

Implementing the 1999 Nairobi Agreement

Patrick Oguru Otto

Dr. Patrick Oguru Otto is the Coordinator of the London-based Kacoke Madit (KM) Secretariat. He has worked extensively with KM's international peace promotion activities since 1996.

Start of a new era?

When the Nairobi Agreement was signed by Presidents Yoweri Museveni and Omar al-Bashir in Nairobi, Kenya, on 8 December 1999, there was real expectation that the accord would provide the critical impetus for resolving the northern Uganda conflict. Significantly, Uganda's Parliament passed the Amnesty Bill, which offered immunity from prosecution to those who had engaged in 'armed rebellion' against the National Resistance Movement (NRM) government, a day before Museveni travelled to Nairobi. From a northern Ugandan perspective, the optimism that greeted the signing of the agreement was, however, short-lived. Within a week, hundreds of Lord's Resistance Army (LRA) fighters crossed from Sudan into Uganda and attacked civilian and military targets in Kitgum and Gulu districts. The Ugandan government reacted by accusing Sudan of bad faith in failing to comply with the terms of the agreement. The government of Sudan replied that it was unable to stop the LRA crossing into Uganda.

It had been agreed in Nairobi that the Sudanese Defence Minister would travel to southern Sudan immediately to brief Joseph Kony and other LRA leaders about the agreement and ask for their cooperation. In the event, the Sudanese faced more pressing political matters on returning to Khartoum. On the day of their return, the President dissolved the National Assembly. The state security organs were therefore more preoccupied with stabilizing the domestic situation than with implementing the Nairobi Agreement. The absence of timely official notification about the substance of the agreement appears to have compounded Kony's anger with the Nairobi process. He would have been terribly alarmed about the decisions to 'disarm and disband' the LRA. In that state of mind, it seems, he decided to send a defiant statement to the Sudanese and Ugandan governments by launching the attacks.

In a bid to save the agreement, ex-President Jimmy Carter intervened personally to urge the presidents to exercise restraint, calling on Sudan to 'take steps' to stop the



incursions by the LRA. He extracted assurances from both governments that they would continue to work towards the agreement's full implementation. Thus the Nairobi Agreement survived its first crisis.

By the start of the new millennium security in northern Uganda had deteriorated considerably. On 2 and 3 January 2000, LRA fighters raided Kitgum and Gulu towns, looting, abducting people and destroying property. Among the people of northern Uganda, euphoria and optimism gave way to questions about the agreement's viability. The popular perception was that the renewal of hostilities had been precipitated by the exclusion of the LRA from the Nairobi negotiations and its fears about the explicit commitment to 'disarm and disband' them.

Implementation begins

The day after the agreement was signed, the Ugandan and Sudanese contact groups established a Joint Ministerial Committee and three sub-committees to address security, humanitarian affairs, and political issues. They agreed to hold the first ministerial meeting in January 2000. The committee met as arranged in Nairobi. It was reported to be a tense and difficult meeting with little evidence of a thaw in relations, despite some modest but significant achievements since the signing: the successful management of the strains that followed the LRA incursions into Uganda, the repatriation of

Sudanese prisoners of war in early January 2000 and the return of the first group of 'ex-LRA' escapees from Sudan. The Ugandan delegation was adamant that the Sudanese had not done enough to start disarming and disbanding the LRA and to secure the release of the Aboke girls. The Sudanese, on the other hand, pointed to the successful identification and gathering of seventy-five ex-LRA escapees in Juba as evidence of their commitment to the process. They proposed moving swiftly towards restoring diplomatic relations. Uganda took the position that progress on the diplomatic front required successful implementation of all the commitments in the agreement. Despite these difficulties, the delegations agreed to work on their commitments and to meet again on 1 March 2000 in Nairobi.

As the LRA escalated its insurgency operations to pre-1999 levels, it dawned on the civilian population that far from ushering in a new era of peace, the Agreement had disrupted a lengthy lull in the violence that was unprecedented in the 14-year conflict. At this point, the Kacoke Madit (KM) Secretariat, which had been actively and discreetly supporting peace efforts, initiated consultations with civil society groups in northern Uganda to agree a common strategy to persuade the governments and Carter Center to consider options for a more inclusive resolution of the conflict.

The Carter Center also realised, shortly after Nairobi, that the renewed attacks by the LRA were undermining the

chances of successful implementation of the agreement. Dr Joyce Neu, head of their Conflict Resolution Programme, asked the Sudanese government to arrange for her to meet Kony and the LRA leadership before the next implementation meeting. Increasingly conscious of the disquiet among civilians in northern Uganda following the LRA incursions, she also decided to visit the area – a visit many thought to be 'too little, too late'.

In the third week of February 2000, with assistance from the Sudanese government, she and a colleague, Craig Withers, met Kony and senior LRA leaders at their camp at Nsitu (south of Juba). The meeting was reportedly awkward and difficult. Kony expressed his anger, sense of betrayal and deep suspicion of the 'American government' (which he apparently did not distinguish from The Carter Center). No specific proposals to include the LRA in the peace process were discussed. Again this courageous and well-meant visit to the LRA seemed to have come too late.

Dr Neu later wrote: 'Kony and his spokesperson talked about the need for democracy in Uganda, and how many people in northern Uganda say he's bad. He said he would not talk to northerners but wanted to speak with the government of Uganda but refused to give us a timeframe for such a meeting. Also, the breach of trust in the incident with the parents tainted all of our subsequent communications. Kony was angry about the deceit he felt we had committed. They were also angry at what they said was the 'trickery' of UNICEF taking their children away. Kony asked for us to move slowly and not to rush the process. Before the end of the meeting, Kony told us that he hoped to meet with us again, and that we were now his "ambassadors" to "spread the gospel for the LRM/A."

As the second ministerial meeting drew near, the KM Secretariat brought together representatives of Acholi civil society to lobby The Carter Center and the parties to the agreement. The civil society representatives presented a joint memorandum to The Carter Center and the governments calling on them to bring the LRA into the process immediately. They also stressed the need to address the plight of all abductees, instead of giving preferential treatment to the Aboke girls, emphasizing that the freedom of abductees should be considered in the context of an overall peace settlement.

The second ministerial meeting, in March 2000, was evidently even more difficult than the first and came close to breakdown on the first day. The implementation timetable agreed in December had slipped badly and each side accused the other of lacking commitment. The Ugandan delegation insisted on a strict interpretation of Point 11 of the agreement, which made normalisation of

relations contingent on honouring all other terms of the agreement. The Sudanese argued that the appointment of diplomats would smooth the way for full implementation of the agreement. Worse still, one of the Ugandan delegation referred to 'slavery' in Sudan, which angered the Sudanese delegates immensely. Most of the first day was wasted in argument over the issue until the Ugandan delegate withdrew the remark. The meeting then went on to consider substantive implementation issues, ending on the second day without agreeing a date for the next meeting. The delegations decided that because so little progress had been made and the timetable had slipped so much, each side would need a fresh mandate to proceed from its government. The joint statement issued at the end of the meeting re-affirmed the governments' commitment to restoring relations and fully implementing the Nairobi agreement.

Without a clear agreement by the governments on implementation, a period of uncertainty followed and momentum noticeably slowed down. Dr Ben Hoffman, who replaced Dr Neu as head of The Carter Center's Conflict Resolution Programme in June 2000, sought to put the process back on track. He decided to visit Sudan and Uganda to meet the key players and to familiarise himself with the issues and the progress made so far. On his way to Africa, he visited the KM Secretariat in London. KM representatives discussed some of the perceived shortcomings of the agreement with him and appealed for action to address them. In particular, the Secretariat strongly recommended that The Carter Center should take steps to engage the LRA in dialogue, and to promote greater involvement of northern Uganda civil society in the process.

In Sudan, in early July 2000, Hoffman met government officials and discussed the resumption of the implementation meetings. He also requested the government to arrange for him to meet the LRA. The Sudanese agreed, and he was taken to Nsitu to meet Kony and other senior LRA leaders. The meeting was very tense and formal at the beginning but became progressively less confrontational. Kony expressed his anger and disappointment with the Nairobi process, but by the end of the three-hour meeting, he had left the door open to further cooperation and dialogue. The LRA leaders promised to confirm their recognition of The Carter Center's mediation role once they had completed consultations with their members. This was to be the last face-to-face contact between Carter Center representatives and the LRA.

The need to restore momentum to the process, and the likelihood that the personal participation of Jimmy Carter was needed at that stage, led to a decision to hold the next implementation meeting in Atlanta. The location of

the meeting was particularly significant for the Sudanese government given its poor diplomatic relations with the US government at the time.

Other initiatives emerge

The Nairobi Agreement had generated much international interest and raised expectations, especially on the issue of abducted children. However, as implementation of the accord slowed, other countries began to explore opportunities for intervention. Libya and Egypt, both of whom had long-standing interests in promoting improved diplomatic relations, took the opportunity of an OAU summit to invite the governments of Uganda and Sudan to a side meeting in Lomé, Togo. Although the details of what transpired are scanty, they are said to have reached an understanding that Egypt and Libya would reassert their interests in furthering the process of improved diplomatic relations, and that they would address the northern Uganda conflict in the wider regional context including a resolution of the Sudanese civil war. The parties also agreed to make the release of the 'Aboke girls' a priority. The meeting produced the 'Lomé Non-Paper' of 11 July 2000. The governments agreed to meet again in Kampala in late September 2000.

A week after the Lomé meeting, a new Carter Center team hosted the Joint Ministerial Committee in Atlanta from 18 to 19 July. The meeting focused mainly on rebuilding trust and restoring the momentum of implementation. It produced the Atlanta Joint Action Plan, asserting renewed commitment by the governments to proceed with implementing the Nairobi Agreement. The governments also agreed to meet again in Khartoum in October and in Nairobi in November.

Abortive Sudan visit by Acholi elders

During the Atlanta meeting the governments agreed to a Carter Center-organised visit by select northern Uganda civil society representatives to southern Sudan to meet Kony and other LRA leaders. However, it soon became apparent that the government-sponsored nature of the venture undermined any anticipated 'independence' of the mission. Disagreements also surfaced over who was to be included (or excluded). As a result of an apparent shift of policy within the government of Uganda, elders from all over Acholi who had gathered in Gulu were left waiting for their flight to Sudan which never came. Unexpectedly, it was decided that the religious leaders' and elders' mission would have to be preceded by a visit to Sudan by Kony's parents. No official explanation was given for this sudden change in priorities. A Carter Center representative flew with Kony's parents and an official of the Ugandan Internal Security Organisation (ISO) to Khartoum. On arrival he contacted Kony to arrange a

meeting. News of the confusion surrounding the arrangements for the religious leaders' and elders' visit appears to have reached Kony, who became suspicious. He refused to talk to or meet his parents, who returned to Uganda in disappointment. After this, Kony withdrew his cooperation with The Carter Center, and yet another potentially significant initiative collapsed.

Meeting in New York

On 11 August 2000, before the International Conference on War Affected Children in Winnipeg, the government of Canada and some international non-governmental organisations (NGOs) invited The Carter Center, UN agencies and representatives of the governments of the UK, the USA, Ghana, the Netherlands and Norway, to a meeting in New York to discuss 'children abducted by the LRA'. The meeting agreed to step up action to secure the release of children abducted by the LRA, and to establish a 'Partners in Support of the Abducted Children' coalition. A follow-up meeting was planned for September in Winnipeg.

Winnipeg, September 2000

For The Carter Center, the Canadian interest in playing a political role in northern Uganda was apparently seen as something of a broadside, which they feared might detract from the implementation of the Nairobi Agreement. On 15 September, at the start of the ministerial meetings of the International Conference on War Affected Children, the Canadian Minister for International Development, supported by Egypt's Ambassador to Canada, convened a special 'experts meeting' to discuss the northern Uganda children abducted by the LRA. Those invited to the meeting included the UN secretary-general's Special Representative for Children and Armed Conflict, Olara Otunnu; UNICEF; the Concerned Parents Association, Women's Coalition on Refugee Women and Children, KM, Canadian Physicians for Aid and Relief, World Vision and representatives of the governments that had attended the New York meeting. Delegates were surprised to learn that The Carter Center representative, who was expected to attend, had unexpectedly left Winnipeg the previous day. Thus the meeting got off to a poor start and ultimately failed to advance the 'Partners in Support of the Abducted Children' coalition. The Canadian and Egyptian governments were undeterred. Having generated publicity and interest in the issue, the two governments seized the opportunity and convened a special meeting of the Ugandan and Sudanese delegations on 17 September 2000 to discuss the issue. The meeting resulted in the governments of Sudan and Uganda signing the Winnipeg 'Joint Communiqué on Immediate Action on Abducted Children', witnessed by

the Canadian Foreign Minister and the Egyptian Ambassador. Significantly, the Ugandan government had agreed to 'take all measures to engage in dialogue with the LRA' – a public commitment absent from the Nairobi Agreement.

Kampala, September 2000

On 26 and 27 September 2000, the governments of Libya and Egypt again brought the governments of Sudan and Uganda together in Kampala, in a follow-up to the Lomé meeting. The Carter Center, though not convening this initiative, sent its Uganda representative to attend. As the Kampala meeting ended, with a commitment to meet again, a senior Ugandan government official told the press that an agreement had been reached to relocate the LRA to new camps '1,000km north of the Uganda border'. The surprise disclosure was widely reported by the Ugandan and international press.

Khartoum, October 2000

The Carter Center, in an effort to ensure that the multiple initiatives were complementary and coherent, sought to restore some order to proceedings at a Uganda/Sudan ministerial meeting on 6 and 7 October 2000. It invited the governments of Libya, Canada and Egypt, as well as UNICEF and Ugandan Concerned Parents Association (CPA). The Center brought to the attention of the delegates the difficulties of implementing their agreement amid the multiple initiatives. It persuaded the governments to bring the Canada/Egypt and Libya/Egypt initiatives under the 'Nairobi Agreement umbrella'. Thus the agreements and commitments reached in Winnipeg, Lomé, Kampala and Khartoum were incorporated into a single implementation plan. Roles were also defined for the governments of Canada, Libya and Egypt. A detailed implementation plan was drawn up and three technical committees were established to oversee the main components:

- to relocate, disarm and disband the LRA/M;
- to establish an SPLM/A Observation Team;
- to search for and repatriate the Aboke girls (and eventually all abductees).

It was by any standards an ambitious and challenging plan, fraught with risks of failure and uncertainty. Although the LRA was absent and had not assented to their disarmament and relocation, the plan specified a very tight implementation timetable of one month. The Libyan and Egyptian governments committed funds to build new camps, while the government of Uganda pledged to cover the flight costs for the relocation. Other agencies drafted proposals to manage the demobilization, decommissioning and resettlement of the LRA, and a wider circle of European donor governments promised funds. It is baffling why the

governments agreed to such an unrealistic plan, given the obvious challenges and why the signatories were so confident of success that CPA was asked to remain in Khartoum to help identify the Aboke girls. The governments and participating agencies remained pointedly ambiguous about whether the means for the LRA's disbandment and disarmament were to be ultimately peaceful or military. This may have reflected differences of views – but it had the effect of establishing an 'in-principle' consensus that the military option was open to consideration.

After hearing about the relocation plans, the LRA adopted an even more defensive stance. By this time its offices in Khartoum and Juba had closed, and its forces had withdrawn to their camps. Relations with the Sudanese government had clearly deteriorated to an all-time low when it cut off logistical, armed and material support. LRA leaders stopped travelling out of their camps to Juba or Khartoum after December 1999, but when they learned about the detailed relocation plan they abandoned Nsitu and moved nearer the Ugandan border. From that point, the government of Sudan was able to claim credibly that the LRA was no longer in territory under government control and that all links had been severed. More than one year on, none of the key components of the Khartoum implementation plan had been implemented.

Nairobi, November 2000

A follow-up ministerial meeting was convened in Nairobi in November 2000 by The Carter Center. In addition to the governments of Uganda and Sudan, representatives attended from the governments of Canada, Egypt and Libya, and UNICEF. During the meeting the participants drafted and signed a letter to Kony asking for a meeting to discuss implementation of the Nairobi Agreement and inviting the LRA to express its concerns. No mention was made of the relocation plans. Together with an unidentified 'Acholi representative', the signatories were hoping to engage Kony and the LRA in peace dialogue. The letter was to be delivered by the government of Sudan.

On 24 November the KM2000 conference was held in Nairobi, attended by civil society representatives from northern Uganda and Acholi in the diaspora. Government representatives from Uganda, Sudan and Canada as well as the Carter Center and UNICEF also attended. In his presentation, David Lord of The Carter Center explained the centre's work and asked for the support of the Acholi people. The head of the Sudanese government delegation stated that his government had decided to 'get rid of Kony' and had stopped providing food and arms to the LRA. The Carter Center representative publicly acknowledged that this was the case.

In December, Ben Hoffman received a letter from Kony promising a meeting. Hoffman left immediately for Juba and Nsitu. On arriving in Nsitu, he was informed that Kony had been taken ill and was therefore unable to proceed with the meeting. He was told to return to Juba where he would be contacted to make alternative arrangements. After a time in Juba with no attempts from the LRA to make contact, Hoffman returned to Khartoum and waited there for their response. He was promised a date would be set for the meeting within the week. But he received neither a date nor any other information from the LRA. He returned home disappointed. A period of relative inaction continued until June 2001.

Nairobi, June 2001

On 2 June 2001 The Carter Center again hosted implementation meetings in Nairobi. In addition to the delegations from the governments of Canada, Egypt and Libya, and UNICEF, Save the Children-Denmark and the International Organisation for Migration (IOM) attended the meeting. It was decided that an Egyptian-Libyan Observation Team (OT), which had been agreed in October 2000 in Khartoum but whose deployment had been delayed by the outbreak of Ebola, should be deployed to monitor the border. It was also agreed that the draft protocol and status of forces agreement for the OT would be submitted to the foreign ministers as soon as possible for review – a suggestion welcomed by Egypt and Libya. At the time of writing, the OT had not been deployed. It was also agreed that the government of Sudan would be permitted to visit Sudanese refugee camps in Uganda immediately, in accordance with international law. While the legality of such a visit was questionable, ultimately the planned visits did not take place. Uganda and Sudan resumed diplomatic relations in August 2001 with the appointment of *chargés d'affaires*. It was a belated but welcome development.

Nairobi, November 2001

The next round of implementation meetings was held in Nairobi on 26 and 27 November. New members of the Ugandan delegation and the background of 11 September, meant that the mood was changing, signalling new challenges for the process. The Ugandan delegation pressed for the use of force against the LRA. Sudan (with support from the Canadians and UNICEF) rejected this on humanitarian grounds. As a compromise, another letter was written to Kony asking for a meeting to 'talk about talks', and referring repeatedly to the Amnesty Act. The letter was to be delivered by a senior Sudanese military officer. At the time of writing Kony had not replied.

Latest developments

After the attacks in the USA on 11 September 2001, the US State Department declared the LRA, among others, a terrorist group. With the global scene largely dominated by the anti-terrorist campaign in the last months of 2001, prospects for a peaceful resolution to the conflict appeared to recede. The Ugandan government publicly demanded a military solution to the LRA problem. Museveni visited Sudan in January 2002 for the IGAD meeting, and at a pre-summit meeting with Bashir both presidents pledged support for the war on terrorism. This visit, like the earlier visits of President Bashir to Kampala in 2001, signal a marked improvement in bi-lateral relations. Towards the end of January 2002 there were reports of a significant UPDF military build-up in northern Uganda and speculation grew that a move to attack the LRA inside Sudan was imminent.

In retrospect, it is perhaps not surprising that the exclusive framework of the Nairobi Agreement could not promote a durable settlement in northern Uganda nor deal with the wider issues underpinning the conflict. The implementation plan agreed by the governments and supporting agencies was by any standard quite ambitious and expectations that diplomatic relations would be restored within weeks of the Nairobi Agreement were probably unrealistic given the deep-rooted mistrust between the two governments, the previously un-implemented agreements, and years of outright hostility. The response of the LRA should perhaps have been predicted. Although there is still no peace in Acholi, the Nairobi process has placed enormous political and military pressure on the LRA. While many civilians have died or continue to suffer the ravages of war, according to UNICEF over 300 escaped children have returned to Uganda since 2000 thanks to extensive governmental and non-governmental cooperation. Despite these gains it seems that the logic of the Nairobi process will only deepen confrontation. As long as the key players have confidence in a 'military option', despite the obvious perils and consequences, the option of building a sustainable peace in Acholi remains a distant dream.