

# Reinterpreting Human Rights through Global Media: A Case Study of Al Jazeera English

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*This article assesses the increased significance of global media reports in evolving societal comprehension of the structural causes and solutions to human rights violations. Utilizing Al Jazeera English as a case study, this article analyses its reports on the right to food, freedom of expression, and women's rights. It provides a qualitative evaluation of its identification of human rights problems and proposal of solutions, in particular in relation to law or institutional reform. The article concludes by calling for increased human rights related research focusing on media.*

*Cet article évalue l'importance accrue des rapports médiatiques mondiaux pour la compréhension sociétale grandissante des causes structurelles et des solutions aux violations des droits de la personne. En utilisant Al Jazeera English comme étude de cas, cet article analyse des reportages variés portant sur le droit à la nourriture, le droit à la liberté d'expression et les droits des femmes. Il fournit une évaluation qualitative de l'identification des problèmes des droits de la personne par Al Jazeera English ainsi que les solutions proposées, particulièrement celles qui se rapportent au droit et à la réforme institutionnelle. Cet article préconise davantage de recherche sur les droits de la personne axée sur les médias.*

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## I. INTRODUCTION

One of the characteristics of globalization is the migration of people and the emergence of “virtual states” uniting people in different geographic territories via the internet and global media.<sup>2</sup> In response to the transnational identities and interests of diaspora and cosmopolitan audiences, the global media increasingly illuminates human rights issues. Human rights are described as providing an emancipative vocabulary in order to facilitate the creation of spaces for agency or autonomy of individuals and groups in relation to the state.<sup>3</sup> Ideally, the media promotes “dialogue, debate and democratic pluralism”; thus, its purpose has an intrinsic tie to human rights.<sup>4</sup>

This article explores the way in which the Al Jazeera English (AJE) editorial policy utilizes human rights as a frame. Borrowing from media theory, the elements of “frames” were applied to review the material: framing includes definition of the problem, clarification of key facts related to the problem, causal interpretation, identification of underlying forces of the problem, moral evaluation, or judgments made of parties implicated in the problem, treatment recommendation, proposal of solutions, and the discussion of possible results.<sup>5</sup> Entman explains:

Framing essentially involves *selection* and *salience*. To frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described. Typically, frames diagnose, evaluate, and prescribe ...<sup>6</sup>

Salience is defined as making a piece of information more noticeable, meaningful, or memorable to audiences. Specifically, I sought to understand how AJE utilizes human rights in its framing of stories. I explore to what extent AJE discusses the legal dimensions of the human rights story, and review how AJE identifies the source of the problem and suggests solutions in accordance with upholding human rights. The articles and video footage

<sup>2</sup> See Philip Seib, *The Al Jazeera Effect: How the New Global Media are Reshaping World Politics* (Washington: Potomoc Books, 2008).

<sup>3</sup> See Charles R Beitz, *The Idea of Human Rights* (New York: Oxford University Press, 2009) at 137.

<sup>4</sup> Aidan White, “Ethical Journalism and Human Rights” in Commissioner for Human Rights, ed, *Human Rights and a Changing Media Landscape* (Strasbourg-Cedex: Council of Europe, 2011) 47 at 67.

<sup>5</sup> See Yuqiong Zhou & Patricia Moy, “Parsing Framing Processes: The Interplay between Online Public Opinion and Media Coverage” (2007) 57:1 *Journal of Communication* 79 at 80, citing RM Entman, “Framing: Toward Clarification of a Fractured Paradigm” (1993) 43:4 *Journal of Communication* 51. Entman defines framing as highlighting particular aspects of a perceived reality in a communicating text. Review of the quality of the media presentation commonly refers to the categories of selection (events, issues, or parts of the world), presentation (framing of issue), or effect of human rights in media.

<sup>6</sup> Entman, *ibid* at 52.

provided material to identify references to human rights law and institutions, sources of information, and thematic presentation of facts and judgments. Additionally, I examine to what extent AJE's use of the human rights frames underscores the need to improve the protection and reparative function of the state, the rule of law, and democracy. Finally, I review AJE's identification of the role of international and regional institutions and NGOs, and assess whether it referred to their output critically. Part 2 presents Al Jazeera English's Corporate Profile and Code of Ethics; Part 3 describes past bias within human rights reporting in media; Part 4 examines AJE reports through the human rights frames of the right to food, freedom of expression, and women's rights; and Part 5 offers a conclusion.

I located reports on AJE's website in the spring of 2012 utilizing key word searches of the "right to food", "freedom of expression/freedom of speech", and "women's rights". These three categories are respectively representative of socio-economic rights, civil and political rights, and group rights. The selection was made in part because of the availability of reports on these topics after an initial broad search using keywords relating to the principle rights contained within the *Universal Declaration of Human Rights*,<sup>7</sup> the *International Covenant on Civil and Political Rights*,<sup>8</sup> and the *International Covenant on Economic, Social and Cultural Rights*.<sup>9</sup> The reports retrieved range from the period of 2005-2012, with an update on freedom of expression in the fall of 2012. The search engine on AJE's website provides variable results when conducting key word searches. For this reason, it was not possible to conduct a quantitative assessment; rather, the cases may be considered a sampling of reports. I pursued qualitative analysis of the reports selected according to relevance to the particular human rights under consideration. Some stories contained only written material, while others also incorporated video footage. I restricted my analysis to reports written by Al Jazeera journalists. Opinion pieces and reports produced by other agencies were not included in the study.

The right to food is derived from article 11 of the *ICESCR*, which states that everyone has the right "to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."<sup>10</sup> Javaid Rehman states that, "[a]s is common knowledge, violations of the right to food regularly take place and have not been the subject of international condemnation ... According to recent studies over 850 million people – 85 percent of those from the States in

<sup>7</sup> GA Res 217(III), UNGAOR, 3d Sess, Supp No 13, UN Doc A/810, (1948) 71 [UDHR].

<sup>8</sup> 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [ICCPR].

<sup>9</sup> 16 December 1966, 993 UNTS 3, Can TS 1976 No 46 (entered into force 3 January 1976) [ICESCR].

<sup>10</sup> *Ibid*, art 11.

the developing world – suffer from hunger and malnutrition.”<sup>11</sup> This is in spite of the fact that the world has enough arable land to be able to feed everyone.<sup>12</sup> The failure of states to guarantee the right to food threatens the enjoyment of the rights to health and life itself.

Freedom of opinion and expression, as phrased in article 19 of the *UDHR*,<sup>13</sup> is a civil and political right closely linked to the concept of democracy, and often extends to the verbalization of ideas, to the press, and to artistic expression.<sup>14</sup> It is intended to protect the individual against arbitrary intervention by the State or non-state actors. It is increasingly subject to restriction (such as censorship, surveillance, and limitation) in both authoritarian and democratic nations. In addition, journalists, trade unionists, human rights and environmental activists, and gender reformers are subject to harassment, detention, and imprisonment based on their speech.<sup>15</sup>

Women’s rights have developed within the framework of equality and non-discrimination guarantees contained in the *Convention on the Elimination of all Forms of Discrimination against Women*.<sup>16</sup> Current protection norms at the national, regional, and international levels address the high level of exposure of women to violence, abuse, poverty, and discrimination with regard to political, social, legal, and economic participation and enjoyment of rights.<sup>17</sup> In many regions of the world, women remained severely limited in terms of attaining protection or access to justice within their home countries.<sup>18</sup>

The next section will present Al Jazeera English and explain its adoption of human rights as an underlying foundation used to frame its reports.

<sup>11</sup> Javaid Rehman, *International Human Rights Law*, 2d ed (Essex, UK: Pearson, 2010) at 156 [citations omitted].

<sup>12</sup> Sarah Joseph, *Blame it on the WTO? A Human Rights Critique* (New York: Oxford University Press, 2011) at 184.

<sup>13</sup> *Supra* note 7, art 19.

<sup>14</sup> Rhona KM Smith, *Textbook on International Human Rights*, 5th ed (New York: Oxford University Press, 2012) at 301-02.

<sup>15</sup> See Amnesty International, “Freedom of Expression” (2012), online: Amnesty International <<http://www.amnesty.org/en/freedom-of-expression>>.

<sup>16</sup> 18 December 1979, 1249 UNTS 13, Can TS 1982 No 31 (entered into force 3 September 1981) [CEDAW].

<sup>17</sup> Rehman, *supra* note 11 at 511-54.

<sup>18</sup> According to the OECD Social Institution and Gender Index, out of 121 countries surveyed, 86 had discriminatory inheritance practices or laws, on average women hold only 15 per cent of land titles, 1 in 5 women has no access to family planning, and up to 6 out of 10 women are subjected to physical and/or sexual violence in their lifetime (Organisation for Economic Co-operation and Development, “Poverty Reduction and Social Development: Discrimination Against Women Persists Around the Globe Hampering Development” (5 October 2012), online: OECD <<http://www.oecd.org>>). See UN Women, “Violence Against Women”, online: UNIFEM <[http://www.unifem.org/gender\\_issues/violence\\_against\\_women](http://www.unifem.org/gender_issues/violence_against_women)>; UN Women, Press Release, “Discrimination Against Women Persists Around the Globe Hampering Development” (5 July 2012), online: UN Women Press Releases <<http://www.unwomen.org/category/press-releases>>.

## II. AL JAZEERA ENGLISH

Al Jazeera English has been characterized as a platform for dialogue, a means to connect people enabling them to imagine new realities, and a space to contemplate aspirations within regions in which people had been denied these opportunities.<sup>19</sup> It claims to have connected the Arab world to the international community.<sup>20</sup> Al Jazeera English broadcasts to 250 million homes in 120 cities around the world.<sup>21</sup> It has 70 bureaus around the world and 1,000 staff members of 50 different nationalities.<sup>22</sup> It describes itself as a global English language news channel that seeks to present a “south to north” perspective of the news, as an alternative to the dominance of CNN and BBC.<sup>23</sup> It is a private-state entity that seeks to retain a strong degree of editorial independence, claiming to be free from geopolitical or commercial interests. However, many of its journalists were educated in the West and were recruited from the BBC and CNN, as well as other leading British and Canadian media institutions. As a result, the debating styles and presentation formats are similar to Western media outlets. In fact, the Al Jazeera English motto, “to give voice to untold stories, promote debate, and challenge established perceptions”,<sup>24</sup> is in keeping with John Stuart Mill’s view that the discovery of truth is only possible through the collision of adverse opinions.<sup>25</sup> AJE’s Corporate Profile claims:

Al Jazeera English’s mission is to provide independent, impartial news for an international audience and to offer a voice to a diversity of perspectives from under-reported regions.

In addition, the channel aims to balance the information flow between the South and the North. The channel of reference for the Middle East and Africa, AJE has unique access to some of the world’s most troubled and controversial locations. AJE’s determination and ability to accurately reflect the truth on the ground in regions

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<sup>19</sup> Wadah Khanfar & Jonas Geir Støre, “Media and Politics in the Middle East” (Dialogue delivered at the Polyteknisk Forening [Polytechnic Association] Meeting in cooperation with the Fritt Ord [Freedom of Expression] Foundation, 17 April 2012), [unpublished] [Polyteknisk Forening Meeting].

<sup>20</sup> *Ibid.*

<sup>21</sup> Al Jazeera English, “Demand Al Jazeera in the USA”, online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>22</sup> *Ibid.*

<sup>23</sup> “Al Jazeera: ‘It’s no Hangout for al-Qa’ida’”, *The Independent* (19 November 2007), online: The Independent <<http://www.independent.co.uk>>.

<sup>24</sup> Joseph Oliver Boyd-Barrett & Shuang Xie, “Al Jazeera, Phoenix Satellite Television and the Return of the State: Case Studies in Market Liberalization, Public Sphere, and Media Imperialism” (2008) 2 *International Journal of Communication* 206 at 211.

<sup>25</sup> John Stuart Mill, *On Liberty* (Charleston: Forgotten Books, 2008) at 63, cited in Andrew Nicol QC, Gavin Millar QC & Andrew Sharlan, *Media Law & Human Rights*, 2d ed (New York: Oxford University Press, 2009) at 3.

torn by conflict and poverty has set our content apart.<sup>26</sup>

Indeed, AJE has been criticized for being more temperate than the Arabic site, at times encountering criticism that it lacks authenticity in terms of offering an “Arab perspective”.<sup>27</sup> However, AJE claims to be *global* in orientation, targeting ignored audiences throughout the world, giving voice and recognition to those who are invisible, disenfranchised, marginalized, or oppressed within their societies and states, as well as the international community.<sup>28</sup> It appears to promote narrative reporting, in which the subjects of the story present their tale themselves. Further, it seeks to break the promotion of stereotypical attitudes towards cultural “others” in media journalism.<sup>29</sup> It has been described as having the capacity to encourage empathy and dialogue.<sup>30</sup>

Al Jazeera English’s Code of Ethics calls for the presentation of diverse opinions without bias, recognition of “diversity in human societies with all their races, cultures and beliefs and their values and intrinsic individualities so as to present unbiased and faithful reflection of them.”<sup>31</sup> It seeks to provide a grassroots perspective from underreported regions and pursues transnational audiences in part composed of migrant communities.<sup>32</sup> In this respect, it may be considered an alternative media, as it appears to provide “counter

<sup>26</sup> Al Jazeera, *Al Jazeera English: Every Side, Every Angle* (np: Al Jazeera Network Communications and Corporate Relations Department, 2009) at 2, online: The Canadian Journalism Foundation <[http://cjf-fjc.ca/sites/cjf-fjc.ca/files/pdf/al\\_jazeera\\_brief.pdf](http://cjf-fjc.ca/sites/cjf-fjc.ca/files/pdf/al_jazeera_brief.pdf)> [Al Jazeera, *Every Angle*].

<sup>27</sup> Philip J Auter, “Meeting the Needs of Multiple Audiences: An Examination of Al Jazeera and English Al Jazeera Websites from the Public Relations Perspective”, online: (2004) 3:5 *Global Media Journal* 1. Philip Seib, “Hegemonic No More: Western Media, the Rise of Al-Jazeera, and the Influence of Diverse Voices” (2005) 7:4 *International Studies Review* 601 [Seib, “Hegemonic No More”]; Amir Hatem Ali, “The Power of Social Media in Developing Nations: New Tools For Closing the Global Digital Divide and Beyond” (2011) 24:1 *Harv Hum Rts J* 185. It has been noted that with the Arab world, “poverty is common, and freedom is scarce”, and the Arab Spring was in part facilitated by social networking Internet sites (Seib, “Hegemonic No More”, *ibid* at 604).

<sup>28</sup> This is comparable to the Council of Europe, Committee of Ministers, *Recommendation CM/Rec(2007)3*, section 9, calling for the presence and portrayal of “all communities, social groups and generations, including minority groups, young people, old persons, the most disadvantaged social categories, persons with disabilities, while respecting their different identities and needs”. See Boyko Boev & Barbora Bukovska, “Public Service Media and Human Rights” in Commissioner for Human Rights, *supra* note 4, 133 at 162.

<sup>29</sup> Mohammed el-Nawawy & Shawn Powers, “Al Jazeera English: A Conciliatory Medium in a Conflict-Driven Environment?” (2010) 6:1 *Global Media Communication* 61.

<sup>30</sup> *Ibid*.

<sup>31</sup> Al Jazeera, *Every Angle*, *supra* note 26 at 7.

<sup>32</sup> Nouredine Miladi, “Satellite TV News and the Arab Diaspora in Britain: Comparing Al-Jazeera, the BBC and CNN” (2006) 32:6 *Journal of Ethnic and Migration Studies* 947.

hegemonic” or “socially progressive” journalism.<sup>33</sup>

With regard to human rights, Al Jazeera English has a Public Liberties and Human Rights Section, which conducts training sessions for its staff in cooperation with UN agencies, the International Committee of the Red Cross, and the Norwegian Centre for Human Rights. To date, the Norwegian Centre for Human Rights has provided human rights training to approximately 60 Al Jazeera editors and reporters.<sup>34</sup> The commitment to competence building in human rights underscores AJE’s capacity for addressing human rights dilemmas around the world. This is innovative because media reporting had previously been marked by a conservative approach to human rights stories, as discussed in the next section.

### III. PAST BIAS OF HUMAN RIGHTS REPORTING WITHIN THE MEDIA

The emergence of the transnational human rights movements in the 80s and 90s was in part characterized by their symbiotic relationship with the media.<sup>35</sup> Social scientists claimed that the northern media had a tendency to report on civil and political rights rather than socio-economic rights.<sup>36</sup> Further, they noted that violations in poor countries in Africa and Asia were unreported, while Eastern Europe and Latin America dominated US media attention.<sup>37</sup> In 2002, the International Council on Human Rights Policy (International Council) confirmed the perception of bias in human rights reporting:

News stories more frequently report certain kinds of violations – such as those that occur in wars and conflicts, and those that are collected and aggregated by

<sup>33</sup> Tony Harcup, “‘I’m Doing This to Change the World!’: Journalism in Alternative and Mainstream Media” (2005) 6:3 *Journalism Studies* 361. See also Chris Atton, “News Cultures and New Social Movements: Radical Journalism and the Mainstream Media” (2002) 3:4 *Journalism Studies* 491 at 492. Tsfati & Peri suggest that “mainstream media are the largest economic (public or private) corporations aiming to reach the widest possible audience and representing the central national value system and *Weltanschauung* (‘worldview’). Nonmainstream media are simply all other news organizations that are available to the audience in a given society (which differ from the mainstream media to varying extents)” (Yariv Tsfati & Yoram Peri, “Mainstream Media Skepticism and Exposure to Sectorial and Extrnational News Media: The Case of Israel” (2006) 9:2 *Mass Communication & Society* 165 at 170).

<sup>34</sup> E-mail correspondence from Siri Skåre, Director of International Programmes, Norwegian Centre of Human Rights (3 May 2012) [unpublished]. The training program began in April 2011.

<sup>35</sup> See Thomas Risse, Stephen C Ropp & Kathryn Sikkink, eds, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge, UK: Cambridge University Press, 1999).

<sup>36</sup> Howard Ramos, James Ron & Oskar Thomas, “Shaping the Northern Media’s Human Rights Coverage, 1986-2000” (2007) 44:4 *Journal of Peace Research* 401.

<sup>37</sup> *Ibid.* See also Jay S Ovsiovtch, “News Coverage of Human Rights” (1993) 46 *Political Research Quarterly* 671 (concluding that US media focused on civil and political rights over socio-economic rights, as well as reporting on Eastern Europe and Latin America).

governments in statistics on crime or poverty. As a result, the report tends to refer to certain kinds, and often to more extreme or violent kinds, of human rights violations.

...

Human rights are still taken largely to mean political and civil rights, and the importance of economic, social, and cultural rights is ignored widely by the media in their coverage of economic issues, including the international economy, poverty, inequality and social and economic discrimination.<sup>38</sup>

Similarly, Josh Klein explains:

The tendency of news accounts to frame poverty and discrimination as purely economic issues, and not as rights violations, is an important example of ideological exclusion. The implication is that economic problems like poverty are the result of natural or uncontrollable forces. When inequalities are not defined as human rights issues, then they are not matters of avoidable suffering.<sup>39</sup>

In part, this may be due to the tendency of the media to gravitate towards sensational stories, often tied to armed conflict and immediate violence rather than perpetual structural violence.<sup>40</sup>

The International Council portrayed the media as an important actor in supporting the human rights project given that it creates “both a consciousness and a conscience about human rights issues.”<sup>41</sup> Concretely, the media calls for “something to be done” and disseminates information generated by human rights organizations on campaigns, country reports, and funding appeals.<sup>42</sup> Nevertheless, the International Council concluded that many issues, such as child abuse, refugees and immigration, unemployment, and sexual and racial discrimination, are covered *without* reference to human rights.<sup>43</sup>

The next part reviews AJE’s reports on human rights in reference to the right to food, freedom of expression, and women’s rights.

## IV. AJE REPORTS ON HUMAN RIGHTS

### A. THE RIGHT TO FOOD

AJE tackles the problem of world hunger through the human rights frame

<sup>38</sup> International Council on Human Rights Policy, *Journalism, Media and the Challenge of Human Rights Reporting* (Versoix: International Council on Human Rights Policy, 2002) at 5, 16 [International Council, *Journalism*].

<sup>39</sup> Josh Klein, “The Rhetoric and Ideology of Human Rights in the Media” in Diana Papademas, ed, *Human Rights and Media*, vol 6 (Bingley: Emerald Group, 2011) 41 at 46.

<sup>40</sup> International Council, *Journalism*, *supra* note 38 at 16.

<sup>41</sup> *Ibid* at 18.

<sup>42</sup> *Ibid*.

<sup>43</sup> *Ibid* at 19.



of the right to food. As noted by the World Food Programme: “[t]here are 925 million undernourished people in the world today. That means one in seven people do not get enough food to be healthy and lead an active life. Hunger and malnutrition are in fact the number one risk to the health worldwide – greater than AIDS, malaria and tuberculosis combined.”<sup>44</sup>

The right to food is recognized in article 25 of the *UDHR* as part of the right to an adequate standard of living,<sup>45</sup> and is enshrined in the *ICESCR*.<sup>46</sup> The UN Special Rapporteur on the Right to Food sets forth that fulfillment of this right depends on availability, accessibility (affordability), and adequacy. He advises:

National efforts will often remain of limited impact in combating malnutrition and food insecurity unless the international environment, including not only development assistance and cooperation but also trade and investment regimes or efforts to address climate change at a global level, facilitates and rewards these national efforts.

Conversely, any efforts by the international community to contribute to these objectives will depend, for their effectiveness, on the establishment of institutional and legal frameworks at the national level, and on policies which are effectively geared towards the realization of the right to food in the country concerned.<sup>47</sup>

This calls for a holistic, transnational approach to protection, addressing cross-field international and national actors and norms. *AJE* illuminates the problem of hunger by revealing the causes rooted in complex global structural issues as experienced within local contexts (the local side of globalization) and identifying possible solutions.

### ***i. Bioethanol Fuel, Free Trade, and the Rise of Food Prices***

*AJE* ran a story in which it highlighted the perspective of the former UN Special Rapporteur on the Right to Food, Jean Ziegler. He warned that the use of bioethanol fuel would result in an excessive rise in the price of

<sup>44</sup> United Nations, “Hunger”, online: United Nations Resources for Speakers on Global Issues <<http://www.un.org/en/globalissues/briefingpapers/food/index.shtml>>.

<sup>45</sup> *UDHR*, *supra* note 7, art 25.

<sup>46</sup> *Supra* note 9, art 11. The UN Committee on Economic, Social and Cultural Rights clarified that “[t]he right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement” (Committee on Economic, Social and Cultural Rights, General Comment No 12, *The Right to Adequate Food*, UNESCOR, 20th Sess, UN Doc E/C.12/1999/5 (1999) at para 6). For the UN Special Rapporteur on the Right to Food, the right to food is “[t]he right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear” (Olivier De Schutter, “Right to Food”, online: United Nations Special Rapporteur on the Right to Food <<http://www.srfood.org>>).

<sup>47</sup> De Schutter, *ibid*.

corn and an increase in hunger, leading to insurrection, instability, and widespread death.<sup>48</sup> He declared that “[b]urning food today, so as to serve the mobility of the rich countries, is a crime against humanity.”<sup>49</sup> AJE cited statistics confirming an escalation in the price of corn within one year and the increase in transformation of corn to ethanol within the US (expected to rise further in the next seven years). Ziegler explains that “[a]ll the money that can be mobilised by the rich countries on world food markets should go ... to irrigation, to fertilisers, to roads and markets – so that the poorest countries of the world can feed themselves ... President Zoellick from the World Bank thinks almost one-third of the price rise is due to speculative gains [on world commodity markets].”<sup>50</sup>

The segment included counter-perspectives from a spokesman of the European Bioethanol Fuel Association who noted poverty, dependency on food importation instead of domestic production, the high price of oil, and increased consumption of meat and dairy produce in the East were additional factors to be considered when assessing hunger and rise in commodity prices:

The fact is that we are only using one percent of all the agricultural land for growing biofuels ... .

We use 80 per cent for animal feed. The reality is that hunger is caused by poverty, not biofuels.

...

People are consuming more meat and more dairy produce. That has had an enormous impact on the price of agricultural commodities ... .

Today, we are paying \$120 a barrel [for oil] ... I think that has a bigger impact on poor countries than the fact that we are using biofuels.<sup>51</sup>

AJE also cited then President of Brazil, Luiz Inacio Lula da Silva: “The real crime against humanity would be just to cast aside biofuels and push countries struggling with food and energy shortages towards dependency and insecurity.”<sup>52</sup> He also criticized the high price of crude oil as negatively affecting food production, and stated that “the incapacity of several countries to produce their own food is a consequence of distortions in the international trade of these products.” AJE then cited the World Bank as noting that 90 kg of corn would produce enough ethanol to fill up the fuel tank of a car once, or it could feed a child for one year. The report presents the right within a

<sup>48</sup> “UN Condemns Biofuels Growth”, *Al Jazeera English* (29 April 2008), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid* [brackets in original].

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

structural context and therefore educates the reader as to the linkage between human rights and trade law.<sup>53</sup>

The report pursues a dialogue and conciliatory approach as it ends with a quote from a US climate change advisor pointing to the possibility of second-generation biofuels from non-food sources as a possible solution. AJE reveals the possibility of various causes and solutions to the problem, invoking perspectives from human rights, development, politics, and finally, climate change, providing a holistic overview of the issue.

Another report included an interview with Dr. Vandana Shiva, an ecologist and activist, in which she explained the negative impact of free trade agreements and use of biofuels upon commodity prices and the resulting increase in hunger:

There are a number of reasons why the prices of food commodities are rising in India. The first is related to economic policies – the policies of integrating India with global markets.

There is a huge agrarian crisis but it is not from the beginning of our freedom, it's not a leftover of feudalism. The agrarian crisis is a result of globalisation.

The farmers who are committing suicide in India are precisely in those areas where genetically engineered cotton is being grown by Monsanto (a chemicals and agricultural science corporation).

This is a new crisis. A small farmer could make a living in this country a few years ago. Today, as a result of globalization, agriculture is being run down.

We have grown enough wheat in the last few years – 74 million tonnes. We are still self-reliant in food, but we are being forced to import; both under the multilateral globalization free trade agreements as well as under bilateral arrangements like a crazy treaty called the Agriculture Knowledge Initiative between the US and India.

It was signed at the same time as the nuclear treaty was signed. The nuclear agreement has had a lot of political attention. The agricultural treaty has had absolutely no attention.

Indian farmers are being paid 8,000 rupees (\$200) for a tonne of wheat. When the farmers ask for more, to make a viable living, the government says it will cause a rise in inflation.

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<sup>53</sup> See also "Disasters Could Push Food Prices Up", *Al Jazeera English* (12 August 2010), online: Al Jazeera English <<http://www.aljazeera.com>> (explaining the global commodity market and how different countries, including Russia, utilize export bans).

So the government goes to Cargill (a transnational agricultural corporation) and the United States because of this bilateral agreement and buys wheat at \$400 a tonne, which is 16,000 rupees a tonne – twice the price that Indian farmers can produce wheat for.<sup>54</sup>

She declares that “free trade is not free” and calls for “food sovereignty” for the Third World – freedom to produce its own food, referring to the concept of rights as the means of emancipation. She concludes that food rights of people have to be protected, the poor have to be protected, domestic organic farmers should be supported, and that is the only obligation that governments have:

[The Third World] needs freedom to produce it[s] own food. Let’s just recognise the ecological endowments – it is Africa and Asia that have the best soils, the best sun, the best biodiversity.

Never, ever have we had this scale of a problem, except during the great Bengal famine, which also was driven by so-called free trade.

I’d like to just mention: free trade is not free. Every one of the problems we have ... have been triggered by government policy.

...

Climate change is triggered by government subsidies for fossil fuel use.

If the governments have caused the problem, they cannot now throw up their hands and say that they cannot intervene. They have created the price rise, they need to intervene in creating a fair market for farmers and ensure the rights of all.

Food is about life, and the right to life is protected in our constitution.

...

Food rights of people have to be protected; the rights of the poor have to be protected. That is the only obligation governments have.<sup>55</sup>

She warns that failure to protect would result in food wars and food riots. This type of news coverage counters the prior tendency of Western media to present international trade and political regimes as functioning well.<sup>56</sup> In contrast, AJE opens space for the consideration of perspectives advocating

<sup>54</sup> “The Recipe for Food Rights”, *Al Jazeera English* (14 April 2008), online: Al Jazeera English <<http://www.aljazeera.com>>. See also “World Food Prices in Crisis” *Al Jazeera English* (31 May 2011), online: Al Jazeera English <<http://www.aljazeera.com>> (announcing a new report by Oxfam addressing food price inflation, oil price hikes, and environmental disasters); “Food Price Rise Worries Mexico”, *Al Jazeera English* (12 June 2011), online: Al Jazeera English <<http://www.aljazeera.com>>; “Hunger on the Rise” *Al Jazeera English* (12 December 2008), online: Al Jazeera English <<http://www.aljazeera.com>> (citing a report by the UN’s Food and Agriculture Organisation).

<sup>55</sup> *Ibid.*

<sup>56</sup> See Wayne Wanta & Yu-Wei Hu, “The Agenda-Setting Effects of International News Coverage: An Examination of Differing News Frames” (1993) 5:3 *International Journal of Public Opinion Research* 250 (noting that the consequence is that there is a presentation that “international problems are not really problems at all”; alternatively, they describe international trade and politics issues as perceived as too “abstract” to engage the public).

for structural reform, essentially providing a site of contestation between the periphery and the centre. Dr. Shiva's perspective is confirmed by scholars; consider Sarah Joseph's conclusion:

There is a need to break from the purely economic focus in agriculture to promote more sustainable modes of agriculture. A shift in global agricultural policy from current modes, which are focused largely on improving productivity, to a multi-faceted approach aimed at empowering smallholders and designed to boost development and sustainability, including food security, was recently advocated in the Synthesis Report of International Assessment of Agricultural Knowledge, Science and Technology for Development ... . The report's main conclusion was that [b]usiness as usual is no longer an option.<sup>57</sup>

## ii. *Famine and Food Crises*

AJE provides reports on famine and food crises from Africa, Central America, Asia, and the Middle East.<sup>58</sup> These chronicles highlight the precarious situation of women and children, always underscoring the link to the right to life, as so many people perish. This serves to demonstrate the link between civil and political rights and socio-economic rights. This type of catastrophe is different from traditional armed conflict that tends to dominate the media (including AJE); therefore, it is significant that AJE places focus on this problem. AJE may be characterized as supporting intergovernmental organizations (IOs) in their civilizing mission "to reduce aggressiveness in the world and to protect individuals who are weak."<sup>59</sup> AJE gives voice to the representatives of the UN World Food Programme, International Red Cross, UNHCR, UNICEF, Save the Children, as well as other institutions who delineate the problems facing distribution, such as blockage by opposition groups in conflict, underfunding, delays in receiving donations, competition with other humanitarian emergencies (for example, the international community's response to Haiti negatively affected aid to Yemen), environmental disasters, and impact of the "Triple F crisis" (rising food/fuel/fertilizer prices, falling

<sup>57</sup> Joseph, *supra* note 12 at 204 [citations omitted].

<sup>58</sup> Sithembile Ndema, "Fighting for Africa's Food Security", *Al Jazeera English* (9 February 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "Egypt Convicts Food Rioters", *Al Jazeera English* (15 December 2008), online: *Al Jazeera English* <<http://www.aljazeera.com>> (addressing the conviction of protesters in food riots in Egypt); Reed Lindsay, "Inside Haiti's Food Riots", *Al Jazeera English* (16 April 2008), online: *Al Jazeera English* <<http://www.aljazeera.com>>; Bertha Kang'ong'oi "Facing Hunger in Kenya's Kajiado", *Al Jazeera English* (18 April 2009), online: *Al Jazeera English* <<http://www.aljazeera.com>>; Andrew Wander, "Yemen 'Abandons' Human Rights", *Al Jazeera English* (29 August 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "Junk Food or Humanitarian Aid?", *Al Jazeera English* (27 June 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>.

<sup>59</sup> Sam Cherribi, "The Council of Europe's Human Rights: Perspective on the Media" in Papademas, *supra* note 39, 25 at 26-27 [citations omitted].

fuel revenues, and cuts to remittance flows due to the financial crisis).<sup>60</sup> These stories are provocative as they raise structural problems and suggest innovative solutions.

AJE also produces articles that disseminate NGO reports (e.g. Amnesty International and Oxfam). For example, one article discussed an NGO report examining the negative impact of counterterrorism operations on the right to food, presenting Yemen's "scorched earth" military operation against Houthi rebels which resulted in civilians being deprived of food.<sup>61</sup> Presentation of intergovernmental organizations and NGO programs and reports has a tendency to be uncritical; they are treated as objective sources of information and given significant prominence.

It is in the interplay between the citation of UN representatives and the presentation of the voice of the people at risk that render AJE's presentation of human rights stories compelling. Several AJE articles indicate the need to support the UN agencies in their humanitarian programs, give voice to their officials, and cite the grateful recipients, such as a Somali IDP (internally displaced person): "Today we are happy because we have received the food from the aid organizations. We hope to get more from other organizations, we are happy that the aid organizations came here to help."<sup>62</sup> It is important to consider that media reports do risk promoting stereotypes when relaying stories of victimization and dependency.

AJE addressed the history of subsidized imported rice in Haiti, followed by a rise in prices, and resulting food riots and clashes with UN peacekeepers. It cited a mother who explained the impact of the import of subsidized rice: "My kids are like toothpicks. Before, if you had \$1.25, you could buy vegetables, some rice, 10 cents of charcoal, and a little cooking oil. Right now,

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<sup>60</sup> "UN Set to Airlift Food to African Famine Zone", *Al Jazeera English* (26 July 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>> ["UN Set to Airlift Food"]; "Food Insecurity Stalks Guatemala", *Al Jazeera English* (8 July 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; Hugh McLeod, "Food Aid Shortfall Threatens Yemen", *Al Jazeera English* (25 April 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "US Halts Haiti Medical Evacuations", *Al Jazeera English* (31 January 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "N Korean Children Suffer from Food Crisis", *Al Jazeera English* (6 October 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "UN Food Agency Chief Visits N Korea", *Al Jazeera English* (4 November 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "Niger Famine Appeal Falls on Deaf Ears", *Al Jazeera English* (6 June 2008), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "UN Launches Pakistan Aid Appeal", *Al Jazeera English* (11 August 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>> (quoting Pakistan's Taliban as encouraging the government not to accept US food aid, matching it with funding); "Deadly Firefight over Somalia Famine Aid", *Al Jazeera English* (5 August 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>; Alan Fisher, "Niger Children Condemned to Hunger", *Al Jazeera English* (3 August 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "Profiteering from Hunger?", *Al Jazeera English* (17 August 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>; "Are We Facing a Hungry Future?", *Al Jazeera English* (5 February 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>.

<sup>61</sup> Wander, *supra* note 58.

<sup>62</sup> "UN Set to Airlift Food", *supra* note 60.

a little can of rice alone costs 65 cents, and it is not good rice at all. Oil is 25 cents. Charcoal is 25 cents. With \$1.25 you cannot even make a plate of rice for one child."<sup>63</sup>

The article ended by noting that President Preval sought assistance from Venezuela to cut the price of fertilizers and support local farmers. Nevertheless, AJE was cautious about the effectiveness of this solution: "Preval's call for boosting national production may have struck right at the root of the problem of high food prices, but it may not be enough to calm tensions in the streets of Haiti."<sup>64</sup>

Another similar story addressed the increased price of maize in Kenya, blamed on crop failure due to drought, inflation, high fuel and fertilizer prices, diversion of maize to the Sudanese market for higher prices, the global financial crisis and last year's post election violence.<sup>65</sup> AJE cited a mother who has actually had to draw blood from her goats to feed her children:

Even before we got the two packets of maize flour things were already getting out of control. We had already started eating wild fruits, dipped in cooked blood.

...

Now that our flour is gone, the only thing left for us to eat is the wild fruits until someone else or the government comes to help us.

...

I don't know how long the goats will survive. They are also too weak. They were left when my husband went to Tanzania because they were weak to begin with.

...

Most of the other animals in the village have died or already been slaughtered for meat.

...

Now we are in the hands of God.<sup>66</sup>

AJE consulted a World Food Programme officer who confirmed the decrease in government reserves and expected rise in the need for food assistance. A third report explained the negative impact of the political protests in Cairo on food prices, citing a woman who claimed that she would not be able to feed her family if the crisis continued too long.<sup>67</sup> These reports highlight delays and

<sup>63</sup> Lindsay, *supra* note 58.

<sup>64</sup> *Ibid.*

<sup>65</sup> Kang'ong'oi, *supra* note 58.

<sup>66</sup> *Ibid.*

<sup>67</sup> Gregg Carlstrom, "Egypt Businesses Hit by Instability", *Al Jazeera English* (31 January 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>.

the lack of effective preventive and responsive action by the state, as well as macroeconomic implications of domestic instability, thereby underscoring the societal dependence on international aid. Solutions are not always explicitly addressed by AJE in these articles; they appear to be implied in the detailed identification of the manifold causes of food crises.

### **iii. Malnutrition**

AJE has also reported on the malnutrition of children – they estimate that, of 195 million malnourished children, 90% are in Sub-Saharan Africa and South Asia. AJE points out that malnutrition has various causal factors, including erratic rainfall, failed harvests, and the exhaustion of staple food crops before the following harvest. It hosted a debate including Doctors without Borders Nutritional Director, Stephane Doyon; award winning photographer Jessica Dimmock, who collaborated with Doctors Without Borders on their “Starved for Attention” multimedia campaign in Milan; and David Prettyman, the Deputy Director of International Relief and Development in Washington D.C. The debate addressed whether the West is dumping sub-standard food on developing countries. It alleged that the US sends food that it would never give to its own population and questioned whether global food aid programmes are problematic, given that the supplies include nutritionally inadequate fortified corn-soy flours, further worsening the problem of malnutrition.<sup>68</sup>

AJE showed Jessica Dimmock’s footage of a mother from Burkina Faso who explained how she understood that fish contained vitamins that are essential for her children, but if one were to fall ill (from malaria) she needed to save money for medicine. She also would go without food for a week while giving food to her children. Unlike the stereotype of starving people in emergency humanitarian crises tied to war, this footage served to show the severity of malnutrition in developing countries, which is normally ignored by the international community. Dimmock explained that the mother is competent to make the right choices, but she is limited by the structure of a domestic mono-crop economy and lack of diversity in food aid. In contrast, AJE also showed footage of low-income mothers in the US who enjoyed a greater diversity of food through domestic assistance programs. This highlighted the discrepancy between the experience of poverty and aid in the North as opposed to the South.<sup>69</sup>

Dr. Doyon explained the need of children for dense proteins that is not provided by current food aid. He asserts that malnutrition should be considered a public health issue and receive media attention. The profile

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<sup>68</sup> “Junk Food or Humanitarian Aid?”, *supra* note 58.

<sup>69</sup> *Ibid.*



intended to break stereotypes of food aid recipients and led into a discussion about problems relating to mono-crop economies, cereal based food aid, and the need for new technologies within food aid. Mr. Prettyman explained how the US supports teaching farmers how to grow crops and market them. AJE raised the issue of the US Farm bill which ties USAID from US food production, instead of supporting domestic food production in the field. Mr. Prettyman explained that USAID was exploring local procurement possibilities. Dr. Doyon challenged this and stated that other countries gave locals cash to buy local food, instead of shipping food aid.<sup>70</sup>

The impetus of the debate appeared to be to empower people suffering the consequences of malnutrition linked to structural inequity. The debate provided space for reflection about the different approaches to poverty in the North as opposed to the South and consideration of alternative solutions to malnutrition that would require legislative amendment in the United States. The identification of the problem of malnutrition and its solution is transnational in origin.

#### ***iv. Solutions by Civil Society***

Another type of report which pursues an emancipatory trajectory is that of AJE profiles which focus on the achievements of activists. One profile highlighted a young, female Zimbabwean food activist, Sithembile Ndema, presenting her personal story and vision for engaging with actors at the local, national, and international levels (including the Gates Foundation) to address food security in Africa. She explained: “[I]like my grandmother, two-thirds of Africans rely on agriculture for their livelihoods, and 80 per cent of these are women. This is why I am so concerned with African agriculture and its role in driving broader economic development throughout the continent.” She works at the Food, Agriculture and Natural Resources Policy Analysis Network, which has a project that enables female farmers to shape agricultural policies at the local and national levels. She assists smallholder farmers adapt and create climate-resilient farming methods. This story was empowering because it presented the young woman as actively seeking solution to the problem of hunger through transnational cooperative efforts. This type of profile contrasts greatly with the articles who depict the plight of food aid recipients as trapped by the dire circumstances rooted in structural inequity.

AJE’s reports pursue the frame of the right to food by identifying the problem of hunger and malnutrition, identifying structural and natural causes, and providing space for the identification of solutions that seek to emancipate people from perpetual dependency on food aid, including support for local

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<sup>70</sup> *Ibid.*

organic farming, development of alternative fuel sources, and amendment of aid-related legislation. The reports consult expert sources among activists, IO, NGO, and state agencies. Although the presentation of IO/NGO output is uncritical, the juxtaposition of perspectives from civil society and state actors permits the identification of dilemmas with respect to the current system addressing hunger and the dependency cycle. AJE provides space both for the voices of persons relying on food aid as well as those actively seeking more durable solutions within transnational frameworks. The next section examines AJE reports on freedom of expression.

## B. FREEDOM OF EXPRESSION

The Arab Spring prompted renewed attention to the phenomenon of regime change and democratization. Within legal theory, scholars turned to human rights to explain and legitimize democratization movements. Thomas Franck's 1992 theory of the "a right to democratic governance", focused on open, competitive, fully participatory, and fairly administered elections as the key to attainment of national and international legitimacy by the State.<sup>71</sup> Franck identified the right to vote, freedom of expression, association, assembly, etc. as forming the basis for the norm of democratic entitlement. Freedom of expression is described as one of the corner stones of democracy, essential in its ability to engender attainment of other human rights. The normative scope of this right is contained within article 19 of both the *UDHR*<sup>72</sup> and the *ICCPR*.<sup>73</sup>

<sup>71</sup> Thomas M Franck, "The Emerging Right to Democratic Governance" (1992) 86:1 Am J of Int'l L 46 at 46. He points to the UN General Assembly and OAS resolutions in response to the overthrow of President Aristide via military coup demanding return to constitutional rule and observance of human rights. He describes a trend towards measuring the legitimacy of a government by international rules and processes. He addresses the consent of states to international legal principles, and the consent of a state's citizens as the basis of legitimacy of the state. Huntington indicates that the definition of democracy used at this time is a procedural one refers to contestation and participation, as decision makers chosen via fair, honest, periodic elections and there is existence of freedom of expression, assembly, and association in order to engage in debate and conduct electoral campaigns (Samuel P Huntington, *The Third Wave: Democratization in the Twentieth Century* (Norman: University of Oklahoma Press, 1991) at 7).

<sup>72</sup> *Supra* note 7, art 19: "[e]veryone has the right to the freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

<sup>73</sup> *Supra* note 8, art 19:

- (1) Everyone shall have the right to hold opinions without interference.
- (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- (3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Indeed, freedom of opinion and expression carries particular weight with AJE, given that it is a news organization. In the context of regime change, the Norwegian Minister of Foreign Affairs, Jonas Gahr Støre, noted that AJE and social networks proved effective at dismantling oppressive regimes, but he queried whether they would be effective in supporting the long-term construction of stable institutions. Relevant criteria would include stories measuring the rule of law, explaining the process of constitutional reform, and illuminating the enjoyment of human rights, including freedom of expression, as forming the necessary components of democracy.<sup>74</sup> Wadah Khanfar, former director of AJE, responded that in his opinion, democracy is a process and AJE does measure its evolution at different stages.<sup>75</sup>

Within this area, AJE promotes UN output, such as the UN Human Rights Committee General Comment on Freedom of Opinion and Expression.<sup>76</sup> The report highlighted several legal issues contained within the document, including the protection of bloggers, the disapproval of memory laws (which penalize the expression of opinion about historical facts) and prohibitions on disrespectful displays of religion or other belief systems, including blasphemy laws and efforts to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith (which AJE noted Islamic countries have long upheld). AJE disseminates UN human rights output directly, at times without including contrasting perspectives. The UN output appears to be accepted at face value as material intended to assist marginalized individuals or groups. This is of particular interest given recent events that indicate a possible call for the limitation of freedom of expression precisely in contrast to the UN Human Rights Committee's recommendations.<sup>77</sup>

### ***i. Limiting the Scope of Freedom of Expression***

Freedom of expression became a topic of intense international debate as a result of the death of the US Ambassador to Libya in September 2012 in connection with an attack on the US Embassy during violent protests against a video disparaging Mohammed. At the UN General Assembly meeting later that month, President Barack Obama explained the wide scope of US constitutional protection of free speech as a fundamental right:

Here in the United States, countless publications provoke offense. Like me, the majority of Americans are Christian, and yet we do not ban blasphemy against our most sacred beliefs. As President of our country and Commander-in-Chief of our military, I accept that people are going to call me awful things every day ... and I will

<sup>74</sup> Polyteknisk Forening Meeting, *supra* note 19.

<sup>75</sup> *Ibid.*

<sup>76</sup> "UN Experts Strengthen Human Rights Safeguard", *Al Jazeera English* (28 July 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>77</sup> See *Combating defamation of religions*, HRC Res 7/19, UNHRCOR, 2008, UN Doc A/HRC/RES/7/19.

always defend their right to do so.

Americans have fought and died around the globe to protect the right of all people to express their views, even views that we profoundly disagree with. We do not do so because we support hateful speech, but because our founders understood that without such protections, the capacity of each individual to express their own views and practice their own faith may be threatened. We do so because in a diverse society, efforts to restrict speech can quickly become a tool to silence critics and oppress minorities.

We do so because given the power of faith in our lives, and the passion that religious differences can inflame, the strongest weapon against hateful speech is not repression; it is more speech – the voices of tolerance that rally against bigotry and blasphemy, and lift up the values of understanding and mutual respect.

Now, I know that not all countries in this body share this particular understanding of the protection of free speech. We recognize that. But in 2012, at a time when anyone with a cell phone can spread offensive views around the world with the click of a button, the notion that we can control the flow of information is obsolete. The question, then, is how do we respond?

And on this we must agree: There is no speech that justifies mindless violence.<sup>78</sup>

The President of Egypt, Mohamed Morsi, presented an alternative view of the scope of freedom of expression, calling for limitation in certain cases:

What Muslims and migrants are going through in a number of regions worldwide, in terms of discrimination and violation of their human rights, and vicious campaigns against what they hold sacred, is unacceptable. It is opposed to the most basic principles of the Charter of the Organization where we meet today. These practices have become pervasive enough now that they carry a name: Islamophobia.

We must join hands in confronting these regressive ideas that hinder cooperation among us. We must act together in the face of extremism, discrimination, and incitement to hatred on the basis of religion or race. ...

The obscenities recently released as part of an organized campaign against Islamic sanctities is unacceptable and requires a firm stand. We have a responsibility in this international gathering to study how we can protect the world from instability and hatred. Egypt respects freedom of expression.

One that is not used to incite hatred against anyone. One that is not directed towards one specific religion or culture.

A freedom of expression that tackles extremism and violence. Not the freedom of expression that deepens ignorance and disregards others. But we also stand firmly against the use of violence in expressing objection to these obscenities.<sup>79</sup>

Kälin and Künzli explain the diverse views of freedom of expression, first by presenting the UN Human Rights Committee as interpreting freedom

<sup>78</sup> "Obama's Speech to the United Nations General Assembly: Text", *The New York Times* (25 September 2012), online: The New York Times <<http://www.nytimes.com>>.

<sup>79</sup> "Egypt's Mohamed Morsi UN General Assembly Speech Transcript 2012", *Latinos Post* (26 September 2012), online: Latinos Post <<http://www.latinospost.com>>.

of expression under article 19 of the *ICCPR* as subject to limitation only in accordance with article 20,<sup>80</sup> in situations where “specific measures [are] necessary to protect the rights of others including the right to be protected against acts of violence or discrimination”.<sup>81</sup> This view is contrasted with that of the European Court of Human Rights, which recognized that freedom of expression “carries with it duties and responsibilities. Among them, in the context of religious beliefs, may legitimately be included a duty to avoid expressions that are gratuitously offensive to others and profane . . . . This being so, as a matter of principle it may be considered necessary to punish improper attacks on objects of religious veneration.”<sup>82</sup> This perspective is in keeping with German constitutional jurisprudence that protects the free development of the human personality within the community (which is a source of identity to its members) as a fundamental norm.<sup>83</sup> Nevertheless, Kälin and Künzli question whether a blasphemous act could affect one’s freedom of religion, and whether protection would then be given to a religion as opposed to an individual. The UN Committee on the Elimination of Racial Discrimination held a thematic meeting in which it discussed racist hate speech, the interest being in identifying the need for adopting complementary standards and adapting existing standards to current realities in order to be able to respond to new forms of racism and xenophobia.<sup>84</sup> AJE provides spaces for consideration of diverse opinions on this matter.

AJE produced an article that explained the US constitutional protection of freedom of speech, including controversial forms of expression, exemplified by a pastor’s threat to burn a Koran.<sup>85</sup> The journalist cited two First Amendment lawyers who explained “tolerance for intolerance” and the particular value of this principle in a democracy. The article concluded that “[i]n the US, certain freedoms lie at the heart of the social system. The right to offend people by the expression of controversial views is one of them, and that is not up to debate.”<sup>86</sup> The fact that AJE originates from the Middle East but seeks to explain the importance of full enjoyment of freedom of expression in spite of potential

<sup>80</sup> *ICCPR*, *supra* note 8, arts 19, 20. Article 20(2) of the *ICCPR* states that “[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

<sup>81</sup> Walter Kälin & Jörg Künzli, *The Law of International Human Rights Protection* (New York: Oxford University Press, 2010) at 472.

<sup>82</sup> Kälin & Künzli, *ibid*, citing *IA v Turkey*, No 42571/98, [2005] VIII ECHR 590 at para 24.

<sup>83</sup> Bradley A Appleman, “Hate Speech: A Comparison of the Approaches taken by the United States and Germany” (1996) 14 *Wis Int’l LJ* 422 at 434-35.

<sup>84</sup> *Day of thematic discussion on racist hate speech*, UNCERDOR, 81st Sess, 2196th Mtg, UN Doc CERD/C/SR.2196 (2012).

<sup>85</sup> “Quran Burning and US Law”, *Al Jazeera English* (9 September 2010), online: Al Jazeera <<http://www.aljazeera.com>>.

<sup>86</sup> *Ibid*.

clash with religious symbolism is a striking indicator of the organization's allegiance to the principle of the universal primacy of human rights.

## **ii. Regime Change and the Role of the Judiciary in Relation to Freedom of Expression**

This review of reports demonstrates that AJE covers the process of regime change in relation to enjoyment of human rights over time. Its stories address the role of institutions, in particular the judiciary, when assessing dilemmas relating to the violations of rights, such as freedom of expression. It celebrated the demonstrations in Tahir Square in Egypt as demonstrating the power of the people to demand change without resort to violence.<sup>87</sup> Later on, its Inside Story examined a crackdown on freedom of expression in Egypt, and another report highlighted the Egyptian protests against the beating of female protesters by the ruling military in Tahir Square.<sup>88</sup> In September 2012, AJE ran an Inside Story episode related to whether or not "freedom of expression [is] under threat in so-called Arab Spring countries".<sup>89</sup> The video story opened with a look at two works of art that resulted in the Tunisian artists who created them being charged with disrupting public order and good morals. The first work, by Nadia Jelassi, was of a veiled woman surrounded by rocks, suggesting that she is being stoned. The second work, by Ben Slama, was of a child with his schoolbag, out of which streamed ants spelling out "God". AJE cited Jelassi who recounted the experience of being questioned by the judge: "I felt like I was in the times of the [Spanish] Inquisition. The investigative judge asked me about my intentions behind my works that were on exhibit and whether I intended to provoke with this work."<sup>90</sup> The artists faced 5 years imprisonment if they were convicted. As a result of the exhibit, protesters set fire to various buildings, many people were injured, and one person died. AJE cited Human Rights Watch which called upon Tunisian authorities to drop the charges, claiming: "criminal prosecutions of artists for works of art that do not incite violence or discrimination violate the right to freedom of expression."<sup>91</sup> AJE also noted that in Egypt, two journalists were facing trial on charges of insulting the Egyptian president, thereby identifying the judiciary as a central actor in determining the evolution of the scope of freedom of expression

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<sup>87</sup> "Egypt: Seeds of Change", *Al Jazeera English* (9 February 2011), online: Al Jazeera <<http://www.aljazeera.com>>.

<sup>88</sup> "Egypt's Media Crackdown", *Al Jazeera English* (13 September 2011), online: Al Jazeera <<http://www.aljazeera.com>>; "Egyptians Protest Against Beating of Women", *Al Jazeera English* (21 December 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>89</sup> "Was the Revolution Lost in Tunisia and Egypt?", *Al Jazeera English* (5 September 2012), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

within Egypt.

Inside Story welcomed a debate by Eric Goldstein, deputy director of Human Rights Watch's Middle East and North Africa division, Nader Omran, a representative of the Freedom and Justice Party (the political wing of Egypt's Muslim Brotherhood), and Lilia Weslaty, a journalist. AJE's Jane Dutton queried Omran about the prosecution of the journalists in Egypt. He responded that the speech subject to prosecution was that which spread lies and threats about the president, not regular expression. He said that Egypt was trying to establish the rule of law. Goldstein noted that the situation had indeed improved in Egypt but that the laws remained the same as under Mubarak, hence people could still be subject to prison terms for speech. Goldstein called for reform of the law and the removal of prison terms. Omran stated that that would indeed happen, however, he explained that they were in a transition period and had to wait for the election of a new parliament in order to pass new legislation. Meanwhile, he noted that the judiciary remained the same as under Mubarak and that the executive could not interfere with the judiciary, which was interpreting the law in the same manner as before. The separation of powers was indicated as being an essential element of the rule of law, but in this case the delays in reform form both the legislative and judicial branches underscored the vulnerability of freedom of expression during the period of transition.

In comparison, Weslaty declared that there was no independence of the judiciary in Tunisia; rather, the executive power dominated the judiciary. There was no "état de droit" and blasphemy laws were being used to repress journalists and artists. Goldstein confirmed that the criminal code was indeed being applied to prosecute journalists. Furthermore, returning to Egypt, he stated that the heads of the media were being replaced by those who were loyal to the executive, hence, there was no independent media. The entire discussion centered on the structural elements necessary for protection of freedom of expression – new legislation protecting journalists and artists against prosecution, as well as reform of the judiciary and media. Ironically, during regime change, most attention is given to shifts in the executive and legislative branches; little attention is given to the judiciary. The AJE report demonstrates how the judiciary is an essential element in democratic transition and protection of freedom of expression, meriting greater consideration.

### ***iii. The Impact of Security and Counter-Terrorism on Freedom of Expression***

AJE also relies on NGO reports as sources for stories on freedom of expression, and many of these address the negative impact of security and counter-terrorist policies. One article cited a report by the International Freedom of Expression Exchange discussing a siege on freedom of expression

in Tunisia, including surveillance of email and detention of persons for political expression.<sup>92</sup> The article included the counter-perspective of a government representative: "Opposition newspapers publish regularly and express themselves on all issues of the day. The media are free in Tunisia and there is absolutely no press censorship. Media freedoms are protected by law and in practice."<sup>93</sup> Another article provided a thorough summary of a Human Rights Watch report on the repression of freedom of expression in Syria, citing the detention of human rights activists, bloggers, and journalists: "Syrian security services have proven willing to utilize the broad powers of arrest provided to them under the country's penal code, which criminalizes acts such as 'weakening the national sentiment' or 'inciting sectarian, racial, or religious strife'."<sup>94</sup> The article also cited an editor of a journal titled "Contemporary Arab Affairs" who noted the tension between the government and civil society groups that are perceived to be influenced by external actors: "You also have to understand that when the regime is feeling attacked and surrounded by foreign powers, to be what we'd call a fifth column is not exactly the best position to be opening up the political scene on the domestic side." This quote effectively demonstrates the vulnerability of human rights engagement to accusations of political intervention. Al Jazeera English provides space for presentation of NGO views, as well as counter-opinions, ensuring a broader understanding of the context in which the NGOs are operating.

A third report discussed Amnesty International's criticism of a proposed Saudi anti-terrorism law that would promote arbitrary detention and application of the death penalty to dissenters.<sup>95</sup> It cited Amnesty International's concern that the "definition of 'terrorist crimes' in the draft is so broad that it lends itself to wide interpretation and abuse, and would in effect criminalize legitimate dissent. Terrorist crimes would include such actions as 'endangering national unity', 'halting the basic law or some of its articles', or 'harming the reputation of the state or its position'."<sup>96</sup> The article ends with Amnesty International's Deputy Director for the Middle East and North Africa's appeal: "King Abdullah must reconsider this law and ensure that his people's legitimate right to freedom of expression is not curtailed in the name of fighting terrorism."<sup>97</sup>

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<sup>92</sup> "Tunisia Lawyer Held for Sharon Article", *Al Jazeera English* (2 March 2005), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>93</sup> *Ibid.*

<sup>94</sup> Evan Hill, "Syria Slammed on Human Rights", *Al Jazeera English* (16 July 2010), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>95</sup> "Rights Group Criticises Saudi Anti-Terror Law", *Al Jazeera English* (22 July 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*



A fourth article highlighted Amnesty International's report on Sudan's repression of political opposition and human defenders.<sup>98</sup> It cited Amnesty International's Africa programme director as calling for a change to the laws: "The National Security Act must be reformed so that agents are no longer provided with extensive powers of arrest and detention. All immunities should be removed".<sup>99</sup> It appears to present NGOs as important sources for identifying human rights violations by state actors, as well as identification of solutions to institutional or normative dilemmas related to the enjoyment of rights. The reliance of this material is similar to IO output – the reports are disseminated in good faith, thereby strengthening their potential impact.

AJE allowed for contrasting perspectives in its Inside Story debate about Belgium's ban on the full-face veil in public as a possible impingement on freedom of expression. The debate included the contrary views of a Xavier Baeselan, a Belgian parliamentarian; Ian Traynor, an editor of the Guardian; and Abeer el Saleh, a member of a campaign titled "Protect Hijab".<sup>100</sup> The report commenced by explaining that women wearing burqas could be fined or sent to jail. It cited Amnesty International's declaration that the full-face veil ban set a dangerous precedent, since it is not proportionate, and violates freedom of religion and expression. It juxtaposed this with the statement of a Belgian parliamentarian that the burqa was nothing more than a mobile prison, which takes away the possibility of human contact and communication, and destroys the humanity and freedom of women. AJE asked Baeselan as to the grounds for the ban. He cited the interest of public order and the values of a democratic society in which people have the right to see each other.<sup>101</sup>

El Saleh insisted that this ban infringed on a woman's right to make choices and on her freedoms of expression, religion, and movement. In addition, she criticized the ban for promoting Islamophobia and stigmatizing Muslims. Further, she stated that the law was actually damaging Belgian society. She noted that 80% of schools had banned hijabs, resulting in girls being unable to attend school. She considered this to constitute a state-sponsored anti-Islamic movement that would sweep into the minds of the society, possibly promoting violent attacks. Traynor noted that he was unaware of any actual public order threat in Belgium and that burqas are never really seen in Brussels, Antwerp, or other cities; therefore, the ban addressed a problem which did not exist. In his view, this was similar to the ban on minarets in Switzerland – an

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<sup>98</sup> "Sudan's 'Brutal' War on Dissent", *Al Jazeera English* (19 July 2010), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>99</sup> *Ibid.*

<sup>100</sup> "Banning the Veil", *Al Jazeera English* (4 May 2010), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>101</sup> *Ibid.*

overreaction.<sup>102</sup>

The reporter asked how many crimes had actually been committed by women wearing burqas, to which Baeselan was unable to answer directly. Baeselan stated that the majority of parliamentarians supported this law and that individuals were expected to obey the law as a basic democratic principle. He also questioned whether women who wore burqas could actually gain employment in Belgium. AJE noted the expansion of debates and legislative reforms in Germany, France, the Netherlands, Switzerland, Austria, and Italy and queried whether it was a trend of secularism. El Saleh stated that the hijab is not just a symbol, it is a requirement of religion; therefore, its prohibition is a direct violation of freedom of religion and Belgium should have to reconsider its ratification of the *Convention for the Protection of Human Rights and Fundamental Freedoms*.<sup>103</sup> AJE queried whether the ban would only further isolate the Muslim community. Baeselan reiterated that the burqa is a jail that prevents contact between persons, and that it was impossible to state that, in fact, women freely chose to wear it.<sup>104</sup>

Inside Story created a space for reflection of various perspectives regarding the consequences of the state's prohibition of full-face veils. The segment ran for approximately 20 minutes, which enabled the debate to evolve in a non-sensationalistic manner. It set forth dilemmas brought about by alleged conflicts between the state's interest in maintaining security and openness in society versus an individual's right to freedom of religion and freedom of expression. The segment permitted the identification of various solutions, without indicating a preference for one of them; rather, the audience is left to reflect on the strength of the arguments on all sides.

AJE also tackled the issue of the security interest of journalists when they addressed the assassination and intimidation of journalists in Mexico.<sup>105</sup> The article cited a report produced by Mexican and global freedom of expression groups that expose the links between public officials, military, and political parties and the attacks on journalists (in particular, those investigating corruption), as well as the prevalence of impunity as few prosecutions are successful. The article explained the contextual and institutional challenges behind the violations. AJE cited a consultant in Mexico for the Committee to Protect Journalists who identified a legal gap and the need for reform as a potential solution: "There is no legal framework that allows an offence to be investigated as a crime against freedom of expression or which provides

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<sup>102</sup> *Ibid.*

<sup>103</sup> 4 November 1950, 213 UNTS 221, Eur TS 5 [*European Convention*].

<sup>104</sup> *Ibid.*

<sup>105</sup> Rhodri Davies, "Targeting the Media in Mexico", *Al Jazeera English* (18 February 2010), online: *Al Jazeera English* <<http://www.aljazeera.com>>.

a definition of a journalist. There is a big legal hole in regards to freedom of expression.”<sup>106</sup> He further asserted that a legal foundation protecting journalists and freedom of the press must be established, and that criminal investigations into attacks on journalists be federalized to eliminate the problem of the proximity of judiciaries and politicians at the local level. The article noted that Mexico’s Office of Public Security was unavailable for comment despite repeated calls from Al Jazeera, thereby indicating its effort to obtain “the other opinion”. Law is identified as being at the core of the problem of vulnerability of journalists to attacks and as the solution to guaranteeing their protection.

Al Jazeera’s pursuit of the frame of freedom of expression highlights the various causes of restriction: application of blasphemy laws, security surveillance policies, expansive interpretation of terrorist crimes to include dissident speech, prohibition of face veils in the name of security, conservative judges, lack of independent media, and lack of effective legal protection of journalists and editors. The solutions offered, often by NGOs, centre around the enactment of new legislation, reform of the judiciary, and consideration of international soft law, specifically the UN Human Rights Committee’s General Comment on freedoms of opinion and expression.<sup>107</sup> Of significance, the reports also present alternative perspectives in the event of conflicts between rights – a timely contribution to pluralist debates within human rights. The next section is an assessment of AJE’s articles on women’s rights.

### C. WOMEN’S RIGHTS

The Preamble of the *Charter of the United Nations* declares faith in the equal rights of men and women,<sup>108</sup> and this principle is further elaborated on within *CEDAW*.<sup>109</sup> In spite of this protective normative framework, as a group, women around the world remain at high risk of marginalization, exclusion, exposure to harmful traditional practices and violence (including domestic), and restriction of their rights.<sup>110</sup> Their quest to achieve education, equality, economic empowerment, and participation in governance has been continually stymied by counter-efforts rooted in conservative religious or cultural norms, as well as economic pressures.

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<sup>106</sup> *Ibid.*

<sup>107</sup> Human Rights Committee, *General Comment No 34*, CCPR/C/GC/34 (12 September 2011).

<sup>108</sup> *Charter of the United Nations*, 26 June 1945, Can TS 1945 No 7, Preamble.

<sup>109</sup> *Supra* note 16.

<sup>110</sup> See Cecilia M Bailliet, “Persecution in the Home: Applying the Due Diligence Standard to Harmful Traditional Practices within Human Rights and Refugee Law” (2012) 30:1 *Nordic Journal of Human Rights* 36. See also *Declaration on the Elimination of Violence Against Women*, UNGAOR, 1993, 85th Plen Mtg, A/RES/48/104.

### *i. Remedies for Widows*

AJE addressed the phenomenon of “half-widows”, who are unable to access the family estate and ration cards in Kashmir after their husbands have been abducted by Indian security forces but are not declared dead.<sup>111</sup> For their part, the State claims that the men actually crossed into Kashmir to complete arms training, became militants, and never returned. This story was based on a report published by the Association of Parents of Disappeared Persons that illuminates the phenomenon of enforced disappearance in which thousands of women and children are left without legal protection and are thereby at risk for exploitation and abuse. The report noted that the State would provide ex-gratia relief only after 7 years have passed, with a death certificate, and only if it is proven that the deceased had no link with militancy.

The case was processed through a local screening committee composed of police and government officers. The report stated that “[m]ost legal remedies remain elusive due to the severe financial and emotional costs over multiple year timelines. Administrative remedies fall short of providing due relief to half-widows.”<sup>112</sup> The article noted that “[h]alf-widows’ are undefined legally and within the patriarchal socio-cultural context of South Asia, the women find themselves at the mercy of Kashmiri society, where a deafening silence surrounds gender violence and abuse.”<sup>113</sup> Due to customary norms, half-widows may be unable to remarry.

The article cited a member of the Jammu and Kashmir Coalition of Civil Society who criticized the passivity of the state to remedy injustice: “They ... have not moved, even after years of the tragedies, which have ruined the past, present and future of so many families. The daily struggles of existence and seeking justice unabated, by these women have created examples of unflinching courage.”<sup>114</sup> He warned that progress in political peace negotiations may not necessarily translate to human rights protection: “While India and Pakistan appear keen to take confidence building measures, initiating steps to build mechanisms to protect human rights of people should have been the priority, but unfortunately everything else has been prioritized over human rights.”<sup>115</sup> The report is cited as calling for the government to repeal the Armed Forces Special Powers Act and the Public Safety Act which allegedly enable the army to act with impunity, and to establish a “special bench at the Jammu and Kashmir high court to hear cases related to the ‘half-widows’ and for

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<sup>111</sup> Azad Essa, “Kashmir’s ‘Half-Widows in a Precarious State’”, *Al Jazeera English* (29 July 2011), online: *Al Jazeera English* <<http://www.aljazeera.com>>.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*

<sup>115</sup> *Ibid.*

India to ratify a UN resolution on the protection of all persons from enforced disappearances.”<sup>116</sup>

The article relied on civil society groups to highlight both the human rights dilemmas pertaining to the lack of transparency of legal remedies, as well as designing solutions, and specifying legal and institutional reforms.

## **ii. Forced Marriage**

AJE produced a video report addressing forced marriage in Pakistan.<sup>117</sup> The report commenced by introducing a 15-year-old girl who was subjected to forced marriage to a man 40 years her senior, resulting in her fleeing to a shelter. The report presented the concerns of rights activists regarding the challenges they face, given societal resistance to the concept that women can own property. AJE described new Pakistani legislation titled the Anti-Women Practices Bill, which would prohibit forced marriage, carrying a penalty of 3-10 years imprisonment or a \$6,000 fine. It would also prohibit forced marriage to the Koran, for which the penalty would be 3-7 years imprisonment or a \$6,000 fine, and would prohibit the denial of a woman’s inheritance, punishable by 5-10 years imprisonment or a \$12,000 fine. The reporter ended by noting that enforcement of the law is indeed the key concern as it is important to demonstrate that the legislation is more than just “words on paper”, thereby shedding light on the obstacles that will be faced with regard to implementation.

AJE also presented the story of Amina Filali, a 15-year-old Moroccan girl who was allegedly raped and then forced to marry her rapist in order to preserve the family’s honor.<sup>118</sup> The Ministry of Justice alleged that she consented to the marriage, but other reports indicated that she had been pressured by a judge and her family, who in turn had been pressured by the prosecutor. She endured beatings, denial of food, and other abuse at the hands of her husband, finally committing suicide by drinking rat poison. As a result of this shocking incident, women’s rights activists in Morocco staged a mock trial. They also pursued a campaign, which included an online petition, calling for an amendment to the Moroccan penal code that allows rapists to marry their victims in order to avoid punishment. AJE cited an activist who criticized the collusion of abuse by man, custom, and law on Twitter: “Amina, 16, was triply violated, by her rapist, by tradition, and by Article 475 of the

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<sup>116</sup> *Ibid.*

<sup>117</sup> “Pakistan Passes Bill to Protect Women’s Rights”, *Al Jazeera English* (18 November 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>118</sup> “Morocco Activists Target ‘Rape Marriage Law’”, *Al Jazeera English* (8 April 2012), online: Al Jazeera English <<http://www.aljazeera.com>> [“‘Rape Marriage Law’”]; “Morocco Mulls Tougher Line on Rape-Marriages”, *Al Jazeera English* (17 March 2012), online: Al Jazeera English <<http://www.aljazeera.com>> [“Rape-Marriages”].

Moroccan law.”<sup>119</sup> This is a layering of media and social network reporting that seeks to strengthen the activist engagement in the condemnation of human rights violations against women. It may be said that AJE treats social network reports in a similar manner to the way it treats IO and NGO reports.

AJE quoted Neza Alaoui, a women’s rights activist, who noted that the phenomenon of forced marriage and child brides was a result of the combination of oppressive law, oppressive society, and obsolete social practices. Although the Moroccan family law had been reformed to raise the age of marriage to 18, judges were given discretion to permit the marriage of minors in particular cases.<sup>120</sup> AJE cited a UNICEF report that documented the existence of similar legislation and practices in Africa, the Middle East, Asia, and Latin America, demonstrating the relevance of the story at the global level.<sup>121</sup>

The article took note of a government story that found that 25% of Moroccan women have been sexually assaulted at least once in their lives.<sup>122</sup> The footage included images of the mothers of rape victims crying and the picture of the deceased – revealing her young age.<sup>123</sup> AJE included an interview of activists, such as Fat’hya Yakoubi of a human rights association. She noted that marriage can never be a solution to rape, as it is a crime and must be punished.<sup>124</sup> The activists are portrayed as strong women (as opposed to the judges who are mostly men) who dare to challenge the State to amend repressive law, while also recognizing that the issue is also a result of cultural tradition dating back centuries.

An important point is that the family of the victim called for imprisonment of the judge who permitted the marriage. AJE presented the statement of a government representative, who stated that the victim was raped twice: once by the rapist and a second time by the law. He declared that the government would pursue a debate on reform of the penal code.<sup>125</sup> Hence, the solution suggested was law reform and possibly punishment of the judge, as the judiciary was presented as an institution that is repressive against women and minors. In this sense, AJE presents a critical perspective that promotes women’s human rights and calls for institutional and legislative change.

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<sup>119</sup> “Rape-Marriages”, *ibid.*

<sup>120</sup> *Ibid.*

<sup>121</sup> “Rape Marriage Law”, *supra* note 118.

<sup>122</sup> “Rape-Marriages”, *supra* note 118.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.*

### iii. Female Genital Mutilation & Abortion: Looking Beyond the Law for Solutions

AJE ran a story as part of a program called “People and Power” in which it presented the devastating tragedy of female genital mutilation.<sup>126</sup> The article explained the cultural and economic basis for the tradition, which is linked to dowry and marriage. It also presented the severe health complications of this practice, including the risk of death. Finally, the article described the efforts of a grassroots self-help group to empower girls to escape such a fate in pursuit of educational aspirations. The report cited the father of a girl who claimed to have received a dowry for his daughter and declared: “I’ve never seen a girl in my family who has not been cut. If she is against cutting, we will take her by force.”<sup>127</sup> The report also cited the girl’s mother: “I didn’t go through labour pains for my daughter to be sold like that. I will not cut my daughter for that. Why do you think our daughter does not get married? Our neighbour’s daughter was not cut. She went to secondary school and got a job and is happily married to a doctor in Karss. That lady received a large dowry.”<sup>128</sup> The self-help group convinced the father that an education is more valuable than cows and the girl was spared.

In this case, education, as opposed to law, was identified as the solution. It is unquestionably laudable that AJE gives coverage to this practice; however, given that female genital mutilation is an issue that has been given substantial focus by Western media and academic scholarship, the coverage may be described as in keeping with the mainstream feminist agenda.<sup>129</sup> Nevertheless, the fact that AJE’s audience includes regions in which attitudes towards these cultural practices are different from those in the West, renders AJE’s reporting alternative.

Another report addressed the consequences of the estimated ½ million illegal abortions in the Philippines every year, presenting the black market in abortion pills, and the dangers faced by married and unmarried women seeking an illegal abortion (including an interview with a woman who underwent the procedure).<sup>130</sup> The report discussed how Filipino society does not accept abortion on moral grounds, and thus, there is no possibility of

<sup>126</sup> “Abandon the Knife”, *Al Jazeera English* (7 November 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>127</sup> *Ibid.*

<sup>128</sup> *Ibid.*

<sup>129</sup> See Elizabeth Heger Boyle & Andrea Hoeschen, “Theorizing the Form of Media Coverage over Time” (2001) 42:4 *The Sociological Quarterly* 511. See also Hope Lewis, “Between *Irua* and ‘Female Genital Mutilation’: Feminist Human Rights Discourse and the Cultural Divide” (1995) 8 *Harv Hum Rts J* 1.

<sup>130</sup> “Abortion Agony in the Philippines”, *Al Jazeera English* (3 August 2010), online: Al Jazeera English <<http://www.aljazeera.com>>.

legalizing the practice. The report ended by presenting the government's initiative to promote sex education within society (also with the support of the Church) as a means of preventing abortions. The state appears to seek solutions beyond the law. The report appears to open spaces for reflection as to whether or not this is actually the best approach; in this respect, it provokes more questions from the audience.

#### ***iv. Femicide, Accountability for Mass Rape, and Domestic Violence***

The UN Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, addressed the phenomenon of gender-related killings of women, explaining that “[r]ather than a new form of violence, gender-related killings are the extreme manifestation of existing forms of violence against women. Such killings are not isolated incidents that arise suddenly and unexpectedly, but represent the ultimate act of violence which is experienced in a continuum of violence.”<sup>131</sup> AJE addressed the phenomenon of gender violence in Juarez, Mexico, in which scores of women were raped, tortured, and disappeared.<sup>132</sup> AJE interviewed the mothers of victims, who described their daughters as being “good girls”, in an effort to oppose police attempts to discredit victims as being akin to prostitutes, drug addicts, or gang members. AJE reported that the Attorney General of Chihuahua accused the victims of dressing provocatively, thereby encouraging the assaults. The report described the availability and quality of police forensics as insufficient. AJE quoted a woman who resigned from the Attorney General's Office “out of shame for belonging to a corrupt system of justice.”<sup>133</sup> One of the mothers interviewed described how the police found her daughter's body – left in a field with wounds of physical assault and rape: “The police said she was lucky. She was only agonizing for six days.”<sup>134</sup> AJE also quoted a member of the Chihuahua State Human Rights Commission who explained that the government fails to keep official statistics: “There is a negative attitude from government towards the problem ... . Femicides must be covered up, as they are an international shame.”<sup>135</sup> The AJE report presented the background for the systemic violations: “A climate of impunity and of machismo, teamed with widespread violence and a large population of women deemed disposable

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<sup>131</sup> Rashida Manjoo, *Report of the Special Rapporteur on violence against women, its causes and consequences*, UN Human Rights Council, 20th Sess, UN Doc A/HRC/20/16, (2012) at 1.

<sup>132</sup> Chris Arsenault, “In Juarez, Women Just Disappear”, *Al Jazeera English* (8 March 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

<sup>135</sup> *Ibid.*



by the city's power brokers all contribute to making the situation worse."<sup>136</sup> The article took note of a decision by the Inter-American Court of Human Rights in December 2009, which held Mexico accountable for the impunity that promotes gender-based violence.<sup>137</sup> In that case, the reestablishment of the rule of law was understood as being essential for the protection of women against violence, but it was recognized as being a challenge to achieve.

AJE focused on the pursuit of international accountability for mass rape in Africa, examining the assaults by Mai-Mai rebels, who are fighters from the Rwanda-led Democratic Front for the Liberation of Rwanda. It described the arrest of Lieutenant Colonel Mayele, a Democratic Republic of Congo rebel commander by the UN Mission for the Stabilization of the DR Congo (MONUSCO) and cited a UN report identifying 303 civilian victims of sexual violence: 235 women, 13 men, 52 girls and 3 boys. The article also quoted a UN official who characterized the arrest of Lieutenant Colonel Mayele as sending "out a signal that sexual violence will not go unpunished."<sup>138</sup> The commander was turned over to military judicial authorities who initiated an inquiry. The article ended by noting that "MONUSCO said it will continue to punish those responsible for the mass rapes so they can be brought to justice."<sup>139</sup> AJE appears to support efforts to pursue international prosecution for war crimes, which is in contrast to resistance among African Union leaders who question the legitimacy of international criminal prosecution.<sup>140</sup>

AJE addressed the effects of local government funding cuts to domestic violence programs in Britain, where 25% of women are estimated to have experienced domestic violence, and at least 2 women are killed every week by their current or ex-partners.<sup>141</sup> This report is important because it identified vulnerability in the North, dismissing stereotypical assumptions that women are most at risk in the South.<sup>142</sup> The footage included an interview with a

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<sup>136</sup> *Ibid.*

<sup>137</sup> *Case of González et al ("Cotton Field") v Mexico* (2009), Inter-Am Ct HR (Ser C) No 205.

<sup>138</sup> "Arrest in DR Congo Over Mass Rape", *Al Jazeera English* (6 October 2010), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>139</sup> *Ibid.*

<sup>140</sup> See e.g. "UN Chief Rejects African Criticism of International Court" *Voice of America* (29 January 2012), online: Voice of America <<http://www.voanews.com>>.

<sup>141</sup> "Hard Times for Britain's Vulnerable Women", *Al Jazeera English* (9 March 2012), online: Al Jazeera English <<http://www.aljazeera.com>> ["Hard Times"].

<sup>142</sup> In relation to women's issues in Europe, AJE also ran a profile on a midwife in Hungary who fought for recognition of natural childbirth and protection of maternal health, describing how the male dominated obstetricians penalized her and how she ultimately triumphed, in part, because of the World Health Organization's recognition of her position (Nick Thorpe, "The Battle Over Birth", *Al Jazeera English* (28 March 2011), online: Al Jazeera English <<http://www.aljazeera.com>>). Here again, the international system is presented as emancipating an individual who had been discriminated against because of her gender.

victim of domestic violence who obtained safety at a shelter. It also included an interview with the head of a women's resource center who explained the decentralization of social welfare within the UK. She noted that women's issues tend to be considered a low priority for local government funding, and that there is a very real risk of death to women should the funding for shelters be cut, as women would then be left with "the choice of being on the streets or remaining with the perpetrator."<sup>143</sup> The report ended with an interview of the UK Minister of Equality, who guaranteed central funding, thereby indicating the possibility of a solution and demonstrating the accountability of the State for the situation. The report serves to show the importance of providing a solid structural framework for the protection of women against violence, which stands in strong contrast to the report on the situation in Mexico.

### v. *Political Participation*

AJE addressed the challenge of women's political participation in Egypt, examining the debate around the passage of a law that would mandate the creation of 64 new seats reserved for women in the People's Assembly.<sup>144</sup> The article cited the Executive Director of the Nazra Centre for Feminist Studies in Cairo: "I am worried about the kind of women that will join parliament. Many of them are women who are against women ... . They do not have to be feminists; we want to see women who will fight for women's rights."<sup>145</sup> The article appears to underscore the complexity of democratic reform, as members within social groups such as women have diverse views that may not be harmonized, and may actually run in contradictory directions.

Another extensive article examined Tunisia, addressing the tensions between those seeking the political empowerment of women, and the conservative backlash pursuing an Arab-Islamic identity informed by the conservative Gulf countries.<sup>146</sup> The report assessed the limited impact of the Gender Parity Law that was intended to provide women with a voice in the constituent assembly, but did not provide for gender quotas with regard to the seats in the assembly, nor did it address the domination of men at the head of the party lists. The article cited a 41-year-old woman who was married

<sup>143</sup> "Hard Times", *supra* note 141.

<sup>144</sup> Evan Hill, "Women Make Leap in Egypt Parliament", *Al Jazeera English* (29 November 2010), online: Al Jazeera English <<http://www.aljazeera.com>> ["Egypt Parliament"]. See also "Egypt Reserves More Seats for Women", *Al Jazeera English* (26 November 2010), online: Al Jazeera English <<http://www.aljazeera.com>> (noting concern about political manipulations).

<sup>145</sup> "Egypt Parliament", *ibid.*

<sup>146</sup> Yasmine Ryan, "Tunisia: Women's Rights Hang in the Balance", *Al Jazeera English* (20 August 2011), online: Al Jazeera English <<http://www.aljazeera.com>>. See also "Tunisian Gender-Parity 'Revolution' Hailed", *Al Jazeera English* (21 April 2011), online: Al Jazeera English <<http://www.aljazeera.com>> (discussing gender stereotypes in media and the corruption of the wife of the ex-president).

at the age of 16, forced to abandon school, and prohibited from working by her father-in-law. She indicated political support for secular political parties even though she retained traditional views regarding polygamy. AJE also interviewed a 24-year-old Muslim female Masters student who supports a fusion of secular and Muslim law. AJE further noted the rise in registration of young women to vote, as well as the requirement that 50% of party candidates be women. The report presented the Karma Association, which helps women enroll to vote in the election of the constituent assembly. It also presented a counter-perspective of a woman who opposed the Tunisian Association of Democratic Women as being “enemies of God and his Prophet and yet they claim to speak in our name”.<sup>147</sup> She criticized the rights to initiate divorce, equal pay, and access to abortion as not constituting real gains.

Through its reporting, AJE demonstrates the diversity of opinion among women in relation to their views on civil and human rights, which complicates the process of political and legal reform. In short, its reports help to explain the uneven pace of institutional and normative reform during a democratic transition, thereby assuaging Foreign Minister Støre’s concern that media may not necessarily be useful for long-term democratic reform efforts. AJE illuminates the complex process of democratic transition in all stages of evolution.

#### ***vi. Solutions sought by Civil Society***

AJE presented an inspiring profile of a transnational activist addressing trafficking. The story centered around an American woman of Indian descent, Robin Chaurasiya, who founded an anti-trafficking organization to rescue trafficked girls, and give them skills and access to education, in order to transform their lives.<sup>148</sup> The report consisted of her powerful narrative, which described the pervasive system of trafficking and re-trafficking of girls in India, and the failure of NGOs to help them break out of the cycle of abuse. She also described the helplessness of the children of sex workers. She committed to providing them with a “leadership training institute churning out revolutionaries who will change the world forever”.<sup>149</sup> The profile is of particular interest because it demonstrates the vision of transnational citizens who apply their education gained abroad to the empowerment of marginalized

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<sup>147</sup> Yasmine Ryan, “Tunisia’s Election Through the Eyes of Women”, *Al Jazeera English* (23 October 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>148</sup> Robin Chaurasiya & Trina Talukdar, “Revolutionising India’s Trafficked Girls”, *Al Jazeera English* (20 September 2011), online: Al Jazeera English <<http://www.aljazeera.com>>.

<sup>149</sup> *Ibid.*

groups in the country with which they have family ties.<sup>150</sup>

AJE reports that pursue the frame of women's rights reveal the significant barriers faced by women around the world in relation to obtaining a guarantee of protection from violence, forced marriage, female genital mutilation, and discrimination in economic and political life. The solutions offered include the education of civil society, as well as legal and judicial reform. Nevertheless, the articles also underscore the limits of the law as a solution, noting the issues of impunity and cultural factors that affect the enjoyment of rights.

## V. CONCLUSION

AJE's use of the right to food, freedom of expression, and women's rights as frames for its reports facilitates the revelation of multiple causes of hunger, censorship, and gender discrimination and violence, as well as the consideration of possible solutions involving legal and judicial reform. AJE succeeds in promoting the interests of international society by utilizing human rights as a measure of the level of democracy, peace, and security within states. A review of AJE reports reveals the substantial articulation of legal issues pertaining to human rights, the identification of problematic domestic norms and structures, the affirmation of the importance of the rule of law, the dissemination of the output of international and regional human rights institutions, and the coverage of democratic institutional reform processes. Al Jazeera English presents complex human rights issues in many regions that may not be deemed important in other news media. AJE does not present itself as opposed to international law or "the universalism of the

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<sup>150</sup> AJE ran a profile of a Sudan's first female presidential candidate, Fatma Abdel Mahmoud. The portrait discussed her background as a pediatrician, the first female Minister, and member of the Assembly. It discussed her experiences, including arrest and arbitrary detention. The article also profiled another female political candidate, Keji Jermalili, also a doctor by profession and Secretary of Culture for the SPLM. She discussed the situation of women in the North and South of Sudan, and how women were actually empowered by the fact that the men were sent away to war (Fatma Naid, "Sudanese Women Strive for Change", *Al Jazeera English* (10 April 2010), online: Al Jazeera English <<http://www.aljazeera.com>>). AJE also disseminated Human Rights Watch's report on discrimination and violence against women with disabilities in Northern Uganda ("Ugandan Women Fight for Rights", *Al Jazeera English* (26 August 2010), online: Al Jazeera English <<http://www.aljazeera.com>>). AJE cooperated with the Balkan Fellowship for Journalist Excellence to publish a piece on commercial surrogacy in the Ukraine (Doroteya Nicolova, "Women Head East for Wombs to Rent", *Al Jazeera English* (6 December 2010), online: Al Jazeera English <<http://www.aljazeera.com>>).

liberal/conservative consensus of international law".<sup>151</sup> It appears to seek to increase the recognition and participation of the Third World and to make the international system more sensitive to the needs of marginalized groups. The reports on the right to food explain the structural (economic/trade) frameworks, as well as the global and historical contexts, opening up spaces for the consideration of structural reform as a solution.<sup>152</sup> In this manner, it avoids fragmented stories common in human rights coverage.<sup>153</sup>

AJE also highlights transnational and local civil society movements and NGOs as the source of reform and solution. However, AJE oscillates in its reports between portrayals of local activists as influencing and participating in transnational policies regarding humanitarian and developmental issues to portrayals of vulnerable individuals and groups as fully dependent on support from IO's or bilateral aid agencies promoting universalist projects of rights. The latter assumes passive identities rather than exemplifying agents of change *per se*.<sup>154</sup> There may well be a risk of emotional clichés, due to the fact that the focus on mothers concerned for their children may possibly be perceived as a stereotype.<sup>155</sup>

AJE included reports with regard to the situation of vulnerable persons in the North, such as cases within the US and UK, relating to the human rights selected. AJE's audience extends to immigrant and exiled communities in the North as well as the home populations in the South. It seeks to give a voice to vulnerable interests around the globe – these articles are particularly valuable in revealing marginalization within the North. Because of the link between respect for human rights and peace, AJE coverage could be construed as promoting peace journalism (seeking a non-violent response to conflict), by assessing the political, economic, and social roots of conflicts and raising

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<sup>151</sup> James Thuo Gathii, "Rejoinder: Twailing International Law" (2000) 98 Michigan LR 2067, cited in David P Fidler, "Revolt Against or From Within the West? TWAIL, the Developing World, and the Future Direction of International Law" (2003) 2:1 Chinese JIL 29 at 29 ("TWAIL seeks to (1) deconstruct the use of international law for creating and perpetuating Western hegemony; and (2) construct the bases for a post-hegemonic global order. ... [T]he TWAIL quest for a post-hegemonic global order is a quest for a more tolerant world in which the states and peoples of the Third World escape structural and substantive marginalization" at 31).

<sup>152</sup> See Madhav Kholsa, "The TWAIL Discourse: The Emergence of a New Phase" (2007) 9:3 International Community Law Review 291.

<sup>153</sup> International Council, *Journalism*, *supra* note 38 at 64. In contrast, as one scholar has noted, the US media avoidance of coverage of the history of US foreign policy in Central America, Asia, and the Middle East "allows the government to continue the illusion that U.S. foreign-policy aims are geared toward justice and dignity for people" (James H Wittebols, "The Politics and Coverage of Terrorism: From Media Images to Public Consciousness" (1991) 1:3 Communication Theory 253).

<sup>154</sup> See Balakrishnan Rajagopal, *International Law From Below: Development, Social Movements and Third World Resistance* (Cambridge: Cambridge University Press, 2003).

<sup>155</sup> One study found that Al Jazeera English "used emotional phrases" while reporting the killing of children in Palestine (Tairah Firdous, *Al Jazeera English: An Alternative News Voice* (Saarbrücken: LAP Lambert Academic, 2011) at 67).

contextual debates on how to solve them.<sup>156</sup> Indeed, AJE meets the criteria of the conciliatory function of peace media by providing voice to marginalized groups, presenting a variety of viewpoints on contentious issues, addressing injustice and seeking conflict resolution instead of escalation.<sup>157</sup>

AJE mirrors and molds public opinion by giving a voice to marginalized groups, highlighting alternative views, and generating discourse about human rights issues. As noted by Daniel Joyce, “[a]lternative media provide an important site for activism and political communication”.<sup>158</sup> Commenting on the worldwide interest in the Arab Spring, Wadah Khanfar called upon people to log onto AJE and to “to express universal feeling to support the weak and the oppressed to create a much better future.”<sup>159</sup> In his view, AJE stands for the common good as its guiding principle.<sup>160</sup> As a practical matter, Wadah Khanfar’s key concern regarding limits to AJE’s social function is quite simply the restrictions brought about by sound bites in news media. Stories run around 2 minutes with 2-3 sound bites within them, inhibiting an in-depth analysis of the issues, including human rights, and rendering a discussion of context and history limited.<sup>161</sup> Yet, AJE’s Inside Story segments are longer, running 20-30 minutes, thereby presenting deeper examination of particular human rights dilemmas. Khanfar stated that, in his opinion, AJE is actually mainstream and that it is the social networks, bloggers, etc. that present challenging perspectives.<sup>162</sup> Therefore, AJE seeks to protect social network reporters against censorship and intimidation, and hopes that they will reciprocate when AJE reporters are harassed and jailed. Indeed, the citation of bloggers in AJE articles is an interesting way of layering the output generated by civil society in relation to decrying abuses by the state against individuals and groups.

A final point of reflection is that AJE continues to confront the challenge of obtaining access to the public in terms of disseminating news. In an effort to expand its access to the American market, AJE recently purchased Current

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<sup>156</sup> Marc Lynch, “Taking Arabs Seriously” (2003) 82:5 *Foreign Affairs* 81 at 85-86. See also Mohammed el-Nawawy & Shawn Powers, *Mediating Conflict: Al-Jazeera English and the Possibility of a Conciliatory Media* (Los Angeles: Figueroa Press, 2008) [El-Nawawy & Powers, *Mediating Conflict*].

<sup>157</sup> El-Nawawy & Powers, *Mediating Conflict*, *ibid* at 24-25.

<sup>158</sup> Daniel Joyce, “Human Rights and the Mediatization of International Law” (2010) 23:3 *Leiden J Int’l L* 507 at 526.

<sup>159</sup> Wadah Khanfar, “A Historic Moment in the Arab World” (TED Talk, delivered at Long Beach, California, March 2011), [unpublished], online: TED <<http://www.ted.com>>.

<sup>160</sup> Polyteknisk Forening Meeting, *supra* note 19.

<sup>161</sup> *Ibid*.

<sup>162</sup> *Ibid*.

TV.<sup>163</sup> It is noteworthy that at the European level, the European Court of Human Rights has held that immigrants seeking to receive information from their native country or region should not be interfered with by disproportionate measures that violate article 10 of the *European Convention*.<sup>164</sup> In Asia, China refused to renew AJE's correspondent's press credentials and visa, and did not permit AJE to send a replacement journalist.<sup>165</sup> The correspondent had covered stories including human rights issues. As explained by Sam Cherribi,

"Human rights as a rule that has to be respected creates spaces that are universally recognized, and in that sense we can say that human rights can be a strategy of the universalization of values, virtues, attitudes, and social standards. The media are both the guardian of these virtues and values and too often the victim of states that violate them."<sup>166</sup>

AJE is an important example of media committed to pursuing human rights frames. It may be considered as legitimizing universal human rights discourses by presenting their audience with an alternative voice. Readers and viewers may be encouraged to reflect and reconsider the structural causes of human rights violations, understand the role of international and regional actors, as well as members of civil society, debate possible solutions, and perhaps engage in the aspiration of improving the lives of those who are the most vulnerable and striving towards global equality. What is evident is the importance of further research into the media's impact on our understanding of the enjoyment of human rights in the world.

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<sup>163</sup> Paul Farhi, "Al-Jazeera Hopes Current TV Purchase Will Give it Access to More American Homes", *The Washington Post* (3 January 2013), online: [The Washington Post <http://www.washingtonpost.com>](http://www.washingtonpost.com).

<sup>164</sup> *Case of Khurshid Mustafa and Tarzibachi v Sweden*, No 23883/06 (2008) (addressing the forced eviction of an immigrant family from their apartment due to their installment of a satellite dish in order to receive television programming from their country and region of origin).

<sup>165</sup> "Al Jazeera English Forced out of China", *Al Jazeera English* (9 May 2012), online: [Al Jazeera English <http://www.aljazeera.com>](http://www.aljazeera.com).

<sup>166</sup> Cherribi, *supra* note 59 at 38.