

Rethinking Foreign Occupation, an Interview with Richard Falk

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Richard Falk is Albert G. Milbank Professor Emeritus of International Law at Princeton University and Visiting Distinguished Professor in Global and International Studies at the University of California, Santa Barbara. He is also the United Nations Special Rapporteur on Palestinian human rights.

In 2001, he served on a three person Human Rights Inquiry Commission for the Palestine Territories that was appointed by the United Nations, and previously, on the Independent International Commission on Kosovo. He serves as Chair of the Nuclear Age Peace Foundation's Board of Directors and as honorary vice president of the American Society of International Law. Falk also acted as counsel to Ethiopia and Liberia in the Southwest Africa Case before the International Court of Justice. In March 2008, the United Nations Human Rights Council appointed Falk to a six-year term as a UN Special Rapporteur on Palestinian human rights.

I propose that we begin with events in the Middle East, which in the minds of many has become synonymous with conflict. Hardly a day goes by without some conflict in the Middle East dominating the headlines. Why is the Middle East so conflict prone and why is it that what happens there appears to have global resonance?

The focus on the Middle East reflects the convergence of several historical factors that attained prominence after the end of the Cold War, which had established a kind of uneasy balance in the region. Up until that point, Europe was the preoccupation of the grand strategy of dominant states, the scene of the two world wars and the feared context of World War III.

With the Soviet collapse and American uncontested global dominance, attention shifted to the Middle East for several reasons: the growing anxiety about ensuring

access for the West to the energy resources of the region, stemming the tide of political Islam, establishing a friendly neighbourhood for Israel to uphold its long-term security, and making sure that nuclear weapons do not fall under the control of anti-Western forces.

The end of the Cold War also exposed the unnaturalness of several of the states in the region that were artificial colonial creations of Britain and France. A further irritant was the failure to find a solution for the Palestine/Israel conflict. Many Middle Eastern states saw Israel was a remnant of the colonial era, as well as a late colonial attempt to offset the failure to protect Jews from Nazi genocide at the expense of the Arab world. In the recent period, these ideas culminated in the Iraqi invasion of Kuwait in 1990 followed by the First Gulf War the following year that restored Kuwaiti sovereignty and imposed punitive sanctions on Iraq that caused many civilian deaths, creating bad will toward the United States in the region.

This bad will was also generated by the extent to which Washington was seen as encouraging authoritarian and repressive governments throughout the region whose elites were willing participants in predatory forms of neoliberal globalization. The election of George W. Bush in 2000 further accentuated the tendency to shift strategic attention to the Middle East, as acknowledged in the neoconservative pre-election blueprint of a grand strategy prepared by the Project for a New American Century, the work of many of the new president's closest advisors.

The turbulence of the region was also greatly intensified by the 9/11 attacks and the American led response, which directly led to the invasion and occupation of Iraq in 2003. In response to these developments, the Arab upheavals since 2011 both challenged domestic authoritarianism and submission to the neoliberal world economy. As of 2013 the aftermath of the revolts have caused a variety of severe unresolved problems throughout the region, with the still unresolved situation in Syria, the most serious, involving a mixture of civil war, regional proxy war, and extra-regional confrontation between the United States and Russia. Also, simmering in the background is the threat of military action associated with Iran's nuclear program.

In sum, the region is beset by a variety of overlapping patterns of conflict that threaten to turn the entire region into a war zone.

We seem to have reached an impasse, with tensions in the region multiplying, new conflicts emerging and older conflicts no closer to resolution. The classic case is the Israeli-Palestinian conflict. Why is it that after so many years and so many

attempts at negotiation the two-state solution appears as far removed from reality as it has ever been?

One explanation for this impasse is that both sides claim the totality of the land, and despite adopting diplomatic positions that look toward compromise and reconciliation, behave as if maximalist goals are attainable. The conflict is further complicated by its dynamic of inequality, with Israel in control, and Palestine subjugated. Israel is particularly clear about this unwillingness to share equitably sovereign control over historic Palestine by way of either a two-state solution or a single secular state with equality for all. Its expansion of the settlements since 1967 when the occupation of the West Bank commenced along with the annexation of East Jerusalem, the later construction of a separation wall in occupied Palestine, and the Jewish invocation of claims of biblical entitlement all move in the direction of absorbing Palestine to the extent feasible.

Israel from the outset relied on its military capabilities to consolidate its political gains and achieve security in a hostile Arab neighborhood. At this stage, since 1988, but not earlier, most of the Palestinian leadership and people seem more prepared to accept a territorial compromise based on 1967 borders, but such an outcome now would require Israel to dismantle the settlements and the wall, allow East Jerusalem to serve as the capital of Palestine, permit Palestinians who fled or were expelled in 1948, the *nakba*, and 1967, the *naksa*, some exercise of their right of return, and cease diverting water from Palestinian aquifers.

What appears to be the case, at present, is an evolving status quo that continuously diminishes Palestinian prospects, is not subject to reversal by diplomacy, and is thus incompatible with any prospect of a sustainable and just peace based on 'two states.' Such a conclusion is reinforced by the US Government's unconditional support for Israel that removes any real pressure on Tel Aviv to allow a Palestinian sovereign state to emerge.

It is often also contended by Israel that the Palestinian side is split between the forces loyal to Fatah and those aligned with Hamas, a division accentuated by the ways in which the Palestinian Authority operates in the West Bank and Hamas in Gaza, making negotiations pointless, and their outcomes unlikely to be accepted by the Palestinian people as a whole. Efforts underway to achieve Palestinian unity have yet to show much promise, and even if successful, are unlikely to have the leverage to challenge Israel's continuous accumulation of facts on the ground that increasingly give what was supposed to be a temporary occupation in 1967 an aura of permanence. At the same time, prospects for peace in the Middle East are clearly dependent on finding a solution to this conflict above all others. In essence,

from a political standpoint, a peaceful resolution of the Israel/Palestine conflict is *necessary but impossible*.

Who, in your view, is able to exercise meaningful leverage in the Israeli-Palestinian conflict? Is any government – in the region or outside the region – capable of taking initiatives that can advance the prospect of a just settlement? Is the UN largely irrelevant? Is civil society – in or outside the region – able to play a constructive role?

Obviously, the United States has the most leverage in relation to the conflict, but because it is so strongly aligned with Israel, it has not been able to serve as a credible force for reconciliation. Instead, it has tended to ratify Israel's violation of Palestinian fundamental rights under international law during this period of prolonged occupation and has encouraged 'a peace process' that is increasingly seen as not only futile, but as enabling Israel to pursue its version of a 'one state' solution by gradually consolidating its grip on the West Bank and East Jerusalem, while squeezing the Gaza Strip by way of an unlawful blockade maintained over the course of the past six years.

It is also possible that if the Arab states in the neighborhood devoted more energy and resources to their support of the Palestinian struggle, it might change the calculus in Israel, especially if combined with the pressures exerted by the global solidarity movement supportive of the Palestinian struggle.

This dynamic is also true in relation to the European Union. In most respects, Israel conceives of itself as 'European' rather than 'Asian' or 'Middle Eastern,' and would be influenced by more pressure to reach a just solution that emanated from Europe. Unfortunately, this is not likely to happen as Europe is both subject to American influence and is inhibited by its own memories of complicity with the Holocaust that make any serious challenge to Israel politically unacceptable.

The best international hope for conflict transforming leverage is associated with the growing global solidarity movement that is supportive of Palestinian aspirations for a just peace, and is given prominence by a robust civil society campaign to encourage divestment, boycott, and sanctions (BDS), modelled on the global anti-apartheid campaign that contributed to the collapse of the racist regime in South Africa.

Increasingly, the Palestinian forms of resistance have shifted their emphasis, at least for the present, away from armed resistance to soft power tactics premised on law and morality, what I have called 'a legitimacy war' that is altering the global

climate of opinion in support of the Palestinians. Whether this shift will produce its intended political results is not clear.

It is notable that in the various decolonization struggles, the most stubborn were the instances of settler colonialism, but in the end the calculus of power shifted toward the weaker side as measured by hard power benchmarks of weaponry and lethal capabilities unless the settlers exterminated native resistance as in Argentina, United States, and Australia. In the South African case, for instance, the anti-apartheid movement led the Afrikaaner elite to recalculate their options, and settle for keeping their economic privileges while giving up their political control and ideological claims of racial superiority. The totally unexpected announcement of the release of Nelson Mandela from prison after 27 years was a dramatic signal of a change of head and heart that reflected a realization in the South African elite that the balance of forces globally was shifting against the South African status quo. My fervent hope is that this will happen in Israel in the not too distant future, but if it occurs, it will come about as a completely unexpected development.

It would be fair to say that in just about every conflict in the Middle East the United States has played a key role, whether through action or inaction. What do you see as the main drivers of US policy?

There is no single driver of American foreign policy, although there has been bipartisan consistency in relation to Israel, reflecting a convergence of domestic pressures associated with the most effective lobbying group in U.S. history – AIPAC – and regional strategic thinking, especially after the Israel victory in the 1967 War, that Israel is a useful ally in the pursuit of American regional interests.

There persists a disagreement as between those who insist that the pro-Israel politics are consistent with American national interests in the Middle East, and those who argue, as have John Mearsheimer and Steven Walt, that the U.S. alignment with Israel distorts the pursuit of national interests. From time to time foreign policy tensions are created for Washington due to its multiple commitments in the region, as surfaced recently in the effort to heal the rift between its two most significant regional allies Turkey and Israel.

Aside from these strategic alignments, other American interests in the region that have remain rather fixed over time are the safeguarding of access to Gulf oil for Western purchase at affordable prices, discouragement of any further proliferation of nuclear weapons in the region along with a revealing refusal to criticize Israel's covert acquisition and development of nuclear weapons, and the containment of

the spread of radical Islam. The United States also expresses support for moves toward democratization and human rights, provided strategic relations are not disrupted, and selectively expresses concern about abuse of human rights and crimes against humanity. The regimes of Assad's Syria and Qaddafi's Libya were seriously criticized for their abuses, while Bahrain, Saudi Arabia, and Israel are generally exempt from any comparable scrutiny. The failed attack and occupation of Iraq has created some reluctance on the part of the Obama presidency to pursue further interventionary options in the region, although the US Government championed the NATO intervention in Libya in 2011 and has pushed hard for UN authorization of uses of force on behalf of the Syrian insurgency.

In summary, American seeks above all to support Israel, to insure that oil supplies keep flowing, avoid nuclear weapons falling into hostile hands, contain the influence of Iran, and hope for the best in relation to the Arab countries that are continuing the process of upheaval that followed from the extraordinary Arab Spring, with a special concern for the deepening polarization in Egypt between the governing Muslim Brotherhood and the secular forces in opposition.

Many had expected or hoped that the Obama Administration would bring about a significant change of direction in US foreign policy. What is your assessment six months after Obama's re-election? Do US presidents make foreign policy, or are they constrained by having to operate within a complex state apparatus over which they have relatively little control?

On the general question, American presidents have some discretion, which varies depending on the strength of the electoral mandate, the makeup of Congress, the condition of public opinion, the approach taken by the opposition. On some issues, Obama has made a difference, e.g. hastening the pace of ending US combat roles in Iraq and Afghanistan, a sensible reluctance to get drawn into the war in Syria or to attack Iran's nuclear facilities. Although Bush's electoral mandate was weak in 2000, the aftermath of the 9/11 attacks gave his presidency broad discretion with respect to foreign policy in the region, as exemplified by launching an aggressive war of choice against Iraq in 2003. Oddly, Bush had less discretion in his second term because his earlier policies were not working, and he provocatively tried to reform social security, and the domestic economy began to slide.

Obama started rather bravely with his 2009 Prague speech expressing a commitment to a world without nuclear weapons and his Cairo talk proposing a new approach to the Middle East and the Islamic world, as well as a somewhat more balanced approach to Palestinian/Israeli issues. Yet disappointment followed soon: escalating the involvement in Afghanistan, retreating from his initial

insistence that Israel suspend settlement expansion, appointing advisors that were comfortable with the foreign policy status quo as inherited from Bush.

I believe that the hope for a more forthcoming Obama in his second term are also unfounded despite his somewhat encouraging emphasis on boldly meeting the challenge of climate change in his Second Inaugural Address. On some issues, the structural forces are very strong: defence budget, support for Israel, neoliberal policy priorities. The Obama presidency has been particularly disappointing on a range of policies associated with the use of force and civil liberties at home, including a greatly expanded use of attack drones, a vindictive approach to whistle blowers who expose U.S. war crimes, an embrace of secrecy far beyond the reasonable requirements of security, and a record of unprecedented use of surveillance technology in relation to citizens and foreign diplomatic activity.

Obama campaigned, especially in 2008, as if the American people, and especially the young, were his main constituency, but since coming to the White House he has followed the Beltway Rules relating to governing, which includes responsiveness to the lobbying priorities that are so influential in Congress. To be sure, Obama has had the disadvantage of a polarized, right-wing populist, anti-government opposition that is able to block most legislative initiatives, and fights his every move directed toward peace or justice.

And so America is in the grip of a weak, yet belligerent, presidency and an irresponsible opposition, as well as an entrenched and militarized bureaucracy that is both a legacy of the Cold War and an opportunistic reaction to 9/11 that imperils American political democracy and world peace in the name of national security. Obama's escalating reliance on drone warfare, despite evidence that it is generating deep resentment almost everywhere, is emblematic of the inability of the United States to accept either the constraints of international law or the prudent inhibitions associated with not doing unto others what you would not accept if done unto you.

How do you assess the long-term consequences of Iraq, Afghanistan and Libya? Has the United States learnt any enduring lessons or does it remain addicted to military interventionism?

The US Government, ever since Vietnam, learns some tactical lessons from each of its war, but not the essential lesson that military intervention in the global South rarely succeeds, despite battlefield dominance and the capacity to devastate the target country. The American leadership refuses to understand why it can win every battle and still lose a war. As the Afghan proverb puts it: 'you have the

watches, we have the time.’

The lessons that are learned have to do with war fighting, media control, and managing public opinion on the homefront; also pursuing a military capability that does not depend on drafting middle class Americans and technology that kills the other without much risk of casualties, pursuing the ideal of ‘zero casualty wars.’ This works if the conflict is a conventional military encounter as was the case for the First Gulf War of 1981 in which the superior military capabilities of the United States and its allies quickly overwhelmed the defensive forces of Iraq in a desert setting. In this respect, the attack drone is the perfect weapon, but as the outcome in Afghanistan shows clearly, despite more than 12 years of intervention, Washington is hoping to end the conflict through negotiations between the Karzai government and the Taliban! It might have had such a result, with a better political outcome and far less death and destruction, back in 2002 or 2003, had it shown such flexibility at that time of thirsting for all out victory.

Washington did exhibit a reluctance to undertake a full-fledged regime-changing intervention in Libya, assigning France and Britain under a NATO flag, to do most of the dirty work, engaging ambivalently by ‘leading from behind.’ Of course, the Republicans chided the Obama presidency for such geopolitical timidity insisting on bombing Syria and confronting Iran. As far as I can tell, the essential lesson of respecting the dynamics of self-determination in the post-colonial era has not been learned by American policy makers and leaders, and so the cycle of failed interventionary diplomacy is likely to repeat itself, but increasingly by relying on robots to fight in place of armies, which is hardly an encouraging prospect.

The United States is counting on ‘American exceptionalism’ that permits to act and not be acted upon; it has no evident worry that others might engage in similar tactics with similar technology, but by its abandonment of international law to conduct a war without borders it is creating a devastating future for humanity. From such a perspective world order is understood in hegemonic terms of imposed power and authority, and not the Westphalian idea of inter-state mutuality.

Do you think that the system of sovereign states as presently constructed is capable of addressing the unresolved conflicts in the Middle East or, for that matter, the many other political, economic and environmental challenges confronting humanity? If not, do we have other plausible ways of moving forward? From where you sit at this moment in history, how should we view the future prospects of the United Nations?

Putting the issue in its simplest form, perhaps too schematically, it seems as if

problems of global scope depend on problem-solving mechanisms that are geared to promote the human interest, but that for the most serious world order challenges the policy responses reflect the primacy of national interests, or in security contexts reflect hegemonic structures.

The failure to eliminate nuclear weapons or to address the challenge of global warming are illustrative of the inability of a world order premised on either the autonomy of sovereign states or the hegemony of dominant actors to fashion solutions that benefit humanity as a whole, including future generations.

I think that territorially based conflicts do get eventually solved, but often unjustly and tragically as has been the case in relation to the fate of native peoples throughout most of the world. Deep conflicts end either when neither side believes it can prevail or when one side decisively destroys the other, that is, either stalemate or extermination are the endpoints for all conflicts, but in between a conflict can go on and on for generations. The UN has a limited role in resolving such conflicts unless it becomes convenient for major states to dump a problem. The UN is subordinated to geopolitical forces by the voting rules in the Security Council, IMF, and World Bank, while in its other institutional settings it reflects the Westphalian framework of world order based on the interplay of sovereign states pursuing their national interests.

There is always the possibility that civil society will suddenly erupt, creating new political horizons of opportunity. We cannot discern the future well enough to be pessimistic, or for that matter, optimistic, and so the unavoidable uncertainty about what might happen that is not now anticipated, makes us responsible for seeking the future we believe in. Although a benevolent future seems highly unlikely given present trends, structures, and prevailing policy priorities, the impossible happens, and it could enable positive steps to be taken. I would recommend adopting an outlook that affirms 'a politics of impossibility' that is given concrete shape by 'horizons of desire.' Whether the impossible is benevolent or not depends in large part upon how we as members of the 'multitude' engage with the forces of history and go forth into the lifeworld, thus departing from the delusional serene safety of the ivory tower.