

Book review

“The Human Rights Industry”

Alfred de Zayas: Reflections of a Veteran Human Rights Defender

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Hans Köchler
(Photo hanskoechler.com)

(Vienna, July 2023) The «Human Rights Industry» by Alfred de Zayas is the most comprehensive and honest assessment and critique to date of the performance of institutions the international community has set up to monitor respect of those principles that underlie justice and the rule of law at the global level.

Whether domestically or in relations between sovereign states, politics must conform to human dignity, and the authority of the state must only be used to enforce the law, but not to subvert it just for the sake of mere power.

This is the rationale of all international instruments and institutions established under the *Charter of the United Nations* and particularly in response to the *Universal Declaration of Human Rights*, adopted by the organization's General Assembly in 1948.

The author of this richly sourced volume has made us aware of how important it is to understand the procedures and often hidden mechan-

isms by which these institutions exercise their mandate. He does so with utmost authenticity, having served in the United Nations for several decades and in different capacities, such as, from 2012 to 2018, as first UN Independent *Expert on the promotion of a democratic and equitable international order*.

In view of his first-hand experience and involvement with the human rights “industry”, the focus of his investigation may aptly be described by *Juvenal's* dictum, as also quoted by the author, “*Quis custodiet ipsos custodes?*” (Who will guard the guards themselves?) The result of the author's query is a diagnosis without illusions, which will nonetheless help the reader to grasp some of the intricacies of international diplomacy at the intersection of law and power.

The book investigates the “human rights industry” in some of the major undertakings, both under UN auspices and outside that organization's institutional framework. The author gives a detailed assessment and analysis of the work and modus operandi of the *United Nations Human Rights Council* (until 2006, Commission on Human Rights) and the Office of the *UN High Commissioner for Human Rights* (OHCHR). He also deals with the *International Criminal Court*

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At his University, Professor Köchler also served as Chairman of the Arbeitsgemeinschaft für Wissenschaft

und Politik (Working Group for Sciences and Politics) from 1971 until 2014. From 1974 until 1988 he was Member of the Board of Österreichisches College (Austrian College Society, Vienna) and member of the Program Committee of European Forum Alpbach.

In 1998 he was Visiting Professor at the University of Malaya in Kuala Lumpur (Malaysia). In 2004, he was appointed as Visiting Professorial Lecturer at the Polytechnic University of the Philippines, Manila. Following his election as Life Fellow in 2006, he was elected as Co-President of the International Academy for Philosophy in 2010.

From 2019 to 2021 he served as Member of the University Council of the University of Digital Science (Berlin). In 2018, he joined the Faculty of the Academy for Cultural Diplomacy in Berlin, Germany.

(ICC) and, briefly, the *Organization for the Prohibition of Chemical Weapons* (OPCW), pointing to cases of political interference in the work of these two institutions that are vital in terms of the enforcement of international humanitarian law.

He critically addresses the voting record of states in matters of human rights as well as the role of civil society – non-governmental organizations and the media – in their promotion. The work concludes with a wealth of specific recommendations, aimed at improving human rights monitoring and enforcement, but also at better defining human rights doctrine in the context of global power relations.

In conformity with the UN Charter's philosophy, the author emphasizes the priority of peace as *conditio sine qua non* for the realization of human rights. He strongly criticizes the watering down of the Human Rights Council's 2016 "Declaration on the Right to Peace" and draws our attention to that fact that the document – in spite of the text having been watered down to a degree that made the Declaration almost non-consequential – was rejected by all Western member states of the Council. This, in the author's assessment, raises the issue of credibility of those that see themselves as the principal defenders of human rights in today's global system.

In regard to peace, he also points to imbalanced statements by the *High Commissioner for Human Rights* on the ongoing conflict in Ukraine, deploring what he calls "judgemental naming and shaming", without addressing the real issues. His frank assessment, on the basis of first-hand experience as human rights officer, makes him doubt the integrity of the Office's approach.

Commenting on a further statement of the Deputy High Commissioner on the Ukraine conflict, he describes the Office's handling of the matter as an "exercise in the reaffirmation of Western prejudices". Deploring the UN practice of placing political appointees in senior posts, the author points to the "growing politicization" of the OHCHR and criticizes the selectivity of investigations initiated by the Office.

He also states that there is abundant evidence that the OHCHR "yields to political pressures by governments and donors". In his assessment, "there is little doubt that in the hybrid war being waged by the U.S. to maintain a unipolar world, the OHCHR has been assigned a supporting role" (p. 30). As regards the inde-



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pendence and integrity of human rights work, the author repeatedly emphasizes that the Office of the High Commissioner should not accept any "voluntary contributions".

Evaluating the state of the human rights industry in its entirety, de Zayas diagnoses what he describes as "hostile takeover" of many human rights organizations by governments, intelligence services and (hidden) corporate interests. He particularly alerts us about the penetration of the ICC, but also mainstream and social media by intelligence services.

This all has contributed to the political instrumentalization and "weaponization" of human rights, which, in the present global constellation, has increasingly meant a binary approach of "good" versus "bad", undermining efforts at dialogue and the peaceful resolution of disputes.

Particularly revealing, as regards the role of power politics in today's global discourse on human rights and the rule of law, are the statistics given in Chapter 8 of the Book, "The Voting Record of States".

Whether the issue was the "right of peoples to peace" (UN General Assembly, 1984), the already mentioned "Declaration on the Right to

Peace” (by the Human Rights Council), a resolution on the “Promotion of peace as a vital requirement for the full enjoyment of all human rights by all” (2022), or the repeated resolutions of the Human Rights Council on “The negative impact of unilateral coercive measures on the enjoyment of human rights”: those states, especially from the West, who see themselves as vanguards of human rights enforcement either voted against or abstained. In the author’s analysis, however, these states are better described as “saboteurs of human values” or “vandals of human rights” (p. 252).

De Zayas’s no-frills description of the status quo of human rights in today’s international system serves a constructive purpose. He reminds the reader that one first has to identify the problems in order to be able to correct them. Describing his position as that of “survivalist humanism”, he addresses a “significant enforcement gap” in terms of human rights covenants and resolutions due to international power politics and the resulting practices of double standards.

On the basis of his decades-long involvement with the UN human rights apparatus, he presents a number of precise recommendations aimed at a more credible and efficient commitment of the international community to human rights and the rule of law. He identifies, inter alia, “world peace”, the transition from “military” to “human security” economies, the abandoning of the practice of unilateral coercive measures (which he considers as an element of hybrid war), the full recognition of the right of self-determination, and a holistic approach to human rights as priorities for global policy.

On the basis of these criteria, the author draws a “plan of action” which includes, among other measures, ratification of core UN human rights treaties by all states, the adoption of an international treaty on corporate social responsibility, and the strengthening of regional and international human rights courts.

As regards the operation of the UN Council on Human Rights, he introduces the idea of “preventive rapporteurships”, the establishment of procedures to prevent mobbing and ad hominem attacks against human rights officials and activists, and the adoption of a “Charter of Whistleblowers’ Rights”. He also suggests that the Council should put the right to self-determina-

tion as permanent item on its agenda, and that it should specifically address the dangers of war propaganda. As regards the Office of the High Commissioner for Human Rights, measures need to be taken, in the author’s opinion, to completely avoid so-called “voluntary” funding and to end the practice of appointing former politicians as High Commissioners.

In the author’s overall assessment, the General Assembly of the United Nations bears special responsibility for ensuring the credibility of global human rights policies. Member states should reject persistent attempts to divide the world into “good” and “bad” countries.

Furthermore, the Assembly should make better use of Article 96 of the UN Charter authorizing it to request advisory opinions from the *International Court of Justice*, and it should grant special status to representatives of indigenous peoples in the sessions of the Assembly. It should also consider appointing a Special Advisor to the United Nations Secretary-General on the right to self-determination. In the author’s opinion, the principle of territorial integrity is not absolute and must be interpreted in relation to the right of self-determination.

As regards the involvement of international civil society in the human rights work of the UN, it should be ensured that powerful countries do not exercise undue pressure to grant or block consultative status for non-governmental organizations. Also, academe and media must not give in to “cancel culture” or dogmatically enforce “political correctness”. They should be committed to give room to a plurality of views. Referring to the Internet and social media, the author suggests, inter alia, that private-sector censorship and the manipulation of public opinion via search engine algorithms be penalized.

The wealth of analyses and critiques, in combination with specific proposals for reform, makes the ideas collected in this volume a genuine antidote to the self-righteousness of the “narrative managers” (so labeled by the author) who all too often have been distorting and manipulating the global human rights agenda for narrow political interests. The work is indeed a convincing plea to the international community to return to what de Zayas describes as the “spirituality” of the *Universal Declaration of Human Rights*.