

Rights in a Failed State:

Internally Displaced Women in Sudan and Their Lawyers

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In the name of God, the Almighty, the Merciful. My name is Nisreen Al-Fatat. I am from Darfur, in western Sudan. My husband and his father were alcoholics. My husband would hit me. He would rape me. One day about three years ago we started to quarrel. He was carrying a sharp object. He wanted to hit me. I ran away, I found a knife. And I stabbed him with the knife. I stabbed him near his stomach. Two stab wounds. He did not survive. So the prosecutor accused me of Article 130 of the Sudanese Criminal Code (intentional murder). But the court forgave me. I received two years in prison for Article 131 (unintentional killing). I was released three months ago.

And so began my interview with Nisreen, a Muslim woman from western Sudan displaced by ongoing violence in Darfur. She and I met in a small roofless shack that she called her home, in the scorching Sudanese desert about an hour's drive from Sudan's capital and largest urban center, Khartoum. I traveled there on a quest to learn how internally displaced persons (IDPs) like Nisreen and the lawyers who represent them think about and mobilize internationally-guaranteed human rights laws. I had just completed research on how American women's groups deploy human rights laws in local shaming strategies,¹ and I hypothesized that the differences in perceptions of rights and strategies to use them would be particularly strong between disadvantaged groups in advanced democracies and in a failed state such as Sudan.²

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1. Mark F. Massoud, *The Influence of International Law on Local Social Movements*, 31 PEACE & CHANGE 3 (2006).
2. *The Failed States Index*, FOREIGN POLICY (July/August 2005), available at <http://www.berkeleyjournal.org>.

What I found in Sudan were inspiring and organized women lawyers, themselves impoverished, who were using their limited funds to teach internally displaced women and men to think about and mobilize their human rights. And despite regulatory obstacles that these lawyers faced, imposed by the Sudanese government and police, they have had successes worth noting here. In particular, these women's legal services advocates in Sudan have fostered a new rights consciousness among IDPs like Nisreen, by teaching them about international human rights laws and standards. These rights-based interventions are salient for vulnerable populations—providing positive change in IDPs' lives—and they succeed in mobilizing international sympathy and support for the plight of women IDPs in Sudan.

Human rights are certainly a resonant force by which international lawyers can describe grievances against states. But the strategy of framing local issues in terms of human rights abuses also poses some unresolved tensions when used in local settings: they may be taking energy away from the more immediate needs of IDPs on the ground, including, for example, safe water, electricity, and educational facilities.

I. CIVIL WAR AND IDPS IN SUDAN

Ranked third globally in Foreign Policy's Failed States Index—slightly worse off than Iraq³—Sudan is known for deep ethnic and religious divisions, civil wars, widespread corruption, loss of territorial control outside the capital, and the world's largest internally displaced population.⁴ In the past fifty years since its colonial independence, Sudan has had three military governments, four transitional governments, five national constitutions, decades-long experiments with socialist and Islamic shari'a laws, and a period during the 1990's of accommodating the world's most notorious terrorists.⁵

Nisreen is one of perhaps five million IDPs in Sudan, most of them women and children forced to flee their villages because of the ongoing hostilities.⁶ They now live in squatter areas or desert camps. These designated areas are meant to

foreignpolicy.com/story/cms.php?story_id=3098 (using twelve key indicators to rank Sudan third out of sixty states globally, based on vulnerability to violent internal conflict and disintegration).

3. *Id.*
4. See Bruce Greenberg, *USAID Working to Resettle Displaced Persons in Sudan*, U.S. Dep't of State, at <http://usinfo.state.gov/af/Archive/2005/Apr/12-566678.html> (Apr. 11, 2005).
5. See Mark F. Massoud, *Revisiting Disasters Natural and Man-made: Returning the Rule of Law to Sudan*, SAN FRANCISCO CHRON., Dec. 26, 2005, at B5.
6. Refugee International, *Displaced Again: IDPs Face House Demolitions in Khartoum*, at <http://www.refugeesinternational.org/content/article/detail/940/?PHPSESSID=5ce00f92779c166324e1d> (Feb. 19, 2004); see also CENTRAL INTELLIGENCE AGENCY, *WORLD FACTBOOK* (2006), available at <http://www.cia.gov/cia/publications/factbook/geos/su.html> (estimating the number of IDPs in Sudan in 2004 as 4.367 million). Note that this number has likely increased since 2004 due to the continued violence in Darfur and emerging violence in the Kassala region of eastern Sudan near the Eritrean border, although published estimates are not available.

be temporary until the violence ends, when IDPs will be allowed to return and reintegrate into their likely-destroyed villages and homelands. Although the camps are “temporary,” I met women who had lived in these areas for more than twenty years.

Many IDPs, like Nisreen, live in camps without electricity or running water. As I gave her daughter some chocolates that I brought with me, Nisreen commented to me that her daughter was crying because she wanted to go to school, which Nisreen could not afford. I visited other IDPs’ desert homes nearby that were not bigger than a junior studio apartment, with fifteen or twenty men and women living inside. Outside I saw young children playing and splashing water at each other in a garbage-filled open-air sewage system, just to keep cool from the intense desert heat. Many homes in the IDP camps outside of Khartoum have been demolished by the government to make way for roads and development projects as the nearby city expands in size.⁷ Families whose homes have not already been destroyed live under the constant threat of demolitions.

Nisreen and her daughter are among the two-million displaced from an ongoing conflict in Darfur that the U.S. Congress has deemed genocide.⁸ But Darfur is not the only region in that country that has produced massive populations of IDPs. Southern Sudan was the site of a brutal twenty-three year civil war (1982–2005) fought between the Islamic government in Khartoum and a predominantly Christian and animist liberation movement that did not want to be forced to live under Islamic laws.⁹ Killing around two-million people, this war was among the deadliest in the world during the second half of the 20th century, added to the perhaps 300,000 killed in Darfur in the last two years.¹⁰

On January 9, 2005 the Sudanese government formally proclaimed the end to the North-South civil war by signing a Comprehensive Peace Agreement with the South.¹¹ The Islamic regime formed a new Government of National Unity—a coalition with the leaders of the Southern liberation movement that they were at

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7. *Violence in Soba IDP Camp, South Khartoum*, Sudan Tribune, at http://www.sudantribune.com/article.php?id_article=9676 (May 20, 2005). Reports by human rights groups indicate that at least twenty people were killed in the Soba IDP camp near Khartoum in May 2005, when violence broke out between IDPs and police who had entered the camp as part of a government “area replanning” program.
 8. See Charles W. Corey, *U.S. Congress Terms Situation in Darfur “Genocide,”* U.S. DEP’T OF STATE, at <http://usinfo.state.gov/is/Archive/2004/Jul/26-233176.html> (July 23, 2004). The State Department estimates that over 300,000 people have been killed by violence in Darfur, caused by fighting among tribal groups that the Sudanese government is either unwilling or unable to control. See Greenberg, *supra* note 4; but see *infra* note 11.
 9. See, e.g., DOUGLAS JOHNSON, *THE ROOT CAUSES OF SUDAN’S CIVIL WARS* (2003).
 10. Greenberg, *supra* note 4. While the U.S. State Department has estimated Darfur deaths by 2005 to be 300,000, the United Nations estimated 180,000 deaths. See *UN’s Darfur Death Estimate Soars*, BBC News, Africa, at <http://news.bbc.co.uk/2/hi/africa/4349063.stm> (Mar. 14, 2005). Though precise death tolls are difficult to determine in Darfur, a region the size of France, global leaders and media outlets have rallied for an end to conflict in that region.
 11. See PEACE AGREEMENTS DIGITAL COLLECTION: SUDAN, UNITED STATES INSTITUTE OF PEACE, available at http://www.usip.org/library/pa/sudan/cpa01092005/cpa_toc.html (last visited July 15, 2006).

war with for twenty-two years. That Government of National Unity signed a new Interim National Constitution committed to upholding the rule of law and human rights in Sudan. This constitution's bill of rights¹² now stands among Africa's (indeed the world's) most comprehensive.¹³

A. The Lives of Women IDPs

I took nine separate day-long visits to the camps.¹⁴ When I did see women there, I found them in small tents selling tea, walking alone, and carrying things—usually food for their families, buckets of water, or small goods for sale. I saw men walking arm-in-arm or alone or together in small groups or simply sitting around talking, waiting for the day to pass. Some men serve as local political leaders—called sultans. Other men are able to find outside paid employment, but my observations, confirmed in my conversations with lawyers who work with IDPs and with IDPs themselves, suggested that women carried most of the daily familial burdens.

If IDP women are not working within the IDP camps or in the cities as maids or cooks for homes or businesses, then they are likely to be found in prison. I asked one legal aid organization's director about why the women's prison in Sudan is so busy. She replied with a comment about IDPs: "They're displaced. They have poor education. Most have few skills, but they know how to make alcohol. They have no shelter . . . They have this skill [brewing alcohol], and they find some people are ready to buy this alcohol. And their children are hungry."¹⁵

The brewing and sale of alcohol is criminalized under Sudanese law—even though the some foreign embassies have on-site bars or order wine from back home by the caseload. While it is uncertain whether the law applies to foreigners

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12. In summary, the new Sudanese Bill of Rights comprises the following: The rights to life, dignity, liberty, integrity and security of the person; sanctity from slavery and forced labor; equality and non-discrimination before the law; rights of women and children; freedom from torture; the right to fair trial and to litigate; the right to restrictions on the death penalty; the right to privacy; the right to freedom of worship and expression; freedom of media, assembly, association, movement, and residence; the right to own property; the right to suitable education and employment for the elderly and those with special needs; the right to free primary education, free primary health care and emergency services; and the right to enjoy and develop a particular culture. *See* SUDAN INTERIM CONST. art. 27-48 (on file with author).
 13. Nevertheless, enforcement of the comprehensive Bill of Rights is problematic. One Sudanese women's rights activist commented to me, "The . . . Constitution has not been translated into laws. I don't think you can [hold] the government [accountable] on these issues." Interview with Nahda, Women's Rights Activist, in Omdurman, Sudan (Jul. 3, 2005). Another legal aid worker concurred, "[The Constitution] is *kalaam fahdee* (empty speech) because there's no political commitment to implementation." Interview with Nora, International Legal Aid Worker, in Khartoum, Sudan (Jun. 22, 2005).
 14. Because of constraints imposed upon foreigners by the Sudanese government, non-Sudanese are allowed to visit IDP camps only with explicit government permission and only during daylight hours.
 15. Interview with Samira, Lawyer, in Khartoum, Sudan (Jun. 2, 2005).

and foreign officials in Sudan, it has applied de facto to migrants from the South and IDPs, many of whom are Christians or animists and were not aware that alcohol is forbidden under Sudanese-Islamic law.¹⁶

Police generally have an active presence in the camps, and I asked people displaced by war about their relationships with police. One woman IDP reported that the police sometimes raid their camps to arrest women who make or sell alcohol. However, she continued, if there is a crime at night, then the police will not come into the camps to assist the victims. In southern Sudan, where most of the IDPs living around Khartoum came from, alcohol brewing was a common means for women to earn a living. While data is difficult to access on the exact numbers of women in Sudanese prison for the crime of brewing or selling alcohol, many lawyers and IDPs I met mentioned this as a major problem before I asked them about it. One lawyer knew a woman who had remained in prison for this crime for more than fifteen years—she had actually forgotten why she was arrested.¹⁷ The result is that this prison regime prevents women from making a living consistent with their differing economic abilities, religious beliefs, and cultural practices. Ironically, it is after arrest and within the prison walls that many IDP women first learn about human rights.

B. Rights Consciousness among the Vulnerable: A Strategy of Framing and Shaming

The major women's prison in Sudan is located in Omdurman—a large, dusty, polluted, and densely populated city located just across the White Nile River from Khartoum. Some women are pregnant at the time of their arrest, and subsequently give birth while imprisoned. Other women bring their infants with them to prison. I met with a legal aid organization that provides food to the children of the inmates in the prison. The prison itself feeds only the prisoners. In addition to feeding the inmates' infants, the lawyers also began to train the inmates to mobilize their human rights. The coordinator of the program told me, "We tried to get [the prison guards'] trust by giving meals to children, by doing humanitarian work mainly [so] that we gain their trust. Then we started legal aid."¹⁸ As a result of being trained about human rights laws, the women prisoners subsequently began to talk with one another about Sudanese laws and their own criminal sentences, "critically analyzing" them.¹⁹

According to the women lawyers and advocates I interviewed, when a

16. *Id.*

17. *Id.* But when I asked another lawyer about the arrests of women for the sale of alcohol, he focused not on the defendants' lack of knowledge that alcohol brewing was a crime, but on the poverty of the alcohol saleswoman: "If you are poor, you are going to commit a crime; you are going to make [alcohol], for a living, because that is the situation you find yourself in." Interview with Maher, Sudanese Legal Aid Attorney, in Khartoum, Sudan (Jun. 13, 2005).

18. Interview with Samira, Lawyer, *supra* note 15.

19. *Id.*

news article in Sudan first released information about the trainings, the prison warden directed the lawyers to stop, because “we were giving the women in the prison the chance to express . . . their opinions about laws, [which] they have no right [to do].”²⁰ While it is uncertain whether the warden was correct under shifting and often arbitrarily applied Sudanese laws, the lawyers responded to the warden with a threat of their own. They told the warden that if he pulled the plug on their rights-training activities, then the lawyers would stop all their efforts in the prison, including their work to feed and support the inmates’ babies. “When they threatened us, we said . . . we will not feed the children, and they will die, which is another human rights violation.”²¹ Without resources to feed the infants, the warden acquiesced to the lawyers’ demands, perhaps to avoid the shame of allowing children to die from malnourishment in prison or from exposing the overall conditions in which infants live in prison. The lawyers leveraged the threat of exposing human rights abuse in order to shame local officials in their local settings (and potentially, internationally), while at the same time building rights consciousness among impoverished and imprisoned women.

Civil society legal organizations and their staff face a number of obstacles, in addition to those similar to the warden’s demands, in the broader enterprise of promoting rights consciousness among Sudan’s most impoverished citizens. These obstacles include monitoring and questioning by government security forces; freezing of bank accounts; detention of organizations’ staff and confiscation of their computers; and arbitrary taxation and imprisonment of attorneys who work with IDPs.²² Arrestees face lengthy detentions for petty crimes, and dismal prison conditions. And there exists a widespread perception amongst lawyers and others in Sudan that judges expect government reprisal if they rule against the action of a government agency.²³

But while domestic laws operate to constrain the work of Sudanese NGOs, international law is being made relevant to the poor through the work of local

20. Interview with Waleeda, Legal Aid Advocate, in Khartoum, Sudan (Jun. 2, 2005).

21. Interview with Samira, Lawyer, *supra* note 16.

22. This list was compiled by the author, based on events mentioned to him as personal experiences by those whom he interviewed. Other examples of harassment of attorneys and human rights activists by government security forces in Sudan can be found in myriad Human Rights Watch and Amnesty International reports. *See, e.g.*, Human Rights Watch, at <http://www.hrw.org> (last visited July 15, 2006); *see also*, Amnesty International, at <http://www.amnesty.org> (last visited July 15, 2006).

23. Some judges respond to government desires more directly. In a recent example, a well-known English-language newspaper in Sudan was shut down by the government, presumably for its criticisms of the government. The newspaper sought judicial review of the government’s decision. The trial court sided with the government, although two levels of appeals reversed, and held for the newspaper. After losing the last possible court appeal, the Sudanese government set up its own special tribunal for this case only, which invalidated the prior rulings and shut down the newspaper indefinitely. *See generally New Crackdown on the Press in Sudan: Khartoum Monitor Closed*, HUMAN RIGHTS WATCH (Aug. 1, 2003), available at <http://www.hrw.org/press/2003/08/sudan080103.htm> (discussing the indefinite closure of the KHARTOUM MONITOR, fined for running an article that the court found “incited hatred” by allegedly misquoting the QURAN).

lawyers. Human rights awareness-building strategies have provided opportunities for the emergence of a generalized rights-based rhetoric and legal consciousness among impoverished women. One IDP, a single mother of two who had received human rights training in the women's prison, told me that she realized for the first time through the workshop in prison that a divorced woman has "rights to go and complain . . . if she has children, and the husband [has] not [been] helping her."²⁴

Rights consciousness has its limits, however—usually at the steps of a courthouse. When I asked a long-time women's rights activist in Sudan about how she would use human rights, she replied, "In writing, not in a court. When you are in a court, you cannot talk about human rights . . . They are deaf and mute about [human rights]."²⁵ Consistent with the findings of scholars who study discrimination in advanced democracies,²⁶ women in Sudan are also reluctant to take claims of discrimination to the courts. "Say there's a woman mistreated at work. Very rarely do they sue. They're scared of being criticized. If you go to court, it's a long process, and you have to pay in terms of time and money."²⁷

Lawyers I met cited international treaties and conventions as rationales for their work, including the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Universal Declaration of Human Rights. Many of their human rights training workshops are held in IDP camps, in part as a priori prevention for women who consider selling alcohol. The trainings educate IDPs to mobilize their rights before the police, for example, by informing women that they have the right to consult a lawyer. One lawyer said that these trainings "will also help to have an independent judiciary. If the people know and are aware, they will challenge our justice system."²⁸

Practically speaking, however, many legal aid organizations conduct human rights trainings because it is for this work that they receive funding from international aid agencies. For example, I met with an environmental NGO that conducts human rights trainings in the IDP camps. The trainings discuss in part the right to live in a healthy environment, found in both Sudanese and international laws. But these environmental rights are linked to wider human rights, which become the focus of the training workshops.²⁹

I also visited legal aid organizations run by non-lawyers, whose staffs train IDPs to file court documents and conduct basic legal services. I asked some

24. Interview with Salma, IDP, near Omdurman, Sudan (Jun. 12, 2005).

25. Interview with Habiba, Women's Rights Activist, in Khartoum North (Bah'ri), Sudan (Jun. 6, 2005).

26. See generally Kristin Bumiller, *Victims in the Shadow of the Law: A Critique of the Model of Legal Protection*, 12 SIGNS 421 (1987) (arguing that the American women of color she interviewed chose not to take their cases of discrimination to the courts in part because of a strong ethic of survival and the fear of employer reprisal).

27. Interview with Leila, Sudanese Educator, in Omdurman, Sudan (Jun. 19, 2005).

28. Interview with Nawal, Legal Aid Worker, in Khartoum, Sudan (Jun. 6, 2005).

29. Interview with Najib, Environmental-Legal Activist, in Khartoum, Sudan (Jun. 9, 2005).

activists why they work in law without a legal background. The non-lawyer director of a legal organization told me,

It is very important to have . . . legal awareness because the [Sudanese] people are . . . ignorant about their rights, even sometimes [getting arrested for] crimes that they didn't know [were crimes]. I'm not a lawyer, but I'm involved . . . legal work can be done by non-legal personnel. This is why I train paralegals . . . People should know about . . . the law.³⁰

International law—particularly the rhetoric of human rights—provides a mechanism for marginalized Sudanese persons to couch their grievances in an internationally recognizable and shared language of “universal” human rights. Framing grievances as rights-gone-wronged is a way for “women to raise their awareness . . . and work together . . . to come together.”³¹ In organizing themselves, women also galvanize sympathy and support abroad—particularly from donor agencies in North America and Europe. This mobilization of foreign support leads to increased funding by donor agencies for the rights-based work of local NGOs. It simultaneously spearheads an international shaming response that puts pressure on a domestic government to curtail human rights abuses within its territory.³² The strategies of framing and shaming are important parts of the human rights methodology used by activists to marshal external support for local causes.³³ Preliminary research suggests that human rights—with a universal and (for some) anti-subordinationist tone that is rooted in natural law—may lead women who have experienced discrimination at the hands of government actors to rebuild their faith in law itself.³⁴ While mass disruption and social protest may not be as readily available in a failed state such as Sudan as they are in advanced or even emerging democracies, institutionalized channels such as law perhaps ironically provide a safer space for collective action in a failed state.

While successful in mobilizing support, the framing and shaming strategy has, however, reoriented activist's repertoires of action. Think of the environmental group that is now obliged to focus more on law than on the environment; or the “legal” NGOs run by non-lawyers who opt for institutionalized legal tactics rather than, for example, local demonstrations. The diffusion of transnational ideas of human rights reframes specific local projects into abstractions, by invoking sweeping rights formulations. For example, precise, localized grievances such as “we do not have electricity or running water, and our children play in polluted sewers to keep cool from intense desert

30. Interview with Nawal, Legal Aid Worker, *supra* note 28.

31. Interview with Majda, Non-lawyer Legal Aid Activist, in Khartoum, Sudan (Jun. 15, 2005).

32. This kind of “boomerang effect,” of local groups networking with and enlisting foreign NGOs with similar goals to put pressure on their governments, has been identified as an integral component of transnational activism. See MARGARET E. KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* (1998).

33. Massoud, *supra* note 1, at 17.

34. *Id.*

heat,” risk becoming something akin to “our environmental rights are being violated.” In a globalized world of media sound bites and instant headlines, the latter formulation may be a more provocative or sympathetic description of the problem, because of the pervasiveness of human rights as a legitimate form of grievance-framing in political discourse. Nevertheless, the former formulation is, perhaps, more accurate—drawing attention to the specific issues needing immediate remedy.

II. PERCEPTIONS OF RIGHTS BY IDPs AND LAWYERS IN SUDAN

If I haven't seen an apple, then I won't know what it is. If I haven't seen a mango, then I won't know what it is. If I haven't seen rights, then I won't know what they are.

- Sudanese legal aid attorney³⁵ when asked to comment on how people in Sudan think about the law

When I spoke to some IDP women and the lawyers who educate IDPs about rights, I usually started on the topic of rights by asking where they felt rights came from. I hypothesized that cultural differences would play an important role in shaping the extent to which different groups of people adopted rights-based strategies to frame their grievances. Some IDPs and lawyers responded to my queries by saying that rights come from international laws, treaties, and conventions. One legal aid activist told me that “rights come from . . . the consensus of the people [which] comes from religion, tradition, different sources . . . [the] Islamic religion gives us certain rights, traditions, and customs at the local level.”³⁶ Still others said that rights come from God. Contrary to my previous findings with women's groups in America,³⁷ none of the impoverished women I met in Sudan spoke about rights as inherent to each person, by virtue of being born. That is, the natural law conception of “natural rights” that intellectually seeds international human rights treaties and general political discourse around human rights law, did not exist for the IDPs I met in Sudan.³⁸ Rather, for vulnerable populations in Sudan, rights emerged from a diverse array of sources—notably religious or community-oriented sources—but not from the individual nor from the sense of individual autonomy commonly associated with Western liberal rights and demands of rights.

But many of those I met also defined rights in a specific way that had to do more with services or economic rights—for example, the right to work, to

35. Interview with Yoosef, Sudanese Legal Aid Attorney, in Khartoum, Sudan (Jun. 13, 2005).

36. Interview with Najib, Environmental-Legal Activist, *supra* note 29.

37. Massoud, *supra* note 1, at 22.

38. For one of the earliest examples of the idea of natural rights as innate rights inherent to the individual, see JOHN LOCKE, TWO TREATISES ON GOVERNMENT 1680-90 (Ian Shapiro, ed., 2003).

adequate health care, and to an education—rather than with civil or political rights—for example, the right to vote or to be free from torture or forced servitude.³⁹ One Sudanese women’s legal services advocate who works with IDPs told me that, “In my opinion, rights means that everyone [has] basic things . . . housing, food, education, and access to health services.”⁴⁰ Her response was predicated on her work in the camps and typical of those whom I interviewed. A displaced Sudanese woman told me, “When you go and tell [the government] about [your problems], they don’t listen to you . . . How can I [have] my rights if the government has a gun . . . and has the right to demolish my house and force me to go to another place?”

There thus exists a perception amongst vulnerable persons in Sudan that the government uses force to prevent people from obtaining their rights. I spoke with a woman who runs a reproductive health clinic in the Khartoum area. She said that government security forces shut down the clinic last year:

Interviewee: They said that if we teach [people] to use condoms, we are teaching them to commit adultery.

Question from interviewer: How did they shut down the clinic?

Interviewee: Kalashnikov. They threatened our workers with Kalashnikovs. A few days later we re-opened it . . . because we know our rights. We have our right to keep it open. This government, they use force to test whether we know our rights.⁴¹

III. RIGHTS AS A PARTIAL SOLUTION

For the Sudanese I met, rights were not a guarantee—they were merely a chance: “Rights doesn’t mean one-hundred percent implementation. Once I am aware that I have the chance to do something, it’s the start of the fight . . . until we get to implementation.”⁴² Whereas Locke’s theory of natural rights and social contract would indicate that the government is the guarantor of rights for the

39. Though there are a range of explanations for the separation of human rights into parts, this fragmentation is due in part to the Cold War’s effects on international politics. Second generation (also called positive) rights enshrined in the International Covenant on Economic, Social, and Cultural Rights were linked to socialist-communist influences and were deeply separated from the first generation (also called negative) rights found in the International Covenant on Civil and Political Rights, which were supported proactively by Western liberal democracies that were in opposition to socialism and communism. See, e.g., Burns H. Weston, *Human Rights, in HUMAN RIGHTS IN THE WORLD COMMUNITY* 18-20 (Claude & Weston eds., 1992).

40. Interview with Majda, Non-lawyer Legal Aid Activist, *supra* note 31.

41. Interview with Nahda, Women’s Rights Activist, in Omdurman, Sudan (Jul. 3, 2005).

42. Interview with Habiba, Women’s Rights Activist, *supra* note 26.

people,⁴³ some of Sudan's most vulnerable persons including IDPs and the lawyers who work with them see rights as a mere chance to request from government what liberal democratic theories would argue that government ought to guarantee.

Agitating for human rights is an attempt by local activists to effect change in a failed state where political discourse is impoverished. Nevertheless, ideas of human rights must appreciate and be made relevant to local cultural symbols and meanings in order to be effective in drawing attention to and thwarting abusive practices within a society.⁴⁴ I spoke with a group of women IDPs in a small tent where they had gathered after my arrival to their camp with other UN staff, and I mentioned human rights during the conversation. I remember one of the women just nodded, and looked away. It was as if I asked her, "What do you think of Mars?"—a question not worth answering by a woman who is likely more concerned with how she will feed her family today than the existence of theoretical concepts such as Mars or human rights. While foreign donor agencies have funded rights trainings in IDP camps throughout Sudan, determining daily survival precedes the hope of learning about human rights concepts.

But one woman IDP told me at the small café that she set up in the desert to sell tea to passers by, that the new Comprehensive Peace Agreement would be the only thing to make her life better in the camps. That the violence had ended after more than two decades was enough to keep her waiting and hopeful that her plight in the IDP camp would ultimately change. She knew that peace increased the likelihood that her rights would be more secure.

Lawyers, particularly women lawyers and their colleagues, are working in Sudan to promote women's rights where they can—in prisons, in IDP camps, and in local communities. Their work facilitates a rights consciousness among the poor with the hope that women, like Nisreen, will use rights as a liberating framework that enables them to express themselves and their lives and their suffering in new ways. As these women and their lawyers show, the content of human rights evolves organically, encompassing local struggles and garnering sympathetic (and international) attention to new forms of persecution falling on particularly vulnerable populations including women, children, and IDPs. Though not without its drawbacks—particularly in its abstractions and reformulations of other types of grievances—human rights is not just a body of law for lawyers. It is also a strategy of framing and shaming by which vulnerable groups like women IDPs in a failed state can create opportunities for political discourse.

43. See LOCKE, *supra* note 38.

44. See, e.g., SALLY ENGLE MERRY, HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE (2006) (arguing in part that the paradox of human rights is that although these ideas are disruptive, they must be reframed into relevant local "vernacular" in order to take root).