

Gaza & the World, Ep. 2: Richard Falk

[Helena Cobban]

Hello and welcome everyone. I'm Helena Cobban, the President of Just World Educational, and I want to welcome you back to our video podcast, "Gaza and the World". With this podcast, we aim to explore the many interactions between the ongoing genocidal crisis in Gaza and the world-changing shifts that the global balance of power is currently seeing.

"Gaza and the World" is a weekly conversation that I conduct with a guest who is someone who's thought deeply about these matters. This week, I'm honored and excited that my guest is Professor Richard Falk, a veteran scholar of international law, who has also served a crucial term as the UN Special Rapporteur on Palestinian Rights. In the past week, he has presided over a crucial international gathering, the final four-day-long session of the globe-girdling Gaza People's Tribunal, which was held in Istanbul, Turkey.

A very warm welcome to you, dear Richard.

[Richard Falk]

Thank you so much, Helena. As usual, it's a pleasure to be your guest.

[Helena Cobban]

Well, I hope to host you in person sometime soon if you come to Washington, DC. I am really honored to note that Richard is a longtime colleague on the board of Just World Educational. As with all the conversations in this series, the multimedia records of this episode, along with some of the key documentation from the Gaza People's Tribunal, will be preserved on a dedicated learning hub on our website, where all this material can serve as an educational resource of lasting value.

If you visit our website, www.justworldeducational.org, you can learn how to sign up for our regular updates on this project and all our other projects. Among our recent and ongoing projects are the webinar series, Understanding Hamas and Why That Matters, which we presented last year, and which resulted in the release of the information-packed book of the same name, which still has great utility and relevance. And the weekly Palcast podcast, co-hosted by Dr. Yusuf El-Jamal and Tony Groves, which brings weekly updates from guests who are seasoned community activists on the ground in Gaza.

But now, back to Professor Richard Falk, we have such a lot to discuss. Okay, taking a deep breath here, Richard, could you provide us with a general overview of this last session of the Gaza People's Tribunal, including the fact that it happened-- you held it just after the ceasefire in Gaza. If you could discuss the breadth of the people who participated, and give us just a snapshot of how you characterize the importance of this session.

[Richard Falk]

Well, this session was always conceived to be the culminating moment in this process that we started with a launch meeting in London, back in November of 2024, and then followed that with a quite intense public session in Sarajevo in May of this year, of 2025. And that session could be conceived as a dress rehearsal for what happened at Istanbul. It collected very extensive reports from experts and witnesses, experts who covered the, mainly covered the various dimensions of genocide as it's played out over these two years in Gaza.

And it also was a time where the tribunal crystallized its perspectives in a text that was called the Sarajevo Declaration, or the Declaration of the Gaza Tribunal at Sarajevo. And it still, I think, is a good descriptive summary of why we formed the tribunal. It's been an immense amount of work, and we probably wouldn't have done it had we known how difficult it would be to gather the witnesses, experts, deal with the funding issues, and the logistics of getting people here and satisfying their huge variety of needs and desires.

But it all ended happily, I think, with a very fine series of performances, some of them by video with survivors in Gaza who recorded their experience, or people that had recently left one of the most moving and clear assessments of what genocide meant, was provided by Haider Eid, who's a journalist and academic who was teaching at Gaza University, now living since December of last year in South Africa, and is the author of a very compelling book.

But what he put in perspective that's often neglected is how oppressive the realities in Gaza were before October 7th. And he uses the phrase that's been used by some others, that the only way to really comprehend that pre-October 7th period was by labeling it incremental genocide, as distinct from the intensified genocide that followed the Hamas attack of October 7th. And two of the kind of manipulations of the discourse that Israel has been extremely effective with conveying and keeping, despite all that's happened in these two years, there's still a lot of distortion that makes it appear less of an unqualified period of transparent genocide than the tribunal concluded it was. And those two points are very important, I think, in the present context.

One is this decontextualization of October 7th, and the whole pretension that there was no provocation of the Palestinians or of Hamas as the elected political governing process in Gaza. And that gives this impression that this was just a perhaps excessive retaliation, but it was something that was a response to an attack that had no basis in prior realities. And that's why it's so important that this settler-colonial framework be developed in discussing what has transpired in Gaza over this period.

And the second one is, which Helena knows better than I, the demonization of Hamas as nothing more than a group of fanatical terrorists. And the whole mainstream has swallowed that image as a way of validating the U.S.-Israeli effort to exclude not only Hamas, but the Palestinians as a whole from any participation in what happens in their own homeland or in the Gaza part of their homeland. So, it's really crucial to clarify and align with reality rather than with state propaganda both the true nature of October 7th as a certainly partial act of long-deferred resistance and to grasp that Hamas represents the core of Palestinian legitimate resistance to an effort to impose a colonial future on occupied Palestine.

And the fact that this [Tribunal session] happens to follow the Trump diplomatic offensive is really a coincidence, both complicating and illuminating. It's complicating because most of

the witnesses and testimony presupposed a Trump-free panorama of the Gaza experience with looking at the historical roots as well as what's happened in the this two plus years.

But it's also relevant because it again provides a sense of how distorted the whole treatment of the Palestinian issue is by providing a rewards to the parties guilty of this overt genocide and further punishing the victims of the genocide. And one can only imagine if the surviving Nazis in World War II were given the option of shaping what happened to Germany after the war was over, it would be inconceivable that they would have any role in...

[Helena Cobban]

And actually not only refashioning Germany but also refashioning France and Netherlands and all the other countries that they had occupied. It is, as you say, quite inconceivable.

Richard, you talked about how the situation prior to October 7th of 2023 was an incremental genocide citing, I think, Haidar Eid. And then over the past two years, we've had the intensive genocide. Do you have a way of characterizing the current situation? I mean, has the genocide finished?

What can we say about the current situation?

[Richard Falk]

That was one of the main, what I would call sub-themes of the Tribunal. And it's the part of the title of the concluding statement that I read at the end of the Tribunal session, which says "The Tribunal concludes, but the genocide continues." And what we meant by the genocide continuing is that the Palestinians who have survived are living in a wasteland that involves a completely unacceptable reality that was inflicted by this long period of active genocide with bombs falling.

But it's not over when the bombs stop falling and the missiles stop flying and the drones sleep for a while. There've been, first of all, numerous violations of the ceasefire by Israel that at best is ambivalent toward the maintenance of the ceasefire and seems through this excessive reaction to what they allege to be Hamas's violations, almost provoking Hamas to attack so they would have an excuse to resume the active, intense form of genocide.

Also, part of the continuation is the grief that people feel when they now are not worried for their own survival, but they have the grief associated with the loss of parents and children and badly wounded friends and family members. There's no one in Gaza that hasn't suffered from some completely traumatic loss, and that is compounded by the traumatizing effect on their mental development and their mental stability. We had very important testimony at the tribunal by doctors, including the famous Norwegian doctor Mads Gilbert and a series of mental health experts that informed those that were in the audience and the livestream audience of the generational impact that this kind of sustained trauma is likely to have on the totality of the population.

So, there are numerous aspects of it, including there's no home for these people to go back to, and the supposed ceasefire was to be coupled with much increased delivery of food, medicine, drinkable water, and fuel for the hospitals and communications within the Gaza Strip. And none of that has been delivered in accordance with the expectations that were associated with what is proclaimed by the advocates of this Trump diplomacy as the first easy step toward ending what they call the war, which itself is a misnomer when applied to the relationship between occupied people and the occupier within a framework established by the United Nations and the Geneva Conventions on Belligerent Occupation. So, this is a continuing ordeal for the Palestinian people.

[Helena Cobban]

So, I think, you know, one of the main violations of the ceasefire agreement, and it was an agreement, it wasn't just an expectation that there would be a surge of aid deliveries, it was in the agreement that there would be 600 trucks a day in order to deal with the most pressing needs of the survivors in Gaza, who, as you said, are living in a toxic wasteland, and it has also to be said that that toxic wasteland contains the mortal remains of their family members.

I mean, you know, to be forced to live in that situation without shelter as winter approaches is obviously a form of continuing mass punishment, collective punishment of the survivors in Gaza. I was so interested that you referred to Dr. Mads Gilbert, of course, he first came to international notice after the massacres in Sabra and Shatila in September of 1982, which is 43 years ago. You know, Palestinians in diaspora and in the homeland have been suffering these kind of mass punishment and just horrendous violence for so long. So, Mads Gilbert is from Norway.

Where else did people come to your tribunal from? Was it truly global?

[Richard Falk]

Yes, it was truly global and the jury of conscience came from as far away as Malaysia and Macedonia as well as parts of Europe. It was chaired by Christine Chinkin, who's a prominent international law specialist who had been long on the faculty of London School of Economics and was the principal author of the Goldstone Report, which followed the initial mass Israeli military incursion in Israel in the year, at the end of the year 2008 and continued into 2009. And it was part of the, it's one chapter, important chapter in the frustration of people that were trying to get the truth to the world about what was being done in Gaza because the UN itself bottled up the recommendations of the Goldstone Commission because it didn't want to confront its principal members, who at that point--

All the liberal democracies in North America and Europe, with the qualified and increasing exceptions of Ireland and Spain, joined in this alignment with Israel at the expense of the Middle East, not only occupied Palestine, but all the neighboring countries that suffered the extended violence that Israel exhibited with the support, including funding, military, diplomatic, of these liberal democracies that really vindicated Samuel Huntington's idea of a clash of civilizations that would follow the Cold War.

And his prophecy came to in the 1990s, but it really suggested that the fault lines of the next global scale conflict would be inter-civilizational rather than the ideological character of the Cold War. And Israel, in this sense, is doing the dirty work for the West as a whole, which wants to have this post-colonial imperial hegemony over the Middle East and its oil reserves.

[Helena Cobban]

So yeah, this is exactly why we're doing this project right now, because it is, I mean, the genocide in Gaza and the ongoing crisis in Gaza is a kind of a wake-up call for all the people around the world, actually the vast majority of humankind. I did a rough kind of back-of-the-envelope calculation and figured out that-- You call them liberal democracies, but of course they are increasingly illiberal when it comes to Palestine. And we've seen that here in the United States, obviously in the United Kingdom and elsewhere.

But what you can call maybe the "White" world, you know, West Europe and then the colonial offshoots, specifically US and Canada, New Zealand and Australia: their total population constitutes about 11 to 12 percent of the global population, which is actually roughly analogous to the proportion of the population in apartheid era South Africa that was "White" within South Africa. So it's a very-- it's a kind of a global apartheid system that we have now where the "White" world gets to have just a completely disproportionate amount of power.

So in a sense, that brings me to my next question, which is about the utility of the United Nations in the present era, because the United Nations was set up with this system of vetoes, three of which are enjoyed by members of the West.

And as we've seen over, especially over the last two years, the UN representative, the US representative, again and again and again, putting her hand up, casting her veto to block any ceasefire in Gaza. And you've written and talked a lot about the limitations of the United Nations, but you've also noted that they have, you know, UN bodies, in particular, the UN special rapporteur system of which you were like a kingpin back in the day. And now we have the wonderful Francesca Albanese, who is the rapporteur.

So that is a little portion of the UN that is capable of playing a role. But that's not, in a sense, the executive portion of the UN. So what, how do you see the UN role?

Can we reform it?

[Richard Falk]

Well, I think your question was very well phrased in terms of the utility of the UN. And there are two ways really of answering it. Utility for whom?

There's one way of answering it, which says it really performed as it was intended to perform, because it was a solution to the problems of world order that privileged the winners of World War II. There was no other rationale for making the most dangerous countries in the world exempt from the obligations to respect international law or even the

UN Charter itself. So that there was a deliberate design in the UN to sustain what I've called the primacy of geopolitics.

So when the strategic interests of any of the P5 clash with the obligatory character of international norms, the strategic dimension has control over the promises that are contained in the preamble of the Charter, which lead one to this second idea.

If you talk about the utility to the peoples of the world, then there is a great disappointment that there was never an attempt really to be responsibly implementing that pledge of "saving succeeding generations from the scourge of war." There was always this ideology of what's called political realism that dominates the foreign policy establishments of all these five countries in different ways.

And one of the-- I mean, Henry Kissinger, in a way, epitomizes that kind of political realism. And he openly complains in his memoir about these assistants that tried to call his attention to moral or legal considerations, which he felt completely irrelevant to the pursuit of national interests that were based on strategic calculations based on power.

So, in that sense, the UN was *meant* to fail the expectations that were given in this propaganda view that it was an organization dedicated to a peaceful human future sustained by international law, not by weapons and war making.

I would say one shouldn't overlook, though, in addition to the special procedures activities of the Human Rights Council, which include this institution of special rapporteurs for a whole series of issues, but the ones on occupied Palestine have received the brunt of attention and the brunt of hostility from the forces that are behind Israel and the West in this confrontation that has occurred. But you also should give credit to the International Court of Justice, because it behaved very professionally, and again, according to its limits, within its limits, which are that it's the authoritative source of judicial opinion, but it has no enforcement power.

And the enforcement is completely dependent on its implementation by the Security Council, if the losing party doesn't comply voluntarily.

[Helena Cobban]

Yes, one would hope that the Security Council would be the implementer of the opinions of the International Court of Justice, which has this special role as sort of, in a US domestic context, it would be the Supreme Court that gets to determine the legality. And we have all these problems, obviously, here in the United States, with the Trump administration, just flouting so many rulings and long held norms of American political life in the Constitution. So in a sense, that is mirrored by the Security Council in a UN context, where the Security Council, under the effect of the vetoes, just ignores the rulings.

I mean, there have been, as I recall, three key [ICJ] rulings on Palestine. One was the, was it 2004 advisory opinion on the wall in the West Bank, that the wall was quite illegal, and so on, and that Israel had no right to build it deep in occupied Palestinian territory. And then last year, we had the two very crucial opinions.

First of all, the opinion in the dispute between South Africa and Israel on, is this a genocide? And the opinion was that we can conclude that plausibly, it was a genocide, and Israel should stop doing what it's doing in Gaza, until, you know, we can make a final judgment on that. And then in July of last year, we had the very important decision on the illegality of Israel's 58 year military occupation of the West Bank, including East Jerusalem and the Gaza Strip.

I mean, those three opinions, if they were implemented by the Security Council, it would be a very different world, instead.

[Richard Falk]

But you know, Helena, that, again, Trump, in the American constitutional experience, is overwhelmingly an aberration from the way in which judicial decisions by the highest court are treated, if they're not complied with voluntarily. But in the UN, that's the design. I mean, that's what was intended to be the outcome.

Now, it could have been that geopolitical prudence would have taken the world in a different direction. And it would have started with an effort to achieve nuclear disarmament. But again, the political realists prevailed by convincing the political elites that deterrence, based on this apocalyptic threats to annihilate any kind of adversary, was a better source of peacekeeping than either law or international authority being exercised.

So, it was a reliance on hard power, rather than on law and morality. And that's what was, we're still governed. And it's not just Trump.

Biden was just as bad on this issue of regarding foreign policy as the province of hard power, and of treating morality and law as useful as policy instruments, if your adversaries or enemies violate the law. And we had a completely different attitude toward Russia's attack on Ukraine, where we tried to invoke the ICJ on an expeditious way, and went very self-righteously to the General Assembly for condemnation of Russia, and the hypocrisy of treating a much worse pattern of criminality as not subject to any kind of legal scrutiny. And so, to reduce law to a policy instrument is to miss its primary function as a regulative basis of authority that's applicable to the strong as well as to the weak.

[Helena Cobban]

Goodness, you're quite right. And of course, there's also the whole issue of sanctions, which the US has repeatedly tried to get to use both unilaterally, and to get the UN to enforce sanctions against this or that perceived opponent. And that's been like, just a constant.

I want to come back to the final statement from your, this wonderful final statement of your Gaza tribunal. And I just want to note that you, in addition to the physical annihilation, extermination of so many people in Gaza, that the Israeli or Israeli US, because you do make a point that it has accomplices. I don't think you actually name them.

You say the jury, oh, you do say, the jury finds Western governments, particularly the United States and others, complicit in, in some cases, colluding with Israel's commission of genocide, which I think was a very important statement.

But you, I mean, the tribunal also identified additional crimes additional to the physical extermination of people, which were starvation and famine, domicide-- You know, I've thought about domicide a lot, because domicide is the deliberate destruction of homes and houses and community infrastructure. But the role of the home in family life in community life is so rich, you know, it's not just shelter. It's also where you, you know, you have and you store memories. [You also have] ecocide, deliberate destruction and targeting of the healthcare infrastructure, reproicide, scholasticide, attacks on journalists, torture, sexual violence, and politicide, politicide, which is defined as the targeted assassination and kidnapping of political and cultural leaders, representatives, activists and destruction of civic institutions.

I mean, of course, my friend, Dr. Refaat Alareer was one of the people who was targeted very early on, but there have been so many other targeted assassinations, including in September, the attempt to assassinate the very leaders of Hamas, who were discussing and engaging with the negotiation for a ceasefire. I mean, to me, the idea of negotiation as entrapment defies all international norms or just expectations.

Fortunately, the Hamas negotiators survived that attempt. And they've been engaged very productively-- Well, I hope-- They've been engaged very constructively in the negotiations. Let's see whether the outcome ends up being what they and everybody else wants or not.

But I think this richness of the description of the forms of genocide that came out in the final statement from your tribunal, I've never seen anything like it. I mean, you know, I've actually studied genocide a lot. In my past, I wrote a whole book about the aftermath of atrocities.

But this, I think this is a cutting-edge description of the many forms that the genocide has taken. So I just want to congratulate you and your colleagues on the tribunal. You know, you've done such a lot of work to try, not just gathering the evidence, but seeking to understand and then present your understanding.

It's a real achievement. So well done.

[Richard Falk]

Well, it's gratifying to hear those words, because it was a central part of our undertaking. And it required a lot of effort to identify and to persuade, to participate those who we thought were most qualified to comment on those aspects. And we were very fortunate because there was almost everyone we approached accepted the invitation to take part.

And some couldn't, for health reasons, be present. And we had a lot of online participants. But it's really important to understand that genocide is more than a physical reality, that it also affects the whole infrastructure of life itself, including the soil, the destruction of the agricultural foundation of a self-sustaining society.

And as you pointed out, the infliction of this deliberate mass homelessness, and the destruction of neighborhoods and refugee camps, and it is a litany of atrocities that became a horrifying spectacle for the eyes and ears of the world due to the digital-age style of

communications. And it resulted, I think, very-- This hasn't been commented much on, but it resulted in the growing consensus that Israel is a rogue state, a pariah state, and it has lost what I call the legitimacy war, which international law, even when it's not implemented, may not affect government so much, but it affects people. And it legitimized activism all over the world and made it seem appropriate to act in solidarity with the Palestinian struggle.

And Israel may have dominated the battlefields. I mean, it was more a massacre than a war, but even if you grant that it dominated the military dimensions of the encounters with Hamas, it didn't dominate symbolic politics, which are very preoccupied with legitimacy issues. And if one looks back at the anti-colonial wars, they were all won by the weaker side militarily.

And that goes back-- The U.S. should have learned that lesson in Vietnam, where it dominated every aspect of the military encounter, yet it lost the war. And the nationalist resistance politically prevailed, as it did in the other major anti-colonial wars. But it's a lesson that cannot be learned because of the strength of the military industrial complex, as Eisenhower long ago expressed it, unfortunately, in a farewell speech, but still a part of his legacy.

And we still haven't really, in any meaningful way, has the political party system, either party, confronted that kind of military influence that is really destructive of a creative path toward peace and justice in the world. And maybe I should say that one of the things the tribunal really came to crystallize was that the reality of Gaza was, of course, the preoccupation of this tribunal. But we also ourselves discovered that it's a metaphor for the destiny of humanity, and that we all have a stake in how this situation goes forward, how the Palestinians are allowed to shape their own future in accordance with the right of self-determination that is supposedly vested in every people, and certainly the people whose homeland is the subject of conflict and tension.

So, I think that's really part of this globalization of the issue, even to a greater extent than the anti-apartheid movement globalized the concerns with racism in South Africa. Here we have this total ecological graveyard that is, again, a metaphor for the failure to respond to climate change. So, you have many kinds of understandings that flow from the genocidal core of this tragedy.

[Helena Cobban]

Yeah, I think you place it correctly in a world historical frame as, well, first of all, that what happens in Gaza will affect all of us all around the world, which I think increasingly people are coming to understand. Because, in a sense, it is a challenge for the United States domination of the world system. And can the rest of the world actually unite enough to challenge the US-Israeli exercise of power in West Asia?

We need to be able to look at that. I think your tribunal, this amazing effort of global citizen action, will help to galvanize governments, which, at the end of the day, unless we move to a completely different system, it's governments that will reform the UN or build an alternative to the UN. Just as a kind of last thought, how do you see that happening?

We've had, for example, President Gustavo Petro saying that the United Nations should move the headquarters from the United States. We've had the Hague Group, of which he is one of the leaders, urging, you know, uniting for peace or urging anyway more robust general assembly action. Do you see that as a good way forward?

[Richard Falk]

Well, I see it as an awakening that suggests the need to go forward. In my view, though, until this preoccupation and dominance of what I was calling political realism is challenged effectively, and it's not just the countries in the West that adhere to this, India is as guilty within its domain, and I think most of the important countries in the world adhere to this ideology where their national interests are at stake. And until you can displace hard power from its dominance over global security, it will be very hard to reform the UN in a meaningful way or to change the patterns of militarized geopolitics.

What we need is a Gandhian geopolitics that would imagine a different way of resolving conflict and tensions that isn't just a encounter of hard power capabilities. And as I've suggested, history is giving us this alternative by its demonstration that hard power isn't even effective as it used to be. I mean, it was in the 19th century, you could make a strong case that you may not like it, but hard power did shape history.

But since 1945, that hasn't been true. And I think it won't be true with regard to Palestine either, that the Palestinian victory in the legitimacy war will have ending final results that will be viewed as part of an unexpected Palestinian victory.

[Helena Cobban]

Well, that is a great note to end on. Richard, I really want to thank you so much. You've been working so hard this past week, presiding over the Gaza People's Tribunal.

And I just really want to urge everybody to go to the Gaza Tribunal website and read all the amazing, you can see the sessions there and the video collection. And we're also going to have some of the key documents on our website.

We'll be releasing new episodes of our series, "Gaza and the World", hopefully every week on a Wednesday.

So I want to urge people to visit our website, www.justworldeducational.org and donate to support our modest little efforts, but we like to think that we're helping to change the world. Join us in the struggle to build a just and peaceful world.

And again, thank you very much, Richard Falk, for giving us your time and your thoughts, your wisdom, your energy and your inspiration.

[Richard Falk]

Thank you, Helena. It was very forthcoming, as always, that you gave me this opportunity to describe a bit the work and hopes of the Gaza Tribunal, which can be incidentally seen in its entirety through YouTube live streaming. There is a link that's available at the website.

[Helena Cobban]

Wonderful. Well, we will share that link as well. And thank you again, Richard, go and get some much deserved rest.