CHAPTER-IV

From ‘Peace through Law’ to ‘Humane Governance’:
The Ideas of Richard Falk

Richard Falk, decidedly, one of the more eminent theorists of World Order Models Project (WOMP), was Albert Milbank Professor of International Law at Princeton University, Princeton. He wrote numerous books, articles, monographs and research papers in the hope of laying down the normative bases of a more just and benevolent ‘Preferred’ world order.

Although, he started writing on different aspects of world order as early as in 1966, the most succinct definition of world order is to be found in one of his writings of 1975, wherein Falk used the term world order “to mean the aggregation of norms, procedures and institutions that give shape and structure to international society at a particular time.”¹ He further added:

World order is an analytic concept, although world order analysis usually centers upon normative issues such as the extent to which preferred norms are followed and chosen values are realized in particular international settings.²

As with most WOMP theorists, Falk’s ‘preferred world order’ had to be based on the four values: peace, economic well-being, social and political justice, and ecological balance. Although, he paid attention to all of them, he focused, in particular, on the value of peace. Here too, he directed his attention primarily to legal aspects. In fact, Falk began by accepting as his basic model the proposal put forward by Granville Clark and Louis B. Sohn, establishing World Peace through World Law.

A strong believer in the utmost necessity of bringing about a peaceful world, Falk nonetheless did not believe in forced change. He had greater faith in the ultimate effectiveness of persuasive action when it is undertaken in a

² ibid.
concerted manner by all concerned actors, whether these are states or they are non-state organisations, institutions and groups. He was of the view that there could grow within the state system itself some non-state actors and organizations which would convince the state to make moves in a more just and humane direction. Some of these may prefer the change to be gradual, but there would also be others who might well persuade the state system to carry out drastic reforms.

A prerequisite of such concerted action was widespread education in the value of peace. Falk, therefore, especially underlined the role of such education. People needed it in both the developed and developing parts of the world.

This chapter has been divided into four sections. The first section deals with Falk's delineation of the idea of peace and the role which international law and international organisations could play in bringing about and maintaining a peaceful world order. In the second section, Falk's views on security, arms race, militarism, demilitarisation are brought out. His views on other WOMP values such as economic well-being, socio-political justice and protection of environment are discussed in the third section. The final section deals with continuities and departures in Falk's thinking on the WOMP. Also, an overall evaluation of Falk is attempted.

Falk believed that real progress towards peace could be made only when we adequately understood the nature of what he called 'war system.' Widely spread, this system was also deeply embedded in the very structures of the present world order. Its range was manifested through several indicators. The principal ones among these were "the number of battle deaths per year and per conflict; and the amount of money devoted to the national maintenance of war-fighting capabilities, computed both in absolute terms and as a proportion of GNP".³ Progress towards peace could, therefore, be

measured in concrete and operational terms. Most significant indices of such progress were: “decline in the frequency of wars”, “reduction in casualties” (military and civilian) per war, “reduction in the geographical scope of war”, reduction in the “duration of wars”, “reduction in the threats of war”, and a reduction in the “assertion of military capability, ranging from reprisals to showing the flag.”

Since Richard Falk’s conception and analysis of peace was multidimensional, he covered several interrelated themes in his writings. The two most prominent among these were the role which international law and international organization could play in the prevention of war, and the significance of disarmament, especially nuclear disarmament. Falk believed that the prospects of peaceful world order depended largely on how much prepared states were to minimise their reliance on war and violence in pursuit of national security. This in turn required a shift away from a military concept of security.5

Falk’s academic training in legal studies led him to emphasise, in particular, the role of international law in bringing about a peaceful world. His optimism in this regard stemmed from his understanding that international legal order itself had gone through successive evolutionary stages. Historically, five alternative conceptions of international legal order could be observed to have existed at different points of time. Falk called them Westphalia conception, Charter conception, geo–political conception, rules of the game conception and decentralized modes of implementation.6 But, these were also competing conceptions. Traces of these conceptions continued to exist as strains in contemporary thinking on international law. Falk argued that normative tension prevailed in large extent between Westphalian conception, i.e., state–centred international law premised on sovereign consent and community-centred conception of international law premised on the existence

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4 ibid.
5 ibid., p. 11.
of a global public interests, morality and will, expressed in documents such as the UN Charter. Neither conception had the chance to prove satisfactory by itself.

This was the case particularly during periods such as the present one, which are marked above all by transition and transformation. We are witnessing the gradual decline and erosion of the state system and increased roles for non-territorial actors. A new kind of globally constituted system, encompassing new identities and actors is emerging. It is a world at once more localized and more globalized than the authority patterns associated with states that could grasp and grapple with.

A new synthesis was, therefore, awaited if international law was to remain relevant and effective. Falk labelled the postulated arrival of such a synthesis 'the Groatian moment'. Falk's allusion to Grotius was significant because the latter had been undoubtedly the greatest international legal theorist of transitional times. Falk was suggesting that international legal theorists needed to take the longer historical view and raised two fundamental questions, "What can we learn from the prior transition process, which culminated in the birth of the state system? How can international law and lawyers help ensure the emergence of a new post–state system that is relatively more peaceful and just?"

Falk believed that international law and lawyers would be able to play a significant role only when they became sensitive to the wider process of change underway in international society and, also more pointedly, when they gave self–conscious support to a set of explicit world order goals that structure both the means and ends of transition.

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8 ibid., p.637 and pp.673—686.
Falk then elaborated on how international lawyers could contribute to the cause of global peace and help in the movement towards his Preferred World:

(1) International lawyers need to direct more of their energies to the challenge of emergent globalism, as well as to that of mastering the workings of law within the traditional system of sovereign states; (2) international lawyers should distinguish among the main plausible forms of emergent globalism by reference to value consequences; and (3) international lawyers can contribute best to the successful solution of the transition problem by strengthening support for a new framework of authority built around a mixture of territorial and non-territorial actors and a blend of local, regional and global identities. The normative underpinnings of such a system are to be founded on the realization of peace, economic well-being, human rights, ecological balance and human scale and ideologies of governance.12

Intimately connected to the role of international law was the role of international organisations such as the UN. Falk was worried that there was an increasingly negative perception about the role of the United Nations in international society. The legitimacy and authority of the UN was under question because a huge gap separated goals proclaimed in its Charter and its observable actual behaviour. Falk attributed this gap to the highly unequal distribution of power among nations and the competitive logic of state sovereignty.13 This logic was most manifest in the character of superpower diplomacy whereby the professed goals were frustrated by the cold war calculations. Falk contemplated the adoption of a new Charter based on the

12 ibid., p.637.
Clark–Sohn plan and the Chicago proposals. These were designed to shift capabilities from states to international institutions.  

II

When dominant states accorded primacy to the logic of sovereignty and gave precedence to calculations of power, they ended up not only sabotaging international organisations such as the UN but also created other kinds of problems for peace. Arms race, particularly nuclear arms race, was one such problem. The issue was bound to draw the attention of a scholar like Falk. In drawing the contours of international law responsive to the nuclear age, Falk therefore emphasised three goals. These were avoiding nuclear war, minimising instability, and scaling down the arms race. The success of such a legal regime depended on the values, beliefs and commitment shown by political leaders, military bureaucracies and the public.

What goes particularly to Falk’s credit, however, is that he went beyond the manifest forms of arms race and raised the much larger issue of militarism: “The main dangers to world peace arise from four complementary structures of militarism that set the security agenda for the governments of the world.” These four structures were (1) the strategic arms race, reflecting and fuelling East/West rivalry for predominance; (2) the closely associated gamut of arms sales and hegemonic intervention in the internal affairs of weak states; (3) proxy wars, conflicts related to state building, and regional rivalries; and (4) internally repressive tendencies.

Falk thus dramatically broadened the traditional understanding of war by including in the scope of discussion militarism and militarization, hegemonic domination and internal repression. Moreover, he argued that

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14 ibid., p. 194.
18 ibid.
militarism was intrinsically linked to also problems like poverty, underdevelopment, repression and large scale violence in many parts of the world. So long as the militarist behaviour of statist elites retained legitimacy, peace will elude domestic societies as well as the international system. Transition towards a peaceful world order therefore necessitated de-legitimising militarism and reversing the current tendencies towards it. 19

Falk attempted to identify and explore the ‘creative space’ available for the struggle against militarism. He looked for normative initiatives which could challenge the underlying assumptions of militarism. He then went on to see how these initiatives could be linked to actual social forces. In the process, he examined the structures and restraints of different kinds of polities.20

Falk distinguished between three systems of politics in the contemporary global situation. The state and its supporting infrastructure such as corporations, banks and media constituted the first system. The politics of this system was “supportive of the underlying logic of militarization”. The second system, comprising the United Nations and regional international institutions, was “mainly a dependency of the first system” and therefore “unable to implement demilitarization initiatives”. The third system, “represented by people acting individually and collectively through voluntary institutions” and association including churches and labour unions could “promote normative initiatives” relevant to demilitarization at this stage. Such normative initiatives undertaken in the third system could help in mobilising “effective opposition to militarization in all three systems by altering the normative climate, thereby producing new ‘creative space’ for political


innovation.”

Falk's understanding of the relationship between militarism, demilitarisation and what he called 'genuine security' is depicted in the table reproduced below:

**Table 3.1 The demilitarisation process**

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Militarism</th>
<th>Demilitarisation</th>
<th>Genuine Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.</td>
<td>Strategic arms race</td>
<td>Stabilisation, détente, defensive postures</td>
<td>Disarmament, peacekeeping, resistance training.</td>
</tr>
<tr>
<td>II.</td>
<td>Hegemonic Geopolitics</td>
<td>Respect for sovereign rights (including self-determination)</td>
<td>World community of diverse peoples.</td>
</tr>
<tr>
<td>III.</td>
<td>Peripheral war system</td>
<td>Procedures for peaceful settlement</td>
<td>Regional communities of diverse peoples</td>
</tr>
<tr>
<td>IV.</td>
<td>Internal militarism</td>
<td>Human rights; civilian rule; reduced defence sector</td>
<td>Humane governance</td>
</tr>
</tbody>
</table>


By the middle of 1990s, Falk's growing concern with globalisation had led him to the use of a fairly different vocabulary in theorising on world order. The key terms now were geo-governance and humane governance. He argued that with the gradual erosion of the state system, an integrated economic, cultural and political world was fast emerging. Consequently, geopolitics was being replaced by geo-governance. Falk was mainly interested in exploring the extent to which such geo-governance could be made more humane, more people-oriented, and more focused on human

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21 ibid.
rights, so that it led to democratic decentralization. This preferred form of geo-governance was to be called humane governance.\textsuperscript{22}

Falk now looked at the value of ‘peace’ in the larger perspective of humane governance. Security would thus mean ‘human security’. A systematic critique of political violence and war had to be built around this key concept.

\section*{III}

Richard Falk’s ideas on the value of ‘economic well-being’ could be summed up more simply. These ideas were based on an assumption and a prescription.

The assumption was that even though economic demands and aspirations were believed to be ‘elastic’ and could therefore be manipulated to become virtually infinite, it was nonetheless possible to define the range of real economic needs for a people. At one end of the spectrum were what he called minimum economic needs which had to be satisfied for a society to be just and humane. On the other end were the maximum justifiable needs beyond which ownership and consumption became criminally wasteful. The narrower the range of minimum-maximum needs, the more harmonious is the society. The ultimate goal therefore should be to achieve, in practice, such a narrowed range in ownership and consumption patterns. This was crucial for ending both poverty and exploitation of the poor by the rich.\textsuperscript{23}

The prescription was that a country’s national wealth should be so distributed as to provide all citizens with basic minimum needs such as food, housing, healthcare, education, employment and cultural opportunities. Falk, however, does not share with us any details of how such a distribution is to be actually achieved. Is the economy to be essentially free market but state highly welfarist, so that inequities of incomes are so compensated for, or is the economy to be so planned and regulated that desirable income

\begin{footnotesize}\begin{itemize}
\item \textsuperscript{23} Richard Falk, \textit{A Study of Future Worlds}, New Delhi, Orient Longman, 1975, pp. 17-22.
\end{itemize}\end{footnotesize}
distribution is achieved as a result? One thing is however abundantly clear from Falk’s discussion: he rejects the simplistic notion of economic development in which abstract notion of per capita income is projected as the key index.

As a western liberal theorist, Falk is much more forthcoming on the question of social and political justice. The main concern here is to “assure conditions for the realisation of individual and group dignity within national societies”.24 At one level, Falk seems to equate social and political justice with what are called first generation human rights: the rights of self-expression and meaningful political participation, equality of treatment regardless of race, sex, age, religion, or ethnic differences, and elimination of all forms of torture and cruelty. At the transnational plane, human rights are brought to bear upon questions of colonialism, racialism and genocide, as also on issues related to mobility and migration.25 At another place, Falk identified his conception of human rights in terms of basic human needs, basic decencies, participatory rights, security rights and humane governance.26

Falk made a comparative assessment of the protection of human rights in capitalist, socialist and Third World countries. In a socialist country, human rights practice was caught in a contradiction between the theory of a classless and stateless society on the one hand and a bureaucratic, centralised dictatorship in the form of a super-state on the other. Yet, in many Third World countries, the socialist model for the realisation of human rights values was still seen as appropriate. This was so because capitalism too had in Third World countries led to some form of repressive rule.27

Falk enumerated three types of what he called “Invisible Oppression” even in the so called free societies. Just as slavery had been accepted as inevitable for centuries, even now few persons had delegated to themselves

24 ibid., p. 23.
27 ibid., pp. 405-430.
the right to decide when and under what conditions nuclear war will be waged. Slow poisoning of land and water by the dumping of low level radioactive waste and other hazardous toxic chemicals continued in a similar fashion. Falk also highlighted how U.S. involvement in Indo-China and Vietnam constituted ‘crimes against humanity’ yet there was no trial conducted as per the Nuremberg principles which required that individuals, whatever their station in society, must heed the claim of universal norms even in defiance of the legal mandates of their own government.28 There were serious violations of similar nature in other parts of Asia, Africa and Latin America. In all such cases, citizens are either ignorant, or they remain passive.

Falk emphasised the need of awakening people to the realities of invisible oppression. Instead of hoping for state-sponsored trials, popular forces had to organise themselves against war crimes.29 He foresaw the emergence of some groups which would take up the task of fighting such oppression. Since then, numerous active groups have actually built up influential anti-nuclear movements. Awareness for the protection of environment has been taken by the Green movement in different countries.30

In his later writings, Falk subsumed all these issues under the nomenclature of ‘humane governance’. An integral part of human governance was sensitivity to ecological issues. Falk argued that fight against global environmental pollution and the conservation of planet’s depleting resource were inalienable part of his world order value system.

A major crisis the world today faced was ecological disequilibrium. Falk outlined several problem areas concerning ecological balance. He drew a typology of ecological disasters as follows:

"Type A: Ecological disasters of a sudden, dramatic character, such as the breakup of a large oil tanker or the collision between a nuclear submarine and a merchant vessel.

29 ibid., pp. 149-150 and pp. 154-156.  
Type B: The gradual deterioration of environmental quality by cumulative processes (e.g., buildup of CO₂ in the atmosphere or in the oceans).

Type C: Various risks and injuries associated with the handling, storage, disposal and generation of ultra-hazardous materials (e.g., nuclear explosions, ocean dumping of nerve gas, storage valves for radioactive wastes).

Type D: Infringement on the heritage of mankind as a consequence of deliberate policy or negligence with respect to the preservation of cultural or natural wonders (e.g., Abu Simbal, Murchison Falls) or with regard to the conservation of endangered animal species (e.g., blue whale).

Type E: Failure to conserve scarce resource stocks for the benefit of future generations or to satisfy the development requirements of poorer sectors of the world.

Type F: Use of scarce resources for unproductive, wasteful and destructive purposes (e.g., arms spending, consumer advertising).

Type G: The control of environmental warfare and the prohibition of ecocide (e.g., herbicides, systematic plowing).

Type H: The control of weather modification capabilities and policy in times of peace and war.31

In many ways, these disasters were interrelated. For example, the threat to the survival of the planet originated from ‘war system’ and population pressure which equally caused environmental overload. Falk’s whole purpose was to encourage awareness and induce action, so as to address the challenges posed by the endangered planet.32 He emphasised the need for adequate and critical planning. That would involve accumulation of data and time bound action plans to be undertaken by state and non-state actors. He proposed the idea of ecopolitics, whose essence would be “political

embodiment of man-in-nature”. Politics of pluralism, autonomy and diversity were needed to build a world order suitable for the ecological age.

IV

Falk had visualised in the early 1970s that his preferred world order would be realised by the 1990s. His optimism was based on the premise on historical experience which showed that world order underwent structural changes roughly every 30 years. He identified 1890, 1920, and 1950 as the years of such significant restructuring in recent history.

By the end of 1980s, however, it was clear that WOMP had managed to achieve very little concrete success. Falk had considered three elements necessary for structural reform. These were structural change, change in attitude, and change in behavioral tendencies. None of these elements appeared notably active. Also missing was the "institutional and procedural innovation" which was expected to synthesise with the existing structures.

Falk's assumption was that states themselves would be a key actor in the transition to a Preferred World. This was a seriously flawed assumption insofar as a large number of the countries in Asia, Africa, and Latin America, there was no effective state authority or the regimes were altogether conservative and reactionary. They would have no interest in promoting the kind of values which were dear to the WOMP. What is worse, these regimes were also non-democratic and repressive. They would hardly allow forces of change to emerge or become active. Even in the case of those countries where regimes were liberal, democratic and progressive, the effectiveness of state in playing a positive role was seriously undermined when globalisation,

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33 Richard Falk, *This Endangered Planet*, op cit., p.21.
34 Ibid., p.35.
35 Richard Falk, *A Study of Future Worlds*, op cit., p.275. At a certain time, around mid-seventies, Richard Falk became deeply engaged on this WOMP project, so much so that he desired the realisation of four normative values of WOMP within a time-scale (i.e., by 2004; $t_{1974} - t_{1984} - t_{1994} - t_{2004}$). And, as any programme in social and political science, where any time-frame is fixed for realising the objective, is fraught with failures and non-realisation, so does Falk’s 1975 writing on the realisation of WOMP by 2004. We do not present it here.
which had already been underway, gathered unprecedented momentum. With
neo-liberalism becoming the dominant ideology after the demise of the Soviet
c bloc, positive liberalism and the concept of a welfare state took a back seat. It
was perhaps the recognition of these facts which led Falk to minimise the role
of the state in his later writings.

He expressed his sense of disappointment when he wrote:

I have devoted most of my professional time over the
past several years to an exercise of this kind, known as
the World Order Models Project. It is itself a non-trivial
social fact that such an undertaking is conceived and
carried forward at this historical moment. The impact of
such consciousness-raising is disappointing on the level
of action.37

Should that mean that WOMP was a complete failure? Falk himself did
not think so. In an e-mail communication to this researcher, he wrote:

it depends upon how success is measured. As a project
to change the world, it failed. As a project to influence
the climate of opinion and elites, it is hard to say : there
were indications of influence in the early period of
Gorbachev leadership in the Soviet Union, and possibly
in the approaches taken by some Latin American
countries; also, the challenge in academic circles to
realism was definitely helped by WOMP and its plea for
a normative approach to the study and practice of
international relations. It is also true that for the scholars
involved, the project was a success in shaping their own
evolving outlook and research agenda. It continued for
more than 30 years, despite the logistical problems of

organizing global meetings on low budgets and raising the funds needed.⁵⁸

Nor did Falk believe that the WOMP had no future. He wrote:

There is a current attempt to bring WOMP back to life under the leadership of John Fousek at Rutgers University. The objective circumstances of near nuclear war in South Asia and the global war on terror, as well as persisting poverty and global warming, suggest the importance of alternative thinking at this time. May be WOMP is not the right label. Probably, a new generation should rise to the challenge. We need visions of a humane future and transition strategies to bridge the gap from here to there.⁵⁹

It was clear then that Falk had given up none of his idealism or humanism. It is only that by the 1990s the world had gone through unexpected dramatic changes. Falk began to focus on new issues which demanded attention. Global citizenship and what he called ‘geogovernance’ were two such issues. He switched over to theorising about what he called ‘humane governance.’ He began to argue that there should be ‘globalization-from-below’ rather than ‘globalization-from-above’.⁴⁰

⁵⁸ Richard Falk’s Communication (by e-mail) on 18/6/2002.
⁵⁹ ibid., p. 3.
⁴⁰ Richard Falk, “The Making of Global Citizenship” in Jeremy Brecher, John Brown Childs and Jill Cutler, eds., Global Visions: Beyond the New World Order, Boston, South End Press, 1993, pp. 39-40 and p.ix. In the 1990s, Falk started talking about two different types of globalization — globalization from above, and globalization from below. While, “globalization from above” — also known as the New World Order — was based on the leading states and transnational business and political elites. But Falk identified another, less widely recognized type of globalization — “globalization from below”. It consisted of “an array of transnational social forces animated by environmental concerns, human rights, hostility to patriarchy, and a vision of human community based on the unity of diverse cultures seeking an end to poverty, oppression, humiliation and collective violence”. Globalization from below instead of inclining toward a New World Order moved towards a “one-world community”. It was an “expression of the spirit of democracy without frontiers, mounting a challenge to the homogenizing tendencies of globalization from above”. It was based in a “global civil society” which sought “to extend ideas of moral, legal and environmental accountability to those now acting on behalf of state, market and media”.

83