

Project Masindi
Pepperdine University School of Law
Uganda, January 2010



Sunday, January 10, 2010:

Masindi is a sleepy town in Africa's bush. A gateway to notorious Northern Uganda and a traditional rest point for Western safari-goers. Despite being only three hours out of Uganda's relatively-modern capital, Kampala, little seems to have changed since the days of the early explorers. Modern comforts have little foothold: rural, subsistence living is the mainstay. One might expect to find Ernest Hemingway still roaming the streets here.

In many ways, we too were explorers. Not of the geographical-type, but explorers discovering the fringes of the rule of law. Like the untamed jungles of Africa, this is a place where traditional notions of justice and fair play often find their resolution through mob justice. It is a place where even lady justice seemingly failed to tread. Few Ugandan justices or lawyers desire to serve this region. Only the hearty

and humble accept such a post. Not surprisingly, access to justice proved no easy task for anyone, especially for children.

We traveled to Masindi in hopes of helping the government serve those in greatest need. We journeyed largely into the unknown—unsure of what to expect, not knowing whether we could actually be useful. Booking our flights took a leap of faith.

On Sunday afternoon, our team consisting of Jim Gash, Jay Milbrandt, Ray Boucher, and David Barrett (the latter two are Pepperdine Law alumni who serve on the law school's Board of Visitors) left our hotel-turned-home-base in Masindi, Uganda, and met up with John Napier at Gulu, a town deep in the bush of northern Uganda close to the Sudanese border. John, a 2009 graduate of Pepperdine Law School, serves in Kampala as a mediator for the Commercial Court Division of the Uganda High Court (equivalent to our trial level court) under the auspices of a Nootbaar Fellowship. We had previously connected with John in his spacious chambers at the courthouse on Friday after we landed in Uganda.

Gulu was ground zero for many years of war between the rebels in the bush and the Ugandan army. Rebel leader Joseph Kony and his fellow soldiers in the "Lord's Resistance Army" were notorious for destroying villages, kidnapping young boys to use in his army, and defiling the women and girls in the village. They also laid thousands of mines throughout the north. While the fighting was going on (roughly from the mid-1980s through the mid-2000s), the government created camps and herded those living in the north into the camps (known as internally displaced person (IDP) camps), ostensibly for their protection from the rebels and from the land mines). Problems compounded when new tenants claimed their land while they were gone, and many children were born and grew up in the camps. Now that war is over, they have nowhere to go and no skills for sustaining themselves.

We headed to Gulu to visit one of these camps that housed 30,000 people, but now maintains 5,000 residents. Children were everywhere – born at the camp and had never left: very little clothing, virtually no food, no schooling, and even less hope. They loved, loved, loved to have their pictures taken and then to see the photo on the display screen of the camera. The leader of the camp took us on a walking tour of the camp that lasted about an hour. The kids walked with us and jockeyed for position so that they could hold our hands. When we finished the one-mile walk (stopping several times along the way), we bought cookies and candy and tried to hand them out to the kids in an orderly fashion. This didn't work so well.



Monday, January 11, 2010:

At breakfast, our growing team met up with John Niemeyer, Uganda country director for Restore International, an American organization dedicated to restoring hope to the children of Uganda. After breakfast, all six of us headed to the courthouse to begin the work we came to do. At the courthouse, we met first with the magistrate judge. (In Uganda, there is a High Court Judge assigned to each district (think county), and within each district, there are several towns, many of which have small courthouses. In each courthouse, there is a magistrate judge, and each High Court Judge has several courthouses he/she visits on a circuit.) The week we were in Masindi was the same week that all High Court Judges were in Kampala for an annual judicial conference. Accordingly, we had no access to the High Court Judge in the Masindi District for the whole week because he (Justice Ochan) was in Kampala. Thus, the magistrate judge was in charge and had no one looking over his shoulder to make sure we had access to what we needed. Fortunately, however, when we arrived we learned that the magistrate judge received a letter the prior Friday from Principal Judge Ogoola (head of all the trial courts in Uganda) telling him that we were coming and that he should help us in whatever ways possible. Unfortunately, the letter said we would be in Masindi on *Wednesday* – two days from now. This meant, of course, that no files were ready for us to review prior to seeing the children. As a result, the only initial information we could pull together about the children's cases was their names and the crimes they were accused of committing. On our list, we had six murders, one abduction (kidnapping), three thefts, one weapon possession, nine aggravated defilements, and two simple defilements. (Defilement is their word for sex with a minor – *i.e.*, statutory rape).

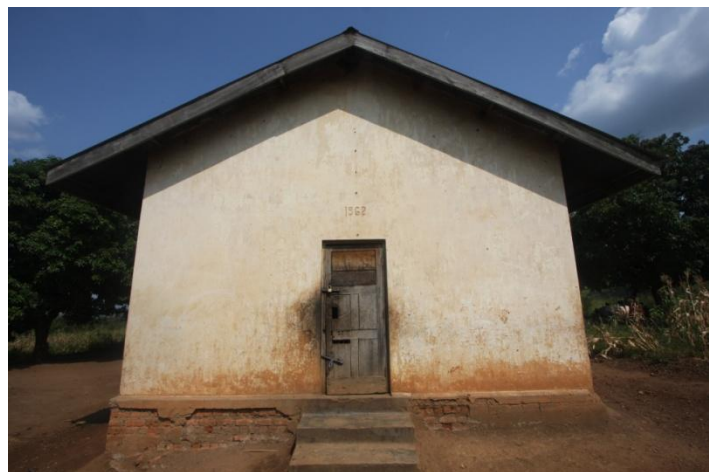
We also met the probation officer assigned to each of the children. He and the magistrate judge agreed to take us out to the children. As we walked to the car, the probation officer introduced us to, Susan, a young lady in a business suit who was introduced to us as the lawyer who would be representing the kids in court next month. We quickly arranged to buy her dinner that night.



The kids (ages 13-17) were located at what is called a “Remand Home.” After kids are arrested in Uganda, they have what is essentially an arraignment where they are charged with a crime. It can take several months before they are even charged with the crime, during which time they are held in jails with adults. After they are charged, they are sent to a Remand Home to await their hearing (trial).

We drove out of Masindi and onto a bumpy dirt road requiring an all-wheel drive vehicle. The red clay road snaked out of town, up a hill, and into the bush. Fifteen minutes later, a left hook in the road brought into sight a series of small mortar buildings. The buildings showed their years, and certainly had seen better days. The walls were weathered, with large cracks and missing chunks of plaster exposing the red bricks below. Our cursory impression told us this was no prison, but a small farm: the building resembled a farm house, barn, and stable. Two large gardens completed the picture.

Our SUV pulled under the shade of large tree. A few children and uniformed adults started to appear amongst the buildings, glancing to see the “Mzungu” visitors. David, Jim, Ray, and Jay began walking toward the buildings before us. We proceeded with a hint of trepidation despite being accompanied by a local magistrate judge and warden. The main building before us was formidable and imposing: Tall, blank, beige walls and a broad single-point roof. The windowless structure only allowed for a few iron-rod air passages near the convergence of wall and roof. The façade was simple – a large wooden door and large padlock – obviously the builder wanted to keep something from coming in or getting out. Etched above the door was the year of the building’s birth: 1962.



As we approached, we noticed a small, square opening cut into the door near the lock. This black hole showed us that there was no light in the room during mid-day. Soon, a youthful face emerged from the

darkness. The outline of his face and the whites of his eyes reflected dashes of light from outside. The probation officer approached and the door opened. We were ushered in.

Stepping through the doorway, my eyes took a moment to adjust to the change in light. Only small amounts of light filtered in through the iron rods. The room was cool and the stale air was heavy with



the smell of mold. We weren't completely prepared for what we were about to see. The boys seemed even less prepared for what they were about to see as six Mzungus wearing suits and carrying cameras walked in. Eighteen boys lined the walls and shared a dozen mats—reeds covered with a bed sheet. The walls were covered with carvings: names of current and past residents, messages, and phone numbers. Obviously many boys had come through here. The

boys sat in the front half of the room—the floor on the back half of the room was covered with water, along with the yellow water jugs ubiquitous throughout Africa and a small chalkboard. A small room near the back appeared to resemble a bathroom. We didn't see any girls at this time – they were locked in a much smaller concrete building nearby.

The magistrate judge and probation officer told the kids that we were lawyers from America and that they needed to answer the questions we asked. (This was explained in multiple languages). The judge then asked which of them spoke English. Only two of them did. Both were assigned to be the interpreters. After the introduction, we walked outside to set up for the interviews and to meet the three girls. All three young women were named Scovia.

The kids fetched some plastic chairs from a neighboring building down the road a bit and we arranged two groups of four underneath a tree. Ray and Jay were together, and David and Jim were together.



We soon discovered that our interpreters were brothers who were accused of murder and had been in the Remand Home for two years awaiting a hearing. They masked the anger, frustration, and depression that would necessarily accompany this situation; both were polite, pleasant, and very sharp. For the next two hours, we interviewed children with the help of our interpreters. Ray and Jay got through four, while David and Jim got through two fairly complicated cases.

As intelligent as our interpreters were, communication proved challenging, due in no small part to our use of American phrases and concepts. Difficulty grew as the children being interviewed spoke very softly and mostly avoided eye contact. It was clear that these kids, with the exception of our interpreters and a few of the recent arrivals, were broken, defeated, and lacking hope. They finally came to life when we took their pictures, which were to be included in the briefs we were preparing. Like the kids at the IDP camp, they loved having their pictures taken. When we show them the pictures, most kids would point to themselves and say in their native tongue: "But I am the real one." Apparently, they felt the need to clarify that the person on the camera screen was not real.



Over lunch, we learned that John Niemeyer and John Napier made progress at the police station and the courthouse secured access to a handful of the files. Accordingly, Ray and Jay remained in town to review the files and meet with witnesses while David and Jim continued the interviews of the children. When David and Jim returned, the kids seemed relieved (and a little surprised) that we actually came back.

David and Jim decided to begin by interviewing Henry, the boy who served as interpreter. We learned that Henry was accused (along with his brother and father) of beating a man to death. The man who was killed worked for Henry's father as a herdsman for two days before he stole 225,000 Shillings (equal to approximately \$115) from under Henry's parents' mattress. We learned that the beating by a mob took place near Henry's home between 8:00 a.m. and 9:00 a.m., while Henry and Joseph were in school. Later in the week, we paid for their mother to travel from another town about 30 miles away so we could interview her and let her see her kids, which she was able to do about once a month. She verified that the kids were in school, as did the school teacher with whom we also spoke. We also learned through their mother that the boys were at a special school on scholarship from the government because they were gifted. After speaking with the brothers, the four of us made it a personal mission to get these brothers out of the Remand Home and into Restore International's Restore Academy – two years locked up and out of school was far too long for anyone, especially innocent and gifted boys.



Jay, Ray, Napier, and Niemeyer made substantial progress in reviewing files and interviewing witnesses. Witnesses were called by mobile phone (the kids gave us many of the numbers), and then we paid for

their round trip ride to Masindi if they would come meet with us. The witnesses would usually show up on a boda boda (motorcycle taxi). We would then feed the witness at the hotel restaurant and interview them through an interpreter who worked for the government. The witnesses were very, very grateful that someone was trying to help their children gain release.

Tuesday, January 12, 2010:

It was another early morning. One by one our team appeared in the hotel courtyard where we were working as the sun began to rise. We ate breakfast (incidentally, all gaining weight because hotel restaurant's food was wonderful – African pineapples rival Hawaii's.) David and Jim went back to the Remand Home to resume interviews of the children, Niemeyer and Napier returned to the courthouse and police station to resume efforts at acquiring the files for each child (some were having to be driven in from other villages, and they would only be retrieved if we paid the transportation costs), and Jay and Ray resumed interviewing family members and witnesses, and reviewing the files as they arrived.

It was another heartbreaking day of interviews. One of the three girls, Natakunda Scovia, was charged with murder. As we spoke with her, we learned that she turned 17 on Christmas Day; three months earlier, her two-week old baby had died. After she got pregnant, the father left to serve in Iraq. She went to live with her alcoholic grandmother, who didn't want her there, but allowed her to stay. Shortly after the baby was born, it appeared to Scovia that the baby was sick because it kept vomiting. She asked her grandmother for some money to go to the hospital, but the grandmother told her that the baby was fine and this was normal. Shortly thereafter, while the grandmother was out drinking, the baby died. When the grandmother returned, she refused to let Scovia bury the baby on the land because of the evil spirits that would accompany such a burial, and because she didn't own the land. Not knowing what to do, Scovia wrapped the baby in a blanket, took the baby out into the bush, and left it there. A few days later, a dog was found eating the baby's corpse. The grandmother told the police that since the baby died while she was gone, Scovia must have killed the baby. That is all it takes to be arrested and charged with murder—no other facts suggest that Scovia is lying.



Another case involved a 14-year-old orphan from the Congo who moved to Uganda when he was young. A policeman found him in the streets (his parents had died) and allowed the boy to live with him because they were both members of the Lango tribe. At the barracks, the other boys living there rejected him because of his distinctive tribal look. Hopelessly discouraged, he stole a gun from the storage area to kill himself. He was arrested for possession of a firearm.

Most of the other cases we had their own tragic circumstances, but not all. One boy stole the keys to a store, opened it up at night, and stole the equivalent of \$40 and a tin of bubblegum. He bought a cell phone and some clothes, and chewed the gum with his friends. He admits to the crime. We had a heart to heart about his life of crime (first offense) and he promised never to steal anything again. Even after nearly five months in the remand home, his parents still don't know where he is – he was taken away by the police and has not seen or heard from them since. They don't own a phone.



The amount of cooperation between Ugandan government offices surprised even the Ugandans with whom we were working. The Department of Public Prosecutions provided police reports, the High Court provided court files and indictments, and the probation office worked with us to track down witnesses. Frequently, the contents of the police reports proved to be key. In many cases, the medical report completely absolved the accused, particularly with respect to defilement matters. In a few cases, the child's testimony bore little resemblance to the facts in the file or the testimony of the other witnesses. The latter left us confused, even disheartened, that the matters were not as simple as we hoped. In a country where a few hundred shillings to the right police officer can buy you a favorable report, everything is shrouded in suspicion.

One of the more memorable visits came from Sunday Okello's father. He traveled for hours to join us for the interview. We learned that he had not seen Sunday in two years, since the arrest. We took him out to the remand home and he and Sunday sat under a tree. \$25 roundtrip reunited a family.

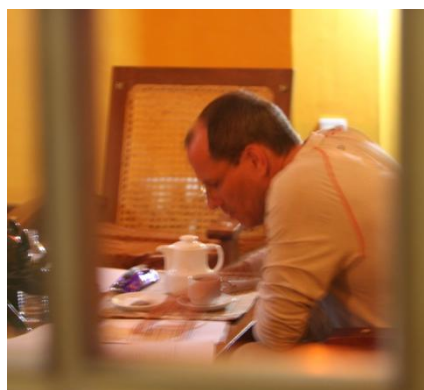
When we left that evening, four children still had to be interviewed the next day. Time was running short because we were scheduled to leave on Thursday around noon. We worked until late that night on the interview summaries, attempting to integrate the information Jay and Ray learned from the files.

Wednesday, January 13, 2010:

David and Jim finished the interviews before lunch, promising to return with everyone for a game of soccer that afternoon. At around 3:00, they were eagerly awaiting the game. We divided into shirts and skins. Unfortunately, Jim and Ray were skins. It wasn't pretty. After the soccer game, we gathered everything in a circle, held hands, and prayed together. We left each of the boys with a ClifBar and took a group photo.



That evening was frenzied as we were working as fast as we could to integrate our summary notes into a briefing template. The printer we brought from the U.S. worked overtime as we printed out drafts and made edits. We worked late, spread throughout the hotel grounds, constantly ordering soda and naan bread. When we went to bed, the plan was to finish the briefs in the morning, print out four copies, and then head out back to Kampala around noon. That ended up being overly optimistic.



Thursday, January 14, 2010:

Before daylight, we began working as fast as we could. The process formed an assembly line – as David and Jim finished briefs, they would print them out and hand them to Jay and Ray for final edits, additions from the files, and proofreading.

Our team effectively commandeered the hotel's restaurant for the next four hours—with paper and legal pads everywhere, the team spread out typing, editing, and printing until about 3:00 p.m., when the stapler bound its final summary. Despite our printer's best efforts to work against us, we made four copies of each summary -- one for the court file, one for the legal aid lawyer who will appear on behalf of the children, one for the High Court justice, and one for us. (We had originally intended to make one for the prosecutor, but decided against it at the last minute.)

We had promised the children that we would make one last visit to the remand home before we left. On our way out of town, we dropped off the copies for the court and the lawyer, and then stopped in town to buy the children some supplies. We bought pencils, notepads, a new wall calendar (to replace their 2005 calendar), four story books, a world atlas, some food, masking tape for hanging pictures, and a few other supplies.



When we arrived at around 4:00, the kids were waiting for us. We gathered everyone together and said our goodbyes. Ray showed them an example of the briefs we prepared on their behalf, Jim presented them with the gifts and supplies, and David called them up – one by one – to present them with copies of the photos we had taken—one of just them, and one of our team with each child individually (they requested this photo with us). They loved the pictures (and everything else we had brought them). The probation officer met us out there as well and wanted another picture of the full group with him.



As we were about to leave, they sang us a song – a song they all seemed to know. The first verse was in Swahili, and then the next two verses were in English. It was a simple song: “Let the Spirit of the Lord Come Down . . . Let the Angels of the Lord Come Down.” These kids certainly need just that. None of us will soon forget that moment.

At long last, we drove off. Silence held the car for the first hour. The ride back to Kampala was pretty somber for most of the way. At some point, however, we began the lifelong process of reflecting and processing what happened.

We had originally scheduled a dinner with three members of the Uganda Christian Lawyers Fellowship (UCLF) at 6:00 p.m. We had to keep calling and pushing it back. We finally caught up with them at our hotel at 8:00 p.m. Joining us for dinner were John Napier, Mike Chibita (Ugandan lawyer who is #2 at their version of the IRS and former President of the UCLF), and two Brits – Steve and Andy. These guys are heroes – doing what they can to advance the Rule of Law and Peace and Reconciliation among Ugandans.

Friday, January 15, 2010:

Friday morning, we awoke and went to meet with the U.S. Ambassador to Uganda, Jerry Lanier, and two of his colleagues at the Embassy. We briefed them on Pepperdine's activities over the past four years in Uganda, and our activities over the past four days. They were very interested in both topics and were eager for us to keep in close contact with them in the future. They also indicated a desire to receive a grant proposal from us to help cover the costs of our activities. We also had a good discussion about the upcoming Presidential elections in Uganda in February of 2011. They did not express concern for the safety of our students during the summer of 2011, but advised us to follow the events very closely. The meeting lasted about forty-five minutes.

From the Embassy, we went to the High Court building to join the annual "Law Day" ceremony. Law Day is an outdoor festival of sorts that marks the traditional start to the judicial year. The Chief Justice sits on what amounts to throne and the entire Ugandan Judiciary is in attendance. During the ceremony, there are numerous speeches, traditional tribal music and dancing, songs played by the police band, and military exercises. Due to Pepperdine's long-standing relationship with the judiciary, we were seated directly behind the judges in the VIP seating area amongst various ambassadors.

After the ceremony, we were invited to the "Sherry Reception" with the judges. On the off chance that we would have a chance to meet with Justice Ralph Ochan, we brought with us an extra copy of our 22 briefs on behalf of the children. (Justice Ochan is the judge before whom the children will be appearing in February for their cases.) At the reception, we quickly connected with Justice Geoffrey Kiryabwire (Commercial Court Judge) for whom John Napier works. Justice K (as we all call him) has been a loyal champion for Pepperdine's involvement in the Ugandan judiciary. (We met with Justice K prior to heading to Masindi and briefed him about our goals and plans). At the reception, he inquired as to how it went. We gave him a quick summary and showed him the briefs. He immediately located Justice Ochan and brought him to us. While Justice Ochan was aware and supportive of our work in Masindi, he was not aware of what type of work product we would be producing, nor had he received a report as to how things had gone. (In conjunction with the opening of the court session, all of the judges had gathered from Monday through Thursday in Entebbe (near Kampala) for their annual judicial conference, which is why we had not met with Justice Ochan while we were in Masindi).

Justice Ochan listened intently as we explained to him what we had done, and glanced through the briefs with a great deal of satisfaction. We told him that we had left a copy of the briefs for him at his court, but he wanted to have this copy also so he could review the files before he returned to Masindi.

The timing was perfect – Ray got to participate in this just before leaving for the airport to return to the United States.

Later that day, David, Jay, and Jim met with Justice K for about an hour. After meeting with Justice K about the full range of Pepperdine initiatives in Uganda, we went over to visit with Supreme Court Chief Justice Odoki, with whom we had briefly chatted at the reception, and who had invited us to stop by that afternoon. The Chief was very gracious and asked us to sign his guest book. We fully briefed him about our time in Masindi, and talked with him about Pepperdine's past and future involvement in the Ugandan judiciary. He very much liked the Pepperdine student who worked for him last summer (Nicole Hutchinson), and wanted another one this coming summer. We also revived a prior discussion he had had last summer with Dean Starr and others about visiting Pepperdine to talk with our students and faculty. We tentatively agreed that he would come out in September of 2010. Before we left, he gave David a signed copy of the book he had written about the Ugandan Constitution (which he also wrote).

From Justice Odoki's office, we went to Justice Ogoola's Office. Justice Ogoola is the Principal Judge of the High Court, which means he is the chief trial court judge in the country. We had a good chat with him about our efforts in Masindi and about Pepperdine's summer externship program. Also joining us in that meeting was the Registrar for the newly created War Crimes Court, which will begin its sessions in earnest in the coming months. We decided that it would be ideal to place one of the Pepperdine summer externs with the War Crimes Court, as well as the relatively new Anti-Corruption Court. As we were leaving, we thanked Justice Ogoola for his assistance in making the Masindi project possible (he is the one who gave the order to those in Masindi to give us everything we needed) and for his assistance in making the Pepperdine externship program a reality. His response: "No, thank you. Pepperdine is practically part of the Ugandan Judiciary now."

Finally, we met with Justice Lugayzi, who is the head of the Criminal Division of the High Court (reporting directly to Justice Ogoola). He is a big Pepperdine fan also – he has had externs the past few years and has kept in close contact with them, continuing to serve as a mentor for two of our students. Justice Lugayzi was very grateful for the work that our students have done, and said (in no uncertain terms) that the Ugandan judiciary's adoption of plea bargaining, which will dramatically reduce the population of adults waiting for trial (some more than five years), is directly due to the memorandum urging the adoption of plea bargaining written by two Pepperdine students (Greer Illingworth and Micheline Zamora). He also told us that the Pepperdine model of students working for judges has spurred the judges to propose adding year-long clerks to the Ugandan judiciary. His sense is that they would initially be looking to Pepperdine students/graduates to fill these new positions.

Saturday, January 16, 2010:

A little after noon, we said our goodbyes to Napier, and the rest of us headed to the airport – David back to the United States, and Jay and I on to Rwanda for the second leg of our African adventure.