

# *From Uganda*

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## **DEVELOPING A UGANDAN VICTIM-OFFENDER MEDIATION MODEL**

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**by Marian Liebmann**

The impetus for this project came from Save the Children (UK) in Uganda, which was concerned that the Children Statute 1996, a radical and promising piece of legislation, was not being put into practice because it was little known and poorly understood. There was little awareness of victims or the philosophy of restorative justice. They thought that training community leaders and Local Council (Village) courts in victim-offender mediation skills could help. They approached Grace Kiconco Sirrah - who had organised my previous training visit to Uganda in 1999 - to write a manual which could be piloted in a three-week training project. This project took place in August 2002, and my participation was made possible by support from Quaker Peace and Social Witness.

### **The Children Statute 1996**

The Children Statute 1996 is a radical piece of legislation. It states:

Where a case has been proved against a child (aged 12-17 in Uganda), the following orders may be made by the Village Court:

#### **i Reconciliation**

This is where a peaceful settlement of the case is encouraged and may include advising the child to ask for pardon from the person reporting him/ her.

#### **ii Compensation**

This is where a child is ordered to give a suitable payment for the loss, damage he/she has caused to somebody else.

#### **iii Restitution**

This is where a child is ordered to replace or return something lost or stolen to its owner and may include payment for any damage.

#### **iv Apology**

This is where a child is ordered to make a statement expressing that he/she is sorry for having done something wrong or for causing pain and trouble.

#### **v Caution**

This is where a child is warned not to repeat the wrong he/she has done with a threat of future punishment if repeated.

#### **vi Guidance Order**

The Village Court will appoint a person who will be responsible for guiding, advising, assisting and supervising the child for a set period of not more than six months.

(Republic of Uganda, Ministry of Gender and Community Development, *The Children Statute 1996, The simplified version: English*. Kampala: Ministry of Gender and Community Development 1997 pp51-52).

These are all restorative options.

#### **The project**

The aim of the three-week workshop in August 2002 was to develop a model which could be viable for spreading the skills in Uganda. It would be expensive and impractical to ask me to train everyone; and even Grace, based in Uganda, could not undertake this. So training more trainers was vital.

##### *Week 1*

Training in victim-offender mediation skills for Save the Children's three local groups (Masaka, Hoima, Gulu), co-facilitated by Grace and myself. Many of this group were already mediating in their community, in their capacities as Probation and Social Welfare Officers, leaders of community based organisations, Save the Children workers - so the course was to give them extra skills rather than to bring a new concept to them. Masaka was chosen for the project as a place suffering from high crime rates, general deprivation - slump in coffee prices, large number of Rwandan refugees, big HIV/AIDS problem - and increasing numbers of street children. Gulu is an area where there is repeated unrest with incursions from the Lord's Resistance Army, abducting children and adults - as well as

workers from Gulu who were grateful for respite from this and for a few nights of sleep undisturbed by sounds of shooting.

### *Week 2*

Training the group from Masaka to train others in victim-offender mediation skills.

### *Week 3*

Helping the team from Masaka to deliver the course to a local group of Local Council members (Village Courts) and other community leaders.

The language for the first two weeks was English; this is the official language of Uganda as there are over 50 local languages. The manual therefore had to be in English, at least in the first instance. The language for the third week was the local language, Luganda.

### **Preparation**

The course was residential for Weeks 1 and 2 and for the Masaka training team in Week 3, so that they could concentrate on the course without interference from local duties. Even so, several members of the course had to disappear on some days to attend to domestic crises. Because of this, mobile phones were a problem in the group from time to time.

An important part of the project was to pilot the training manual Grace had written. She had used material from the previous course I had run, together with material on victim-offender conferencing, some exercises from Alternatives to Violence Project and some of her own material. We made amendments and wrote new material at every stage of the project, and also gathered material for a 'Training the Trainers' manual.

One of the things we worked on was the community orientation of the course. We developed a model which drew on mediation and conferencing practice elsewhere, involving families and community. We decided to adopt the mediation model (because it was more flexible than the scripted conferencing model) and expand it to include more people.

We used a fairly standard mediation process:

1. Opening
2. Uninterrupted time
3. Exchange
4. Building an agreement
5. Making an agreement (written or verbal, as appropriate)
6. Closing
7. Mediators' evaluation

We also included some work on indirect mediation and on preparation for a face-to-face meeting. We programmed in discussions after each stage of the mediation process, to ensure that we adapted it to local community values and practice. Grace asked me to lead on victim-offender mediation while she led discussions on relevance to local culture and practice.

In view of the large numbers we expected to be involved in mediation sessions, we decided to use a co-mediation model - namely two co-mediators. This provided an opportunity for increased learning through the discussion needed and opportunities to take on apprentice mediators.

We worked out a set of objectives for the project:

1. To introduce the concepts of mediation and restorative justice
2. To share experience of juvenile justice processes
3. To look at the potential for integrating mediation and restorative justice into existing Local Council processes
4. To acquire beginner skills in victim-offender mediation
5. To lay the groundwork for practical implementation
6. To pilot the Training Manual

### **Week 1**

There were 21 participants, 16 men and 5 women, from the three Save the Children areas, engaged in a variety of work, as described above. We started by asking them where mediation was already being practised. They gave us several examples:

- Police diverting cases from court via informal resolution.
- Magistrates using community service instead of prison, if everyone was agreeable.
- Local clan chiefs mediating between victim and offender.

- Probation and Social Welfare Officers sorting out family disputes.
- Save the Children Juvenile Justice Programme mediating in cases where children's rights were being ignored, as in the following case:

A child stole two sugar canes. The clan imposed five penalties: pay some money, weed the garden where the sugar cane grew, receive a beating, and two more. The Save the Children Juvenile Justice Programme intervened and persuaded the clan to look at why the child offended, how to help him realise it was wrong and how to prevent it happening again. After this the clan decided that an apology was enough.

We did exercises on mediation skills which involved listening, communication and co-operation. We then presented each stage of mediation, followed by a role play. For role plays we gave some guidance about the kind of case ensuring that we covered a wide range but left the details for the group to work out. Each role play included an observer, to maximise learning and to help keep time. As we worked through the stages of mediation, we could not practise them in isolation, so we allowed longer time for role plays as the course progressed. We provided a debriefing process so that role play groups could de-role and reflect on what had gone well and skills that still needed attention. Each role play was followed by a feedback and discussion session in which comparisons were made with local circumstances and processes.

The course finished with a session on the way forward, action planning and goal setting. For this session people worked in their local groups - Masaka, Hoima and Gulu. They were asked to contribute any changes to the Training Manual and write down any questions still remaining. We gathered in their suggested changes and had a session exploring their questions.

Then local teams were asked to consider how victim/offender mediation skills might be applied in their district. Goals were set by the large group and then local teams worked on plans for their next steps - including details of when and by whom. The plans were ambitious and involved all the groups in delivering at least one course in their community before the end of 2002.

The course finished early on Saturday morning, to allow the Gulu and Hoima groups time to travel back in the light - with the renewed trouble in the north, they were nervous about travelling in the dark. In general it was agreed that the course should not run on weekends in future, because of people's family commitments.

## **Week 2**

Again, we had a double task: to train the Masaka group to facilitate a course the following week, and to develop material for a manual that other groups could use. We developed a set of objectives to reflect this:

Objectives for Week 2:

1. Look at what being a trainer means
2. Prepare people to deliver mediation training next week
3. Look at training methods
4. Amend the course agenda from previous week's experience for Week 3
5. Share material for a Training for Trainers Manual
6. Practise delivering some training
7. Clarify any concepts not clear

We divided the week as follows:

Day 1: Looking at the skills needed to be a good trainer/ facilitator

Day 2: Practice in facilitating exercises in two teams.

Day 3: Practice in facilitating role plays in two teams.

Day 4: Preparation for following week and allocation of tasks

Day 5: Detailed preparation for the first two days of the next week

There were eight people in the Masaka group, so it was a complex task to ensure that everyone received an equal share of facilitating exercises and role plays.

## **Language**

The group decided to facilitate the course in Week 3 in the local language (Luganda), but to keep the handouts and flipcharts in English, as the Training Manual would have to be in English to be accessible to trainers all over Uganda. Most of the group members were used to doing their professional work in English, and there was considerable debate about the right words in Luganda for 'restorative

justice’, ‘mediation’ and so on. We found that the important terms in Luganda took much longer to write out. For instance, ‘role play’ translated as ‘okwesa mukifanannyi ky’omuntu omulala nga oli mumuzannyo’ which literally means ‘someone who is pretending and is in a play’. I wondered if this would mean allowing more time for the whole course, but we managed it within the same time.

### **Week 3**

Over the weekend, two of the most experienced people dropped out because they had been offered more lucrative work supervising the forthcoming census, and a third decided to do both, coming and going throughout the week. The leader was very disappointed as he had explained the choices and responsibilities to everyone beforehand. Our team was down to four steady members, two of whom were quite young and inexperienced. In fact they did well, and one of the lessons we drew from this was that it may be easier for younger, less experienced people with potential to give the commitment needed. Experienced people have many demands on them in Uganda, and also need to take up any possibility of earning money that presents itself.

My role during this week was mainly one of coaching and taking notes, giving feedback at the end of the day and organising the planning. I facilitated a few exercises too. Our feedback and planning system worked well, though team members were pretty exhausted at the end of each day, and it was hard for them to focus on the feedback and de-briefing. As the week progressed, I did less facilitating, especially as the role plays were in Luganda. The teamwork was excellent, with few hitches, late lunches being one of the main difficulties. Grace acted as observer, putting the finishing touches to the Training Manual as we went through the week. The fine-tuning included such things as adjusting words in handouts and replacing ‘springboard’, which is unknown in Uganda, with ‘basis’.

### **Role plays**

This is a small selection of the scenarios and the role play outcomes which were developed by the groups over the three weeks. Here is a typical one, based on a real case:

A boy’s grandmother had a radio which she used for listening to the news and to announcements, otherwise locking it away

to save the batteries. The boy stole a neighbour's radio to listen to music and the neighbour called the police. Mediators were asked to intervene. After discussion, the neighbour relented and the boy returned the radio. There was also discussion involving the grandmother, and the boy undertook to raise some money for batteries, so that both could listen to her radio.

Often forgiveness featured prominently, especially in cases involving poor people:

A 15 year old boy (Kyakuwa) damaged the windscreen of a car belonging to Byakutaga. In one role play group, the boy asked his father to pay the cost and as they were poor, agreed to try and get some work on a farm so that he could contribute. In another group Byakutaga saw that the offender's family was poor and asked him to wash his car every day for one month instead. In the third group Byakutaga realised the boy and his family were too poor to pay, and was happy to accept an apology and to forgive him.

One of the local group's concerns was the growing number of street children in Masaka, so we used this in one of the role plays:

A boy of 12, Kato, ran away from home to live on the street. He stole a shirt from the local market. The mediation session included Kato, the stall-holder Mr Kyu, the offender's father Muzira, and a member of the Local Council - as well as the two mediators. After much discussion, Muzira agreed to sell two cocks to pay for the shirt, and asked his son to come home with him. Kato agreed and also promised to return to school.

The last role play on the final morning was designed to be more complex and challenging. The group developed the following scenario:

Two boys aged 17 took a car, picked up two friends and then the driver lost control of the car, crashing into a small shop - causing damage to both shop and car. The two passengers were also injured.

Thus there were two straightforward victims who comprised a car owner and shop owner, one clear offender, a driver, and two young



people who were passengers who were victims but also partly offenders. The two role play groups included all of these, and in real life would also have included the young people's parents. The role play took all morning and included separate meetings with several parties, and devices such as mobile phone calls to some of the parents to achieve an agreement within the time available! The agreement reached by one of the groups was:

Initially the car owner thought his car was damaged beyond repair. But as the mediation proceeded he mellowed and accepted an offer from the driver's father to pay for the damage. The young man himself agreed to wash the car every day for two weeks after it was mended. His friend undertook to mend the damage to the shop wall, and the shop owner forgave them the cost of the crates of drinks that had been smashed. The two young people who were injured agreed that they were partly responsible, having accepted the lift in the first place. One of them came from a family with more money, who offered to help with the other's medical expenses. The one with less money offered to help in the shop for a time to make up for the damage.

In the feedback from the role play, we noted the danger in complex scenarios of focusing on the details of tangible reparation and forgetting the important emotional aspects of healing.

## **Cultural aspects**

### **Evaluation**

Our first adjustment came in the evaluation process we used at the end of each day. Ugandan society is very polite and participants were reluctant to voice any criticisms. For this project, it was vital to obtain honest feedback, so we abandoned verbal feedback for a system of written feedback which included things liked and disliked, and good ideas for improving the training.

### **Greetings and prayers**

The group let us know that the mediation process needed an extra stage at the beginning: greetings and prayers. Most people in Uganda are Christians, about half being Catholic and half Protestant, but there

are also quite a few Muslims; so public prayers are always carefully worded to be inclusive.

### **Role of local officials**

Role plays brought out a concern about the role of the Local Council member, who in one of the groups had forced his way into the conversation in an authoritarian way. Participants agreed that it was necessary to talk to the Local Council member first and agree roles and procedures before the mediation meeting.

### **Exercises and skills which proved difficult**

Most of the exercises we used were readily understood and proved useful and enjoyable - except for two: 'I and you' statements; and re-framing in mediation. Although we worked hard on different ways of presenting these exercises over the next two weeks, there was little progress. We concluded that these language-based exercises and techniques did not make sense culturally, so it would be better to talk about the need to 'clean up' language so that people could hear each others' concerns, and leave it to local groups to find the best way of doing this. The team also replaced the 'I and you' statements exercise with one on 'looking for the positive', in which participants were given some negative descriptions of certain animals and were asked to come up with positive qualities - an activity they found quite easy and also relevant.

### **Seating arrangements**

We asked group members to draw seating arrangements they had used. They produced 10 different ones! Most of these involved large numbers of the community - in circles, groups or lines - to emphasise the communal nature of dispute resolution and decision making. Some were full participants in the process, some were observers, most were able to add information if they felt it was relevant. Some used tables and/or benches, others assumed everyone would be seated on the ground. In many of them, women sat on one side and men on the other - sometimes only the men took part in the discussion. Some arrangements involved men sitting on chairs while women were seated on the ground - this power difference was debated at length.

## **Corruption**

Dealing with corruption was a real concern. Should mediators continue with a mediation if the Local Council member attending turned out to be ‘injected’, which was their local expression for ‘bribed’? Most people thought that mediators should call off a mediation meeting if they discovered corruption, and talk to Local Council members before arranging the next one. A few thought it was acceptable to go ahead but raise the issue at the beginning of the mediation session. They thought mediators would be safe from corruption because their role did not include making decisions.

## **Young people’s roles**

In several of the role plays the young offender said very little, leaving their parents to do the talking, and mediators accepted this. In Ugandan culture young offenders are expected to be quiet and show their sense of shame by hanging their head in the presence of others. Participants said that it was the family’s duty and responsibility to put things right if their children did wrong. However, this does not fit in with the fact that, in Ugandan law, which was inherited from British law, the age of criminal responsibility is 12, and children aged 12-17 are expected to take responsibility for their actions. After this discussion, participants tried to do more to engage the young offenders in the mediation session.

## **Gender roles**

We also discussed how to handle situations in which girls and women said very little, which was in line with customary cultural expectations - though things are changing in Uganda. This discussion was also relevant to the way co-mediators worked together - often the man would simply take charge.

## **Working towards the future**

It became clear that some kind of victim-offender mediation service would be needed to develop the practice of mediation, and the training team looked at how this might work, using existing organisations rather than setting up new ones.

Plans were drawn up for spreading the skills to the other Save the Children teams. A month later, Grace and some of the new trainers travelled to Hoima to repeat the process with the group of trained

mediators there - a week to 'train the trainers' followed by a week in which they trained local people. And I have since had news of two of the Masaka team continuing to run more courses there.

Although there are still problems raising enough money to run these courses, the skills are there, and can be passed on in culturally appropriate ways to each community. And the hope is that this will contribute to the more widespread use of Uganda's restorative legislation for young people.

### **Further reading**

Penal Reform International (2001) *Access to justice in sub-Saharan Africa*. London: PRI.

Republic of Uganda, Ministry of Gender and Community Development (1997) *The Children Statute 1996*,  
*The simplified version: English*. Kampala: Ministry of Gender and Community Development

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