

Social Justice for a Democratic and Equitable International Order

Justicia Social para una orden internacional democrática y equitativa

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Abstract

This article reviews key substantive issues addressed by main ongoing global policy processes with a particular focus on the Second World Summit for Social Development (WSSD2) and the Global Coalition on Social Justice. These issues include the Right to Development as a core principle underlying social development and the realization of social justice and development in terms of international law standards. The article identifies and assesses relevant international law, policy formulations, expertise, and political processes to demonstrate their bearing on the WSSD2 and global discussion of social justice. This approach is intended to bridge academic exercise with briefing guidance for Social Justice and development actors. Core building blocks are identified: human rights codification and social responsibility; transforming the Rule of Law into the Rule of Justice; and imperatives for enforcement of United Nations Treaties, judgments and resolutions. Also, UN texts on the Right to Development and the Right to International Solidarity; the Summit of the Future and the BRICS Summit 2024; and norms and expectations of international cooperation are analysed herein. Conclusions posit that the Right to Development must be seen as juridical, *justiciable* and enforceable. Finally, the article recommends that the content and outcome of the WSSD2 and other global processes need to *redress the paradigm* by reaffirming international legal obligations and casting social justice development in terms of international law, the existing human rights treaty system, formal UN Declarations, disarmament for development.

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Summary: Introduction, Methodology: A note on approach, Results, Conclusions and Recommendations: WSSD2 must change the paradigm.

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Keywords: Social Development, Right to Development, International Solidarity, Rule of Law, Rule of Justice, International cooperation.

Resumen

Este artículo examina aspectos sustantivos abordados por los principales procesos de políticas globales en curso, con atención a la Segunda Cumbre Mundial sobre Desarrollo Social (CMDS2) y la Coalición Mundial sobre Justicia Social. Estos temas incluyen el derecho al desarrollo como fundamento para el desarrollo, y la concepción de la justicia social en términos de los estándares del derecho internacional. Se identifica y evalúa el derecho internacional, las formulaciones de políticas, la experiencia y los procesos políticos para demostrar su incidencia en la CMDS2 y el debate mundial sobre justicia social. Este enfoque tiene como fin conectar la práctica académica y la orientación para la justicia social y los actores de desarrollo. Se identifica como pilares la codificación de los derechos humanos y la responsabilidad social, la transformación del Estado de Derecho al Estado de Justicia, y los imperativos para la aplicación de los tratados, declaraciones y resoluciones de las Naciones Unidas. Además, se analiza textos sobre el derecho al desarrollo y el derecho a la solidaridad internacional, la Cumbre del Futuro, la Cumbre BRICS 2024, y las normas y expectativas de la cooperación internacional. Como conclusión, se reafirma que el derecho al desarrollo debe ser jurídico, *justiciero* y exigible. Se recomienda que los resultados de la CMDS2 y otros procesos globales deben reafirmar las obligaciones jurídicas internacionales fundamentando el desarrollo y la justicia social en términos del derecho internacional, el sistema de tratados de derechos humanos existente, las declaraciones de las Naciones Unidas, y el desarmamiento para el desarrollo.

Palabras clave: Desarrollo social, Derecho al desarrollo, Solidaridad internacional, Estado de derecho, Estado de justicia, Cooperación internacional.

Pursuant to General Assembly Resolution 78/261 of 26 February 2024, a "Second World Summit for Social Development" (WSSD2) is to be held in Doha, Qatar on 4 to 6 November 2025².

Introduction

The Right to Development must be seen as juridical, justiciable and enforceable. The Second World Summit for Social Development (WSSD2, 2025) provides a unique opportunity to reaffirm the Right to Development as a core principle underlying social development. In tandem, WSSD2 has the responsibility to reaffirm the fundamental relevance of binding international legal commitments to advancing development, and to cast the realization of social justice and development in terms of international legal standards. WSSD2 should link social development *inter alia* to: the existing Human Rights Treaty system, the UN Declaration on the Right to Development (1986), and pertinent international labour standards/ILO Conventions. Preparatory discussion for the Summit and drafting of the outcome should build on the work of the United Nations Department of Economic and Social Affairs, the UN Reports on the Sustainable Development Goals, the Reports of the Human Rights Council's Special Rapporteur on the Right to Development³, as well as the Reports of other independent experts whose mandates similarly give impulse to standard-setting and thus advance the cause of social development. UN expert work and reports of particular relevance include those of the Rapporteurs on the Right to Food, the Right to Health, the Right to Clean Water and Sanitation,

² <https://social.desa.un.org/second-world-summit-for-social-development>

³ <https://www.ohchr.org/en/special-procedures/sr-development>

the Right to Housing, the Right to International Solidarity, and the Promotion of a Democratic and Equitable International Order⁴.

Furthering development world-wide is one of the three pillars of the United Nations Charter, together with promoting peace and human rights. The United Nations Organization, however, finds itself in a grave crisis of identity, authority and credibility, largely because several permanent members of the Security Council want to instrumentalize the Organization to advance their own geopolitical agendas and not the interests of humanity at large. Worse than that, the permanent members of the Security Council still enjoy institutionalized impunity. Draft Decisions and Resolutions of the Security Council are systematically frustrated by the abuse of the obsolete veto power contained in Article 27(3) of the Charter. Judgments and Advisory Opinions of the International Court of Justice are being flouted with impunity. We are facing not only an implementation gap, but a serious loss of trust in the institutions created to uphold our rights.

The UN Charter and civilization itself are under mortal attack by what may be called an open *rebellion* against international law and morals. Provocations, aggressions, escalations, wars culminating in crimes against humanity and genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide (1948) are destroying the fabric of the domestic and international legal order that humanity has woven and interwoven over the centuries. WSSD2 cannot afford to ignore these facts. It must address them and see how good faith – that fundamental general principle of law – is vindicated.

This article provides an overview of *what's at stake* during the 2nd World Summit on Social Development and identifies key concerns and approaches to shape the outcome. A primary purpose of the exercise encapsulated in this journal article is to promote dialogue and mutual enrichment between the worlds of operational practitioners, academia, and political actors addressing inter-related fields of social development and social justice.

Methodology: A note on approach

This article draws together key elements of international law, policy, expertise, and political processes to demonstrate their bearing on the 2nd World Summit on Social Development as well as on advancing the social justice agenda. It articulates a summary review of key factors and issues at stake in social development and social justice. It is intended to serve as a practical briefing guide accessible to member representatives at the Global Coalition on Social Justice and delegates to preparatory meetings and the 2nd World Summit on Social Development. In doing so, it may benefit a wider audience concerned by these issues and events.

The article derives from knowledge and experience accumulated by the author over a half century of practical operational dedication as well as research and academic teaching on issues of international law, global justice and human rights. Its methodological approach is to elaborate on an annotated inventory identifying the key thematic and political topics that should be core elements on the agendas of the main global law and policy processes in 2025. The study comprised a process of identifying, compiling, analyzing, and cross-referencing documentation on relevant international law, United Nations declarations and policy articulations, and expert observations and writings. The presentation builds the case with a critique of the failures in realizing the first World Summit on Social Development vision and program, a summary of prospects for the 2nd WSSD, a discussion of fundamental understandings of human rights in law, an identification of international legal and declarative principles especially pertinent for

⁴ <https://www.ohchr.org/en/special-procedures/ie-international-order>

the WSSD process and result, and discusses several key constraints to advancing social development and social justice prospects at WSSD2 in the current world context.

The author draws on his extensive written work in published articles, reports and books—several of which cited herein—reflecting five decades of international experience including as senior legal advisor at the Office of the UN High Commissioner for Human Rights (OHCHR) and two terms as the first *UN Independent Expert on the Promotion of a Democratic and Equitable International Order*. This article's approach naturally presumes ongoing academic exploration of each of the topical concerns identified in this inventory.

Results

Realization of the first WSSD outcome thwarted by militarization

The hopes and expectations associated with the Copenhagen Declaration and Programme of Action (1995) adopted at the first World Summit for Social Development were not realized. There are multiple reasons for this failure, notably the increasing militarization of the world and the decreased level of multilateralism that followed the dissolution of the Soviet Union. For a brief moment, the world stood before the possibility of advancing sustainable peace and development for all. The dissolution of the Warsaw Pact in 1991 should have been followed by the dissolution of NATO and a recommitment to the pledge of “we the peoples of the United Nations” to save succeeding generations from the scourge of war.

It would have been entirely feasible to gradually convert military-first economies into human security economies and to redirect the resources hitherto devoted to the production of weapons of mass destruction, conventional armaments, maintaining military bases and conducting wars worldwide (Report of the Independent Expert on the promotion of a democratic and equitable international order, 2014). Disarmament for development would have helped to eradicate extreme poverty worldwide, eliminate famine, prevent pandemics, advance social justice, and create jobs worldwide. However, to the contrary, the increasingly militaristic trend in policy and action of Western countries in the 1990s was impregnated by the fantasies of Francis Fukuyama (1992) *The End of History*, Zbigniew Brzezinski (2016) *The Grand Chessboard* and the illusion that “winner takes all”.

Instead of resolving the Kuwait crisis by peaceful means, with patience and perseverance, the United States persuaded the United Nations to approve the use of devastating force against the people of Iraq in what became known as “Operation Desert Storm”, which resulted in enormous losses among the hapless civilian population of Iraq in a needless war that was primarily a war over oil (de Zayas, 2021; de Zayas, 2023). A mantle of legality was thrown over the massacre of civilians and the subsequent murderous UN sanctions that devastated the economy of Iraq and killed over one million Iraqis, causing Assistant Secretary General Denis Halliday, the UN humanitarian coordinator in Iraq, to tender his resignation in protest and calling the UN sanctions regime a form of genocide (ibid). Halliday was followed in the job by Assistant Secretary-General Hans von Sponeck, who similarly resigned in protest and wrote a book “*different kind of war*”, deploring the destruction of UN values by the UN itself (d'Aymery, 2007).

Through an enormous level of public relations and propaganda, it became possible to confuse the peace-keeping functions of the United Nations with the geopolitics of NATO, which essentially usurped the mandate of the Security Council (Naidu, 2000). Instead of working for peace and development, the United Nations morphed into a force to advance United States hegemony over the entire world.

NATO itself morphed from a legitimate alliance for defence into a war coalition to impose US interests and capitalism on the rest of the world. Objectively seen, NATO had ceased to be a legitimate regional organization under Article 52 of the UN Charter, and did not consider itself subordinate to the Purposes and Principles of the UN Charter, nor bound to act in a manner that would serve the object and purpose of the United Nations Organization (de Zayas, 2023b). This augured badly for the achievement of social justice that is essential for advancing social development.

Cognitive dissonance played a role in this epistemological confusion. While politicians and neo-liberal think tanks continued giving lip service to peace and development, the US and the “coalition of the willing” rushed into every possible war and pretended to impose peace – and capitalism – by force.

Instead of this scenario, a totally different situation could have emerged after the dissolution of the Soviet Union and the Warsaw Pact. This would have entailed the dissolution of NATO. Instead, President Bill Clinton decided in 1997 to expand NATO eastwards, a decision which George F. Kennan decried in a New York Times opinion article as “A fateful error” (Kennan, 1997; Switzer, 2024). The focus on military force accompanied by fear-mongering and the propagandistic selling of NATO as a legitimate defence alliance upended the priorities of the United Nations, effectively sidelining its social and development mandate and marginalizing the treaty commitments under the International Covenant on Economic Social and Cultural Rights.

Prospects of the Second World Summit for Social Development

WSSD2 must build on what already exists, and there is an enormous body of international law and jurisprudence that must be reaffirmed and built upon.

The motto of the International Labour Organization “*si vis pacem, cole justitiam*” should guide the deliberations of the Second World Summit for Social Development, in which the countries of the Global South, BRICS members and others will doubtless play a more important role than during the 1995 Copenhagen summit.

In direct contradiction to advancing social justice for all, in the year 2024 the wealth of the billionaires grew three times as fast as in 2023, while at the same time extreme poverty and famine plagued the world. The contemporary systems of financial governance, taxation, odious foreign debt, World Bank projects, IMF loan conditionalities, and the capitalist approach in general are manifestly not advancing social justice nor pursuing social justice. The World Economic Forum in Davos will not reverse this trend, on the contrary.

It is for the United Nations and the World Social Forum to make the necessary decisions and for the countries of the Global South to press for their implementation. We should turn away from what Professor Jean Ziegler of the University of Geneva calls the cannibalistic world order. (Ziegler, 2024, p. 9.)

There has been considerable progress in comprehensive standard setting and the establishment of monitoring mechanisms. Enforcement, however, has been a disappointment. Over the past 50 years most monitoring mechanisms and judicial and quasi-judicial organs have been hijacked to serve the interests of Washington and Brussels. This may sound shocking to many, but it is the sad reality which is substantiated in detail in the book *The Human Rights Industry* (de Zayas, 2023c).

What is progress? The abolition of capital punishment and the gradual improvement of the condition of women are highlights over the previous several decades. However, even these are under attack and facing push-back in challenges to international law, in global policy processes, and in national law and practice in many countries.

But there are many other major problems. Of course, what some persons consider “progressive”, other persons may consider a threat to well-established religious beliefs, customs and traditions that also deserve protection. We owe it to ourselves and to future generations to remove those systemic obstacles that make the realization of the human rights to peace, life, food, water, family, justice, and development ever more difficult.

In order to have added value, the Second World Summit for Social Development must go beyond other United Nations summits, such as the World Summit of 2005 and the Summit of the Future of 2024. It should not just end with a vague list of desiderata, but formulate concrete proposals how to achieve the Sustainable Development Goals and craft mechanisms to *enforce* relevant United Nations resolutions.

WSSD2 should reaffirm that the United Nations Charter constitutes our only “norms based international order”, akin to a world constitution. All peoples should observe this world constitution and all States must enforce it. Civilization means the Rule of Law, due process, transparency, accountability, justice, reparation, reconciliation, inclusion, international solidarity. The survival of mankind depends on good faith implementation of treaties and agreements (*pacta sunt servanda*) (Vienna Convention on the Law of Treaties (1969), Article 26), on pro-active cooperation, based on a conviction that we all share the same human dignity, the same needs and aspirations, that we must somehow coexist on this one planet Earth. With good will conflicts can be prevented and grievances can be addressed in a timely fashion and resolved.

Human Rights codification and social responsibility

All human rights necessarily derive from human dignity. Codification of human rights is never definitive and never exhaustive, but constitutes an evolutionary *mode d'emploi* for the exercise of civil, cultural, economic, political and social rights. However, the interpretation and application of human rights is hindered by positivism, wrong priorities and inflexible legalisms. In this author's observation, many rights advocates show little or no interest in the social responsibilities that accompany thesis exercise of rights, and fail to see the necessary symbiosis of rights and obligations, notwithstanding the letter and spirit of Article 29 of the Universal Declaration of Human Rights (1948) which stipulates: “Everyone has duties to the community in which alone the free and full development of his personality is possible.” The time has come to change the human rights paradigm away from narrow positivism towards a broader understanding of human rights norms in the context of an emerging customary international law of human rights.

Law is neither physics nor mathematics, but a dynamic human institution that day by day addresses the needs and aspirations of society, adjusting here, filling lacunae there. Every human rights lawyer knows that the spirit of the law (Montesquieu) transcends the limitations of the letter of the law, and hence codified norms should always be interpreted in the light of those general principles of law that inform all legal systems, such as good faith, proportionality and *ex injuria non oritur jus*.

The obsolete and artificial division of human rights into those of the falsely called first generation (civil and political), second (economic, social and cultural) and third generation

(environment, peace, development) rights—with its obvious predisposition to favour civil and political rights—should be discarded. This generational divide is part of a mental structure that perpetuates a world order that much too often appears to allow injustice. It should be replaced by a functional paradigm that would consider rights in the light of their function within a coherent system—not of competing rights and aspirations, but of interrelated, mutually reinforcing rights which should be applied in their interdependence and understood in the context of a coordinated strategy to serve the ultimate goal of achieving human dignity in all of its manifestations.

Four categories would replace the skewed narrative of three generations of rights:

1. Enabling rights: the rights to food, water, shelter, development homeland and the right to peace, since one cannot enjoy human rights unless there is an environment conducive to the exercise of those rights. Article 28 of the Universal Declaration of Human Rights postulates the right of every human being “to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” This entails the basic necessities of life and the right to access the tools for individual and collective development.
2. Inherent or immanent rights: the rights to life, integrity, liberty and security of person, in the light of which other rights must be interpreted and applied. Every such right must necessarily contain within itself the element of equality, the self-evident requirement that it be applied equally and equitably, that there be uniformity and predictability. There are also inherent limitations to the exercise of rights. The general principle of law prohibiting abuse of rights, *sic utere tuo ut alienum non laedas*—the use of a right without harming others, a principle advocated by Sir Hersch Lauterpacht⁵ as an overarching norm prohibiting the egoistic exercise of rights to achieve anti-social results or unjust enrichment. This principle means that every right, including all human rights, must be exercised in the context of other rights and not instrumentalized to destroy other rights or to harm others. There is no right to intransigence in law—as we know from the sad character of Shylock in Shakespeare’s *Merchant of Venice*. The letter of the law must never be used to subvert the spirit of the law.
3. Instrumental or procedural rights: the rights to due process, access to information, the right to truth, freedom of expression and peaceful assembly, association, work, education, social security, leisure—rights that we need to achieve our potential, to complete our personalities, to engage in the pursuit of happiness.
4. Outcome rights: the concrete exercise of human dignity, that condition of life that allows each human being to be himself or herself. This ultimate right is the right to our individual identity, to our privacy, the right to be ourselves, to think for ourselves and express our humanity without indoctrination, without intimidation, without pressures of political correctness, without having to sell ourselves, without having to engage in self-censorship. The absence of this outcome right to identity and self-respect is reflected in much of the strife we see in the world today. It is through the consciousness and exercise of the right to our identity and the respect of the identity of others that we will enjoy the individual and collective right to peace.

⁵ <https://books.openedition.org/iheid/1551>

The Rule of Law must evolve into the Rule of Justice⁶

WSSD2 has the opportunity to review the implications of the “Rule of Law” and discuss what must be done to make laws serve justice – and not just reflect power equations.

Many politicians, academics, media pundits are wont of invoking the “Rule of Law”, a “rules-based international order”, “values diplomacy” etc., but what do all these benevolent-sounding slogans actually mean in practice? Who makes the rules, who interprets them, who enforces them? What level of transparency and accountability accompanies these noble pledges?

In a very real sense, we already have a “rules based international order” in the form of the UN Charter and its “supremacy clause”, Article 103 of which grants it priority over all other treaties and agreements. The norms established in the Charter are rational, but effective enforcement mechanisms are yet to be created.

We also have humanistic “values” that should guide diplomacy and peace-making – including the principle “*pacta sunt servanda*” (treaties must be implemented). Nonetheless, both in domestic and international law there is a high level of bad faith and the tendency to apply double-standards. Major powers make agreements and then break them with impunity. Major powers undermine diplomacy by brazenly lying, by making promises and not keeping them. This subverts the credibility of the entire system of norms and mechanisms.

Politicians often forget that keeping one’s word is not only a matter of personal honour – it is an indispensable element of trust in the conduct of public affairs. Among other crucial values that we should promote are compassion, empathy, forgiveness, and solidarity common to religious faiths and teachings around the world.

It is axiomatic that the Rule of Law functions as a pillar of stability, predictability and the democratic ethos in modern society. Its object and purpose are to serve the human person and progressively achieve human dignity in the larger context of freedom.

Because law reflects power imbalances, we must ensure that the ideal of the Rule of Law is not instrumentalized simply to enforce the status quo, maintain privilege, and the exploitation of one group over another. The Rule of Law must be a rule that allows flexibility and welcomes continuous democratic dialogue to devise and implement those reforms required by an evolving society. It must be a rule of conscience, of listening.

Throughout history law has all too frequently been manipulated by political power, becoming a kind of dictatorship through law, where people are robbed of their individual and collective rights, while the law itself becomes the main instrument of their disenfranchisement. Experience has taught us that law is not coterminous with justice and that laws can be adopted and enforced to perpetuate abuse and cement injustice. Accordingly, any appeal to the Rule of Law should be contextualized within a human-rights-based framework.

Already in Sophocles’ drama *Antigone* we saw the clash between the arbitrary law of King Creon and the unwritten law of humanity. Enforcing Creon’s unjust law brought misery to all. In Roman times the maxim *dura lex sed lex* (the law is hard, but it is the law) was mellowed by Cicero’s wise reminder that *summum jus summa injuria* (extreme law is extreme injustice, *de Officiis* 1, 10, 33), i.e. the blind application of the law may cause great injustice.

⁶ This section drawn from: de Zayas (2021), pp. 50-51.

The contention that, irrespective of what it stipulates, “the law must be obeyed” has been challenged by human rights heroes for thousands of years. Spartacus fought against the Roman slave laws and paid with his life. Slavery remained constitutional and legal in the Western hemisphere until the mid-nineteenth century; colonialism was deemed constitutional and legal by the colonizers until the decolonization processes of the 1950s, 1960s and 1970s; Nazi Germany’s racist Nuremberg laws of 1935 were constitutional and legal, as were those of South Africa’s *Apartheid*, as those of Israel in Palestine; Stalin’s laws, the Holodomor in the Ukraine and the purges of the 1930’s were all based on Soviet laws and decrees; segregation in the US was constitutional and legal⁷ until overturned in 1954.

Civil disobedience by Henry, David Thoreau, Zaghoul Pasha, Michael Collins, Dietrich Bonhoeffer, Mahatma Gandhi, Martin Luther King, Nelson Mandela, Ken Saro Wiwa, Mohamed Bouazizi was legitimate and necessary to give example and initiate reforms – but they all suffered the consequences of having opposed the fetishism of the “Rule of Law”.

Democracy in the twenty-first century requires that the Rule of Law cease being the rule of power, of might makes right, geopolitics and economics. The Rule of Law must incorporate human dignity into the equation and enable people power, self-determination and referenda. The Rule of Law must evolve into the rule of social justice and peace. The WSSD2 offers a great opportunity to explicitly promote the evolution of the Rule of Law into the Rule of Justice, all the more so with deliberate attention to advancing realization of the declarations and principles discussed in the following sections.

Enforcement of UN treaties, judgments and resolutions

The authority and credibility of international law depends on its implementation. This applies also to decisions and recommendations of WSSD2.

The UN Charter, adopted on 24 October 1945, has not lost its relevance. In fact, the United Nations is needed more than ever. The General Assembly remains the most representative international body, the best forum for active diplomacy among nations and peoples, the logical venue to craft compromises, a peaceful *modus vivendi* that will advance social justice, facilitate development and prosperity for everyone on the planet. Civil society must play a stronger role in decision-making and strengthening a democratic and equitable international order.

Eighty years after the adoption of the UN Charter, new realities have emerged that are not properly reflected in the membership of the UN Security Council. Already in 2005 UN Secretary-General Kofi Annan proposed in his report “*In larger Freedom*” an expansion of the SC from 15 to 24 members:

“If the UN is to be a vehicle through which states can meet the challenges of today and tomorrow, it needs major reforms to strengthen its relevance, effectiveness, and accountability...No reform of the UN would be complete, however, without Security Council reform. The council's present makeup reflects the world of 1945, not that of the twenty-first century. It must be reformed to include states that contribute most to the organization, financially, militarily, and diplomatically, and to represent broadly the current membership of the UN. Two models for expanding the council from 15 to 24 members are now on the table: one creates six new permanent seats and three new non-permanent ones; the other creates nine new non-permanent seats. Neither model expands the veto power currently enjoyed by the five permanent members. I believe the time has come to tackle this issue head on.” UN Secretary-General (2005).

⁷ See, for instance, the US Supreme Court judgment *Plessy v. Ferguson*: <https://supreme.justia.com/cases/federal/us/163/537/>

This author endorsed Annan's proposal in his 2013 report to the General Assembly in his capacity as Independent Expert on International Order, formulated reform options, and laid out a plan of action how to gradually phase out the veto power in the Security Council, by amending Article 27 of the Charter. (Report of the Independent Expert on the promotion of a democratic and equitable international order, 2013; see also Schwartzberg, 2013).

There have been five amendments to the UN Charter, starting with the amendment adopted on 31 August of 1965 to increase the membership of the Security Council from 11 to 15 pursuant to Article 108 of the Charter. An expansion of the Security Council membership is urgent in order to make it genuinely representative and strengthen its authority and credibility. We no longer live in the world of 1945, although three members of the Security Council are still major powers: China, Russia and the US, but there is no justification to perpetuate the permanent seats of the United Kingdom and France, whose political and economic power has declined. A better reflection of today's world would be achieved through the permanent presence in the Security Council of Brazil, India, Indonesia, Japan, Mexico, Nigeria, South Africa and Turkey.⁸

If and when the UN Charter is amended, the States should also agree on the establishment of enforcement mechanisms beyond those foreseen in Chapter VII of the Charter, providing for the possibility of delegating or outsourcing certain functions to specialized agencies like the ILO, UNESCO, UNICEF and WHO with hands-on experience on the ground. Among the amendments that should be considered is the addition of a clause requiring countries to adopt enabling legislation granting domestic legal status to international judgments and decisions, so that local judges can actually order the implementation of international commitments.

In other words, international law and international jurisprudence should become part of the domestic legal order. For instance, citizens should be able to directly invoke the provisions of 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), the International Convention on the Prohibition and Punishment of the Crime of Apartheid⁹, the Convention on the Prevention and Punishment of the Crime of Genocide¹⁰, etc. Moreover, citizens should have standing in local courts to demand from their governments that they abide at least by the fundamental commitments undertaken in the United Nations Charter, e.g. not to deliver lethal weapons to countries committing war crimes, crimes against humanity and genocide. In a few States like the Netherlands, every citizen can invoke the ICCPR directly and start a case against the government for the delivery of weapons to a country committing war crimes and crimes against humanity¹¹.

Law without enforcement loses its authority and credibility. Enforcement, however, presupposes a mental disposition to accept and implement judgments and advisory opinions of

⁸ See for example discussion of expanded UN Security Council membership in: *Transforming the United Nations System* by Joseph Schwartzberg (2013), also *Time to Bring the United Nations Security Council into the 21st Century*, by Nancy Soderberg in *Georgetown Journal of International Affairs* Vol. 16, No. 2 (2015).

⁹ https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.10_International%20Convention%20on%20the%20Suppression%20and%20Punishment%20of%20the%20Crime%20of%20Apartheid.pdf

¹⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide>

¹¹ <https://apnews.com/article/netherlands-court-f35-israel-b33608b054a33fbacc518395b53b74e8>
<https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts>

the ICJ (Sarraf, 2023) and other competent tribunals, whether or not the State agrees with the rulings or with their rationale. That is the essence of civilization: to accept that in every judicial dispute there are valid arguments on all sides and that the competent judicial instance has been given authority to decide. This entails an obligation to respect the decision in good faith. Selective enforcement of ICJ judgments and Orders, selective implementation of Resolutions of the General Assembly and Security Council, selective compliance with recommendations of UN bodies undermine the international order. On the other hand, enforcement does not mean only “sanctions” under Chapter VII of the UN Charter, and should not be primarily perceived as a form of punishment. Rather, it should be understood as a self-evident component of the social contract, of the Rule of Law, of civilization. Enforcement should be accompanied by incentives, advisory services and technical assistance in international solidarity¹². Enforcement also requires the cooperation of non-state actors including transnational corporations, which have become subjects of international law.¹³

Indeed, civilization does not simply require society to have a set of laws, public education and incentives to abide by them, and powerful regulatory and policing agencies to enforce them. Civilization means ensuring the real welfare of people, creating the conditions necessary for their pursuit of happiness. The true indicators of civilization are not an expanding Gross Domestic Product, ever-growing consumption, and aggressive exploitation of natural resources – but rather respect for human and animal life, sustainable management of the environment, local, regional and international solidarity, social justice and a culture of peace.

Unfortunately, contemporary civilization does not measure up with its noble ideals. governments continue to sabotage the Rule of Law by instrumentalizing norms to destroy justice, e.g. by weaponizing extradition law to persecute whistle-blowers like Julian Assange and keep them bottled up for decades. Similarly, the extradition of Alex Saab from Cape Verde in 2021 to a kangaroo trial in the United States is a travesty of justice, as was the prosecution and imprisonment of the “Cuban 5”, victims of gross political injustice by a Miami tribunal. We have witnessed the increased use of “lawfare” to destroy political adversaries, e.g. the frame-up of Dilma Rousseff in Brazil, making the way free for “regime change”. Similarly, the subversion of election monitoring by the Organization of American States resulting in the *coup d'état* against Evo Morales of Bolivia in 2019. We have witnessed lawfare in Ecuador against former President Rafael Correa and former Vice-President Jorge Glas.

Considerable responsibility for the corruption of the Rule of Law is borne by the corporate media that systematically dis-informs the public about the facts and imposes a “managed narrative” that essentially cripples any chance for an objective debate. Over the past decades the corporate media has engaged in brazen propaganda to create a false “perception” of the law, including international law, that is very distant from any conception of justice. By suppressing information, dis-informing and whitewashing, the corporate media has become complicit in the war crimes and crimes against humanity perpetrated in Afghanistan, Iraq, Syria, Libya, Yemen etc. The media has even attempted to create an impression that the 2003 Invasion of Iraq was a “just war” (de Zayas, 2023a) in keeping with the UN Charter. Yet, the then UN Secretary General Kofi Annan repeatedly called an “illegal war” (BBC News, 2004).

Bottom line: in order to help the Rule of Law evolve into the Rule of Justice, we must demand our right to access to information, we must adopt a Charter of Rights of Whistleblowers, demand transparency and accountability from our governments, and ensure

¹² See Revised draft declaration on human rights and international solidarity (2023)

¹³ <https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0049.xml>

that Parliaments revisit obsolete laws that perpetuate injustice. We must remain vigilant to ensure that the Rule of Justice is built day by day and that our courts and tribunals apply the existing legislation in good faith and not in the service of corporations and special interests, who do not want rights – but only privileges. WSSD should join the struggle to re-establish the “Rule of Justice”.

Business and Human Rights

WSSD2 has an opportunity to discuss the UN Principles on Business and Human Rights (UN – OHCHR, 2011) and recommend that John Ruggie principles be made legally binding. A Treaty on the social responsibility of transnational corporations and other enterprises is long overdue. Social development will be difficult to achieve if transnational corporations and other enterprises are *legibus solutus* and immune from prosecution when they are responsible for serious human rights violations.

The UN High Commissioner for Human Rights

It is opportune to focus on the mandate of the UN High Commissioner for Human Rights. Following up on the recommendations of the Vienna World Conference on Human Rights, the General Assembly adopted on 20 December 1993 Resolution 48/141 creating the mandate of the High Commissioner for Human Rights. In its preambular paragraphs, the Resolution recalls “that one of the purposes of the United Nations enshrined in the Charter is to achieve international cooperation in promoting and encouraging respect for human rights”. In operative paragraph 4, the resolution enumerates the responsibilities of the High Commissioner, including “To enhance international cooperation for the promotion and protection of all human rights”¹⁴.

According to its terms of reference, the *raison d’être* of the Office of the High Commissioner for Human Rights is to advance human rights and the Right to Development by means of international cooperation, advisory services and technical assistance.

Among the many obstacles to peace and international cooperation is the on-going information war, the very high level of fake news, fake history and fake law disseminated by a complicit media that acts as an echo chamber for governments (de Zayas, 2023c, chapter 7, pp. 183-221). The growing “weaponization of human rights” means that human rights are being instrumentalized as weapons to attack and destabilize other countries. This corruption of a noble humanistic principle is tantamount to blasphemy and sacrilege.

It is crucial that the common effort to advance the enjoyment of human rights not be limited to rhetoric and lip-service to human dignity. The condemnation of abuses and crimes by governments cannot be the overarching object and purpose of the OHCHR and the Human Rights Council. “Naming and shaming” does not work. In fact, it is frequently counter-productive. Condemnation is always *ex post facto*. The emphasis must be on prevention of human rights violations through a coherent approach to identify and resolve the root causes of problems.

UN Declaration on the Right to Development and draft declaration on Right to International Solidarity

The governments of the UN Member States adopted a UN Declaration on the Right to Development and have mandated drafting of a Declaration on the Right to International

¹⁴<https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F48%2F141&Language=E&DeviceType=Desktop&LangRequested=False>

Solidarity. While the Declaration on the Right to Development and the anticipated Declaration on the Right to International Solidarity may not yet represent binding international legal standards, they should become so. Nonetheless, Declarations adopted by the UN General Assembly constitute in effect *soft law* with commensurately authoritative guiding principles. As such, they are foundational points for the WSSD2 discussion and for the outcome declaration and program of action. Core points in, respectively, the Declaration and draft declaration are thus reiterated below.

Declaration on the Right to Development

The UN Declaration on the Right to Development was adopted on 4 December 1986 pursuant to General Assembly Resolution 41/128 (UN, 1986). The Human Rights Council, in its resolution 33/13 of 29 September 2016, established the mandate of the Special Rapporteur on the Right to Development, who has produced many useful reports. WSSD2 should integrate the recommendations of these reports into its deliberations and conclusions.

Article 1 of the Declaration stipulates: “The Right to Development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

The human Right to Development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

Article 2 stipulates: “The human person is the central subject of development and should be the active participant and beneficiary of the Right to Development.

All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfillment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.”

WSSD2 should propose that the Declaration be further elaborated into a treaty that would be legally binding.

Declaration on the Right to International Solidarity

WSSD2 should endorse the revised draft Declaration on the Right to International Solidarity. The initial draft of the Declaration is contained in the Annex of report A/HRC/35/35 of the Independent Expert on human rights and international solidarity, Virginia Dandan (2017). The revised draft Declaration on Human Rights and International Solidarity is contained in Annex I to the report A/HRC/53/32 of the Independent Expert on Human Rights and International Solidarity, Obiora Chinedu Okafor (2023).

WSSD2 should pro-actively urge the General Assembly to adopt the revised version in the very near future and order its elaboration into a treaty. The Draft Declaration highlights in its preambular paragraphs the importance of sustainable development, in particular the promotion of social justice and social development:

“Inspired by the principle of international solidarity to enable the full realization of human rights through a democratic and equitable international order characterized by cooperation to overcome global challenges and promote sustainable development”.

Operative Article 3 stipulates in part:

“The general objectives of international solidarity are to create an enabling environment for: 1. Promoting the realization and enjoyment of all human rights and fundamental freedoms; 2. Engendering trust and mutual respect to foster peace and security, promote early response and prevention of conflict, provide humanitarian assistance and engage in peacebuilding; 3. Preventing and reducing asymmetries and inequities between and within States in realizing sustainable development, with particular attention paid to structural obstacles, such as systemic discrimination, that generate and perpetuate poverty and inequality worldwide and the concerns of the least developed countries and small island developing States...”

Summit of the Future and 16th BRICS Summit

UN Summit of the Future

In September 2024 Secretary General Antonio Guterres hosted the “Summit of the Future”, which adopted a “Pact for the Future”. More important than that would have been to hold a “Summit of the Present” to solve the enormous challenges pressing on us today. The Pact formulates 12 “Actions” to achieve sustainable development and sustainable financing. They are reiterated here as especially relevant to defining the content and outcome of the WSSD2:

“Action 1. We will take bold, ambitious, accelerated, just and transformative actions to implement the 2030 Agenda, achieve the Sustainable Development Goals and leave no one behind.

Action 2. We will place the eradication of poverty at the centre of our efforts to achieve the 2030 Agenda

Action 3. We will end hunger and eliminate food insecurity and all forms of malnutrition

Action 4. We will close the Sustainable Development Goal financing gap in developing countries.

Action 5. We will ensure that the multilateral trading system continues to be an engine for sustainable development

Action 6. We will invest in people to end poverty and strengthen trust and social cohesion

Action 7. We will strengthen our efforts to build peaceful, just and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and uphold human rights and fundamental freedoms

Action 8. We will achieve gender equality and the empowerment of all women and girls as a crucial contribution to progress across all the Sustainable Development Goals and targets

Action 9. We will strengthen our actions to address climate change

Action 10. We will accelerate our efforts to restore, protect, conserve and sustainably use the environment

Action 11. We will protect and promote culture and sport as integral components of sustainable development

Action 12. We will plan for the future and strengthen our collective efforts to turbocharge the full implementation of the 2030 Agenda for Sustainable Development by 2030 and beyond.” (UN, 2024)

Undoubtedly, the above actions are laudable. But will the international community take any concrete action to implement them? The WSSD2 provides a unique and immediate global opportunity to define and generate commitments to implementing these *actions* that are foundational to advancing social justice and realizing social development.

Sixteenth BRICS Summit and the Kazan Declaration

WSSD2 should study the proceedings of the 16th BRICS Summit and the Kazan Declaration of 23 October 2024. It would seem that the BRICS countries have more political will to do something about sustainable development than either the United States or the European Union.

The 16th BRICS Summit was hosted by the Russian Federation in the city of Kazan on the Volga River from 22 to 24 October and attended by 36 countries. There was hope in the air, a certain optimism that humanity can gradually change the paradigm, marshal the world disorder, move away from bloc-mentality, abandon confrontational politics, phase out dependence on the US-dollar, and craft a coherent policy to enhance trade, social and cultural exchange in tandem with the Purposes and Principles of the UN Charter and in the spirit of the UNESCO Constitution (de Zayas, 2024).

The Kazan Declaration (BRICS Summit, 2024) gives impulses for multilateralism and international cooperation with a view to achieve social development. Paragraph 6 of the declaration stipulates, *inter alia*, “We note the emergence of new centers of power, policy decision-making and economic growth, which can pave the way for a more equitable, just, democratic and balanced multipolar world order. Multipolarity can expand opportunities for [developing countries] to unlock their constructive potential and enjoy universally beneficial, inclusive and equitable economic globalization and cooperation. Bearing in mind the need to adapt the current architecture of international relations to better reflect the contemporary realities, we reaffirm our commitment to multilateralism and upholding international law, including the Purposes and Principles enshrined in the Charter of the United Nations as its indispensable cornerstone, and the central role of the UN in the international system, in which sovereign states cooperate to maintain international peace and security, advance sustainable development, ensure the promotion and protection of democracy, human rights and fundamental freedoms for all as well as cooperation based on solidarity, mutual respect, justice and equality.”

Paragraph 7 notes “... As a positive step in this direction, we acknowledge the G20 Call to Action on Global Governance Reform launched by Brazil during its G20 presidency. We also acknowledge dialogues and partnerships which strengthen cooperation with the African continent like Summit of the Forum on China-Africa Cooperation, India-Africa Forum Summit, Russia-Africa Summit and Ministerial Conference.”

Paragraph 8 recognizes the 2023 Johannesburg II Declaration and reaffirms "...support for a comprehensive reform of the United Nations, including its Security Council, with a view to making it more democratic, representative, effective and efficient, and to increase the representation of developing countries in the Council's memberships so that it can adequately respond to prevailing global challenges...."

International cooperation

The WSSD should formulate concrete strategies to enhance the importance of international cooperation in order to achieve international peace, social justice, and social development.

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." Operative paragraph 4 further states: "The promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles, in particular the purpose of international cooperation.

In the framework of these purposes and principles, the promotion and protection of all human rights is an *erga omnes* obligation of the international community. The organs and specialized agencies related to human rights should therefore further enhance the coordination of their activities based on the consistent and objective application of international human rights instruments." Operative paragraph 10 reaffirms the Right to Development and stipulates "States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the Right to Development and the elimination of obstacles to development."

Paragraphs 5 and 6 of the Outcome Document of the World Summit of 2005, Res. 60/1, emphasizes the importance of multilateralism and international cooperation.

"5. We are determined to establish a just and lasting peace all over the world in accordance with the purposes and principles of the Charter. We rededicate ourselves to support all efforts to uphold the sovereign equality of all States, respect their territorial integrity and political independence, to refrain in our international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination and foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion, international cooperation in solving international problems of an economic, social, cultural or humanitarian character and the fulfilment in good faith of the obligations assumed in accordance with the Charter.

6. 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..."

Paragraph 48 highlights the importance of the Right to Development. "We reaffirm our commitment to achieve the goal of sustainable development, including through the implementation of Agenda 21 and the Johannesburg Plan of Implementation. To this end, we

commit ourselves to undertaking concrete actions and measures at all levels and to enhancing international cooperation, taking into account the Rio principles.”¹⁵

Not to be forgotten in the context of international cooperation is the mutual respect that states owe to each other, and the commitment to recognize various approaches to achieve human dignity and democracy. Paragraph 135 of Resolution 60/1 stipulates:

“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 of self-determination. We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.”¹⁶.

Conclusions and Recommendations: WSSD2 must change the paradigm

For the world to achieve peace and development, every State must cultivate justice, domestically and internationally, in particular promote social justice (Sachs, 2011; Sachs, 2005; Rodrik, 2011), to ensure realization of human rights for all, a better distribution of wealth, universal social protection and health care, a reduction of the gulf between the super-rich and the abject poor, basic income, decent work and living wages for all, and other aspects.

What the world needs most is a fundamental rethinking of the paradigm, both with respect to international law and in particular with respect to human rights. WSSD2 owes the world a new functional paradigm of human Rights (de Zayas, 2021, pp. 451-54). The WSSD needs to revisit the spirituality of the Universal Declaration of Human Rights, recapture the enthusiasm and commitment of Eleanor Roosevelt, René Cassin, P. C. Chang and Charles Malik.

WSSD2 should address fundamental questions such as the prevalent international law paradigm, which while providing the framework for the rule of law, does not necessarily provide for the rule of justice. WSSD2 must also resolve the limitations of the human rights paradigm that focuses on individual rights and largely ignores collective rights.

The second World Summit on Social Development should formulate a program of action demanding that the governments of UN member states channel their energy into constructive cooperation paradigms to achieve measurable results in social development.

On the basis of the above considerations, it would be appropriate to propose to the Second World Summit for Social Development to consider adopting an outcome document that is concrete and result-oriented inclusive of the following elements:

1. Adopt an outcome document by virtue of which United Nations members recommit to the United Nations Charter as the only valid rules based international order. The United Nations should proactively invoke Article 103 of the Charter, the supremacy clause, and reaffirm the principle that the obligations under the UN Charter take precedence over all other international agreements, including agreements by regional and other international bodies including the OAS, EU, AU, NATO,

¹⁵[https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2625\(XV\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2625(XV)&Language=E&DeviceType=Desktop&LangRequested=False)

¹⁶ <https://documents.un.org/doc/undoc/gen/n05/487/60/pdf/n0548760.pdf>

- ASEAN. World Bank, IMF, BRICS. The priority of the UN Charter must be understood by all senior officials of the Organization and reaffirmed by the Secretary General and the General Assembly. Violations of the UN Charter must have consequences.
2. Endorse the UN Draft Declaration on International Solidarity, the UN Draft Treaty of the Social Responsibility of Transnational Corporations and other enterprises, the Declaration on the Rights of Peasants, and urge all WSSD2 participant countries to ratify relevant Treaties without delay.
 3. Promote disarmament for development. The WSSD should call for all UN member states to commit a larger percentage of the GDP to the achievement of the SDG's and reduce allocations to arms, military budgets and related expenditures. Bearing in mind that the world already has enough weapons to blow up the entire planet, it is a matter of survival of humanity as well as a matter of civilization.
 4. Demand non-engagement in military actions as well as the dismantlement of military alliances that endanger international peace and security. WSSD2 should establish criteria to evaluate and, as appropriate, call for censuring military actions and/or alliances that engage in threats of the use of force in contravention of Article 2(4) of the Charter, and/or use of force without approval by the Security Council, and/or documented gross violations of international humanitarian law.
 5. Launch a Global Compact on Education for Social Development. Such a Global Compact should advance the concept of social justice as a necessary element of ensuring stability, international peace and security.
 6. Condemn unilateral coercive measures, which are not legal sanctions under the UN Charter, do not qualify as "retortion" or "countermeasures" under the ILC's Draft Code on the Responsibility of States, and are contrary to fundamental principles of international law, including the principle of State sovereignty, the prohibition of interference in the internal affairs of states, and the rights of self-determination of peoples. So-called unilateral "sanctions" are incompatible with social development. Worse still – they kill (Weisbrot and Sachs, 2019).
 7. Urge participating States to invoke Article 96 of the UN Charter, whereby the General Assembly would request an Advisory Opinion from the International Court of Justice - ICJ concerning the obligations of States under the Charter to promote development and social justice.
 8. Recognize that the realization of the right of self-determination of peoples is a conflict-prevention strategy. Accordingly, WSSD2 should urge the United Nations to appoint a Special Advisor to the Secretary General on the Realization of the Right of Self-determination. The WSSD should call on the General Assembly to establish a special department within DESA with the task to organize, conduct and monitor self-determination referenda, where appropriate. Furthermore, the UN Human Rights Council should create the function of a Special Rapporteur on Self-determination.
 9. Support initiatives to reform the UN system, so as to make it more effective and eliminate overlaps. Among the necessary reforms is the democratization in the membership of the Security Council, an expansion of its membership from 15 to 25 members, and the phasing out of the veto power as recommended by Professor Joseph Schwartzberg (2013) in his book *Transforming the United Nations System*.
 10. Propose that the Human Rights Council thematic mandates be strengthened, that confrontational country mandates be phased out; and that the Universal Periodic Review procedures be revised in order to ensure constructive discussion and avoid duplication.

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