

July 2007

A Critical Response to the Atrocities in Darfur

I generally use these columns to provide information on the Section's best practices, upcoming events, and our latest publications. The [Darfur Legal Training Project](#) was such an amazing experience that I decided to share some of my impressions from the week. And, yes, I did keep a journal.

Origin of the project

The project stems from our awarding the International Human Rights Award to Salih Osman last year. By honoring Salih, a Sudanese lawyer who had assisted many victims in Darfur, the Section sought to focus attention upon the atrocities in Darfur. Salih urged us to do more, and we did. Ten months later, after partnering with the MacArthur Foundation, nine American lawyers arrived in London to train Sudanese lawyers to represent victims before the International Criminal Court (ICC) at The Hague. We came prepared with lots of lectures and well-developed training materials that will guide our Sudanese friends in their future work. None of us had any inkling of the powerful interactions that would occur during the next six days—this was a week we will not soon forget.

First impressions

Our initial concerns were for the safety of the Darfur lawyers. We worried that they might not be able to get out of their country. Most of them had never been outside of Sudan. We all felt better as the welcome reception began, and we saw Salih and the lawyers. There were smiles and introductions. Seeing Salih was like seeing an old friend. I was so pleased to see three women lawyers from Sudan, all of them in the traditional dress of their country. We all wanted this training to be a success.

On the first day of the conference, we slowly began to get a sense of one another. We worked through issues with the interpreters. The Sudanese lawyers were very impressed that we had translated their course materials into Arabic. We began to connect names with faces—Sohair, Hytham, Gabar, Hayat, and Hala. We brought American legal experts to train the Sudanese lawyers on the ICC, which included former federal prosecutors, a federal judge, and a trial advocacy teacher, but the Sudanese lawyers were equally as experienced and impressive.

I was initially struck by how we spoke of our work as lawyers. We introduced ourselves as lawyers and judges. Some of us mentioned our families. The lawyers from the Sudan described themselves differently: “a solicitor who actively defends human rights,” “a solicitor with the Sudanese Association Against Torture,” “a solicitor and activist in human rights,” “the first woman to head a political party in the Sudan,” and an “advocate who defends displaced persons

and provides legal aid.” As lawyers, we are all connected by the rule of law, but there was something more powerful that moved these lawyers to action. At various times throughout the week, the American lawyers kept asking one another and themselves, “would we risk so much to represent a client?” That question will motivate our work for a long time to come.



Shared learning and the ICC

We began our training on the ICC and its structure. The Sudanese lawyers immediately corrected our misconceptions about the arrest warrants recently issued by the court. They helped us to understand why the Janjaweed leader and government minister who are the subjects of the warrants should be prosecuted. I quickly saw that these lawyers would be active participants in this training; we would all be teachers and students. I was pleased to see that we would interact, share, and challenge one another. As the week progressed, it became clear that the Sudanese lawyers know more about these issues than any American lawyer in the room.

The art of advocacy

It was interesting to watch this training unfold. The Section of Litigation did what we do best: We know how to train lawyers in the art of advocacy. I was so impressed with the skills of the lawyers we had assembled. Every lawyer brought a unique style and approach. The presentations were interesting and well done. It was especially interesting to watch the lawyers try to adapt to using the interpreter. Some did it well, and some had a few issues. We especially liked one of the interpreters. He was animated and interesting. We later learned that he was a minister. (No wonder he was more animated than some of the former prosecutors.)

Our discussions covered the ICC and its procedures, how to interview victims, and how to prepare affidavits. We talked a lot about how to develop and preserve evidence of “genocide, crimes against humanity, and war crimes.” Lawyers from the Office of Victims Participation and Reparations, Office of the Public Counsel for Victims, and the Office of the Prosecutor at the ICC gave useful presentations. They too brought very different skills and personalities.

The need for the ICC

As we discussed the details of bringing cases before the ICC, the Sudanese lawyers immediately focused on the real issues in representing victims. They helped the ICC lawyers themselves to better understand why the ICC must prosecute the crimes being committed in Darfur. They explained why victims of atrocities will never obtain justice in the courts of the Sudan. They spoke of the evidentiary burdens on victims. To prove a rape, a woman must present evidence from four male eye witnesses. They told of courts that did not recognize DNA results or medical reports as evidence. We learned that a woman could be stoned for bringing a rape charge that she could not prove. They spoke of the complicity of their own government in committing crimes. We began to see that the ICC is the only place redress will be obtained for these crimes.

The Sudanese lawyers bravely faced reporters during the press conferences. They are skillful advocates who want the world to understand that unspeakable atrocities are taking place in their country. These lawyers have visited clients in refugee camps. They represent the displaced and the victims of rape, genocide, and war crimes. They want people to know that they are being trained to represent victims who need the forum the ICC can provide. Their stories were told in leading newspapers here and in London. They exhibited no fear and even allowed their names and pictures to be published.

Personal bonds

As the days went on, we began to learn the little things that make people special to one another. We learned the names of children, spoke of hobbies, talked about our families, started to tease one another, and developed nicknames. We had serious discussions about our cultures and what our lives are like everyday. We shared dinners and a tour of London. A visit to the food halls of Harrods was unforgettable, as well as a boat tour on the River Thames. These carefree moments helped us to better know one another. We smiled a lot more.



Unfathomable atrocities

As the week ended, we decided that the best way to teach oral advocacy skills was to have the Sudanese lawyers tell stories about themselves or their clients. The stories that followed left every American lawyer in the room astounded.

Sohair, a gentle and soft-spoken advocate, told of representing students who had been taken away by men in uniforms and badly tortured. She spoke of another client whom the court forced to enter into a marriage contract with the very man that she had sought to prosecute for raping and torturing her and keeping her as a virtual slave. The judge forced this result as a “reconciliation” and dismissed the case. This was the “justice” of a court in Sudan.

Hayat, a woman lawyer who had interviewed numerous victims in the camps, told two compelling stories of how war adversely affects families. In her first story, a father tortured his daughter and later tied her hands as punishment for stealing money. After the incident was reported to the police and an arrest warrant issued, the father ran away and the girl was found hidden in a tent. She eventually lost her hands because the rope had been tied too tightly. Hayat assisted her young client in obtaining artificial limbs and in seeing that the father was prosecuted. There was no explanation for the father’s actions other than the impact of the war upon him. Hayat also spoke of a mother who had tried to choke her own baby because the baby had been born of the rape and torture the mother had suffered.

Adam told of one of his clients who joined the antigovernment forces after being taken from his family, repeatedly beaten and tortured, and admitted to a hospital only after he went on a hunger strike. Two of the lawyers spoke of the torture they had personally endured. As these riveting stories unfolded, seasoned courtroom lawyers gasped. At other times we became uncharacteristically quiet. We were astonished.

None of us had any illusions about the atrocities taking place in Darfur, but nothing could have prepared us for what we experienced over the week. We came to teach, but these lawyers taught us more. Their lives and experiences had moved even the toughest of us. The stories told were so powerful; our proven principles of teaching oral advocacy seemed almost inadequate at times. The stories just needed to be told.

Lasting friendships and a call to action

Our Sudanese friends spoke of the unique opportunity the Section of Litigation had provided them. They had never received such training. They understood the power of the ABA and the important need for American lawyers to raise awareness of the atrocities being committed in Darfur. They urged us to speak to the need for the ICC as a forum for justice. Truth is often the first casualty of war and internal strife. Allowing victims to appear before the ICC will help the world see the truth about Darfur. We spent a considerable amount of time talking about the future. Our Sudanese friends need the support of the ABA and have asked us to continue to work with them. We are proud to do so and have started the planning.

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