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. In Part Four Richard Falk suggests that there is no legitimate peace process, discusses the impending unilateral declaration of Palestinian statehood, expected in September 2011, and outlines his hopes for the future.

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**Part 4: Statehood and the Future**

**Harpreet Paul:** What do you make of the recent discussions of returning to the 1967 borders with agreed land swaps?

**Richard Falk:** I think it’s a strange kind of controversy. In one way, reaffirming the 1967 borders with agreed land swaps should have been nothing new – it is in the UN Security Council resolution 242 that goes back to 1967. The clarification that President Obama made when he spoke to AIPAC [the American Israel Public Affairs Committee] and others was that Israeli’s could pursue not only their settlement blocks (through land swaps) but could also demand certain kinds of territory for security purposes. This means a great deal of encroachment on the remnant of historic Palestine that is available for a Palestinian state. So, I view this whole emphasis on the territorial nature of the relationship of the two countries as a gigantic diversion from a clear Israeli diplomatic and nationalist consensus that does not really want to transform the status quo. Israeli objections to the original Obama speech at the State Department (where he enunciated his support for the 1967 borders, subject to land swaps), I think, was just an attempt to make the prospect of negotiations untenable - untenable to the Palestinians and undesirable from the perspective of the Israeli’s.

**Harpreet Paul:** The president of the Palestinian National Authority, Mahmoud Abbas, has that he will make a unilateral declaration of Palestinian statehood at the United Nations this September [2011]. What do you think this would mean for the peace process, particularly as the US has said that it would prefer a negotiated peace settlement and would vote against any resolution emerging from Palestine’s declaration at the UN? And what does it mean for the future of the peace process and the US’ diplomatic role within it?
Richard Falk: I would say first of all that there is no credible peace process - it is a diversion from an Israeli apparent resolve to continue the status quo while expanding the settlements, altering the demographic make-up of East Jerusalem, making it more difficult for Palestinians to live there and more desirable for Jews to move there. This dynamic which has been converted into a claim that these are facts on the ground that must be taken into account in any peace negotiation, actually, is a way of constantly whittling away at the Palestinian prospects for self-determination in the form of a distinct Palestinian sovereign, independent state. And indeed, more and more people, I think, have come to the conclusion that the ‘two-states consensus’ is no longer a credible conception of a sustainable and just peace. And, that only a single state (that was premised on secular principles and respected the fundamental rights of both peoples) would have any prospect of resolving the conflict in a manner that was just and sustainable and so one has to put a great emphasis on that fundamental circumstance.

The Palestinians, if anything, have been too patient and too willing to accept the role of Israel’s leading supporter and ally as a mediating diplomatic force. The move to the UN to seek recognition of Palestinian statehood and ideally membership in the UN is, it seems to me, a belated gesture of frustration with the obvious failure of direct negotiations which have been tried over and over again during the course of the past twenty years. The UN has made a unanimous Security Council resolution (all the way back in 1967) calling on Israel to withdraw from the territory it occupied during that Six Day War. So I feel that the Palestinian move to acting outside this phony peace process is, at least, recognition of two things. One is that there is no genuine peace process. The Israeli’s are not interested in negotiating an outcome that would provide the Palestinians with a viable independent state. Secondly, going to the UN in this way is finally an indirect expression of a loss of confidence in any constructive US role in the process. I think that those are both important.

What flows from the effort at the UN is unclear and difficult to predict. It will have a mobilizing effect, I believe, on public opinion – especially in Europe. It could have some legal consequences if the statehood of Palestine was acknowledged and the continued unlawful occupation was confirmed, it would further undermine the legitimacy, not of Israel as a state, but of Israel as an occupying power. I think that would be significant.

Harpreet Paul: What would be the next steps in trying to ensure security, accountability, human rights and dignity for the Palestinian people following a unilateral declaration of Palestinian statehood at the United Nations?

Richard Falk: I think one has to wait to see how that plays out. But I think a logical step would be to either try to have the International Court of Justice again pronounce on the legal consequences of UN General Assembly recognition of Palestinian statehood, or to try to invoke the authority of the International Criminal Court [ICC]. Although the jurisdictional authority [of the ICC] is limited to events that take place after membership in it has been established by adhering to the treaty. So, I’m not sure how relevant that would be. And then I think there would be an intensification of civil society initiatives along the lines of the movement that was so effective against South African apartheid in the 1980s.

Harpreet Paul: Thank you very much for your time Richard. I’d like to conclude by asking you what your concerns and hopes are for the long term and immediate future for people in the region.

Richard Falk: I think that developments in the region, particularly in Egypt, are generally hopeful in relation to the Palestinian struggle. The Arab Spring is one where the basic popular energies definitely moved in the direction of the democratization of the political arrangements existing in these various countries. The outcomes, it is clear, remain quite uncertain, including in Egypt. But, what is clear is that these governments - to restore any kind of stability - will have to make substantial concessions to these democratic forces. And, one of the concerns of the democratic forces is a more committed attitude towards helping the Palestinians gain some kind of peaceful and just solution to the conflict. This has already been expressed, to a degree, by the Egyptian government’s announced opening of the Rafah crossing – which allows a certain number of Gazans’ (who can go back and forth) with limited freedom of mobility. It does not ease the blockade in so far as its prohibition on exports from Gaza or
imports of needed reconstruction materials as well as food and medicine and fuel. So the situation seems rather poor in the short run. There is no indication that the present Israeli government (which is a rather extremist form of political Zionism controlling the policies of Israel at the present time) will alter in their stance to any significant degree. Further, there is no indication that US support for this government will diminish to any significant degree. So, I think the Palestinians have to hope for a longer term build-up of pressure on Israel to alter the way in which it views its own security and its own future. Israel really will have to have a South African “moment of truth” where it faces, in a more realistic way, what the alternatives are that confront it. Hopefully there will be some kind of unanticipated transformation in the Israeli outlook - which will then have an effect on Washington. In meantime, I think the Palestinians are pinning their hopes on what I would call [a] legitimacy war. They are trying to mobilize global support and pursue the BDS (“Boycott, Divestment and Sanctions”) campaign [against Israel] and mobilize other civil society initiatives, continue to exert what pressure is possible within the UN system and to continue to hope that public opinion, and a more a vigilant regional atmosphere with respect to the conflict, will have some tangible political results. But these are hard to anticipate at the present time. In the meantime the ordeal of the occupation and the continued confinement to refugee camps tragically goes on whilst the rest of the world watches.