



# Protecting human rights in Darfur

Maarten Barends

**Rule of law programmes usually take place after conflicts have ended but it is never too early to start programmes which encourage a return to the rule of law and respect for human rights.**

The sun rises over a flat expanse in Darfur. A seemingly endless number of plastic-sheeted domes and mud-brick structures cast long shadows. A low hum of quiet conversation grows louder as one hundred thousand displaced people begin to stir. As might be expected of a population this size – hemmed in by the constant threat of banditry and violent physical attacks – conflicts are not rare.

Today, through an innovative Rule of Law Programme jointly managed by UNDP and an international NGO, Darfurians are coping with the many stresses of camp life with the help of specially trained paralegals. These paralegals, largely IDPs themselves, help manage and resolve camp-based conflicts by offering free legal advice

and mediation services. They also facilitate justice by referring the most serious cases (e.g. rape, murder or torture) to the 61 Darfurian lawyers of the UNDP Legal Aid Network.

Jemeela, a 50-year old woman, originates from a village 30 kilometres south of the camp and has been displaced for nearly five years. Today, she is one of 154 paralegals in Darfur. Her paralegal team comprises 26 women and men of different ages and of different tribes. Some paralegals also serve as sheikhs<sup>1</sup> in their respective camp sectors. All are trained in mediation practices, human rights standards and Sudanese domestic law, and they help people to negotiate peacefully along the lines of entitlement and

responsibility rather than to resort to physical force. Paralegals like Jemeela arguably provide the most important entry point for the dissemination and application of international human rights principles, especially those involving women's rights.

Paralegals conduct weekly training sessions in international human rights and domestic law, targeting both duty-bearers and rights-holders as it is equally important for people to be aware of their rights as for the authorities to live up to their responsibilities under national and international law. Such training provides a catalyst whereby people begin to question given norms of justice. Additionally, the exposure paralegals receive when providing training raises their standing in their communities and they are increasingly invited to participate in difficult mediations. During these mediations paralegals encourage sheikhs to apply and

incorporate human rights values and international standards of justice.

### Procedures and principles

The displaced population in Jemeela's camp is predominately Fur and Muslim. Here, as in most places of Darfur, strong Islamic beliefs coexist with longstanding local customs and traditions. Among the most important cultural values is the belief that community problems should be resolved by the community. According to Ahmed, a local sheikh, "If someone wants to go to a formal court, the neighbours will intervene... You see, people here do things differently." There is a strong aversion to state-imposed solutions from local statutory courts and thus mediation figures largely on the list of sheikh obligations.

Most cases brought to the paralegals involve assaults: two women fight each other at a water source over their place in line; a youth is hospitalised in a fight over the interpretation of the Holy Quran; a divorcee fights with a new husband in a bout of jealousy. In cases of sexual and gender-based violence (SGBV), domestic violence predominates but rape, spousal abandonment and public humiliation are also common.

While mediation practices vary from camp to camp, certain basic procedures and principles are universal. Often, IDPs bring cases to the attention of paralegals before going to the local sheikh. Paralegals will coordinate with the parties to appoint a time for a mediation session in an open and neutral setting, such as the paralegal's household or the local legal aid centre. Where the parties fail to come to an agreement, the paralegal may request that a sheikh participate. Where paralegals are invited to participate in mediations they first lay down ground rules. Both parties are informed that they will get a chance to speak one at a time and that interruptions in testimony will not be tolerated. At the outset of any mediation, they announce the potential availability of free legal

services (provided for through the UNDP Legal Aid Network) should mediation not be successful. They also comment on proceedings throughout, outlining national and/or international laws that may positively inform the outcome.

Most sheikhs claim that paralegals are an asset to their mediation efforts. "Paralegals ask more questions than we otherwise would," states one. Another sheikh says enthusiastically, "In our villages, women would never take part in mediations. Today, I hear from both parties and I have a much fuller picture of the story than I did before. I am able to make better decisions." While women's involvement is still wanting in some camps, paralegals note that, "our human rights training sessions have had a real impact on the sheikhs' thinking. Most of the time, women sit in on mediations in our camp." Indeed, one of the biggest accomplishments of the paralegal programme has been the furtherance of a woman's right to participate in proceedings affecting her well-being.

The relationship between paralegals and sheikhs is not without complications. Sheikhs carry the authority required to bring parties together and enforce decisions and thus their involvement is critical. Controversy arises particularly over paralegals' insistence that sheikhs not charge for their mediation services. Women paralegals face additional challenges. Younger female paralegals, for example, are not accorded the degree of respect that older female paralegals like Jemeela receive. As Jemeela herself claims, "Paralegals introduce human rights principles. However, tradition is still [an obstacle]. Sheikhs may or may not agree with new ideas, such as including women as mediators." Indeed, owing to the diversity of backgrounds of IDPs, controversies involving the place of international human rights in conservative Islamic communities are



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still not settled. Yet it is promising that such debates are taking place.

### Working with traditional justice systems

Where traditional mediations lead to results that offend international human rights standards, paralegals inform the parties involved about their rights under Sudanese and international laws and offer the parties recourse under the formal justice system. They can also seek to sensitise sheikhs to Sudanese laws and human rights standards, and request reconsiderations of their decisions. Paralegals are limited to this two-prong response for two reasons.

Firstly, IDP camps are 'controlled' by the largesse of the sheikhs who act not only as justice-makers but also as the main conduits of food ration cards and non-food items. Sheikhs often do not appreciate members of their flock taking 'failed mediations' to the formal justice system as these cases diminish the sheikh's standing in the community. IDPs on the losing end of a traditional settlement may not, in turn, wish to offend their benefactors by seeking legal redress outside of the sheikh's circle of control. As the paralegal programme takes a client-centred approach, the client's decision to accept the sheikh's proposed settlement is a decision that paralegals must respect, although the paralegal may request (with the client's consent) another organisation to provide follow-up support.

Secondly, most IDPs came from tightly-knit village communities that place a premium on group harmony over individual rights. The isolation and constraints of rural village life require them to find solutions

"Before this Rule of Law Programme came, I had no idea women actually had rights. I was amazed."

Jemeela, paralegal

agreeable to both parties to a dispute. In most villages, there are no jails, no peaceful way to enforce decisions and no mechanisms to protect decision makers (sheikhs) from retribution by aggrieved losing parties. Good relations between neighbours are considered necessary to survival. Today, these villagers live in the same tightly-knit villages – largely organised under the same power structures – within the vast tracts of IDP camps. Their traditions die hard.

Traditional mediation results may serve the short-term interests

of peace in villages and IDP camps, isolated and facing scarce resources, even as they may do great injustice to the individual. The two-prong approach employed by paralegals is a responsible, client-centred and culturally sensitive response to overcome harmful traditional justice results.

The success of this first phase of the programme – conducted in the midst of a humanitarian emergency – shows that it is never too early to address the need for furthering the rule of law and respect for human

rights and that it is possible to do so even while meeting survival needs.

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*This article is written in a personal capacity and does not necessarily represent the views of the UN or any other organisation. The names of the people mentioned in the article have been changed to protect their privacy.*

1. Sheikh means ‘elder’ in Arabic and is commonly used to designate an elder of a tribe, a lord, a revered wise man or an Islamic scholar.