



The voice of Maria Dolens

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The Nobel Prize for women

At the beginning of October, the Norwegian Nobel Committee, chaired by Berit Reiss-Andersen, awarded this year's most prestigious prize (in the view of this Foundation of course), dedicated to Peace, to Iranian activist Narges Mohammadi, for her fight "against the oppression of women in Iran and her fight to promote human rights and freedom for all", a mission that the winner has pursued with courage and determination for practically all of her life.

51 years old, engineer by profession, and writer and journalist by vocation, Ms. Mohammadi is currently

serving a 10-year prison sentence in the notorious Erin prison, having been found guilty of 'spreading anti-state propaganda' by an Islamic court. For the dauntless activist, today's imprisonment is neither new nor an isolated event, considering the fact that it was preceded by no less than thirteen arrests and four convictions, not to mention instances of corporal punishment (the sadly infamous floggings).

Surprising as it may be, the fact that the Nobel Peace Prize has been awarded to an Iranian is not unprecedented.

To be continued on page 6...

IN THIS EDITION

02

A seminar to mark World Peace Day
Law and Peace

08

For whom the Bell tolls - P2
Memory purified

A SEMINAR TO MARK WORLD PEACE DAY

Law and Peace

How is the interpretation of human rights in international law changing? This was the topic discussed on 21 September at the Bell at a seminar held to mark the International Day of Peace established in 1981 by the United Nations General Assembly. The speakers who took to Colle di Miravalle for the event were Giuseppe Nesi, holder of the chair of International Law at the University of Trento and elected member of the UN Commission on International Law, and Guido Raimondi, judge of the European Court of Human Rights from 2010 to 2019 and president of the same Court from 2015 to 2019. The following is a summary of Mr Raimondi's speech.

In 1981, when the UN General Assembly decided to establish a day on which to commemorate and strengthen the ideals of peace and non-violence, the date 21 September was chosen for its symbolic significance, as it coincides with the beginning of the session of the UN General Assembly. This coincidence therefore represents the commitment of the nations of the world to work together to resolve conflicts and promote Peace. This is backed by confidence in the beneficial role of international law in the service of Peace.

We are currently experiencing a serious crisis in international relations. The war in Ukraine, the tensions around Taiwan and a great many other unresolved conflicts are spreading scepticism about the

ability of international law and its most spectacular achievement in the aftermath of World War II, namely the creation of the United Nations, to fulfil their ultimate and most important function, that of preserving and promoting Peace.

The Charter of the United Nations, which came into force on 24 October 1945 and is seen by many as the constitution of the international community, is the first international legal document in history to open up the legal recognition of the rights of the individual beyond and above state borders. Paragraph 3 of Article 1 of the Charter states that one of the purposes of the United Nations is to promote and encourage respect for human rights and fundamental freedoms without distinctions of race, sex, language or religion.





The UN Charter opens the way for the legal recognition of the rights of the individual beyond state borders

Indeed, the aftermath of the Second World War was succeeded by the era of the United Nations, but also by the era of human rights and thus the era of a transformation of international law in the sense of its increasing focus on the human person and the protection of his or her dignity. In this sense, there has been talk of a process of 'humanisation' of international law. There is talk, in the wake of a famous book by Louis Henkin, of an Age of rights.

Following this ideal impulse, a few years after the United Nations Charter came into force, the Universal Declaration of Human Rights was proclaimed in Paris on 10 December 1948. With the Declaration, the international community affirms, at its highest

level, the declaration of the United Nations General Assembly, reiterating that the way a territorial sovereign treats those subjects to its jurisdiction can never again be considered a purely internal matter, to which the principle of non-interference in the affairs of others is applicable.

The human rights discourse thus occupies an important space in international relations. It is a fact, however, that despite the set of legal instruments for the protection of human rights that were drawn up and came into force in the wake of the Universal Declaration of Human Rights, violations are unfortunately widespread, and this is the point that is emphasised, with rather few consequences in terms of sanctions.

Here, a distinction must be made between the universal and regional levels. Europe, in this picture, is a happy island. The European system of human rights protection, based on the European Convention on Human Rights, with all its difficulties, is a model of effectiveness. The judgements of the Strasbourg Court are binding on the contracting states, and are normally faithfully executed.

On a universal level, however, it is plain for all to see that there are numerous violations, and many of them go unpunished, as is evident from the annual reports of serious and reputable non-governmental organisations, such as Human Rights Watch. The so-called risk of 'broken window syndrome' is therefore present.

The way in which a territorial sovereign treats persons subject to his jurisdiction is not a purely internal matter

The reference is to the sociological theory underlying the zero-tolerance policy pursued by Rudolph Giuliani as mayor of New York.

The 'broken window' theory states that maintaining and controlling urban environments by clamping down on petty crime, vandalism, defacement of places, drinking in public, bad parking or evasion of parking fees, public transport tickets or toll charges, helps to create a climate of law and order and reduces the risk of more serious crimes occurring. For example, the existence of a 'broken window' (hence the name of the theory) could generate emulation phenomena, leading someone else to break a lamppost or fire hydrant, thus triggering a spiral of urban and social decay. In essence, it is said, the lack of sanctioning consequences of massive violations of rights leads to a trivialisation of the rights themselves. This means that insisting on their 'legal' value in the language of international relations may do more harm than good to international law.

According to a current of thought that is developing mainly in the United States, human rights have spread across the board in international law since the 1980s and have changed its most important features, affecting fundamental issues such as the definition of sovereignty and the theory of its sources. In the opinion of those who support this approach, the age known as the 'era of human rights' is over, at least for the time being. They be-

lieve that the human rights movement is in decline. This is motivated by a number of reasons, such as the growing number of authoritarian governments, the difficulties in the functioning of the institutional architecture set up to protect human rights, the increasing influence of China and Russia on the content of international law and the resurgence of nationalism and populism. It is argued that the human rights movement has, due to its expansion, changed international law in such a way as to make it weaker, and less likely to encourage states to follow it, and that this has increased the likelihood of it generating friction and conflict between states.

It is clear that the human rights enforcement architecture is conceptually built on the redefinition of the concept of sovereignty, which is now understood as being based on a responsibility towards individuals and their universally recognised human rights. This redefinition would provide the conceptual basis for coercive enforcement of a variety of human rights norms through foreign courts, secession, then territorial changes, and even the use of force. From an institutional point of view, it can be noted that all sectors of the United Nations have progressively focused their action more and more on human rights, considering it central to their mission, including the Security Council, whose main task should be the protection of international peace and security. It is argued by this current of thought, on the one hand, that there is a lack of serious commitment on the part of states to the enforcement of human rights norms and, on the other hand, that there is a widespread perception that interventions in the defence of human rights have been selective and political, having come at a cost to peaceful relations between states.

The question therefore arises whether we should move towards a 'post-human rights' season which, given the decline of the human rights movement, focuses on strengthening a strong core of international law norms that are geared towards protecting peace and security rather than human rights. According to this approach, human rights should continue to be protected by legally binding instruments at the regional and national levels, while at the global level, soft law instruments should be favoured.

Following this round-up of arguments aimed at showing, on the one hand, that the influence of the human rights movement on international law

and its classical functions is in decline and, on the other, that these developments need not necessarily to be seen in a negative light, the question arises as to why the irrigation of international law by human rights doctrines would lead to the weakening of its capacity to provide for its most important function, that of the preservation of international peace and security?

From a technical point of view, one could raise the objection that a contradiction is inherent in the thesis. If we argue that doctrines inspired by the human rights movement would have failed precisely in those areas where their influence would have been most 'dangerous' to the ability of international law to provide for the peace and security of nations, then where does the danger lie? Evidently, international law contains the necessary antibodies to react to an overdose of human rights.

Let's say that this 'sceptical' current of thought on the desirability of human rights having an increasing influence on general international law had at least two merits.

On the one hand, it emphasises that the human rights movement has been accompanied on too many occasions by triumphalist and emphatic rhe-

Violations are widespread with rather few consequences in terms of sanctions

toric that is rightly denounced as detrimental to a calm and objective legal analysis, the only one that truly guarantees all actors: the individuals who must be protected, but also the states, which are entitled to have their responsibilities for the protection of fundamental rights established by law and nothing else.

On the other hand, it is right to emphasise the risk to peace and security of arguments based on human rights that are, however, used selectively and for exclusively political purposes.

Ultimately, however, I do not believe that these reflections can distract us from the path, begun with the 1948 Universal Declaration of Human Rights, towards an ever greater humanisation of international law. And yes, a return to the pre-World War II situation would be a threat to peace.

THE COUNCIL OF EUROPE

TURKISH ACTIVIST OSMAN KAVALA RECEIVES THE VÁCLAV HAVEL HUMAN RIGHTS PRIZE

The 11th Václav Havel Human Rights Prize was awarded to Osman Kavala, a Turkish activist who has been in prison continuously since 2017 following his arrest for alleged links to the Gezi Park protests. The award was presented during a special ceremony organised at the opening of the autumn plenary session of the Parliamentary Assembly of the Council of Europe in Strasbourg. In a 2019 ruling, the European Court of Human Rights ordered Kavala's immediate release, finding that his detention violated his rights and pursued the aim of 'silencing him as a human rights defender'. In 2022, the Grand Chamber of the Court confirmed that Ankara had not fulfilled its obligations under the European Convention on Human Rights. In a letter written from Kavala Prison, he dedicated the award to his fellow citizens illegally detained. Quoting the words that Václav Havel wrote to his wife Olga in 1980 while in prison, Kavala reiterated that 'the most important thing is not to lose hope. This does not mean closing our eyes to the horrors of the world. In fact, only those who have not lost faith and hope can see the horrors of the world with true clarity'.



FREE IRANIAN WOMEN

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To be continued from page 1...

Exactly 20 years ago, it had been awarded to Shirin Ebadi, lawyer and founder in Tehran of the Centre for the Defence of Rights, a non-governmental association in which the new Nobel Prize laureate had also had the opportunity, so to speak, to 'cut her teeth', working side by side with the person in charge.

That the Prize be awarded 20 years later in what is essentially a "photocopy" of Shirin Ebadi's situation causes us to make two opposing considerations.

The first, undoubtedly positive one, reflects on the award as confirmation of the profound social commitment and admirable degree of personal self-sacrifice that Iranian women devote to affirming levels of emancipation more in keeping with their 'gender' dignity, despite being fully aware of the risks this entails. Those granted by the theocratic regime installed with the 1979 revolution are, in fact, of little more than symbolic value. These qualities were also very evident last year during the impressive demonstrations called by the 'Woman, Life and Liberty' movement (see issue no. 27 of 'Voce' dated November 2022), in the wake of the dramatic beating (with unfortunately lethal consequences) of the young Kurdish woman Mahsa Amini, guilty of not having worn the Islamic veil (*hijab*) 'correctly'.

The second, which leaves a decidedly negative mark, is the objective testimony to the protracted, invasive entrenchment in every compartment of Iranian society of an implacable system of public control (in which the religious component plays a central role), leaving little or nothing to the free choice of individuals, least of all women. The brutal assault suffered a few weeks ago by the teenager Armita Garawand, who was beaten to death by the 'moral police' for a similar offence to that committed by Mahsa Amini, is, once again, proof of this.

At the time, the massive mobilisation among the Iranian population, coupled with the extensive international awareness campaigns promoted on five continents, had led us, like other commentators, to trust in a gradual erosion of the capillary power hitherto wielded by the ayatollahs and their acolytes.

Exactly one year on, it is with deep disappointment that we have to recognise that these hopes have not been fulfilled and that, if there has been any change, it has, if anything, resulted in a further radicalisation of the deadly system of prohibitions and bans currently in force.



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This involution has certainly been influenced by the continuation of the Russian/Ukrainian conflict with no apparent solution on the horizon, with increasingly alarming consequences for future geo-strategic arrangements, not only in Europe but also worldwide. As was widely foreseeable, the severity of that crisis has had the effect of drawing the primary attention of virtually all governments, the corresponding public opinion, and the information networks to that geographic area, diverting them from other, albeit far from secondary, latitudes.

And we must also acknowledge, with similar regret, that in recent times, frankly disconcerting signals have been received precisely from the international community. How, for example, should we judge the decision by which the UN even entrusted the presidency of the influential Human Rights Council to one of the ayatollahs' representatives? Although cloaked in noble motives, even the White House's deliberation to lift its freezing measures, and hand over the hefty sum of \$6 billion to the Iranian regime in exchange for the release of some prisoners with dual passports, was not particularly brilliant, both in terms of expediency and timing of adoption. Despite the ritual denials of those directly involved, it is not difficult to imagine that a large part of those funds could be used by the authorities in Tehran not for the humanitarian purposes for which they are intended, but to increase the personnel and equipment of the 'guardians of the revolution' and to acquire new instruments of repression. If the US Government were to realise, albeit belatedly, this manipulation, it would undoubtedly now be inclined to reconsider this decision.

On the other hand, the demonstrations of jubilation with which the Iranian government and the radical sectors of the country that support it welcomed the criminal attack

launched against the territory of Israel at dawn on 7 October, the feast of Shabbat, by Hamas terrorists is significant of the irrelevance, for the theocratic regime, of the need to preserve even a semblance of dialogue with the West. The terrorists, who receive from Tehran not only the main sources of funding but also armaments and cynical political endorsement, staged an attack that cost the lives of hundreds of innocent victims. Against this backdrop, the ill-considered decision of the current Brics members (see the October 2023 issue of 'Voce') to invite Iran to join that important group of states, thus connoting it with a, probably irreversible, fundamental anti-European and anti-American stance, is also cause for concern.

In conclusion, returning to the prestigious award bestowed on Ms. Mohammadi by the Nobel Prize Committee, the immediate comments made by UN Secretary General António Guterres ("this is a reminder that women's rights are being harshly repressed, in Iran and elsewhere") and Iranian President Ebrahim Raisi ("this is a partisan political move against our country, which we strongly condemn") bring out its obvious, complete irreconcilability. On closer inspection, the same comments help to further reinforce those walls, both physical and cultural (called *divar* in Farsi), which the new laureate has always worked selflessly to stubbornly oppose.

In its narrower context of competence, the Campana dei Caduti Foundation will continue to express its staunch solidarity with the Iranian opposition, active both at home and in exile, by flying the Iranian flag displayed, alongside 105 others, along its evocative 'Avenue of Nations' indefinitely at half-mast, as a sign of mourning and condemnation.

The Director, Marco Marsilli

THE CRISIS IN THE MIDDLE EAST

THOSE WITH COMMON SENSE SHOULD USE IT

More than 2 million people live in the Gaza Strip, a population of mostly children, women and elderly people. They are the ones who are paying the price for the conflict that has broken out after the criminal attack on Israel by Hamas. These civilians must absolutely be kept away from the militants of the Islamic movement, also in order to prevent the further escalation of a humanitarian crisis that is already underway. Those with common sense should use it, is the warning issued by Maria Dolens.



FOR WHOM THE BELL TOLLS - P2

Memory purified

The idea was there, but the spirit was not. Not yet. There was a need to prepare the soul for Peace, to overcome all resentment, to shake hands with the enemy, to purify the memory. A concrete, public, symbolic gesture was needed.

On 19 October 1922, Don Rossaro was in Vienna for a meeting with representatives of the Ministry of War. The enemies had become men and when men meet they can talk, explain their perspective and sometimes understand each other. Things had changed in recent years and the time had come to illustrate to the representatives of the government of the new Republic next door the design of a Peace Bell cast from the bronze of the cannons of the nations that had fought against one another in the Great War. The transalpine officials agreed, but offered a cannon 'in memory of the Austrian soldiers who fell on our front'. A step forward, but this way everyone was still only commemorating their own dead.

Don Rossaro took a different approach, in which the victims would be remembered together. It was during his stay in Vienna that he chose the Capuchin Crypt as the place to make the gesture that was intended to put an end to the conflict.

Descending into the cellar reserved for the members of the former ruling house of the Habsburgs, where 12 emperors and 19 empresses and queens had found their final resting place since 1633, the priest from Rovereto tried to make sense of the events that had shocked the world with a hitherto unknown sequence of atrocities. He himself recounts this in his diary, always under the pseudonym Timo di Leno. The language he uses is rhetorical, but the meaning is clear and visionary: the only way forward is through reconciliation. "In the presence of those graves, Timo del Leno was shaken by a sense of human indulgence and before the history that did justice, he bowed his head and worshipped in silence".

The deed was done, the memory was purified, the mission could begin. The War Memorial Bell would also be made of Austrian bronze and would ring once a day, 'in the night hour', at 9.30 p.m., to remember all fallen soldiers, regardless of their national divisions. The message was ready, but there was still work to be done before the first chime could be heard.

(to be continued)



The double sarcophagus created by Balthasar Ferdinand Moll for Maria Theresa and her husband, Emperor Franz I Stephen of Lorraine (Vienna, Capuchin Crypt)