



JUSTICE LAW AND ORDER SECTOR

**FAMILY JUSTICE SUBCOMMITTEE MONITORING VISIT TO
LUWERO AND NAKASONGOLA DISTRICTS**

Prepared by the Family Justice Subcommittee taskforce of the
Access to Justice Working Group

May 2015

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Acknowledgment

The Family Justice Subcommittee (Subcommittee) acknowledges the support of Justice Law and Order Sector (JLOS) actors during the monitoring and evaluation visit to Luwero and Nakasongola districts. These include: the Chief Magistrate of Luwero and Nakasongola Chief Magistrates' Court; Magistrate Grade One, Nakasongola Court; Ministry of Gender, Labour and Social Development (MoGLSD) Probation Officer Luwero; Uganda Police Force – Regional Family and Child Protection Officer, Community Liaison Officer, Family and Child Protection Officers; and the Directorate of Public Prosecutions.

The Subcommittee thanks members of the monitoring and evaluation taskforce for their full participation. The taskforce members comprised representatives from the following JLOS institutions: the Judiciary – Deputy Registrar Family Division; Ministry of Internal Affairs -Directorate of Citizenship and Immigration Control; MoGLSD; Centre for Justice Studies and Innovations; Uganda Police Force – Head Child and Family Protection Unit; and the JLOS Secretariat.

Executive summary

The Family Justice Sub-Committee (Subcommittee) is established under the Justice, Law and Order Sector's Third Strategic Investment Plan (JLOS SIP III) as one of the three sub-committees of the Access to Justice Civil Working Group – family, civil and land justice. Membership of the Subcommittee is drawn from nominated members of the Access to Justice - Civil Justice Working Group.

The Sub-committee is mandated to provide insight and strategies on issues surrounding family justice and report to the civil justice working group for discussion, guide, and where necessary submission to the Technical Committee for decision making.

For the first time, the Subcommittee conducted a monitoring and evaluation visit to Luwero and Nakasongola Courts to follow up on Care Orders issued by the Court. This follow up monitoring and evaluation was a result of concerns raised during JLOS' joint monitoring and evaluation visits in July 2014.

The findings and observations revealed that several JLOS actors were not aware of the Children (Approved Homes) Rules, 2013; some JLOS actors had limited information on provisions pertaining to Care Orders including the duration, and review of Care Orders after every three years; there are about 25 unapproved Children's Homes operating in Luwero district; several Children's Homes register as Companies Limited by Guarantee and or as Non-Governmental Organisations hence delay in obtaining approval from MoGLSD to operate children's homes; limited information left by some JLOS predecessors for their successors; there is one Probation Officer for each district – Nakasongola and Luwero districts respectively; there was no information pertaining to reintegration of children for whom over 50 Care Orders had been issued by the Luwero Chief Magistrates Court in July 2014; courts are at risk of issuing Care Orders to unapproved Homes since there are no approved Homes; and there is a risk of several Children's Homes and individuals manipulating Care Orders as avenues for child trafficking and other actions that violate children's rights.

It is recommended that:

1. Sensitisation for JLOS institutions at the District level through the District Chain linked Committees and specifically the committee on Justice for Children on the types of Orders Court can issue for children, the duration of Orders relating to children, and the Children (Approved Home) Rules of 2013;
2. MoGLSD should handle the approval processes for the numerous unapproved Children's Homes more expeditiously;
3. An activity is created for DCCs to inspect and monitor approved Children's Homes in conjunction with district officials so that Children's Homes are not used as conduits for trafficking;
4. Further research is conducted to investigate the management of Orders (beyond Adoption) for civil justice matters relating to children;
5. Uganda Registration Services Bureau liaises with among others Non-Governmental Board and MoGLSD to ensure that if an organisation seeks to be registered as a Company Limited by Guarantee and with objectives relating to children, the approval of institutions like MoGLSD and NGO Board;
6. When officers are handing over office, there should be clearer handovers and information should be adequately presented for successors;
7. MoGLSD increases the number of Probation Officers per district;
8. Probation Officers should compile and maintain a list of approved homes and share with the Court and District Chain linked Committees;
9. Coordination, communication and cooperation should be strengthened amongst Uganda Registration Services Bureau, Non-Governmental Organisations Board and MoGLSD in order to safeguard children from suspect Children Homes;

10. Courts may consider requiring the Care Order recipients to return periodically and if possible shorten the duration of Care Orders issued; and
11. All JLOS institutions implementing activities linked to children should increase public sensitisation on the need to safeguard children – this includes advocacy to parents and families not to give up their children for unfounded reasons.

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1. Introduction

During a joint JLOS and Development Partners' monitoring and evaluation held from 30 to 31 July 2014, concerns arose from the issuance of numerous Care Orders, fifty and above, in Nakasongola and Luwero Districts for children outside of the region to one Children's Home. There were also concerns about the possibility of trafficking and other unlawful activities in relation to children. The concerns were raised with the Sector's Access to Justice, Civil Working Group which tasked the Family Justice Subcommittee to investigate the matter.

The Family Justice Subcommittee selected representatives from the Child and Family Protection Unit; Ministry of Gender, Labour and Social Development; Directorate of Citizenship and Immigration Control; Registrar, Family Division and the JLOS Secretariat to participate in the follow up visit which was held on 7 May 2015.¹

This monitoring and evaluation report presents the summary of what transpired. It indicates the overall objective of the visit; specific objectives; methodology used for gathering information; findings; and conclusion and recommendations.

2. Overall objective

The objective of the activity was to follow up on the management of Care Orders in Nakasongola and Luwero districts.

3. Specific objectives

The specific objectives of the Follow Up were:

- a) Comprehend how court manages the issuance of Care Orders and the status of Care Orders issued during the past joint monitoring visit in July 2014;
- b) Establish if the procedure for obtaining a Care Order is adhered to by Probation Officers and Uganda Police Force – CFPU; and
- c) Establish the approved Children's Homes that receive Care Orders for children.

¹ See annex 1 for list of Family Justice Subcommittee members who participated in the follow up.

4. Scope

The scope of the follow up visit was restricted to government institutions including the Court, Probation and the Child and Family Protection Unit of Uganda Police Force.

Members did not visit any Children's Home because none of the Homes in Luwero were approved to handle Children. In Nakasongola, the taskforce was unable to confirm the number of Homes operating as Children's Homes. The Probation Officer Nakasongola was unable to attend the meeting to verify if the sole Children's Home in Nakasongola was approved.

5. Methodology

The follow up visit was mainly qualitative and the methodology adopted comprised focus group discussions and in-depth interviews. The two sessions were held at Luwero Chief Magistrates' Court² and Nakasongola Chief Magistrates' Court.³

6. Findings and observations

Below are the findings and observations of what transpired. This part is categorised by the districts visited and addresses the three objectives mentioned above.

6.1. Luwero findings and observations

Below were the findings in Luwero district:

- a) Sometimes, children are received and handed to the Probation Officer who finds homes for the children. The Police reported that they know the Homes and the Probation Officer follows up the children in the respective Homes.
- b) There are 28 Children Homes operating in Luwero district however; some facilities were recently closed by personnel from MoGLSD, Community Development Officers and other district officials. The specific closed Homes were Islamic schools which were of national concern in the past weeks. There were concerns of child trafficking through the schools. The children could not

² See annex 2 for the list of participants in Luwero district.

³ See annex 3 for the list of participants in Nakasongola district.

comprehend the religion neither could they communicate where they were coming from.

- c) The Probation Officer is very busy and sends representatives for DCC meetings.
- d) The Chief Magistrate had not handled any appeals relating to Care Orders since she joined the station. There was no knowledge as to whether there were any Children's Homes in Luwero district.
- e) The Magistrate Grade 1 mentioned that she had not seen any application related to Care Orders since the year began yet, the Police Officer mentioned that she contacted the Probation Officer to handle some cases of children in need of care and protection.
- f) It was observed during the deliberations that members wanted the DCC to create an activity for monitoring of approved Homes in conjunction with district officials.
- g) The Senior Probation Officer, who arrived after the meeting had commenced, clarified to the meeting that there are 25 Children's Homes operating in the district and none of them was approved by MoGLSD. She noted that so far 3 homes had been closed and reports were being prepared so that the children are reintegrated into their communities. She reported although some Children Homes had submitted approval requests to MoGLSD, none of the Homes have been approved by MoGLSD.
- h) The Probation officer noted that some children are sent to Children's Homes without Care Orders and later the Care Orders are obtained within 48 hours. However, this could not be clarified because the Magistrate Grade I present said that she had not experienced such a situation.
- i) From January 2015 to the date of our follow up, only seven (7) Care Orders had been obtained for children in Luwero however, most Children Homes in Luwero buy land, construct and eventually come with children from other districts

including Rakai and Masaka. Some children come from Kampala as street children and are taken to the Children Homes.

- j) Luwero is faced with logistical challenges because when they prepare to take juveniles to Naguru Remand Home, they are informed that Naguru is congested.
- k) Sometimes, the Court hands down Community Service sentences to children who plead guilty because of transport issues. It was reported that Community Service for children assists in decongestion and getting children out of the formal justice system.
- l) It was reported by the Senior Probation Officer that several unapproved Children's Homes are operating as legal entities through registering as Companies Limited by guarantee and or as Non-Governmental Organisations. It was noted that sometimes the Homes register that they are going to preach the Gospel only for them to alter their company objectives – without notifying Uganda Registration Services Bureau and or the Non-Governmental Organisations Board.
- m) The Probation Officer noted that once Care orders are issued, she continuously checks on the children. The Probation Officer reported that there have not been any reviews to Care Orders. Members noted that Probation Officers need training on alternative care.
- n) Court has a register for Orders including Care Orders.
- o) JLOS actors in Luwero noted that the public is ignorant of laws relating to Care Orders and the risk involved especially in safeguarding the best interest of the children.
- p) Luwero should be included in the Justice for Children programme.

- q) All institutions within JLOS should be jointly trained in children's rights. The joint trainings will create a platform for institutions to share experiences in order to handle crime.
- r) There are cults in Luwero that live in families but with children not originally of those families. The cult has about 60 children and the children do not give information about themselves even though some are old enough to know their background. These are some of the purported Children's Homes that were recently closed in conjunction with district officials.
- s) Some JLOS actors in the district were not informed that Diversion Guidelines were being developed hence, there is need to build the capacity of JLOS officers.
- t) Need to establish early warning mechanisms for children before placing them in homes. There is high level trafficking of children and some homes are being used as conduits hence, people need to be sensitised.
- u) Probation structures are not user friendly. There is need to strengthen the Probation function.
- v) Local Councils (LCs) do not help in handling children matters as provided in the law neither do they attend DCCs. However, their participation will have to wait until after elections.
- w) It was reported by participants that despite the fact that LCs are inactive, there are sub county Orphans and Vulnerable Children (OVC) committees that articulate issues pertaining to children.
- x) The Probation Officer reported that trainings were conducted in some sub counties of Luwero by MoGLSD and now there are Para-Social Workers who assist in handling some issues relating to children.

- y) Luwero participants agreed to be cautious in dealing with directors of children's Homes so that they can safeguard children.

6.2. Nakasongola findings and observations

Below were the findings in Nakasongola district:

- a) The Magistrate Grade II reported that all Care Orders issued during her time at the Court were all for the maximum period of three years regardless of the child's age. The Magistrate noted that she requested the Children's Home to provide photographs for the children's files. Each Care Order was issued in the name of each child.
- b) The Nakasongola Court Magistrate Grade II specifically issued 40 Care Orders for children to Kawundwe Children's Home. The Magistrate Grade II reported that the Home had never obtained Care Orders for the children (all for three years) hence, they were formalising the children's stay. The Magistrate Grade II noted that she visited the home and found the couple (Home owners) to be kind and caring and issued the 40 Care Orders in two batches. The Magistrate Grade II was reported that the Home was not tasked to reintegrate the children before issuing the Orders.
- c) From July 2014 to the date of the monitoring and evaluation, a total of 56 Care Orders had been issued: 31 orders were issued from July 2014 to December 2014; and 25 Orders issued from January 2015 to 7 May 2015.
- d) The Magistrate Grade II noted that through the DCCs she will encourage the Kawundwe Children's Home to try and reintegrate the children.
- e) The Magistrate Grade II reported that there is only one Children's Home in Nakasongola district. The Probation Officer for Nakasongola was unable to attend and confirm the exact number of Homes (In Luwero Probation Officer clarified on the number of Homes).

- f) There is no remand home in Nakasongola and there are several financial challenges in sending the capital offenders to Naguru Remand Home.
- g) There is only one Probation Officer for the entire district.
- h) Nakasongola participants were not informed of the Approved Children's Rules and were not aware of the MoGLSD's deinstitutionalisation policy for children which promotes reintegration.
- i) There has not been deliberate effort to follow up children after three years (when the Care Orders lapse) yet the law requires that reviews are made after three years.
- j) There is limited sensitisation of communities on children's rights and particularly relating to Orders courts can make for children other than in criminal cases.
- k) There was no knowledge of the draft Diversion Guidelines
- l) Courts had not realised that there is need to be careful in the issuance of care orders because there are some ill intending people who obtain Care Orders for sinister reasons.
- m) There was acknowledgment of the need to establish a committee on children to follow up Care Orders, participate in radio awareness programmes in conjunction with UPF which has free airtime.

7. Recommendations

The following is recommended:

1. Sensitisation for JLOS institutions at the District level through the District Chain linked Committees and specifically the committee on Justice for Children on the types of Orders Court can issue for children, the duration of Orders relating to children, and the Children (Approved Home) Rules of 2013;
2. MoGLSD should handle the approval processes for the numerous unapproved Children's Homes more expeditiously;
3. An activity is created for DCCs to inspect and monitor approved Children's Homes in conjunction with district officials so that Children's Homes are not used as conduits for trafficking.
4. Further research is conducted to investigate the management of Orders (beyond Adoption) for civil justice matters relating to children.
5. Uganda Registration Services Bureau liaises with among others Non-Governmental Board and MoGLSD to ensure that if an organisation seeks to be registered as a Company Limited by Guarantee and with objectives relating to children, the approval of institutions like MoGLSD and NGO Board;
6. When officers are handing over office, there should be clearer handovers and information should be adequately presented for successors;
7. MoGLSD increases the number of Probation Officers per district;
8. Probation Officers should compile and maintain a list of approved homes and share with the Court and District Chain linked Committees.
9. Coordination, communication and cooperation should be strengthened amongst Uganda Registration Services Bureau, Non-Governmental Organisations Board and MoGLSD in order to safeguard children from suspect Children Homes.

10. Courts may consider requiring the Care Order recipients to return periodically and if possible shorten the duration of Care Orders issued; and
11. All JLOS institutions implementing activities linked to children should increase public sensitisation on the need to safeguard children – this includes advocacy to parents and families not to give up their children for unfounded reasons.

8. Conclusion

Luwero and Nakasongola Chief Magistrates' Courts are contributing to ensuring access to justice for societies especially children. Nevertheless, during the monitoring visit conducted on 7 May 2015, it was established that there are concerns pertaining to the management of Care Orders issued for children in the abovementioned. The challenges and gaps have been presented in this report and recommendations have been made to address the existing challenges in the dispensation of child justice. This report will serve as a guide to identifying areas of child justice that the sector could offer special attention.

Annexures

ANNEX 1: LIST OF FAMILY JUSTICE SUBCOMMITTEE PARTICIPANTS

- I. H/W Muse Musimbi, Deputy Registrar Family Division;
- II. Ms Grace Katusiime, MoGLSD;
- III. Ms Christine Alalo, CFPU;
- IV. Ms Rosemary Tutegyerize, Directorate of Citizenship and Immigration Control;
- V. Ms Sylvia Namubiru Mukasa, Centre for Justice Studies and Innovations; and
- VI. Ms Kitui Barbara, JLOS Secretariat.

ANNEX 2: LIST OF LUWERO PARTICIPANTS

- I. H/W Mary Babirye, Chief Magistrate Luwero;
- II. H/W Muse Musimbi, Deputy Registrar Family Division;
- III. Ms Daisy Nabujitu, Directorate of Public Prosecution (DPP);
- IV. Ms Grace Katusiime, MoGLSD;
- V. Ms Christine Alalo, CFPU;
- VI. Mr Patrick Karamure, Community Liaison Officer;
- VII. H/W Kyomugisha Evelyn, Magistrate G I;
- VIII. AIP Nyamutale, Child and Family Protection Unit;
- IX. Ms Rosemary Tutegyerize, Directorate of Citizenship and Immigration Control;
- X. Ms Sylvia Namubiru Mukasa, Centre for Justice Studies and Innovations;
- XI. Ms Joyce Namigadde, Probation Officer;
- XII. ASP Elizabeth, Uganda Police Force; and
- XIII. Ms Kitui Barbara, JLOS Secretariat.

ANNEX 3: LIST OF NAKASONGOLA PARTICIPANTS

- VII. H/W Kamukama Fortunate, Magistrate Grade II
- VIII. H/W Muse Musimbi, Deputy Registrar Family Division;
- IX. Mr Albert Asiimwe, DPP;
- X. Ms Laker Gladys, CFPU;
- XI. Ms Grace Katusiime, MoGLSD;
- XII. Ms Christine Alalo, CFPU;
- XIII. Ms Rosemary Tutegyerize, Directorate of Citizenship and Immigration Control;
- XIV. Ms Sylvia Namubiru Mukasa, Centre for Justice Studies and Innovations; and
- XV. Ms Kitui Barbara, JLOS Secretariat.

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