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# Young Cultural Diplomacy

## A Quarterly Journal

*"The Role of International Law in Promoting  
Human & Women's Rights"*

(March 2014)







*“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”*  
(Art. 1, Universal Declaration of Human Rights, 10 December 1948)

# Young Cultural Diplomacy

*“The Role of International Law in Promoting Human and Women’s Rights”*  
(March 2014)

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### The Role of International Law in Promoting Human & Women’s Rights

One of the main functions of international law is to promote and protect Human Rights, which can be defined as fundamental moral principles guaranteed to every human being. In the aftermath of the Second World War and Holocaust, the international community responded to the atrocities committed by adopting a document that would universally ensure the conscious acquisition of human dignity. In 1948 the United Nations General Assembly agreed on the Universal Declaration of Human Rights that was the first agreement of the organized community of nations on human rights and fundamental freedoms. According to international law principles, the Declaration is not a binding legal document for states however it expresses a strong will and ideals to respect Human Rights by Declaration’s signatories. During the 1960’s, the international community gathered once again to sign and ratify the International Covenant on Economic, Social and Cultural Rights, as well as International Covenant on Civil and Political Rights that provide the international legal framework to protect Human Rights. Through ratification of international Human Rights treaties, governments are legally obliged to implement the protection of Human Rights into domestic legislation rules compatible with the treaty obligations and duties. In order to monitor the ongoing application of those universal measures, a number of international bodies were created. Indivisibility and interdependence of Human Rights was confirmed in 1993 by the Vienna Declaration and Program of Action that provided legal bases for the establishment of the office of the United Nations High Commissioner for Human Rights.

In addition to that, international customary law and treaty law guarantee the protection of certain Human Rights that are monitored by institutions acting

to prevent torture or genocide. International bodies such as ad hoc criminal courts or International Criminal Court execute inter alia cases of serious violations of Human Rights.

Women’s Rights play an important role in the process of Human Rights’ implementation. Regardless the 1981 ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the establishment of the UN Committee that oversees the Convention, gender inequality remains a serious problem in numerous countries all over the world. Cases of violations of basic Human Rights such as lack of equal access to education, health services or representation in local government for women can be found on a daily bases.

The current issue of the Young Cultural Diplomacy Brochure discusses the question related to international law, Human Rights and Women’s Rights. The articles approach a broad range of problems that may encounter the Human Rights’ application process; from the legal or political challenges and achievements of international bodies such as the United Nations or European Union in terms of Human Rights promotion to Women’s Rights during major political changes such as the Tunisian Revolution and the civil war in Syria to programs that enhance universal principles through the use of media and art. This multifaceted perspective offers a broad understanding of Human Rights in modern society<sup>1</sup>

1 International Covenant on Economic, Social and Cultural Rights (1976)

2 Committee against Torture (CAT) monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984)

3 The Convention on the Prevention and Punishment of the Crime of Genocide (1951)





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### The United Nations Global Compact: Its Constraints & Future Challenges

By Jon Fernández de la Iglesia



Since its inception, in 1999 just after a landmark policy speech prepared by the former Secretary-General of the United Nations (UN) Mr. Kofi Annan, the Global Compact (UNGC) has become a lively public-private initiative, which expresses an internationally recognized commitment with ten universal principles in the areas of Human Rights, Labor Rights, the environment and anticorruption. In this way, the UNGC has today more than 12000 participant companies from more than 130 countries, and has developed Local Networks in more than 100 countries<sup>1</sup>. However, nearly fifteen years after its creation, and in spite of the aforementioned achievements, the UNGC still faces relevant challenges and constraints for its

<sup>1</sup> Kell, Georg, *12 years later: Reflections on the growth of the UN Global Compact, Business Society*, 2013, p. 32.

implementation in companies.

More specifically, the main objective of the UNGC is to make possible the incorporation of human and labor standards and principles, included in landmark documents such as the *Universal Declaration of Human Rights of 1948* or the *International Labor Organization’s Fundamental Principles and Rights at Work of 1998*, into Multi-National Companies’ (MNCs) business operations<sup>2</sup>. The main constraint that companies have in this sense is on how to be properly accountable and monitor the correct implementation of the ten principles into their business practices. Specially, on an international business environment, where MNCs do not have a legally-binding obligation to report on their Human Rights, Labor Rights and environmental standards to an international organization or body. Having in consideration the voluntary nature of the UNGC, the UNGC faces the risk of evolving into another international code of conduct without accountability, just like a public relations document without importance<sup>3</sup>.

A possible solution for the aforementioned lack of enforcement of the company and its subsequent scarce accountability by the MNC’s side, that we could find when reviewing the literature about the UNGC, would be the establishment of an international regime on Human Rights standards.

<sup>2</sup> Meyer & Stefanova, *Human Rights, the UN Global Compact and Global Governance*, Heinonline, 2001, p. 11.

<sup>3</sup> Ibid. 2013, p. 34.

This institution would be issue-specific, and would have an institutional framework (in the form of an international organization), which could adopt a specific set of rules or standards and consequently set up a monitoring compliance procedure<sup>4</sup>.

In particular, there have been some well-known examples of international regimes established in different specific areas that could be regarded as a role model for the UN when developing Compact in the following years. Some good examples are, for instance, the World Trade Organization in the field of trade, the International Monetary Forum or the World Bank in the area of monetary affairs<sup>5</sup>. However, developing an international framework to guarantee the implementation of Human Rights and Corporate Social Responsibility (CSR) standards by MNC’s can be quite complicated. Thus, in a world where Nation States still retain a high degree of political power and where most of the big firms have expressed their will to only comply with Human Rights and CSR standards on

<sup>4</sup> Ibid. 2013, p. 514.

<sup>5</sup> Ibid 2011, p. 13.

a voluntary basis and having into account their “business case”, this seems very unlikely to happen in the medium term<sup>6</sup>.

Nevertheless, in spite of the constraints and challenges related with its development on a practical level, the UNGC has managed to become a vibrant and groundbreaking international initiative that has contributed to the development of global governance partnerships and extensive networks. These have managed to bring together important actors and stakeholders from the governmental, private and civil society domains, always with the core objectives of sharing new practices and at the same time, developing new solutions for the respect of Human Rights amongst MNC’s<sup>7</sup>. Perhaps more time is needed to raise awareness for the UNGC’s principles and thus, to achieve an international consensus to adopt its principles as International Law.

<sup>6</sup> Kurucz C. Elizabeth, A. Colbert, Barry, Wheeler David, *The Business Case for Corporate Social Responsibility*. 2008, p.1-2.

<sup>7</sup> UN Global Compact website, checked on 26/03/2014: 17:40





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## Women's Rights in the European Union

By Juan José Fernández Romero



In recent history, women have strongly demanded changes regarding their role in society: bodily integrity and autonomy, the right to suffrage, to work in the private or public sectors, and to fair wages and equal pay, are some of the most significant ones. Furthermore, women rights are tacitly in the Universal Declaration of Human Rights<sup>1</sup>, where equality between men and women is proclaimed.

Addressing specifically the European Union (EU) as an international organization promoting the mutual integration of all the 28 member countries, there are some basic values that must be respected and protected in this process.

<sup>1</sup> "Universal Declaration of Human Rights " December 10 , 1948.

The most important of all is the respect, promotion and diffusion of Human Rights (understood as human dignity, freedom, democracy, equality, the rule of law and respect for human rights). In this integration process some events related to Human Rights lead to the establishment of the European Court of Human Rights in 1959 (which became a full-time institution in 1998) and the Charter of Fundamental Rights of the European Union (both created and ratified in 2000) which is also one of the fundamental texts of the institution.

Moreover, it is important to notice that throughout the whole text, men and women's rights are defended equally, being both equally important and therefore treated under the same terms. Additionally, the 23<sup>rd</sup> article is entitled "Equality between men and women"<sup>2</sup>.

In accordance with these documents, we also have the European Union's "Strategy for equality between women and men 2010-2015"<sup>3</sup> which establishes the direction for future policies for all of the EU's institutions in this regard.

Launched in 2006 and financed mostly by the European Commission, we can also appreciate the work that the European Instrument for Democracy and Human

<sup>2</sup> "Charter of Fundamental Rights of the European Union" December 18, 2000.

<sup>3</sup> "Strategy for equality between women and men 2010-2015" September 2010.

Rights (EIDHR) is doing. It is a platform of 43 NGOs operating at a European Union level. This institution "contributes to the empowerment and protection of these women and girls by actively supporting women's human rights activists and gender equality [...] for all forms of gender based violence and prosecution of the perpetrators of such violence"<sup>4</sup>. They are

<sup>4</sup> "EIDHR: Women's rights".

also contributing on the implementation of the "EU guidelines on violence against women and girls and combating all forms of discrimination against them"<sup>5</sup>.

<sup>5</sup> "EU guidelines on violence against women and girls and combating all forms of discrimination against them" December 08, 2008.

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## Women’s Rights Violations in Syria

By Elisabet Matamala



Syria has been considered one of the most advanced countries in the Arab world in the field of women’s rights. However, since the beginning of the uprising, in the wake of the Arab Spring, the situation has evolved into a brutal and increasingly armed conflict. Today’s reality in Syria is surrounded by a repressive political climate and the spread of fighting has led to a dire humanitarian crisis. According to the United Nations, 6.3 million Syrians need food urgently, and since the conflict began in 2011, 2.4 million people have fled the country. Many of them have ended in camps being deprived of their rights, as well as facing sexual violence and exploitation.

Several International Human Rights Organizations have been reporting violations against civilians since the

beginning of the crisis. The gross violations of International Human Rights and Humanitarian Law committed in Syria include: torture, rape, executions, arbitrary arrest and detention, enforced disappearance, hostage-taking, attacks, and destruction of property. Under international law, such crimes can be qualified as “crimes against humanity”, as they form part of a widespread and systematic attack against a civilian population. Nevertheless, when these crimes are committed in connection to an armed conflict, they can also be constituted as “war crimes”.

Women have increasingly been exposed to violations from the different parties during the conflict. A recurrent pattern is the use of women as human shields during incursions in order for the forces to escape from fire and clashes. Several International Human Rights groups have also documented massacres against civilians. Such situations constitute a direct violation of the Universal Declaration of Human Rights. Additionally, rape and sexual violence has been used as a weapon of war. According to EMHRN, there are three major situations in which incidents of rape have occurred in Syria: during governmental raids, at checkpoints and within detention facilities. The worst part of this grim context is that those women who have suffered sexual violence are generally reluctant to describe their experiences. They are left with a feeling of shame, trauma and are

afraid of being stigmatized due to cultural, social and religious pressures. As a result of their silence, women in need of medical and psychosocial support do not usually have access to such services. Moreover, women who have been raped are sometimes forced into marriage to “save family honor”, according to the FIDH. Such situations can also lead to suicide or rejection by their husbands, families, or the society if women get pregnant having few possibilities to find a clinic to perform an abortion. In cases of arbitrary detention, women are often deprived of access to lawyers and family visits, and are exposed to torture. HRW reported cases where Syrian authorities denied access to medical assistance to wounded people.

The Geneva talks in February 2014 ended without many progress in the resolution of the conflict. However, despite little efforts in approaching the parties, the conflict is far from an end. According to the BBC, Syria has become a “Proxy War”, as some western countries are behind the rebels. Therefore, the mobilization of diplomatic, political and judicial mechanisms is crucial to fight impunity for the crimes perpetrated in Syria. The future of the country is uncertain, but what is clear is that Syrian women cannot see their rights denied. The Arab Spring was the trigger of a change in the Arab world, a change that Syrians are also demanding.

*Elisabet Matamala*

1 See art. 3 of the Universal Declaration of Human Rights, “Everyone has the right to life” <http://www.un.org/en/documents/udhr/index.shtml#a1>

2 Euro Mediterranean Human Rights Network (EMHRN), “Violence against Women, Bleeding Wound in the Syrian Conflict”, November, 2013: [file:///C:/Users/Usuari/Desktop/ICD%20Intership/Conferences/Helsinki%20Conference%20\\_%20March%2014/Article%20\\_%20WM%20Trafficking%20in%20Syria/Literature/Doc-report-VAW-Syria.pdf](file:///C:/Users/Usuari/Desktop/ICD%20Intership/Conferences/Helsinki%20Conference%20_%20March%2014/Article%20_%20WM%20Trafficking%20in%20Syria/Literature/Doc-report-VAW-Syria.pdf)

3 International Federation for Human Rights (FIDH), “Violence Against Women in Syria: Break-

ing the Silence”, December, 2012 [file:///C:/Users/Usuari/Desktop/ICD%20Intership/Conferences/Helsinki%20Conference%20\\_%20March%2014/Article%20\\_%20WM%20Trafficking%20in%20Syria/Literature/FIDH%20\\_%20syria\\_sexual\\_violence-web.pdf](file:///C:/Users/Usuari/Desktop/ICD%20Intership/Conferences/Helsinki%20Conference%20_%20March%2014/Article%20_%20WM%20Trafficking%20in%20Syria/Literature/FIDH%20_%20syria_sexual_violence-web.pdf)

4 Human Rights Watch, “World Report 2012: Syria” <http://www.hrw.org/world-report-2012/world-report-2012-syria>

5 BBC News, “Arab uprising: Country by country - Syria”, December, 2013 <http://www.bbc.com/news/world-12482309>





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### Women in the Core of the Tunisian Revolution

By Pauline Racato and Elisabet Matamala

Since the Arab Spring broke out, the Arab world has been experiencing a transition process initiated by the civil society. Arab revolts raised hopes for people from diverse socioeconomic and political backgrounds. Men and women stood side by side demanding freedom and democracy. This situation offered to Arab women the opportunity to stand for their rights and regain a space in which they had been widely removed for decades. The significant presence of women in the public and media spaces, longing for equality and dignity, revealed a turning point for the region. In this regard, the social media campaign the “Uprising of Women in the Arab World” is illustrative. The Facebook page, created in October 2011 by four friends has now more than one hundred thousand followers worldwide. This movement gathered women from all over the Arab world despite the heterogeneity of their situations, both from women and men, multiplying the messages of support to their cause. Undoubtedly, Arab Spring led to a revival in Arab women resistance which became more visible and thus, stronger. Some women protested with uncovered faces, “adopting as their standard their bodies”. The massive participation of women was essential for the changes to be successful. Could a society evolve without taking into account women as part of the process? This article will emphasize the ongoing processes and changes in

Tunisia for being the forefront country of the Arab world in regard to women’s rights and where the Arab Spring started, sparking similar actions in other Arab nations in a domino-effect.

After its independence in 1956, President Habib Bourguiba implemented an active policy of promoting equality between men and women and a well-educated population. As a result of such policies, the educated female segment of the Tunisian society grew and women gained individual rights surpassing the law. However, many of the rights achieved at that time diminished during Ben Ali’s regime, which was characterized by its authoritarian nature and surveillance apparatus.

The historical uprising in Tunisia in 2011 was triggered by the grim action of Mohamed Bouazizi, who in despair for the confiscation of his goods and the harassment by the local authorities set himself on fire. As a result, protests movements emerged against corruption, unemployment and police repression throughout the country, and sparked an awakening from the oppression and constraint of freedom. In just 28 days, the demonstrations achieved to topple a 23 years of dictatorship. It was considered an unprecedented success. As a consequence, gender equality has become central to discussions of Tunisian politics.

In 2011 elections, the Islamist party Ennahda won the most seats in the Constituent Assembly, and was responsible for drafting the new constitution. Women represented the 27% of the Assembly. In August 2012, Ennahda suggested adding a clause to the draft constitution, describing women as “complementary” to men, instead of “equal”. The response came immediately. Thousands of Tunisians, especially women, took the streets demanding gender equality in the National Women’s Day (13 August). The struggle, the persistence, the power and the determination of Tunisian women eventually resulted in several advances in the field of women’s rights and liberties, such as the withdrawal of reservations to the “Convention on Ending Discrimination Against Women” (CEDAW) and the

recognition of equality between men and women.

On 27 January 2014, the Tunisian Assembly passed the new constitution. Undoubtedly, the struggle for the implementation of a new political order is the first step after any turmoil for the acquisition of women’s rights, as it happened in Tunisia, nonetheless this is not enough. Despite discrepancies between Islamists and seculars, Tunisian society is living a turning point. Its experience can be seen as an example of how powerful a well-educated society can be when the population’s social rights are oppressed.

Pauline Racato  
Elisabet Matamala

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### The International Women of Courage Award 2014: A Message of Hope for Women and Human Rights in Haiti

By Elise Seck



honored Mrs. Colette Lespinasse with the Annual Women of Courage Award.

The US Secretary of State established the International Women of Courage Award in 2007. This award is attributed each year to several women from all around the world who *have exemplified exceptional courage and leadership in advocating for human rights, women’s equality, and social progress, often at great personal risk*<sup>2</sup>. The goal of this award is to promote women rights and the emergence of women leaders worldwide.

*This year, ten women received the Women of Courage Award; Colette Lespinasse was one of them. Mrs. Lespinasse is the coordinator of the Support Group for Repatriates and Refugees (Groupe d’appui aux rapatriés et réfugiés, GARR). For more than twenty-five years Mrs. Lespinasse has fought to promote human rights and to improve life conditions of Haitians, in particular women and girls. She has fought to enhance women work in the political, social and economical scene. According to the US Ambassador of Haiti Colette is a model for a new generation of girls and women across all Haiti*<sup>3</sup>.

<sup>2</sup> US Department of State Website, *Diplomacy in Action Section*: <http://www.state.gov/s/gwi/programs/iwoc/index.htm>

<sup>3</sup> Pamela White (US Ambassador in Haiti) March 21<sup>st</sup>, 2014, International Women of Courage Award Ceremony, Port-au-Prince (Haiti): <http://french.haiti.usembassy.gov/pr-woc-lespinasse-march-21-2014.html>

*We know that in many countries women’s journey for equal rights and equal opportunity is not an easy one*<sup>1</sup>. The former US Secretary of State Condoleezza Rice has pronounced this sentence for the 2007 International Women of Courage Award Ceremony. Rice’s statement is unfortunately true but it is important not to forget that women are fighting worldwide for their rights. The US Department State shares the same opinion and every month of March celebrates the *Gender Equality and Women History Month*. Within this context, on the 21<sup>st</sup> of March, the US Ambassador in Haiti, H.E. Pamela White,

<sup>1</sup> Condoleezza Rice (US Secretary of State) March 7, 2007 International Women of Courage Award Ceremony, Washington DC (US) : <http://gos.sbc.edu/r/rice4.html>

*Mrs. Lespinasse worked during seven years at the Radio Soleil where she directed several programs in order to encourage Haitian citizens to participate in the political and economic life of their country and to protest against Jean-Claude Duvalier’s dictatorship. Since 1991 she has been working with the GARR to defend Haitian migrants rights. However, the fight for human rights has become more difficult. In January 2010 an earthquake occurred and 300 000 people were reported dead and 1.000.000 became homeless. The Dominican Republic government, fearing an invasion from Haitian refugees, decided to welcome only regular Haitian refugees and to refuse those who did not manage to obtain papers. In September 2013, by the 168-18 ruling, the Dominican Republic Constitutional Court decided to deprive thousands of Dominicans from Haitian origin from their nationality. This ruling, which consequence is to generate an important number of stateless persons, has attained a lot of critics, being pointed as a human rights violation and as a racist disposition.*

The GARR, leaded by Mrs. Lespinasse has been one of the most fervent opponent to the Dominican 168-18 ruling. Its main point was that this ruling runs counter to article 18, paragraph 2, of the Dominican Republic’s Constitution, which specifies that *are considered as Dominican citizens those who enjoy the Dominican nationality before the entry into effect of the 2010 Constitution*<sup>4</sup>. As a consequence, the GARR is fighting in order that the Dominican authorities determine the restitution of their nationality for all of Dominican citizens from Haitian origins.

In conclusion, even if the Annual Women of Courage Award is an encouraging recompense and a message of hope for women, the struggle in favor of Haitian women and refugees’ rights will not come to an end while there are still remaining problems.

<sup>4</sup> Dominican Republic’s Constitution of 2010, article 18, paragraph 2 [https://www.constituteproject.org/constitution/Dominican\\_Republic\\_2010.pdf](https://www.constituteproject.org/constitution/Dominican_Republic_2010.pdf)





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### Human Rights in Syria:

#### What is the future for the Responsibility to Protect doctrine?

By Susanna Villani



The crisis in the Syrian Arab Republic started in March 2011 with small-scale protests confined to a few cities. The protests were violently suppressed by the Government, leading to nationwide demonstrations and subsequently to a non-International armed conflict. After three years of conflict, Syria remains a battlefield where tens of thousands of lives have been lost, 6.5 million people have been internally displaced and a total of 9.3 million people are in need of humanitarian assistance, 46% of whom are children. These figures include at least 270,000 of the 540,000 registered Palestine refugees who have also been displaced within Syria and thousands others

found refuge in neighboring countries<sup>1</sup>.

In this context, the “Responsibility to Protect” doctrine has shown its weakness both at an international and a national level. Such concept was launched by the UN Secretary-General Kofi Annan after the international community’s failure to respond to the human tragedies of Rwanda and Kosovo in the 1990s<sup>2</sup>. In late 2001 the Canadian government created the International Commission on Intervention and State Sovereignty (ICISS) that released its report *Responsibility to Protect* advocating that state sovereignty is a responsibility, and that the international community could, as a last resort, use military intervention to prevent “mass atrocities”<sup>3</sup>, including war

1 See, UNOCHA, *Syria Humanitarian Assistance Response Plan January December 2014*, 14 December 2013. Available at <http://www.unocha.org/cap/appeals/syria-crisis-humanitarian-response-2014>; UNHCR *Global Appeal 2014-2015*, UNHCR Fundraising Reports 1 December 2013. Available at <http://www.unhcr.org/ga14/index.xml>.

2 See, UN Secretary-General’s Millennium Report, *We the Peoples: the role of the United Nations in the Twenty-First Century*, UN Doc. N. A/54/2000, 27 March 2000. The dilemma launched by the UN Secretary General was: “If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systemic violations of human rights that offend every precept of our common humanity?”, Ch. IV, 48.

3 See, ICISS, *The Responsibility to Protect*. Report of the International Commission on Intervention and State Sovereignty,

crimes<sup>4</sup>, crimes against humanity<sup>5</sup> and genocide<sup>6</sup> as well as other serious human rights violations. Nevertheless, it is a concept embracing not just the “responsibility to react” but also the “responsibility to prevent” violations of human rights by removing the sources of danger before violence becomes visible and the “responsibility to rebuild” by providing assistance with recovery, reconstruction and reconciliation. Beginning with this elaboration, the notion of “Responsibility to Protect” (hereafter R2P) has developed over time. At the World Summit in 2005 the member states included R2P in the Outcome Document<sup>7</sup> and the

December 2001, para. 1.7. Available at <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

4 Article 8 of the Rome Statute of the International Criminal Court (ICC) defines war crimes as, *inter alia*, “serious violations of the laws and customs applicable in international armed conflict” and “serious violations of the laws and customs applicable in an armed conflict not of an international character”. Available at [http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf)

5 Article 7 of the Rome Statute of the International Criminal Court (ICC) codifies the definition of crime against humanity. “The notion encompasses crimes such as murder, extermination, rape, persecution and all other inhumane acts of a similar character (wilfully causing great suffering, or serious injury to body or to mental or physical health), committed ‘as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack’”. Available at [http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf)

6 The international legal definition of the crime of genocide is found in Articles II and III of the 1948 Convention on the Prevention and Punishment of Genocide as well as in Article 6 of the Rome Statute of the International Criminal Court (ICC). Available at <http://legal.un.org/avl/ha/cppcg/cppcg.html> and [http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf).

7 See, UN General Assembly, *2005 World Summit Outcome Document*, 14-16 September 2005. Available at

next year, in April 2006, the UN Security Council formalized their support of the R2P by reaffirming the provisions of the paragraphs from the World Summit document in the *Resolution 1674: Protection of Civilians in Armed Conflict*<sup>8</sup>. Despite this, the reservations that emerged during the 2005 World Summit in the UN debates and the continuous hesitation among States to accept the existence of a legal duty to protect individuals against massive human rights violations, clearly demonstrates that such uncertainty remains about the legal foundation and the scope of this new doctrine. The insufficient response from the International Community to Syrian crisis during the peace talks in Geneva demonstrates that there is still not a consolidated practice allowing such doctrine to be accepted as a norm of international law. Furthermore, despite the rapid development of the doctrine and its use in Libya, a crucial component is still missing: how to act when the Security Council fails to take action in the face of ongoing mass atrocity crimes.

In conclusion, the case of Syria indicates that firstly the *Responsibility to Protect* is a norm *in fieri* that remains one of the most powerful but less understood ideas of our time and secondly that an evolution of this doctrine is necessary to protect human beings from extreme abuse wherever and whenever it occurs.

[http://www.un.org/ga/59/hl60\\_plenarymeeting.html](http://www.un.org/ga/59/hl60_plenarymeeting.html)

8 See, UN Security Council, Resolution 1674: Protection of Civilians in Armed Conflict, S/RES/1674, 28 April 2006. In the Article 4, the Security Council “Reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”.





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(Art. 1, Universal Declaration of Human Rights, 10 December 1948)

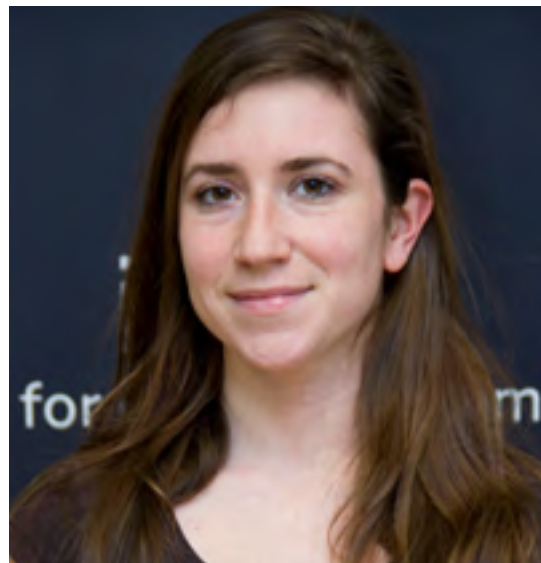
## Young Cultural Diplomacy

*“The Role of International Law in Promoting Human and Women’s Rights”*

(March 2014)

## Art in Refugee Camp – Contributing to Human Rights Promotion

By Mathilde Garret



When discussing Human Rights, one of the most important topics that arises is that of the international refugee crisis. Indeed, millions of people every year are fleeing their countries to escape situations in which peace is breached or human rights are blatantly violated and many of them finding shelter in refugee camps set up by the United Nation High Commissariat for Refugees (UNHCR). The challenges faced by humanitarian actors within these camps are huge, considering the issues which arise due to the arrival of so many people in such precarious situations, and the wide range of pressing needs that must be addressed in order to provide them with decent living conditions. As the camps are often designed and implemented as temporary solutions, artistic projects and initiatives are not part

of the usual package. However, as many camps remain standing for years, sometimes even decades, creative activity becomes a more and more important part of a refugee’s life. It is given growing attention, notably in terms of how it can be used as a tool to address humanitarian issues in refugee camps.

Artistic expression can contribute in many ways to improve living conditions in refugee camps. Firstly, it is a powerful tool in addressing psychological issues, especially with children. Through artistic expression, refugees have a way of processing their experience through non-verbal or supra-verbal means, which can make it easier in regard to the intensity of the experiences many of them have undergone throughout their lives. It also greatly fosters integration, both between refugees themselves and towards local host communities, in the territories in which camps are set up, as well as helping to break the deep isolation that is often faced by camp residents. In a context of cultural uprooting, art is an important vector of traditions, and a way of coping with identity destabilization that can occur when one is forced to leave his or her own country. This dimension garners more importance, as being born and raised within a refugee camp is not an exceptional situation any more, emphasizing the relevance of intergenerational cultural transmission. Moreover, artistic projects are fully in accordance with the idea that refugees must be integrated as much as

possible within the camp structure, in the participatory process fostered by international organization. Furthermore, art is very powerful in terms of mass communication, and a great tool to broadly tackle a certain number of issues that are prominent in many refugee camps, especially those that are considered taboo or difficult within some societies. An example of this is for instance the use of street drama to address the question of AIDS epidemics.

It is to be noted that most artistic initiatives within refugee camps come from the camp residents themselves. Often, NGOs are needed to provide them with the structure or material, but the impetus in the first place stems from refugees themselves, some of them having an artistic professional or semi-professional background in their country of origin. This fact counters the generally accepted idea of refugees as being passive recipients of international aid, thereby disputing the stigmatization they often face, even from the humanitarian actors community and sometimes from themselves. One of the most powerful outcomes of artistic activities of refugee camps is perhaps showing that refugees are not only victims, but also active and creative, able to shape their living

environment to a certain extent. Thereby, it contributes to building bridges between those isolated communities and the rest of the world.

Undoubtedly, artistic expression is no solution to the wide range of pressing issues that are to be tackled by the international community when addressing the problem of forced migrations. Neither is it the first concern that must be taken into account when setting up a camp. However, it is powerful as a peripheral tool to improve quality of life within refugee camps and should not be undermined. On the contrary, cultural/artistic initiatives stemming from refugees should be enhanced, fostered and supported. Indeed, the UN Universal Declaration of Human Rights does state that “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancements and its benefits”, thereby including artistic expression within the scope of Human Rights. Such initiatives can also be very powerful in terms of raising awareness regarding the international refugee crisis at an international level

Mathilde Garret

1 In 2012, the number of refugees falling under the scope of the UNHCR’s mandate was estimated at 10,5 millions, according to the UNHCR Statistical Year Book 2012, 12th Edition.

2 The use of artistic activities is for example cited by the Inter-Agency Standing Committee’s Guidelines on mental health and psychological support in emergency situation as an aid to wellness, and as part of the minimum response to emergency situations.

3 UNHCR, Policy Development en Evaluation

Services, Positive Energy. A review of the role of artistic activities in refugee camps, July 2011.

4 Street theater is often used to deliver messages regarding health of societal issues. For an example about HIV in Nepal, see : <http://www.unhcr.org/475419974.html>

5 UNHCR, Policy Development en Evaluation Services, Positive Energy. A review of the role of artistic activities in refugee camps, July 2011.

6 Article 27. See : <http://www.un.org/en/documents/udhr/>





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*“The Role of International Law in Promoting Human and Women’s Rights”*  
(March 2014)

### Human Right, Ethnic Minorities and Media in the USA

By Kseniia Naberezhneva



Observance of human rights has traditionally been emphasized with respect to individuals. As Helen Darbishire correctly pointed out in her article Minorities and media freedom under international law: “The same that is true for any individual is true for minority groups: to have an identity means to be able to express that identity through the medium of one’s choice” . Every person on this planet belongs to one or more minority groups: political, ethnical, social, linguistic etc. It is up to the state, that claims itself democratic, to guarantee human rights to the minorities and make sure that those rights are protected.

The United States of America have a large experience of dealing with all kinds of minority groups. Obviously, the longest

history of minorities is the history of ethnic groups, and not only due to the variety of the indigenous people living on the US territory but also due to a continuous and complicated process of immigration. As a result, the population of the country is so diverse that it is impossible not to recognize this on different levels, including the human rights, among which are: freedom of speech and expression as well as freedom of the press.

Freedom of the press is stated in the First Amendment to the Constitution and became a law in 1791. It says: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” Clearly, at that time, press was understood as printed media such as newspapers, books, leaflets. Nowadays, it refers to all kinds of media, including television, radio and the Internet.

What does this mean for ethnic groups and how do they realize this right? The most demonstrative example is ethnic media. Ethnic media can be defined as all types of media produced by and for (and often but not always owned by) immigrant, ethnic minority, language minority, and indigenous communities and have a lengthy record of being present in the USA. Hundreds of newspapers and

magazines, TV and radio channels in Spanish, Chinese, Hebrew, and Russian not only enrich the American media market, they fulfill other roles, for example, being a tool during the Human Rights Movement for African-Americans , trying to break stereotypes about Latino population , and serving as a platform for establishing transnational business and communication between the USA and China . Above all, ethnic media has an important function of, purposely or not, facilitating the assimilation of immigrants in the country and helping them to create

their identities, which is an inherent right of every human being.

Thus, the USA policy to allow and encourage the existence of a great number of ethnic media shows the understanding of ethnic minorities’ rights and the practice itself shows that this understanding goes beyond theoretical and human rights of the minorities on this level are being protected.

*Kseniia Naberezhneva*

<sup>1</sup> Darbishire, Helen. “Minorities and media freedom under international law”. <http://www.errc.org/article/minorities-and-media-freedom-under-international-law/1158>. Accessed 16 March 2014.

<sup>2</sup> Matsaganis, Matthew D, Vikki S. Katz, Sandra J. Ball-Rokeach. Understanding ethnic media: producers, consumers, and societies. SAGE Publications, Inc.: USA. 2011.

<sup>3</sup> Thompson, Shirley E. “The Black Press”. A Companion to African American History. Ed. Alton Horsby, Jr. Blackwell Publishing Ltd. 2005. pp. 332-345.

<sup>4</sup> Johnson, Melissa A. “Constructing a New Model of Ethnic Media”. A Companion to Media Studies. Ed. Angharad N. Valdivia. pp. Blackwell Publishing Ltd. 2003. 272-292.

<sup>5</sup> Yin, Xiao-huang. “Between the Local and the Global: Characteristics of the Chinese-Language Press in America”. American Periodicals: A Journal of History, Criticism, and Bibliography. Vol.19. No.1. 2009. pp.49-65.





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(March 2014)

### Democratic or xenophobic? The Swiss immigration referendum and EU relations By Estefania González



The results were close but clear and unmistakable. According to the referendum held in Switzerland on February 9th 2014, the Swiss government is planning to introduce quotas for migrants from the European Union (EU) as of the end of the year. 50.3 percent of the Swiss voters were in favor of the initiative “against mass immigration” presented by the anti-EU party SVP. Not surprisingly, this caused tremors across the EU, which is supposed to represent openness, diversity and receptivity. The outcome shocked European and Swiss elites, as it stands in clear conflict with the longstanding agreement with Brussels, which guarantees freedom of movement and overrides the key pact governing links between the EU and Switzerland. Due to the Guillotine clause, the entire cooperation between EU and Switzerland seems to be at stake in the light of the consequences

drawn by the EU as a response. And in fact, the Erasmus grant has already been cut for Swiss students, who are no longer allowed to participate in Erasmus projects. EU funding for research and education have been docked and Switzerland has also refused to sign a protracted deal with Croatia, initially agreed over a year ago, which would have given Croatians unrestricted access to the Swiss employment market .

But is criticism against the European principle of freedom of movement really xenophobia? The part of Swiss that is in favor of the migration quotas deny this categorically. Instead they claim that their referendum was held in accordance with democratic principles and portrays the right of self-determination of the people. It is not a matter of “partitioning-off Switzerland” from EU relations, but instead a democratic means of deciding on migration matters itself, as the principles of freedom of movement is fraught with problems and not sustainable, claim the proponents. They believe that rising immigration levels are putting pressure on infrastructure, rent prices, the social security system and unemployment rates . Furthermore, as Switzerland is not part of the EU, supporters claim it does not find itself responsible to EU regulations. However, there seem to be clear logical flaws in this reasoning. Notwithstanding Switzerland not being part of the EU, the country is evidently benefiting from its bilateral relationship regarding freedom of movement of capital and good and trade agreements. Moreover,

this comes in a package with what lies at the EU’s heart: openness and diversity – if the EU abandons this, it abandons its core. The firmest warning to the Swiss came from Frank-Walter Steinmeier, Germany’s Foreign Minister, who claimed that “Cherry-picking with the EU is not a sustainable strategy. The Swiss have damaged themselves with this result. The fair co-operation we have had in the past with Switzerland also includes observing the central fundamental decisions taken by the EU” .

Another problem, apart from EU relations, is that Euro skeptics and right-wing anti-immigration campaigners across Europe took delight in the Swiss referendum results, which caused widespread apprehension about the possibility of radicals using it as a platform for new debates. The Front National in France and the UKIP in the United Kingdom already publicly welcomed the Swiss rebound against newcomers, and also Geert Wilders called the result “fantastic” . “This Swiss victory will reinforce the will of the French people to stop mass immigration”, claimed Le Pen ; and Germany’s new anti-single currency party, Alternative für Deutschland (AfD), demanded a referendum and immigration and the same can be witnessed in Austria by the far-right Freedom Party. With the European elections in May this year, the Swiss vote is hence also a warning for the EU, as it strengthens the hand of populist and xenophobic parties in certain member states.

The results of the Swiss referendum on immigration bust a past debate: the ambivalence of populism. Is this referendum an example of “the most authentic form of political representation” , as it allows for

existing opinions in society to be simply heard? Or should it rather be seen as a threat to the principles of democracy, as it can bring forth xenophobic attitudes, which are at odds with the EU’s image of openness and diversity? In any case, the results of the Swiss referendum and the reactions it triggered around Europe should be taken seriously, not only in terms of EU relations, but moreover with regards to people’s attitudes towards immigration and integration. At this time, Europe needs a lot of things, but surely no nationalistic limitations.

*Estefania González*

- <sup>1</sup> Schweizer gegen Zuwanderung: Europas mutigste Demokraten in Spiegel Online, retrieved from <http://www.spiegel.de/politik/ausland/schweizer-journalist-verteidigt-volksvotum-gegen-zuwanderung-a-952673.html>
- <sup>2</sup> Streit um Freizügigkeit: EU setzt Erasmus-Programm für Schweizer Studenten aus in Spiegel Online, retrieved from <http://www.spiegel.de/unispiegel/wunderbar/erasmus-schweiz-muss-das-studentenprogramm-aussetzen-a-956011.html>
- <sup>3</sup> Switzerland rejects Croatia free movement deal after immigration referendum retrieved from <http://rt.com/news/switzerland-croatia-movement-reject-277/>
- <sup>4</sup> Schweiz auf dem Weg der Abschottung? in Die Zeit online retrieved from <http://www.zeit.de/politik/ausland/2014-02/volksinitiative-gegen-masseneinwanderung-schweiz>
- <sup>5</sup> Switzerland rejects Croatia free movement deal after immigration referendum retrieved from <http://rt.com/news/switzerland-croatia-movement-reject-277/>
- <sup>6</sup> Switzerland faces ‘difficult talks’ with EU after immigration referendum in The Guardian, retrieved from <http://www.theguardian.com/world/2014/feb/10/switzerland-talks-eu-immigration-referendum>
- <sup>7</sup> (ibid)
- <sup>8</sup> (ibid)
- <sup>8</sup> Kaltwasser, C. R. (2012). The ambivalence of populism: threat and corrective for democracy. Democratization, 19(2), 184-208





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