

By James Gash



Justice for All: Study Abroad Leads to Legal Reform in Uganda

IN JULY 2010 I WAS IN UGANDA FOR THE THIRD TIME. I'd spent the evening watching the 2010 World Cup final match projected on a bedsheet taped to the outer wall of a hotel courtyard in Gulu—where just a few years earlier, international war criminal Joseph Kony had tortured and maimed thousands. My companions for the evening had been two teenage brothers I'd met six months earlier in a juvenile prison, where they'd been languishing for nearly two years waiting to be put on trial for murder.

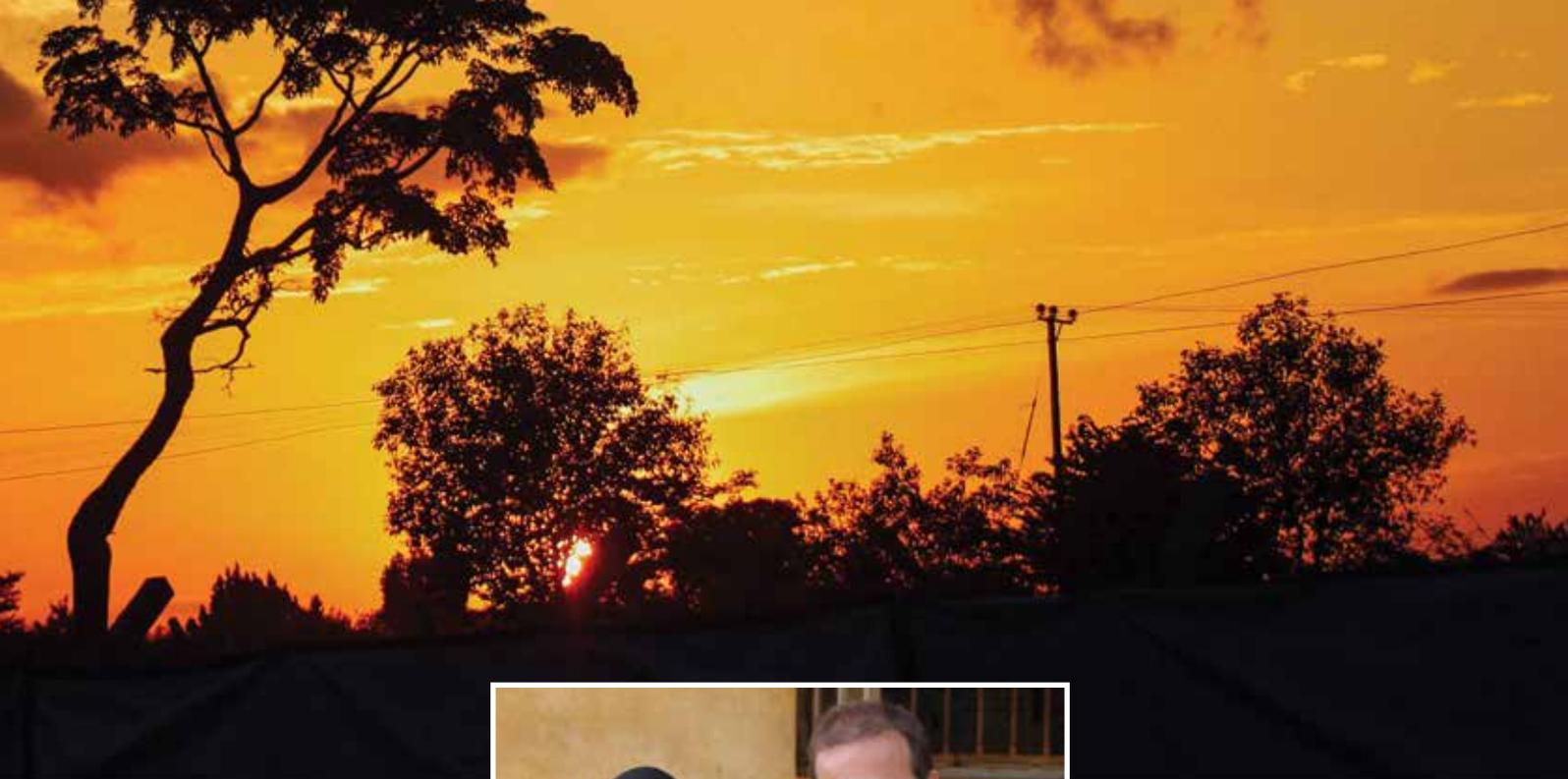
The journey I took to get here was unexpected to say the least, and it changed my life, and my students' lives, in ways we never imagined.

Three years earlier, two students wandered into my office at Pepperdine Law School with an idea and a request. They cochaired Pepperdine Law's student chapter of International Justice Mission (IJM), and had arranged a Justice Week at the law school in an effort to raise awareness of injustice in the developing world. One of the keynote speakers that week was Bob Goff, president of Restore International. At the end of Bob's talk, he invited the two hundred in attendance to travel with him to East Africa the next month for a judicial conference he was hosting in Uganda.

"Can we go with Bob, Dean Gash?" At that time, I was quite skeptical about what sort of impact law students could have on the justice system of a developing country. Nevertheless, after discussing this with my boss, Dean Kenneth Starr, I approved the trip.

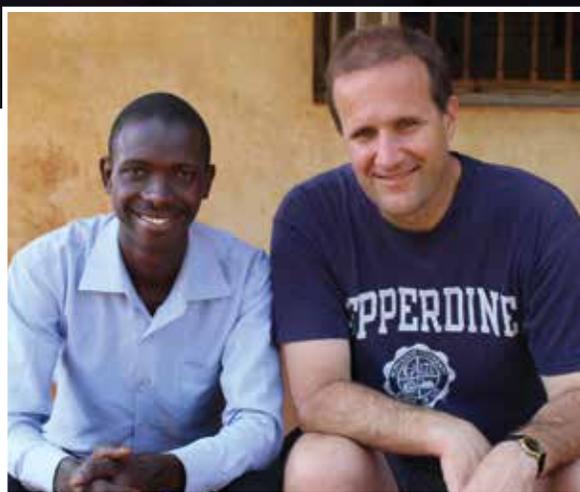
These students returned with wide eyes and wild ideas about how they and their classmates could assist Ugandan judges with legal research and judgment writing. That summer, we sent four students for eight weeks to serve as interns. The following summer, we sent 10. In the summer of 2009, we sent another 10—and Dean Starr, who came back with a Memorandum of Understanding between Pepperdine and the Ugandan judiciary, formalizing the relationship between our two institutions. In that document, Pepperdine agreed to appoint a series of one-year fellows who would be embedded within the judiciary, the first of whom was John Napier.

One of our students who had himself traveled to Uganda as a student convinced Dean Starr to formally create a Global Justice Program and to appoint him director upon his graduation. For the better part of a year, he'd been pestering me to join him on a trip to Uganda. "As the dean of students, you should travel to see what they're doing and meet the judges they're working with."



Eventually, I succumbed to these entreaties and found myself joining him and two other Pepperdine law graduates to meet up with Napier at a juvenile prison called Ihungu in Masindi—a small town three hours from the capital. There were 21 juvenile prisoners at Ihungu “on remand,” which meant they’d been arrested and charged with a crime, but hadn’t been given a lawyer and hadn’t been taken to court. Some of them had been on remand for nearly two years. Our plan was to spend a week preparing the cases for trial and then to hand them off to Ugandan lawyers paid for by Bob Goff’s Restore International.

When we arrived at Ihungu, we realized that even though Uganda’s official language was English, it wasn’t spoken widely in rural areas. In fact, only two of the prisoners spoke English—brothers Henry and Joseph—who’d been charged with murder in conjunction with a mob killing of a local herdsman even though undisputed evidence proved that both Henry and Joseph had been in school when the mob killed the herdsman. I soon learned from Henry that during his 18 months at Ihungu, he’d risen to the level of “prime minister” in the internal prison government. In this capacity as leader of the prisoners, he’d been charged with a second murder in con-



James Gash, law professor at Pepperdine University and director of its Global Justice Program, with Henry, the young man he met in Uganda as an inmate. Gash served as Henry’s attorney in Uganda; Henry was exonerated of all charges.

junction with the death of a prisoner who died in the course of an attempted escape.

Because Henry was the prime minister, Ihungu’s warden permitted him to keep a cell phone so the warden could check on the prisoners when he was away. Before I left, Henry asked me for my cell number. I confess that I hesitated much longer than I should have, as I faced the question of whether I was simply a short-term, do-gooder “voluntourist” or someone willing to personally invest in the plight of these desperate teenagers. Eventually, I gave him my number and wrote down his. I was in this for the long haul.

When I landed back in the United States, I had a voice message from Henry. A smile exploded onto my face as the message played: “Hello, this is Henry. I hope you had a safe journey. Thank you for coming. Goodbye.”

Over the next few months, Henry and I spoke at least once a week as most of the prisoners were brought to court and then released back to their families, having either been found innocent or sentenced to terms shorter than they’d already served. The original case against Henry and Joseph was dismissed for lack of evidence. While Joseph was released, Henry wasn’t because he still faced the second murder charge alongside the matron who ruled Ihungu with

an iron fist when the warden wasn’t around.

When that case went to trial, only one lawyer was appointed to represent both Henry and the matron. Henry wasn’t allowed to testify and none of the other prisoners were called to the stand. Instead, the lawyer had the matron testify and blame Henry because juveniles faced lighter prison sentences than adults if found guilty. Soon thereafter, both were convicted of murder.

The next day, I boarded the first plane back to Uganda and spent three days with Henry preparing a presentence report, explaining why he should be allowed to resume school while the conviction was appealed. Soon thereafter, my request was granted and Henry was released into the care of Bob Goff’s Restore Leadership Academy in Gulu while I worked on the appeal.

During this second trip to Uganda, I had been summoned to meet with a Uganda High Court judge. He explained to me that two Pepperdine legal interns had written a memorandum for him the prior summer urging Uganda to adopt a system of plea bargaining, which would dramatically reduce the time prisoners spent on remand waiting for their day in court. By the end of the conversation, we had agreed that he and five of his fellow judges would travel to Pepperdine the next month to study whether the students' recommendation should be adopted.

During this seven-day study tour in Los Angeles, the judges resolved to move forward with designing and implementing a plea bargaining system and asked me to move to Uganda to assist in their efforts. I agreed to think about it, but didn't commit to anything other than returning the following month with one of my Pepperdine colleagues to prepare cases for resolution at another juvenile prison in Kampala during the time our student interns were in Uganda.

A few months later, I hosted a second delegation of Ugandan judges, which included the chief justice of Uganda, for another study tour of the U.S. criminal justice system. During that trip, I cornered the chief justice and asked

him an important question: "Under Uganda's constitution, you have the power to authorize a foreign lawyer to appear in Uganda courts on behalf of criminal defendant. May I have your permission to argue an appeal on behalf of a juvenile convicted of murder?"

He pondered this strange request, then asked: "Does he want you to represent him?"

"He does," I said, and then held my breath.

"Why not! You will be the first American ever to appear in our courts," he mused.

Fifteen months later, my family and I relocated to Uganda for six months so I could assist the judiciary in designing and implementing plea bargaining. While we were there, Henry was admitted to the top secondary school in the country as he worked toward his dream of becoming a doctor. By the end of our six-month stay, two pilot programs successfully utilized the new system in separate juvenile prisons, including at Ihungu, where I'd met Henry two years earlier. Henry insisted on accompanying me back to Ihungu so he could sit with the prisoners and encourage them to pursue their dreams after they were released.

In March 2013 three Ugandan judges donning black robes and white wigs filed into the courtroom. All eyes turned toward me—the lone Caucasian sitting among the Ugandan

lawyers waiting for their cases to be called. I had picked up Henry from school that morning and he sat a few rows behind me. When his case was called, he was led to the "prisoner dock" as I moved to the podium to present his appeal. For 30 minutes, I confidently explained to the court that Henry had been denied due process of law and urged the court to dismiss all charges against him because he was innocent. While we were relieved to have the hearing behind us, Henry and I had to endure more than two years of uncertainty as we waited for the court's ruling.

On June, 19, 2015, it finally arrived: Henry was exonerated of all charges. The case was over, and Henry was finally fully free—more than seven years after he was arrested.

It's now been six years since Henry and I met, and we've talked every week since then. I've been back to Uganda 17 times and still work very closely with the Ugandan judiciary. In October 2015, Pepperdine and Uganda signed a new Memorandum of Understanding in Malibu, expanding the scope of our relationship. Uganda has now fully implemented plea bargaining in all juvenile and adult prisons, and is working to streamline other aspects of its justice system.

I'm scheduled to become a Ugandan citizen early next year, shortly after Henry visits the United States for the first time between semesters of his second year of medical school. Henry and I will be traveling around the country to speak about the book we wrote together. The book is aptly titled *Divine Collision*, and tells the story about how our improbable meeting dramatically changed both of our lives. Henry and I will also be appearing at screenings of a documentary called *Remand* that tells the story of how the passionate efforts of a few Pepperdine students to make an impact on injustice in the developing world . . . did precisely that. **IE**

JAMES GASH is director of the Global Justice Program and professor of law at Pepperdine University. The Global Justice Program partners with a global network of foreign judicial systems, human rights agencies, development organizations, and international universities, which is described in more detail in the cover story (on page 20) of this issue.



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