Strengthening the Rule of Law in Conflict and Post-Conflict Situations. This programme – rolled out in 17 countries in crisis – promotes complementarity and inter-action between humanitarian agencies that handle immediate needs, peacekeepers who provide security and stability, and development agencies with their long-term perspective. This yields better results on the ground. The Global Program is built on a strategy and clear areas of focus:

- strengthening the rule of law within an early recovery framework and during transitions
- addressing women’s security and access to justice
- supporting capacity development of justice and security institutions
- facilitating transitional justice
- promoting confidence-building and reconciliation.

The strategy will be adapted to the challenges in each country. In an area such as the rule of law, flexibility is key. We must listen to our partners and respond to their needs, not some misguided desire for comparable data.

I work for a big institution. We think on a global or national scale: millions of people reached; thousands of livelihoods restored; hundreds of communities rebuilt. Yet recovery is built on the strength, hopes and determination of individuals. For me, recovery is about a woman called Immaculata. I met her in Burundi in October 1999 as we both fled an ambush in the displaced people’s camp in which she was living. She ran alongside me with her four children, one of whom ended up on my back for much of the day. We ran for hours before finally making it to the relative safety of another village. I remember thinking that, while this may have been the worst day of my life, it was Immaculata’s life. Day after day, year after year, she picks up her children and runs, never knowing where to or what awaits them when she gets there.

Recovery means that Immaculata can stop running. It is as simple as that. It means she can live with dignity, her children safe and in school, her livelihood assured. It means she will feel secure and have access to justice when and if she needs it. The value of our efforts lies in practical, concrete outcomes for the people we serve.

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Protecting human rights in Darfur

Maarten Barens

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 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
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Footnote:
1. "Sheikhs" are traditional leaders in Sudanese society.
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 (with 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.

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. Sheikh’s 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 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
Human trafficking: beyond the Protocol

Sergei Martynov

In February 2008, a major global event on human trafficking – the Vienna Forum – captured international attention and received broad global acclaim.

The Vienna Forum\(^1\) did not end with specific declarations, plans or pledges as is usually the case with such events. It merely brought together around 2,000 representatives of governments, international organisations, civil society and the private sector, as well as many renowned individuals. The greatest value of the Forum lies in the fact that it awoke the world to the very bitter reality of our contemporary life – slavery is still with us and it is thriving.\(^2\)

Prohibited by law, human trafficking is a highly covert activity. Each year, some hundreds of thousands of people around the world become victims, unable to free themselves from an exploitative position. Criminals working in organised networks treat the victims like commodities, buying and selling them for profit.

Human trafficking is believed to be the third largest illicit activity in terms of profits after the illegal sales of arms and narcotics. Yet, it is precisely because of its covert nature that human trafficking defies any easy analysis and accurate estimate of numbers involved. Estimates of the number of global victims of human trafficking range from 800,000 to more than 2.4 million\(^3\) and of the profits of traffickers up to US$32 billion.\(^4\) It is believed that women and girls make up around 80% of all human trafficking victims. Of particular concern are children that fall prey to traffickers. UNICEF estimates that up to 1.2 million children are trafficked annually. Until recently, the main concern of public opinion has been with the trafficking for sexual exploitation. However, there seems to be a growing realisation that trafficking for labour exploitation should move higher up the policy agenda.

A new paradigm?

The world cannot drag its feet any longer. Global inequalities will surely persist, which, in turn, will continue to boost migration flows. Industrialised societies should acknowledge that they are to a great extent dependent on foreign labour to sustain their economic activities. It is within the power of governments to change the way global markets operate, thereby reducing the ‘push’ factor in the trafficking/migration nexus – and within their power to address the issue of how to optimise the regulation of migration, thus diminishing the ‘pull’ factor.

There are two major flaws in the current international anti-trafficking approach. First, there is the lack of a comprehensive institutional framework, at present epitomised by the Trafficking Protocol with its overriding focus on security. Second, there is the lack of an institutionalised structure for global cooperation against human trafficking.

The starting point for a new paradigm should be to recognise that victims of human trafficking are not solely the victims of traffickers but also of the global economic order and prevailing social contexts. A global response to trafficking should therefore include policies that address the three Ps – prevention, prosecution and protection. Furthermore, it must equally target both sides of the human trafficking coin, both demand and supply. And, finally, it should tackle both sexual and labour exploitation.

New paradigm also requires an international structure that will ensure effective cooperation and coordination between stakeholders and the multiple anti-human trafficking initiatives. Far too often the efforts of the dozens of international...