vetoed a UN resolution earlier this year – in February – that would have reflected the International Court of Justice, the UN and the EU position on the illegality of the settlements. What has been the relationship between the US and the United Nations in seeking to bringing about a just or a more peaceful solution to the conflict?

**Richard Falk:** I think the essential US position (regardless of the president or the leadership) has been to suggest that only a negotiated settlement agreement between the parties could produce a sustainable peace. Therefore, they [the US] have viewed any UN initiative based on trying to make Israel comply with international law as somehow inconsistent with that vision of the appropriate path to peace and have, therefore, opposed any independent assessments of Israeli behavior. That, in effect, has given Israel a green light to continue to defy international law – which they have done repeatedly and flagrantly perhaps most dramatically by maintaining an unlawful blockade on the 1.5 million people living in Gaza. This is a blockade that has been maintained ever since 2007 and is a very explicit form of collective punishment that is unconditionally prohibited by Article 33 of the Fourth Geneva Convention. Israel has defied international law also by attacking the so called ‘Freedom Flotilla’ on May 31\textsuperscript{st} 2010 in international waters using excessive violence and also trying to enforce this unlawful blockade.
So, with the United States (despite the President continuing often to say how committed the country is to the rule of law and how different it is from the Bush presidency), if you look at it from the point of this conflict, there is perfect continuity in unconditionally supporting Israel and being one sided in every significant respect with regard to the diplomacy connected to the conflict.

**Harpreet Paul:** Legal scholars such as yourself and Marjorie Cohn have spoken out against the inconsistent way in which international law is applied - most recently in relation to the “Responsibility to Protect” doctrine. I wondered if you could speak a little about that.

**Richard Falk:** It’s a very important issue and is hard to understand without an appreciation that the rule of law depends, for its legitimacy, on treating equals equally. If equals are treated unequally then what is called the rule of law is really just another version of the rule of power. What is very notable in this conflict and in relation to a doctrine like “R2P” (or “Responsibility to Protect”) is the reliance on double standards – that is, using the norms of international law when they correspond to geo-political interests and neglecting them when they contradict geo-political positions. And, nothing illustrates that better in recent times than the enthusiasm for humanitarian intervention in relation to the Libyan conflict (even though that seems like a civil war), versus the absolute silence relating to the vulnerability and suffering that the people of Gaza have experienced over a four year period of unlawful blockade and bad water, insufficient electricity, insufficient medical supplies - barely subsistence living. There is a situation where one would think it was the poster child of the rational for a “Responsibility to Protect” being vested in the international community. Particularly in relation to occupied Palestine which is in some sense a legacy of the failure of the UN to solve this conflict way back at the end of World War Two.

**Harpreet Paul:** What does it mean for the legitimacy of the UN if doctrines like “Responsibility to Protect” are applied inconsistently or used further geo-strategic political goals rather than to do as the name of the doctrine suggests - to protect all civilians?

**Richard Falk:** I think it re-enforces the sense that the UN in some situations – not in all situations – is an instrument of great power politics rather than an alternative to it. I think when the UN was established and the Charter was agreed upon, the notion that was widely prevalent and hoped for was that there would be a framework of law and behavior that would apply to all states – the strong as well as the weak. Of course, there’s some ambiguity in the UN system. Especially in the Security Council where the five permanent members [China, Russia, US, UK and France] – essentially the winners in World War Two – were given a power of veto and permanent membership which means, in effect, that they only have to obey the Charter when they wish to. It [compliance to the rule of law] is discretionary for them and obligatory for every other member of the UN. This is a kind of constitutional recognition of double standards. One can say it is either a realistic accommodation to geo-politics or it shows that you should never have expected the rule of law to apply on a global level within the UN framework.