

12. NGO involvement in the Juba peace talks: the role and dilemmas of IKV Pax Christi¹

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Introduction

This chapter offers a background on the early history of the Juba peace process. It describes how an initially low-profile civil society initiative evolved into a hugely publicized negotiation process chaired and overseen by six African and three Western governments as well as by representatives of the United Nations and the European Union. It analyses some of the dilemmas the initiators of the process were faced with and concludes with an assessment of the role of non-governmental actors in peace negotiations. In addition, the chapter contributes to thinking about the role of non-governmental organizations (NGOs) in peace negotiations. Most people agree that NGOs have many roles to play in peace processes, aside from direct mediation, such as bringing issues to the attention of the international public and getting them on to political agendas; building local constituencies for peace by organizing dialogues with civil society leaders and at the grass roots; and working with media and schools.² But what can – and should – be their role in peace negotiations more directly?

The role of NGOs in peace negotiations

NGOs can make a contribution in situations in which traditional diplomacy is unable to take an initiative or to proceed further. Especially faith-based organizations at a certain distance from governments but with good access to politicians and with good links to indigenous religious institutions can adopt a credible position to act as mediators in all phases of conflict (Natsios 2003: 346). They can establish contacts with the conflicting parties, initiate and facilitate talks, and help the parties to implement an agreement.

Several authors cite the chaotic nature of contemporary conflict as a reason why NGOs should be directly involved in peacemaking (ibid.; Aall 2007). Since the elites that ruled conflict-ridden countries are often in exile, dead or traumatized, diplomats have lost their traditional

counterparts. The leaders of guerrilla movements do not reside in the capital. They may be dispersed in inaccessible areas. NGOs familiar with the countryside and with a good network of local contacts which can act as an intermediary may be better able to get into contact with the different factions. And in 'the case of societies whose government has entirely collapsed, NGOs and religious institutions may be the only sources of authority that have any influence' (Natsios 2003: 338–40). Peace processes necessarily reflect the confused reality of these conflicts. There has to be 'a mixture of de-centralized, flexible, adaptable, and multi-pronged efforts loosely organized in the pursuit of a common goal'. This requires cooperation between official and non-official actors (Aall 2007: 491–2).

NGOs also add an important element to official peace processes, namely the connection to local communities on the ground. The philosophies of most NGOs emphasize that grassroots people know best, that solutions need the backing of local communities, and that indigenous culture and authority have to be respected. This approach creates loyalty and trust between NGOs and communities (Natsios 2003: 343–4). More particularly, faith-based NGOs with deep roots in indigenous religious institutions can use those connections. Another potential strength of NGOs is that they have no formal connection to government, and, generally, an aversion to military force. This frees them from direct political interest in the outcome of the conflict (*ibid.*: 345–7).

That said, as with other mediators, a degree of self-interest is at play with NGOs as well. 'At the very least non-state mediators have a role and a reputation to establish or defend and thus an interest in appearing as good and successful mediators' (Zartman and Touval 2007: 442). NGOs may have an organizational interest in establishing a presence in a region. As far as the content of the peace process is concerned, NGOs tend to be 'interested in a particular outcome, [...] because they believe in its inherent desirability' (*ibid.*: 442). In line with NGOs' value orientation, such a particular outcome could, for example, be a peace agreement that is inclusive and that tackles the root causes of a conflict.

Compared to states, NGOs have fewer sources of power at their disposal. They are less able to reward parties for complying, or to coerce them into cooperating by threatening sanctions, the use of force, or even an escalation of the conflict. NGOs have other sources of power, however, such as informational power (being a communication link between the parties) and expert power (based on the knowledge and experience of the mediator) (Aall 2007: 481–6). As we shall see, IKV Pax Christi used both in northern Uganda. Still, there are usually points in a peace process at which state involvement is needed, because:

- *Credible security guarantees* are imperative. Adversaries must have access to a safe location.
- *Additional force is sometimes required* when dealing with parties not stirred by moral or political considerations.
- *Monitoring of ceasefire agreements* demands independent intelligence and military capacity.
- *Negotiation results must be implemented.* This often makes the commitment of members of the international community necessary to support and finance activities intended to consolidate the fragile peace. (As we shall see below, however, the involvement of NGOs is also vital in the implementation stage.)
- *The financial costs of negotiations* surpass the capacity of civil society organizations. As it is not predictable how long negotiations will take, the decision of civil society organizations to engage in these complex processes is not only a political challenge, but also a financial adventure.

Even if NGOs are usually not the primary mediators, and states are needed at some point along the way, efforts by NGOs often help to 'strengthen the context and prepare the terrain for official mediation' (Zartman and Touval 2007: 451). This, however, requires cooperation among different NGOs involved, which is a serious point of weakness: NGOs' proliferation and highly guarded autonomy often leads to competition and contradictory approaches (Natsios 2003: 344). This issue, too, was apparent in the northern Ugandan peace process, especially prior to the Juba negotiations, when different organizations employed parallel initiatives to get the parties to the table.

Often, NGOs are needed to implement agreements, for example with regard to demobilization and reintegration, because they may be the only ones with operational capabilities in the area. Diplomats are good at negotiation, but they are generally less apt at the logistics of implementation amid difficult conditions (ibid.: 342). This suggests that, if and when a northern Ugandan peace agreement is concluded, the role for NGOs will not end.

Start of Pax Christi's involvement

The NGO that brought the parties to the northern Ugandan conflict to the table is Pax Christi Netherlands. Its involvement in the peace process started in 1997, when, after contacts with the Ugandan Catholic Episcopal Conference, Pax Christi commissioned Dr Simon Simonse as an independent consultant to carry out a study (Pax Christi Netherlands

1998) about the possibilities of it contributing to efforts to bring the conflict in northern Uganda to an end. At that time, an initiative to explore possibilities for mediation was under way, led by Dr Leonzio Oniek, a biochemistry lecturer in a Kenyan university and a Sudanese Acholi. Seed money for this initiative from the British NGO Comic Relief had dried up and Pax Christi stepping in was welcomed. By then Dr Oniek was working with Hizkias Assefa, Professor of Conflict Studies at Eastern Mennonite University (Virginia, USA), an internationally known mediator with a record of successfully dealing with notoriously intransigent rebels such as Foday Sankoh and Alfonso Dhlakama.

Preliminary talks between the Ugandan Minister of the North and Dr James Obita, the external representative of the Lord's Resistance Army (LRA), took place in Lancaster with Professor Assefa as mediator. Dutch Interchurch Aid made arrangements for a second secret round of talks in the Netherlands in March 1998. The Dutch government arranged for travel documents for the rebels, including Joseph Kony. An intra-LRA conflict brought this initiative to a sudden halt, however. Without the knowledge of Dr Oniek and Professor Assefa, Dr Obita, the LRA contact person, was involved in a parallel process facilitated by the Community of Sant'Egidio in Rome. Although it was agreed that he would carry a letter from President Museveni to LRA leader Joseph Kony, he went instead to Rome, and had talks with the Ugandan Minister of State for Foreign Affairs. When Professor Assefa and Dr Oniek enquired with the Khartoum LRA office about his delay and whereabouts, it was discovered that he was running two peace processes.³ When he finally arrived at Kony's headquarters in the bush, he was accused of turning peace into a business and nearly executed. Both sides withdrew from the peace initiative and the process stalled.

Together with Dr Oniek, Pax Christi continued to explore new openings. With the help of the United Nations High Commissioner for Refugees (UNHCR), Dr Oniek and Dr Simonse (who later became a staff member of Pax Christi) paid a visit to Alice Lakwena, the prophetess-leader of the insurgency that preceded the LRA, in her shrine in a refugee camp in north-eastern Kenya. Her return would have been a powerful gesture given her continued support among the Acholi, but she was unwilling and made unrealistic demands.

Upon the completion of a three-year inter-communal peace-building programme by Pax Christi in Eastern Equatoria, Sudan, a meeting was organized in December 2003 with all local partners in order to discuss results and develop strategies for the future. Among those present were Dr Oniek (as chairman of the partner organization Equatoria Civic

Fund), Professor Assefa (as keynote speaker) and Dr Simonse (as organizer). During this meeting, the partners called on Pax Christi to find a negotiated end to the conflict in northern Uganda. The reason was that Juba, Magwi and parts of Torit county had become a battleground between the LRA and the South Sudanese rebel group Sudan People's Liberation Army (SPLA) since late 1994, and between the LRA and the Ugandan army (Uganda People's Defence Force or UPDF) since 2002. These clashes often caused greater suffering to the local population than the Sudanese war. Northern Ugandan church leaders also encouraged Pax Christi to re-engage, with public opinion in northern Uganda overwhelmingly against the war and in favour of a negotiated solution. These calls from the grass roots made Pax Christi decide to become involved once again. Pax Christi formulated an opening document which contained the crucial principle that justice should be done for victims of war crimes and human rights violations irrespective of who had been the perpetrator. As old contact lines were reactivated, it became apparent that there was willingness on both sides of the conflict to re-engage.

Around the same time a mediation attempt was undertaken by Betty Bigombe, a former Ugandan Minister for the North.⁴ Her initiative received active support from five donor countries organized in a Core Group, formally a subcommittee of the technical donor group. The British and Norwegian governments sent diplomats to help facilitate the mediations. Pax Christi had direct access to the Dutch Minister of Development Cooperation in that period and regularly exchanged strategic information. The Dutch government, the lead country in the Core Group, requested that Pax Christi take a step back in its initiative to give Mrs Bigombe a chance of succeeding. Pax Christi complied, in spite of its analysis that the Bigombe process was going to fail because in the eyes of the LRA Bigombe was too close to the Ugandan government. Her efforts were focused on getting the LRA to accept government amnesty in return for peace. It seems indeed to have been Bigombe's close association with the government which made the process lose steam after a while. Finally, the indictment of five LRA leaders by the International Criminal Court (ICC) in 2005 made it impossible for her to proceed (considering that the Ugandan government was the party that had asked the ICC to investigate the LRA).

The ICC arrest warrants

In October 2005 the ICC issued arrest warrants for the five indicted LRA leaders. This completely changed the space for peace initiatives in northern Uganda. People involved disagree as to whether the indictments

hampered the peace process – by causing the LRA to withdraw – or whether they may actually have contributed to a willingness on the part of the LRA to achieve a negotiated agreement in the hope that this would provide a way to get out of the ICC charges.

IKV Pax Christi has been an ardent advocate of the creation of the ICC. But in the case of Uganda, there was an obvious tension between the objectives of both organizations. Pax Christi wanted the LRA leadership to talk to the government, the ICC wanted the leaders to be arrested. According to the ICC, the arrest of the leaders would decapitate the LRA, which might lead the other members to abandon the struggle. According to Pax Christi, the arrest of the leaders would make negotiations more difficult, because it would make the rest of the LRA even more suspicious and more difficult to deal with.⁵ In any case, it was clear that the ICC was unable to arrest the five at short notice. Meanwhile, the humanitarian crisis in northern Uganda continued unabated and civil society in Uganda was crying out for a negotiated solution. Against this background and in view of the encouragement of its efforts by the government of Uganda (GoU) and the willingness of the LRA to enter peace talks, Pax Christi saw a continuation of its efforts to reach a negotiated peace as the only option.

In response to the indictments, Pax Christi clarified its position on the issue of justice and reconciliation in a strategy document (Pax Christi Netherlands 2006). The paper recognizes the importance of justice but argues in favour of *restorative* rather than *retributive* justice. Restorative justice also establishes the responsibility of the accused, but instead of focusing on punishing the convicted perpetrators, it emphasizes the public recognition of the victim as a victim of injustice, the compensation of victims and, particularly, reconciliation with the objective that both parties can resume living together. The paper explores the value of traditional methods of justice and reconciliation from this perspective and identifies the conditions that would give restorative justice the highest possible legitimacy, drawing from the experience of the South African Truth and Reconciliation Process as well as the ideas of international legal experts.

The run-up to Juba

With the arrest warrants out, Pax Christi had to abandon the idea of organizing secret negotiations in a quiet location far away from the scene of war. To make it possible for the government and the rebels to talk, a space had to be found that was not accessible to arrest teams which states that are signatories of the Rome Statute were expected to

put in place. In addition, in order to reach the venue one should not have to make stops in third countries that had signed the Rome Statute. It turned out that Pax Christi did not have to look far to find such a country. Since the government of Sudan, and by implication the Government of Southern Sudan (GoSS), had not ratified the Rome Statute, they could be expected not to collaborate with arrests under the Rome Statute. This made Sudan a place where it was safe to talk. In addition, Pax Christi soon learnt that the GoSS was keen on stopping the war between the Ugandan army and the LRA, which was being fought on its territory and continuing to cause great loss of life and suffering to its citizens. At the time the LRA also kept the two main roads connecting South Sudan with Uganda and Kenya blocked. In January 2005 North and South Sudan signed the Comprehensive Peace Agreement which also stipulated the withdrawal of the Sudan Armed Forces (SAF), the LRA's main support, from the south. In a mass rally in August 2005, the new president of the GoSS, Lieutenant General Salva Kiir, gave the LRA and the UPDF (the Ugandan army) three options: negotiate peace, leave our territory, or be chased from Sudanese territory by the SPLA.

Over the years Pax Christi had developed contacts with a number of persons who directly or indirectly had access to the LRA leadership. The contacts were cultivated in anticipation of a request for mediation. Most of the contact persons were motivated by the distressing situation of the people of northern Uganda. They tried to use their family relations, former business contacts and other connections to help find an opening for peace. The group that contacted Pax Christi around Christmas 2005, however, with a request to arrange peace talks with the Ugandan government, was new to Pax Christi. It claimed to be sent by the LRA high command. Since people with similar claims had approached Pax Christi before, the mission was met with scepticism. Only when one of Pax Christi's earlier contacts confirmed that the leadership had sent a group on a peace mission did Pax Christi engage. Dr Riek Machar, vice-president of the GoSS, was then requested to co-operate in establishing the necessary contacts with the LRA leadership. Since the LRA leaders were believed to be in an area still protected by the SAF, contacts would have to be arranged as a collaborative effort of SPLA, SAF and the Joint Integrated Units that had been created out of both armies as a result of the peace agreement between them. Dr Riek Machar agreed, and on 14 February 2006 Pax Christi flew the LRA delegation to Juba to meet with the vice-president and the Minister of Internal Security, Daniel Awet. The meeting was most successful. Within a month, follow-up meetings with the intelligence chiefs of the

three armies were held, followed by a reconnaissance field trip to fix the venue for a first meeting.

Pax Christi's understanding of the collaboration with GoSS was that Pax Christi – in the persons of Dr Onek, Professor Assefa and Dr Simonse – was to be responsible for the mediation of the peace talks while GoSS would be the host. This division of roles was in line with the wishes of the LRA leadership.

It took two more months before the first meetings with the LRA leaders Lieutenant General Vincent Otti (11 April 2006) and Joseph Kony (5 May) took place. Later it became clear that during this period the leadership was moved from the East Bank to their later location near Nabanga in Western Equatoria. The GoU, in the person of the Minister of Internal Affairs, Dr Ruhakana Rugunda, had encouraged the initiative from the start. The GoU, however, did not fully get on board until they had been shown the video of the meeting with Kony on 5 May, which had been attended by the LRA leadership, the LRA contact group in Juba, Dr Machar, and the Pax Christi team. LRA leader Joseph Kony had been invisible to the outside world for twelve years until he appeared in this meeting.

The video inaugurated a new phase in the peace process. The GoSS delegation that attended the celebrations of Ugandan president Museveni's third term installation left the video, unedited, with the GoU. It ended up in the Government Media Centre, which put it on the Internet. From that day the peace initiative has been surrounded by journalists and people working with other NGOs. Pax Christi had to abandon the idea of having a quiet process screened off from the media. At that point the Community of Sant'Egidio, which had been involved in parallel peace initiatives, and representatives of the Swiss government joined the process.⁶

In 2006 war-torn South Sudan hardly had any facilities to host the talks. As it gradually became clear that the vice-president was to play a central role, the only option was to hold the talks in sweltering Juba. At the time there was only one hotel that had a meeting room with a steady power supply and air conditioning. It was in the centre of Juba and the hotel rooms were canvas tents, often shared. Ugandan reporters were permanently stationed in the hotel, making sure the talks made headlines in Kampala.

During the meetings on 11 April and 5 May, the mediation team had spent a lot of time explaining to the LRA leaders the importance of a small, effective, trusted delegation. Professor Assefa recommended a group not larger than seven persons, balanced between military and

civilians, with a solid mandate. In June two visits were made to Nabanga to obtain a definitive list from the leaders. Meanwhile, however, since its first successful visit to South Sudan, the contact group had steadily grown. After the 5 May meeting had been in the news and the video of the event was made available on the Internet, more LRA sympathizers flew in from Europe and North America and the LRA contact group snowballed to almost twenty people, all of them from the diaspora overseas and in East Africa. While the purpose of the Nabanga trips was to discuss the nature, size and composition of the delegation, the presence of traditional, church and civil society leaders, politicians and a swarm of journalists created an atmosphere that was festive and confused, not businesslike. As a result, all the members of the contact group were confirmed as members of the LRA delegation. The vice-president and Pax Christi insisted that members of the leadership, preferably Lieutenant General Otti, should be part of the delegation, but this request was not met. Instead the promise was made that two military commanders would join the negotiations later. These gentlemen indeed came, but they offered little input and returned to the bush after a while.

In an effort to match the numbers of the LRA delegation the GoU sent a sixteen-man delegation, without consulting the mediation team. The result was that the mediation room was packed from the start, each delegation occupying two rows. As mentioned, the majority of the LRA delegates were overseas diaspora members without experience of war or the deprivations of bush life. By contrast, the majority of the government delegates (thirteen out of sixteen) were officers in the different security forces. As partners in a dialogue this was a most unlikely match.

The Juba negotiations

On 14 July 2006, the negotiations in Juba were officially opened in the Assembly Hall of the South Sudanese parliament to enormous public attention. After some days of experimenting with the cast of the mediation team, Dr Riek Machar invited Professor Assefa to be his co-chair and head of the Resource Group. The Pax Christi team members Dr Onek, Dr Simonse and Nico Plooijer became members of the Resource Group, together with two representatives of the Swiss government and two members of the Sant'Egidio community. The Resource Group, chaired by Professor Assefa, met after every negotiating session and was occasionally consulted during sessions to help unblock progress. It helped the mediators to sound out ideas, drafted texts, and provided expert advice. In the course of the talks other experts and representatives of United Nations (UN) organizations were added to the group.

An agreement on the cessation of hostilities was reached and came into force on 26 August 2006. This agreement convinced a number of governments of the seriousness of the negotiations, in spite of the ICC indictments.

The talks meant hard work, in a hostile climate, at irregular hours, and for the first three months without a break. A key figure in GoSS, the vice-president could often make himself available only at odd hours.

Professor Assefa co-chaired the negotiations up to the first break in October. Dr Riek Machar started to be referred to as the 'Chief Mediator' – a role the Sudan People's Liberation Movement, the political wing of the SPLA, had assigned to him. In response to a growing adversarial atmosphere, Dr Machar tried to get a firmer grip on the process, and increasingly dominated the mediation. This rendered the effective participation of the co-mediators, including his fellow ministers in the team, difficult. From that point onwards, the Pax Christi team repeatedly wondered whether it still added enough value. Frustration increased, while the Pax Christi head office in the Netherlands continued to receive the bills for the presence and activities of its employees in Juba. Dr Machar continued to add members to the Resource Group, sometimes people whom the LRA considered partisan. Complaints and accusations that the Chief Mediator was adopting a pro-GoU position became more frequent. A breaking point was the discussions regarding the UPDF presence close to the East Bank assembly point of LRA forces. On 31 October, the LRA delegation declared that they had lost confidence in Machar as the mediator. In November, however, the talks resumed with a mediation team that was strengthened with other GoSS ministers. For a while noticeable progress was made on agenda item 2, 'Comprehensive solutions',⁷ but when everyone expected the LRA to sign the agreement on this item just before Christmas, the delegation protested that the text had been changed without their knowledge and they refused to sign. Then the negotiations stalled more permanently.

On 12 November 2006, the UN Coordinator of Humanitarian Affairs, Jan Egeland, visited South Sudan. The Pax Christi peace team accompanied him when he visited the LRA leadership in Ri-Kwangba. Upon their return to Juba, Professor Assefa and Dr Simonse discussed with Egeland the causes of the lack of progress in the negotiations and shared with him the idea of a back-channel process to unblock the talks. Egeland encouraged the option and proposed to stay in touch in case his cooperation could help. Professor Assefa had regular telephone conversations with Mr Egeland until shortly before the end of his term of office on 12 December.

On 4 December 2006, the UN appointed former Mozambican president Joaquim Chissano as a special envoy to northern Uganda to overlook the peace process. Pax Christi informed Chissano of its plans to help unblock the talks using a back-channel process and expressed the wish to meet with him. Mr Chissano did not respond to Pax Christi's letter. He also appeared uninterested later. Mr Chissano's strategy to unblock the Juba talks was the diametrical opposite of Pax Christi's low-profile approach. To ensure the impartiality of the mediation he included representatives of the governments of Kenya, Tanzania, the Democratic Republic of Congo and Mozambique in the mediation team and opened the door of the mediation room to observers from the United States, the European Union, South Africa, Canada and Norway. In this way he was able to boost international political and financial support for the process.

The back-channel talks in Mombasa and Nairobi

The loss of confidence and repeated walkouts by the LRA, and the growing misunderstanding more generally, were challenging for Pax Christi. The problems presented the organization with an opportunity to take up its original role, however: working behind the scenes to bring the parties together. Pax Christi still had the confidence of both sides, and as the Juba negotiations stalled, it became clear that both parties supported the idea of a back-channel process to work through the thorny issues that hindered progress in the negotiations. Dr Simonse and Professor Assefa began to prepare such a back-channel process. They visited President Museveni, who made it clear that the GoU welcomed an additional effort. The president's brother, retired general and Minister of Micro-Finance Caleb Akandwanaho, better known as Salim Saleh, was mandated by the president to lead the government delegation. The president informed Dr Machar of the back-channel process.

The government and the LRA sent small core delegations and a quiet mediation took place in Mombasa and Nairobi, Kenya, in April 2007. The talks were organized by IKV Pax Christi and mediated by Professor Assefa. They were not intended to replace the Juba process, but to help it along by inserting the outcomes of the back-channel process. The Mombasa–Nairobi talks provided a safe space away from political pressures and public scrutiny. This mattered because the atmosphere in the Juba process had become highly charged and adversarial owing to intense media attention and the large number of parties involved, each with its own interests.

Before setting off for Mombasa, Salim Saleh had convinced the UPDF

top command to drop Owiny-Kubul as one of the two assembly points of the LRA stipulated in the Cessation of Hostilities Agreement (CoH) and to give safe passage to the LRA who were still on the East Bank to join the combatants assembled near Ri-Kwangba. As an opening move of the Mombasa round of talks, the adjustment of the CoH did a lot to improve the atmosphere between the parties. If we wanted to identify a point in time where the deadlock was broken, this important concession, engineered by Salim Saleh, would probably best qualify. The amended CoH was signed by the parties on 14 April 2007 in Ri-Kwangba during the meeting at which Mr Chissano was introduced to the LRA leadership. The Mombasa meeting then tackled the sticking points that had prevented the LRA from signing the Agreement on Comprehensive Solutions (agenda item 2) in Juba. There were four issues: the system of government, inclusiveness in participation in government, participation in state institutions, and the institutional framework for economic and social development in north and north-eastern Uganda. Each of the points was thoroughly discussed and on all but the first the parties reached agreement.

The atmosphere in Mombasa was friendlier and more conducive to mutual understanding than the prickly climate of Juba. This was due to the smaller number of delegates. On the LRA side there were five people. Except for the lawyer Ayena-Odongo all had been part of the LRA contact group that had established the first contacts with Pax Christi around Christmas 2005. On the government side there were four people, General Salim Saleh, his assistant Captain Ruhinda Maguru, Dr Sam Kagoda, Permanent Secretary in the Ministry of Internal Affairs, and Joseph Ocwet, former Ugandan ambassador to the United Kingdom. Ambassador Ocwet, who had been one of the initiators of the Betty Bigombe initiative, played an important role in mobilizing his government to support the back-channel initiative. With the exception of Dr Rugunda, the leader of the government delegation in Juba, the key people from both Juba delegations were present. Those who were considered 'hardliners', army officers and chiefs of security services on the government side and the LRA delegates from the overseas diaspora, were not there. The approachability of General Saleh and the comfort of a luxury beach hotel further contributed to the relaxed work atmosphere.

Apart from an addendum to the CoH stipulating a single assembly point, the Mombasa talks resulted in an agreement that covered much of the ground of the negotiation agenda. Agreement in principle was reached on outstanding issues in agenda items 2 (Comprehensive solutions) and 3 (Reconciliation, accountability, amnesty). The agree-

ment on items 2 and 3 was ready to be signed when the LRA delegation suddenly announced that they had to show the document to their superiors first. Three weeks later, in Nairobi, the delegations consulted on disarmament, demobilization and reintegration (DDR) issues (item 4). The Nairobi talks could not be finalized, as the LRA delegation did not have sufficient expertise on DDR.

When comparing the successive texts of the agreement on agenda item 2 – the text rejected by the LRA on 22 December 2006, the Mombasa text of 6 April 2006, and the text signed in Juba on 2 May 2007 – it is striking that the last text is the most top-down and state-centred. In the last text there is no mention of a role for civil society while the rehabilitation payments, supposedly from international donors, are channelled through the state apparatus and do not go directly to victims and their communities. Provisions in the texts of 22 December and 6 April stipulated the ‘autonomy’ of the institution allocating the resources for recovery (10.1.b), ‘the use of existing structures in IDP camps’ (10.2.i) as implementing agencies, and a ‘heavy involvement of the local population’ in the policy and management structures (10.3). These had all been deleted in the final agreement. The Implementation Protocol of agenda item 2, signed on 22 February 2008, substantiated and elaborated on the top-down character of the mechanisms to be put in place.

On agenda item 3, ‘Accountability and reconciliation’, in Mombasa the parties were able to agree on a comprehensive first text. When we compare the text agreed in Mombasa with the Juba 2 document, the five pages of Mombasa appear very roughly hewn in contrast to the legal finesse of its Juba counterpart signed on 29 June 2007. The Juba Agreement takes a lot of trouble to reaffirm existing legal institutions, including penal law and the amnesty legislation, while opening a door for alternative justice mechanisms, including traditional reconciliation. In Mombasa the government commits itself in a few brief points to enact a law that makes it possible to apply alternative justice mechanisms. In comparison with the Juba Agreement, the Mombasa text is refreshingly straightforward, with the LRA committing itself to the unconditional submission of its members to processes of accountability and reconciliation and to owning up to the wrongs it has committed. Its plain language may have been more adequate, at least for the non-state party to the agreement. It is further noteworthy that in Mombasa the parties agreed to a forum for national reconciliation, an element missing from the Juba text.⁸

Given the progress that had been made in Mombasa, there was

fertile ground for continuing the Juba negotiations. No one in Juba explicitly mentioned the Mombasa process, however. Those who had been involved acted as if it had not happened. At the resumption of the Juba talks on 26 April 2007, Professor Assefa informed the special UN Envoy for LRA-Affected Areas, Mr Chissano, the Chief Mediator, Dr Machar, the members of the mediation team, the Resource Group, the parties and observers present of the results of the back-channel process. No questions were asked, nor were comments raised, except by Archbishop Odama, who wanted to know whether the Chief Mediator had been informed of the side process. Dr Machar did not comment on Professor Assefa's affirmative answer. Discarding the outcome of Mombasa served the perception of Juba, and of the many parties who had a stake in the talks there, as being right on track. Knowing that many questions regarding the content of a final agreement had basically been settled, reports on the negotiations in May and June 2007 sounded sometimes strange. Perhaps at this stage the main challenge was no longer to come to a definitive agreement, but to reaffirm ownership and commitment of the UN and state actors involved in the Juba process and 'sell' the agreement to the public and to the respective constituencies and stakeholders. IKV Pax Christi decided to withdraw from the negotiating table.

The process in Juba was slow and cumbersome. The delegations were very large, there was a big mediation team, and there were many others present. There seemed to be a belief that the more high-profile the actors involved, the better it was. There may have been advantages from the perspective of creating a peace constituency and ensuring compliance with an agreement, once concluded, but it also made the negotiations more complex and expensive.

Dilemmas

Over the course of the negotiation process, Pax Christi Netherlands saw itself confronted with a number of dilemmas.

Peace versus justice The more general peace-building dilemma of whether to prioritize justice (trying war criminals) or peace (ending the violence) was, and still is, the most hotly debated issue with regard to the northern Ugandan process. The ICC was unwilling to compromise on the justice issue, emphasizing that without justice there would be no true peace. Local civil society groups in northern Uganda were divided, but many took a surprisingly forgiving stance towards the LRA and stated that ending the violence was most important, at whatever

cost. Pax Christi tended towards the latter position: the everyday costs of the war were simply too high. In its contributions to the debate it emphasized the importance of the possibility for the victims of injustice of ‘owning’, identifying with, the justice meted out to those responsible for the war crimes. Furthermore, bringing the five LRA leaders to court would by definition be a limited and one-sided way to ensure justice for the victims of crimes committed by both sides.

Trust-building versus legitimizing criminals That ‘addressing the root causes of the conflict’ was put on the agenda was largely due to Pax Christi, which had stressed these issues already in its reaction to the Bigombe process. In retrospect, Pax Christi’s insistence on dealing with the root causes of the conflict, which is crucial for the sustainability of peace, might have given the LRA a legitimacy which it claimed, but no longer deserved.

Confidentiality versus transparency When Pax Christi engaged in the peace process, it had the intention to keep the negotiations confidential, if possible until the day an agreement was reached. By severely limiting the choice of venues, the ICC indictments frustrated this plan. Under normal circumstances Juba would never have been an option. The visibility of the talks hindered informal contacts and confidence-building between the members of the delegations. Fear of being suspected of a lack of loyalty restricted the interaction between the individual members of the two delegations. The presence of the press sometimes gave delegates the opportunity to turn the negotiations into an unhelpful public drama. The back-channel negotiations at Mombasa and Nairobi were insulated from the media in order to encourage the parties to participate freely. Though IKV Pax Christi prefers such a quiet approach, it can conflict with its need to account for its actions to its constituency and donors. Transparency does not necessarily imply immediate openness of transactions, however. It is necessary for accountability and future credibility, but it can also come when the work is done.

The war and peace economy War can become a way of life – but so can protracted peace negotiations. Rebels with no other income than what they get from looting and extortion cannot pay hotel bills. Somebody has to shoulder these costs during peace negotiations. It is also necessary that delegations have good contact with their leaders; otherwise negotiation results might not be accepted. So communication equipment and airtime have to be provided. However, peace negotiations can become

another method for obtaining resources. Endless discussions with the LRA about money and their sky-high financial demands were a heavy burden for the process. Some delegates would have risked the failure of the peace process, because they were not satisfied with the daily allowances. There is a very thin line between not paying enough and thereby jeopardizing the peace process, and paying too much, making delegates addicted to the process and interested in prolonging the negotiations endlessly to reap additional benefits. Cautious financing can incite parties to shop for other partners. The LRA at one moment did so. The flirt was rather short when it turned out that the other party did not have the money. There is a kind of 'market for peace', in which interested parties may pay 'higher rates' to play a crucial role in the process. IKV Pax Christi has always been very conscious of the danger of misappropriation of funds and did not get involved in such bargains.

Avoiding reputation damage There are risks associated with NGOs engaging with rebel forces to try to draw them into a peace process. IKV Pax Christi repeatedly asked itself how it could avoid being taken advantage of by the LRA or other parties. The payment of hotel bills, sitting allowances and the facilitation of telephone communication made Pax Christi vulnerable to criticism, especially in the early stages of the peace process. Reputation damage was a concern for Pax Christi when the arrest warrants came out, and it was not clear whether the negotiations would receive any support from countries that had signed the Rome Statute. Pax Christi staff were aware that they might be blamed for carrying out activities that would be seen to run counter to the ICC. Later, when the international support for the Juba talks grew and hundreds of thousands of IDPs started to go home, this fear dissipated.

Negotiations on the basis of values or on the basis of power As a peace actor IKV Pax Christi is motivated by considerations deriving from its commitment to values. In negotiating an end to conflicts between governments and rebel movements, power inevitably plays a role. In mediating for a government party there is always a risk for the non-governmental actor of being compromised by favours and threats from that government, which may use its power to obstruct the involvement of the NGO. Instead of acting as an impartial mediator, the NGO risks becoming a power broker. Rebels can also exercise power over their mediator. They can use the good intentions as well as the NGO's desire for success to blackmail it. In co-mediating a conflict with a state actor, as with GoSS in Juba, contradictions may arise between the values of

the NGO and the interests of the co-mediating state actor. In Juba, the obvious interest of GoSS in maintaining relations of good neighbourliness with GoU made it vulnerable to LRA accusations of partiality, especially in the confusion surrounding the eastern assembly point. As a co-mediator, IKV Pax Christi had to stay clear of endorsing any such bias.

Concluding reflections: NGOs in peace processes

The previous section ended with reflections on the role of power in peace processes. At the outset of this chapter, a number of sources of power by mediators were mentioned: coercive and reward powers, which state actors usually possess more than NGOs, and informational and expert powers, which NGOs can have as well, sometimes even more than states. Pax Christi employed both sources of power. It actively played the role of communicator, and this was valued by the parties. Because states were afraid of what being in contact with the LRA could do to their reputation, only an NGO could initiate such contacts. Pax Christi's expert power was exercised by making suggestions in the Resource Group, by offering to provide training of delegates, and, particularly, during the Mombasa–Nairobi side process, when Professor Assefa could make optimal use of his extensive experience and skill as a mediator.

Competition and lack of coordination among different groups involved, considered by Natsios as a weakness of NGOs, were indeed issues in this case. Prior to the Juba negotiations, different organizations employed parallel initiatives to get the parties to the table. This is related to NGOs' funding structure and the need they have to profile themselves in order to secure future support. Competition among peacemakers played a role more broadly as well. Many groups involved were preoccupied with their reputations and with positioning themselves in such a way that they could claim responsibility for successful outcomes. Thus, the Chief Mediator claimed an increasingly central role for himself. Nearly all persons involved in the Juba mediation chose to ignore the results of Mombasa, partly because there was no credit to claim for them, and partly, because there were no signatures, they could afford to ignore the achievement and maybe claim the credit for it for themselves. This highlights the importance of 'face' in peace negotiations (and sometimes even its pre-eminence over content and outcomes) – something that does not prominently appear in the literature.

Another issue that emerges from the case is rather specific but, as the ICC expands its activities, may come to play a role in many future conflicts. It concerns the various tensions between official and unofficial actors, particularly when the ICC enters the scene. The engagement of

the ICC in northern Uganda has given the peace versus justice debate particular salience in this case, and has forced all involved to take a stance in this debate. While IKV Pax Christi took a nuanced view, most states were tied by being signatories of the Rome Statute. The growing number of governments represented at Juba, however, illustrates that also among (and within) states that had ratified the Rome Statute there were different positions, and some were more prepared to accept a compromise than others. Also within governments, diplomats and jurists often had different opinions.

The literature suggests that, although NGOs, too, have self-interest, they tend not to have any direct connection to the stakes in the conflict and to be relatively free from political pressures. This was the case for IKV Pax Christi as well. The organization was independent in relation to the interests of the parties and had no other agenda than to advance the peace process. The conflicts of interest that existed between the LRA and Pax Christi related to what the Pax Christi team perceived as unnecessary delays, the courting by the delegation of other peace organizations, and the financial claims made by the delegation – not to political issues. The NGO's value orientation and its good relations with religious leaders also helped create legitimacy and trust. Moral authority is important in a context where everyone else is tainted by the conflict. In addition, IKV Pax Christi, being at home in the region, was well connected to its communities and had profound background knowledge of the history of the conflict. This resonates with theoretical reflections about the added value of NGOs, which are aware of the diversity of local situations and can link local communities to global and regional networks.

Although independence mattered, political connections did as well. IKV Pax Christi was accepted as a mediating agency by the LRA in part because of its ability to reach government authorities. Parties in the region recognized that it was well connected in Europe and could talk to the ICC and to donor governments.

What, then, can and should the role of an NGO be in peace processes, and how does this role relate to that of state actors? In northern Uganda, IKV Pax Christi was particularly able to contribute *before* the official negotiations (getting the parties to agree to the negotiation process, securing a venue) and at times *when the negotiations stalled* (organizing side meetings). This suggests the role of an NGO like IKV Pax Christi to be complementary to that of states. As the literature cited at the start of this chapter suggests, complex conflicts need both official and non-official actors to be part of their solution. They are both good at

different and complementary parts of a peace process. In addition, in a negotiation between a state and a rebel movement, the rebel movement has an interest in a civil society actor as a mediator.⁹ States have common interests and a common *modus operandi*. A government may therefore beforehand be biased in favour of the other state.

Government and NGOs still have to find appropriate cooperation arrangements, however, combining NGO independence and government capacity. Recognition of the expertise and independence of NGOs and of governments should be the foundation of complementary cooperation. A common understanding with regard to the overall goals is a precondition. Government support is indispensable to create an enabling environment for civic mediation. Government support may include reliable security guarantees, political support, intelligence and monitoring capacity, commitment to the implementation of results and the availability of a financial safety net.

The UN Department for Political Affairs has created a stand-by mediation team with experts in ceasefire, transitional justice and power-sharing constitutional arrangements, which can quickly be on the ground. This will not do away, however, with the need to involve NGOs in peace processes. They are needed to take initiatives when there is no call from governments or international organizations. Diplomats would not be able to carry out such inherently secretive and politically sensitive activities as talking to the LRA to get them to agree to the idea of talks. NGOs also play an important role by creating grassroots support for the peace process. A more explicit arrangement between governments and NGOs is needed, which recognizes the complementarity of their roles.