

## Negotiation and Development Assistance in Postconflict Settings

A country's inherent instability after conflict—its inadequate governance institutions and minimal accountability and transparency—provides an ideal breeding ground for corrupt behavior. Corruption, in turn, weakens governance even further, depriving the state of needed revenues to provide adequate services and controls and scaring away investors. Ill-gotten funds in the hands of spoiler factions can be funneled to insurgents, resulting in a spiral of ever-increasing violence.

It is better to deal with the problem of possible corruption very early in the postconflict period; negotiating good governance provisions in the initiating peace accords or in early development assistance programs can control corruption before it becomes a predictable everyday transaction. In transformational countries, incentives that promote accountability and transparency need to be introduced early, as institutions and the rule of law are being strengthened or rebuilt. If action is not taken very early in reconstruction, it may become difficult, if not impossible, to turn the tide of corruptive behavior.

My principal hypothesis is that a durable peace and economic recovery in countries emerging from violent conflict are more likely to occur and be sustainable if corruption vulnerabilities are addressed effectively in the conflict-ending negotiations, or soon after by development assistance programs. Given this hypothesis, the study examines two key questions. First, how can negotiation processes that end conflict also generate fundamental provisions of anticorruption and good governance so that these emerging societies are better prepared to cope with economic recovery—and what motivates discussion of these provisions in the peace negotiation process? Second, what development assistance initiatives can governments, international donors, and NGOs take early to enhance the effects of negotiated anticorruption

measures or, in their absence, to change the perverse incentive structure of corruption? Does the timing of such initiatives make a difference?

The prospects for long-term resolution of violent conflict that yields stability and growth often emerge from a complex multistage process. Peace agreements are achieved principally through negotiations, which provide the process by which conflicting parties come together to devise a joint vision of a peaceful future, resolving issues to end the violence and, perhaps, the conflict, and to arrive at formal agreements. But it takes intricate postagreement efforts to ensure that the commitments the parties made in negotiations are realized. How the agreement is implemented—with what speed, with what resources, and with what political will by all parties—will directly affect the success of conflict resolution.

### Negotiation

Negotiating efforts to resolve conflicts can be deconstructed into several key building blocks that assess who participates, within what parameters, using what techniques, and with what results.<sup>1</sup> Peace negotiations are particularly sensitive examples of this process because of the environment of violence, long-term grievances, and stakes at risk—as shown by the peace negotiations in El Salvador, Guatemala, Sierra Leone, Burundi, Papua New Guinea, and Liberia, each of which are analyzed in detail in this volume.

Which *actors* are involved in peace negotiations often reflects directly on the eventual success of the process. Suspicions can run high if the government is represented by officials who are alleged to be corrupt. Can they be expected to be trustworthy negotiating partners? On the rebel side, it is usually the goal to include all factions, to ensure that all parties participate in the discussions and buy in to the ultimate agreement. By leading and forming coalitions within the negotiation process, local actors can focus their efforts, build and exercise power, and influence the path toward agreement. In the Papua New Guinea talks, for example, the rebel factions coalesced in the negotiation stage, speaking with a unified voice and thus maximizing their demands. In Sierra Leone, the rebels were so much better prepared for the talks than the government that their demands were quickly incorporated into the ultimate agreement. Factions that are excluded or decide on their own not to participate in negotiations can become spoilers of the eventual peace. In Burundi,

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1. See Victor Kremenyuk, ed., *International Negotiation: Analysis, Approaches, Issues*, 2nd ed. (San Francisco, CA: Jossey Bass, 2002).

several rebel factions remained at the margins or out of the talks altogether, continuing to make demands after the peace agreement was signed.

Local factions are not the only ones that participate in peace negotiations; neighboring countries, countries with a special interest in the conflict, and regional and international organizations can also be drawn into the conflict and its resolution, either as supporters of particular factions or as mediators and donors. They can apply significant pressure or offer meaningful rewards to local actors to end the violence and resolve differences. In Sierra Leone and El Salvador, donors promised extensive development assistance if the parties made difficult concessions quickly. In Liberia, the international presence strongly influenced not only the proceedings, but the agreement's contents.

Negotiations assume particular *structures* that set physical and organizational parameters within which the process operates. For example, most peace negotiations are multiparty; often many factions and external actors want a seat at the negotiating table. The balance of power among these parties can vary widely, but when there is power symmetry across negotiating actors, that is generally found to improve the chances of finding a consensus to end conflict. In El Salvador, negotiations were entered into with an explicit parity between the rebels and the civilian government. In Guatemala's prolonged negotiations, a sense of balance and equality developed between the rebels and the military as informal talks diminished common suspicions and yielded a sense of mutual trust.

The organization of the negotiation also is important. Some negotiations are held in secret to enable parties to state their interests with greater candor and disavow potentially embarrassing concessions that might not come to fruition. On the other hand, full and open talks mitigate backroom deals among more powerful actors to the detriment of others. The strong participation of civil society in the Guatemalan negotiations made a major difference in finding an inclusive settlement. Because peace negotiations are typically so complex, involving many issues and grievances, they often are organized into several issue-specific committees or work groups, which help to divide the larger problem into more resolvable elements, as in the Burundi process.

The negotiation *process* for complex peace talks is usually multistaged, involving face-to-face talks around a negotiating table as well as off-line private talks to resolve key sticking issues. Mediation by an outside power is often a major feature, a catalyst for principal opponents to begin talks and an engine to keep the talks moving. In El Salvador, mediator-imposed deadlines sped the process toward resolution. The timing and pace of negotiations also relate to relative success in achieving agreements. A history of earlier negotiations,

perhaps failed or incomplete, can help spur on the peace process, allowing it to avoid previous pitfalls and include earlier partial agreements, as in Guatemala. In Liberia, the negotiation process was spurred by imminent rebel attacks on the capital as the talks were proceeding, inducing a hurting stalemate and a process ripe for resolution.

Perhaps the most important aspect of a negotiation is the way specific *issues* are considered. Which issues are to be tackled in negotiations? Ought there be a proper balance between stopping the violence and developing the basis for a stable peace? Ending the fighting can involve not only a cease-fire and demobilization of forces, but finding a way to right past wrongs and seeking redress and accountability for grievances. Zartman and Kremenjuk call this an issues platform for seeking justice, a backward-looking outcome.<sup>2</sup> Alternatively, a forward-looking set of issues seeks to establish a stable situation in which the underlying causes of the conflict have been resolved. This usually involves establishing new paths for governance. Integrating both forward- and backward-looking goals is not necessarily contradictory, but requires a multi-issue formula that incorporates balance, imagination, creativity, and political will by all actors to address past, immediate, and longstanding causes of the conflict. In an inventory of peace agreements negotiated between 1980 and 2006, Vinjamuri and Boesenecker found that fifty-four out of seventy-seven accords (70 percent) included justice provisions.<sup>3</sup> Among these, most common were provisions dealing with general amnesty for rebels, prisoner releases, and police reform—primarily backward-looking elements—rather than more comprehensive and forward-looking governance items dealing with judicial system reform.

A forward-looking formula requires a holistic examination of the conflict and paths toward its solution. For internal conflicts, a workable formula often requires the government to accept the rebels' grievances—what they believe initiated the conflict—and to adopt some of the rebels' demands to resolve the conflict. Such negotiation formulas involve the development of a new relationship among former combatants, along with new mechanisms to deal with their problems, to achieve long-term peace with justice. In El Salvador, for instance, both sides found they had a common enemy in the armed forces, which pointed the way to an agreeable formula.

Zartman and Kremenjuk's review of twelve cases suggests that peace negotiations based on forward-looking formulas were more likely to yield

2. I. William Zartman and Victor Kremenjuk, eds., *Peace versus Justice*.

3. Leslie Vinjamuri and Aaron Boesenecker, *Accountability and Peace Agreements: Mapping Trends from 1980 to 2006* (Geneva: Centre for Humanitarian Dialogue, 2007).

stable conflict settlements, while those with primarily backward-looking formulas failed to produce long-term results.<sup>4</sup> In these latter cases, conflict tended to reemerge because the roots of the conflict remained unresolved. Analysis of the processes that resulted in forward-looking formulas suggests that all parties need to decide early to share in a new approach to the negotiation, sometimes motivated by an outside mediator. Conflict ripeness—local parties' perceptions of a mutually hurting stalemate—can produce movement toward forward-looking outcomes. In addition, a mutual recognition of former foes, an end to the fighting, a change of attitudes, and a vision of the future as a common project can orient negotiators toward dealing with the underlying conflict issues, establishing a new regime with effective governance institutions and processes and accountability for past wrongs.

Negotiation *strategies* in peace talks revolve around the actors' use of power. Are their strategies aimed at persuading others to concede (contending strategies), reducing aspirations (yielding strategies), or locating the point where all or most goals can be satisfied (problem-solving strategies)?<sup>5</sup> Integrative bargaining strategies, by which parties seek ways for all to believe they have satisfied their objectives, are the path toward long-lasting stability after peace agreements are negotiated.

Negotiated *outcomes* in peace talks are invariably complex, balancing multiple issues, actors, promises, and commitments within a proposed schedule of implementation. The perceived fairness of the negotiated agreement depends on how it handles past, present, and future problems and the extent to which its underlying formula, in its approach, integrates the interests of all former combatants.

## Development Assistance

After the negotiated agreement is hashed out, the hard work of making it a reality must be accomplished for the benefits of peace to be realized. In most cases, the initial focus is on ensuring a cease-fire, demobilization, peace-keeping, and reconstruction. These efforts help to create an atmosphere in which real development can be initiated; broader and more comprehensive implementation assistance often is made available after security has been established. Often, though not always, implementation assistance is patterned after the provisions of the negotiated agreement.

4. Zartman and Kremenlyuk, eds., *Peace versus Justice*.

5. Dean Pruitt, "Strategy in Negotiation," in Kremenlyuk, ed., *International Negotiation*.

The major engine for implementation is international development assistance by foreign donors, some of whom may have been involved in the peace negotiations. Reintegrating former combatants, rebuilding the economic infrastructure, establishing the rule of law and political institutions, and strengthening capacity to deliver public services usually depends on donors for resources and technical assistance. Development assistance from donors is likely to be forthcoming especially if the negotiated agreement includes specific provisions related to these issues of governance and regime strengthening. In Sierra Leone, international donors took more ownership for implementing governance reforms after the peace agreement than the government, which showed a distinct lack of political will. When donors perceive minimal political will or resources, or political interference from governments, their enthusiasm for promoting reform recedes, as in Guatemala, Burundi, and Liberia. In the face of vague peace provisions, on the other hand, slow or partial donor programs can bog down the implementation process, as in El Salvador's judicial reforms.

Often, donors are involved in the negotiation process itself and may have a say in formulating these future governance provisions. Immediately after the signing of a peace agreement, pledge conferences are typically held to generate broad support for the agreement and accumulate the resources needed for implementation. If physical security can be established quickly and the political will exists to implement the agreement provisions, there can be a quick ramp-up of development assistance. This is often the case after natural disasters and emergencies, but also has been witnessed after peace agreements.<sup>6</sup> Massive assistance efforts are vulnerable to mishandling and corruption, but with careful control and auditing procedures, they can be implemented in a relatively efficient and effective way.

Development assistance after conflict is subject to many other operational problems, related to effective donor coordination, the speed of implementation, the full availability of resources pledged, integration with the activities of the host government, cultural compatibility, and awareness and availability of best practices. A counterpoint to these circumstances occurred in Papua New Guinea, where donor support was programmed and implemented vigorously for a ten- to fifteen-year period until the agreed-upon referendum for independence. But donors generally lack the patience to see their implementation activities through to the end. They fear being trapped in a quagmire of postconflict instability, get distracted by other issues, or lack

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6. Sleeper, "USAID Safeguards against Corruption."

the funding to finish the job, as was the case in Burundi and Guatemala. While development assistance provided to postconflict countries is essential to implement the negotiated peace provisions, its execution is typically haphazard, uncoordinated, underfunded, and shortsighted.

## Monitoring Change

There are several ways to evaluate the above hypothesis by comparing real-world cases. The dynamics and outcomes of negotiation and development assistance can be observed and assessed qualitatively, as I do in the six conflict cases below. More quantitatively, the results of negotiations and development assistance can be monitored using aggregate indicators to determine if change in the expected direction was achieved.

The World Bank's control of corruption indicator provides an annual point of reference for country corruption levels. I anticipate that countries emerging from conflict that proceed effectively through negotiation and development assistance stages with special emphasis on anticorruption and good governance improvements show a boost in their control of corruption scores—more so than a control group. The average change for 200 countries over a recent five-year period (2003–08) is very small and negative (–0.2 percent), though a very small number of countries show great improvement (up to 19 percent) and some show great declines (up to –22 percent). Given these findings, a change of even 5 percent or more over a five-year period could be seen as impressive.

Similarly, several years after a peace agreement, increases in another relevant World Bank indicator—political stability—would be evidence of sustained and controlled improvement. Between 2003 and 2008, the variance in political stability scores across all countries remained almost unchanged (average difference of –0.1 percent) with a maximum improvement of 25 percent and a maximum decline of –26 percent for a very few countries. So again, even a modest change in this indicator suggests significant improvement. I use these indicators in the cases to assess the extent of potential gains of negotiating anticorruption provisions into peace agreements.

## Analytical Structure of the Book

My research is organized around several important assumptions that can shed light on both the negotiation and implementation dynamics that lead to sustainable peace treaties. First, corruption and bad governance practices

can be potent grievances at the root cause of violent internal conflicts, and these grievances need to be addressed and resolved within peace agreements to attain forward-looking solutions. Including explicit anticorruption and good governance provisions in agreements can be the path to reversing the negative effects of these grievances. Accountability, transparency, and integrity standards in negotiated peace provisions that promote predictable democratic governance in accordance with the rule of law can yield long-term stability by dealing proactively with the core issues that initiated the conflict. Second, I assume that negotiation is the prominent mechanism by which the conflicting parties and interested mediating parties can promote peaceful outcomes. However, development assistance from donors is also essential to strengthen the capacity of local stakeholders to implement negotiated provisions and promote local ownership.

Another way of articulating the argument—our central proposition—revolves around the assumed beneficial effect of integrity provisions in the peace agreement. Dealing with key underlying causes of the conflict, such as corruption and governance abuses, can be vital in both resolving the conflict and sustaining the peace by providing a forward-looking outcome, in which those abuses have been eliminated and improved approaches to governance have been embedded to replace them.

To test this proposition, one needs to examine several questions. How are integrity provisions negotiated into agreements? What form do these integrity provisions take in the agreement? Are the provisions typically put into practice as anticipated during the peace implementation period? What are the means by which they are implemented? Do these provisions, if implemented adequately, reduce corruption, improve governance, and sustain the peace? Finally, what lessons have been learned from past cases that can improve the negotiation and implementation processes in future peace talks concerning internal conflicts?

I analyze examples of recent internal conflicts resolved through negotiation with the above questions in mind. My sample consists of six cases—Burundi (Arusha Agreement, August 28, 2000), El Salvador (Chapultepec Agreement, January 16, 1992), Guatemala (December 29, 1996), Liberia (Accra Agreement, August 18, 2003), Papua New Guinea (Bougainville Agreement, August 30, 2001), and Sierra Leone (Lomé Agreement, July 7, 1999)—in which peace agreements were negotiated with good governance provisions to determine how and why anticorruption issues were actively incorporated into the peace talks and what came of them. Each of the cases involves a negotiated resolution of internal conflicts where issues of corrup-

tion and integrity played a large role during the talks and in the outcome of the negotiations. The sample was drawn from the inventory of cases in the U.S. Institute of Peace (USIP) Peace Agreements Digital Collection and the International Conflict Research Institute (INCORE) list of peace agreements. Cases were selected if they satisfied several criteria: the conflicts were concluded through negotiated agreements; the resulting outcomes yielded a stable peace; governance and anticorruption provisions were explicitly included in the negotiated agreement; there was adequate and accessible information on the negotiation process, implementation, and corruption outcomes; and the cases represented geographic diversity across regions.

In addition to the analysis of the negotiated peace process, I also review and analyze the development assistance programs and postagreement negotiations conducted to implement these six peace agreements to assess the extent to which these efforts helped to establish a lasting peace. Lastly, I examine several quantitative indicators of corruption control and political and economic growth for the six cases, comparing them with the same indicators for seven cases in which peace agreements were arrived at without good governance provisions. Even though the sample is quite small, the comparison reveals a distinct and positive trend in outcomes for postconflict countries that put reestablishing integrity high on their agendas. Based on this multistaged analysis, I offer practical guidance for negotiators, diplomats, and international development professionals, including more effective ways to reduce corruption early in the postconflict period.