

# THE EVOLUTION OF CIVIL SOCIETY AND THE RULE OF LAW REGARDING FEMALE GENITAL MUTILATION IN IRAQI KURDISTAN

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*Abstract:* International human rights law relies on state sovereignty to localize suggested policy with codification and enforcement in an attempt to reconcile universalism with particularity. However, amidst domestic governance developments from post-conflict state building and self-determination, governmental instability complicates and often overlooks priorities of international human rights for more tangible domestic infrastructure, such as basic human needs rather than seemingly suggested rights ideals. This does not diminish the significance of human rights, though, pertaining to the rights of the child in addressing gender-based violence through the elimination of female genital mutilation, for example. While state-centric localization is currently prioritized for implementing international law, the rule of law is more integrated throughout the realms of societal structure, culture, and institutions in addition to the legal realm. If the legal realm is disrupted with instability, violence, and discontinuity, how does society internalize and integrate international human rights law over time, and can it be sustainable despite instability? This research evaluates the development of the rule of law, and its effectiveness, regarding female genital mutilation (FGM) as a case study in Iraqi Kurdistan from the end of the Iran-Iraq War in 1988 until 2013, the early years of the Kurdistan Regional Government's parliament. Comprehensive rule of law evolution can be measured through comparing domestic legal developments through state-centric policy and enforcement, or lack thereof, with cultural internalization and non-governmental engagements. By studying the legal and cultural realms' interaction with the anti-FGM discourse over Iraqi Kurdistan's past two decades, this research will determine the role of a continuous society overlaid by intermittent legal structures in the sustainability of negotiating cultural relativity with universal human rights.

*Keywords:* civil society, feminism, human rights, social movements, universalism, cultural relativism

## INTRODUCTION

By mid June 2014, Iraqi military forces were dropping their weapons and stripping their uniforms in the face of extremist Islamic takeover, the aftermath of decades of insufficient external interventions and volatile regional developments. This is when the local capacities should engage em-

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powerment for sustaining access to basic needs. But, the capacity needs to have been cultivated in civil society first. When history denotes the rise and fall of a civilisation, the decline of an empire, or the start of a new era, it ignores the continuity of the people behind these tumultuous shifts. What happens to their voices in this transition, especially the already silenced victims of conflict, women, children, and other non-combatants? They are the underlying agents of change behind sustaining civil society through governmental instability. In a globalised world when states proceed at varying phases of development overlaying a continuously developing world population, transnational actors now have the capacity to engage grassroots development to ensure greater stability and access to basic needs for marginalised populations in times of crisis and in post-conflict state-building. The lack of sufficient state governance also should not correlate significantly with a lack of access to the protection of universal human rights through the web of global governance that fortifies individual states' implementation of such international norms.

This research showcases the development of civil society through the evolution of the rule of law in both the legal and cultural realms, self-reinforcing structural dynamics with enhanced popular sentiment to preserve human dignity when governance fails. By demarcating thematic phases of Iraqi Kurdistan's history, this research portrays the relationship between the global and the local human rights developments and the role of non-governmental organisations in negotiating cultural relativity for universal human rights, specifically, for example, the right of women and children not to undergo female genital mutilation. When the central government of Iraq fails, when the Kurdistan Regional Government inadequately enforces law due to distracting priorities or its own instability, the Iraqi Kurdish people and their networks are furthering a culture of human rights that is sustainable without sufficient governmental involvement. This is the epitome of global governance at work, localising human rights.

## THEORETICAL DEVELOPMENT

*Dynamics of Global Governance*

From 1948 onwards, the *Universal Declaration of Human Rights* (UDHR) has been treated as an ideal international protection and preservation of human dignity for all. However, its basic principles outline what should entail a minimum standard of promise for international solidarity, not a seemingly unimplementable ideal. Martha Nussbaum and Amartya Sen engage this tension through focusing on the development of capabilities, measuring the gap and cultivation of women's capacity for gender equality in human development<sup>1</sup>. The United Nations (UN) attempts to facilitate the realisation of the UDHR in a global context as a formal, intergovernmental, global governance institution. Working at the diplomatic level to diffuse interstate tension and to facilitate movement toward engaging global problems in mutually beneficial terms, the UN has the institutional values to promulgate universal human rights with respect to pluralism and diversity, but it has no bite of enforcement. The hierarchical structure of the UN and its peacekeeping mission problematizes its contributions to the human rights agenda because it relies on states themselves to implement international agreements with a caveat of non-interference of state sovereignty. This creates a gap of global governance where interstate relations may be mediated. Intra-state human rights abuses, those committed within a country's borders including by the state itself, are beyond the functional reach of the UN<sup>2</sup>.

In addition to the UN, global governance requires the active cooperation and leadership of a multitude of institutions and actors, which cultivates a web of social relations striving for, and often resisting, collective embodiment of the ideal minimum standards. Global governance actors may include international organisations (IOs), non-governmental organisations (NGOs), governmental institutions, private companies and corporations, grassroots social movements, and religious networks, etc. This phenomenon is what I term *negotiating cultural relativity with universal human rights*. It relies on the necessary tension between universalism and particularism<sup>3</sup> for discursive processes in evolving norms and localising universal

human rights. It differs from Jack Donnelly, though, because it is a dynamic process of development fuelled by the tension between particularism and universalism, not a static state of being. Importantly, it incorporates elements of respect, understanding, and reflexivity in the negotiation process with an ultimate commitment to human dignity for all.

According to the former Special Rapporteur to the United Nations (UN) on *Violence Against Women*, professor Yakin Ertürk, “international law is a body of interrelated norms” that “must be interpreted in relation to and informed by one another”<sup>4</sup>. This process of norm setting from top-down global governance is complicated and unsuccessful without the interwoven embodiment of human rights in vertical and horizontal power structures, including federalised state governments<sup>5</sup>. The nature of international human rights law is a historically discursive and politically infused process of treaties, agreements, and conventions that are binding only to the extent that the signatory parties localise them, and ultimately, actively take ownership in seeing them realised. International human rights law relies on state governments to localise global governance through codification and enforcement. For the successful application of human rights, states must engage in shared responsibility because a central authority ensuring implementation is non-existent, and the United Nations is often ineffective or inefficient.

Therefore, human rights must be wholly integrated through localisation in global governance, state implementation, and civil society to be effective. To localise is the process of internalising, integrating, and rooting ownership of human rights to expand the capacity of local actors in engaging the universal human rights discourse from a culturally sensitive perspective. It depends on a sense of agency and empowerment as a driving force for localised change that may be influenced from external motivations, but ultimately it is rooted in the civil society for which and from which the change evolves. When human rights are claimed to be universal, the universality must be derived from the process of localisation where cultural relativity is negotiated for the sake of preserving and protecting human dignity for all. Thus, while universality may be assumed theoretically, its success as a global governance concept driving international human rights law is dependent upon

the practical manifestations of human rights in local contexts. The ideal of the minimum standard evolves in each respective perspective of civil society over time until it is realised fully.

Broad global policies may overlook the magnifying repercussions at the local level. FGM as a form of gender-based violence (GBV) was initially not an explicit human rights priority due to its taboo and emotional nature in addition to its exposure through colonial rule<sup>6</sup>, but it has emerged to be recognised as a global phenomenon that constitutes a clear violation of human rights. Nor was GBV a priority in itself. Also referred to as violence against women (VAW), GBV includes issues of forced marriage, rape and sexual assault, honour crimes, female genital mutilation (FGM), human trafficking and domestic violence<sup>7</sup>, from which no community is immune at varying degrees. GBV can be manifestations of perpetuating anachronistic values embedded in social norms that need to be mediated through a human rights framework in order to expand capacities for gender equality. Or, the values may remain or undergo longer-term educational campaigns for mitigation, but the harmful, physical manifestation needs to be addressed, such as with the movement to end FGM. The World Health Organisation (WHO) identifies four categories of FGM: clitoridectomy, excision, infibulation, and “other” such as cutting, pricking, cauterising, and applying foreign substances<sup>8</sup> that seek to inflict more psychological and symbolic harm that is still traumatizing.

The tension between cultural relativity and universal human rights is overbearing with the example of FGM. Not only is FGM not outlawed, it has recently been codified and medicalised<sup>9</sup>. But, this raises larger discussions of underage consent and rights of the child versus family privacy and freedom of individual choice. How should nongovernmental actors seek to end FGM on a global scale? Especially if perceived as Western influences, how should these external and transnational actors engage a minimum standard of human rights for the preservation of human dignity without contributing to neo-colonial sentiment and post-colonial resentment? By deflecting responsibility due to a perceived lack of proximity, the easy answer is one that should not engage beyond one’s local context. But, an ethic of isolationism is complicated when considering the effects of migration and globalisation that in-

crease the prevalence of FGM in the United States, the United Kingdom, and Australia<sup>10</sup>. In an increasingly interconnected global society with increasingly intersectional identities, one cannot deny the inherent human dignity of all and not seek to empathise with the localisation of universal human rights in diverse contexts. Therefore, to grapple with this dilemma, my research seeks to identify how Iraqi Kurdish civil society and governance structures localise principles of human rights, particularly the anti-FGM discourse, through its own web of relations that engage, resist, and embody the local ownership of minimum human rights standards.

### *Empowering Civil Society to Localise Global Governance*

Civil society is exceptionally important for deriving policy that localises universal human rights through methods of ownership. Such methods may consist of independent investigation of truth, generating local consensus, and a general inclusivity of diverse community leaders in the decision-making process. This does not exclude the state government from participating in these localisation measures, but it also is not a sole reliance on the state for matters of progress and social change. Actors in civil society include a variety of NGOs, such as community-based organisations (CBOs), faith-based organisations (FBOs), and transnational NGOs, as well as public and private businesses, neighbourhoods and personal connections, health and education systems, media networks, religious leaders and their communities, and political stakeholders. In other words, *civil society* is an amoebic body of actors that sustain community organisation and day-to-day life within and beyond the functions of government. If the government is suspended or its bureaucratic functions are interrupted, such as through civil war, political conflicts, or mass atrocities, civil society continues to evolve. It can be disrupted and reintegrated through mass migration or forced migration, too, so the space for civil society includes both the immediate surroundings as well as mobile networks.

Amidst post-conflict state building, governmental instability complicates and often causes donors to overlook priorities of international human rights for more tangible domestic in-

frastructure. Because FGM is considered a harmful traditional practice through which international human rights law calls for abandonment<sup>11</sup>, further disrupting the social fabric of society by challenging traditional practices is not necessarily a top priority when basic services like access to healthcare, education, and essential resources are at risk. The post-conflict state often relies on external humanitarian assistance in its pursuit to cultivate local morale, facilitate reconciliation, and develop local infrastructure. By bringing in foreign aid, the civil society inevitably is influenced by donor-driven priorities. Incorporated in a transnational global movement with a constituency of half the world population, foreign aid earmarked for women's rights and addressing gender-based violence often does prioritise initiatives beyond emergency aid that might not be an immediate local infrastructure concern, such as FGM and its associated educational and capacity-building programmes. This flow of resources can be jeopardised in times of crisis.

The presence of foreign states and geopolitics also attracts the attention of NGOs through the locality's external visibility, which contributes to a prioritisation of international law and universal human rights in domestic development. This visibility cultivates a local audit culture<sup>12</sup> that facilitates a series of formal and informal self-regulation to increase attractiveness to donors. Audit culture becomes a means of developing the organisational capacities for local communities in development initiatives, but it also skews the priorities of development through the lens of geopolitics and donor-driven humanitarian aid. Effectively, but sometimes unwisely, civil society organisations amend their development trajectories to maximise humanitarian funding. While this does have tinges of neo-colonialism, it is not necessarily negative. Such audit culture also develops local capacities for change and progress, which can strengthen civil society throughout post-conflict state building. The external accountability contributes to the global governance leadership through enhancing the voices and priorities of local initiatives by empowering bottom-up approaches and integrating global development goals. Once state infrastructure solidifies, civil society is then in a better position to engage in the critical reflexivity of top-down and bottom-up approaches of progressing global governance for localising human rights and general rule of law.

*Reconstructing Civil Society with the Rule of Law*

Throughout various phases of post-conflict state building, civil society must reconstruct the social contract to facilitate the evolution of the rule of law. This process of re-establishing a cohesive and functional identity at the state governance level is not simply achieved through the signing of a document. Rather, it is a historical evolution of interactions, with push and pull factors in various directions, as civil society reorganises itself into the new status quo. The memory of history often refers to the rise and fall of governance structures and institutional advancement, demarcating civil society with abrupt changes in identity, thus ignoring the continuity of civil society through the generation that bridges, sustains, and develops transitions between governance periods. The evolution of Iraqi Kurdistan from severe persecution to sovereignty demonstrates the reflexivity of a generation to propel civil society into new structures and institutions. Facilitating such evolution are developments in the rule of law in the legal and cultural realms of civil society, including the institutional and structural realms as identified by Rachel Kleinfeld and Kalypso Nicolaïdis<sup>13</sup>, but the latter two realms are not included in depth in this research.

Developing the legal realm is the codification of social contract, and in the twenty-first century, such development is likely derived from a blending of local input and international geopolitics. With the local context in mind but with inevitable influences from external stakeholders, developing the rule of law includes constructing the legal realm “from ready-made constitutions (or at least constitutional toolboxes) to the whole gamut of law rule-books, from human rights laws to the laws of commercial contracts”<sup>14</sup>. What complicates this research is that the status of FGM in Iraqi Kurdistan’s civil society, or arguably in any society, cannot be determined by legal status alone. The legal realm is helpful only to the extent that laws are rooted in local culture, or at least collectively internalised, funded, and enforceable. The presence of laws can give a false sense of protections if they are not holistically supported by civil society or considered part of the social contract for conviviality.



The evolution of the rule of law in the cultural realm provides further insight into the localisation process because of the continuity of civil society despite interruptions or shifting in formal governance. This includes external actors considering and respecting societal norms and cultural mores when seeking to understand “the set of deeply rooted, historically conditioned attitudes about the nature of law”, its role and organisation, and how “law is or should be made, applied, studied, perfected, and taught”<sup>15</sup>. Understanding the context of how policy is made, what voices are present and engaged, what voices are missing, and how civil society responds to policy discourse and decisions is critical for studying the evolution of the rule of law through the cultural realm in post conflict state-building. Culture reflects the particular localisation of universal human rights because it embodies sustainable change, although it is most difficult to change when there is a postcolonial suspicion of external actors’ involvement. Kleinfeld and Nicolaïdis agree that “cultural change may be the ultimate conduit or obstacle to Western rule of law promotion but, if targeted by outsiders, may also be that most prone to the echoes of colonialism and missionary activity”<sup>16</sup>.

Ultimately, though, the rule of law is a reflexive process. It is “about the relationship between state and society, and citizens must generally follow the law without enforcement (...) the majority of citizens must accept the legitimacy of the bulk of the laws, and moral codes within society must generally align with the laws”<sup>17</sup>. Law is most observable externally, but it can reflect cultural change or resistance in addition to the influence of external actors, such as geopolitical power-players and NGOs. The reliance on law, though, amidst discontinuous state governance interrupted by external influences, internal strife, and a tumultuous milieu, could allow impunity and general disrespect for political authority or legitimacy. It is important to understand these nuances in the context of universal human rights promulgation and respect for the slow processes of cultural change when negotiating cultural relativity because not all cultural changes in civil society may be directly observable. Potentially, civil society could have a stronger voice for progress throughout post-conflict state-building because it is not dependent on the legal realm for dictation of responsibilities to the human dignity of each other. In the case

of Iraqi Kurdistan, culture as a constant may be a source of hope for combatting GBV amidst political instability.

The movement to abandon FGM highlights the evolution of the legal realm to address issues of gender-based violence, harmful traditional practices, women's health, access to healthcare, and rights of the child, to name just a few international human rights initiatives. In the cultural realm it denotes the empowerment of women to break cultural rationale and taboos, to engage in active political participation locally, and to contribute to the web of global governance through localising human rights. Globally, political leaders have engaged the legal realm with international protocols and UN resolutions. However, this is hardly enforceable on its own due to the organic and disaggregated nature of global governance. Transnational social justice activists have sought to influence the global cultural realm by assisting in anti-FGM campaigns and petitions in partner countries through contributing case studies, research and refugee perspectives. State governments in the Global North/West (United Kingdom, European Union/France, US, Australia, etc.) can and have responded to the global calls for eradication of FGM from within their borders through interpretations of refugee law, visa and deportation protocol, healthcare law, and educational initiatives, but enforcement is still complicated and hardly supported with an uneasiness about infringing on private culture. Only when efforts to end FGM in countries throughout Africa, the Middle East, and Asia engage the international campaign to protect the cluster of human rights that FGM undermines can emigrant host countries effectively rally to forbid the practice. However, in order for civil society to engage the international campaign, awareness of the motivations and prevalence of FGM must be exposed and understood at the local level. The modern development of the Kurdistan Regional Government's (KRG's) progress against FGM in Iraq, governing Iraqi Kurdistan in the Kurdish Autonomous Region (KAR), is a classic example of how transnational exposure to the taboo of FGM leads to awareness-raising of unnecessary harm, embracing of human rights, and local empowerment to engage with the international campaign for generational change.

## CASE STUDY: FGM IN IRAQI KURDISTAN 1988-2013

By evaluating the development of comprehensive rule of law, and its effectiveness in the relationship between the cultural and legal realms in Iraqi Kurdistan between 1988 and 2013, the early years of the KRG's parliament, this research seeks to identify the extent to which universal human rights and international law is engaged amongst the local stakeholders to eradicate FGM. Iraqi Kurdistan, legally defined within the borders of the Kurdish Autonomous Region (KAR) consisting of the three districts of Sulaymaniyah, Dahuk, and Erbil, is a historically contested region experiencing its first taste of self-governance since the fall of the Ottoman Empire. Many different words are used to define this area and the Kurdish people's diverse aspirations, such as autonomy, sovereignty, and self-determination. This research employs the concept of autonomy when discussing the internationally recognised jurisdiction of the KAR, sovereignty when discussing the responsibilities of the local/provincial and state governments, and self-determination when referring to the pursuit of the Kurdish population and its diaspora as a whole. This differentiation reflects the difficulty of defining civil society for Iraqi Kurdistan, but it is important to identify the various actors who are and potentially could engage as such. Iraqi Kurdistan is unique because it embodies a tumultuous history with relative stability in recent years, but also with a fragility that is still negotiable at the local level and global stage<sup>18</sup>.

The anti-FGM movement in Iraqi Kurdistan has been particularly successful, as well, thanks to developments in both the legal and cultural realms of civil society that contribute to state-building and capacity-building for localising international human rights. In Arabic, FGM was referred to as *tabara*, meaning purity<sup>19</sup>. It was associated traditionally and culturally with purity, cleanliness, and marriageability. The word for male circumcision, *khitaan*, was appropriated to apply towards FGM<sup>20</sup>. The severity of the taboo created what Miranda Fricker terms a systematic "hermeneutical lacuna", a hermeneutical gap that confronted women and girls into perpetuating the painful, harmful traditional practice because of cultural norms and structural marginalisation<sup>21</sup>. FGM was an epistemic injustice engrained in the social fabric of society with no means of breaking the silence until the presence of external actors. German-Iraqi NGO WADI, the Association for Crisis

Assistance and Development Co-operation, provided a sense of hermeneutical justice. They listened with “reflexive awareness”<sup>22</sup> and cultivated the language, tools, and mobilisation necessary to end FGM. By evaluating the legal and cultural realms’ contributions to the anti-FGM discourse in Iraqi Kurdistan, this research will determine the role of a continuous society overlaid by intermittent legal structures in the sustainability of negotiating cultural relativity with universal human rights. For this research, the modern history of the Iraqi-Kurdistan civil society is separated into five non-rigid, thematic phases as defined by their political climate, and then evaluated according to the legal and cultural realms’ contributions to civil society in the greater narrative to break the taboo hermeneutical lacuna and end FGM in the KAR.

The five phases demarcate the development of civil society in Northern Iraq’s Iraqi Kurdistan in its evolution from what some would claim as genocide to sovereignty in the KAR. The first was characterized with severe oppression during the Al-Anfal Campaign and the attack on Halabja of the Iran-Iraq War. The second provided a taste of freedom for Iraqi Kurds with relief for self-determination through semi-autonomy and patriotism. Third, internal strife hindered development with external pressure and internal instability. The Washington Agreement ushered in the fourth stage through ceasefire and economic relief. Fifth, elections codified autonomy as a culmination of self-determination with sovereignty. This final stage allowed for a more systematic engagement with international human rights and for confronting gender-based violence as a regional authority. In this section, the relationship between the local and global human rights discourse amongst the public and private areas of civil society will be explored as each phase is outlined for the legal and cultural realms.

### *Phase One: Destruction and Devastation, 1988*

Severe oppression for the Iraqi Kurds peaked in the form of Al-Anfal Campaign and Halabja during the last eighteen months of the Iran-Iraq War with chemical warfare. Saddam Hussein “Arabized” Kurdish neighbourhoods and forcefully

migrated rural villages of Kurds into concentrated areas along main highways for greater control. Then, the “doubly implicated” Kurds accused of treason with Iran and rebellion against Iraq<sup>23</sup> were subject to approximately 195 chemical weapon strikes “between 1983 and 1988, killing or wounding, according to Iran, some 50,000 people, many of them civilians”<sup>24</sup>. Estimated numbers have ranged into the hundreds of thousands “with the mass arrests of Kurdish men and boys, who were never seen again, and the use of poison gas against the Kurds”<sup>25</sup>. Such pursuit of physical and cultural annihilation was intended to repress insurgency from the Kurds, which was a result of prolonged political and economic suppression as “a *style* [sic] of governing which was articulated in terms of an obsession with sovereignty, treason and espionage”<sup>26</sup>. Families were humiliated, separated, and vanished into traces of human trafficking throughout the Gulf and hundreds of mass graves, resulting in a generation of widowed women and orphaned children left to mourn without closure<sup>27</sup>.

Regardless of whether components the Iran-Iraq War are officially recognised as genocide in the legal realm, the Iraqi Kurds were subject to the authority of the Iraqi government as residents through territorial jurisdiction. Political ambitions and responsibilities were tied to the perpetrating government for competing historical narratives and future ambitions. Basic livelihood, domestic infrastructure, and political voice were the prioritised liberties. Iraqi Kurds were excluded as an ethnic minority from the underlying social contract of the civil society, caught at a junction with the fragmentation of the former Ottoman Empire and ethno-sectarianism. However, their rights were specifically outlined in the 1970 Interim Constitution of Iraq. Article 5 recognised the legitimacy of Kurdish nationalism<sup>28</sup>, Article 7 permitted the Kurdish language as official in the Kurdish Region<sup>29</sup>, and Article 19 ensured equality and non-discrimination<sup>30</sup>. The seeds of federalism and plurality were present, but problematic through sectarian delineation. Amongst the lip service to the Kurdish identity, there was a primary commitment to Arab unity<sup>31</sup> that allowed division between the Arabs and Kurds to fester without inclusivity in good governance and political ambition. With regard to the constitutional guarantee for women’s rights, the 1970 Interim

Constitution for Iraq provided basic provisions that could have protected women and girls from FGM. Article 11 promised the primacy of the family through State provision of maternal and childcare<sup>32</sup>, and Article 22 specifically protected individual dignity because “it is inadmissible to cause any physical or psychological harm”<sup>33</sup>. Even in areas where FGM was considered a religious mandate in Iraqi Kurdistan, because Article 25 promised such freedom<sup>34</sup>, it would have been inadmissible through Article 22. Internationally, the Committee on the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) did not declare FGM a global health issue to be eradicated until 1990<sup>35</sup>. As a taboo topic that most in Iraqi Kurdistan were reluctant to discuss, the prevalence of FGM was hardly known at this stage from outside the region, and even Iraqis thought it to be an isolated occurrence.

A prevailing women’s rights issue for the cultural realm after Al-Anfal Campaign, also taboo at the time, was the “issue of sexual violence and rape during Anfal, especially in the segregation camp of Topzawa”, and the general sense of “helplessness and shame” in the years to follow<sup>36</sup>. Mlodoch calls the victimised survivors of the chemical attacks and forced relocations *zhnan-î-Enfal*, or Anfal Women. They share a collective, private “experience of economic, social, and gender-related constraints in the aftermath of Anfal, reinforcing their inner liminal status, keeping them in the role of waiting women, and restricting their possibilities to develop new life perspectives”<sup>37</sup>. Because they were caught in a limbo of mourning and waiting for their husbands and relatives to return, they were imprisoned in “traditional, patriarchal code of morals and ethics” with “patrilineal and patrilocal patterns”<sup>38</sup>. They could not work for fear of accusations of promiscuity, nor could they develop the livelihoods for themselves or their children. Anfal women were caught in a “tension between victimhood and agency”, “between the social expectation to respect traditional gender values and the necessity to earn a living”<sup>39</sup>. Along with the “the blatant lack of infrastructure and social services”, especially in rural villages, Anfal Women endured the violence of the war and perils of the aftermath, cultivating a sense of civil society that was dictated by traditional and social mores that were stagnated with the lack of legal infrastructure to address taboo issues of women’s livelihoods.

This silencing of a generation of women through “social powerlessness” and isolation perpetuated structural hermeneutical marginalisation through systematic “experience obscured from collective understanding”<sup>40</sup>. At a time when the international realm was barely aware of the implications of FGM around the world, the women and girls in Iraqi Kurdistan were side-lined and silenced, trapped as non-combatant survivors of war who clung to cultural norms as a source of continuity into the post-war era. Their relationship with the central government of Iraq as well as their communities were shamed into silence, so they could not take advantage of inadvertent legal strategies to combat FGM, or at the least confront their perpetrators. The gap persisted through a lapse in accessibility to perceive FGM as a form of GBV. The practice of FGM was so far beneath external actors’ radars, because it was seen as an ancient African tradition, that early humanitarian intervention efforts shortly after the war were yet to breakthrough the taboo of FGM. Civil society in Iraqi Kurdistan – the Iraqi government, NGOs, minimal infrastructure, and familial community networks – provided no support for women to abandon the practice, even if they wanted to raise the issue, thus perpetuating violence against women as an epistemic injustice embedded in society.

#### *Phase Two: Self-Determination, 1991*

The second phase of recent Iraqi Kurdish history was facilitated by the Kurdish insurrection against Saddam Hussein on March 5, 1991, and the subsequent United Nations Security Resolution 688<sup>41</sup> that established a “Safe Haven along the Turkey-Iraq border [which] contributed to the creation of a juridically anomalous *de facto* independent entity” for the Kurds in Northern Iraq<sup>42</sup>. Operation Provide Comfort facilitated a taste of freedom with patriotic developments such as a flag, anthem, and elections for its own parliament. Cultivation of nationalism was important for a sense of belonging and political representation. But, the politics of identity and sectarianism was delicate, and the KRG needed to achieve a balance of common identity and pluralism, like the universal human rights discourse. The Safe Haven allowed for refugees to re-

turn to their homes, but “many of which had been looted by government forces”<sup>43</sup>. However, it still provided relief from perpetuating diaspora because “the Kurds are a stateless people scattered over Turkey, Iran, Syria, and Iraq [and other host countries in diaspora]. Some 25 million Kurds cover an estimated 200,000 square miles. The Kurds are divided by two forms of Islam [plus other regional minority religions], five borders, and three Kurdish languages and alphabets”<sup>44</sup>. Despite this first sense of autonomy since Saddam Hussein ironically imposed it upon them in 1974, the Kurds were now under embargo from international sanctions on Iraq from the Gulf War. Additionally, Iraq imposed its own “economic blockade, gradually reducing oil supplies and centrally distributed foodstuffs”<sup>45</sup> on the Kurdistan region. Access to natural resources had been a perpetual geopolitical issue for the Kurds, and much of the neo-colonialistic arguments for U.S. commitment to the Kurds rested upon regional stability for the oil industry.

Legally, Iraqi Kurdistan was still governed by the 1970 interim Iraqi Constitution that permitted the cultivation of Kurdish nationalism alongside Arab unity. The humanitarian intervention efforts from Operation Provide Comfort attempted to reverse the Kurdish retreat into the mountains as a result of what Gordon W. Rudd called “revolt, suppression, exodus”<sup>46</sup> during the Gulf War. The heavy Iraqi military presence and militarised, politically driven Kurdish leaders continued to silence the experiences of Kurdish women in conflict. The geopolitical focus by the Kurds, Iraqis, and external power-players like Turkey and the United States centralised the continuity of oil production and natural resources dominated concerns for local infrastructure development. Operation Provide Comfort, while serving geopolitical interests through generating a sense of regional stability with a no-fly zone<sup>47</sup>, allowed for Kurdish nationalism to begin the unification process after the tumultuous divisions of the Iran-Iraq War. In addition to facilitating the return of some of the Kurdish refugees from the past decade and the withdrawal of Iraqi forces, Operation Provide Comfort enabled the cultivation of Iraqi Kurdish autonomy through the establishment of their own National Assembly (KNA) in 1992 with 111 seats “in the first free and fair elections ever held in the Kurdistan



Region or in any part of Iraq”<sup>48</sup>. With this came the formal validation of the Kurdistan Regional Government (KRG), which “decided to adopt and abide by all Iraqi laws except for those that violated human and universal rights”<sup>49</sup>. This was an important step towards the blending of federalism with self-determination through the localisation of universal human rights.

However small the territory, though, tribal politics wore heavily on the newly established KRG, so “throughout the 1990s, political instability and the lack of acknowledgment and assistance from the Kurdish political leadership added to the suffering of the Anfal women”<sup>50</sup>. They continued to be excluded until the presence of external geopolitical stakeholders during Operation Provide Comfort attracted the attention of human rights-focused non-governmental organisations (NGOs) such as WADI in 1992. Providing structural support where ignored, “WADI seeks to support especially those in Middle Eastern society who suffer the most under the prevailing conditions and are thus the first agents for a change: Women, Children and adolescents”<sup>51</sup>. Through empowerment programming, health and education services, and fact-finding research, WADI and international exposure brought voice and agency to silenced and underrepresented women in Iraqi Kurdistan at the risk of neo-colonial accusations, which both aided and complicated the cause for universal human rights.

This phase highlights some silver-lining in foreign intervention efforts, however geopolitical and neocolonialistic they may be. Mary Kaldor emphasises the role of “islands of civility” as students, independent intellectuals, women, and religions – core actors of civil society – as a flat-cell network that needs to be engaged for cosmopolitan law-enforcement and human rights localisation<sup>52</sup>. The ethics for foreign-based NGOs engaging with grassroots communities to generate development of civil society in post-conflict areas began to supplement the narrow-minded and interest-driven priorities for external states’ foreign intervention policies. Governmental agencies, foreign donors, and diasporic networks were also able to contribute to NGO initiatives upon realisation that sustainable change would not come from militarisation, but rather cultivating civil society. NGOs like WADI took the jargon of international human rights discourse and applied it

through localised practice with realistic implications. They developed trust among the local communities in Iraqi Kurdistan while learning and engaging cultural sensitivity with “reflexive awareness” to local issues<sup>53</sup>. By working within the cultural paradigm of individual communities, these NGOs were crucial to bringing universal human rights within accessible reach for marginalised populations, such as the Anfal women. Additionally, with the establishment of the KNA, local infrastructural capacity was growing, however young or flawed, developing modes for the legal and cultural realms’ interaction. Despite these seeds of progress, the tension and violence between Iraqi Kurds and the central government of Iraq was hindering productive advancement of civil society or the cultivation of local culture. Working to unify the three provinces of the Kurdish Autonomous Region (KAR) needed to be the next priority.

### *Phase Three: Internal Strife, 1993*

Internal strife shortly followed the establishment of the KRG with external pressures exacerbating intra-Kurdish tensions between the two main political parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK). Strict delineation of party alliances in policy, partnerships, military, and territory with minimal willingness to compromise on major transitional leadership issues led to violent conflict within Iraqi Kurdistan in 1994. Ceasefires and peace agreements were plentiful at the pressure of the US, UK, and Turkey, but they were ignored<sup>54</sup>. “The infighting not only led to the withdrawal of many foreign ngos (sic); it also increasingly affected life in the cities” with “chaos and anarchy”<sup>55</sup>. Physical violence continued for a couple years before diffusing with diplomatic relief from the international community and with economic relief from Iraq.

Meanwhile, though, the international community was launching into a new wave of transnational feminism to address women’s rights as human rights<sup>56</sup>, and vice versa, on a global scale. The 1995 United Nations Fourth World Conference on Women in Beijing ignited a new generation to promulgate universal human rights comprehensively with its *Plat-*

*form for Action*<sup>57</sup>, calling on governments, NGOs, and civil society to localise the agreed upon rights in their own communities, and to stand together as a global network committed to these goals. Transnational feminism facilitated the development of a common language for GBV and women's rights, equipping state governments with a formula for legislation while arming activists with cross-border solidarity. Linking feminisms from the Global North to developing countries helped expedite the process of localising human rights because it began filling the hermeneutical gaps of interpreting women's role in society through transnational exposure to diversity as well as common experiences.

WADI was not one of those withdrawn NGOs during the internal strife phase. However, the tribal unrest between the Talabanis in the PUK and the Barzanis in the KDP stalled any structural progress on basic services for the region. Not much had changed for the cultural realm of developing the rule of law in this phase. However, the time devoted by WADI to the people of Iraqi Kurdistan, especially women, connected them to the greater transnational feminist network. Locally, these years were crucial to establishing trust in local communities and absorbing the cultural particularities for better cross-cultural understanding and aid servicing. Shame and honour, especially in relation to female sexuality, continued to be stigmatised. This trust eventually led to the full disclosure of FGM in Iraqi Kurdistan a decade later as women came more confident in their voices and experiences.

#### *Phase Four: External Stakeholders, 1998*

Negotiations between the KDP and PUK led to a formal ceasefire in 1998 with the signing of the Washington Agreement, which outlined a set of tangible yet vaguely avoidable goals with terms for cooperation<sup>58</sup>. Iraq also restored an oil-for-food program, which had been discontinued in 1991<sup>59</sup>. KRG leaders were at this point more active diplomatically on the global and local scales with their regional autonomy yet federal relationship with central Iraq. External diplomacy with the United States faired them well during the US-Iraq War of 2003, which pitted the Kurdish Peshmerga versus Iraqi forces

once again but facilitated restoration, at least for the Iraqi Kurds. Increased international exposure accrued through development and humanitarian aid with the return of NGOs.

The Kurdistan National Assembly continued to grow and engage in the global human rights conversations, particularly regarding women's rights with the Special Women's Committee established in 2001. This committee epitomized developing the rule of law through localising human rights in the legal realm because "it is tasked with amending laws which discriminate against women, and raising awareness on women's rights through education, media, health, and religious institutions"<sup>60</sup>. The presence and engagement of the Special Women's Committee served as a governmental watchdog on behalf of Kurdish women, magnifying their voice in legislating policy. It mediated the structural privilege in governance that harboured structural marginalisation against women, opening opportunities to address the epistemic injustice of hermeneutical gaps regarding GBV.

However, Karin Mlodoch cautioned against homogenising women's voice in Iraqi Kurdistan through her ethnographic accounts with Anfal women. Because of the high levels of illiteracy among rural Anfal women, and because of their remoteness in geography and taboo experiences, "from the Kurdish elite's perspective, the often fragmented narratives of illiterate Anfal women do not qualify as testimonies to advocate for Kurdish rights and national interests"<sup>61</sup>. She clarified that "the civil society and women's rights movements growing in Iraqi Kurdistan since the end of the 1990s are strongly urban-centered"<sup>62</sup>, proving dangerous for the livelihood of Anfal women experiencing unjust shame and dishonour for their survival. While changes to women's rights may be happening at the surface level of legality, such as the 2002 KRG law abolishing "reduced penalties for the murder of a female family member by a male relative on grounds of family shame and dishonor"<sup>63</sup>, the lived experiences of rural women depended on awareness and implications of the law brought into their villages. This reflects the theme of negotiating cultural relativity with universal human rights even at the local and regional level. The human rights discourse must be cautious of homogenising the plurality of voices necessary for its localisation. Civil society actors should look to Gayatri Chakravorty Spivak's

call for ethical responsibility when negotiating rights on behalf of others by seeking to understand the history and milieu of the Other<sup>64</sup> – in other words, they must actively listen with “reflexive awareness” for hermeneutical justice<sup>65</sup>.

The oscillating stability of the Kurdish political climate confirmed the necessity of civil society engagement in its own wellbeing without contributing to the political pendulum. This is where WADI and the active presence of transnational NGOs became crucial. December 19, 2001 brought about an UNGA resolution declaring FGM a harmful traditional practice<sup>66</sup>, and June 23, 2002, The National Council of Childhood and Motherhood brought about the Cairo Declaration for the Elimination of FGM<sup>67</sup>. The universal human rights discourse calling for the abandonment of female genital mutilation was gaining unanimity and global awareness in the transnational women’s rights movement. WADI had been working closely with Kurdish women for over a decade on women’s health and basic community needs, and in 2003 they had a Mobile Team consisting of a social worker and a doctor “working on behalf of WADI in rural areas where women and girls lack even basic health-related infrastructure”<sup>68</sup>. After developing trust well into 2004, “a few women first began to talk about the mutilations and their consequences”<sup>69</sup>. This awareness-raising discovery led to a greater conversation on the role of FGM in society, its prevalence, and its eradication. Because FGM was previously seen as a more specifically African tradition, realising its presence in Iraqi Kurdistan has led to more uncovering of the practice throughout the Middle East, Asia, and diaspora communities.

Due to the isolated nature of the rural villages of Iraqi Kurdistan and the general taboo of discussing FGM, having Kurdish women confide with foreign aid workers about the practice became the first time FGM was questioned in civil society. The lacuna began to fill with tools for engaging the hermeneutical conversation<sup>70</sup>. *Khatana* (FGM) performed on young girls made them *sunnah* (pure), and without it they were considered dirty and *haram* (impure)<sup>71</sup>. The *kurrka* (clitoris) was removed as a form of initiation into purity and marriage ability, and some villages of Iraqi Kurdistan, WADI soon discovered, required all women and girls to have *khatana*. Much research was needed to address FGM comprehensively

and sustainably, but the silence had been broken and the cycle of epistemic justice would be addressed. With FGM deemed a harmful traditional practice, the abandonment of FGM needed to derive from local civil society with the help of the international, universal human rights discourse rather than from the KRG, partly because of the discursive and democratic nature of the parliament, and partly because of the disparities of prevalence and likelihood of enforcement. This allowed WADI and the villages to collaborate for local solutions for the universal human right to not undergo FGM.

*Phase Five: Independent Sovereignty, 2005*

The 2003 US-Iraq War, along with the United Nations Assistance Mission for Iraq (UNAMI)<sup>72</sup> established in 2003, codified Kurdish autonomy with the KRG in 2005 as a culmination of self-determination with sovereignty through federalism, bringing a round of elections for another transitional national assembly and more tribal-centric provincial councils. This final phase launched the KRG into greater structural and institutional development for local concerns of infrastructure and human rights, strengthening the foundation for social change beyond political affiliation. In the meantime, the central government in Iraq was codifying ethno-sectarian divisions that limited its efficacy in governance to tribal loyalties. In Kurdish favour, though, “the PUK’s leader Jalal Talibani became President of Iraq and Massoud Barzani became President of the Kurdistan Regional Government”<sup>73</sup>.

In October 2005 Iraq officially legitimised the “federated” autonomy of the KRG through recognition of its independent judiciary, parliament, and military in Article 121 of the Iraqi Constitution<sup>74</sup>. Federal autonomy with central governmental representation for the KRG was further codified with the 2010 Erbil Agreement<sup>75</sup>. This recognition was crucial for the development of reflexive localisation of international law between the Iraqi central government and the intermediary KRG. In other words, the KAR is subject to Iraqi law in addition to the KRG jurisdiction, but the KRG has the responsibility to reinterpret Iraqi law in light of its own interactions with international law, and with respect to the local demands of civil socie-

ty and the provincial councils. With regard to the representation of women and combatting gender-based violence, the KRG took initiative in several ways. “In October 2008, the KRG established the Directorate for Combating Violence Against Women within the Ministry of Interior”<sup>76</sup>, and shortly afterwards it “increased the legal quota for women in the legislature from 25 percent to 30 percent” of its 111 parliamentary members<sup>77</sup>. As aforementioned, the presence of women in parliament does not necessarily entail all women’s voices are present and engaged in the legal realm, but it is an opportunity for greater “representation” of those voices<sup>78</sup>.

In 2007 rates of domestic violence were twice as high in South/Central Iraq than in Kurdistan<sup>79</sup>. Anfal women began to receive a degree of closure with the conviction of Saddam Hussein and the autonomy of the KRG, both politically and communally. In addition to the uncovering of hundreds of mass graves to try to find loved ones, the KRG increased Anfal survivor pensions, “infrastructure, health, and education projects launched in Sumud/Rizgary”, and “in 2008, most Anfal survivors received budgets to build houses”<sup>80</sup>. With so much domestic development underway yielding local empowerment and international transparency, though, “concern about the reputation of Kurdistan was articulated to Human Rights Watch by the Ministry of Health and the Ministry for Religious Affairs” for its 2010 FGM research<sup>81</sup>, and similar concerns were raised during WADI’s initial reports of high FGM prevalence.

#### *Status of FGM in the Fifth Phase: Closing the Hermeneutical Gap*

FGM as a culturally taboo topic pervaded campaign efforts for demystification to encourage women, girls, families, villages, and parliament to abandon it. While “68 out of 111 parliamentarians supported the passing of the law” to abandon FGM in 2008, the KNA “refused to publicly debate the draft law”, thus pigeon-holing it to fail<sup>82</sup>. This was after WADI representatives collected over 14,000 signatures from throughout the KAR to advocate the legal ban of FGM. Simultaneously, WADI began the first surveys and awareness-raising initiatives in the region in 2007 through launching the *Stop FGM in*

*Kurdistan* campaign, seeking to engage villages individually and governmental ministries simultaneously in catching the wave of the global agenda for women's rights. This led to the codification of the 2011 Family Violence Bill criminalising FGM, Law No. 8.

After conducting informal, preliminary research in 2005 to explore the prevalence and perceptions of FGM in Iraqi Kurdistan, which informed their immediate campaign to stop FGM, WADI conducted formal research from September 2007 to May 2008. The NGO noticed that despite international recognition of FGM as a form of GBV, even the World Health Organisation (WHO) ignored it as a relevant indicator for women and girls' health in Iraqi Kurdistan<sup>83</sup>. Standardised interviews revealed that the prevalence of FGM was "77.9% in Suleymaniya, 81.2% in Garman and New Kirkuk", 63.0% in Arbil, and 7.0% in Dohuk<sup>84</sup>. Results varied within regions and between regions<sup>85</sup>. Like the other surveys indicated, the decision to continue the tradition FGM is overwhelmingly matrilineal or propagated by other women in the family such as aunts and mothers-in-law<sup>86</sup>. Tradition and religion, specifically Sunni Islam, was considered a driving influence for FGM with 75.4% of Sunni respondents having undergone FGM<sup>87</sup>. Finally, WADI also found a strong correlation between FGM and illiteracy rates among different ethnic groups<sup>88</sup>. This final point is a launching pad for women's empowerment through educational initiatives.

Independent researchers between November 2007 and March 2009 in Erbil revealed that there was a 70.3% prevalence of FGM through self-reporting yet 58.6% prevalence through clinical examination<sup>89</sup>. 99.6% of those cases were clitoridectomies, with 60.2% performed between the ages of 4 and 7, and 98% of the cases performed before age 11<sup>90</sup>. This study found strong correlation between education levels, employment status, awareness of the negative consequences of FGM, and cultural rationale. It called for more research, education, and healthcare programmes to address FGM, specifically seeking to understand traditional and cultural rationale and to mobilise religious leaders to encourage the abandonment of the practice<sup>91</sup>.

The KRG sponsored a 2011 study throughout the three main regions of Iraqi Kurdistan, illuminating the current sta-



tus of female genital mutilation on the second generation of women and girls since the Iran-Iraq War ages six months to twenty years of age. Of the 1,500 surveyed only 23% self-reported having undergone FGM with variation ranging from 4% in the Dohuk province to 70% in Rania<sup>92</sup>. The mean age of FGM was 4.6 years<sup>93</sup> with two-thirds of those who had undergone FGM within the age range of 16-20<sup>94</sup>. This is exceptionally significant because it reflects a potential generational decline in acceptance of the harmful traditional practice. Only 28% of those over age 12 subject to FGM supported it and 31% would have their daughter cut, and “those who had a positive attitude toward FGM were significantly more likely to have poor education”<sup>95</sup>. Justifications for FGM included the Muslim religion (53.7%), social norms (40.7%), and purity (9%)<sup>96</sup>, although FGM is not rooted in Islam<sup>97</sup>. The researchers, sponsored by the Ministry of Health in Iraqi Kurdistan, advocated for “strong, long-term, and committed multidisciplinary action” to work to abandon the practice, especially targeting women’s education and high-prevalence areas with “awareness campaigns, legal actions, targeted community interventions, advocacy, and educational programs”<sup>98</sup>. This includes coordinated responses from “relevant local authorities, especially health, education, legal, and police authorities”<sup>99</sup>.

The three aforementioned research surveys have attempted to capture precisely the prevalence of FGM in Iraqi Kurdistan. Comparative prospects aside, as they each highlight different themes through their different methodologies, the bottom-line remains the same: FGM occurs in Iraqi Kurdistan, and only through education and collective action can it be abandoned in a generation. Such research is helpful in bringing to light the complications of the taboo through different stakeholders and forms of justifications. Because women’s purity is a source of honour, it is also scared into a source of shame that when violated can lead to atrocities of honour crimes. Foreign aid workers can thus engage universal human rights in the cultural realm as well as the legal realm to discuss the taboo topic of FGM in a culturally sensitive manner. The process of researching and facilitating discussions about FGM is itself a form of hermeneutical justice for Kurdish women, prompting more to speak up about their experiences through epistemic confidence and moral-intellectual courage<sup>100</sup>. For

example, members of WADI's Mobile Teams implementing the FGM-Free Communities Network also served on the delegation petitioning the KRG Parliament to better enforce and fully implement Law No. 8 on the anniversary of its adoption into law in 2012<sup>101</sup>. They joined "a group of 40 organizations, institutions, and activists in Kurdistan Region of Iraq" to compose the Campaign for Lobbying for the Implementation of Law No. 8: the Law Against Domestic Violence in Kurdistan, which outlined specifically the practical realities of the law and how the government could better assist civil society in addressing the issues presented<sup>102</sup>. That same year the United Nations explicitly banned FGM as well<sup>103</sup>. With the support of the international community and the courage of the Kurdish women speaking out against FGM themselves, foreign aid workers were able to contribute to the thickening of civil society in building a case against GBV and FGM without pursuing a post-colonial or neo-colonial agenda.

The five aforementioned phases, structured around political themes of the KRG development from severe oppression to sovereignty, highlight the need for collaboration between the legal and cultural realms for civil society to address FGM and human rights. The first phase showcased a low-point for civil society with destroyed governmental infrastructure and silenced voices for women's rights. As external influences in the subsequent phases helped thicken the cultural realm while the political situation fluctuated, WADI was able to focus on rebuilding civil society by providing basic services, education, and empowerment initiatives. The cultural and legal realms grew together over the course of the generation, and the increased empowerment, agency, and hermeneutical tools enabled Iraqi Kurdish women to catch the wave of development and to localise the human rights discourse to end FGM.

## CONCLUSION

Thanks to the trust developed by WADI's Mobile Teams providing basic healthcare to villages in Iraqi Kurdistan between 1992 and 2003, which led to the confidential consultations on female genital mutilation in 2004, the involvement of the KRG since 2005 in the ground-breaking movement in the

Middle East, and the launch of the “Stop FGM in Kurdistan” campaign in 2007<sup>104</sup>, the silence has been broken regarding the presence of FGM in Iraqi Kurdistan. 2012 marked the launch of the “Stop FGM in the Middle East” campaign, as well, expanding the opportunities for women around the world to voice their experiences with FGM and encourage others to abandon the practice<sup>105</sup>. WADI’s Stop FGM in Iraqi Kurdistan Mobile Team infrastructure and grassroots integrative efforts continue to address the psychological and physical affects of FGM through dialogue with empowerment programming and community development. Sponsored by the US State Department, the FGM-Free Village Campaign is a slow but effective process<sup>106</sup>. The collaborative and reflexive efforts of the KRG and civil society, as catalysed by external actors at WADI and Western-funded programming<sup>107</sup>, are building research and consensus through education campaigns to localise the universal human rights of freedom of conscience and basic access to healthcare, bodily integrity, and women’s and child’s rights<sup>108</sup>. Subsequently, local investment in the rule of law is expanding with different community actors coming together to develop the necessity of community developments beyond law itself to apply those human rights to the abandonment of FGM. NGO stimulation of the supplemental cultural realm of the rule of law provides a sense of sustainability for international human rights norms despite governmental instability because, once stability in the legal realm is achieved, civil society can address issues like FGM more directly and holistically.

The concept of the rule of law thematically developed above applies dynamics of global governance to local realities for civil society. It is an example of what Richard Falk envisions to be humane global governance through normative globalisation and civil society’s transnational networks, working from the bottom-up to complement traditional top-down approaches<sup>109</sup>. When law itself is unenforceable, insufficient, or inefficient, like international law is with the current UN system based on a Wesphalian state-centric global society, the alternative methods of promulgating human rights and the rule of law must supplement the gap. In Iraqi Kurdistan the cultural realm, filled with civil society actors that were not exclusive to the domestic context, provided such development. This theory runs counter to the narrative for neo-colonial and post-

colonial resistance of external actors, but it is not incompatible. By focusing on the cultivation of civil society through NGOs that not only provide basic emergency services, but also expand access to education and encourage community empowerment programming, foreign involvement in domestic affairs can be quite effective without infringing on state sovereignty. Rather, the empowerment initiatives would strengthen domestic structures through collective interests and local ownership of the progress. There is early evidence of this strength with the Kurdish resistance to the Islamic State of Iraq and Syria (ISIS) or Levant (ISIL), both militarily and culturally, despite horrific allegations that ISIS has called for the forced mutilation of all girls in the villages under their control<sup>110</sup>.

Localisation must maintain reflexive and discursive elements that allow external actors to engage in a culturally sensitive manner without compromising the priorities of universal human rights. This fragility is exemplified in WADI's decade-long engagement with Iraqi Kurdistan before conducting research on the prevalence of FGM, which led to conversations with each village on how to eradicate the practice. It is a principle to embody as external actors but also as political representatives in the KNA and central Iraqi government. Mlodoch cautions against homogenising women's voices, and Spivak evokes the ethics of representation and re-representation. If one is speaking *for* another, seek to represent it in a similar spirit, aware of one's positionality with the megaphone. If one is speaking *with* another, re-present it to convey the message more communicably<sup>111</sup>.

Ultimately, the cross-cultural exposure of transnational feminism allows for such creative projection of voice, linking localised personal experiences with universal human rights and domestic policy. When women's rights in one community achieve a milestone, such as equal access to education, suffrage, employment, or the abandonment of FGM, the scenarios presented and language applied is helpful to other branches of global feminisms as well, regardless of the diversity of local contexts. This is not an endorsement of homogenising strategies or voice, but rather, it is a tool for discussion and reflexive awareness to fill the lacuna left by cultural taboos and power

relations in addressing hermeneutical and epistemic injustice<sup>112</sup>.

The horizon of desire aligns to the imperative that the right to *not* undergo FGM is a non-negotiable universal human right, but in practice, the horizon of feasibility<sup>113</sup> is that FGM must be a factor of negotiation when engaging diverse cultures in the universal human rights discourse. The challenge is to not negotiate the facts of why FGM is harmful. Relativity on this point would compromise women and girls' physical and psychological health for more generations, instead negotiating universal human rights for the sake of furthering local tradition as a manifestation of community values. FGM is an extreme educational point about the minimum standard of universality among human rights, and only through long term education, awareness, and advocacy raising that allows space for external voices and influences on local dynamics can FGM be abandoned.

#### NOTES

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<sup>4</sup> Y. Ertürk, *Refugee Rights: Beyond the 1951 Convention*, in *Annual Harrell-Bond Lecture 2013*, University of Oxford, 20 November 2013. Speaking in the context of refugee law.

<sup>5</sup> R. Marchetti (2009), *Mapping Alternative Models of Global Politics*, in "International Studies Review", 11, pp. 133-156.

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<sup>7</sup> Tahirih Justice Center, *Mission: The Issues*, accessed 18 June 2014, <<http://www.tahirih.org/mission/the-issues/>>.

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<sup>9</sup> B. Wynne, *Health Bodies Demand Zero Tolerance on FGM by All Health Personnel and Pledge to be at the Forefront of the Generation Where FGM Ends*, Equality Now, 6 February 2015, accessed 28 February 2015, <[http://www.equalitynow.org/press\\_release/health\\_bodies\\_demand\\_zero\\_tolerance\\_on\\_fgm\\_by\\_all\\_health\\_personnel](http://www.equalitynow.org/press_release/health_bodies_demand_zero_tolerance_on_fgm_by_all_health_personnel)>.

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- <sup>14</sup> *Ibid.*, p. 146.
- <sup>15</sup> J.H. Merryman (1969), *The Civil Law Tradition* (Stanford: Stanford University Press), p. 2, cited in Kleinfeld and Nicolaïdis, p. 149.
- <sup>16</sup> Kleinfeld and Nicolaïdis, p. 150.
- <sup>17</sup> *Ibid.*, p. 148.
- <sup>18</sup> The effects of the Islamic State of Iraq and Syria (ISIS) are yet to be determined, but the Kurdish have proved resistant thanks to their resiliency and their own militia, the peshmerga.
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- <sup>43</sup> Leezenberg p. 636.
- <sup>44</sup> Power, p. 173.
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