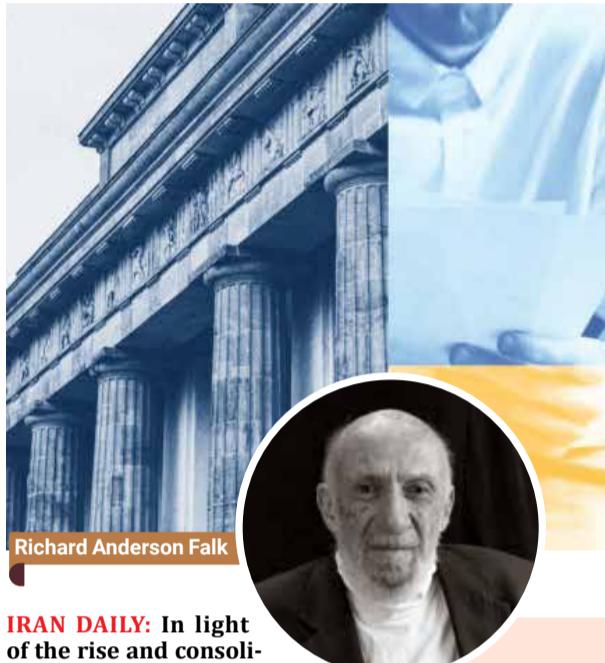


Global justice in 21st century

Geopolitical obstacles to int'l law enforcement



Richard Anderson Falk

IRAN DAILY: In light of the rise and consolidation of far-right and nationalist movements — such as the Trump phenomenon in the United States and similar trends in Europe and elsewhere — how do you assess the current status of international law within the emerging global order? Would you say that international law is increasingly retreating in the face of power politics?

FALK: International law is definitely being marginalized in contemporary international relations by the rise of ultra-nationalist political leaders and authoritarian governments. This negative trend is making a severe impact on political consciousness as a result of the adoption and revival of an imperial foreign policy by the US under Trump, although the pragmatic use or neglect of international law in the management of global security preceded Trump and can be traced back to 1945 when the winners of World War II became self-anointed as the architects of "a new world order," a role most prominently associated with the design and establishment of the United Nations.

It is notable that the UN Charter designated the Security Council as the only political organ of the new Organization that was provided with the legal authority to reach obligatory decisions binding on sovereign states. Most significantly, it refused to allow international law or ensure democratic representation of the non-West to control outcomes in the Security Council in the face of opposition of even one of the five winners of World War II, which were given permanent representation, while other member states were selected on a term basis.

The role of international law was curtailed by acceding these five winners in 1945 not only permanent SC membership but more significantly a right of veto. This meant that if a breach of international law was to be dealt with even by a majority vote of 14-1, it would still fail, and have no legal effect if the lone dissenting vote was one the P5, which not only crippled the role of the SC in relation to geopolitical rivalry, as during the Cold War, but was highly undemocratic if evaluated from demographic perspectives.

This absence of democracy was also present in the internal makeup of the P5 giving the US, France, and the UK great power status in the form of SC permanent membership and the veto, and excluding such Global South great powers as India, Indonesia, Nigeria, and Brazil, creating an everlasting Western dominance in the SC, including a right of each P5 member to block any effort to reform the SC because all amendments of the Charter were nullified unless it had the support of all five. The net result of the Security Council's

extensive role has been to subordinate the UN to the P5, ensuring that the management of global security — including war prevention and genocide intervention — reflects geopolitical primacy rather than the universal rule of law. In this dynamic, strategic interests of the powerful trump the regulative principles that should possess universal applicability and govern the strong and weak alike.

This AI illustration shows a large silhouette of a man towering over a session of the United Nations Security Council.

It is a mistake to think that the whole enterprise of international law is failing. International law works effectively in any substantive setting in which there exists a mutual interest in its applicability. The routines of international life, including most commerce and trade relations, air and maritime safety, communications, tourism, and diplomatic representation, are complied with because the logic of reciprocity is operative. This is not true in domains of behavior such as armed conflict, in which differentials of hard power determine political outcomes and uphold strategic interests and reflect the ambitions of the powerful.

In these latter contexts, international law has long been marginalized by design, leaving the management of global security to the discretion of the geopolitical actors for any given issue involving the implementation of international law, as the disappointing UN response to the recent Gaza genocide illustrated.

Do you believe that the era in which international law functioned as a normative framework capable of restraining state power is coming to an end? If so, what kind of alternative global order



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INTERVIEW

on November 13, 1930, in New York. He taught at Princeton University for more than three decades until he retired as a professor of International Law. Falk began his academic studies in economics at the Wharton School, later earning his law degree from Yale University and a doctorate in law from Harvard University — an academic trajectory that consolidated his standing as a major theorist of world order. His early intellectual formation was influenced by thinkers such as Karl Marx, Herbert Marcuse, and C. Wright Mills; an influence reflected in his critical approach to power, capitalism, militarism, and structures of global domination. Falk has consistently sought to bridge scholarly inquiry and moral commitment, employing international law as an instrument to restrain war and injustice. He is the author and editor of dozens of books on international law and the United Nations. In 2008, the United Nations Human Rights Council appointed him Special Rapporteur on the situation of human rights in the occupied Palestinian territories. Falk has been a steadfast critic of military interventionism and an advocate for strengthening global accountability, international justice, and a transition toward a more humane world order. Richard Falk is currently 96 years old, and, over the past decades, has devoted considerable effort to the prevention of war. In our conversation, I sought to explore the relationship between politics and international law, as well as the state of global justice in light of the rise of far-right movements across much of the world, particularly in the United States.

Whether this discouraging character of international relations will change in light of the Gaza genocide, aggressive uses of force, extreme violations of human rights, and ecological instability is impossible to predict, although it seems unlikely in the present atmosphere. The antics of Trump's narcissistic geopolitics are generating a tidal wave of anxiety about the human future, as well as bearing witness to the



selectively and within the limits set by those domains of international life where reciprocity prevailed, and differentials in power and wealth were minimized, as in international trade and investment compared to the colonial era.

The experience with nuclear weapons is illustrative of this pattern of marginalizing international law despite the risks of leaving the use of this apocalyptic weaponry of mass destruction entirely under the control of the most dangerous geopolitical actors. Rather than favoring denuclearization and disarmament, the same five winners in 1945 continued to leave this weaponry essentially unregulated, except to the extent of seeking maximum control over the spread of the weapons to other states. The result has been costly arms races, dangerous crises, abetted by a scheme of deterrence plus nonproliferation, with a resulting nuclear hegemony. If ever there was a basis for universal rule governance, it was with respect to nuclear weaponry, but it could not overcome the ideology of "political realism" that dominated the thinking of foreign policy elites of the major states and was systematically opposed to accepting any arrangements that restricted their hard power capabilities.

devastating consequences of unchecked lawlessness. We can only hope that civil society activism and more responsible political leadership will emerge to create a more viable international legal order than was framed in 1945.

Based on your experience as the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, to what extent does this case illustrate the gap between the principles of international law and the political will of powerful states? What are the broader implications of this gap for the credibility of the international system?

There is no doubt that this gap between law and politics exists in relation to the management of global security, including war prevention, conflict resolution, genocide, apartheid, and ecocide. This should not confuse us about the reliance on compliance with international law by all sovereign states, including those most powerful, whether labeled as Great Powers or in the UN context as the five permanent members of the Security Council or P5. As suggested in my prior responses, where the logic of reciprocity applies to the behavior