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PRINCIPLES FOR THE MULTIPOLAR WORLD ORDER

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Abstract: The unipolar world that briefly existed after the dissolution of the Soviet Union is gradually evolving into a multipolar world, a necessary development that, however, entails certain risks for the peace and security of mankind because the transition is encountering resistance from the former hegemon, the United States, and its vassals, the "collective West". The illusions of Francis Fukuyama's *The End of History* (1992) are not entirely dissipated, as shown by the speeches of Western politicians, the aggressive interventionism of the United States and NATO in the internal affairs of other states, and the efforts to encircle Russia and China. Provocation is not an innocent act, and experience shows that provocations before and after the 2014 *coup d'état* in Kiev led to the current war in Ukraine and may lead to a new war in the Asia-Pacific region.

Multipolarity and multilateralism are at the heart of the United Nations Charter, which is akin to a world constitution. Multilateralism is based on fundamental principles of international law and international relations, including respect for the sovereignty of states, the self-determination of peoples, and the prohibition of the use of force. My *25 Principles of International Order, s*ubmitted to the UN Human Rights Council in 2017, are well anchored in the UN Charter, UN treaties, the ICJ rulings, and pertinent resolutions of the UN Security Council, the General Assembly, and the Human Rights Council.

A credibility gap has arisen regarding the UN system, its agencies, and associated institutions, including the ICJ and the ICC, particularly because of the non-implementation of UN norms and decisions by its judicial and quasi-judicial bodies. The UN remains a necessary institution, especially when it comes to addressing global challenges. All member states must agree to play by the same rules; otherwise, uncertainty in law and practice will result.

This essay explores pragmatic solutions to challenges to peace and international solidarity. The loss of the UN's authority and credibility calls for redefining and reinvigorating the institutions to serve the interests of humanity and not just those of a privileged minority of states. With the end of the US-hegemonic international order, it is also time to consider whether

the seat of the UN Headquarters should be moved from New York and installed in a country more representative of the global majority.

Keywords: World order, multipolar order, international relations, United Nations.

The Evolution from Unipolarity to Multipolarity

The United Nations Charter is akin to a world constitution. Global governance and peace depend on the implementation of this rules-based international order, which functions on the basis of the principles of multilateralism, the sovereign equality of states, the prohibition of the use of force, the prohibition of interference in the affairs of other states, and the practical necessity of mutual cooperation to address global challenges through international negotiation and not by unilateral dictates.

Over the past thirty years, we have witnessed how the unipolar world led by the United States has evolved into a multipolar world, with China, India, Indonesia, Russia, South Africa, Brazil, and Turkey playing increasingly important roles.

Nevertheless, significant risks for the peace and security of mankind persist because the transition to multipolarity is encountering resistance from the former hegemon, the United States, and its vassals. Experience shows that NATO provocations before and after the 2014 *coup d'état* in Kiev triggered the current war in Ukraine and could lead to a conflict in the Asia-Pacific region. Thus, the United Nations is more than ever needed to facilitate the transition through confidence-building and negotiation. A new security architecture is needed not only for Europe but for the entire world.

New inter-governmental organisations like BRICS, with its ten current members and a queue of dozens seeking membership, are changing the geopolitical landscape. Meanwhile, new development strategies, like the Belt and Road Initiative, augur well for peace through economic interdependence.

Models of governance

The existing world order displays many models of governance, from monarchies to oligarchies to dictatorships to various manifestations of representative, participatory, and direct democracy. General Assembly Resolution 60/1 of October 24, 2005, recognises in paragraph 135:

"We reaffirm that democracy is a universal value based on the freely expressed will of people to determine their own political, economic,

social, and cultural systems and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy and that it does not belong to any country or region, and we reaffirm the necessity of due respect for sovereignty and the right to self-determination. We stress that democracy, development, and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing".

The US has already hosted two so-called democracy summits (US Department of State, 2022), which can only be described as propagandistic stunts, characterised by the exclusion of many countries, an atmosphere of confrontation, and hostility towards all who do not accept the American model of democracy as the only valid model. The third summit was held in Seoul, Republic of Korea, on March 18-20, 2024, under the banner "Democracy for Future Generations" (Summit for Democracy, 2024; US Department of State, 2024). Alas, it too was imbued by fake news, fake history, fake law, fake diplomacy, and fake democracy.

An obstacle to respectful and efficient multilateralism is the US/EU binary approach to the world, which divides cultures and civilizations into "democracies" and "autocracies". More and more Western "democracies" take a moralistic approach to democracy and human rights, pretending to possess all the answers. However, when they use the word "democracy", they essentially mean capitalism, an ideological construct that has nothing to do with the actual meaning of democracy (*demos* + *kratos*), rule by the people, or, as Abraham Lincoln nicely put it in his 1863 Gettysburg address, "government of the people, by the people, and for the people".

In my book, "Building a Just World Order" (de Zayas, 2021), I go into the theory and practice of democracy and formulate the 25 Principles of International Order (see below), which would best function if there were genuine democracies where everyone was informed and consulted and where the right to access information pro-actively was ensured. Democracies become dysfunctional when the population is subjected to relentless indoctrination, where dissenters are intimidated, persecuted, and prosecuted for their opinions, and when the administration of justice is effectively hijacked for "lawfare" against dissenters and whistleblowers like Julian Assange (Melzer, 2022).

International Cooperation and Solidarity

The key principle of international order is multilateralism, which entails cooperation based on the UN Charter. Let us start by recalling the commitment of all states under Article 55 of the UN Charter:

> "With a view to the creation of conditions of stability and well-being that are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: ... solutions to international economic, social, health, and related problems; and international cultural and educational cooperation".

The 1993 Vienna Declaration and Programme of Action reaffirms in its preamble "the commitment contained in Article 56 of the Charter of the United Nations to take joint and separate action, placing proper emphasis on developing effective international cooperation" (United Nations, 1993).

Operative paragraph 10 stipulates, "States should cooperate with each other in ensuring development and eliminating obstacles to development".

Paragraph 6 of the Outcome Document of the World Summit of 2005, Res. 60/1, stipulates:

> "We reaffirm the vital importance of an effective multilateral system in accordance with international law in order to better address the multifaceted and interconnected challenges and threats confronting our world…" (General Assembly, 1970).

In this context, it is also pertinent to recall the language of the revised draft of the UN Declaration on the Right to International Solidarity (OHCHR, n.d.), which expands on the original draft contained in the 2017 Report of the Human Rights Council's Special Rapporteur on International Solidarity, Virginia Bonoan-Dandan (Bonoan-Dandan, 2017).

As an independent expert on International Order, I participated in the drafting of this document and advocated its adoption by the General Assembly. It is a disgrace that, to this day, the *Declaration on the Right to International Solidarity* has not been adopted, although it eloquently expresses the most noble principles of the UN Charter.

Who has opposed and still opposes this Declaration? The United States, the United Kingdom, and the state members of the European Union. In this context, it is instructive to study the voting record on many resolutions before the General Assembly and the Human Rights Council. This will reveal who is really in favour of a rule-based international order and who is ultimately for a unipolar world and against the sovereign equality of states and human rights for all members of the human family (de Zayas, 2023).

Should the UN Headquarters move from New York?

As a new "global majority" becomes aware of its economic and political power, a new *modus vivendi* must be crafted. The United Nations is an appropriate forum to help shape this structure of peaceful coexistence based on the values of the UN Charter and the Universal Declaration of Human Rights.

Gradually, one hears voices posing the question of whether the UN headquarters should remain in New York or, perhaps, whether the time has come to consider other possible venues. Most UN offices are still in New York, including DESA, OCT, UNDEF, UNDT, UNODA, UNICEF, and, of course, the UN Security Council, the General Assembly, and the Secretary-General himself.

Admittedly, there are two UN European offices headquartered in Geneva and Vienna. Switzerland currently hosts subsidiary organs and associated agencies, including the OHCHR, UNHCR, UNCTAD, ILO, ITU, WHO, WIPO, and WTO, while Austria hosts the IAEA, UNODC, UNIDO, and IAEA. Paris, France, hosts UNESCO. Montreal, Canada, hosts the ICAO. In Latin America, the UN established a regional office in Santiago de Chile, while in Africa, Kenya hosts the United Nations Environmental Programme (UNEP) in Nairobi. The distribution of power in the UN system is overwhelmingly US- and Europe-centric. Doubtless, this scenario impacts the policies and independence of the Organisation.

More and more, one becomes aware that many countries resent the manner in which the United States government performs its obligations as host of the Organisation. In 2020, the General Assembly Sixth Committee had to deal with complaints against the US for non-compliance with the Headquarters Agreement (General Assembly, 2020). In a 2021 joint letter, permanent representatives of six countries protested Washington's ongoing violation of the Agreement, demanding that the case be referred to a tribunal for settlement (Press TV, 2021).

Accumulated violations of the headquarters agreement by the United States government and the continued tensions resulting from the US efforts to assert its hegemony over the rest of the world have given momentum to those who envisage relocating the UN headquarters to neutral ground. Over the past 77 years, the United States has violated not only the headquarters agreement but also the Vienna Convention on Diplomatic Relations (1991) and the Vienna Convention on the Representation of States in Their Relations with International Organisations of a Universal Character, making

it difficult for the UN to pursue its work without logistical problems resulting from arbitrary policies dictated by Washington.

Relocation has also become an issue in light of statements by members of the United States Congress who are unabashedly hostile to the United Nations and its goals. Accordingly, some country delegations feel that a change of venue could enable the Organisation to function more efficiently in the future. Many delegations object to the difficulties in obtaining visas to enter the United States (MEE staff, 2019; Neuman, 2014; Reuters, 2020). I remember when Yasser Arafat was denied an entry visa to the US in November 1988 (Oberdorfer, 1988), and the General Assembly actually moved to Geneva, where Arafat was received with a standing ovation as he walked the aisle to the podium on December 13, 1988 (Institute for Palestine Studies, 2022). As a young staffer in the UN Centre for Human Rights under the then Director Jan Martenson, I witnessed the event and discussed it with my colleagues in the Secretariat.

Many state delegations have been victims of the increasing politicisation of the United Nations by the United States and the multiple violations of the headquarters agreement. Among these delegations are those of the Russian Federation (AP, 2023), but also Cuban, Iranian, Nicaraguan, Syrian, and Venezuelan diplomats have all endured the discriminatory "red tape" and outright denial of visas ordered by Washington.

These matters have been signalled without any noticeable improvement. Accordingly, it would be helpful if members of the Security Council would voice the relocation proposal, which should be followed by a thorough discussion in the General Assembly and a resolution establishing a commission to look into the pros and cons.

Lavrov's Security Council Statements of April 25

Russian Foreign Minister Sergey Lavrov chaired the Security Council meeting on April 25 and took the opportunity to hint at the idea of relocating the UN headquarters. He also addressed a number of grievances: *"In a desperate attempt to assert its dominance by punishing the disobedient, the US has moved to destroy globalisation, which for many years it extolled as the greatest good of all mankind"*. Lavrov objected to the practice by the US and its allies to blacklist anyone who dissents and tell the rest of the world, *"Those who are not with us are against us". He continued, stressing that* the *"Western minority"* has no right to speak for the entire world and that its so-called *"rules-based order"* amounts to rejection of the sovereign equality of states as stipulated

in the UN Charter. He poked fun at EU Commissioner Josep Borrell's amusing statement about the European *"garden"* and the *"jungle"* outside it.

At the same meeting in the Security Council, Lavrov complained that the West made a *"brazen attempt to subjugate"* the UN by taking over its secretariats and other international institutions. He claimed that Washington and its allies had abandoned diplomacy and demanded a battlefield showdown within the halls of the UN, created to prevent the horrors of war. Lavrov argued that genuine multilateralism *"requires the UN to adapt to objective trends"* of emerging multipolarity in international relations. Accordingly, the Security Council should be reformed to increase the representation of Africa, Asia, and Latin America, as the current *"exorbitant overrepresentation"* of the West *"undermines the principle of multilateralism" (RT, 2023; Intel Drop, 2023). As was to be expected, Western diplomats rejected Lavrov's statements (Kottasová, 2023).*

UN-US Headquarters Agreement

The United Nations-US headquarters agreement of June 26, 1947 (UN General Assembly, 1947), envisages in Article IX the possibility of relocating the UN headquarters to another venue. Section 23 stipulates, "The seat of the United Nations shall not be removed from the headquarters district unless the United Nations should so decide". Section 24 stipulates, "This agreement shall cease to be in force if the seat of the United Nations is removed from the territory of the United States, except for such provisions as may be applicable in connection with the orderly termination of the operations of the United Nations at its seat in the United States and the disposition of its property therein".

How did New York become the UN Headquarters?

Let us not forget that the idea of continuing the work of the League of Nations very much reflected the thinking of President Franklin Delano Roosevelt. Of course, the new Organisation should reflect the 1945 balance of power and move from the old to the new world. Moreover, we recall that the UN Charter was crafted at a meeting in San Francisco in April–June 1945 (United Nations, n.d.a). Thus, it is not surprising that, following the end of the Second World War and the emergence of the United States as the undisputed hegemon, the United Nations should have its seat in the US. Many cities competed for the honour of hosting the UN.

Since 1945, the UN has operated from a temporary headquarters in Lake Success, New York (Druckman, n.d.), but the Organisation also met at the old League of Nations seat in Geneva and at the Palais Chaillot in Paris, where the General Assembly adopted the Genocide Convention on December 9, 1948, and the Universal Declaration of Human Rights on December 10, 1948.

The UN Secretariat building on Manhattan Island was erected in 1946-51 on the shore of the East River in New York, a skyscraper designed in the so-called "international style" on land given to the United Nations by John D. Rockefeller, who had acquired the property for $8.5 million. UN staff started moving in in August 1950. The building is 154 metres tall and has 39 above-ground floors. While the UN building is located within the US, the site is under UN jurisdiction. As the UN expanded, it acquired many more buildings in the New York area.

By virtue of the UN-US Headquarters Agreement (11 UNTS 11), the principal headquarters of the UN was established in New York (A/RES/25(1)). The agreement is open-ended and may be modified or abandoned as necessary. In Resolution A/RES/22(I)B, the General Assembly approved the Convention on the Privileges and Immunities of the United Nations. General Assembly Resolution 99(1) authorised the Secretary-General to conclude a headquarters agreement with the US based on a draft agreement contained within Resolution A/67 and to make arrangements for a provisional agreement related to the privileges, immunities, and facilities of the UN headquarters.[1]

Obstacles to Relocation

Relocating to existing UN offices in Geneva or Vienna would be easier since the infrastructure is already there. But it would still take at least five years and cost an enormous amount of money. Alas, the UN budget is always stretched to the limit. The downside of such a move is that it would

[1] A/371 contains the report of the Secretary-General regarding the US-UN Headquarters agreement, including comments on the changes made to the original draft agreement.

A/427 contains the report of the Sixth (or Legal) Committee to the General Assembly on the study of the agreement by the sub-committee on Privileges and Immunities.

A/RES/169(II) approved the agreement between the UN and the US regarding the UN Headquarters in New York.

remain Euro-centric and not take into account the aspirations of the "global majority" to have the United Nations serve all of humanity.

As we all know, the Biden administration is hostile to the UN but still wants to use it as a tool in its geopolitical agenda. But back in 2017, during the Donald Trump administration, some Republican lawmakers already proposed a bill in the House of Representatives to withdraw US membership from the UN and ask the UN to vacate the premises, even though the Organisation actually contributes over 3.3 billion dollars a year to New York City revenues and also provides lucrative jobs to thousands of American citizens.

There is no "protocol" as such for moving the UN headquarters. First, there must be a discussion in the General Assembly, and "impact assessments" would have to be considered. The main thing would be to start the debate and rely on the media to discuss the main reasons for such a move. Many countries have formulated legitimate grievances concerning US misbehaviour, which the US has systematically ignored. Maybe the BRICS countries should join forces in formulating the necessary proposals.

Where could a New Headquarters be based?

In order to reflect the growing importance of the developing world, there are many countries that could conceivably host the United Nations headquarters. One could think of Mexico and the cities of Puebla and Guadalajara, which have advanced infrastructure. Surely, Brazil—either Rio de Janeiro or Sao Paulo. South Africa would be a credible candidate, and the cities of Cape Town or Durban would be worthy venues. India, the most populous country in the world, would benefit from a UN presence; Delhi and Bangalore have much international experience, but China would probably oppose such an idea. Indonesia is a conceivable venue, my choice—the city of Bandung.

The 25 Zayas Principles of International Order serve Peace and Security

My seventh thematic report to the Human Rights Council, presented in March 2018 (A/HRC/37/63), formulated the principles of international order, summarising my theoretical and practical approach to the subject in light of my empirical experience administering the mandate. These norms of international law and practice derive their legal basis from the Principles

and Purposes of the UN Charter, the key General Assembly resolutions (notably resolutions 2131 (XX), 2625 (XXV), 3314 (XXIX), 39/11, 55/2, and 60/1), core UN Conventions, *inter alia*, the Convention on the Prevention and Punishment of the Crime of Genocide, the Vienna Convention on the Law of Treaties, the Vienna Convention on Diplomatic and Consular Relations, and other universal treaties such as the Geneva Red Cross Conventions and Additional Protocols. They reflect the progressive development of international law as created and applied by the United Nations and its specialised agencies and propose a vision of a peaceful, democratic, and equitable international order based on the cooperation of all stakeholders—both state and non-state actors, sovereign countries, intergovernmental organisations, transnational enterprises, peoples and minorities striving for self-determination, indigenous peoples, religious institutions, and civil society.

These guiding principles should be understood holistically, rejecting any kind of "fragmentation" of international law into "stand-alone" legal regimes in competition with each other. The authority and credibility of the system of international law depend on its internal coherence and rules of interpretation that recognise a logical hierarchy as well as horizontal mutual reinforcement. Admittedly, these standards encompass not only hard law but also soft law and general notions of ethics and justice. Like Virginia Dandan's Draft Declaration on the Right to International Solidarity (General Assembly, 2017), the UN Declaration on the Rights of Indigenous Peoples (United Nations, 2007), the Commission on Human Rights Declaration on the illegality of forced population transfers (Al Khasawneh, 1997), and John Ruggie's Guiding Principles on Business and Human Rights (OHCHR, 2011), the Zayas principles on the international order are not exhaustive but intended to serve as useful criteria or standards to evaluate and better understand the complexities of the evolving international order. One should also keep this caveat in mind: Principles and norms are not self-executing. Indeed, as the Bible has not resolved the problem of sin and the UN Charter has not ended aggressive war and exploitation, these principles will not *eo ipso* guarantee a democratic and equitable international order in the 21st century. Realistically speaking, even if all these principles and declarations were to become UN treaties one day, they would still need political will, good faith, and an effective enforcement mechanism in order to make a difference.

1. **The paramount principle of international order is Peace**. The Preamble and Articles 1 and 2 of the Charter stipulate that the

principal goal of the Organisation is the promotion and maintenance of peace. That entails the prevention of local, regional, and international conflict, and in the case of armed conflict, the deployment of effective measures aimed at peacemaking, reconstruction, and reconciliation. The production and stockpiling of weapons of mass destruction constitute a continuing threat to peace.[2] Hence, it is necessary that states negotiate in good faith for the early conclusion of a universal treaty on general and complete disarmament under effective international control.[3] Peace is much more than the absence of war and necessitates an equitable world order characterised by the gradual elimination of the root causes of conflict, including extreme poverty, endemic injustice, privilege, and structural violence. The motto of the International Labour Organisation deserves to be recognised as the universal motto for our time: *si vis pacem, cole justitiam* (if you want peace, cultivate justice). Moreover, peace must be recognised as an enabling right, a precondition to the enjoyment of civil, cultural, economic, political, and social rights (de Zayas, 2016).

2. **The UN Charter takes priority over all other treaties** (Article 103, known as the "supremacy clause" (Kolb, 2014)). There is a hierarchy of international norms that places the United Nations Charter at the top of the system as a kind of world constitution. States have a duty to ensure that all treaties and conventions conform to the purposes and principles of the United Nations.
3. **Resolutions and decisions of the UN Security Council are legally binding.** Pursuant to Article 25 of the Charter, "the members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter". But the Security Council itself is not above international law, and in discharging its duties, it "shall act in accordance with the Purposes and Principles of the United Nations" (Article 24), i.e., the Security Council cannot adopt decisions or

[2] The UN Human Rights Committee regularly issues "general comments" to elucidate the scope of its provisions. See General Comments Nr. 6 and 14 on the right to life, which condemn the production and stockpiling of weapons of mass destruction that may destroy life on Earth (UN Human Rights Committee, 1982; UN Human Rights Committee, 1984).

[3] See my 2014 report to the Human Rights Council A/HRC/27/51, paras. 6, 16, 18, and 44. The United Nations Treaty on the Prohibition of Nuclear Weapons entered into force on January 22, 2021 (United Nations, 2017; Nakamitsu, 2020).

resolutions incompatible with the core principles of peace, human rights, and development.[4] Such decisions would be *ultra vires* and would lack legitimacy. In a specific case, the International Court of Justice, the highest judicial instance of the United Nations, would have the competence to investigate and make pertinent findings in an Advisory Opinion pursuant to Article 65 of the ICJ statute. Understanding that the Security Council is not omnipotent and must act in conformity with its terms of reference resolves the fundamental rule of law question: *Quis custodiet ipsos custodes*? (Juvenalis, 2011, 347).

4. **International law and human rights law must be applied uniformly and in good faith.** The arbitrary interpretation or selective application of international law, double standards, and selectivity undermine the authority of the law and frustrate its function to ensure stability and predictability.
5. **International humanitarian law and international human rights law are mutually reinforcing legal regimes grounded in the principles of respect for human dignity and justice.** According to paragraph 25 of the 1996 Advisory Opinion of the International Court of Justice on Nuclear Weapons, "The Court observes that the protection of the International Covenant on Civil and Political Rights does not cease in times of war" (International Court Of Justice, 1996). Similarly, the UN Human Rights Committee has repeatedly reaffirmed that international humanitarian law cannot be invoked to weaken the international human rights treaty regime.
6. **States must respect not only the letter of the law but also the spirit of the law** (Montesquieu, *De l'Esprit des lois, 1749*), which is the core and *raison d'être* of the rule of law and enables the legislator to codify specific norms, which are not immutable but always subject to progressive development. Blind positivism (*dura lex, sed lex*) frequently destroys the spirit of the law, *summum jus, summa injuria* (law taken to the extreme results in injustice, Cicero, *De Officiis* 1, 10, 33).
7. **General principles of law (Statute of the International Court of Justice, Article 38, para 1(c)) inform the interpretation and guide the application of international law**. Among general principles of law, we recognise good faith, estoppel, reciprocity, proportionality, *ex injuria non*

[4] See "Views" of the UN Human Rights Committee in a case concerning UN Security Council sanctions *Sayadi v. Belgium*, in particular the separate concurring opinions of Sir Nigel Rodley and of Yuyi Iwasawa (a new Japanese member of the International Court of Justice) (Sayadi and Vinck v. Belgium, 2008).

oritur jus (a breach of law does not give rise to a new law), the prohibition of the abuse of rights, *sic utere tuo ut alienum non laedas* (use your rights but do not encroach on others), the prohibition of contracts or treaties that are *contra bonos mores* (against good morals), the impartiality of judges, non-selectivity, the principle of non-intervention in the internal affairs of states, *audiatur et altera pars (all sides must be heard)*, *actori incumbit onus probandi* (plaintiff carries the burden of proof), the presumption of innocence, the customary rule that domestic law cannot be invoked to undermine international treaties (United Nations, 1969, art. 27), and the "unwritten laws" of humanity.[5]

8. **International law is dynamic and progresses with the adoption of new treaties and conventions by the United Nations and its specialised agencies, with inter-state practice and the adoption of treaties within the framework of regional inter-governmental organisations, as well as with the resolutions of the Security Council, General Assembly, and the jurisprudence of the International Court of Justice, the International Criminal Court, and the UN human rights treaty bodies**. The international law doctrine recognises that certain principles may advance to the category of peremptory norms (*jus cogens*), such as, for instance, the right to self-determination of peoples, the prohibition of the use of force, and the prohibition of torture. Article 53 of the Vienna Convention on the Law of Treaties establishes that a treaty contrary to peremptory norms is null and void. Article 64 stipulates that when a new norm of *jus cogens* emerges, treaties must conform to it.
9. **The principles of humanity and human dignity are the source of all human rights**, which, since their progressive codification beginning with the 1948 Genocide Convention and the 1948 Universal Declaration of Human Rights, have expanded into an international human rights treaty regime, many aspects of which have become customary international law. A just world order requires the eradication of extreme poverty,[6] a guarantee of food and water security, and a level playing field. The

[5] It is not only the written law that must be applied, but also the broader principles of natural justice as already recognised in Sophocles' *Antigone*, affirming the unwritten laws of humanity, and the concept of a higher moral order that prohibits taking advantage of a weaker party as happens with "unequal treaties", which may be considered economic neo-colonialism or neo-imperialism.

[6] In 2012 the Human Rights Council adopted Guiding Principles on Extreme Poverty and Human Rights (See Wronka, 2017).

international human rights treaty regime necessarily has priority over military alliances, trade, and other agreements (see my 2016 report to the Human Rights Council, A/HRC/33/40, para. 18–42), which must be interpreted and applied in conformity with the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention Against Torture (CAT), and other pertinent treaties. Commercial agreements cannot infringe on pre-existing human rights treaty obligations undertaken by states.

10. **The right to self-determination of peoples as stipulated in the Charter and in common article 1 of the ICCPR and ICESCR is a fundamental principle of international law (*jus cogens)* and international public policy (*ordre public)***. All peoples, without exception, are rights holders of self-determination. The duty-bearers are all state members of the UN. The exercise of self-determination is an expression of democracy, as democracy is an expression of self-determination. It attains enhanced legitimacy when a referendum is organised and monitored under the auspices of the United Nations. Although the enjoyment of self-determination in the form of autonomy, federalism, secession, or union with another state entity is a human right, it is not self-executing. Timely dialogue for the realisation of self-determination is an effective conflict-prevention strategy (see my 2014 report to the General Assembly, A/69/272, para. 63–77). The United Nations has an essential mediating role between states and peoples and should conduct self-determination referenda as a conflict-prevention measure because self-determination grievances often develop into a threat to the peace or a breach of the peace for purposes of Article 39 of the UN Charter. The right to self-determination has not only a collective but also an individual dimension. Moreover, the right to call for and conduct a referendum is protected by Article 19 of the ICCPR.
11. **"The scope of the principle of territorial integrity is confined to the sphere of relations between states"**. Thus rules the International Court of Justice in paragraph 80 of its Advisory Opinion on the Unilateral Declaration of Independence by Kosovo.[7] Admittedly, the principle of

[7] "Several participants in the proceedings before the Court have contended that a prohibition of unilateral declarations of independence is implicit in the principle of territorial integrity. The Court recalls that the principle of territorial integrity is

territorial integrity is a core principle of international law, aiming at promoting international stability and strengthening the mutual respect and sovereign equality of states. Nevertheless, the principle cannot be invoked internally to deny or hollow out the right of self-determination of peoples (International Court Of Justice, 2010, p. 38), which has emerged as a norm of *jus cogens*.

12. **Statehood depends on four criteria: population, territory, government (effective control), and the ability to enter into relations with other states**. While international recognition is desirable, it is not constitutive of statehood but only declaratory. A *de facto* or *de jure* new state is bound by the principles of the international order, including respect for human rights.
13. **Every state has an inalienable right to choose its political, economic, social, and cultural systems without interference in any form by another state,** as stipulated in numerous United Nations resolutions, including the 1993 Vienna Declaration and Programme of Action (United Nations, 1993), the 2001 Durban Declaration (World Conference against Racism, 2001), and the Outcome Document of the 2005 World Summit (General Assembly, 2005a). Already in 1530, the Spanish Dominican

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an important part of the international legal order and is enshrined in the Charter of the United Nations, in particular in Article 2, paragraph 4, which provides that: 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.' In General Assembly resolution 2625 (XXV), entitled 'Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations', which reflects customary international law (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America*), Merits, Judgment, I.C.J. Reports 1986, pp. 101-103, paras. 191-193), the General Assembly reiterated '[t]he principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State'. This resolution then enumerated various obligations incumbent upon States to refrain from violating the territorial integrity of other sovereign States. In the same vein, the Final Act of the Helsinki Conference on Security and Co-operation in Europe of August 1, 1975 (the Helsinki Conference) stipulated that '[t]he participating States will respect the territorial integrity of each of the participating States" (Art. IV). Thus, the scope of the principle of territorial integrity is confined to the sphere of relations between States.' (International Court of Justice, 2010, p. 38).

Francisco de Vitoria (Hernandez, 1991), a Professor of Law in Salamanca and advocate of the Roman law concept of *ius gentium* (the law of nations), stated that all peoples had the right to govern themselves and could adopt the political regime they wanted (Gauthier-Mamaril, n.d.).[8]

14. **Peoples possess sovereignty over their natural resources**. A "people"[9] is not only the collective people of a given state but necessarily encompasses a people living under domination by other people. If a people's natural resources were "sold" or "assigned" pursuant to colonial, neo-colonial, or "unequal treaties" or contracts, these agreements must be revised in light of the UN Charter to vindicate the sovereignty of peoples over their own resources; indigenous peoples are entitled to reparation for the lands and resources stolen from them. Any future agreements concerning indigenous lands and resources are conditioned on free, prior, and informed consent (United Nations, 2007, articles 9, 10, 28, 29, 32).
15. **All peoples have the right to their homeland, their culture, and their identity** (de Zayas, 2002; de Zayas, 2003). Although closely related to the right to self-determination, the right to the homeland comprises deeper psychological elements, a metaphysics of the mind. Demographic manipulations, forced population transfers, "ethnic cleansing", and other racist measures constitute war crimes and crimes against humanity pursuant to Articles 7 and 8 of the Statute of Rome of the International Criminal Court. If certain conditions under Article 2 of the 1948 Genocide Convention prevail, forced population transfer and "ethnic cleansing" may constitute genocide under the provisions of the 1948 Genocide Convention and Article 6 of the State of Rome. Such measures are contrary to the ICCPR, the ICESCR, and the International Convention

[8] See also the Outcome Document of the 2005 Millennium Plus 5 Summit, General Assembly Resolution 60/1, paragraphs 22 and 135: "We reaffirm that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social, and cultural systems and their full participation in all aspects of their lives. We also reaffirm that while democracies share common features, there is no single model of democracy, that it does not belong to any country or region, and reaffirm the necessity of due respect for sovereignty and the right to self-determination. We stress that democracy, development, and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing" (General Assembly, 2005b, p. 30).

[9] See the definition of "peoples" by Justice Michael Kirby (1991) and my 2014 report to the General Assembly (de Zayas, 2014, para. 4).

on the Elimination of All Forms of Racial Discrimination. Refugees and expellees have a right to return to their homelands (de Zayas, 2012a).

16. **States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any other state** or in any other manner inconsistent with the Purposes of the United Nations (Charter, Art. 2(4), OAS Charter articles 3, 19, and 20). In the absence of a resolution adopted by the Security Council under Chapter VII of the Charter, the use of force is illegal (BBC News, 2004) and may amount to the crime of aggression under Article 5 of the Statute of Rome of the International Criminal Court pursuant to the Kampala definition (Kaul, 2011). States have the duty to refrain from propaganda for war (General Assembly, 1966, art. 20(1); Kearney, 2007).
17. **States have a positive duty to negotiate and settle their international disputes by peaceful means** in such a manner that international peace, security, and justice are not endangered (Charter, Art. 2 (3)). Chapter VI of the UN Charter, in particular Articles 33 and 34, stipulates that the Security Council may call upon states to seek solutions by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or resort to regional agencies or arrangements. The Security Council may investigate any situation that might lead to international friction and endanger the maintenance of international peace and security.
18. **The principle of non-intervention is part of customary international law.** States may not organise or encourage the organisation of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state. No state may organise, assist, foment, finance, incite, or tolerate subversive, terrorist, or armed activities directed towards the violent overthrow of the regime of another state, or interfere in civil strife in another state (International Court Of Justice, 1986). Whereas a state may be invited by the government of another state to assist in containing an internal armed conflict, it is not permitted for any state to support financially or otherwise the insurgency in another state (Pustorino, 2018). The fact that such interventions occur with impunity when the perpetrators are permanent members of the Security Council does not give rise to new international law (*ex injuria non oritur jus*). Such interventions constitute continuing violations of international law, which justify investigation and prosecution by the International Criminal Court, ad hoc tribunals, and peoples' tribunals.
19. **States must refrain from interfering in matters within the internal jurisdiction of another state** (General Assembly, 2018, paras. 29-39). No

state may use or encourage the use of economic, political, or any other measure to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure advantages of any kind. The unilateral coercive measures are incompatible with the United Nations Charter. Only the Security Council can impose sanctions under Chapter VII of the Charter. Therefore, states shall refrain from imposing unilateral coercive measures and financial blockades on other countries. When unilateral coercive measures cause widespread hunger and death, they may amount to crimes against humanity under Article 7 of the Statute of the International Criminal Court (General Assembly, 2018, paras. 34-39; United Nations, 2021). While the promotion of human rights is of legitimate international concern and there is an *erga omnes* obligation of states parties to the ICCPR and the ICESCR to ensure their enforcement, the doctrines of "humanitarian intervention" and "responsibility to protect" have been demonstrably counter-productive and harbour grave dangers of selectivity and abuse, as evidenced in the General Assembly debate on R2P in July 2009[10], and empirically shown in the chaos visited upon the people of Libya in the name of humanitarian intervention by great power instrumentalization of Security Council Resolution 1973 not for purposes of humanitarian assistance but for purposes of inducing "regime change" (Zenko, 2016; RT, 2011; Green, 2019).

20. **States have a duty to protect and preserve the natural environment and the common heritage of humankind**. The crime of ecocide (Yeo, 2020; Stop Ecocide International, 2021) entails the irreversible degradation or destruction of the human environment. It constitutes a crime against humanity that must be suppressed by the international community and prosecuted under Article 7 of the Rome Statute of the International Criminal Court.
21. **State sovereignty is superior to commercial and other agreements.** The principle *pacta sunt servanda* is not absolute and presupposes that the agreements are not contrary to the *ordre public* and the general welfare of the population. The principle of non-retrogression in human rights prevents a state from entering into commercial agreements that would prevent it from fulfilling its obligations under the ICCPR and ICESCR. Non-state actors have not only rights but also duties under international law, and states are obliged to ensure that enterprises registered and/or operating under their jurisdiction do not adversely impact human rights.

[10] See my 2012 report to the General Assembly (de Zayas, 2012b, paras. 14-15).

The ontology of states is to legislate in the public interest. The ontology of capitalism, investment, and business enterprises is to take risks to generate profit. Experience has shown that the investor-state dispute settlement mechanism (ISDS) lacks transparency and accountability and constitutes a frontal attack on fundamental concepts of the rule of law. The ISDS cannot be reformed; it must be *abolished* (de Zayas, 2015). Free trade agreements and bilateral investment treaties that contain *contra bonos mores* provisions must be revised, and such provisions must be eliminated pursuant to the principle of severability, otherwise known as the doctrine of separability.

22. **Everyone has the right to international solidarity as a human right** (United Nations, n.d.b). **P**ursuant thereto, states have the duty to cooperate with one another, irrespective of the differences in their political, economic, and social systems, in order to maintain international peace and security and to promote international economic stability and progress. To this end, states are obliged to conduct their international relations in the economic, political, social, cultural, technical, and trade fields in accordance with the principles of sovereign equality and non-intervention. States should promote a culture of dialogue and mediation.
23. **The right to know and the right to access reliable information are essential components of the national and international democratic order** and find their legal basis, *inter alia*, in Article 19 of the ICCPR. Government and private sector secrecy rules and cover-ups are enemies of the democratic order. Hence, whistleblowers are necessary human rights defenders because they disclose information about the crimes and omissions of governments, transnational corporations, and other non-state actors. Transparency and accountability are crucial to every democratic society and the rule of law. A Charter of Rights of Whistleblowers is urgently needed. The right to freedom of opinion and expression necessarily encompasses the right to publish research contrary to mainstream conceptions and entails the right to be wrong. Penal laws enacted to suppress dissent and so-called "memory laws"[11],

[11] Human Rights Committee, General Comment No. 34 (2011) on article 19 ICCPR freedom of opinion and expression: "Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events" (UN Human Rights Committee, 2011, para. 49). See also: de Zayas & Roldan, 2012.

which pretend to crystallise history into a politically correct narrative, are totalitarian, offend academic freedom, and endanger not only domestic but also international democracy.

24. **Violations of international law and international human rights law by powerful states and/or permanent members of the Security Council do not create legal precedents, change the UN Charter, or result in a "new international law".** Such violations, however, weaken the integrity of the UN system and the cohesion of the international order. They constitute ongoing violations until an international tribunal like the ICJ or ICC becomes seized of the matter and suppresses them. Impunity does not sanctify the crime; it only manifests the absence of effective UN enforcement mechanisms.
25. **Wherever there is a violation of international law or human rights law, there is a state obligation to provide prompt, adequate, and effective remedies** (*ubi jus, ibi remedium* (Andrysek, Möller & de Zayas))[12]. Enforcement of international judgements and other commitments frequently presupposes the existence of national enabling legislation that confers domestic legal status on international obligations. Enforcement depends on political will and international cooperation, entailing a balancing of vital interests, geopolitics, and *opinio juris***.** Enforcement must not be confused with punishment or with the imposition of sanctions. The UN Security Council can impose arms embargoes to facilitate dialogue and peacemaking. On the other hand, economic **s**anctions and other coercive measures can result in greater injustice, as happened with the UN sanctions regime against Iraq in 1991–2003, with an estimated one million deaths, affecting the most vulnerable (von Sponeck, 2006; Crossette, 1995). Enforcement of international law commitments must build on international consensus, international solidarity, and the good offices of the United Nations and its specialised agencies, which are always ready to furnish advisory services and technical assistance. Enforcement is the measure of international order. Such enforcement is furthered by the strengthening of the regional human rights court system and the establishment of an international court of human rights equipped with a monitoring and implementation mechanism.

[12] See also Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005 General Assembly (2005).

A multipolar world based on recognition of our shared humanity is the best guarantee of peace. It seems that we in the "collective West" find ourselves amid an "epistemology trap", caught in our own indoctrination, propaganda, and narcissism, incapable of thinking outside the box, and bereft of any sense of self-criticism.

Admittedly, we in the US and Western Europe are skilled practitioners when it comes to thinking inside the box, echoing narratives, and repeating slogans. However, sometimes it is refreshing to open our eyes to wider visions and our ears to different sounds.

While patriotism is a good thing and we have a legitimate right to be proud of the achievements of our ancestors and our beautiful philosophical, scientific, technological, musical, artistic, and architectural heritage, we should avoid the pitfalls of solipsism and chauvinism. Indeed, we are not alone in this world. We should learn to appreciate the achievements of other cultures and civilizations. We should celebrate the myriad beauties of Latin American, African, Asian, and Pacific cultures, not forgetting the common heritage of mankind, including Russian and Chinese contributions.

UNESCO's Constitution recognises in its preamble that "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed; that ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war".

Article I stipulates, "1. The purpose of the Organisation is to contribute to peace and security by promoting collaboration among the nations through education, science, and culture to further universal respect for justice, the rule of law, and the human rights and fundamental freedoms that are affirmed for the peoples of the world, without distinction of race, sex, language, or religion, by the Charter of the United Nations" (UN Educational, Scientific and Cultural Organisation, 1945).

Indeed, it would be a great contribution to world peace if our leaders came down from their high horses and dealt with other cultures and peoples at eye level. In this connection, it bears recalling Article 20 of the International Covenant on Civil and Political Rights, which stipulates: "1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law" (General Assembly, 1966).

Alas, we in the US and Western Europe violate Article 20 of the ICCPR daily. We violate it with total impunity, and our media shares this mindset. Instead of listening and cooperating with others, we prefer to engage in "naming and shaming" and falsely accuse others of violations of international law, human rights, etc. Our mainstream media acts as echo chambers of our Western governments and of the military-industrial-financial complex. That reflects what I would call an embedded "culture of hatred. We tend to see others not as potential collaborators or even friends but primarily as competitors, rivals, or potential enemies. We must address this hostile mindset, which is the result of the chauvinistic and jingoistic policies of our governments. As a UN Independent Expert on International Order, I advocated the adoption of a Global Compact on Education that will channel our energies towards cooperation instead of confrontation. More than anything else, we need education for peace, empathy, and a new humanistic approach to global problems. We need to rediscover the spirituality of the Universal Declaration of Human Rights.

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