

WHY TRUE LEGAL VICTORIES FOR HUMAN RIGHTS DEPEND ON GRASSROOTS ACTIVISTS

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I. INTRODUCTION

Consider the landmark human rights victories of our age: winning the U.S. federal right to marriage equality, the *Roe v. Wade*¹ decision, the creation of the International Criminal Court, and the passage of U.N. Security Council Resolution 1325² mandating women's role in peace-building. The collective memory of the human rights advocacy community and of popular discourse tends to enshrine these wins into singular moments—as a celebrated arrival at a destination after a long journey.

However, the first step of any successful journey begins by understanding your destination and choosing the right map to get there. In many attempts by human rights activists to right harmful policies, we seek our victory via established legal or legislative structures to file cases and secure judgments. We mark a destination on our map: a legal ruling or legislative result mandating policy action. Yet, the lasting social change we seek remains elusive, failing to fully transfer to the realities of people's lives, the true goal of social change efforts. Decades after *Roe v. Wade*, U.S. women still struggle to access their right to an abortion.³ Same-sex couples seeking marriage licenses still face discrimination and can be turned away by rogue and bigoted city clerks.⁴ The International Criminal Court (ICC) has struggled to legitimize and implement its rulings,⁵ and women's civil society constituencies remain ex-

1. *Roe v. Wade*, 410 U.S. 113 (1973).

2. S.C. Res. 1325 (Oct. 31, 2000).

3. *State Policies in Brief: An Overview of Abortion Laws*, GUTTMACHER INST. (Apr. 1, 2016), https://www.guttmacher.org/sites/default/files/state_policy_overview_files/spib_oal.pdf.

4. See, e.g., SHERYL GAY STOLBERG, *Kentucky Clerk Defies Court on Marriage Licenses for Gay Couples*, N.Y. TIMES (Aug. 13, 2015), <http://www.nytimes.com/2015/08/14/us/kentucky-rowan-county-same-sex-marriage-licenses-kim-davis.html>.

5. See generally WOMEN'S INITIATIVES FOR GENDER JUSTICE, GENDER REPORT CARD ON THE INTERNATIONAL CRIMINAL COURT 2013 (Mar. 2014), <http://iccwomen.org/documents/Gender-Report-Card-on-the-ICC-2013.pdf>.

cluded from far too many peace negotiations.⁶ As human rights advocates, we reach a legal victory and stand on that X marked on our map and wonder why we are still not where we had hoped to be.

The reason is this: we were only looking at part of our map, and that X we marked is not the destination. Securing a new law or policy is barely the halfway point, and we still need to plot the coordinates for the remainder of the journey.

The destination X we should mark on our map lies far beyond a legal victory and stands for a deeply rooted and durable shift in local practice, achieved through engagement with key stakeholders and local authorities. This destination can only be reached through a strategy that prioritizes grassroots implementation. To plot the remaining coordinates on our journey, we must combine the complementary perspectives of grassroots community leaders, who best understand the local contexts where policies will be implemented, and those of international human rights advocates, who bring additional expertise and mobilizing power.

Almost as important as the destination, are the fellow travelers we choose. As the authors of this paper, as human rights activists and as leaders of women's organizations based in Iraq and the United States, we walk this road together. Our two groups, MADRE, an international women's human rights organization,⁷ and the Organization of Women's Freedom in Iraq (OWFI),⁸ first partnered in 2004. Since then, we have combined our assets, influence, and expertise to confront numerous problems including the illegal U.S. invasion of Iraq;⁹ the surge in gender-based violence triggered by the U.S. policy of empowering right-wing fundamentalists in Iraq's policymak-

6. LISA DAVIS, THE INTERNATIONAL WOMEN'S HUMAN RIGHTS CLINIC (IWHR) AT CUNY SCHOOL OF LAW, MADRE & WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM (WILPF), *Seeking Accountability and Effective Response for Sexual and Gender-Based Violence Against Syrian Women: Women's Inclusion in Peace Processes 3* (2014).

7. For more information on MADRE, see www.madre.org.

8. For more information on the Organization for Women's Freedom in Iraq (OWFI), see www.owfi.info.

9. Press Release, Int'l Comm'n of Jurists, *This Illegal War Must Be Conducted Lawfully* (Mar. 20, 2003), <http://www.icj.org/this-illegal-war-must-be-conducted-lawfully/>.

ing;¹⁰ the explosion of sectarian violence over years of warfare;¹¹ the reversal of women's gains in political, economic and social rights, including in Iraq's U.S.-brokered constitution;¹² the government reprisals and sexual attacks against women mobilizing in Iraq's Arab Spring;¹³ and more recently, the crisis of the ISIS invasion.¹⁴

Today, the focus we share as organizations is on the rapidly developing crisis triggered by the June 2014 invasion of northern Iraq by the so-called Islamic State of Iraq and Syria (ISIS).¹⁵ This crisis presents new threats to human rights, including the mass kidnapping and sexual enslavement of thousands of women, as well as the powerful re-emergence of fundamentalist sectarian militias in reaction to the ISIS invasion. We must expand our focus to include the full continuum of violence that women face—before, during, and after conflict.

Before the ISIS onslaught and the sectarian militia re-mobilization, women in Iraq already contended with laws that restrict access to women's shelters, discriminatory practices hampering their acquisition of identification papers, government harassment of civil society organizing, and social services that fail to adequately and respectfully address their gender-specific needs—particularly those who are survivors of violence.¹⁶

10. MADRE, PROMISING DEMOCRACY, IMPOSING THEOCRACY 10 (Mar. 2007), https://www.madre.org/sites/default/files/PDFs/1268922752_iraq_report.pdf.

11. Douglas A. Ollivant, *Renewed Violence in Iraq: Contingency Planning Memorandum No. 15*, COUNCIL ON FOREIGN RELATIONS (Aug. 2012), <http://www.cfr.org/iraq/renewed-violence-iraq/p28808>.

12. Edward Wong, *Iraqi Constitution May Curb Women's Rights*, N.Y. TIMES (Jul. 20, 2005), <http://www.nytimes.com/2005/07/20/world/middleeast/iraqi-constitution-may-curb-womens-rights.html>.

13. Ned Parker & Raheem Salman, *Pro-government Demonstrators Attack Protesters in Baghdad*, L.A. TIMES (Jun. 11, 2011), <http://articles.latimes.com/2011/jun/11/world/la-fg-iraq-protests-20110611>.

14. For a robust discussion about Iraqi women's organizations work to protect and promote human rights in the context of the ISIL conflict see Lisa Davis, *Iraqi Women Confronting ISIL: Protecting Women's Rights in the Context of Conflict*, 22 SW. J. INT'L L. 27 (2016).

15. Also known as the Islamic State of Iraq and the Levant (ISIL) and the Islamic State (IS).

16. Lisa Davis, MADRE & Women's Int'l League for Peace & Freedom (WILPF), *The Threat of ISIL and the Situation of Women in Iraq*, U.N. Doc. A/HRC/S-22/NGO/13 (Sept. 1, 2014).

When conflict occurs in a context wherein women already face this discrimination, their capacity to resist, survive, and rebuild after conflict is severely hampered.

To confront this full range of threats, grassroots women's organizations have called for a multi-phased strategy that includes:

- Amending Iraq's policy currently prohibiting non-governmental organizations from operating shelters independently,¹⁷ *and then* ensuring that women threatened with violence have a viable, expansive set of avenues of escape;
- Changing legal provisions that require a woman to be accompanied by a male relative when applying for state identification,¹⁸ *and then* educating and capacitating women to acquire that documentation and to use it to independently access social services.

II. PACKING OUR BAGS FOR A LONG JOURNEY: THE NECESSARY TRAVELERS, TOOLS, AND TACTICS

A. *Civil Society Engagement and Grassroots Organizing*

Community-based women leaders possess a keen awareness of the realities of women's experiences of discrimination and violence, including sexual violence, and they are best positioned to understand the specific context, religion, and culture of their communities, and the nuances that emerge at these intersections. This understanding can spell the success or failure of any attempt to translate government policy to community practice.

While the human rights framework was codified at the international level, violations and abuses are necessarily local, felt most immediately at the personal and community level. As such, grassroots activists often have the most direct line of connection to those most affected, or even may themselves be sur-

17. The International Women's Human Rights Clinic (IWHR) at CUNY School of Law, MADRE, The Organization of Women's Freedom in Iraq (OWFI) et al., *Seeking Accountability and Demanding Change: A Report on Women's Rights Violations in Iraq* 5–6 (Sept. 28, 2015) [hereinafter IWHR, MADRE, OWFI et al., Sept. 2015 Report], http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRQ/INT_CCPR_CSS_IRQ_21863_E.pdf.

18. *Id.* at 8–9.

vivors. As frontline actors, they can powerfully break silence and stigma, through personal examples and by speaking openly about abuse, and can initiate shifts in thinking and behavior within their communities. They can help ensure that the language used to name violations and the actions advocates take are ultimately controlled by survivors and local communities. Critically, frontline actors can ensure that survivors have agency and the space to speak out and take action in their own right. Furthermore, grassroots activists have a more encompassing grasp of the full range of identities possessed by a survivor, helping to ensure that her identity is not reduced to only the abuse that she has suffered.

By partnering with these community-based organizers, legal advocates can better learn the lay of the land and ensure that their strategies are deeply informed by local conditions and survivors' priorities.

B. *Legal Strategy*

An unjust distribution of power in global policymaking and economic structures has meant that the decisions that negatively impact people's lives and generate human rights violations are often made far from the communities and people impacted. For instance, Iraqi people have found themselves buffeted by shockwaves triggered far from home, including in the U.N. decision to impose sanctions on Iraq¹⁹ or in the U.S.-led invasion. The structure of international policymaking leaves little room for accountability to local needs. Without the leverage of a legal strategy to push their way into and meaningfully influence those rarefied decision-making spaces, the work of grassroots activists remains limited and exhausting.

By partnering with advocates with expertise in international human rights law, in the practices of our global institutions, and in the decision-making processes of those institutions, grassroots activists can multiply their impact. With the help of human rights legal advocates, grassroots organizations can further engage with their own governments in the language of law and policy.

19. Press Release, UNICEF, Iraq Surveys Show 'Humanitarian Emergency,' U.N. Press Release CF/DOC/PR/1999/29 (Aug. 12, 1999).

III. PLOTTING OUR MAP OF ACTION: MAKING A SHARED STRATEGY POSSIBLE

The map of action for advocates starts with listening to women who are on the frontlines and whose perspectives and priorities are largely absent from policymaking. Recognizing women's gendered roles as caretakers of the family and the home requires ensuring that grassroots partners have the material aid and direct services they need to allow local activists to meet immediate needs for themselves and their communities. In a context of war, as in Iraq, women often organize in their communities to meet urgent needs for food, shelter, water, clothing, and other humanitarian essentials.²⁰ This work is time-consuming and labor-intensive, yet vital. When advocates recognize those efforts and mobilize to help women meet those basic needs, alleviating those responsibilities, grassroots activists can better focus on simultaneous goals such as participating in a long-term legal advocacy strategy.

This map of action must also include training so that activists gain the capacity to represent their issues to policymakers. The map of action also entails consultations between local women activists and other stakeholders, including governments, funders, U.N. agencies, and larger NGOs. This approach facilitates conversations not only between community-based women and policymakers at all levels, but also between women activists in diverse contexts. Another step charted on our map of action links grassroots women around the world to one another in knowledge-exchanges and larger conferences where they are able to share strategies, learn from each other's best practices, and coordinate agendas.

For instance, throughout 2015, OWFI and MADRE facilitated this kind of collaborative training and agenda-setting. In partnership with the Women's International League for Peace and Freedom (WILPF) and the International Women's Human Rights (IWHR) Clinic at the City University of New York (CUNY) Law School, we brought community-based activists from Iraq and Syria together in Istanbul to discuss the living conditions for women, girls, and other marginalized persons under ISIS control, and debated strategies for resistance

20. NADJE AL-ALI & NICOLA PRATT, *WHAT KIND OF LIBERATION? WOMEN AND THE OCCUPATION OF IRAQ* 122–126 (2009).

and long-term change. This conference also included space for representatives of key governments and donor states to participate, learn from women's expertise, and support women's grassroots solutions. The CUNY Symposium, *Women Confronting ISIS: States Strategies and Local Responsibilities*,²¹ that followed, worked to join grassroots activists, policy-makers, and experts in international human rights and legal strategy to further hone and develop a shared strategy.

Furthermore, the map of action requires addressing road-blocks born of discrimination on the basis of gender, class, race, and ethnic identity. To do this, childcare, stipends, translation, and accessible versions of legal instruments, including for non-literate women, must be made available to all partners to ensure their ability to participate fully.

Institution-building at the local level is critical for community-based women's organizations to support activists' participation, despite social norms that deny women a public voice or the opportunity for autonomous organizing.

Finally, this map of action must ensure that advances at the international level are "brought home," by the activists who helped realize them. This critical stage is too often neglected by a siloed approach that focuses efforts and secures wins at the international level only. We must ensure that activists can implement promising policies and actually improve conditions on the ground.

A. *The Map in Action: Providing Access to Shelter*

In the non-Kurdish part of Iraq, non-governmental organizations seeking to protect women from violence face a significant block. Vague and confusing government regulations mandate that the state must provide shelter to women escaping violence, but some authorities have interpreted this to mean that *only* the government can run shelters, and NGO should be prohibited.²² Attempts by NGOs like OWFI to clarify

21. For more information, see CUNY Symposium, *Women Confronting ISIS: Local Strategies and States' Responsibilities Symposium*, YouTube (July 2, 2015), https://www.youtube.com/playlist?list=PLT44QC1WZOsDRb_e0DZJPBR0TthwsiAV

22. IWHR, MADRE, OWFI et al., Sept. 2015 Report, *supra* note 17, at 4.

their role and seek official sanction have been stymied by bureaucracy and arbitrary police raids.²³

Nevertheless, since its founding, OWFI has operated shelters for women fleeing violence. They harbor women threatened with so-called “honor” killings by their families, women targeted by fundamentalists for their activism or for their professional lives, and women who have survived or are escaping other forms of violence, including sexual slavery by ISIS. These women have benefited from the counseling and community of support provided by OWFI. Crucially, many women leaders within OWFI have survived violence and transformed themselves into role models, mentors, and protectors for shelter residents. These leaders embody the healing power of activism, inspiring many shelter residents to become activists in their own right.

The 2014 ISIS invasion triggered a crisis of mass displacement in Iraq, as millions fled from the occupied north to the relative safety of southern Iraq, converging in certain city hubs like Karbala.²⁴ As men were conscripted into the fighting or killed, OWFI reported a rise in the number of women-headed households.²⁵ These women were soon faced with a bureaucratic obstacle rooted in a discriminatory policy that requires women to be accompanied by a male relative when seeking official state identification papers.²⁶ Women who fled for their lives in the face of the ISIS onslaught and who had lost their papers had difficulty in registering for aid, enrolling their chil-

23. The International Women’s Human Rights Clinic (IWHR) at CUNY School of Law, MADRE, The Organization of Women’s Freedom in Iraq (OWFI) et al., *Seeking Accountability and Demanding Change: A Report on Women’s Human Rights Violations in Iraq Under the UN Convention Against Torture* (Jul. 27, 2015) [hereinafter IWHR, MADRE, OWFI et al., July 2015 Report], <http://www.law.cuny.edu/academics/clinics/hrjg/publications/Seeking-Accountability-and-Demanding-Change.pdf>.

24. *Analysis: Iraq’s Forgotten Displaced*, IRIN (Aug. 22, 2014), <http://www.irinnews.org/report/100524/analysis-iraqs-forgotten-displaced>.

25. HuffPost Live, *Suicide, Rape, Murder: Life For Women In Iraq Under ISIS*, HUFFINGTON POST: LIVE (June 24, 2014), <http://live.huffingtonpost.com/r/highlight/53a9dd76fe3444e69f00014d>.

26. U.S. DEP’T OF STATE., 2010 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: IRAQ 29 (Apr. 8, 2011), <http://www.state.gov/documents/organization/160462.pdf> (noting the MOI Passport office maintains a policy that women must have the consent of a close male relative to obtain a passport).

dren in school, and seeking health care and other state-provided services.

B. *The Map in Action: Making State Identification Available to Women*

This influx in displaced persons also opened an opportunity to shift oppressive policies and narratives. For example, some local NGOs presented the argument before a local council in Karbala that the current crisis necessitated that an exception be made in the *de facto* prohibition of NGO-run shelters. The council concurred, establishing a precedent-setting agreement with OWFI.²⁷ Soon after, a local judge in the city of Samarra followed suit and issued a letter allowing OWFI's work to shelter displaced people.²⁸

This same strategy has been applied to discriminatory identification (ID) laws, which require a male family member to be present for a woman to receive an ID card. For instance, in Samarra, OWFI successfully navigated securing IDs for 60 families of displaced persons (with an average of five people in each family).²⁹ Through this process, OWFI not only smoothed the way for those specific individuals to access much-needed services, but they also strengthened their local connections with sympathetic judges and government officials—potentially fellow travelers on our map to lasting social change.

The path forward requires that we build on these precedents, holding forth official commitments and informal agreements established at the local level as a model for other local and national authorities to follow. This strategy holds the promise to enact legal protections for women that would outlive the current crisis.

Meanwhile, the vision of a protected right to NGO-run shelters and women's identification papers can only be real-

27. IWHR, MADRE, OWFI et al., July 2015 Report, *supra* note 19, at 8.

28. Letter from Mr. Sami Abdallah Salih, The Secretary General of the Local Council, Samarra City, to Mr. Majid Hameed Yaseen, Office Coordinator at the Organization of Women's Freedom in Iraq, Samarra Branch, (Dec. 3, 2014) (on file with authors).

29. Memorandum from Mr. Majid Hameed Yaseen, Office Coordinator at the Organization of Women's Freedom in Iraq, Samarra Branch (Sept. 10, 2015) (on file with authors).

ized by investing concrete resources to sustain the grassroots organizations who implement those practices. Furthermore, we must confront obstacles, such as community stigma, that prevent effective advocacy and organizing for women's human rights. Through their "bottom-up" norm setting, community organizing outreach, and public education efforts, grassroots organizations are well positioned to take on this challenge.

IV. CONCLUSION

Grassroots activists who understand the root political causes of material deprivation and human rights violations often run a risk of violence and retribution for speaking out.³⁰ Despite the greater challenges, local groups who promote transformational and lasting social change understand the power of combining direct services and legal strategy. In this way they work to support the immediate needs of those most impacted by human rights violations, while working to eradicate the long-term underlying causes of abuse.

Through working in the context of the ISIS conflict, local activists demanding social change have also become legal reformers capable of mobilizing a grassroots constituency through their provision of vital services. While they face danger, their strategy—combining local and global advocacy and mobilization—situates them in an international mapping of women's rights activists, policymakers, and media. They are not alone and have the protection and solidarity of fellow travelers.

The journey to the kind of durable victory that changes the conditions of people's lives is long and requires careful consideration of the local and root conditions that create human rights abuses, not to mention the immediate and long-term impact of harmful policies. The only actors with adequate expertise and access to the level of detail required are community-based, grassroots activists. Thus, in order for a legal strategy to succeed in advancing human rights, it must consider grassroots conditions and prioritize the leadership of local activists. Such a legal strategy can only generate social

30. For example, OWFI has been threatened with government and militia raids of their women's shelters and faced accusations of running brothels.

change if there are local partners capacitated to translate paper wins into practical realities—the long road after the legal victory.