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# **The Role of the Mediator in Negotiating an End to Armed Conflict**

The Case of the Juba Talks between  
the Government of Uganda and the Lord's Resistance Army

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## **Executive Summary**

During the summer of 2006, the Government of Uganda and the Lord's Resistance Army (LRA) accepted an offer of mediation from the Vice-president of Southern Sudan, Riek Machar. The following negotiations in Juba, Southern Sudan, has marked a historical milestone by bringing this long lasting conflict closer to a settlement than ever before. Since the Juba talks commenced, there have been only sporadic hostilities between the adversaries, and the humanitarian situation in Northern Uganda is now improving after twenty years of war. By analyzing the Juba negotiations in light of a theoretical framework, this study argues that a large share of the Juba success must be attributed to Riek Machar as a mediator. It is further argued that two key qualities have been instrumental in shaping Riek Machar as a unique mediator. First, Riek has a long lasting historical relationship to both parties. Second, he has the capacity and will to pursue own interests by negotiating between the parties. This study shows that strong, partial mediators with a close historical relationship to the adversaries may in some cases be beneficial in conflict resolution.

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## List of Abbreviations

ARLPI	Acholi Religious Leaders Peace Initiative
CPA	Comprehensive Peace Agreement
CSOPNU	Civil Society Organizations for Peace in Northern Uganda
DRC	Democratic Republic of Congo
EDF	Equatorial Defense Force
GDP	Gross Domestic Product
GoSS	Government of Southern Sudan
GoU	Government of Uganda
HSM	Holy Spirit Movement
ICC	International Criminal Court
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority of Development
JIUs	Joint Integrated Units
LRA	Lord's Resistance Army
MONUC	Mission des Nations Unies en République Démocratique du Congo (United Nations Mission in the Democratic Republic of Congo)
NCP	National Congress Party
NGO	Non-governmental Organization
NIF	National Islamic Front
NRA	National Resistance Army
NRM	National Resistance Movement
SAF	Sudan Armed Forces
SPLA-Nasir	Sudan People's Liberation Army – Nasir faction
SPLM/A	Sudan People's Liberation Movement/Army
SSDF	South Sudan Defense Forces
SSIM	South Sudan Independence Movement
UN	United Nations
UK	United Kingdom
UPDA	Uganda People's Democratic Army
UPDF	Uganda People's Defense Forces
US	United States (of America)
USAP	United Sudan African Parties



# 1 Introduction

Third-party assistance or mediation is one of the most promising approaches to constructive conflict management. To understand it better, we need to study what mediators do, how they do it, and the consequences of their actions (Bercovitch and Houston 1995: 30).

Armed conflicts often appear impossible to resolve through negotiations. Especially intrastate conflicts are difficult to end peacefully, and less than one third of modern civil wars have found their way to the negotiation table (Zartman 1995: 3). Such conflicts often continue for decades and seem immune to all forms of third-party mediation. The war in Northern Uganda between the Government of Uganda and the Lord's Resistance Army (LRA) exemplifies that some conflicts nevertheless reach a turning point where a negotiated settlement seems within reach. Although third-party mediators often play a central role in negotiations, as is the case in Northern Uganda, the significance of mediation as an independent variable affecting negotiation outcomes remains contested and poorly understood. "Despite the frequency and importance of international mediation... a gap remains between the practice of mediation and efforts to understand systematically the nature and consequences of such intervention" (Rubin 1992: 249).

Scholars differ in their opinions when it comes to the impact of the mediator's role in resolving conflicts. While some perceive the mediator's importance only as secondary to other factors (Harbottle 1979; Kockan and Jick 1978; Ott 1972) others hold that the mediator can be a predictor of success (Brett, Drieghe, and Shapiro 1986; Bercovitch 1992; Bercovitch and Houston 1995; Carnevale 1986; Rubin 1992; Young 1968).

Traditionally, some scholars have expressed skepticism to the very possibility of studying the concept of mediation systematically (Meyer 1960; Simkin 1971). More recent research has rendered it probable that mediation indeed lends itself to empirical research and that a theoretical framework can be developed in order to understand mediation better on a general level (Bercovitch 1992; Bercovitch and Houston 1995; Carnevale 1986; Rubin 1992; Walter 2002). This study will apply such a theoretical framework with the purpose of analyzing the role of the mediator in the ongoing negotiations between the Government of Uganda and the Lord's Resistance Army (LRA).



## **1.1 Case and thesis presentation**

During the summer of 2006, a major historical shift occurred in the conflict between the Government of Uganda and the LRA. Riek Machar, the vice-president of Southern Sudan, offered to mediate between the parties, and negotiations now take place in Juba, Southern Sudan. The parties are closer to a settlement than ever before, and, although still fragile, the situation on the ground is peaceful. Since the talks began, there have only been sporadic hostilities between the adversaries, and the humanitarian situation in Northern Uganda has improved significantly (International Crisis group 2007; Oxfam 2007; UN 2006; UN 2007a).

The conflict between the Government of Uganda and the LRA has lasted for two decades. During this period, no negotiations, mediated by a third party or not, have produced successful outcomes. When the parties during the summer of 2006 agreed to let Riek Machar mediate between them and subsequently sat down for talks which are now yielding successful outcomes, one obvious research question arises:

*Why is it possible now, as opposed to earlier, to achieve a successful negotiated outcome in the conflict between the Government of Uganda and the LRA?*

This study will argue that the most instrumental variable in making the Juba talks successful is Riek Machar as a mediator, and that some key qualities strengthen his position to mediate between the parties. Based on this assumption, the thesis of this study may be formulated as follows:

*Riek Machar as a mediator has been able to contribute to success in the Juba negotiations largely because of a unique personal historical relationship to both parties and the capacity and will to pursue his own interests by resolving this conflict.*

In order to defend this thesis, this study will weigh the impact of the mediator against other alternative and complimentary explanations to why the Juba negotiations are successful. In the following a total of five alternative hypotheses will be derived in this pursuit. Next, this study will explore the qualities which shape Riek Machar as a suitable mediator in Juba. In this respect an understanding of history is of crucial importance. The history of the conflict

between the Government of Uganda and the LRA has deep roots going back to colonial times and is closely related to the history of the civil wars in the Sudan.

## **1.2 Theory approach and operationalization**

Why do conflicts end? This is the research question of this study elevated to a general and theoretical level. One obvious alternative is that one of the adversaries defeats the other by military force. According to I. Zartman (1995: 3), two-thirds of all intrastate conflicts “have ended in the surrender or elimination of one of the parties involved”. There are, however, numerous conflicts that stop short of going to such extremes and come to an end because the parties manage to arrive at a negotiated outcome. There exist several, at times competing, but often complimentary, theories providing explanations to why wars end through negotiations.

In order to determine the significance of the mediator, it seems fruitful to weigh the Juba negotiations against potential alternative or complimentary theoretical explanations. This study will therefore address the question to what extent the conflict between the Government of Uganda and the LRA may have been “ripe for resolution”. It is also necessary to consider the extent to which negotiations may have been facilitated by shared ethnic identities or easily divisible stakes. The selection of these alternative explanations are based on the following.

The theoretical overview provided in Barbara F. Walter’s book, *Committing to Peace*, presents a suitable point of departure in the pursuit of an explanation to why the Juba negotiations are successful. According to Walter, there exist a total of six established hypotheses (described below) on which factors may render negotiations successful. Each of these hypotheses is categorized into one of two theoretical camps.

“The first [camp] views negotiated settlements primarily as a function of the economic, military, or political conditions that exists on the ground...” (Walter 2002: 7). These are, in other words, conditions that, if favorable, may make conflicts “ripe for resolution”, a term first presented by I. Zartman in his book *Ripe for Resolution: Conflict and Intervention in Africa* (Walter 2002: 8).

The second set of Walter’s hypotheses “views negotiated settlements primarily as a function of combatants’ ability to resolve underlying conflicts of interest” (Walter 2002: 7). The main argument of this theoretical camp is that successful negotiation outcomes are dependent on the parties reaching a mutual agreeable bargain. More precisely, the disputants’

abilities to negotiate a successful outcome are influenced by ethnic identity, the divisibility of stakes, and mediation. Mediation is, in other words, one of the variables that may influence the disputants to negotiate a successful outcome.

Based on this theoretical framework, the degree to which the mediator has played a significant role in Juba can be operationalized as follows:

*If the success in Juba cannot be explained to a full and satisfactory extent by looking at “ripe for resolution” variables, shared ethnic identity, or easily divisible stakes, it is probable that a fair share of the success is due to the mediation of Riek Machar.*

This operationalization can be sub-divided into a total of five alternative hypotheses which must be considered in order to determine the impact of the mediator. These hypotheses are based on Walter’s explanations, besides the mediator, to why and how civil wars end.<sup>2</sup> The first three hypotheses belong to the “ripe for resolution” theoretical camp. The five hypotheses are as follows.

1. *The parties are moved towards negotiations due to increased costs of war.*
2. *The parties pursue negotiations because they have reached a military stalemate due to a balance of power, which makes it difficult for both to defeat the adversary by military force.*
3. *The Government of Uganda has become more inclined to pursue negotiations lately due to a higher level of democracy and the consequent increase in domestic political restraint.*
4. *The parties are likely to negotiate a peaceful outcome due to shared ethnic identities.*
5. *The parties are likely to negotiate a peaceful outcome because the stakes of the conflict are more divisible than earlier.*

Implicit in these hypotheses, as well as the main thesis of this study, lies the necessity to detect change over time. The conflict in question has lasted for twenty years, during which two previous negotiation attempts have failed. When analyzing the Juba negotiations it is therefore necessary to include some contextual comparison with these previous attempts

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<sup>2</sup> Walter’s theoretical framework will be further elaborated in chapter two of this study.

which took place in 1994 and 2004. These peace initiatives are described in detail in chapter three of this study.

### **1.2.1 Is the conflict ripe for resolution?**

When studying the conflict between the Government of Uganda and the LRA in a historical perspective, one cannot escape some “ripe for resolution” variables that may have played a role in rendering the negotiations successful.

First, it may be argued that both adversaries have recently experienced increased costs of war, mainly as a consequence of external pressure, and that this development makes a military solution less feasible for both sides. Uganda under the leadership of President Museveni has often been presented as “an African success story of social and economic development” (Bøås 2006: 53) As a result, Museveni has been able to enjoy a high level of international goodwill. During the last years, however, Museveni’s international reputation has deteriorated significantly, much due to the fact that the international community is made aware of the cruelty of the war and the consequent extent of human suffering in the north (Ibid.).

Museveni’s glorious image has been further stained by the negative international attention given to his alleged attempts to curb the political opposition during the 2006 presidential elections (Bøås 2006: 54). Another factor that may have put pressure on Museveni to pursue a peaceful outcome in Juba is the forthcoming Commonwealth head of Government Meeting, which this year are to be hosted by Uganda and scheduled to take place in Kampala in November. This meeting will draw further international attention to Uganda. In short, it is likely that a peaceful outcome to the war would portray Museveni as a responsible leader both domestically and regionally (Bøås 2006: 55).

Some observers argue that international pressure also have influenced the decision of the LRA to pursue a peaceful outcome through negotiations. In October 2005, The International Criminal Court (ICC) officially released the indictments of five central figures in the LRA leadership. Warrants of arrests were issued for the LRA leader, Joseph Kony, his deputy, Vincent Otti, and three other LRA commanders, Okot Odhiambo, Raska Lukwiya, and Dominic Ongwen. Exactly how the ICC indictment have influenced the LRA leadership presents somewhat of a puzzle. One argument is that the warrants have given the LRA an incentive to enter negotiations in order to have the indictments lifted – or to influence

Museveni to grant them amnesty and protection against the ICC (Amongi 2007 [Telephone interview]; Bøås 2006). However, it is also possible that the ICC have contributed to make the LRA reluctant of laying down their weapons in fear of being arrested and extradited to the Hague. In this sense, the ICC might have presented an incentive for the LRA to continue the war in lack of better alternatives.

In either case, the ICC indictments remain one of the central stakes in the Juba negotiation process. Even if the ICC charges did contribute to push the LRA to the negotiation table, something which this study will argue is unlikely, they quickly became one of the main obstacles to reaching a final peace agreement once negotiations was established (Amongi 2007 [Telephone interview]); Bøås and Jennings 2007; Ledang 2007 [Telephone interview]). This study will argue that external pressure has indeed been instrumental in influencing the LRA's decision to enter the Juba negotiations. However, the main source of this pressure is constituted more by the mediator and less by the ICC.

A second "ripe for resolution" variable that deserves attention is the possibility that the parties have reached what I. Zartman (1989) calls a "hurting stalemate". The Government of Uganda may finally, after twenty years of fighting, have realized its incapacity in defeating the LRA by military force. Despite the fact that Museveni reluctantly entered into negotiations with the LRA both in 1994 and in 2004, he continued to state openly that he preferred a military solution to the conflict. This assumption is further strengthened by the fact that it was Museveni's position that "the only thing to negotiate was the total surrender of the LRA" that made the LRA leave the 1994 negotiations (Bøås 2004: 290). Museveni confirmed his position in 2004, when he refused to give the LRA three additional days to consider an agreement that was already worked out (Anonymous 2007 [interview]). Lately, however, the government has changed its rhetoric and admits that a dialogue with the LRA is necessary (Bøås 2006: 54).

The LRA, on their side, may simply be tired of fighting and feeling under pressure, especially after the signing of the Comprehensive Peace Agreement (CPA) between the Sudan People's Liberation Movement/Army (SPLM/A) and Khartoum in 2005 has made it increasingly difficult for the LRA to maneuver. Officially, the signing of the CPA marked the end of the support that Khartoum has given the LRA since the mid-1990s.<sup>3</sup> There are, however, strong indications that elements in Khartoum continue to supply the LRA with the

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<sup>3</sup> Although the CPA in 2005 secured the SPLM political participation in Sudan's central government, the term Khartoum should throughout this study be understood as representing the National Islamic Front (NIF)/National Congress Party (NCP) led by the President of Sudan, Omar Hassan al-Bashir.

objective of destabilizing the south (International Crisis group 2006). The LRA may in other words remain stronger than many believe. The question whether a military stalemate exists due to a balance of power situation is also closely related to (1) changing stakes and (2) the possibility of the existence of a political economy of war, as will be explained below.

The final “ripe for resolution” variable that needs to be considered is the impact of domestic political institutions in Uganda. To what extent has an evolving democracy influenced President Museveni’s decision to accept the mediation of Riek Machar? As will be argued in chapter four of this study, democracy in Uganda has remained limited, and there are few signs that Museveni’s resolve for a military victory has become more restrained by domestic accountability during the last years.

Perhaps, to a certain extent, in the words of Jeffrey Z. Rubin (1992: 252), “it is the whip of external pressure and the pain of unacceptable alternatives that drives disputants to the bargaining table”. By discussing the probable effect of these additional contextual variables, it will nevertheless appear likely that the mediator stands out as the most influential independent variable. If we compare Juba to previous negotiation attempts, notably in 1994 and 2004, these additional variables present only limited contextual change. It is, in other words, difficult to explain the Juba success solely on grounds of the conflict being “ripe for resolution”.

### **1.2.2 The impact of shared ethnicity and easily divisible stakes**

If Juba cannot be satisfactorily explained as being “ripe for resolution”, is it then possible that shared ethnicity or easily divisible stakes have made negotiations more likely to succeed? The first point, ethnicity, can easily be ruled out by the fact that the very roots of the conflict is largely to be found in ethnic and cultural differences between the Bantu centre and south-west of Uganda and the Nilotic north. This cleavage was exacerbated by the British colonialism, and lent itself to manipulation by a series of post-colonial regimes all the way up to 1986, when the current regime came to power in a coup against the Acholi president Tito Okello. The LRA uprising was sparked by Museveni coming to power and by his army’s harsh treatment and atrocities against the Acholi nation. The conflict nevertheless has deep historical roots in the perceived marginalization of the Acholis. (Bøås 2004; Finnström 2003).

The second point, the divisibility of stakes, presents more of a puzzle. The LRA began its insurgency as a direct challenge to the regime of the National Resistance Movement

(NRM) in Kampala with a clear objective of overthrowing President Museveni. In this sense it could be argued that the very survival of Museveni's regime was at stake, and that can hardly be seen as easy divisible after the NRM had just come into power by the use of military force. It is, however, likely that these stakes have changed over the twenty years that the conflict has lasted. While the elimination of the LRA has largely remained Kampala's intent, the main objective of the LRA is eventually reduced to the personal survival and wellbeing of its leadership (Anonymous 2007 [interview]; Amongi 2007 [Telephone interview]; UN 2007b). This indicates that the stakes of the conflict may have become more divisible than they were initially.

Inhabitants in Gulu, as well as representatives of local and international NGO's and the UN hold that there are several incidents of collaboration between the Acholi population and the LRA (Anonymous 2006 [interviews]). Nevertheless, it is likely that the LRA is weakened politically as it has lost much of its political support in the north compared to the early days of the insurgency. This is partly due to the fact that their military campaign failed to produce significant results in the early stages and that the Acholi population is generally tired of war. It has not been helpful that the LRA has accused the Acholi population of betrayal. The LRA has become notorious for looting Acholi villages and IDP camps and abducting children, and it holds the Acholi population responsible for its own fate (Bøås 2004: 290).

Having kept the LRA at arms length for twenty years, it seems likely that Museveni no longer fears that the LRA will challenge his position as president in the foreseeable future. Museveni nevertheless seems bent on breaking the LRA by force. This assumption is strengthened by his resolve for a military victory, in spite of the Amnesty Act passed by the Uganda parliament in 1999 urging LRA fighters to lay down their weapons in return for legal amnesty.

It is also highly unlikely that the overthrow of Museveni remains the main objective of the LRA. This is evidenced by the fact that the LRA has raised demands of political representation that stop far short of Museveni leaving office. Even members of the LRA diaspora, who have raised the highest demands in the negotiations, have shown willingness to settle for power-sharing alternatives (Among 2006; Monitor 2006). The LRA leadership seems more concerned about their own survival and wellbeing than of their political aspirations. Apparently the LRA military leadership has even signaled willingness to stand

for a domestic trial in Uganda in return for protection from the Hague (Amongi 2007 [Telephone interview]; Nyakairu 2006).<sup>4</sup>

Closely related to the divisibility of stakes and the balance of power is an argument following the logic of the political economy of violence thesis, developed by David Keen, Mats Berdal and Davis M. Malone. According to this theory, the goal of a conflict is not necessarily to defeat the enemy in battle, but the continuation of fighting with the intention of profiting economically (Keen 1998; Berdal and Malone 2001). As will be demonstrated in chapter four of this study, there are clear signs that key actors on both sides of the conflict in Northern Uganda, most notably in the side of the government, have managed to profit well from the continuation of the conflict. This means that there might have periodically existed an *appearance* of a military stalemate, and that a resolution may have been delayed partly due to the existence of a political economy of war.

In conclusion, the divisibility of stakes explanation, together with some of the “ripe for resolution” variables – most notably the costs of war – may have had some influence on rendering the Juba negotiations successful. Nevertheless, the most important change over time, and compared to previous mediation attempts, is the mediator. It thus seems probable that the main share of the Juba success should be attributed to the involvement of Riek Machar.

### **1.2.3 Key mediator qualities and the contingency model for mediation**

As it seems likely that the mediator has contributed significantly to the Juba success, one natural follow-up question arises: what is it that makes this Riek Machar able to succeed where no other mediator has succeeded before? Jacob Bercovitch and Allison Houston (1995) have developed a theoretical framework for studying mediation as an element in negotiation theory. They call this framework the contingency model for mediation (also called the contingency approach to the study of mediation). The contingency model, which is presented in detail in chapter two, confirms Walter’s assessment that the mediator is only part of the full picture and that a number of other variables must be taken into consideration when searching for explanations for successful negotiation outcomes. However, the contingency model also takes the theoretical framework one step further by explaining not only *that* a

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<sup>4</sup> See also International Crisis Group (2007) for details on the LRA claims.



mediator may play a significant role in negotiations, but also under *which circumstances* the mediator is likely to contribute towards successful outcomes. The model describes, in other words, how the role of the mediator may interact with these other variables in order to produce successful negotiation outcomes.

The contingency model seems helpful as a theoretical framework which the qualities of Riek Machar as a mediator can be weighed against. According to the model, success in mediation is dependent on variations in a number of context- and process related variables. Many of these variables concerning the nature of the parties and the dispute, as well as the nature of the mediator and the choice of strategy, seem relevant to the study of the Juba negotiations. The following operationalization is suitable when searching for qualities that contribute to make Riek a successful mediator:

*If Riek Machar's qualities as a mediator relate to other context- and process variables as stipulated by the contingency model, the hypothesis that these qualities have contributed to make Riek a successful mediator is strengthened.*

In the case of Juba, two key qualities deserve closer attention. First, Riek has a long lasting personal relationship to both adversaries. Despite being an external mediator, Riek is in many ways an insider, and the parties perceive him as one who understands their interests. Riek's shifting political alliances has brought him in close contact with both the LRA leadership and the Government of Uganda, both as an opponent and ally, but at different times. This affiliation must be understood both in relation to the historical development of the conflict between the Government of Uganda and the LRA and the long lasting civil wars of the Sudan – and especially in relation to the links between these conflicts. Gérard Prunier (2004: 359) is helpful in sketching out the main picture:

In many ways Sudan and Uganda have been running an undeclared war on their common border since 1986. Sudan has been supporting [...] the Lord's Resistance Army (LRA), which is still fighting the Museveni regime in northern Uganda. meanwhile, Kampala has progressively given increased help and facilities to the Sudanese People's Liberation Army (SPLA), which is fighting the Khartoum regime in the southern Sudan.

The picture is further complicated by the various splits that have occurred in the SPLM/A and by the intricate formations and terminations of alliances between the various actors in Sudan.

Riek has a long record as a leading combatant in the civil wars of the Sudan, conflicts that in many ways have been intertwined with the conflict he was later to mediate. As one of the leading figures of the SPLM/A since the birth of the movement in the early 1980s, Riek was politically aligned with the Government of Uganda, as the LRA was their common enemy. As a result of a split in the SPLM/A leadership in 1991, Riek, together with Lam Akol, formed the SPLA-Nasir (later to become the South Sudan Independence Movement, SSIM, under Riek), with the intent of overthrowing the leader of the SPLM/A, John Garang. Consequently, the SPLA-Nasir formed an alliance with Khartoum against the SPLM/A. This alliance brought the SPLA-Nasir/SSIM, under the leadership of Riek, into direct collaboration with the LRA in 1993 (Johnson 2003: 113). The alliance between Riek and Khartoum was formalized with the Khartoum Peace Agreement in 1997, which made Riek the representative of Khartoum to Southern Sudan and leader of the South Sudan Defense Forces (SSDF).

Finally, Riek broke with Khartoum and signed the Nairobi Declaration in 2002 together with John Garang. This realigned the SPLM/A with Riek's newly formed Sudan People's Democratic Front (SPDF). Consequently Riek was once again aligned with the Government of Uganda, with the LRA as a common enemy. In relation to the disputing parties in Juba, Riek Machar is in other words in a unique position as a mediator. As a result of a long history as friend and foe of both the LRA and the Uganda government, arguably no other person has a better potential to know and understand the interests of both these parties.

The parties, in particular the Government of Uganda, may also be concerned about their future relations to the mediator. If Southern Sudan succeeds in implementing the CPA within 2011, it will be able to hold a referendum for independence.<sup>5</sup> In the case of secession, Riek Machar is likely to be among the leading figures of a new sovereign South Sudan. Since the emergence of an independent South Sudan bordering to Uganda is a real and highly likely possibility in the near future, it would clearly be in the interest of the Uganda Government to establish a close and friendly relationship to Riek Machar. The Juba talks may indeed present a golden opportunity to pursue such a strategy. There are, in other words, indications of aligned interests between the mediator and one of the parties, something which brings us to the next point, namely the mediator's own interests in negotiating a successful outcome in Juba.

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<sup>5</sup> The right of Southern Sudan to hold a referendum for independence is embedded in the CPA.

The second quality that strengthens Riek's position as a mediator is his own interests – in other words, lack of impartiality – in resolving the conflict between the Government of Uganda and the LRA – paired with a possible capacity to exercise some leverage towards this end. As the Vice-president of Southern Sudan, Riek is directly responsible for implementing the CPA within 2011. One of the main obstacles to successful implementation lies in the area of security. The continued presence and operation of the LRA – in addition to other non-signatories of the CPA – in Southern Sudan is one of the main problems that the Government of Southern Sudan (GoSS) has to deal with, as it threatens to spoil the already fragile peace agreement. A removal of the LRA from Southern Sudan is thus clearly in the interest of the GoSS, as this would both enhance its capacity of consolidating military and political control in the south, and at the same time decrease Khartoum's capability to destabilize the implementation by the continuous use of the LRA as a proxy.<sup>6</sup>

Knowing the SPLM/A as an armed group with twenty years experience in guerilla warfare, and knowing that there has been a long history of armed struggle between the SPLM/A and the LRA, it would be natural to assume that Southern Sudan would opt for direct military action against the LRA. Salva Kiir, who inherited the SPLM/A leadership as well as the political offices of Garang, seems to have continued Garang's three layered approach to the LRA: either (1) agree to a peaceful solution, (2) leave Southern Sudan, or finally (3) be evicted by force (International Crisis Group 2006). In other words, the GoSS has issued the LRA an ultimatum in which it is threatening to evict it forcefully if a peaceful solution is not found.

There are, however, several indications that the GoSS and the SPLA is reluctant to pursue a military strategy.<sup>7</sup> First, delays in the reorganization of the SPLA into a professional army have resulted in low moral and limited resolve to deal with the LRA and other groups. Second, the LRA is a difficult military target because it has become increasingly difficult to separate the group from other militias in Southern Sudan including the southern remnants of the Sudan Armed Forces (SAF) (International Crisis Group 2006). A military engagement with the SAF would constitute a return to war with Khartoum and a direct violation of the CPA. Finally, the LRA still has the capacity, partly due to continued support from Khartoum, to create enough havoc to seriously restrain the GoSS's ability to implement the CPA,

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<sup>6</sup> As will be further argued in chapter six of this study, it is most likely in the interest of Khartoum that Southern Sudan fails in implementing the CPA. Such failure would render it difficult for the South to hold the 2011 referendum, with the consequence of keeping the Sudan unified under the central leadership of Khartoum.

<sup>7</sup> In line with the CPA, the newly formed GoSS kept the SPLA as the official army of the south.

notably by cutting off vital routes of communication (International Crisis Group 2006; Ledang 2007 [Telephone interview]).

In sum, there is reason to believe that the GoSS is unwilling to take the political risk of engaging the LRA militarily. It follows that if the GoSS wants to get rid of the LRA, it needs additional means. One suggestion is that the initiative to act as a mediator between the LRA and the Government of Uganda was added to the previously issued ultimatum because a military campaign seemed infeasible. It should nevertheless be underlined that the GoSS strategy contains an element of leverage, as evidenced by the continued validity of the ultimatum. The GoSS has not withdrawn the threat to use force, it has merely paired it with an offer of mediation as one additional option.

It is likely that the interests of Riek and the GoSS are also partly shaped by economic incentives. Peace in Northern Uganda would allow for the consolidation of cross-border trade between Uganda and Southern Sudan. There are already indications on the ground that trade networks and transportation across the border have begun to materialize and that prices in Juba have consequently begun to fall (Bøås 2006: 52). Cross-border trade will also strengthen Southern Sudan's capability to survive as an independent country, as it would mean less dependence on the trade networks from Khartoum (Ibid.).

Finally, in terms of the mediator's interests, one need to keep in mind the personal political prestige and international goodwill that Riek Machar would receive if he could take the honor of bringing peace to Northern Uganda (Ibid.).

### **1.3 Definitions**

The premise for the thesis of this study is that the Juba negotiations are successful. Negotiation theorists have traditionally treated the question of successful outcomes as a dichotomy between failure and success. Failure is constituted as the breakdown of negotiations, while success means the signing of a peace agreement. Once an agreement is concluded, its degree of success is further measured by the agreement's effectiveness, stability, and the distribution of benefits (Kvamme 2006; Skodvin 2006).<sup>8</sup>

At face value one may see few problems in measuring negotiation outcomes in this manner. To apply the existence of a signed peace agreement as condition for negotiation

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<sup>8</sup> An agreement is 100% effective if it is Pareto optimal, that is when one party cannot gain a better outcome unless the counterpart loses accordingly. An agreement is 100% stable if no parties have any incentives to defect.

success is nevertheless too simplistic. Arild Underdal (1983: 184) confirms this and urges us instead to measure success as the “distance between what is actually accomplished and *what could have been accomplished*”.<sup>9</sup> If a signed agreement is ineffective and unstable, there should be valid reasons to question whether such an agreement is really successful. How successful is a peace agreement that lasts for a few months only to break down in renewed fighting, because the parties find incentives to defect – incentives that may be inherent in the very nature of the agreement? On the other hand, even if the parties do not sign an agreement, negotiations might have brought them closer to an agreement than they would have been in the absence of negotiations. In this sense, a negotiation outcome may stop short of the signing of an agreement and nevertheless contain elements of success (Kvamme 2006: 2-3).

Regardless of the final outcome, Juba has brought the parties closer to a settlement than ever before. From a theoretical perspective the Juba negotiations are therefore successful. This argument is strengthened by the situation on the ground. As mentioned above, there have been only sporadic hostilities between the adversaries after the Juba process was initiated, and the humanitarian situation in Northern Uganda has improved significantly (International Crisis Group 2007; Oxfam 2007; UN 2006; UN 2007a).

If we are to investigate the role and qualities of a mediator it is important to have a clear understanding of who the mediator in question is. Bercovitch (1992) holds that within the realm of international relations, all mediators are encompassed in one of three categories: (1) individuals, (2) states, and (3) institutions and organizations. Bercovitch (1992: 10-11) underlines that the first category consists of “individuals who do not fulfill an official, representative function.” Such categorization may in some cases be too rigid, as the borderlines between the categories are often blurred. Jeffrey Z. Rubin (1992: 250) has a valid point when he argues that “no matter how complex, powerful, or formal the organization responsible for intervention [...], the work of mediation is eventually carried out by *individuals*.”<sup>10</sup> This study defines the mediator in Juba as an individual, but an individual who is also attached to his or hers official, representative function. Riek Machar is obviously an individual, but he is also wearing the hat of the Vice-president of Southern Sudan.<sup>11</sup> As a political actor, Riek can therefore not be detached from his official, representative function as the vice-president of Southern Sudan – nor can his personal interests be understood in

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<sup>9</sup> Emphasis in original.

<sup>10</sup> Emphasis in original. Rubin’s point that a mediator is always an individual also makes it easier to generalize about mediation. See discussion in chapter two.

<sup>11</sup> Southern Sudan is technically an autonomous region of the Sudan and not a sovereign state.

isolation from the interests of Southern Sudan as an autonomous region. Riek's motives and interests as a mediator must in other words be understood in relation to his interests as a political actor.

The fact that Riek Machar is currently playing a somewhat less central role in the negotiations than he did initially may create some confusion about who is the real mediator in Juba.<sup>12</sup> For the purpose of this study this development is of minor relevance. The important time span for this study is the period from when Riek Machar made the initial contact with the parties until the parties accepted to enter formal negotiations with Riek as mediator. It was the parties' acceptance of Riek as a mediator that made the Juba talks possible, and this is where the historical breakthrough that later led to success lies. The main achievement of the Juba negotiations took place before the parties gathered formally at the negotiating table. What happened afterwards is of secondary importance for the thesis of this study.

Mediation is a voluntary process in the sense that the mediator needs the approval of all parties involved. This means, in the words of Bercovitch and Houston (1995: 25), that "mediators cannot mediate unless they are perceived as reasonable, acceptable, knowledgeable, and able to secure the trust and cooperation of the disputants." It is part of the argument of this study that Riek Machar is perceived to have these capacities thanks to his historical relationship with the disputants. To define mediation purely as a voluntary process is nevertheless flawed. A mediator may also exercise leverage as part of the strategy. Among the tools available to a mediator, the capacity to apply pressure upon one or more of the parties, is often of central importance. "Pressing can pave the way for agreement by reducing the set of non-agreement alternatives" (Carnevale 1986: 80).

As mentioned above, the Government of Southern Sudan has offered to mediate, but also maintained its three layered approach to the LRA first applied under the SPLM/A leadership of John Garang: (1) seek a peaceful solution, (2) leave Southern Sudan, or finally (3) face forced eviction. This may, as mentioned above, indicate that the LRA feels some pressure from the mediator to find a negotiated outcome, and that this pressure, together with the offer of mediation, has been instrumental in moving the LRA towards Juba. We shall

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<sup>12</sup> At the time of writing, Riek Machar and the GoSS, are still central actors in the Juba talks. The negotiations have nevertheless been marked by the additional involvement by other actors, notably the Special Representative of the UN Secretary-General for LRA-affected areas, Joaquim Chissano, as well as representatives of the UN Office for the Coordination of Humanitarian Affairs (OCHA).

return to the discussion of leverage in detail in chapter two. It nevertheless deserves mention here as it contributes to define the mediator.<sup>13</sup>

Part of the argument of this study is that Riek Machar is a partial mediator. It is therefore necessary to have a clear understanding of the meaning of partiality vs. impartiality when discussing mediation. The meaning of partiality in this study is twofold. Impartiality can mean that the mediator is free of bias in the sense that he does not favor the interests of one party above the other. However, impartiality can also mean that the mediator has no personal interest in the outcome of the conflict. These two meanings are, however, often closely related. If it is in the interest of the mediator that one of the parties is secured certain benefits from the outcome, this mediator will naturally have a bias position in favor of the party in question.<sup>14</sup> Riek Machar is clearly partial in the sense that he has his own interests in resolving the conflict between the Government of Uganda and the LRA. Moreover, Riek has some bias in favor of the former. As will be demonstrated in this study, Riek's interests in resolving the conflict are aligned with the Government of Uganda. He also applies some leverage vis-à-vis the LRA, whose existence and continued operation presents a common problem for the mediator and the Government of Uganda.

It is important to underline the fact that the LRA does not appear as a unitary actor in the Juba negotiations. A large share of the LRA delegation is comprised by Acholi diasporas who left Uganda after Museveni came to power (International Crisis Group 2007: 10). While the LRA leadership seems to be mainly concerned about their own personal safety and wellbeing, the diasporas are pushing for more extensive political claims (Ledang 2007 [Telephone interview]). This lack of unification notwithstanding, it is the position of the LRA military leadership that really matters in Juba. It was Joseph Kony who made the decision to enter negotiations, and together with his deputy Vincent Otti he has personally approved each member of the LRA-delegation to Juba. Likewise it remains in Kony's hands to determine whether the LRA will end its insurgency peacefully or return to war. (International Crisis Group 2007: 8-11). This clarification also fortifies the argument that Riek Machar's position as a mediator is strengthened by his personal relationship to the parties. Chapter five of this study describes how Riek as a leading combatant in the civil wars of the Sudan came in close contact with the military leaders of the LRA.

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<sup>13</sup> The concept of mediation and the mediator is further defined and restricted in detail in chapter two.

<sup>14</sup> The concept of partiality in relation to Riek Machar is further discussed in chapter two of this study.

## **1.4 Research design and methodology challenges**

For every scientific study there is always the question of what type of research design to apply in order to respond to the research question and defend the thesis statement in the most suitable and reliable manner. The choice of research design is closely connected to the extent to which the study is able to maintain a satisfactory level of reliability, construct validity, internal validity and external validity. This section will first describe the research design of this study and explain why it was chosen. Next, this research design will be weighed against the requirements of reliability and the various forms of validity, concepts which will be defined subsequently.

According to Robert K. Yin (2003: 19), “a research design is the logic that links the data to be collected (and the conclusions too be drawn) to the initial questions of study.” When deciding how to construct a research design for a scientific study, there is always the question whether to choose a qualitative statistical approach or a more qualitative design – or, in some situations, a combination of the two. Quantitative designs are usually more suited in the study of a high number of units and when a few variables are compared across these units in pursuit of correlations. Qualitative designs are more suited in the study of one or few units where a higher number of variables are investigated (Hellevik 2003: 111). Researchers may in some situations combine the two approaches. One way of doing so may be to apply a qualitative approach in the exploratory phase of research when limited knowledge exists about the phenomenon in study. Once precise concepts and hypotheses can be developed, the research may enter a more qualitative stage (Ibid.) This study is concerned with one unit of analysis, namely the Juba negotiations, and there is a need to consider a relatively high number of independent variables that may have influenced the dependent variable (successful negotiation outcomes). According to the logic of Hellevik, it therefore seems appropriate to apply a qualitative research design.

In the words of Yin (2003: 13), “a case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.” Case studies are suitable when the research questions of the study are of an explanatory nature and are interested in causal mechanisms – that is when one is interested in *why* or *how* a phenomenon takes place. Yin (2003: 9) sums up the situations in which a case study is a suitable strategy as “when a ‘how’ or ‘why’ question is being asked about a contemporary set of events, over which the



investigator has little or no control.” This study is interested in the causal mechanisms of the successful outcome of the Juba negotiations by raising the following “why” question: Why are the Juba negotiations successful (a shortened version of the research question of this study)? Consequently the choice of a case study as research design seems appropriate.

This study is a single case study in which the unit of analysis is the Juba negotiations. According to Svein S. Andersen (2005: 68-73), there are two types of single case studies depending on how they relate to theory. The first type focuses on the unique and has no ambitions of generalizing. The second type is still interested in the unique, but at the same time consists in a theoretical framework as an example of one or several phenomena that there already exists some knowledge about. The phenomena in the case of this study are negotiations and third party mediation in armed conflict. Andersen further divides the latter type of case study into two sub-categories: theoretical interpretive and theoretical developing. The first applies an existing theoretical framework to the case in question in order to understand the phenomena studied. The second seeks to contribute to the development of theory by generalizing from the findings of studying the phenomena in question.

This study does have some aspirations to do both. Nevertheless, it is primarily of a theoretically interpretative nature, in the sense that it makes its departure in existing negotiation theory and analyses the Juba negotiations in light of this theory. At the same time this study also contributes to developing theory, although to a limited extent. To answer how, it is necessary to scrutinize the external validity of the study.

According to Yin (2003: 37), the external validity of a study is determined by the extent that the “study’s findings are generalizable beyond the immediate case study.” We therefore need to raise the obvious question: is it possible to generalize from a single case study? Yin (2003: 10) argues that “case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes.” This means that it is impossible to modify negotiation theory from the findings of this study alone. This study nevertheless contributes to theory by presenting important propositions regarding the role of the mediator and mediator qualities that may serve as a starting point for further complimentary research.

Construct validity is determined by the extent to which a study succeeds in measuring what it is supposed to measure in a reliable manner and to a satisfactory degree (Skog 2005: 89). In this study, construct validity concerns how well the theoretical variables are operationalized. There is obviously more than one approach that might be chosen in order to measure the impact of a mediator’s role in negotiations. This study has chosen to measure it by first weighing it against a theoretical framework, which points out additional variables that

should be considered, and then discussing the significance of these variables based on a study of the conflict and the negotiations in question.

The construct validity in this study could arguably have been stronger by using more sources of evidence. Interviews with key informants have been conducted, but to a limited degree. Most interviews are more of an informal conversational nature conducted during a total of three periods in the Gulu area in Northern Uganda, each between two and three weeks of duration, in 2004, 2005, and 2006.<sup>15</sup> Some additional interviews with centrally placed actors have been conducted over telephone and email during 2007. The study bases most of its findings primarily on written secondary sources. There are nevertheless a certain level of variation in these secondary sources, including books and articles on the conflict and the historical background, electronic sources, scholarly reports, reports and newsletters from international organizations – notably various UN organs, NGO reports, and newspaper articles and analysis. The principle which Yin (2003: 97) refers to as the technique of “triangulating from multiple sources of evidence” is in other words followed but partly.

The limited reliance on interviews in this study may imply a shortage of detailed information, which is often yielded by extensive use of interviews. This said, given the theoretical nature of the approach of this research study, the negative consequence represented by such a loss remains limited.

The fact that this study is explanatory (interested in causal mechanisms) raises some concerns regarding its internal validity. Yin (2003: 34) measures internal validity by the extent to which the study is “establishing a causal relationship, whereby certain conditions are shown to lead to other conditions, as distinguished from spurious relationships.” To maintain a satisfactory level of internal validity it is necessary to consider if there are other variables than the mediator that may have contributed to success in the Juba talks. As described above, this study therefore examines additional factors that may have influenced the negotiations. It is nevertheless crucially important to be aware of the potential shortcoming that yet other variables may, and probably do, exist – variables that are not included in this study and may present a danger for spurious effects. Also regarding the second part of the thesis – discussing Riek’s qualities as a mediator – other qualities than those covered in this study may have played a role.

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<sup>15</sup> These travels were conducted for other purposes and before the research question and thesis statement of this study were formulated. They are nevertheless valuable for my general understanding of the area, the Acholi population, the conflict, and Northern Uganda’s transition from a state of daily conflict and despair to a state of cease fire, negotiations, and hope. In this sense this study may also benefit from a certain degree of direct observation.

Another shortcoming, which is common to most qualitative research, concerns the concept of reliability. According to O. Hellevik (2003: 53), the reliability of a study is determined by how precisely data are collected and processed. This is often a problem in qualitative research, and this study is no exception. One problem is that it is not possible to measure the partial effect of each independent variable as accurately as if one were to apply a more statistical qualitative approach. There is also a low probability that other researchers would have collected the exact same data and interpreted these in an identical manner. The reliability of this study is in other words limited by the fact that qualitative research may be difficult to repeat with the exact same results.

It should be underlined that the Juba negotiations are still ongoing and indeed fragile. This implies a high level of sensitivity. Furthermore, conversation about issues related to the conflict implies a certain risk-level for informants in Uganda, especially for those who may be accused, rightly or not, by collaboration with the rebels. There have been numerous incidents of people tried for treason on grounds of such collaboration (Dunn: 2007). This presents a challenge regarding availability, as well as treatment, of information. First, there exists a limited amount of previous research on the case and many people have shown reluctance to speak openly, or even declined requests for interviews. A number of informants have asked not to be named and are therefore referred to as anonymous. Second, it must be kept in mind that informants may give bias information, both due to their own motives and the necessity to hold back confidential information. This study includes interviews with individuals who are in close contact with the leadership of both the Government of Uganda and the LRA. It is natural that these people have their own agendas when sharing information. In this lies the potential that some of the source material may be polarized. Whenever possible I have therefore tried to confirm information given by potentially bias sources with information from other sources which are believed to be bias in “the opposite direction” or neutral. Finally, some of the information in this study is gathered from unpublished material, which for the same reasons as above is of a sensitive nature and therefore not distributed.

The protection of sources’ identities and the use of unpublished material do have implications for the reliability of this study, as it makes it impossible for other researchers to verify the information. It is nevertheless the duty of a researcher to let the safety of informants come first.

This study cannot empirically prove its findings. Aware of the methodological shortcomings above, it is nevertheless possible to conclude on some probable and plausible explanations.

## **1.5 Significance of research**

Third party-mediation has been part of conflict resolution in industrial and pre-industrial societies and is as old as conflict itself. Mediation is currently applied to an increasing number of conflicts as well as to different realms. Yet, third-party mediation remains one of the least studied areas of conflict resolution (Bercovitch and Houston, 1995: 11). As mentioned in the first pages of this chapter, scholars differ in their opinions when it comes to the significance of the mediator's role in resolving conflicts. The solidity of the empirical basis for their disagreement is nevertheless limited.

...notwithstanding its popularity, longevity, ubiquity, and importance, we know far less about this form of conflict management than we imagine. Systematic analyses, let alone empirical studies, of third-party intervention in general and mediation in particular have been very rare. The phenomenon has for too long remained little studied and poorly understood (Ibid.).

With the aforementioned shortcomings in mind, this study contributes to fill this knowledge gap. A better understanding of how the mediating role of Riek Machar influences the outcome of the Juba negotiation can hopefully produce some propositions for complimentary and new research. It is certainly possible that additional research, both on the Juba negotiations and on other negotiations, eventually can increase our knowledge of third-party mediation on a general level. In the words of I. Zartman (1995: 4), "more case studies are needed in order to generate insights and observations that can be used inductively to produce applicable concepts and theory." Hopefully this study can be one of them.

## **1.6 Structure of the thesis**

Chapter two presents the theoretical framework of the thesis. Barbara Walter's six hypotheses on how civil wars may reach successful negotiated outcomes are helpful in situating the role of the mediator as one of several variables that affects negotiation outcomes. A presentation of central aspects of the contingency model of mediation, developed by Jakob Bercovitch and Allison Houston on the basis of their own data analysis combined with the work of other scholars, will allow us to explore the dynamic relationship between the mediator and other context- and process variables.

Chapter three provides historical background information on the conflict between the Government of Uganda and the LRA, including previous attempts to resolve the conflict.

By weighing the Juba case against the theoretical framework presented in chapter two, chapter four will consider the impact of alternative or complimentary explanations to the Juba success with focus on “ripe for resolution” explanations such as costs of war, the balance of power and the probability of a “hurting stalemate”, as well as the impact of domestic political institutions, and the divisibility of stakes.

After concluding that a fair share of the Juba success must be contributed to Riek Machar as a mediator, chapter five and chapter six will look at some key mediator qualities that have been instrumental in Juba, namely Riek’s historical relationship to the parties (chapter five) and the mediator’s own interests in resolving the conflict, paired with the possible impact of mediator alignment and leverage applied towards this end (chapter six).

Chapter seven will sum up the findings of the study and discuss the extent to which it may contribute to theory development if paired with similar research projects or further developed into new research projects by overcoming its methodological shortcomings.

## 2 Theory Framework

Mediation has been practiced for as long as two people have fought while a third tried to bring their fight to an end [...]. Despite the frequency and importance of international mediation, however, a gap remains between the practice of mediation and efforts to understand systematically the nature and consequences of such intervention” (Rubin 1992: 249).

In this, Jeffrey Z. Rubin sheds light on the difficulties of finding common ground for comparison and generalization in the study of mediation. The approach to mediation taken by this study does require a theoretical framework. Fortunately scholars like Jacob Bercovitch, Allison Houston, Jeffrey Z. Rubin, Carl Stevens and Tom Schelling have provided such a framework which allows us to study mediation systematically.<sup>16</sup> As explained in chapter one, this case study makes its departure in negotiation theory and attempts to analyze a single case of negotiations – the Juba talks – in light of this theory. This chapter will therefore attempt to provide a brief overview of how the mediator and the concept of mediation are treated in negotiation theory and show its applicability for the Juba case.

There are scholars, such as Arthur Meyer and Walter Simkin, who hold that, given its complexities and variations, is it not possible to theorize or provide any form of general knowledge about mediation (Bercovitch 1992: 2). This study does not argue that the area of mediation is not complex. It is, however, precisely by situating the role of the mediator in a broad, and indeed complex context of numerous independent variables we can arrive at a theoretical framework which allows us to study mediation and the mediator’s probable impact on the dependent variable, namely negotiation outcomes. In the words of Bercovitch (1992: 3), “mediation can indeed be studied systematically, but it can only be studied as an aspect of the broader context or structure of negotiations and the parties’ own efforts to manage their conflict. Mediation is the continuation of negotiations by other means.”

The details of the contextual framework in which mediation is one of the variables will be laid out in the following. Barbara F. Walter’s presentation of six competing hypotheses on why and how negotiations succeed, together with the contingency model of mediation, developed by Jacob Bercovitch and Allison Houston, will be helpful in this pursuit. Walter provides a systematic overview of six current hypotheses on why and when the combatants of civil war decide to seek a negotiated resolution to their conflicts and which

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<sup>16</sup> Bercovitch lists Stevens and Schelling as important contributors to developing a theoretical framework for studying mediation.

factors are likely to encourage them to sign a peace agreement. The intervention of a mediator is one of these hypotheses. The contingency model of mediation situates the role of the mediator in relation to other context- and process related factors that influence negotiation outcomes.

The thesis of this study is derived from two main research questions regarding the role of Riek Machar as a mediator: (1) how important is the role of Riek in rendering Juba successful and (2) what qualities does Riek possess which allow him to be a successful mediator? This chapter will attempt to lift these research questions to the general dimension and seek to provide some answers on a theoretical level.

First, we need to understand how negotiation theory assesses the importance of the mediator in the negotiation process - how can the mediator as an independent variable contribute towards successful negotiation outcomes? Does the mediator really matter, and under which circumstances and premises? Next we need to take a theoretical approach to some of the qualities a mediator may possess in order to be more successful. Is impartiality a necessity for the parties to accept a mediator? Should, in other words, the mediator refrain from pursuing own interests? How is the mediating role related to power and the capacity to exercise leverage vis-à-vis the disputing parties? How can the historical relationship between the mediator and the parties make a difference? Before assessing these questions we need to take a quick step back and look for the exact meaning of the concept of mediation.

## **2.1 Defining mediation and finding ground for generalization**

Scholars have struggled to find a definition for mediation specific enough to allow us to compare different mediators and mediation processes and arrive at some general characteristics, yet broad enough to capture the full complexity, variations and dynamics that characterize mediation in real life. “The myriad of possible mediators and the range of mediatory roles and strategies is so wide as to defeat many attempts to understand...the ‘essence’ of mediation” (Bercovitch 1992: 7). Bercovitch nevertheless argues that it is possible to arrive at a definition that allows us to capture this ‘essence’ and provide a starting point for comparison and generalization.

Bercovitch (1992: 7) defines mediation as follows. Mediation is *a process of conflict management, related to but distinct from the parties’ own efforts, where the disputing parties or their representatives seek the assistance, or accept an offer of help, from an individual,*



*group, state or organization to change, affect or influence their perceptions or behavior, without resorting to physical force or invoking the authority of the law.* Bercovitch admits that such a definition is indeed broad, but nevertheless necessary in order to recognize and include all parts of what he refers to as the mediation system: the parties, the mediator, the process, and the context of mediation. “The interaction among these elements determines the nature, quality and effectiveness of any form of mediation” (1992: 7).

This study will treat mediation according to Bercovitch’ definition. However, one qualification should be made. Bercovitch seems to rule out the possibility that a mediator may apply force as a tool to influence the parties. This may be correct in the most strict sense, since the moment a mediator starts to use physical force, the process in which the mediator is involved can no longer be called mediation or negotiation, but conflict. That said, the *capability* to apply force and the *threat* to do so can in many cases be important qualities in a mediator.

Peter J. D. Carnevale (1986: 44) is among the scholars who highlight pressing as an important quality in a mediator: “Pressing can pave the way for agreement by reducing the set of non-agreement alternatives [...]” We shall return to this in more detail under section 2.4 concerning the mediator’s qualities, but it deserves mention here since it helps defining mediation. In conclusion, this study will treat mediation according to Bercovitch’s above definition with one qualification: *a mediator may possess the capacity to apply force and use the threat of doing so a tool to move the parties.*

## **2.2 How important is the mediator?**

Having defined the concept of mediation and arrived at the assumption that mediation can be studied systematically, we can now lay out the theoretical framework in which mediation can be situated and understood as part of a whole. The main question assessed in this section is: how important is the mediator in rendering negotiation outcomes successful? While the nature of the mediator (i.e. mediator qualities) will be discussed in the section 2.3, this section will focus on situating the mediator as one of several variables influencing negotiation outcomes.

As noted in chapter one of this study, scholars differ in their opinions when it comes to the significance of the mediator’s role in resolving conflicts. The truth is most likely to be found somewhere between two extremes. A mediator does not operate in a vacuum, but in a

“complex arena of interdependent relations” (Bercovitch 1992: 25). It is hard to imagine a mediator achieving success while no other variables affect the process. On the other hand it is equally difficult to imagine that the mediator never matters, and that a negotiation process would be unaffected if one were to suddenly remove the third party from the scene. While scholars debate the importance of the mediator, there are few who would argue that the mediator is the only independent variable influencing negotiation outcomes. Nor is it likely that scholars will view the mediator as completely redundant in all cases. How important the mediator is in a negotiation process is likely to differ between cases depending on how it relates to several other independent variables, both contextual and process related.

In her book, *Committing to Peace* (2002), Barbara F. Walter discusses how civil wars end. Her findings are based on a study of all civil wars between 1940 and 1992. Walter presents six current hypotheses on why and when the combatants of civil war decide to seek a negotiated resolution to their conflicts and which factors are likely to encourage them to sign a peace agreement.<sup>17</sup> Walter groups these six hypotheses into two roughly defined theoretical camps. “The first [camp] views negotiated settlements primarily as a function of the economic, military, or political conditions that exists on the ground...” (Walter 2002: 7). These are central conditions that, if favorable, may make conflicts “ripe for resolution”. The main argument of this theoretical camp is that successful negotiation outcomes are likely once these conditions favor negotiation. More precisely, the combatants’ decisions to negotiate are influenced by the costs of war, the balance of power and military stalemate, and domestic political institutions. The three hypotheses of the first camp are as follows. (1) The more costly a war, the more likely combatants are to negotiate a settlement. (2) The more equally matched combatants are on the battlefield, the more likely they are to end their war in a negotiated settlement. (3) The more democratic a state, the more likely its government is to negotiate a settlement (Walter 2002: 15).

Chapter four of this study will analyze the war between the Government of Uganda and the LRA in light of these hypotheses. As we shall see, it is likely that the costs of war have had some influence on the Juba success. While the LRA has mainly suffered due to the consequences of the Comprehensive Peace Agreement (CPA) in Sudan, the costs of war for

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<sup>17</sup> Walter presents these theories in order to argue that they provide insufficient explanations to why the implementation of peace agreements often fails. Walter’s own theory on how to secure successful implementation is omitted from this study, as the implementation phase lies outside the focus of its research.

the Government of Uganda are largely constituted by an increase in international pressure on President Museveni to end the conflict.

The existence of a military stalemate resulting from a balance of power is not a convincing explanation for why the parties have decided to negotiate. As will be argued in chapter four, a balance of power could hardly have propelled the parties towards Juba, because the stakes of the conflict is changed in a way that the parties are fighting over issues that are no longer conflicting. While Museveni seems bent on eliminating the LRA, the main concern of the LRA leaders have become their own personal survival and avoiding the Hague.

It deserves mention that the *appearance* of a stalemate may have periodically been in the interest of central actors on both sides of the conflict, most notably on the side of the Government of Uganda, due to so-called “political economy of violence” incentives to keep the conflict going. According to scholars such as David Keen, Mats Berdal and David M. Malone, solutions to a conflict may be deliberately avoided, because the parties have economic incentives to keep the conflict going (Keen 1998; Berdal and Malone 2001). As noted by Kevin C. Dunn (2007: 145), and elaborated in chapter four of this study, “some evidence seems to support the view that a ‘political economy of violence’ has been institutionalized in northern Uganda.” In relation to Juba, however, such an apparent stalemate should indicate an incentive to continue the conflict, not resolve it.

Regarding the nature of domestic institutions, chapter four of this study will render it unlikely that it is a boost in democracy in Uganda that has increased President Museveni’s incentive for negotiations. First, it is highly questionable whether Uganda has become more democratic over the last years. Second, Museveni seems fairly unaffected by domestic accountability in his pursuit of a military victory.

The second set of Walter’s hypotheses “views negotiated settlements primarily as a function of combatants’ ability to resolve underlying conflicts of interest” (Walter 2002: 7). The main argument of this theoretical camp is that successful negotiation outcomes are dependent on the parties reaching a mutual agreeable bargain. More precisely, the disputants’ abilities to negotiate a successful outcome are influenced by ethnic identities, the divisibility of stakes, and mediation. The three hypotheses of the second camp are as follows. (1) Combatants fighting over issues tied to their identity are less likely to end their war in a negotiated settlement than combatants whose identity is the same. (2) The more divisible the stakes over which the combatants are fighting, the more likely the war is to end in a

negotiated settlement. (3) The success of civil war negotiations varies directly with the presence or absence of an outside mediator (Walter 2002: 15).

As argued in chapter one of this study, shared ethnic identities can be ruled out as an explanation for the Juba success, because ethnic fault-lines comprise part of the root causes of this conflict and have not changed since. As will be explained in chapter four, the divisibility of stakes is more relevant, because the fact that the stakes in this conflict have become less conflicting over time has had implications for the understanding of the balance of power and the possibility of a military stalemate. Here we may indeed see a bridge between the two theoretical camps defined by Walter.

Walter's final point, the participation of a mediator, is obviously of great importance in this study. Walter thus confirms the assumption that the mediator matters in negotiations. In the words of Stephen Stedman (Walter 2002: 14), "the ability of the would-be mediator is an independent variable that affects the success or failure of negotiation." Chapter four will conclude that Riek Machar has been of crucial importance in Juba. Some of the qualities which have rendered it so will then be explored in chapter five and chapter six.

### ***2.3 Mediation in context: how does the mediator matter?***

Next step in our pursuit of a theoretical framework is to move beyond the assumption that other factors besides the mediator influence negotiation outcomes. Mediation is dependent on the mediator, but the roles a mediator can play is in turn defined and restricted by both the context in which the mediation takes place and the mediation process in itself. We therefore need to assess the dynamics on how mediation interacts with these other variables. The contingency model of mediation (also referred to as the contingency approach to mediation), developed by Jacob Bercovitch and Allison Houston (1995) is a suitable theoretical framework in this pursuit. As we shall see, the contingency model of mediation incorporates several of the variables/explanations presented by Walter and situates them in relation to the mediator. Many of these variables concerning the nature of the parties and the dispute, as well as the mediator seem relevant to the study of the Juba negotiations.

The model is founded on empirical studies of a total of 241 international disputes coming to an end between 1945 and 1990 (Bercovitch and Houston 1995: 16). This should not imply that the model is less suitable for studying intrastate conflicts. The authors themselves underline this in the conclusion of their study: "Although our study is restricted to

the field of international mediation, our findings are intended to be applicable to other mediation arenas” (1995: 31).

Concerning the nature of the parties, the power disparity between the parties is highlighted. According to Bercovitch and Houston (1995), mediation is more likely to have an impact if power disparity is low. This implies that where there exists a balance of power, mediation is most likely to succeed. As mentioned above and elaborated in chapter four of this study, it is unlikely that a balance of power exists between the Government of Uganda and the LRA. It follows that in the case of Juba, low power disparity is unlikely to be among the factors that have encouraged the parties to accept mediation.

Closely related to the balance of power variable is a variable concerning the nature of the dispute, namely the duration and timing of a mediator’s intervention. On this point the contingency model is more ambiguous and reflects different opinions. One school suggests that mediation is more likely to be successful if attempted after the parties have gone through some “tests of strength” and exhausted other means of ending the dispute. This is the point in the conflict that Touval and Zartman calls the “hurting stalemate” (Hopmann 1996: 222). There are, however, also indications that mediation is less successful if initiated too late. In the case of Juba, and for the same reasons that rule out a balance of power, a “hurting stalemate” is not a plausible explanation for why the parties have chosen to negotiate.

The issues (or stakes) of the conflict are also believed to influence mediation. According to Berchovich and Houston (1995), mediation is more likely to succeed in conflicts over resources, ethnicity and ideology, than in conflicts over sovereignty and security. As mentioned above, and argued in chapter four of this study, the issues at stake between the Government of Uganda and the LRA was indeed sovereignty and security at the outbreak of the conflict. However, these stakes have changed over time to the point where they might have become close to not conflicting at all. Therefore, lack of conflicting stakes may indeed have made mediation in Juba easier. It would nevertheless be hard to argue that it was instrumental in driving the parties to Juba, partly because the gain from increasingly divisible stakes has been offset by the LRA’s fear of the ICC.

## **2.4 Central mediator qualities of relevance for Juba**

Scholars list a number of personal attributes that makes a mediator more likely to succeed. Some of the more important are credibility, trustworthiness, skill and competence (Karim and Pegnetter 1983; Landsberger 1960), intelligence, stamina, energy, patience, and a sense of humor (Bercovitch 1984), knowledge of conflict, ability to understand the positions of the antagonists, active listening, a sense of timing, communication skills, procedural skills, and crisis management (Wehr 1979). The list goes on, but it should be sufficient to conclude that “the mediator must have a combination of process skills (e.g. ability to listen, to reframe issues, to intervene at the right or ripe moment, etc.) and content skills (in the form of understanding of the particular issues of conflict as well as their legal, political, or economic ramifications and consequences) (Rubin 1992: 252). These personal attributes appear quite obvious as important qualities in a mediator, and it is beyond doubt that Riek Machar embodies such qualities (Ledang 2007 [Telephone interview]; Scroggins: 2002)

The most relevant aspects of the contingency model for the purpose of this study are the mediator’s own interests in resolving the conflict, the strategic tools the mediator may apply in order to move the parties, and the mediator’s relationship with the parties. These are the key qualities that will be discussed in chapter five and six of this study. As we shall see, the interests of the mediator is in the case of Juba closely connected to the mediator’s lack of impartiality and the capacity to exercise leverage.

### **2.4.1 Impartiality vs. partiality and own interests**

As noted in chapter one of this study, there may be some ambiguities regarding the exact meaning of impartiality. For clarification and analytical purposes it should be repeated here that the meaning of partiality in this study is twofold. Impartiality can mean that the mediator does not favor the interests of one party above the other. However, impartiality can also mean that the mediator has no personal interest in the outcome of the conflict. These two meanings are, however, often closely related. A mediator will naturally have a bias position in favor of one of the parties, if it is in the interest of the mediator that this party is secured certain benefits from the outcome.

Many scholars have highlighted impartiality as perhaps the most important quality a mediator should possess. Traditionally, O. Young (1967), E. Jackson (1952), F. Northedge

(1971), and M. Doneland (1971) are among those who argue that a mediator should be impartial in order to secure sufficient trust among the parties. These scholars are supported by more recent writers, such as Laurie Nathan (1998), who argues that the argument raised by Bercovitch and others, that impartiality is of little relevance in mediation, “is analytically and empirically incomplete”, partly because “it disregards the fact that an international mediator may succeed precisely because of its lack of bias” (Nathan 1998).

A number of other scholars, such as A. Houston (1995), G. Faure (1989), K. Kressel (1985), D. Pruitt (1985), W. Smith (1985), S. Touval (1985), I. Zartman (1985), T. Princen (1992), and J. Bercovitch (1992; 1995) hold that impartiality is of minor importance in a mediator. Some, as exemplified here by P. Hopmann (1996: 225), will even argue that impartiality can be a positive attribute in a mediator.

There may even be times when a partisan third party can be advantageous, especially when the interests held by the third party can be beneficial to a negotiation. Third parties may have several different kinds of stakes in the outcome of an agreement [...]. Their primary stake may be just reaching a settlement, since the potential escalation of the conflict undermines the interests of the third party.

Bercovitch makes it clear that a mediator perfectly free from partiality is more an exception than the rule. “Mediators, like other political actors, engage in mediation and expend resources because they expect to gain something from it” (1992: 9). “The reality of mediation”, Bercovitch says, “is that of a complex, changing and dynamic interaction between a mediator who does have some resources and an interest in the dispute or its outcome, and the disputing parties or their representatives” (1992: 7).

This study argues that Riek Machar and the Government of Southern Sudan (GoSS) is clearly a partial mediator, because of own interests in resolving the conflict between the LRA and the Government of Uganda. Arguably the most important current concern for the GoSS is to implement its own peace agreement, the Comprehensive Peace Agreement (CPA), which the SPLM/A signed with Khartoum in 2005, in order to hold the 2011 referendum for independence. The GoSS needs to get the LRA out of Southern Sudan, because its presence and continued operation on GoSS territory has the potential to spoil the CPA. Moreover, there are clear indications of aligned interests between Riek and the GoSS and the Government of Uganda, both economically and in terms of security. Furthermore Riek has his own personal motives to act as a mediator, as the success will help him pursue his future political aspirations of becoming a leading figure, perhaps even president, of a sovereign

South Sudan. In the case of Juba, partiality is in other words an important quality in the mediator.

I. Zartman and S. Touval (Hopmann 1996: 226) notes that “mediators do not have to be perceived as impartial in order to be acceptable or influential. Instead, acceptability is determined by power-political considerations – by the expected consequences of acceptance or rejection – not by perceptions of impartiality.” In this, Zartman and Touval establish a link between impartiality and leverage. A mediator does not need to be free of own interests, nor does a mediator have to refrain from the use of resources in the choice of strategies. This brings us to the next mediator quality which are of importance in Juba, namely the capacity to exercise leverage.

#### **2.4.2 Leverage as part of the mediator’s strategy**

Hopmann (1996: 227) notes that “powerful third parties may be able to take advantage of their resources to promote agreement by making threats or promises to the parties.” One of the process variables highlighted in the contingency model is the mediator’s choice of strategy.

Bercovitch and Houston (1995: 29) define three categories of strategies which mediators may apply, depending on how actively they engage. Communication-facilitation strategies are the least active, where a mediator concentrates on being a facilitator and encourage communication. The middle group of strategies is procedural strategies. Here the mediator takes a more active role and determines factors such as the agenda, the number and types of meetings, the agenda and the distribution of information. The most active level of mediator involvement is directive strategies, where a mediator may apply rewards and punishments in order to shape parties’ incentives.

The contingency model predicts that a mediator is more likely to be successful if choosing an active strategy. An active strategy requires resources and the capacity to exercise leverage. P. Carnevale (1986) is helpful in understanding how mediators may apply leverage in mediation. According to Carnevale, a mediator with the capacity to exercise leverage on the parties has four main strategies that may be applied in order to influence the parties: compensation, pressure, integration, and inaction.

Compensation involves the promise and issuing of rewards to one or both parties, while pressure means threats to “place restrictions on the range of outcome alternatives”



(1986: 44). Pressure must therefore be understood as to include a wide range of actions from the removal of compensations to the threat to use force. Integration means that the mediator searches for common ground between the parties by “formulating proposals that give the parties joint benefits, and then presenting them for the parties’ consideration” (1986: 42). Inaction simply means that a mediator at times leaves the parties to “handle their dispute by themselves” (1986: 47) with the objective that this may bring them closer to an agreement than if the mediator was active.

Carnevale provides a thorough analysis of the situations in which each of these strategies is most likely to have an impact. For the purpose of this study it suffices to confirm the assumption that leverage may be an important quality in a mediator (1986: 53). In chapter four it is argued that a high portion of the LRA’s motivation for participation in Juba is guided by pressure. A significant share of this pressure is constituted by the GoSS’s threat to apply force if the LRA refuse to either leave Southern Sudan or agree to negotiate under the mediation of Riek Machar. The mediator’s capacity to exercise leverage vis-à-vis the LRA is further elaborated in chapter six.

### **2.4.3 Relationship with the parties and aligned interests**

The mediator’s relationship with the parties is another mediator quality that is emphasized in the contingency model. Bercovitch and Houston (1995: 27) make it clear that “mediator alignment, past relationship with the adversaries, and the mediator’s own interests affect both mediator behavior and mediation outcomes”. In this, Bercovitch and Houston also sums up how closely related this quality may be to the issue of impartiality. If a mediator shares the interests of one or both parties in a specific outcome, or simply in putting an end to the conflict, this mediator is more likely to achieve success than other mediators.

D. Frei (Bercovitch and Houston 1995: 28) found that a mediator who is “religiously, ideologically or economically aligned [with one or both disputants]” have a higher chance of success. Bercovitch and Houston (1995: 27) note that also political alignment has a similar effect. “Where a mediator is aligned with one of the parties or shares a common experience or goals with one party and future interactions are important to both, each disputant may show greater flexibility and confidence in the outcome.”

In Juba, Riek Machar’s past relationship to both parties is a unique quality which is highly important. Due to his special history as a guerilla combatant, who has been both an

ally and an opponent of both the LRA and the Government of Uganda, Riek is in a position to know and understand both parties in Juba perhaps better than anyone else. It is also clear that Riek Machar and the GoSS share many interests with the Government of Uganda in ending this conflict. First, the LRA represents a common problem, which they would like to eliminate. Second, peace in Northern Uganda and Southern Sudan would imply economic rewards for both the GoSS and Kampala in terms of increased trade. Finally, peace would improve international goodwill both for President Museveni, the GoSS, and Riek Machar personally.

In short, it seems clear that the mediator in Juba is aligned with the Government of Uganda in future perspectives. Historically, the GoSS (the then SPLM/A) has long been the ally of Kampala in the war against Khartoum. However, thanks to Riek Machar's complex shifting alliances, as will be described in chapter five, the mediator also has a close historical relationship with the LRA.

## ***2.5 Some concluding remarks and limitations***

Together with Walter's six hypotheses, the contingency model of mediation developed by Bercovitch and Houston is helpful in situating the role of the mediator as one of many independent variables affecting negotiation outcomes. Furthermore, the contingency model links mediation to some of these additional variables, by showing under which circumstances mediation is more likely to succeed.

If one is to determine to which extent the mediated outcome may be attributed to the qualities of the mediator, the conflict in question should be analyzed in light of the contingency model as a whole. In this process one would need to look in detail at all aspects of the conflict and analyze every contextual and process related variable that may have influenced the negotiation outcomes.

To do so with the Juba negotiations to a satisfactory degree is a lengthy and ambitious task and is beyond the scope of this study. Some degree of selection in terms of which variables to scrutinize has therefore been necessary. This shortcoming is also pointed out in chapter one under the discussion of internal validity. The theoretical framework presented above nevertheless presents some important and helpful guidelines to what kind of explanations one should look for when analyzing the Juba outcome.

### 3 Historical background

The conflict between the Government of Uganda and the Lord's Resistance Army (LRA) is a direct result of President Museveni coming to power in 1986. Nevertheless, the roots of this conflict go back to colonial times and are deeply embedded in the perceived marginalization of the Acholi nation.

The extent to which an Acholi identity existed before colonial Britain arrived during the second half of the 19<sup>th</sup> century and established a protectorate in the area later to become Uganda is contested. Some scholars hold that the Acholi entity was rather well established already before the arrival of the British (Atkinson 1994; Bøås 2004; Finnström 2003). Others have argued that the concept of an Acholi identity hardly existed prior to colonial times (Behrend 1999; Getzel 1974; Allen 2006). What seems clear is that prior to European arrival, the Acholi identity remained less defined, as the ethnic borderlines in the area were rather floating (Finnström 2003). Socio-political organization in Acholiland was largely decentralized if compared to the more centralized organized Buganda and Bunyoro. It was the colonial demand for centralized organization which promoted the establishment of a "paramount office of the Acholi" (Finnström 2003: 72). The Acholi identity was, if not created, certainly strengthened by colonial intervention. Consequently ethnic divisions in the area became more defined (Bøås 2004; Finnström 2003).

As noted by Bøås (2004: 285), one of the main consequences of colonial intervention was the exacerbation of the cultural, political and economic cleavage between the Bantu centre and south-west and the Nilotic north of Uganda. The colonial administration recruited much of the bureaucracy from the former, while personnel for the army and the police was recruited from the north, notably among the Acholis. These divides later lent themselves to manipulation by post-colonial regimes.

Much of the origins of the Acholi grievances can be explained by what Bøås (2004) calls the meta-narratives of the Acholis, most importantly the meta-narrative of betrayal. The first incident that the Acholis perceived as a betrayal occurred in 1913 when the colonial administration confiscated and destroyed Acholian firearms. The second betrayal of the Acholi population occurred under regime of Idi Amin. Shortly after coming to power in a coup in 1971, Amin ordered the massacre of large numbers of Acholi soldiers, who had dominated the army of Amin's predecessor and enemy, Milton Obote. Finally, in 1986 large number of Acholis were recruited by the Okello regime under promises of rewards if they

fought against Yoweri Museveni and the National Resistance Army (NRA).<sup>18</sup> The war had disastrous consequences and led to severe losses among the inexperienced Acholi soldiers, who were hastily recruited and sent to the front in a last desperate attempt to stop the NRA. When Museveni took power in 1986, the Acholis were accused of atrocities committed during the war and ordered to hand in their weapons. Consequently, “the fear of a repetition of the massacre of 1971-1972 led many men to keep their weapons and take to the bush to join resistance movements such as the Holy Spirit Movement and the LRA” (Bøås 2004: 288)

### **3.1 *The birth of the Lord’s Resistance Army (LRA)***

The coming to power of Museveni and the NRA sparked a number of armed uprisings in Uganda with the intent of overthrowing the newly installed regime. The perception of Acholi marginalization fuelled the grievances in the north, and laid the groundwork for some of these uprisings.

Alice Auma was the leader of a religious movement primarily occupied with healing and ritual cleansing (Finnström 2003: 109). She claimed to be possessed of several spirits, which had given her healing powers. Most known is the spirit Lakwena (Allen 2006: 33).<sup>19</sup> The movement is known under various names, such as the Holy Spirit Movement Force (Bøås 2004), The Holy Spirit Mobile Forces or simply the Holy Spirit Movement (Allen 2006). According to Finnström (2003: 109), the movement changed its name from the Holy Spirit Movement to the Holy Spirit Mobile Forces Movement when Auma reorganized it into a military force with the objective of fighting the NRA. For the purpose of simplification this study will adopt the term Holy Spirit Movement (HSM).

The HSM enjoyed high popular support and many people joined the movement largely because of the perceived marginalization described above – and because it provided a chance to fight against the NRA (Finnström 2003: 112). The HSM managed to march all the way to Jinja, about hundred kilometers from Kampala, before it was defeated by the NRA in 1987 (Finnström 2003; Allen 2006).

The Lord’s Resistance Army (LRA) is in many ways the successor of the HSM. According to Kevin C. Dunn (2007), Joseph Kony started his own movement around 1987

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<sup>18</sup> Obote returned to power in Uganda after Amin was removed in 1979. Obote’s second period was ended by a short-lived six-month rule by Tito Okello, before Museveni and the National Resistance Army took power in 1986.

<sup>19</sup> Alice Auma is also known under the name Alice Lakwena, after the spirit.

and operated under the same name as Auma, the Holy Spirit Movement (HSM). It is often heard that Kony is a cousin or a close relative of Alice Auma, but this is not evidenced (Finnström 2003; Allen 2006). Joseph Kony formed his own rivaling rebel movement based on similar claims of spiritual possession and with the same political objective of fighting the Museveni regime.<sup>20</sup> Allegedly Kony attempted to form an alliance with the HMS, but was rejected by Auma (Allen 2006: 38). Some of Auma's soldiers nevertheless defected and joined Kony. After the defeat of Auma's HSM, as well as a group formed by Auma's father, Severino Lukoya, on the remnants of the HSM, many of the followers were absorbed into Kony's movement (Finnström 2003: 211). Kony was further strengthened when a high number of fighters from another group, the Uganda People's Democratic Army (UPDA) joined him after their leaders signed a peace agreement with the government in 1989 (Allen 2006: 38). By 1990, Joseph Kony led the only remaining significant armed insurgency in Acholiland, and it was first at this point that he adopted the name the Lord's Resistance Army (LRA) (Allen 2006: 39).<sup>21</sup>

### **3.2 Acholiland – between a rock and a hard place**

The LRA insurgency has contributed to fuel the Acholi people's meta-narratives of betrayal. President Museveni has ordered a high number of troops to Northern Uganda, with the consequence that the Acholi people once again has become subject to harsh treatment. There are numerous reports of "extrajudicial killings, irregular arrests and detention, torture and displacement" (Baker 2002 in Bøås 2004: 290). As part of the government's strategy to defeat the LRA, the Acholi population has been ordered to leave their homes and move into IDP camps, where they live under severe humanitarian conditions.

The paradox of the LRA is that it came into being largely due to the meta-narratives of betrayal, but at the same time it contributes directly to exacerbate the marginalization of its own people. In 1994, Kony directly accused the Acholi people of betrayal, since it was the Acholi elders who had ordered the LRA to fight the NRA, but then abandoned them. It was

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<sup>20</sup> The HSM and the LRA were not the only rebel movements operating in Northern Uganda after 1986. A number of groups existed, and it was common that they also clashed with each other in addition to fighting the NRA (Allen 2006; Behrend 1998; Dunn 2007).

<sup>21</sup> The term Acholiland refers to the region traditionally inhabited by the Acholi ethnic group in Northern Uganda. It comprises the districts of Gulu, Kitgum, and Pader. The Acholis living north of the Sudanese border are usually excluded from the political meaning of the term.

therefore, according to Kony, the LRA had to target their own people for supplies and initiate the recruitment of fighters by force (Bøås 2004: 290). Since the mid 1990s the LRA has abducted several thousand Acholis, among them a high number of children (Allen: 2006). According to Tim Allen (2006: 40), both Kony and Auma have claimed that the Acholi people have to be purified by violence.

The Acholi people are in other words caught between a rock and a hard place. Although there exists a certain level of collaboration between the LRA and the local population (Anonymous 2006 [interviews]), there are rather few Acholis who support Kony (Bøås 2004: 290). On the other side, they do not trust the government, and there are widespread stories that the inhabitants in the IDP camps are being harassed by members of the same government forces (UPDF) which are supposed to protect them from the rebels (Anonymous 2006 [interviews]; Finnström 2003).

### **3.3 *The international dimension***

There is a long history of animosity between Uganda and Sudan, and both countries have supported rebel groups as proxies in order to destabilize the other country. According to Prunier (2004), Khartoum began to support various anti-Museveni forces shortly after the NRA came to power in 1986. First after 1993 Khartoum managed to come in contact with the LRA. Consequently, the LRA's military capacity was strengthened as it now received substantial military and financial support (Bøås 2004: 289; Dunn 2007: 142; Prunier 2004: 366). In addition the LRA was granted permission to establish bases in Southern Sudan. Kampala on its side supported the SPLM/A in the insurgency against Khartoum. Whether this support was initiated as a reaction to Khartoum supporting the LRA, or existed earlier remains unclear.

In 1999, Uganda and Sudan signed an agreement to cease to support the SPLM/A and the LRA respectively. In 2002, Ugandan government troops were granted permission by Khartoum to enter Sudanese territory in order to uproot the LRA bases (Dunn 2007: 142). This initiated the massive Operation Iron Fist in which more than 10,000 UPDF troops pursued the LRA in Southern Sudan with US logistical support (Allen 2006: 51). The operation backfired, and its main achievement was to drive the LRA back into Northern Uganda where the war spread to new areas (Dunn 2007: 142). It has also become evident that the LRA has continued to receive supplies, although of limited extent, from elements in

Khartoum despite the 1999 agreement (Dunn 2007; International Crisis Group 2006; O'Brien 2007).

### **3.4 Previous negotiation attempts**

Betty Bigombe is an Acholi, and served as minister of parliament in Uganda in the period 1986-1996. In 1988 President Museveni assigned Bigombe as Minister of State for Pacification of Northern Uganda and tasked her specifically with convincing the LRA to give up their struggle (Allen 2006: 44).

At the end of 1993 Bigombe managed to make contact with Joseph Kony and engage the LRA in peace talks. A cease-fire was soon established (Allen 2006: 48). In February 1994, the LRA leadership stated its willingness to end hostilities and “return home” in return for forgiveness and amnesty. Kony asked for six months to regroup his soldiers (O’Kadameri 2002). The initiative came to a sudden end when Museveni presented the LRA with an ultimatum to surrender within seven days or face military defeat (Allen 2006: 48). The LRA resumed the insurgency and soon grew stronger thanks to the initiation of support from Khartoum (Bøås 2004; Prunier 2004).

Bigombe did continue to keep in contact with the LRA leadership, and some Acholi elders attempted to engage the LRA in renewed talks without success (Allen 2006: 50). In 1998 the Acholi Religious Leaders Peace Initiative (ARLPI) was initiated. The initiative did not produce any actual negotiations, but it was important in lobbying for the Amnesty Act (described below) and managed to keep lines of communication open with the LRA (Allen 2006: 78).

Despite President Museveni’s preference for a military solution to the LRA problem, The Amnesty Act was passed by the Ugandan parliament in December 1999 and enacted in January 2000. This offered amnesty for all rebels in Uganda, including the LRA (Allen 2006: 74). Several LRA members have taken advantage of the offer of amnesty and laid down their weapons, among these some senior commanders such as Sam Kolo and Kenneth Banya. The amnesty has nevertheless not succeeded in ending the war, largely because the LRA leaders do not trust Museveni and fear prosecution and punishment in spite of the Amnesty Act (Anonymous 2007 [interview]).

In 2004 Joseph Kony called Betty Bigombe on her cell-phone in Washington DC where she was now working for the World Bank and informed her that he was ready to

negotiate (Anonymous 2007 [interview]). Bigombe returned to Northern Uganda, and with Museveni's approval she restarted the peace process as an independent mediator with donor funding and support from the UK, the Netherlands, and Norway, with some additional backing from the USA. This time Bigombe came even closer to peace than in 1994. According to sources closely familiar with the process, an agreement was in fact worked out and ready to be signed. During a meeting in late December 2004, the LRA envoy asked for three additional days in order to walk to Sudan and present Kony with the papers. The Government of Uganda refused to extend the deadline set for January 1<sup>st</sup>, 2005 and resumed the fighting (Ibid.).

Bigombe was still in contact with the LRA in October 2005, when the International Criminal Court (ICC) made public the arrest warrants for the LRA leader Joseph Kony, his deputy Vincent Otti, and LRA commanders Raska Lukwiya, Okot Odiambo, and Dominic Ongwen. After this, the team no longer managed to arrange meetings with the LRA (Anonymous 2006 [interview]; Anonymous 2007 [interview]). It was in this environment of little hope for a peaceful outcome that the parties during the summer of 2006 accepted Riek Machar's offer of mediation.



## **4 Alternative and complimentary explanations to Juba**

Why do civil wars end? As explained in chapter one, this is the research question of this study elevated to a general level. Based on the political framework provided in chapter two, this chapter will look in detail on possible explanations for the Juba success by weighing the case against the different theories laid out by Barbara F. Walter (2002). Each of Walter's hypotheses will be considered as possible explanations to why the Government of Uganda and the LRA have finally decided to pursue a negotiated outcome to their long lasting war.

This chapter will concentrate mainly on the "ripe for resolution" explanations for ending the conflict: the costs of war, balance of power and military stalemate, and the role of domestic political institutions. Although, in the case of Juba, these variables are closely related and play into each other, they will be covered in three separate sections.

The mediator aside, Walter lists two additional variables besides those belonging to the "ripe for resolution" theoretical camp: shared ethnicity and divisibility of stakes. As argued in chapter one, the possibility of shared ethnicity has most likely been of minor importance in the Juba talks. Such an explanation can be ruled out on historical grounds, since divided ethnicity was part of the causal factors of the conflict and has not changed since. The divisibility of stakes is of higher relevance. The stakes in the conflict between the Government of Uganda and the LRA have most likely become a declining hindrance to a negotiated outcome and is closely related to how we understand the balance of power. Section 4.2 will demonstrate why the balance of power and a military stalemate theory are unsuitable for explaining Juba due to improving divisibility of stakes.

Included in the analysis of additional and complimentary explanations for the Juba success will be the change over time, or lack of such, in the contextual variables that constitute these alternative hypotheses. This means that the context and the circumstances under which the Juba talks produce success will be compared to the context and circumstances under which two previous negotiation attempts failed. As described in chapter three, these previous attempts were lead by Betty Bigombe in 1994 and 2004, and will be referred to as Bigombe I and Bigombe II respectively.

## **4.1 Costs of war**

As described by Walter (2002: 8), many scholars favor a so called “rational model approach” in order to explain why combatants decide to pursue an outcome through negotiations (de Mesquita and Lalman 1992; Mason and Fett 1996; Mason, Weingarten Jr. and Fett 1999; Wittman 1979). According to this school of thought, the parties carefully weigh their chances and potential gains of winning the conflict against the costs of achieving this and the probability of losing. “Settlement occurs when combatants believe they can do no better by continuing to fight than by bargaining” (Walter 2002: 8).

The consequences of the signing of the Comprehensive Peace Agreement (CPA) between Khartoum and the SPLM/A have most likely restrained the military capacity of the LRA. In August 2005, the newly established Government of Southern Sudan (GoSS) repeated the three-layered ultimatum vis-à-vis the LRA, which had previously been issued by the SPLM/A under Garang: (1) seek a peaceful solution (2) leave Southern Sudan, or (3) face forced eviction by the SPLA.<sup>22</sup> Did this put pressure on the LRA to enter negotiations?

It could be argued that the LRA remains strong enough not to be influenced by the threat of force. There are strong indications that the LRA continues to receive supplies from elements in Khartoum. According to the International Crisis Group (2006: 15), the LRA continues to receive supplies through the SAF troops that still remain in the south. SPLA officials even accuse the SAF of protecting the LRA by giving them refuge in SAF barracks. Others (O’Brien 2007) argue that the amount of support LRA continue to receive from Khartoum is too limited to offset the increased costs of war following the CPA. As argued in detail in chapter six of this study, the SPLA has become somewhat weakened after the CPA. Chapter six will also show that the LRA military capacity to a certain degree is sustained by their ability to blend in and hide amongst other militias in Southern Sudan, something which makes them a difficult target for the SPLA.

According to Jan Ledang (2007 [Telephone interview]), the Norwegian Consul General to Southern Sudan, the LRA remains capable of disturbing the implementation of the CPA. The group may easily cut off important roads both within Southern Sudan and between Southern Sudan and the neighboring countries to the south. This would imply severe difficulties for the GoSS in conducting its planned population census and carry out the 2009

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<sup>22</sup> As a consequence of the CPA, the SPLM formed the Government of Southern Sudan (GoSS) in January 2005. The SPLA was kept as the official army of the South.

elections. In addition to the interest of keeping trade networks open, Southern Sudan is dependent on importing basic foodstuff through Uganda and Kenya, and it would certainly not be in the interest of the GoSS to become dependent on transport from Khartoum. Another LRA strength may be its capability to remain mobile across a wide geographical area stretching over Northern Uganda, Southern Sudan, and the eastern parts of the Congo. There have also been reports of LRA fighters moving towards the Central African Republic (International Crisis Group 2007; Wheeler 2007).

Despite these elements of continued strength, the overall situation of the LRA is clearly weakened. Most importantly, observers have argued that the alternative hideouts mentioned above are either perceived by the LRA as increasingly unsafe, or so remote from the proximity of Uganda that the very reason of the LRA's existence would be lost. Bøås (2006: 57) notes that if the LRA was to resettle in the Congo, "they could no longer even pretend to be fighting for justice in Northern Uganda and would merely become yet another militia group in eastern Congo". This may be part of the picture, but it should also be noted that the LRA leadership is now mainly concerned about their personal survival and wellbeing.<sup>23</sup> It is likely that the LRA is feeling unsafe in the Congo due to the presence of the UN peacekeeping force, MONUC, as well as the potential of Ugandan military intervention. It is true that the MONUC lost eight Guatemalan peacekeepers when they tried to engage the LRA in January 2006, but this clash also evidences that the LRA is not safe from attack in the Congo. The Government of Uganda has also threatened to send its army (UPDF) into the Congo in hot pursuit of the LRA, and it has urged the UN and the US to assist in uprooting the LRA from the Garamba region (Allio 2006). Whether motivated by political aspirations or fear, the main point is that the LRA most likely perceive it unsuitable to remain in the Congo.

In sum, the GoSS ultimatum and the lack of alternative suitable hideouts have most likely put sufficient pressure on the LRA to increase their costs of war. Their room for maneuver is increasingly restrained. This said, it is unlikely that the GoSS ultimatum alone brought the LRA to Juba. The ultimatum must be seen both in relation to timing and the fact that it was accompanied by an offer of help. What separated this ultimatum from those previously issued by Garang, was the invitation of Riek Machar to act as a mediator between the LRA and the Government of Uganda.

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<sup>23</sup> See section 4.2 for the discussion on how the objectives of the LRA and the stakes of the conflict have changed over time.

The LRA leaders had wanted peace long before Riek made the offer to mediate, as long as their personal security could be guaranteed (i. e. they would settle for amnesty if they could trust Museveni) (Anonymous 2007 [interview]). As the Bigombe II talks had just collapsed, the LRA was left with no other channels of possible mediation than the offer to accept GoSS mediation.<sup>24</sup> The LRA needed a mediator they could trust, and this they found in Riek Machar.

An often heard argument is that the main costs of war for the LRA are constituted by pressure from the International Criminal Court (ICC). Already in December 2003, president Museveni referred the situation concerning the LRA to the ICC. On July 8<sup>th</sup>, 2005, the court issued its first arrest warrants for the LRA leader Joseph Kony, his deputy Vincent Otti, and LRA commanders Raska Lukwiya, Okot Odiambo, and Dominic Ongwen (International Criminal Court 2004). The five LRA leaders were charged with crimes against humanity and war crimes. These warrants were filed under seal, and first made public in October 2005 (International Criminal Court 2005). The consequences of the ICC indictments, in terms of how they influenced the conflict between the LRA and the Government of Uganda, are much debated and present somewhat of a puzzle.

At the time of writing, the Juba process has entered its second year, and the ICC warrants now constitute one of the main obstacles to reach a final agreement. Ledang (2007 [Telephone interview]) quotes the lead mediator, Riek Machar: “Every time we achieve something, the ICC threatens to destroy it.” Notwithstanding the fact that the ICC indictments have become an obstacle in Juba, many observers are convinced that the ICC was instrumental in pressing the LRA into negotiations. According to Betty Amongi (2007 [Telephone interview]), Head of the Uganda Ministers of Parliament delegation to Juba, “the ICC indictments may have become an obstacle later, but one of the reasons that the LRA agreed to negotiate in Juba was that they wanted to persuade president Museveni to have the indictments lifted.”

Adam O’Brien (2007) lends his support to Amongi and argues that “the ICC’s investigation helped draw the world’s eyes to the neglected conflict and helped create a compelling case for urgent international engagement.” In addition, O’Brien argues, the ICC increased the costs of war for the LRA by making it more difficult for Khartoum to continue to support the LRA. This is evidenced by Khartoum’s signing of a referendum of

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<sup>24</sup> In an interview with the Washington Post (Boustany 2007) Bigombe recalls that the last meeting with Kony, which was scheduled for April 20th, 2005, fell through after Ugandan authorities refused to clear it.

understanding with the ICC in October 2005 to cooperate with the arrest of the LRA leadership.

Other observers are less convinced about the positive effect of the ICC warrants. Some point to the fact that the immediate aftermath of the disclosure of the arrest warrants was marked by an intensification in LRA activity in Northern Uganda and Southern Sudan. The ICC had just released the warrants when many aid agencies had to suspend their operations after several relief workers were killed in LRA ambushes (Global Policy Forum 2006). According to Kevin C. Dunn (2007: 136), “after that [i.e. the release of the ICC warrants], the military campaign intensified, with attacks by the LRA increasing in number and severity.” Tim Allen (2006: 187-190) notes that several observers share the view that the ICC warrants helped consolidate and strengthen the LRA’s position, as they prevented LRA members from defecting in pursuit of amnesty.<sup>25</sup> Allen remains skeptical, however, that the increase in LRA attacks was a result of a coordinated change of strategy. The ICC also helped drive the LRA into the Congo, where they established bases in the Garamba region (Dunn 2007: 136).

Perhaps most important is the fact that the ICC warrants dealt a major blow to the Bigombe II talks. It is fair to say that the initiative was already weakened after the Ugandan government refused to extend the deadline of January 1<sup>st</sup>, 2005 for signing an agreement. A few days before the deadline, a historical meeting was arranged in the bush in Northern Uganda in which representatives for the leadership of both parties met face to face in negotiations. Bigombe’s team had actually worked out an agreement between the parties in advance and presented the papers to Sam Kolo, who answered directly to Kony, during the bush meeting. All that was missing was Kony’s signature. Since Kony was in Sudan at the time, Sam Kolo asked for a three days extension of the deadline on the grounds that he had to walk to Sudan and deliver the papers to Kony. This request was turned down by the Ugandan minister of interior, Ruhakana Rugunda, who attended the bush meeting. President Museveni had informed him that January 1<sup>st</sup> was final, and there was nothing more he could do (Anonymous 2007 [interview]). During the morning hours of January 1<sup>st</sup>, 2005, the UPDF resumed military operations. Bigombe II may very well have succeeded in resolving the conflict if the LRA were given three more days. This is nevertheless left to speculations.

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<sup>25</sup> While Allen has not found sufficient evidence to argue that the Amnesty Act has been an important factor in encouraging LRA members to surrender, sources close to the process hold that several LRA combatants took advantage of the amnesty offer or was tempted to do so (Anonymous 2007 [interview]), and that this presented a challenge to the LRA leadership to prevent defections.

After January 1<sup>st</sup>, 2005 it was difficult to engage the parties in direct talks, and the Bigombe II initiative gradually lost the donor's commitment to continue (Anonymous 2007 [interview]).<sup>26</sup>

However, despite the return to fighting, Bigombe still kept in regular touch with the LRA leadership, and she still had contact with both Kony and Otti at the time the ICC warrants were made public. Bigombe had long argued that ICC involvement risked to destroy the peace process and threatened to call off her involvement if the ICC issued arrest warrants (Anonymous 2007 [interview]; Ross 2005). It was Bigombe who personally managed to persuade the ICC chief prosecutor Moreno-Ocampo to hold back the arrest warrants in the period between July and October 2005 in order to give the talks more time (Anonymous 2007 [interview]).

Once the warrants were made public, however, Bigombe's team no longer succeeded in arranging meetings with the LRA (Anonymous 2006 [interview]). The New Vision (2005) quotes Bigombe's reaction to the arrests: "There is now no hope of getting them to surrender. I have told the court that they have rushed too much." Dunn (2007: 136) supports the theory that "the peace talks collapsed [...] after the International Criminal Court, at President Museveni's urging, announced that it was preparing arrest warrants for Kony and four of his commanders."

The impact of the ICC on the peace process is in other words contested and ambiguous. It seems clear that the ICC was instrumental in putting a final end to the Bigombe II initiative. It is, however, unlikely that the ICC contributed to drive the LRA towards Juba. If seen in context with the CPA, the GoSS ultimatum and the breakdown of Bigombe II, it seems like the LRA chose Juba *in spite* of the ICC, not because of it. According to Ledang (2007 [Telephone interview]), the ICC warrants had no effect in driving the LRA towards Juba.

It seems fair to conclude that the LRA did accept Riek's offer of mediation partly because of increased costs of war and that these costs were constituted mainly by increased external pressure. While the ICC most likely did contribute to increase the costs for the LRA, the main source of the pressure has come primarily from the GoSS, the soon to be mediator in Juba. In other words, both the ICC and the GoSS ultimatum have increased the costs of war

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<sup>26</sup> Bigombe II was sponsored primarily by the governments of the UK, the Netherlands and Norway, and received some additional US funding. The initiative operated with permission from the Uganda government, Bigombe was not a representative of Kampala.

for the LRA, but it is the GoSS ultimatum, together with Riek's offer to mediate, which has pressured the LRA towards Juba.

The fact that president Museveni since the beginning of the conflict has remained committed to a military solution may imply that costs of war have been of secondary importance to the Government of Uganda. The introduction of the Amnesty Act, which promised amnesty to all rebels in Uganda who surrendered, was not Museveni's idea, nor was it favored by him. According to Tim Allen (2006: 74): "Following persistent lobbying from various activists – and overcoming outright opposition from President Museveni himself – the Amnesty Act passed into Ugandan law in November 1999 and was enacted in January 2000."

Regardless of the offer of amnesty, Museveni continued to pursue a military victory. This was evidenced by Operation Iron Fist in 2000, in which the UPDF with the consent of Khartoum pursued the LRA into Southern Sudan. More than 10,000 Ugandan troops participated, and the US provided logistical support (Allen 2006: 51). The main achievement of Iron Fist was to drive the LRA deeper into Northern Uganda, where they intensified their attacks on the civilian population (Dunn 2007: 136).

Museveni has also shown his reluctance for a negotiated outcome in relation to both the Bigombe initiatives. Bigombe I collapsed as a direct consequence of what members of the president's own peace team called Museveni's "lack of seriousness" (Kaiza 2003 in Dunn 2007: 143). Dunn (2007: 144) puts it well:

In 1994, Museveni thwarted a peace initiative being spearheaded by Betty Bigombe [...] by demanding that all rebels come out of the bush in two weeks. Such a demand not only was unrealistic but seemingly indicated that Museveni was not seriously committed to a peaceful solution. This interpretation was strengthened when Museveni's government then charged Yusuf Adek, the person responsible for arranging contact with the rebels, with treason.

Museveni's reluctance is confirmed by Bøås (2004: 290): "The peace attempt in 1994 could have succeeded. Kony clearly indicated that he wanted to come out of the bush with all his fighters." The negotiations ended however, "when the NRA commanders insisted that the only thing to negotiate was the total surrender of the LRA" (Ibid.). As we have seen above, Museveni's reluctance to a negotiated outcome was once again demonstrated ten years later. Museveni's strict deadline of January 1<sup>st</sup>, 2005 for the Bigombe II talks to produce an agreement was final, despite the fact that an agreement was ready to be signed. Finally,

Museveni's referral of the LRA case to the ICC confirms his lack of commitment to negotiations (Dunn 2007: 144).

In spite of Kampala's strong resolve for a military victory, there are implications that costs of war have influenced the Government of Uganda during the last years. To calculate these in terms of money spent and opportunity costs, and how much this have influenced Kampala's resolve for a military solution, is however an ambitious task dependent on many variables and involving many uncertainties. Moreover, as we shall see, it is likely that the costs of war are mainly constituted by an increase in international pressure.

In 2002, a coalition of more than forty local and international NGO's known as the Civil Society Organisations for Peace in Northern Uganda (CSOPNU) conducted a research project with the object of determining how much the war in Northern Uganda has cost the Uganda Government. The project based its calculations on the following: cost of military intervention; estimated losses relating to livestock and agriculture; loss of physical assets such as health centres, schools and vehicles destroyed; loss of personal possessions and shelter; costs of conflict-related health problems and deaths among population based on increased health costs and value of production lost; cost of the "brain drain" as the most educated leave the region and country; and opportunity costs to the national economy, such as estimated losses in income in the tourism sector, loss of tax revenue, loss of foreign exchange due to tobacco export losses and failure to attract investment. CSOPNU found that the conflict had cost at least US\$ 1.33 billion over the last sixteen years – representing about three per cent of Uganda's GDP over the period (Care 2002).

Such an approach is not unproblematic. First, if the economic costs of the war are measured by the above variables, a high portion of the price of the war is paid by the population of Northern Uganda. This indeed reflects reality, but it does not necessarily imply a grievance for Kampala. It is often held by observers that Museveni really does not care about the suffering of the Acholi. A widely circulated argument in Uganda is that President Museveni has an interest in keeping the conflict going. The war holds down the Acholi people and secures political capital among his own constituency in the south, who perceive him as one who protects them from the "barbaric" northerners who threaten to return Uganda to a state of civil war. According to Bøås (2004), part of Kampala's motivation for war is indeed to uphold the perception of an external enemy in order to rally public support for the National Resistance Movement (NRM). "NRM is waging war both in Uganda and in the region to protect its political project" (2004: 297). The suffering and economic losses of



Northern Uganda represent in other words a poor and inaccurate measurement of how painful the war is for the Government of Uganda.

Second, although it seems obvious that the long duration of the war makes it more expensive, it is difficult to measure the changes over time. Has the war become more expensive per year over time? Third, even if accurate numbers could be determined, it would still be speculative to try to assess the extent to which these costs have been influential on Kampala's decision to seek a peaceful outcome to the conflict. For the same reasons it is equally difficult to *rule out* economic costs as a possible influence.

International pressure is most likely the most important factor that has altered the costs of war for the Government of Uganda during the last years. Several developments, both regarding president Museveni's international reputation in general and the increased international focus on the northern situation, have increased Kampala's incentive to seek a peaceful solution to the LRA problem. Uganda under the leadership of president Museveni has often been presented as "an African success story of social and economic development" (Bøås 2006: 53). As a result, Museveni has been able to enjoy a high level of international goodwill, and he has been allowed to pursue the "internal affairs" of Uganda in the north without notable international attention.

Over the recent years, however, the international community has become increasingly aware of the cruelty of the war and the consequent extent of human suffering in the north, especially after November 2003, when Jan Egeland, head of the UN Humanitarian Affairs Office, visited Northern Uganda (Ibid.). Egeland was "deeply shocked" over the fact that the Uganda army was fighting a war mainly against children, who was "abducted, abused and violated." Egeland's statement that "Northern Uganda is one of the worst humanitarian crises in the world" has been quoted in the media across the world (UN 2003). The resulting increase in international attention to the conflict has hurt Kampala's and Museveni's international reputation. In the words of Bøås (2006: 53), "the increased international awareness of the conflict has put pressure on Museveni and on his government to find a solution to the war."

Museveni's glorious image was further stained by the negative international attention given to his alleged attempts of fraud during the 2006 presidential elections. I recall being in Gulu, the largest town in Northern Uganda, during the 2006 elections, when election observers struggled with a number of attempts of election fraud. Several observers reported that boxes with fake ballots for Museveni and the NRM had been confiscated when attempted smuggled into the country (2006 [interviews]).

The president was also criticized in the international media for his attempts to curb the political opposition prior to the elections (Bøås 2006: 54). The pre-election treatment of the main opponent, Kizza Besigye, received major coverage. Besigye had to face charges for treason, terrorism and rape, all of which were believed to be politically motivated. According to the BBC (2006b), “the run-up to the presidential elections was dominated by protracted legal proceedings, and at one point it looked possible that he [Kizza Besigye] might be disqualified from standing - or even in prison on polling day.”

Prior to last year’s elections, Museveni was also massively criticized for his initial reluctance to allow multiparty elections, as well as for the amendment of the constitution in order to allow himself to run for an additional term in office (Bøås 2006: 54). It certainly did not help Museveni’s international image that the resulting protests in the streets of Kampala were put down forcefully (BBC 2005b).

Another factor that may have put pressure on Museveni to pursue a peaceful outcome in Juba is the upcoming 2007 Commonwealth Head of Government Meeting, which are to be hosted by Uganda and scheduled to take place in Kampala in November. Not only is this meeting expected to bring financial resources to Uganda, but it will also contribute to portray Museveni as a responsible leader both domestically and regionally. Many observers hold that Museveni is partially moved to participation in Juba in order to stabilize and improve the situation in the north before the Commonwealth Head of Government Meeting brings further international attention to Uganda (Bøås 2006: 55).

In conclusion, the above factors have most likely increased the costs of war for Kampala. President Museveni’s need to take his own and Uganda’s international reputation into consideration, have provided a strong incentive for participation in Juba.

## ***4.2 The balance of power and military stalemate***

As noted by Walter (2002: 9) many scholars of international relations hold that the decision to chose war before pursuing a negotiated settlement is strongly influenced by the relative balance of power between the adversaries. Walter’s third theory “predicts that the more equally matched combatants are on the battlefield, the more likely they are to pursue negotiations” (Ibid.). According to this school, a military stalemate is often the most important condition for negotiations to succeed (Blainey 1973; Claude 1962; Howard 1983; Modelski 1964; Organski 1968; Stein 1990; Wagner 1993; Zartman 1993; Zartman 1995).

Is it the case that the conflict between the Government of Uganda and the LRA has finally reached a military stalemate, and that this condition has been instrumental in bringing about the Juba talks? Is the balance of power such that both parties now have realized their lack of capacity to defeat the other and therefore choose to negotiate? At face value, the very fact that neither of the parties has defeated the other over a period of twenty years should suggest that a stalemate exists.

Such a conclusion is immature and inaccurate. First, one may argue that if this conflict is at a stalemate, it has been so for years, and previous attempts of negotiation have thus failed in spite of such a condition. Second, and most importantly, to measure the balance of power by the ability to defeat the adversary is missing the fact that the stakes of this conflict are more complex than such. The balance of power must, in other words, be seen in relation to what the parties are trying to achieve. It is therefore necessary to first identify the stakes of the conflict and understand how they have changed over time. In the following we shall first look at the stakes from the perspective of the Government of Uganda before assessing them from the side of the LRA.

When Museveni and the NRA took power in Kampala in 1986, a number of armed rebellions threatened to retake the capital and the presidency during the following years. The LRA was one of these. It seems natural that the initial objective of Museveni was to consolidate power in Kampala and defeat every attempt to overthrow the NRM regime. This assumption is strengthened by the fact that Alice Auma and her HSM managed to march all the way to Jinja and was defeated only about hundred kilometers from the capital (Allen 2006: 36). The threat to Kampala was in other words real. As the resistance from armed militias was gradually brought under control, Joseph Kony and the LRA lost much of their popular support and became more of a northern problem.

As the LRA gradually presented a smaller threat to Kampala, observers have argued that Museveni's objectives began to change. One argument is that he could have defeated the LRA if he wanted, but since the main victims of the war has become the Acholis, Museveni believes it to be in his interest to let the war continue. Rosa Ehrenreich is one of the scholars who have described such a view: "But after all, why should the government try so hard to destroy the rebels? For the most part, it is Acholi destroying Acholi; the rebels do little damage to the government, but they kill and abduct many civilians" (Quoted in Dunn 2007: 143).

Another related argument follows the logic of the political economy of violence thesis, developed by David Keen, Mats Berdal and Davis M. Malone. As summarized by

Dunn (2007: 145), “the theory posits that in a war economy, the goal of the conflict is not necessarily to defeat the enemy in battle but the continuation of fighting and the institutionalization of violence for profit.” In the case of Northern Uganda, there are clear signs that key actors have managed to profit well from the continuation of the conflict.

I have personally spent several nights at the Acholi Inn, one of the most popular hotels in Gulu. The Acholi Inn is frequented by representatives from NGOs and international organizations, as well as the local elites. The hotel is owned and run by Colonel Charles Otema, one of the UPDF officers directly responsible for eliminating the LRA and answering directly to Museveni (Anonymous 2006 [interview]). It is interesting to witness how this hotel has been continuously refurbished and expanded over the last years, with soldiers in army uniform conducting much of the maintenance and construction work.

There are also many examples that senior army officers and local politicians in Northern Uganda, people with direct contacts to the top circles of Kampala, have occupied or bought fertile agricultural land cheaply from people who are forcefully moved into IDP camps and desperate for money. Other “strongmen” have enriched themselves by developing an illegal logging industry under the “shadow of war” (Bøås 2006). Finally, according to Will Ross (Quoted in Dunn 2007: 145), “there are well-established and widely circulated claims that senior military officials are profiting from the war by picking up salaries of “ghost soldiers” and engaging in other corrupt practices.” According to Bøås (2006: 38-42) the existence of “ghost soldiers” for the personal enrichment of Ugandan officials is well beyond rumors and practiced widely. In sum, there are valid reasons to believe that Museveni, as well as other centrally positioned individuals, would have shown more commitment to defeat the LRA, had it not been for these political economy of war incentives to keep a low intensity conflict going in the north.

These incentives are clearly present, but it may nevertheless be speculative to say that they are strong enough to keep Museveni from genuinely trying to defeat the LRA – especially if one takes international pressure into consideration. As argued in the above section, international pressure has most likely altered the costs of war for Kampala and increased the incentive to put an end to the conflict. As we have seen, Egeland’s visit to Northern Uganda in 2003 played a crucial role in this respect.

While Egeland increased the incentives for finding a *peaceful* outcome, pressure for a military solution had already been present for a while. As noted by Allen (2006: 72), the changing attitude of the USA after the 9/11 attacks altered the political context of the conflict: “It [i.e. the US attitude] had not in the past played a significant role in northern

Uganda, but the inclusion of the LRA in the Terrorist Exclusion List of the USA Patriot Act of 2001 suggested that more should be done.” Operation Iron Fist in 2002 was a massive military initiative and at least partly a result of US pressure – and it was, as already mentioned, carried out with US military backing.

The pressure on the Uganda Government further increased in 2004, when the US Congress passed the “Northern Uganda Crisis Response Act”, which called for more resources to be allocated to resolve the conflict (Allen 2006: 73). In the words of Allen (2006: 74): “Given the interventionist policies of the Bush administration, this development was something that had to be taken seriously by the Ugandan government.” In short, if Museveni had not been fully committed to defeat the LRA, he certainly became so in the years following September 11<sup>th</sup>, 2001. In conclusion, the objectives of Museveni seem to have started out as a military defeat of the LRA, and if there has been some incentives to prolong the conflict after the initial years, 2001 clearly marked a return to a strong military resolve.

While the stakes of the conflict may have varied over time from Kampala’s perspective, they have clearly been altered for the LRA. In spite of the extreme use of terror and violence and Kony’s alleged tendency to madness, the LRA insurgency began with a clear political objective. This involved the liberation of Northern Uganda and the removal of Museveni from office (Anonymous 2007 [interview]; Finnström 2003).

As described in chapter three, the political strive of the LRA has deep roots in what Bøås has termed the Acholi meta-narratives of betrayal. The LRA perceive the Acholi nation as suffering from a long history of betrayals at the hands of both the British colonial authorities and post-colonial regimes – including massacres and atrocities during the presidency of Amin, as well as Museveni (Bøås: 2004). Driven by a long history of ethnic marginalization and its consequent resentments, the LRA “sees itself as fighting to free the Acholis from an oppressive government dominated by ethnic groups determined to exclude the Acholis permanently from the spoils of state power” (Bøås 2004: 289). The political objective of the LRA is in other words real, but it is not the only driving force behind the rebellion.

As noted by Dunn (2007: 145), “the political economy of violence thesis argues that both sides of a conflict have an interest in continuing the violence for their self-enrichment.” According to S. Kayunga (Bøås 2004: 289), Kony’s alliance with Khartoum not only provided him with weapons, training camps and facilities, but also a monthly allowance of £7000. David Kaiza (Dunn 2007: 146) argues that there have been incidents of goods stolen

during LRA raids being sold in town shops in the north. There are also incidents that the LRA has sold looted goods, as well trucks confiscated during attacks, to third parties in Southern Sudan, Northern Uganda and the Congo (Bøås 2006: 8). This may indicate that economic incentives to delay a settlement do exist also on the side of the LRA. Others have downplayed the significance of the economic factors vis-à-vis the LRA, and reports that, especially during the last years, the commanders are simply tired of running around in the bush and wants peace (Anonymous 2006 [interview]; Ledang 2007 [Telephone interview]).

While the LRA had a clear political objective during the first years of the insurgency, this soon changed. By mid-1993, the LRA was weakened in numbers after they had suffered severe losses in battle against the Ugandan government forces. The exact numbers are difficult to assert with certainty, but according to Prunier (2004: 366), the LRA was down to about 300 fighters. During the Bigombe I negotiations, which took place between November 1993 and February 1994, the LRA leadership stated its willingness to end hostilities and “return home” in return for forgiveness and amnesty. Kony posed no other conditions, but did ask for six months to regroup his soldiers (O’Kadameri 2002). This indicates that the stakes of the conflict had changed drastically, as the LRA leadership no longer had any claims besides avoiding persecution and punishment.

There are, however, sources indicating that the LRA had entered into talks with Khartoum about military support while the Bigombe I was still ongoing (Johnson 2003: 113; Prunier 2004; 366). This may mean that the LRA was using the talks to buy time. According to Prunier (2004: 336), the LRA “was suddenly up to over 2,000 well-equipped troops by March 1994, and was in a position to raid the whole of northern Uganda”.<sup>27</sup> It is impossible to say, however, whether the LRA would still settle for amnesty if Museveni had not thwarted the talks with his unrealistic claim that the LRA should come out with all its troops within two weeks (Dunn 2007: 144).

If the stakes were not altered as early as 1994, they certainly became so after the enactment of the January 2000 Amnesty Act. Sources in direct contact with the LRA leadership has told me that the LRA leaders, including Kony himself and Vincent Otti, his second in command, were willing to end the insurgency in return for amnesty. The only thing that prevented them from coming out of the bush was that they did not trust Museveni and was afraid to be arrested and punished (Anonymous 2007 [interview]). Furthermore, the agreement worked out during the Bigombe II initiative in 2004, confirms that the LRA

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<sup>27</sup> I have not been able to find additional sources that confirm this number.

leadership was willing to settle for amnesty if they were given three more days (Ibid.). The changing stakes are finally evidenced by the ongoing Juba talks in which the LRA leadership are not only willing to settle for protection from ICC prosecution, but have also signaled a willingness to face a domestic trial in Uganda (Amongi 2007 [Telephone interview]; Nyakairu 2006).

The point made above is that it is extremely difficult to talk about a balance of power and the possibility of a military stalemate in the conflict between the LRA and the Government of Uganda, because the stakes of the conflict has constantly been changing. While Museveni has remained resolved for a military victory, there may be indications that he has not at all times given his full effort towards this end. On the side of the LRA, the object of the leadership has pivoted from the liberation of Northern Uganda and the removal of Museveni from office to merely securing their own personal survival. This has implications for how we understand a balance of power. The power to stay alive is not the same as the power to defeat the enemy. Nor is the power to defeat the enemy the same as the power to stay in office while the enemy presents no threat.

In conclusion, the Bigombe I demonstrated that the LRA was either willing to settle for amnesty or buying time because they were weak and pursued an alliance with Khartoum. Museveni made it clear that he remained committed to break the LRA by force. Bigombe II left even less doubt that the LRA would settle for amnesty, this time they asked for three days instead of six months. Museveni once again thwarted the process by resuming the fighting. There were in other words no signs of a balance of power. If anything, a military stalemate, or rather the *appearance* of a stalemate, may have periodically been in the interest of both parties, due to the above mentioned economy of war incentives to keep the conflict going.

Prior to the Juba talks the situation was as follows. The LRA simply wanted to avoid going to the Hague, while the Government of Uganda wanted to get rid of the LRA insurgency. We are, in other words, not talking about a balance of power or a military stalemate, but simply about interests that are no longer conflicting – because the stakes of the conflict are altered in comparison to what they once were.

### **4.3 Domestic political institutions**

Walter's third "ripe for resolution" explanation for why civil wars end by negotiations concerns the nature of the domestic political institutions in the country where the conflict

occurs (2002: 10). The main argument of this school is that the more democratic a state is, the more likely the government will be to negotiate a peaceful settlement (Fearon 1994; Goemans 2000; McFaul 1997; de Mesquita and Lalman 1992; Morgan and Campbell 1991; Schultz 1998). The logic behind this assumption is threefold. First, democracy puts limitations on leaders' possibility to use of force. Second, democratic leaders are held accountable by their constituencies. Finally, democratic leaders have less to lose by sharing power. In regards to the case of this study, the question we need to ask is thus as follows. How democratic is Uganda, and are the Juba talks a result of Uganda being more democratic now than before?

Nelson M. Kasfir has given a precise account of how democracy has developed in Uganda. When Museveni and the National Resistance Army (NRA) marched into power in Kampala in 1986, there was no such thing as democracy in Uganda. In the words of Kasfir (2006), "Uganda had become a failed state without an effective constitution, fair elections, protection from terror, autonomous judges, or honest officials." During his first fifteen years in office, Museveni led Uganda through a solid economic growth and political recovery. According to Kasfir (2006),

a liberal and carefully balanced constitution emerged through a process of widespread popular participation. By and large, the government respected the exercise of free speech and a free press. The new parliament created by the constitution vigorously attempted to hold the government accountable for corruption, even forcing several ministers out of the cabinet and reversing some dubious transactions intended to privatize state banks and public corporations. The emphasis on frequent elections at every level of government from the village to the state, although organized without parties, may have strengthened the basis for a democratic culture.

Museveni was indeed amongst those who US president Bill Clinton referred to as Africa's new generation of enlightened, democratic leaders, when he visited Uganda in 1998 (Lacey 2005).

There is nevertheless a back-side to Uganda's "emerging democracy". Kasfir (2006) notes that in spite of democratic reforms, there were also "worrying signs of authoritarian behavior, reminiscent of Uganda's past." The main democratic shortcoming was the so called "movement system" that characterized Ugandan politics for more than two decades. The NRM was not defined as a political party, but a movement (as is underscored by the name, the National Resistance Movement) to which all Ugandans belonged. The movement was "fusing its structures with those of the Ugandan state, and creating a pyramid of 'movement'



structures from the village level to the national level” (Human Rights Watch 1999). Membership was compulsory, with the implication that all other political parties were banned from electoral campaigning (Bratton and Lambright 2001: 2).

Attempting to avoid the label of a one-party state, Museveni claimed that Uganda was a no-party state. This does not alter the fact that “the Ugandan government has vigorously enforced the ban on political activities independent of the NRM” (Human Rights Watch 1999). Museveni’s one-party system was also characterized by widespread corruption, use of patronage, and tendencies to make decisions without consulting parliament – including going to war both in the Congo and against Khartoum and the LRA (Kasfir 2006).

In 2000, Museveni opened up for the possibility of multi-party elections by allowing a referendum in which the voters should choose between the existing movement system and a multiparty-system. 88 per cent voted in favor of keeping the movement system, while 9 percent wanted a return to traditional political parties. The turnout, however, was only 51 per cent, something which led the opposition to protest the results as void and claim that the low turnout reflected a successful boycott (Fisher 2000). Michael Bratton and Gina Lambright (2001) argue that the low turnout signalizes that voters “felt constrained by social or political pressure to reveal their true voting intentions. Judging that the political atmosphere does not allow the open expression of partisan preferences, they engaged in silent forms of boycott.” Not until 2005 did a new referendum finally put an end to the movement system and allowed other parties to compete in the 2006 presidential elections. This time the vote was 92 per cent in favor of a multiparty system. The turnout remained low, only 47 per cent (Uganda electoral commission 2005).

As noted by Kasfir (2006), “one of the most important milestones for democratization was the constitutional requirement that a president could serve only two terms. That meant President Museveni would have had to leave office in 2006.” As the constitution was amended to allow multiparty elections, critics also feared that it would be altered to allow Museveni to pursue a third term as president. And this is precisely what happened. In August 2005 the Ugandan parliament lifted the presidential term limits. If Uganda was moving towards democracy, Museveni’s third term is a warning sign of opposite tendencies. Kasfir (2006) sums it up well when he notes that had Museveni withdrawn after his second term, it...

...would have provided a fundamental demonstration that the Ugandan government respected the spirit of the rule of law as well as its regulations. Instead, in 2005

Museveni and his closest advisers clearly reversed direction. Considerable political liberalization had occurred, but it became increasingly uncertain how much had been accomplished to hold the government accountable to its citizens.

When Museveni was reelected for president in 2006, Uganda's democratic image was further stained by the allegations of election fraud and curbing of the opposition, as already mentioned in section 4.1 of this study. "Ironically, the most serious threats to democracy over the last two years have resulted from Uganda's re-adoption of multiparty competition" (Kasfir 2006).

Statistics from the annual survey *Freedom in the World* conducted by Freedom House (2007) confirm the limitations to Uganda's democracy. The survey measures democracy by assessing countries' status on political rights and civil liberties. Based on scores between one and ten, where one is most free, countries are categorized as not free, partly free, or free. Since Museveni entered office in 1986, Uganda is placed in the partly free category, except in the period 1991-1994, when it was assessed as not free.

According to these statistics and the above description of Uganda's political landscape it is unlikely that a high level of democracy has been an instrumental driving force towards a negotiated settlement with the LRA. Moreover, there are few signs that Museveni is made more accountable to his constituency for pursuing a military strategy over the years. This assumption rests mainly, as noted in the two previous sections, by his strong military resolve and reluctance for peace talks – despite the introduction of the Amnesty Act in 2000.

Regarding domestic accountability it should also be underlined that Museveni has no need for the votes of Northern Uganda to secure majority, as long as he can sell himself to his southern constituency as the one who guarantees stability and peace in the rest of the country (Bøås 2007). Moreover, as long as the sitting regime succeeds in portraying the north as the potential spoiler of the current stability, as noted in section 4.1, the need to consider domestic voices of protest remains limited. If accountability has contributed to drive Museveni towards Juba, the source of this accountability is, as we have seen, more likely to be international pressure than domestic political restraints.

## 4.4 Summary

This chapter has considered alternative or complimentary explanations to the success of the Juba negotiations. The findings will be summarized in the following.

It seems likely that both parties in Juba have been influenced by increased costs of war. It is difficult to assess the extent to which Kampala is influenced directly by economic costs of war. The Government of Uganda has, however, experienced increased international pressure for finding a solution to the war, and this pressure has most likely provided a strong incentive for negotiating. The LRA on its side is pressured by the GoSS, who threatens to use force if mediation is not accepted. The efficiency of this threat is fueled by lack of alternative safe territories and diminishing support from Khartoum, but also by Riek Machar's offer of mediation. In short, the costs of war for both sides are constituted mainly by external pressure.

The impact of democratic institutions in Uganda has had little effect on Kampala's decision to negotiate. Uganda may have become more democratic under the leadership of Museveni. The democratic development that commenced in 1986 has nevertheless slowed down over the recent years, and lately there have been alarming tendencies of a reversal of this positive trend. Furthermore, there are few indications that Museveni is restrained by domestic accountability in the pursuit of a military victory.

The military stalemate explanation is not plausible. It is likely that the institutionalization of a political economy of war in Northern Uganda has given actors on both sides of the conflict incentives to prolong the war. This may have produced the *appearance* of a stalemate. There existed, however, no such thing as a balance of power which could have produced a real military stalemate prior to Juba. If a real military stalemate did exist, it would most likely have already existed for years, and previous negotiation attempts have thus failed in spite of such a condition.

The argument that a stalemate is absent rests on the observation that the stakes of the conflict have become more divisible over time, mainly because the LRA leaders have moved away from their political objectives to becoming mainly concerned about their own survival and avoiding the Hague. The potential of peace due to increased divisibility of stakes has in other words been offset, at least partly, by the warrants of arrest issued by the ICC.

Finally, the possibility that shared ethnicity between the parties has contributed towards a peaceful outcome can be ruled out on historical grounds, since divided ethnicity was part of the causal factors of the conflict and has not changed since.

In conclusion, this chapter has strengthened the hypothesis that the main share of the Juba success can be largely explained by the mediation of Riek Machar in addition to increased costs of war for both parties due mainly to external pressure. It is important to underline the fact that the bulk of the pressure influencing the LRA comes from the mediator. The theoretical implication of this is that the mediator in Juba is also a “ripe for resolution” variable by contributing to raise the costs of war for one of the parties. In short, it seems clear that the intervention of the mediator has been instrumental in contributing to success in the Juba negotiations. The qualities that have contributed to shape Riek Machar as an influential mediator will be explored in the following two chapters.

## **5 The mediator's qualities I: historical relationship to the parties**

The first quality that strengthens the position of Riek Machar as a mediator is his close personal relationship with the parties. Riek Machar encompasses the unique feature of personally knowing key leading actors on both sides of the conflict between the Government of Uganda and the LRA. This clearly generates trust and builds confidence in Juba (Ledang 2007 [Telephone interview]). This chapter explores how this exceptional relationship has come about by looking at the historical role of Riek Machar as a leading combatant in the long lasting civil wars of the Sudan. Through complex and ever changing political alignments, and through the formation and dismantling of military alliances, Riek has come in close contact with a number of actors, including the parties in the Juba negotiations.

The main purpose of this exploration is to defend the argument that this history has contributed to shape Riek as one who is in a unique position to understand both the interests of the LRA and the Government of Uganda, and therefore is able to win the confidence of both parties. The fact that Riek Machar shares a common background as a guerilla combatant with both the LRA leadership and president Museveni, who himself came to power in Uganda as the leader of an armed rebellion, should not be underestimated. It is, in other words, unlikely that Riek could have been equally successful as a mediator in Juba without these common historical experiences and bonds.

### ***5.1 Riek Machar as a leading figure in the SPLM/A***

When the SPLM/A initiated its armed rebellion against the Sudanese government in the early 1980s, Riek Machar was one of the central leading actors. According to Lam Akol (2001: 40), who was Riek's close associate and himself a leading SPLM/A figure, Riek served for a period as the office manager of the Chairman of the SPLM/A, John Garang, with the rank of major. From there he rose quickly through the ranks, and as early as 1986 he was appointed to the SPLM/A high command. Riek Machar moved in other words in the highest circles of the movement from the very beginning and became part of the leadership of the organization at an early point.

The exact timing for when Kampala began to support the SPLM/A as a proxy in the war against Khartoum is difficult to pin down and subject to much debate. Gérard Prunier (2004) holds that the allegations that Museveni supplied the SPLM/A in the early days are false and based on Khartoum's unsubstantiated fear that Museveni and Garang as old school-pals were natural collaborators. The fact that they had gone to the same university was proof enough. The truth is, according to Prunier (2004), that it was Khartoum who first attempted to initiate the proxy war through anti-museveni militias as early as 1986 when Museveni came to power, but with only limited success. Khartoum succeeded in providing support to the LRA in 1993, and Museveni began supporting the SPLM/A as a reaction to this.

Others have argued that there was indeed fire behind the smoke far earlier than this. According to Johnson (2003: 86), a coalition of political parties based in Southern Sudan, the United Sudan African Parties (USAP) helped the SPLM/A establish a working relationship with Kampala shortly after Museveni installed his government in Uganda in 1986. Lam Akol (2001: 120) recounts that the SPLM/A leadership, including himself, was in personal negotiations with President Museveni about support in 1989.

Exactly when the Ugandan assistance to the SPLM/A was actually initiated remains in other words uncertain, but it is also irrelevant for the purposes of this study. What is highly likely, however, and what is important from the theoretical perspective of this study, is the fact that the SPLM/A leadership, in which Riek was a central player, was in close contact with the Ugandan authorities at the highest levels at an early stage. This establishes a close link between Riek Machar and the Ugandan Government – a link from which Riek most likely has benefited as a mediator later.

## ***5.2 Fragmentation of the SPLM/A and change of alignments***

In 1991 the SPLM/A experienced some drastic changes, and this presents the key to understanding how Riek has been uniquely shaped as an actor who knows and understands both parties in Juba. The splitting of the SPLM/A into several factions, with the consequent change of political and military alignments, transformed Riek Machar's role from being a close ally to the Government of Uganda into collaboration with Khartoum and eventually its proxy, the LRA.

The background for the first SPLM/A split was an attempt by Riek and two other central leading figures to remove John Garang from his position as chairman of the movement. In August 1991, Riek Machar, Lam Akol, and Gordon Kong, three senior commanders in the SPLM/A, issued a paper called: ‘Why John Garang Must Go Now’. In this, they declared the dismissal of John Garang as Chairman of the Movement. According to Øystein Rolandsen (2005: 35), “the trio protested John Garang’s ‘dictatorial’ leadership and demanded independence for the Southern Sudan [...]”.<sup>28</sup> Another point of grievance was the assumed dominance of the Dinka tribe within the SPLM/A.”<sup>29</sup>

Failing to remove Garang, Riek and Lam broke away from the SPLM/A and formed their own movement, the SPLA-Nasir. The result of this break was the outbreak of open hostilities between the two factions. The most important development for the purpose of this study is that the break between Garang and Riek brought the latter into direct collaboration with Khartoum. SPLA-Nasir and Khartoum had a common enemy in the SPLM/A, and soon after the 1991 split it became apparent that a tactical alliance existed. The Nasir commanders had in fact already negotiated a military alliance with Khartoum prior to the split, and the main contact was handled by Riek Machar’s brother in law Taban Deng Gai (Johnson 2003: 96).

Contemplating the objective of the SPLA-Nasir, the secession of Southern Sudan, this alliance may appear paradoxical. And indeed, as noted by Douglas H. Johnson (2003: 111), “it was a paradox that ultimately cost its [i.e. the SPLA-Nasir] leaders their political credibility and destroyed their movement.” The alliance may nevertheless be explained in light of Khartoum’s signaled willingness to negotiate a secession of the south as early as 1990, as a result of failure to defeat the SPLM/A by military force. Johnson (Ibid.) may be right in his assumption that “in their [i.e. Khartoum’s] contact with the Nasir commanders prior to the coup, it is very likely that the government offered a general prospect of independence for an undefined South.”

For the purpose of this study, the exact timing and incentives for the alliance is of inferior importance. The important point is that Riek after 1991 ended up on the opposite side in the proxy war between Khartoum and Kampala. The alliance between the SPLA-Nasir and

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<sup>28</sup> This marked a denial of the SPLM/A policy under Garang, which favored a unified and secular Sudan with regional autonomy (Rolandsen 2005: 35).

<sup>29</sup> While Jon Garang was Dinka, Riek Machar is Nuer and Lam Akol Shilluk. Lam and Riek’s focus on ethnicity became more pronounced when their political appeals failed to rally the necessary support (Rolandsen 2005: 35).

Khartoum was publicly formalized in the Frankfurt agreement of January 1992 (Johnson 2003: 112).

Riek's change of alignment was soon to be completed, when the SPLA-Nasir during 1993 entered into direct collaboration with its now fellow ally Khartoum, the LRA. A complex development of splits and the formation of new alliances led to this situation. First, the 1991-split between SPLM/A and the Nasir-faction was followed by an additional fragmentation soon after. Due to further dissatisfaction with Garang's leadership, Garang's deputy, William Nyoun, left the SPLM/A and formed his own group, the SPLA-Unity. Riek Machar's SPLA-Nasir then merged with Nyoun's SPLA-Unity in March 1993 to form SPLA-United (Hoile 2002: 45). It was through the collaboration with Nyoun that Riek came into direct contact with the LRA. Johnson (2003: 113) establishes the link as follows.

Nyoun contacted the Sudanese army in January 1993, and he and other commanders moved in and out of government garrisons (including Juba), establishing links with the Ugandan opposition Lord's Resistance Army and facilitating its incursions into Uganda. For the next two years Nyoun worked in close collaboration with the government with the full knowledge of Riek Machar, who continued to send him Nuer reinforcements.

It is thus evident that within a few years Riek Machar had taken the leap from the highest circles in the SPLM/A, and most likely a close collaborator with Museveni, to an important ally of both Khartoum and the LRA.

It should finally be noted that the consequences of the complex fragmentation of the SPLM/A, together with the loss of Ethiopian support, most likely contributed to strengthen the ties between the remnants of the SPLM/A (under Garang) and the Ugandan Government.<sup>30</sup> As the SPLM/A was weakened militarily, it lost strategic territory in Southern Sudan, including the major cities. Consequently Khartoum was now able to access the LRA geographically and begun to provide Kony with substantial military and economic aid to boost his capacity in the war against Kampala (Prunier 2004: 366).

SPLM/A on its side desperately needed alternative channels of support, and while it is still debated if and to what extent Museveni supported the movement prior to 1993, there is little doubt that SPLM/A now found a strong ally in Kampala (Prunier 2004: 364; Dunn 2007: 141; Prendergast and Mozersky 2004). According to Rolandsen (2005: 38), "the capitals of Kenya and Uganda became the Movement's new political centres." The somewhat paradox implication of this development is that Riek Machar, by changing sides, also

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<sup>30</sup> Following the fall of the Mengistu regime in Ethiopia in 1991, the SPLM/A lost its most important logistic and military support and was evicted from Ethiopian territory (Rolandsen 2005).



contributed to strengthen the alliance he left – the same alliance to which he would soon return.

### **5.3 From “Peace from within” to realignment with the SPLM/A**

During the summer of 1994, the SPLA-United disintegrated and split. While Lam, after being dismissed by Riek, moved to Tonga in his Shilluk homeland and kept the name SPLA-United, Riek formed the South Sudan Independence Movement (SSIM) on the remnants of the alliance (Hoile 2002: 45; Rolandsen 2005: 37). Part of the reason for this split was that Riek at this point actually wanted to end the alliance with Khartoum and had in fact already begun discussing cooperation with Garang towards independence for Southern Sudan (Rolandsen 2005: 37). In April 1996, Machar and Garang signed an agreement to remerge their organizations (Hoile 2002: 55).

This merger was nevertheless delayed by the so-called Peace from within initiative launched by Khartoum the same year. Riek’s SSIM, among a number of other armed movements, consequently signed the Khartoum peace agreement with the central government in 1996 (Johnson 2003: 121).<sup>31</sup> This agreement also included the establishment of the Southern Sudan Coordinating Council in August 1997, of which Riek Machar was appointed President (Hoile 2002: 61).<sup>32</sup> In practical terms, Riek was now the representative of Khartoum to Southern Sudan. In March 1998, Khartoum officially announced the new government for Southern Sudan, based in Juba, to be headed by Riek Machar (Hoile 2002: 68). This position also made Riek the leader of the South Sudan Defense Forces (SSDF), the umbrella under which all the signatories of the Khartoum peace agreement were gathered under central command.

During the following years, Garang attempted to persuade Riek to rejoin the SPLM/A. Riek, on his side, treated the SPLM/A as the remaining faction which had not joined the Peace from within initiative and tried to convince Garang to join the Khartoum peace agreement. During the summer of 1999, peace talks were initiated in Nairobi, facilitated by the Intergovernmental Authority on Development (IGAD) (Hoile 2002).

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<sup>31</sup> These were not comprehensive peace agreements, but merely formalized the already existing alliance between Khartoum and the southern factions opposing the SPLM/A (Rolandsen 2005: 126).

<sup>32</sup> The Southern Sudan Coordinating Council is also referred to as the Council of Southern States (Johnson: 2003).

In January 2000, while the first IGAD initiative was still alive but unraveling, Riek Machar resigned as president of the Southern Sudan Coordination Council on grounds that Khartoum is “not honouring the terms of its agreement with the former rebels” (Hoile 2002: 146). According to Johnson (2003: 175), the background for Riek’s decision to leave was that Khartoum had shown no intention of devolving “any substantial powers to their own creation, the Council of Southern States.”

Riek’s break with Khartoum in 2000 marked the first step towards his realignment with Garang. Initially Riek created another militia group, called the Sudan People’s Democratic Front (SPDF) (Human Rights Watch 2001). Riek soon thereafter went into collaboration with Garang, and “in May 2001, the two main rival rebel movements in Sudan, the SPLA and Riek Machar’s Sudan People’s Democratic Front, announce at a meeting in Nairobi that they will merge in order to step up the war against the Khartoum government” (Hoile 245). This merger was finally formalized in the Nairobi Declaration, signed by Riek and Garang in January 2002.

SPLM/A dominance over southern politics was confirmed by Riek Machar’s return to the fold in January 2002. By then his own movement had collapsed and his political influence all but disappeared, but Riek still embodied open opposition and competition for power. His submission meant that the wound of 1991 was almost healed (Rolandsen 2005: 172).

By 2002 the circle that makes Riek Machar a unique player in relation to both the LRA and the Government of Uganda was closed. After several years as a near collaborator with Khartoum and the LRA, Riek had now returned to his original position as the deputy of Garang. Once again he was a leading player in the SPLM/A. Nevertheless, having spent more than a decade on the other side, he had made close personal contacts, and it should therefore not come as a surprise that it was Riek Machar who personally went into the bush last year and managed to persuade Joseph Kony to enter the Juba negotiations (Ledang 2007 [Telephone interview]). Bøås (2006: 68) concludes the argument of Riek’s unique competence as a mediator well:

The role played by GoSS, and Riek Machar in particular is crucial, [...] what makes Machar’s contribution so important, is the fact that he also knows and are respected by key-actors on both sides to the conflict. He knows Kony from the period when he was allied with the government in Khartoum, and Rugunda, the leader of the Ugandan government delegation to Juba, also trusts him.

## **6 The mediators qualities II: capability to pursue own interests**

The second quality that strengthens the position of Riek Machar as a mediator is his ability to pursue own interests as part of the mediation process, both personally and as a representative of the Government of Southern Sudan (GoSS). These interests are first and foremost driven by security matters and the prospect for sovereignty, but they are also fueled by economic incentives, as well as the personal aspirations of Riek Machar.

The mediator's capacity to pursue these interests are helped by alignment of interests with one of the parties, the Government of Uganda, and the capacity to exercise leverage in order to move the other party, the LRA. In the case of Juba, partiality is in other words an instrumental quality in the mediator.

### ***6.1 The need to implement the CPA and security concerns***

January 9<sup>th</sup>, 2005 marked a historic milestone in the Sudan, as it brought Africa's longest lasting civil war to an end by the signing of the Comprehensive Peace Agreement (CPA) between Khartoum and the SPLM/A. For more than two decades, the largest country in Africa in terms of geographic size had been troubled by conflict between the central government in Khartoum and various armed opposition groups, most notably the SPLM/A. The key to understanding the interests of the GoSS in mediating between the Uganda Government and the LRA lies in its need to implement the CPA in Southern Sudan and in the obstacles it faces in doing so (Kvamme 2006: 4-5).

Embedded in the CPA is the agreement that the SPLM were given participation in the central government in Khartoum together with the National Congress Party (NCP), as well as ruling power over an autonomous Southern Sudan (GoSS). The CPA included extended sharing of power, wealth (notably oil revenues), and security arrangements. The security aspect is perhaps the most critical, as will be argued here. The GoSS was, according to the CPA, allowed to keep the SPLA as a separate army alongside the Sudanese Armed Forces (SAF). In some southern areas the parties have integrated SPLA and SAF forces into so called Joint Integrated Units (JIU's). The rest of the SAF would withdraw from the south, and the SPLA would withdraw from the north (Kvamme 2006: 5).

The perhaps most important aspect of the CPA, at least in relation to the Juba negotiations, is that Southern Sudan will be allowed to hold a self-determining referendum of independence in 2011. Should the GoSS fail in implementing the CPA, it would give Khartoum a legitimate argument and an opportunity to obstruct the 2011 referendum on the grounds that the GoSS has failed to fulfill its responsibilities according to the CPA. In short, the implementation of the CPA is of crucial importance for the future of Southern Sudan, and, as we shall see, the LRA presents a major obstacle for successful implementation (Kvamme 2006).

The LRA has been the enemy of the SPLM/A since the mid-1990s when Khartoum began to use the LRA as a proxy (Prunier 2004). More than a decade later little seems to have changed in this respect, and it therefore seems natural that the GoSS would have attempted to drive out the LRA by military force. As will be argued in the following, however, there are indications that the GoSS is unwilling to take the political risk involved in pursuing such a strategy.

The rearrangement of security institutions in Southern Sudan is not going smoothly, and the SPLA is having severe difficulties in exercising supremacy in the south. This is due both to external challenges and internal problems. The process of demobilization and reorganization of the armed forces is far behind schedule. SPLA soldiers have been troubled by delayed payment of salaries, and they see little reason to engage in renewed fighting now that the peace agreement is signed. The result has been low morale and poor discipline (International Crisis Group 2006). A weak and disorganized SPLA, incapable of providing sufficient security and territorial control, is a real danger to the CPA as it allows for the continued operation of armed groups on GoSS territory that are not included in the CPA (Kvamme 2006: 5-6). The International Crisis Group (2006: 11) observes that “poor performance by SPLA troops is allowing new security threats to flourish, such as the Lord’s Resistance Army.” The CPA was an agreement between the NCP and the SPLM. Most of the government-aligned groups operating under the umbrella of South Sudan Defense Forces (SSDF) in the south have agreed to be integrated either into the SAF or the new SPLA. Some groups nevertheless remain outside the CPA and are still operational. Central in this respect are remnants of the Equatorial Defense Force (EDF), to which we shall return below.

The weakening of the SPLM/A must also be understood in relation to the loss of its chairman, John Garang. Garang was SPLM/A’s only leader for more than two decades, and in line with the CPA he was sworn in as First vice-president of Sudan. Only three weeks later he died in a helicopter crash on July 30<sup>th</sup>, 2005. Garang was known for his highly

centralized style of leadership by which he managed to keep the SPLM/A a fairly unified organization (International Crisis Group 2005; Kvamme 2006; Lam 1995). Ironically, Garang's strengths became SPLM/A's weaknesses once the "big man" was gone. Garang left the movement with rather weak civilian structures and decision-making bodies. This means that the very structure of the SPLM/A was centered around Garang's personal leadership and his political and diplomatic skills. Salva Kiir, Garang's successor, seems to lack precisely these qualities (Kvamme 2006: 6). The International Crisis Group (2005: 4) reports:

He [Salva Kiir] will find it difficult to match Garang's political and diplomatic abilities. Lacking his predecessor's political savvy, extensive international and domestic contacts, and unquestioned control over all activities of the movement, he is unlikely to govern in Garang's autocratic manner.

As a result of Garang's death, the SPLM/A was left with an enormous challenge of reorganizing itself without fractionizing and continue to work as a strong unified organization. According to the International Crisis Group (2005: 5), the death of Garang also directly affected the CPA and the SPLM/A's capability to implement the agreement: "The SPLM has also lost its chief ideologue and visionary. Garang personally negotiated much of the CPA and had a unique stature among northerners as a national politician" (Kvamme 2006: 6-7).

The LRA has been present in Southern Sudan since the mid-1990s. The group has been allowed to establish bases in the region and received military supplies from Khartoum with the aim of (1) destabilizing Northern Uganda and (2) weakening the SPLM/A (Kvamme 2006: 7; Prunier: 2004). Many observers predicted that the CPA would close the door for the LRA in Sudan, as the lines of supply would be cut as the SAF withdrew to the north. This would weaken the LRA sufficiently for the SPLA to defeat or expel its remnants. Instead, the opposite has occurred. The International Crisis Group (2006: 14) reports that "rather than dwindling away, the LRA has expanded its activities westward, to DRC and the southern Sudanese states of Bahr-el Jebel and Western Equatoria, creating massive disturbances for the civilian population" (Kvamme 2006: 7).

In late 1999, Khartoum and Kampala signed an agreement to end the support to the LRA and the SPLM/A respectively. There are, however, as pointed out in chapter four of this study, strong allegations that elements in Khartoum have continued to support the LRA, and still do, after the signing of the CPA, although this is denied by Khartoum. Why are

Khartoum and the SAF still supplying the LRA? At least part of the answer should be sought in the structure of the CPA.

In negotiation terminology the CPA is more of a distributive than integrative nature, meaning that one party's achievements equal the other's concessions. In many ways, the CPA was a better deal for the SPLM/A than for the NCP. The SPLM/A made the leap from a guerilla movement to participation in central government, southern autonomy, the right to fifty percent of all national oil-revenues, and the possibility for peaceful secession in 2011 through a self-determining referendum. Meanwhile, the NPC had to give up its authoritarian control and give in on the same issues on which the SPLM gained. It should also be added that the CPA includes democratic elections in 2009, which presents yet another challenge to the NCP (Kvamme 2006: 8). According to the International Crisis Group (2006: 18), The NCP signed the CPA more due to strong regional and international pressure and need for political survival than any other aspirations (Ibid.).

The CPA was in other words fragile from the beginning, as it provided the NCP with incentives to defect and to undermine its implementation. Initially after the signing of the CPA, the NCP took an approach of cooperation towards the SPLM in fear of Garang's popularity and in the hope that Garang's intention was to keep Sudan unified. Garang's successor, Salva Kiir, on the other hand, was perceived as a secessionist. The death of Garang therefore marked a shift in NCP strategy – from cooperation towards a resolve to spoil the CPA by destabilizing the south (International Crisis Group 2005; Kvamme 2006: 8-9).

As we have seen, the NCP continues to use the LRA as a proxy to destabilize the south and obstruct the GoSS's effort to implement the CPA (Kvamme 2006: 9). This destabilization helps sustain the LRA's military capacity. An unstable Southern Sudan also allows other armed groups to flourish, something which reinforces the LRA's position. As the LRA becomes deeper entrenched in Southern Sudan, it becomes increasingly difficult for the SPLA to distinguish it from other militias. The International Crisis Group (2006: 16) reports that "many people suspect that there are in fact other Sudanese groups operating under the shadow of the LRA, with their attacks and actions being attributed to the LRA because of a lack of information." Such a situation not only makes it difficult to target the LRA by military force, it also prevent the GoSS from dealing with other potential spoilers of the CPA (Kvamme 2006: 10). This is also in the interest of the LRA, because it needs a place to hide and lack alternatives. As argued in chapter four, the Congo is unsuitable mainly for security reasons, but also because it is too distant geographically from Northern Uganda. The LRA therefore has its own clear interests in preventing Southern Sudan from becoming a

strong unified political entity in which the SPLA exercises full control in terms of security matters.

As it is becoming increasingly difficult to distinguish the LRA from other groups, including the southern remnants of the SAF (International Crisis Group 2006), a military campaign against the LRA would risk to engage the SAF directly. This would mean a return to war with the NCP and a direct violation of the CPA. Should the LRA be allowed to become a real domestic Sudanese problem, this would create a highly uncertain political environment in which the GoSS will have increased trouble consolidating its political support and power (Kvamme 2006: 10).

Another reason for GoSS's reluctance to opt for a military solution to the LRA problem is the potential of renewed hostilities between the GoSS/SPLA and non-signatories of the CPA. The CPA was in effect a bilateral agreement between Khartoum and the SPLM/A. It excluded the many groups which were gathered under the umbrella of the South Sudan Defense Forces (SSDF) after having joined the Peace from within initiative launched by Khartoum in 1996 (Sudan Tribune 2007b). As demonstrated by the numerous splits and formations of armed groups in Southern Sudan and the consequent civil war between different southern factions described in chapter five, Southern Sudan is far from politically unified. The region remains politically fractionalized, and the potential for renewed hostilities along ethnic fault-lines is high. This weakness of the CPA was pointed out by observers at an early stage: "Despite its popular support, the SPLM/A does not represent the South in its entirety, since it is dominated by the Dinkas. Hence its forthcoming supremacy is likely to generate fears and frustrations from other groups, such as the Nuers and Equatorians" (Sudan Tribune 2005).

One of the groups that joined the SSDF, the Equatorial Defence Force (EDF), is of particular interest in relation to the LRA problem. The EDF originated when a group of Equatorians split from Riek Machar's South Sudan Independence Movement (SSIM) (Institute for Security Studies 2004: 4). When Khartoum began to support the LRA with weapons, ammunition, fuel, communication equipment, and military training in 1994, the EDF was one of the main channels of supply (Refugee Law Project 2004: 18). The EDF was known as one of the fiercest enemies of the SPLM/A, and it was partly made up of Acholis (Institute for Security Studies 2004: 8-9). After Riek Machar aligned himself with the SPLM/A, the main EDF leaders, such as Theopholis Ochieng, also signed a declaration of unity with the SPLM/A. However, a small faction of the EDF remained loyal to Khartoum, and it is partly through this group that Khartoum has continued to supply the LRA after the

signing of the CPA in 2005 (Bøås 2006: 51). The fact that the LRA share its Acholi identity with part of the EDF also increases the difficulty for the GoSS to separate the two groups. Should the GoSS opt for a military campaign against the LRA, they would in other words risk clashes with the EDF and potentially spark renewed ethnic conflicts in Southern Sudan.

In sum, the understanding of interests of the GoSS in removing the LRA from Southern Sudan must be linked to the joint interests of Khartoum and the LRA in preventing Southern Sudan from evolving into a strong independent political entity. The GoSS needs to eliminate the LRA problem, because of the shared interest of the LRA and Khartoum in destabilizing Southern Sudan and undermine the CPA (Kvamme 2006: 11).

The remaining question is how to accomplish the goal of evicting the LRA from Southern Sudan. Most likely the GoSS would have opted for a military strategy had it not been for the fear of the potential consequences. First, we have already seen that the combination of delays in reorganization of the SPLA into a professional army, held back salaries, and disillusionment with the objective of fighting now that the CPA is signed results in low morale and limited resolve to fight the LRA and other groups. The military strength of the SPLA is in other words weakened from within. Second, because of its continued, although limited, support from Khartoum and its ability to blend in with other groups in Southern Sudan, the LRA remains a difficult enemy to fight. An attempt to engage the LRA militarily would risk bringing the SAF and other groups, such as the EDF, into the war and thus threaten the stability of the south and the CPA.

There is, in other words, reason to believe that the SPLA neither trusts its own military capacity, nor is it willing to risk a violation of the CPA. It follows that if the GoSS wants to get rid of the LRA, it needs to add additional methods to its strategy. It seems probable that Betty Amongi (2007 [Telephone interview]) is right in her assessment that one of the main reasons for offering to act as a mediator in Juba is that “the Government of Southern Sudan needs to get rid of the LRA, because elements in Khartoum continue to supply the group in order to destabilize the south [...]. A military strategy is infeasible because it is difficult to separate the LRA from other militias.”

## **6.2 Economic and personal incentives**

As explained above, security matters and the quest for sovereignty, is arguably the most important driving force behind the mediation of GoSS and Riek Machar. Other factors, such



as economic interests, as well as Riek's personal motivation for mediation, should nevertheless be assessed as part of the picture. The economic incentives are, as will be argued in the following, also closely linked to security concerns.

If the LRA problem can be removed and the CPA successfully implemented, the GoSS can expect to benefit economically both on a regional and global level and in terms of cross-border trade. Currently, Southern Sudan is dependent on energy imports. Most of Southern Sudan's fuels currently come from the Kenyan port of Mombasa and is transported by a combination of rail, trucks and pipelines (UN Joint Logistics Centre 2004). In the future, however, Southern Sudan may become a major exporter of oil. One of the consequences of the signing of the CPA was that foreign investors lined up in order to have a piece of Southern Sudan's oil resources. The potential exports have impelled Kenya to offer the construction of an export pipeline from Juba to the Kenyan port of Lamu (Sudan Tribune 2006). This would decrease the landlocked Southern Sudan's dependency of Khartoum and exit to the Red Sea through Port Sudan. In other words, the potential is there, and so are the investors. The latter have nevertheless voiced serious concerns about the security situation and stability of the region (Xinhua 2006). A stable Northern Uganda and the elimination of the LRA will therefore be clearly in the economic interest of Southern Sudan, as it would help reassure foreign investors.

The elimination of the LRA and peace in Northern Uganda would also allow for the establishment of cross-border trade between Uganda and Southern Sudan. In the case of independence after the 2011 referendum, cross-border trade would also strengthen Southern Sudan's capability to survive as a sovereign state, as it would mean less dependence on the trade networks from Khartoum (Bøås 2006: 52). There are already indications on the ground that trade and transportation across the border have begun to materialize and that prices in Juba consequently have begun to fall (Ibid.).

The cross-border trade has positive consequences also for Uganda, where trade is now booming in the north as a result of the Juba negotiations. During a period of less than three months beginning June last year, the value of Ugandan exports across the border to Southern Sudan more than tripled (BBC 2006a). Uganda has recently begun to take infrastructural steps in order to boost trade with its northern neighbor. In April this year, Florence Kata, head of the Uganda Export Promotion Board, declared Uganda's intention to open a new trade center in Juba in order to promote exports from Uganda. In addition, plans are underway to construct a Ugandan export training and skills development centre, also in Juba (Sudan Tribune 2007a).

Finally, in terms of the mediator's interests, one should not underestimate the personal interests of Riek Machar in resolving the conflict between the LRA and the Government of Uganda. Many observers hold that Riek is most likely positioning himself for the presidency of an independent South Sudan, and that he is utilizing his role as a mediator as a means towards this end (Amongi 2007 [Telephone interview]; Bøås 2006; Young 2007). J. Young (2007: 27) notes that "Riek may have ambitions to be president of an independent South Sudan, and is widely assumed to have used the mediation between the Government of Uganda (GoU) and the Lord's Resistance Army (LRA) to build a constituency in Equatoria." Obviously Riek is dependent on the above described stability and implementation of the CPA in order to achieve this – without a 2011 referendum, there will be no independence.

Closely related to the personal political prestige is the international goodwill that Riek Machar would receive if he could take the honor for ending this long-lasting conflict – a conflict which has been termed one of the worst humanitarian crises in the world and has received increased international attention over the last years. Bøås (2006: 52) puts it well: "we should not underestimate the international prestige and goodwill that would be bestowed on a character like Riek Machar if he should emerge as the person who brought peace to Northern Uganda."

### ***6.3 The impact of mediator alignment and future perspectives***

As argued in chapter two of this study, the necessity of an impartial mediator is but a myth. In many cases, and in Juba indeed, mediator alignment and the capacity to use leverage vis-à-vis the parties may be important tools in order to move the parties. Regarding the first, mediator alignment, it is worth recalling the important words of Berchovitch and Houston (1995: 28): "Where a mediator is aligned with one of the parties or shares a common experience or goals with one party and future interactions are important to both, each disputant may show greater flexibility and confidence in the outcome."

It may be argued that Riek Machar is the first external actor who has attempted to mediate between the Government of Uganda and the LRA, and that this is an important development compared to previous mediation attempts. As a Ugandan minister tasked specifically with ending the conflict in Northern Uganda, Betty Bigombe was a representative of one of the parties in 1994. Although she was technically independent as a mediator in 2004, it is reason to believe that she remained partial from the LRA's perspective.

I nevertheless suggest that the image of Riek Machar as an external impartial actor should be downplayed. There are clear patterns of alignment between the Government of Southern Sudan and the Government of Uganda, and there is little reason to believe that the LRA is unaware of this. The close historical ties between the SPLM/A and the Government of Uganda during the war against Khartoum constitute part of this alignment. As noted by Betty Amongi (2007 [Telephone interview]), “part of the motivation of the GoSS to offer mediation between the Government of Uganda and the LRA is that they feel the need to pay back for the support they have received in the war against Khartoum.”

The alignment is also guided by future perspectives and common interests. The above mentioned security concerns, notably the shared interests of eliminating the LRA, as well as the economic incentives resulting from trade, evidence this relationship. The alignment also touches on the personal dimension of the mediator. As noted above, in the case of secession in 2011, Riek Machar is likely to be among the leading figures of a new sovereign South Sudan. Since the emergence of a new economically strong and independent country bordering to Uganda is a real and probable possibility in the near future, it would clearly be in the interest of the Uganda Government to establish a close and friendly relationship with the man who may become its president. The Juba talks may indeed present a golden opportunity to pursue such a strategy.

The LRA on their side is probably more guided by pressure, be it from the mediator or outside forces or both, than by any perspectives of future relations with the mediator. This brings us to the discussion about the mediator’s potential to exercise leverage vis-à-vis the parties and how this applies to the Juba case.

#### ***6.4 The mediator’s capacity to exercise leverage***

The above discussion – regarding the mediator’s impartiality and own interests, as well as the mediator’s alignment with one of the parties – is closely related to the mediator’s capacity to exercise leverage. As we have seen in chapter two of this study, a mediator, if capable, may at times apply pressure as a means to move the parties closer to a negotiated outcome.

As noted in chapter four of this study, the ultimatum issued by Salva Kiir, and repeated by Riek Machar, gives the LRA three alternatives: (1) find a peaceful solution, (2) leave Southern Sudan, or (3) face eviction by force. It could be argued that this ultimatum is either of inferior importance to the ICC indictments or that it is close to irrelevant due to its

lack of credibility. As we have seen, one of the strengths of the LRA is its ability to blend in with the SAF as well as other armed groups in Southern Sudan, something which renders the group a difficult target for the SPLA. Another LRA strength, as we have seen in chapter four of this study, is its capability to remain mobile across a wide geographical area stretching over Northern Uganda, Southern Sudan, and the eastern parts of the Congo. This may indicate that the LRA has sufficient alternative hideouts to remain largely unaffected by Salva's ultimatum.

On the other hand, chapter four has also rendered it probable that the LRA perceive the Congo as an unsuitable hideout. The area is increasingly unsafe and possibly so remote from Uganda that the group would lose its already limited legitimacy for existing. It is therefore highly likely that the LRA fear the consequences of a potential military initiative from the GoSS. The mediator's capacity to exercise leverage in the form of threats to use force should therefore not be underestimated as part of the explanation to why the LRA has accepted Riek's mediation in Juba.

It may appear contradicting that the GoSS is afraid to risk a military initiative against the LRA, but that the LRA at the same time is pressured by the threat of such an initiative. It should therefore be underlined that it is the *perceptions* of the involved actors that influence their decisions. Although the GoSS is reluctant to use force, it may still mean that the LRA is unwilling to take the risk of facing an attack. In other words, SPLA weaknesses notwithstanding, it may still be the *perception* of the LRA that the GoSS is both capable and willing to use force.

This threat of force alone would most likely have been insufficient to move the LRA. However, if seen in relation to the overall situation of the LRA, it seems likely that the group is unwilling to take the risk of a GoSS attack. Southern Sudan seems to be the last remaining safe and suitable territory where the LRA can both hide and receive supplies. We also need to remember that the threat to use force was issued together with the offer of help. In addition to the ultimatum, the GoSS offered to mediate. This combination of "sticks and carrots" is most likely efficient in itself if we recall the logic of Carnevale explained in chapter two: a mediator may choose between a number of strategies, including the use of pressure and the promise of rewards.

Finally, should the LRA fail to accept mediation, the GoSS may very well have to resort to force in spite of its own reluctance, and this in itself makes the threat more credible. In conclusion, the GoSS's threat of using force is most likely credible and instrumental in

moving the LRA towards Juba – because the LRA fear the consequences, and in spite of GoSS's reluctance.

## 7 Conclusion

When the Government of Uganda and the Lord's Resistance Army (LRA) accepted Riek Machar's offer of mediation during the summer of 2006, it marked a historical breakthrough in the conflict in Northern Uganda. The Juba negotiations is a milestone in the sense that for the first time since the beginning of the conflict in 1986, the parties are gathered at the negotiation table for talks which are now yielding successful outcomes. A peace agreement is not yet signed, but the parties have achieved more and are closer to a settlement than ever before. Although fragile, the situation on the ground is peaceful. Since the talks began, there have been only sporadic hostilities between the adversaries, and the humanitarian situation in Northern Uganda has improved significantly.

By weighing the intervention of the lead mediator, Riek Machar, against alternative and complimentary explanations, this study has strengthened the hypothesis that a large share of the Juba success can be attributed to Riek. In order to arrive at this conclusion, the study have analyzed the Juba negotiations in light of the following five explanations – besides the intervention of the mediator – to why civil wars may come to a peaceful end through negotiations: (1) high costs of war compared to the potential gains of pursuing a military victory, (2) a military stalemate caused by a balance of power, (3) the impact of democratic political institutions, (4) shared ethnicity encouraging peaceful settlement, and (5) high divisibility of stakes making settlement easier.

The first three are categorized by Barbara F. Walter as so-called “ripe for resolution” variables. The main argument of this theoretical camp is that successful negotiation outcomes are likely once these conditions favor negotiation. The last two explanations belong to the theoretical camp that sees successful negotiation outcomes as a function of the parties' abilities to resolve underlying conflicts of interest in order to reach a mutual agreeable bargain. According to Walter, the intervention of a third-party mediator constitutes the sixth variable and belongs to the latter camp.

Regarding the “ripe for resolution” explanations, it is likely that both parties in Juba have been influenced by increased costs of war. While it is difficult to assess the extent to which Kampala is influenced directly by economic costs of war, it seems clear that the Government of Uganda has experienced increased international pressure for finding a solution to the war. Due to failure in defeating the LRA by force, President Museveni is therefore left with the option of negotiating. The LRA on its side is pressured by the GoSS,

which threatens to use force if mediation is not accepted. The efficiency of this threat is likely to have increased due to lack of alternative safe territories and declining support from Khartoum, but also because it is accompanied by Riek Machar's offer of mediation.

The impact of democratic institutions in Uganda has had little effect on Kampala's decision to negotiate. First, it remains highly questionable that Uganda has become more democratic over the last years. Second, there are few indications that domestic accountability has restrained President Museveni's preference for a military solution and his resolve to pursue it.

There existed no such thing as a balance of power which could have produced a military stalemate prior to Juba. It is likely, however, that the institutionalization of a political economy of war in Northern Uganda has contributed to create an *appearance* of a stalemate. It is clear that central actors on both sides of the conflict, most notably on the side of the government, has been able to profit by the continuation of war. These incentives to prolong the conflict have nevertheless been largely offset by the increased costs of war, which has pressured the parties to pursue a solution to the conflict.

If a real military stalemate did exist, it would most likely have already existed for years, and previous negotiation attempts have thus failed in spite of such a condition. In addition, the stakes of the conflict have changed to the point where they are hardly conflicting. At the beginning of the conflict the stakes were indeed conflicting as the very position of the NRM regime was threatened. While Museveni still seems bent on the elimination of the LRA, the main objective of the latter has become the personal survival and wellbeing of its leaders. The stakes has in other words become more divisible over time. This said, the potential of peace due to increased divisibility of stakes has most likely been partly offset by the warrants of arrest issued by the ICC. The ICC has become the LRA leaders' greatest fear and has most likely led to reluctance to seek a peaceful outcome as long as the warrants remain valid.

Finally, the possibility that shared ethnicity between the parties has contributed towards a peaceful outcome can be ruled out on historical grounds, since divided ethnicity was part of the causal factors of the conflict and has not changed since.

In conclusion, this study has strengthened the hypothesis that the main share of the Juba success can be largely explained by two factors: (1) the mediation of Riek Machar and (2) increased costs of war for both parties constituted mainly by external pressure. What is important to underline is the fact that on the side of the LRA, the bulk of this pressure comes

from the mediator. In short, it seems clear that the intervention of the mediator has been instrumental in contributing to success in the Juba negotiations.

This study has also strengthened the hypothesis that two main qualities has shaped Riek Machar as one who is in a unique position to act as a successful mediator between the Government of Uganda and the LRA. First, as described in chapter five, his special history as a leading combatant in the civil wars of the Sudan has brought him in close contact with both adversaries in Juba. As a result, Riek Machar is arguably in a better position than anyone else to know and understand both parties and thus win their confidence and trust.

Second, as argued in chapter six, Riek Machar possesses the will and capability to pursue his own interests, both personally and as a representative of the GoSS, by acting as a mediator in Juba. He is in a position to pursue a strategy combined of carrots and sticks vis-à-vis the LRA. This is evidenced by the offer of mediation paired with the three-layered ultimatum: seek a peaceful solution, leave Sudan, or face forced eviction. Riek and the GoSS is also benefiting from aligned interests with the Government of Uganda, both in terms of historical alliances and future economic perspectives such as trade and security in the form of regional stability and peace. Most important is perhaps the shared interest in eliminating its common problem, namely the LRA, which continued operation threatens to spoil the CPA in the Sudan and prolong the war in Northern Uganda. Finally, Riek will receive a high level of international goodwill and personal prestige if he can take the honor of bringing peace to Northern Uganda. This will help him in his future political aspirations, possibly including the presidency of an independent South Sudan.

In regards to the conclusions drawn in this section, it is important to keep in mind some important methodological and empirical shortcomings that characterize this study. These shortcomings should also be kept in mind in relation to the theoretical reflections in the next section. The main weakness concerns the reliability of the research design in the sense that some of the findings are dependent on sources which are either anonymous or bias or both. This said, such challenges will always be hard to circumvent in the study of ongoing negotiations of armed conflict which are fragile and thus sensitive in regards to information. The researcher will always have to deal with sources who are reluctant to speak either because of concerns for their own or others' safety or for the sensitivity of the negotiation process. In addition, those who provide information, either in interviews or through written sources, will often have their own agenda, as their information may have the capacity to influence the parties or the mediator or both, and potentially the outcome of the negotiations.



Finally, it should be remembered that the scope of this study is limited and that some degree of selection in terms of which variables to scrutinize has therefore been necessary. This means that there exists a potential for spurious effects, both in regards to how important the mediator is in the negotiation process and to which instrumental qualities the mediator possesses.

## **7.1 Theoretical reflections**

As described in chapter two of this study, several of the conditions listed by the contingency model of mediation developed by Jacob Bercovitch and Allison Houston should be relevant for the Juba case. This study has contributed to strengthen some of the hypotheses of the contingency model, while it seems to have weakened others. According to the model, mediation by a third party is more likely to have an impact in situations marked by a low disparity of power between the adversaries, in other words where there exists a balance of power. Furthermore, mediation is more likely to succeed if initiated at a time where the parties have reached a military stalemate. It should be noted however, that the contingency model is somewhat inconclusive on the latter point – there are some indications that mediation may also be less effective if initiated too late. As concluded above, this study has shown that there existed no stalemate prior to the Juba negotiations. The main argument behind this assumption is that it is very difficult to understand Juba from a balance of power perspective, because the stakes of this conflict have changed to a point where they are hardly conflicting. The success in Juba has therefore taken place in the absence of a stalemate.

This brings us to the next assumption of the contingency model: mediation is less likely to have an impact if the stakes of the conflict is comprised of sovereignty- and security related issues. As concluded above, this was indeed the situation at the outbreak of the conflict, while it was clearly not so prior to Juba. In this sense, the contingency model seems strengthened by the findings of this study.

The indication that changing stakes may have an impact on the balance of power may serve as a proposition for further research. It is interesting that Walter categorizes the balance of power variable under the “ripe for resolution” theoretical camp, while the divisibility of stakes belongs to the camp arguing that a peaceful solution rests mainly on the parties’ abilities to resolve their underlying conflicts of interest. The analysis of the Juba negotiations conducted by this study has demonstrated a relationship between Walter’s “ripe for

resolution” explanations to how civil wars may come to an end and the other theoretical camp under which she groups explanations that address the underlying conflicts of interests. This may indicate that it possible to increase a conflict’s ripeness for resolution by manipulating the stakes of the conflict with the result of changing the balance of power between the parties.

The boundary between Walter’s two theoretical camps becomes further blurred when one considers how the parties in Juba have been influenced by external pressure. One of the “ripe for resolution” variables is the costs of war, and in the case of Juba these costs are mainly constituted by increased external pressure on the parties. It is interesting to note that on the side of the LRA, a large share of this pressure comes from the mediator in the form of the threat to use force. The implication of this is that the mediator in the case of Juba has contributed to increase the costs of war for one of the parties by exercising leverage. The mediator *is* in other words a “ripe for resolution” variable and not merely one of the variables that may address the underlying conflicts of interests.

There are in other words indications that the borderline between Walter’s two camps of theories on resolution of civil wars is floating, and that some of these explanations may be more complimentary than competing. Perhaps some hypotheses could be developed in order to further bridge these two camps and expand the theoretical framework for conflict resolution? One suggestion is already mentioned above: that manipulation of stakes may alter the balance of power and thus increase the ripeness for resolution. Another hypothesis may be that a strong and partial mediator may in itself represent a “ripe for resolution” variable. Further research could be conducted in order to explore the borderline between a mediator and a party. As mentioned in the definition of mediation in chapter two of this study, mediators who have the capacity to exercise leverage vis-à-vis the parties are balancing on a point where they risk becoming a participant in the conflict rather than merely a mediator. This study retains the position that a mediator becomes a party if the mediator resorts to use force in order to move the parties. The *threat* to become a partaker in the conflict may nevertheless be sufficient to render engagement unnecessary, and the capacity to exercise such a threat therefore fortifies the position of the mediator.

This study has clearly strengthened the propositions of the contingency model that the mediator’s own interests in resolving the conflict, the strategic tools the mediator may apply in order to move the parties, and the mediator’s relationship with the parties are important mediator qualities that may be instrumental in the pursuit of peaceful settlement of armed conflicts.

As concluded above, Riek Machar, both personally and as a representative for the GoSS is a partial mediator with strong interests in resolving the conflict between the Government of Uganda and the LRA. Moreover, Riek has benefited from important strategic tools of mediation highlighted in the contingency model. He has most likely been in a position to exercise leverage vis-à-vis the LRA, while he has clearly aligned interest, both historically and in terms of future relations, with the Government of Uganda. This study should in other words contribute to put the myth of the indispensable impartial mediator in the ground.

The Juba negotiations should serve as an example that a mediator with a close relation to the parties and with the will and capacity to pursue own interests may indeed contribute to negotiation success. This does not indicate that it is possible to modify negotiation theory from the findings of this study alone. It is crucial to remember Yin's (2003: 10) words about external validity as presented in chapter one of this study: "case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes." This means, however, that this study may contribute to theory by presenting important propositions regarding the role of the mediator and mediator qualities that may serve as a starting point for further complimentary research. It would be fruitful to pair the findings of this study with other existing or future studies in order to further assess the value of a mediator who comprises similar qualities to those of Riek Machar. The findings of such future research could induce a theoretical framework, which in turn could be of value for future students, scholars, and practitioners of conflict resolution.

The Juba negotiations were initiated by a local strong and partial mediator who benefits from a close historical relationship with the parties and has the capacity to pursue own interest through the mediating role. The international community came on board at a later stage. Perhaps, in the future, this order of events could in some situations be reversed in order to resolve long lasting conflicts with a complex history. The lessons learned from Juba demonstrate that a solid understanding of the history of a conflict may be fruitful. Hopefully this study may influence practitioners of conflict resolution to thoroughly study the histories of the conflicts they seek to resolve with the aim of identifying and consider the engagement of strong local mediators who possess similar key qualities to those of Riek Machar.

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## **List of Respondents**

Anonymous (2004; 2005; 2006; 2007). For reasons described in chapter one, section 1.4, of this study, a number of informants have asked not to be named.

Amongi, Betty (2007). Head of Ugandan Members of Parliament Delegation to Juba. Interview with author.

Ledang, Jan (2007). Norwegian Consul General to Southern Sudan. Interview with author.