

# MOBILE COURTS IN DEVELOPING A CHILD RESPONSIVE JUSTICE SYSTEM: WHY AND HOW?

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## OVERVIEW

In order to efficiently administer justice and foster societal order, judicial services must be accessible and respective pronouncements enforceable. For a variety of reasons, ranging from a lack of understanding, distrust of the justice system, geographical inaccessibility especially for those living in the rural areas and the absence of a robust legal aid scheme hamper access to justice and particularly impacts upon the poorest and most marginalized communities. In recent years, several state-of-the-art designs to improve access to judicial services have been adopted by the Judiciary, *inter alia*, mobile courts also referred to “circuit courts”. With mobile courts, the Judiciary reaches out to their citizens where these institutions are circumstances that make attendance inconvenient.

The concept of mobile courts in Uganda was first realized within the Magistrate’s Courts<sup>2</sup> on 15 April 2013 by the Ugandan Judiciary and the UN Refugee Agency (UNHCR) to improve access to justice for victims of crimes in Nakivale, the country’s oldest and largest refugee settlement.<sup>3</sup> At the time, it aimed at benefitting some 68,000 refugees and 35,000 Ugandan nationals in Nakivale, which is about 50 kilometers from the nearest law court in Kabingo, Isingiro by bringing justice to the door steps of the people it serves.

Specific to juvenile justice, mobile courts have been adopted and the most recent being in the month of July and August 2020, where the Criminal Division of the High Court of Uganda under the Justice Law and Order Sector-JLOS<sup>4</sup> held two juvenile criminal sessions at Naguru Remand Home to avoid exposing the minor offenders to COVID-19 infection while seeking justice.<sup>5</sup> More importantly, the exposure of the juveniles to the processes and penalties of crime will work to deter and reform them.

## WHY?

Should the place where criminal trials are commenced and tried resolve itself into a question of a physical court structure; or should the jurisdiction to try such cases be subject to definite territorial limitations? In answering these question, I explore whether there is any real basis for such restrictions?

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2 Courts established under the Magistrate’s Court Act, Cap. 16.

3 <https://news.un.org/en/story/2013/04/437332-uganda-un-launches-first-its-kind-mobile-court-initiative-refugeesettlement> last accessed on 27 July 2020.

4 JLOS is a holistic Government approach to planning and implementation of programs, whose goal is to promote the rule of law using a sector wide approach. The sector brings together 18 institutions responsible for administering justice, maintaining law and order and promoting the observance of human rights.

5 High Court Judge, His Lordship, Hon. Justice Wilson John Kwesiga conducted the first ever juvenile criminal session, to take place at Naguru remand home.

A Judge of the High court presiding over a matter can determine where and when the trial will take place.<sup>6</sup> The arrangement of the High Court circuits has no territorial limitations but is rather based on administrative convenience. However, Magistrate's courts may only conduct business outside their local limits under the authority the Chief Justice.<sup>7</sup>

After remanding a juvenile, for one reason or the other, they are often forgotten thereafter or rarely remembered after the files loose truck. When I questioned one of the Probation Officers at one of the Remand Homes on why dates are issued but juveniles not presented for hearing, she stated: "*we have one van offered by the Ministry of Gender for all the Kampala courts*". She added, "*the same van is not adequately fueled*". To the juvenile and their guardians, why let crippled systems exist just only to survive and employ?

Such concerns present an opportunity for the justice sector to transform itself into a "*child responsive*" institution by coming up with fashionable interventions geared towards child friendly justice like mobile courts, *inter alia*.

## How?

Currently criminal trials at the High Court are conducted by way of session system<sup>8</sup> for both adults and juveniles. The Head of the Criminal Division of the High Court<sup>9</sup> is of the considered view that juvenile trials should be separated from the main criminal justice and should be conducted at their respective remand homes. From known practice of the High Court of Uganda, such interventions are seldom. Though empowered, the High Court rarely exercises this power. This can be addressed by restricting High Court matters involving juveniles on remand to Remand Homes.

To operationalize mobile courts in the Magistrates Courts, the Chief Justice may issue a Practice Direction authorizing Magistrates to attend to juveniles in Remand Homes on either *ad hoc* basis or for a given period (which can be short term, medium term or long term).

In this regard, mobile courts provide the most suitable alternative. They are implemented in addition to a system of permanent courts that is either functioning or in the process of being established. This is effective in instances of shortage of judicial officers and inefficiency transport system.<sup>10</sup>

6 Section 4(1) of the Trial on Indictment Act, Cap. 23.

7 Section 7(1) of the Magistrates Court Act, Cap 16.

8 Grouping of cases by their age in the justice system or other factors to do with the nature of the offences to be tried.

9 High Court Criminal Division meeting chaired by Hon. Justice Wilson Kyesiga (Head of the Division) at the High Court building Kampala on 2 July 2020.

10 Report on evaluation of UNDP's support to mobile courts in Sierra Leone, Democratic Republic of the Congo and Somalia published May 2014, at page 24.

## CONCLUSION

No matter it's depth, the law on children's' rights utmost is a *"beauty without brains"*. Mobile courts will serve as the brains behind the beauty of the law in providing a child responsive system.