

Rule of Law Newsletter

A publication by UNAMID Rule of Law Section

Providing an Improved Protective Environment in Darfur



Mr. Samwiri Wakhakha (second from the right) and the Chief Judge (3rd from the left), with the Central Darfur Chief Judge and Central Darfur Chief Prosecutor while in Nertiti locality Central Darfur on an assessment mission for the re-establishment of the criminal justice chain.

The Mandate of the Rule of Law Section is anchored on supporting two key pillars of UNAMID's Mandate, principally the *"Support to the mediation of community conflicts"* and *"Provision of a protective environment in Darfur"*.

This edition of the Rule of Law Section's Newsletter is aimed at providing a brief summary of the major activities of the section in fulfilling this mandate, working hand in hand with its key partners.

This active engagement has helped strengthen even further the partnership with its national counterparts and the UNCT in particular.

Among the activities of the section is the signing of the 3-year UN Joint Programme for Rule of Law in Darfur (2016/2019) by UNAMID and UNDP with the Government of Sudan (GoS) on 22 November, 2016. This key

development will strengthen delivery and impact of the UN in the Rule of Law sector by pooling resources and jointly focusing interventions on shared priorities. It brings together all relevant UNAMID components (rule of law, police, human rights and gender) and 11 UN agencies. There are 3 areas of interventions namely: i) strengthening institutional capacity for an independent and accountable justice system in delivering justice to all in Darfur, ii) empowering the people of Darfur, in particular the vulnerable, to enjoy access to justice and demand other human rights, and iii) addressing the drivers of conflict by supporting equitable governance of land and efforts ensuring that land issues are addressed through the justice system and local conflict resolution mechanism. UNAMID's Rule of Law

Section will spearhead the assistance in the implementation of the provisions of the Darfur Document for Peace and Development and to contribute to the creation of a Protective Environment conducive to the Rule of Law and Human Rights. In addition to the support and management of the UN Joint Programme for Rule of Law, the Rule of Law Section also implements its specific mandated tasks covering the following main areas: i) stabilisation and the protection of the returnee population through support to the re-establishment of the criminal justice chain in areas of refugee return, ii) local-level reconciliation through the strengthening of the capacity of the rural courts to address land disputes and other conflict drivers, iii) strengthening the capacity of the Special Court for Darfur Crimes under

the Darfur Document for Peace and Development and the work of the Special Prosecutor of the Special Court, (iv) providing Corrections interventions for enhanced human and prison security and professional prison management in the priority areas of refugee return.

In pursuant of these objectives, two taskforces of UNAMID substantive sections were established to help identify the refugee returnee areas that the UN can co-locate support with GoS to re-establish the criminal justice chain. Two criminal justice fora in two Darfur States were launched to assist in the coordination of local justice concerns with justice

institutions and stakeholders. The UN Rule of Law Section has embarked on the Trial Monitoring of strategic cases aimed at strengthening the criminal justice system. Mediation of conflicts is also highlighted in this document.

The development of a professional prisons system in Darfur saw some key interventions by the Rule of Law Section including training and capacity building workshops for GoS prison staff, the provision of water to some prisons to help address the perennial acute water problem, construction of some basic facilities (through Quick Impact Projects) to provide better conditions for prisoners, institution of livelihood/

vocational skills acquisition by prisoners. Also, a key intervention undertaken was the securing of the armoury at Zalingei prison which has helped provide a secure environment for both the prison population and its environs. Finally, the Mission's Senior Corrections Advisor undertook a number of field trips to enable her get first-hand information of the situation of prisons.

The Rule of Law will continue working in partnership with its national counterparts towards sustaining these interventions by encouraging the GoS to provide an increased funding for the country's prisons in particular which will ensure national ownership.

A Protective Environment – The Perspective of a Citizen of Darfur

To an ordinary person in Darfur, the rule of law simply means the ability by the GoS to protect him/her and properties from harm and whenever such harm occurs, to arrest and punish the offenders and also resolve any disputes between the citizens.

The presence of a police station, a court of law and a prison facility at the minimum are indicators of government's ability to provide such protection. Many localities in Darfur still lack these structures which explain why many displaced people and sections of the Darfuri communities believe that central government has failed to protect them. But this is not to say that there are no cases (criminal and civil) going through the judicial system in Darfur. On the contrary, many cases are resolved by the judiciary in the available courts.

In Darfur, the need for strong and transparent institutions to effectively provide a protective environment is very important and this has been raised on several occasions by civil society, the international community and GoS officials and this has led to some institutional reforms. It is instructive to mention that Sudan has all the right institutions of govern-

ance and rule of law (which include the judiciary, the police, prisons and the prosecutions as well as the Bar association) but the inadequate capacity and lack of strong institutions, coupled with weak local government administration, make it difficult for them to perform their roles as per the Constitution. The Native Administration used to play an important role in security and in solving day-to-day community problems, especially in rural areas and this offered very good support to the few formal government institutions available throughout Darfur. To some extent, both the Native Administration (including the traditional justice mechanisms) is also weak with some people seeing them as politicised.

The challenge for the Government and its partners like the UN is to search for solutions and there cannot be a single solution to the so many rule of law problems. The cessation of the conflict will definitely provide a good atmosphere for such interventions. Other solutions can only help but they have to be implemented side by side with the relevant political processes to bring about a comprehensive resolution to the problem.

In recent years, the GoS has shown

a lot of interest in strengthening the rule of law institutions in Darfur.

For instance, the Prosecution offices have deployed newly recruited prosecutors under a new Presidential initiative which is aimed at posting prosecutors to all the administrative localities in Darfur. Also, the Special Prosecutor for Darfur Crimes has received more prosecutors to his office and he has also re-deployed them in all the five states of Darfur.

New court buildings have been provided in North, South and West Darfur States to serve as the courts of appeal and headquarters of the judiciary in those states while the National Supreme Court Division for Darfur has also opened in Nyala, South Darfur.

Other measures including legal reforms are taking place at the federal level to improve the rule of law in Darfur. But such laudable efforts are yet to make any impact as there is still some level of criminal impunity in Darfur. It is hoped that as the peace process gathers momentum through the national dialogue, the joint efforts under the new UN Joint Programme for Rule of Law will achieve the desired impact and lay a solid foundation for the rule of law in Darfur.

Towards an Effective Functioning of the Criminal Justice Chain

Two taskforces were established in North and West Darfur (comprising the UN Police, Rule of Law, Civil Affairs and other sections) and these undertook some initial surveys and identified Internally Displaced People (IDP) returnee areas where UNAMID can support the re-establishment of the criminal justice chain.

The two taskforces have submitted their initial reports for consideration. The reports also revealed a serious lack of law enforcement agencies in most areas in Darfur and working together with the UN Country Team (UNCT), UNAMID will seek to obtain a broad consensus on suitable areas for the proposed UN support.

The Rule of Law Section also continued with its strong campaign for the re-establishment of the criminal justice chain which has encouraged the GoS authorities in West Darfur (in particular) to authorize the establishment of new courts in remote areas where recent tribal and inter-

communal conflicts were blamed on the absence of rule of law and/or law enforcement agencies. The Wali of West Darfur has proposed (to the judicial officials in Khartoum) to open new formal courts in Masteri and Kerenik localities.

In addition, and as an interim measure, the GoS judicial authorities have also posted a second judge to the court in Mournei to cover Kerenik while the Rule of Law Section on the other hand, supported the rehabilitation of the rural court in Masteri which, to date, is the only functional court in the locality. The proposal by the Wali to establish formal courts in the two localities is therefore laudable especially after a recent increase in criminality and inter-tribal conflicts in Muli and Umtajouk, both of which fall under the administrative locality of Kerenik.

The Rule of Law Section's project on the re-establishment of the criminal justice chain also received a boost with the arrival of a staff member

on Temporary Deployment (for three months) from the Justice and Corrections Standing Capacity office in Brindisi. The staff member is assisting with the coordination of activities related to this project together with other partners to ensure better coordination within the framework of the JPROL.

The staff member has also undertaken a number of field assessment visits to assist in making a final determination of priority returnee areas in North Darfur. Another welcome intervention by the GoS is the issue of Civilian disarmament as one of the strategies being pursued to address criminality, restore the rule of law and stability in Darfur.

The Rule of Law Section and the UNAMID DDR are both supporting a joint training programme for rural court judges and community leaders such as Umdas and Sheikhs to build their capacity to support this initiative of civilian disarmament.

Trial Monitoring

In the last quarter of 2016, the Special Prosecutor for the Nyala office, confirmed that the office was investigating 14 cases covering murder, robbery, illegal possession of weapons and ammunition and acts of terrorism. Seven of these were prosecuted and others still under investigation. The Special Prosecutors in the 5 Darfur States are headed by a Special Prosecutor for Darfur Crimes who has an office in El Fasher in North Darfur. There are a total of 14 Special Prosecutors working in Darfur as follows, North Darfur (8), South Darfur (3), West Darfur (1), East Darfur (1), and Central Darfur (1). There are no female Prosecutors in this team.

In the 3 criminal trials monitored in South and West Darfur. In Nyala (South Darfur) 3 men charged with robbing a convoy carrying UNAMID property were found guilty and convicted of theft under the Criminal Act, 1991 and were sentenced to amputation of their

arms in addition to an order of compensation in the sum of 217,660 US dollars. The 3 adult-male convicts are members of the GoS border guards at the time of the commission of the crime. They were apprehended by the GoS Rapid Support Forces when they were attacking and robbing a convoy carrying UNAMID vehicles and containers in Niteaga in South Darfur on 2 June 2015. All 3 accused were represented by counsel at the trial with the right of appeal in 15 days. Although the trial and its outcome is well within the legal framework of the criminal laws of Sudan, UNAMID considers the sentence of amputation of arms, to be in contravention of the Convention Against Torture and Other Cruel, Inhuman or Degrading Punishment 1984, of which Sudan is not a signatory.

On 22 November 2016, the El Fasher special criminal court acquitted 3 suspects arrested in Kutum in North Darfur, of suspicion of being SLA/Ab-

dul Wahid combatants and charged with waging war against the State. The Office of the Special Prosecutor prosecuted. All 3 accused were represented by counsel. The Judge, in acquitting the accused, said that no weapons were found on the accused at the time of the arrest and no weapons were brought to court or exhibited as being found on them. The court also took a dim view of the fact that the Prosecutor had sought to rely on confessions obtained through duress while detained by the National Intelligence and Security Service (NISS).

The decision is especially significant because of the potential impact it may have on GoS security agencies who routinely mount operations and arrest civilians, mostly youths, on suspicion of being rebels or rebel supporters, a worrying trend and a violation of human rights, a factor likely to create more tension in communities and jeopardise any peace effort.

Mediation of Community Conflict

Success stories were recorded by rural courts from their mediation of community conflicts. The coordinator of the rural courts in North Darfur informed that an armed tribal conflict that erupted in Mellit between Berti and Zayadiya and resulted in fatalities on both sides was resolved through the intervention of the Midobe tribal leaders who included rural court judges.

Again, in Adikong rural court, West Darfur state, the Rule of Law Section observed that the court successfully reconciled both parties, their respective families and restored harmony which had been threatened by a dispute over an unpaid loan. Disputes of these kinds have recently led to clashes (with fatalities) between families and communities especially in West Darfur state.

It is therefore noteworthy that some people are willing to resort to legal means to resolve their disputes. Reinforcement of the

capacity of the rural courts to mediate conflicts and disputes in their communities remains a key priority of the Rule of Law Section.

Tribal and / or community reconciliations organized and mediated by rural courts judges have become commonplace as a result of the on-going Rule of Law Section's project on the reinforcement of capacity of rural court judges to mediate community conflict.

On 21 September, 2016, the Rule of Law Section attended the reconciliation meeting in Adikong rural court between the Masaleet and Arab Bennihalba tribes who were feuding over the death of a Masaleet tribesman who died in motor accident while working in a motor vehicle belonging to the Bennihalba tribesman on 2 September, 2016.

Although the vehicle owner immediately accepted responsibility, the issue of compensation or payment of diya (blood money) to the bereaved family remained a sensitive issue which could potentially lead to armed conflict between the two

tribes whose relationship remains fragile, following clashes in Muli earlier this year.

The reconciliation meeting, attended by sixty people from both sides including their respective community leaders, agreed that the Arab Bennihalba pay thirty thousand Sudanese pounds (30,000 SDG) to the family of the victim to maintain harmony between the families and the two tribes.

The settlement was recorded by the presiding rural court judge and signed by community leaders of both tribes, copies of which were given to the two tribes and another copy kept by the Sultan of the Masallit tribe in West Darfur.

The Rule of Law Section continues to support this project in partnership with the GoS judicial authorities.

The case is another evidence of the growing confidence and trust the public has in rural courts which are only beginning to function after years of hibernation due to the long running Darfur conflict.

Developing a Professional Prison System in Darfur

With the 5 year Strategic Development Plan for Darfur Prisons (2014-2018) on hand, coupled with the recent adoption of the Standard Operating Procedures on various aspects of prisons management, the Rule of Law continued with its key interventions in prisons towards ensuring a professional system where the basic rights of prisoners are respected and a congenial atmosphere provided for prisoners to serve their sentences.

Training and capacity building workshops are a key requirement if this is to be achieved. These workshops help equip the beneficiaries

with the necessary skills, knowledge and attitudes to enable them manage the prisons and prisoners in line with international standards, norms and best practices. On 13 November 2016, the Rule of Law Section, in collaboration with the state prison administrations in all the five Darfur states, organized a two-week training course on management and operations of prisons for 180 GoS prison staff (included were 50 females) and under the auspices of the UNAMID outreach programme.

This formal training effectively complements the on-the-job mentoring and advisory duties that the

section undertakes. Follow-up visits are made to ascertain if the knowledge they acquire is put to use and if they are guided by the Standard Operating Procedures which were recently developed which covers a wide range of prison issues such as how to conduct searches; control of the prison security gate and keys; management of the prison perimeter fence walls and different categories of inmates; management of firearms etc.

With an enhanced capacity, prison staff are increasingly more aware of the inherent rights of prisoners and the need to respect these rights at all times.

Improved health through regularising water supply – The case of Shallah Federal Prison

The Rule of Law Section undertook a major intervention in Shallah Federal Prison in North Darfur with the construction of two elevated water tanks (with a combined capacity of 40,000 litres-under the Mission’s Quick Impact Projects) and an underground water reservoir (with a combined capacity of 250,000 litres-funded by the Global Focal Point, Peacekeeping Operations (DPKO)-UNDP support). The first phase has been completed and handed over for use while the second phase is yet to be done. On completion of the second phase, about 5,000 people (comprising the three prison institutions at Shallah Federal, the nearby GoS Basic School, GoS institutions in the vicinity and the local community within the prison neighbourhood) will benefit from the project. Shallah Federal Prison was built in 1957 and was initially used as students’ hostel but later as a prison in 1972. It is the biggest Prison in Darfur with a prisoner population of 690 as at January, 2017.

Acute water shortage has been the key problem both Rule of Law Section and the Prison management have been grappling with over the years. Similarly, Ardamata Prison in West Darfur (built as a horse stable in the colonial era - 1930s), has also been facing its fair share of acute water problem over the years and to help address this, Rule of Law Section (through Quick Impact Projects) constructed two underground water tanks (with a combined capacity



Two elevated 40,000 ltrs water tanks

of 45,000 litres) to help address this problem. These two interventions have provided a big relief to the prison administration in these two institutions and the prisoners now have a regular source of water for their needs.

These singular interventions have helped improve the health situation of inmates as evidenced by the reduced reported cases of water-borne diseases, as there is an improved general sanitation situation in prisons. With this, the prison administration can now re-focus on other critical areas of treatment and care for prisoners.

Meeting Gender-Specific Needs for Female Prisoners at Shallah Federal Prison)



Before



After

The Rule of Law Section in collaboration with GoS are rehabilitating some of the prison infrastructure in Darfur to provide a humane, safe and secure environment for prisoners. A Quick Impact Project was conceived and constructed comprising of one shelter; increasing the height of a perimeter wall, a visiting bay; a child friendly space and one guard room in the Shallah Federal Prison to accommodate female prisoners who will be relocated

from the Kheir Khanaga prison, here. The facilities will significantly improve the conditions of the female inmates and their accompanying children. As of the end of January 2017, there were 21 children accompanying their mothers in prison. The new area is spacious with common areas for play and rest. This will provide a congenial atmosphere for them to serve out their sentences in line with the UN Standard Minimum Rules for the Treatment of Female Prisoners (the Bangkok Rules,

2010), which were adopted by the UN General Assembly in December 2010 and filled a long-standing lack of standards providing for the specific characteristics and needs of women offenders and prisoners.

The Rule of Law Section will advocate with the judicial authorities in Darfur to ensure that where possible, female prisoners with accompanying children are sent to this new facility to ease congestion and also offer a better care for the children.

Supporting Livelihood/Vocational Skills for Prisoners



Skills certification test at Shallah Federal Prisons

The provision of livelihood skills to prisoners is a key component of Prison Administration which helps offer employable skills to prisoners to enable them fend for themselves upon their release from prison and not re-offend and go back to Prison.

The acquisition of skills in agriculture is one such avenues. Working together with other stakeholders, the Rule of Law Section has embarked upon the revamping of Singita farm in South Darfur and a vegetable farm at Ardamata prison in

West Darfur where its staff visited the Singita farm where the State Director of Prisons indicated that the farm had about 420 acres with a huge potential to become the bread basket of Darfur Prisons, if fully supported.

In West Darfur, officials from FAO also visited the prison farm and offered technical advice on the on-going vegetable farming and further committed to giving continuous support through the provision of some basic tools & implements, etc.

Another aspect of livelihood skills for inmates is vocational skills training and as part of this, Rule of Law Section, working with other stakeholders in North Darfur, has provided an avenue for 40 inmates at Kheir Khanaga prison in El Fasher, North Darfur to be engaged in various vocational skills training programmes with 15 in handcraft, 15 in tailoring and 10 in bead making. Such livelihood skills are crucial to women in Darfur, most of whom are household heads and bread-winners for their families.

Trade Certification for Vocational Training - A Major Milestone for Prisoners

On 5 October, 2016, the Rule of Law Section, in partnership with North Darfur Prisons Administration and the El Fasher Technical School, held a trade certification ceremony following 2 years vocational training programme (in welding and metal works) for prisoners at Shallah Federal Prison. Through this vocational training, the prisoners will have the capacity to engage in different meaningful economic activities particularly in the informal sector, thereby minimizing the risk of the individuals engaging in wrongful acts.

The State Director of Prisons ex-

plained that the vocational training offered was part of the reformation programme for inmates aimed at equipping them with the required skills.

The Prison Director for Shallah Prisons requested the Mission to extend its support to other meaningful projects such as the installation of solar power gadgets to provide lighting for the prisons in the event of lack of electricity from the town supply. The Director of El Fasher Technical School pledged the continued support of his institution.

A representative of the inmates extended appreciation to all for offering

them this unique opportunity to learn a livelihood skill, which he and his colleagues will put to good use upon their release from prison.

Shallah Federal Prison is now a certified trade Testing Centre for skills training for prisoners conducted by the State Directorate of Technical Training in the Ministry of Education, North Darfur. So far, more than 250 inmates have benefited from this vocational training programme in welding and metal works, tailoring, leather works and outdoor trades such as plumbing and electrical installations.

Securing Prison Armoury



Following a prison riot in Zalingei in April, 2015, in which prisoners gained access to the armoury, the security situation in and outside the prison became very tensed as people living near by the prison were afraid for their lives.

This called for an immediate and swift intervention by the Rule of Law Section to help provide a more secured armoury. Working in collaboration with the Mission's Ordnance Disposal office, a new and better secured facility was provided for the storage of weapons, out of the reach of the prisoners.

The new Secure armoury Facility.

This has helped immensely in providing a secured prison environment and assured the surrounding civilian communities of the safety to go about their daily activities.

If the Standing Operating Procedures specific to handling of firearms are to be followed, then the needed infrastructure should be provided. This was another key intervention by UNAMID in providing a safe & protective environment for both prisoners, staff and their families and the surrounding prison communities.

The UNAMID Senior Corrections Advisor in the Field



Senior Corrections Advisor (Ms. Mary Okumu), Corrections Officer, "Grace Anyango" and SDoP Central Darfur.

The Senior Corrections Advisor undertook a number of visits to some prison facilities in the Darfur States. These visits are important as they offer the opportunity for her to have a first-hand knowledge of the situation in such localities, the challenges faced, and how by working together these could be addressed. She also actively engages the relevant stakeholders towards ensuring better managed prisons where the human rights of prisoners are

protected and their basic needs provided.

One of such visits was to Central Darfur (Zalingei) where she met with the State Director of Prisons. The latter highlighted his priority areas which included the need to construct prisons in Wadesaleh and Nertiti localities to help address overcrowding in Zalingei prison (which stands at a little over 200 per cent with 123 prisoners as at January, 2017, well over the maximum of 60 that the prison can hold). The GoS of-

ficial also mentioned the need for general infrastructure upgrades. In response, the Senior Corrections Advisor indicated the need to work with other partners and the management authorities of GoS prisons in Khartoum to secure remedial measures for the most urgent needs.

The UNAMID official took a tour round the prison facility to observe on-going projects including the gate lodge and inner gate construction.

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