



enough

The project to end genocide and crimes against humanity

U.S. Congo Policy

Matching Deeds to Words to End the World's Deadliest War

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“We are redoubling our efforts to address the fundamental cause of this violence: the fighting that goes on and on in the eastern Congo.”

– Secretary of State Hillary Clinton, August 2009

Executive summary

More than two years have passed since Secretary of State Hillary Clinton traveled to eastern Democratic Republic of Congo in August 2009, marking the highest level U.S. visit ever to the war-torn region. Beyond the usual palliatives of solidarity with survivors of the violence, the secretary expressed a strong commitment to addressing the causes of conflict and unconscionable loss of human life—estimated to exceed 5 million, the deadliest since World War II.

Two years later, Clinton's personal commitment to addressing the underlying drivers of conflict in eastern Congo has translated into a series of *ad hoc* initiatives but not yet a cohesive U.S. policy. At the State Department, Congo now receives unprecedented “Seventh Floor” attention, and a number of senior officials regularly speak out on the need to address key issues, particularly sexual violence and conflict minerals. This has resulted in a series of individual programs, from the \$17 million initiative on sexual and gender-based violence to a more recent \$20 million livelihoods assistance program. The United States has also been the largest financial backer of the U.N. mission in the Congo, or MONUSCO; has pushed civilian protection reforms at the U.N.; and has trained one Congolese army battalion through the Department of State and AFRICOM.

But the potential for U.S. engagement to end the war in the east is much larger, and with incidents of mass rape and the proliferation of militias continuing, the need is greater than ever. The United States has critical leverage that it can employ in Congo, and President Kabila has renewed interest in deepening the partnership with the Obama administration. As a leading women's rights advocate in Bukavu told the Enough Project, “The U.S. can have such an impact here. It is the only country that Rwanda and [Congolese President Joseph] Kabila will listen to.”¹

It is time for the administration to back the secretary's words and deliver on its promises aimed at bolstering democratic processes and ending violence against civilians. With the potential destabilizers of upcoming elections and implementation of the Dodd-Frank conflict minerals legislation hanging in the balance, regional actors look to the United States to play a strong role in these processes.

In the following report, we offer an assessment of U.S. policy on five different objectives essential to peace and stability in Congo:

- 1. Engaging diplomatically in support of credible elections:** The administration's efforts to support free and fair elections have been hampered by the lack of a senior envoy, and Congo is now in serious danger of holding elections that have little credibility. We understand that the administration will appoint an envoy. In order to be effective, the envoy must be a senior-level person that holds the commensurate respect of regional leaders and the administration necessary for success, and should focus on free and fair elections, as well as the four regional issues below.
- 2. Protecting civilians and dismantling rebel groups:** The administration has been diligent in reforming the U.N. mission to Congo to focus on civilian protection, but it must initiate a more focused regional initiative to dismantle the rebel Forces Democratiques de Liberation du Rwanda, or FDLR, including through the use of elite military units.
- 3. Combating conflict minerals:** The administration is launching useful technical initiatives such as a public-private alliance to aid regional initiatives and a \$20 million livelihoods fund. It should now exercise the political leadership necessary to catalyze change in the Congolese mineral sector by launching a time-bound high-level negotiation process on conflict minerals certification. The negotiation initiative should be aimed at building multi-stakeholder consensus for a scheme to unite current initiatives around common standards and certify conflict-free minerals from Congo from mine to end product.
- 4. Reforming the security sector:** U.S. policy on security sector reform saw an improvement in 2009 and 2010 but is now backsliding at time when a viable security sector is needed most. The administration should begin a high-level partnership with the E.U. and other donor nations to catalyze meaningful security sector reform. The U.S. angle on reform should strategically focus on comprehensive military justice reform that runs parallel with good governance reform focused on financial management.
- 5. Ending impunity:** The U.S. government has paid greater attention to the issue of accountability over the past year but must have a more sustained, high-level effort, if civilian justice reform, prosecution for the pillaging of natural resources, and the Specialized Mixed Court for war crimes are to be established and operationalized.

The Obama administration should make peace and development in Congo a priority and focus on ending one of the most destructive and violent conflicts of our generation. Secretary Clinton should follow up on her commitments by leading this effort.

Clinton on Congo: Legacy or Lament?

On the heels of Clinton's 2009 visit, the U.S. undertook a flurry of initiatives related to Congo. These included the allocation of an additional \$17 million in aid for survivors of sexual violence; military training including medic training and the training of a light infantry battalion by AFRICOM; training and logistical support for justice reform and the fight against impunity in the east; and the development of a technical aid initiative with electronics companies to assist efforts in Congo on conflict minerals.²

While laudable in their intent, these interventions have only been marginal additions to an overall U.S. approach to Congo that has amounted to far less than the sum of its parts. Spending billions per year on essential but unsustainable humanitarian aid and a peacekeeping presence incapable of imposing security, U.S. efforts to address the more fundamental drivers of the conflict have been fragmented. Programs aimed at governance and justice reform have run up against a fundamental lack of will from the Congolese government and the other key actors in the conflict, and the U.S. senior level attention needed to address the issues has been neglected.

Clinton's Congo visit nonetheless dramatically impacted the urgency for action among both governmental actors and advocates in the United States. Members of Congress, policy makers within the Obama administration, and international NGOs have increased focus and programming in the Congo and are battling to keep a spotlight on the issue. However, like in the past, efforts remain fragmented. Particularly emblematic of the frenetic activity but lack of strategic decision-making was the move to send five interagency assessment teams to Congo between December 2009 and February 2010 to investigate key priority areas that Clinton discussed with President Kabila during her visit: sexual and gender-based violence, security sector reform, corruption, economic governance, and agricultural growth and food security. These assessments resulted in a laundry list of some 200 recommendations. A series of relatively small interventions amounted to a continuation of a U.S. approach to Congo that has consistently fallen short of achieving its objectives, spending billions on much needed humanitarian assistance and peacekeepers, but failing to address the underlying drivers of violence.

1) Diplomatic engagement and support of credible elections

"Don't lose your hope... that is what is happening in Congo, especially among young people. You are losing hope. You are thinking that nobody cares about you."

– Secretary of State Hillary Clinton, August 2009

With election-related violence already on the rise in Kinshasa, the relatively hands-off approach of the international community to Congo's upcoming elections is cause for concern. In particular, there is an urgent need for sustained attention from high-level diplomats who can engage directly with President Kabila and his inner circle. The appointment of a U.S. special envoy to the region could be a critical step to coordinating efforts within the U.S. government to work on essential political, military, and economic issues within Congo, as well as within influential neighboring states. Who will fill that position and what role that individual will play is yet to be determined. However, there is a clear need for increased high-level diplomatic engagement in Congo and the region with a focus on peace, stability, and economic development.

The Congolese government has a history of manipulating and playing international donor countries against each other through purposely obstructing communication and coordination in order to prevent unified pressure. Until recently the U.S. government has argued that a special envoy to the region is unnecessary because the individual ambassadors of the U.S. missions in the Great Lakes region can address the issues. However, this expectation is impractical. The problems that plague peace and stability in eastern Congo are regional in nature and therefore require greater coordination and a regional response. The new U.S. ambassadors in Congo and Rwanda are understandably focused on bilateral issues. Dealing with the regional issues of conflict mitigation, dismantling rebel groups, security sector reform, and conflict minerals certification require a high-level envoy with regional focus and influence. The envoy post must be filled by an individual with the commensurate gravitas and access necessary—both in the region and in Washington—to change up the stagnant status quo and establish a cohesive U.S. regional engagement strategy. Given the myriad challenges facing Congo and the region, a U.S. envoy will have to prioritize issues areas and engagement strategies.

The administration and special envoy should:

- **Pressure the government of Congo to hold and respect free, fair, and credible elections.** With presidential elections scheduled for November 2011, and provincial elections likely pushed back to spring of 2012, there have already been numerous incidents of voter registration fraud, repression of free speech and press, and intimidation and violence used by state forces against opposition movements. Additionally, the logistical challenges with regards to polling machines, monitoring, and counting of votes are so vast that nation-wide representation and credibility in the voting process is almost doomed from the start. The U.S. government must, to the extent possible in the short window before polling begins, use pressure to condemn and deter violence and intimidation of opposition parties, repression of free speech, marginalization of women in the voting process, and voter fraud.
- **Increase domestic and regional support for justice and security sector reform in Congo.** The issues of dysfunction, crime, and impunity within the Congolese security sector are perhaps the largest contributor to instability not only in Congo but also in

the broader Great Lakes region. The lack of political will, transparency, and inter-state cooperation has hindered success on this front for over 15 years, resulting in the death of millions. The U.S. should be a leader in the formation of a unified donor policy aimed to create agreement and coordination amongst Congolese security and judicial bodies as well as of those neighboring states that have historically acted as destabilizing agents in Congo, primarily Rwanda, Uganda, and Burundi to establish peace through justice in eastern Congo. This will require the ability to work and communicate across borders without being beholden to the constraints of a country level Ambassador.

- **Increase multi-lateral coordination on civilian protection in eastern and northern Congo.** Ongoing international aid for civilian protection over the past two decades has had mixed results, and often times is merely a band-aid for immediate crises, when what is needed is focus on the systemic drivers of abuse. A focus on protecting communities in both FDLR and LRA affected areas must be a priority.
- **Push for the demilitarization of the mining sector and the full implementation of the Dodd-Frank Conflict Minerals Provision.** While the administration has taken a number of important and laudable steps to support traceability and livelihood diversification in eastern Congo's mineral sector, there remain significant challenges in demilitarizing mine sites and fully implementing the U.S. government's conflict mineral strategy. The U.S. must continue to play a leadership role in supporting peace and economic development in eastern Congo. Ensuring that high-level diplomatic and military cooperation with the government of Congo, neighboring states, and regional bodies such as the African Union and the ICGLR will be the lynchpin in securing the political buy-in for lasting reform in the east.

2) Protecting civilians and dismantling rebel groups

"We want to banish the problem of sexual violence into the dark past, where it belongs."

– Secretary of State Hillary Clinton, August 2009

Despite diligent U.S. efforts at the U.N. Security Council to prioritize the protection of civilians for U.N. peacekeepers in Congo, gross human rights abuses continue to occur and rebel groups continue to run rampant. The reoccurrence of mass rapes in August 2010, January 2011, and July 2011 remain a horrific example of the inability of the Congolese government, as well as the international community, to effectively protect civilians in the most restive regions of North and South Kivu.³ Attacks and ambushes continue across North Kivu, with the U.N. counting 198 attacks against humanitarian workers alone in 2010.⁴ Over three-quarters of residents in the region believe their security has not improved since 2009, according to a recent Oxfam study.⁵ According to one regional diplomat, "In some places it's gotten worse where the FARDC abandoned areas

to join regiments, leaving a void, and then the FDLR or other armed groups moved in, attacking the population on their arrival.”⁶ The number of displaced persons in Congo, while down from over 2 million in 2009, is still very high at 1.7 million people.⁷

In addition, U.S. policy regarding the FDLR, the most notorious of Congo’s rebel groups and a member of the U.S. State Department list of terrorist organizations, has been a case of too little, too late. Through the support of a number of poorly planned and commanded military strategies with MONUSCO and the governments of Congo and Rwanda, strategies to dismantle groups like the FDLR have instead further spurred reprisal attacks against villages and Congolese army outposts. In one particularly brutal assault, Congolese soldiers, led by Col. Innocent Zimurinda, ordered attacks against a reportedly FDLR-supporting community. During the attack in Shalio, more than 50 civilians were reportedly killed, 40 women raped, and several women’s breasts were cut off. The FDLR retaliated against the Congolese population soon thereafter in a massacre in the village of Busurungi which led to at least 96 deaths. The administration subsequently sanctioned Col. Zimurinda, but in the absence of a functioning justice system, formal charges against him were never pursued, and he remains a commanding officer in the east.

Despite these heavy costs, efforts to dismantle the FDLR have had little success, and insecurity is rife as rebel groups continue to reorganize in eastern Congo’s dense forest terrain. In 2010 the U.S. supported an operation called Amani Leo, Swahili for “Peace Today,” focused on holding territories and protecting civilians. However, Amani Leo ended up being old wine in a new bottle, again failing to go after the FDLR and instead choosing to focus on the consolidation of strategic mineral reserves. The FDLR continues to operate, and Congolese soldiers, including members of the former Rwanda-linked Tutsi forces known as the CNDP, now officially integrated into the national army continue to commit abuses against civilians and exploit mineral reserves. Additionally, Amani Leo’s second in command, Bosco “The Terminator” Ntaganda, is wanted by the International Criminal Court, or ICC, for war crimes but continues to move freely in the region.

Joint U.N.-Congolese military operations continually see instances of ex-CNDP forces exacting serious abuses against local populations instead of rooting out elements of the FDLR. Civilian authorities complain about being blatantly ignored by these warlord-like units of the army. Moreover, local civil society groups now compare the current situation to 1998, the height of the war when several foreign armies occupied the east. Civilians in areas such as Nyabiondo say that no local authorities have been present for years. In areas where the CNDP retains control, like Masisi, militias still maintain separate illicit administrative and tax structures, which reinforces lawlessness.

MONUSCO has attempted to increase its civilian protection efforts in the context of the military operations, with the U.N. forming “Joint Protection Teams” to bring together different U.N. civilian units and deploy them to vulnerable regions. However, because of limited resources and multiple missions, as well as the enormity of the human security

crisis in eastern Congo, these efforts are a drop in an ocean of need. Ultimately, if civilian protection is going to be the centerpiece of the mandate for MONUSCO, there must be a reorienting on how the mission is deployed and a unified interpretation of the mandate and rules of engagement throughout the chain of command.

To combat the scourge of sexual violence in the region the State Department released a strategy to address sexual and gender-based violence, or SGBV, in the Congo in April 2011. The strategy aims to advance efforts already underway by the government of the Congo and is meant to be aligned with both existing government and U.N. efforts to combat SGBV. The U.S. government's four key objectives in the strategy are to reduce impunity for perpetrators of SGBV; increase prevention of and protection against SGBV for vulnerable populations; improve the capacity of the security sector to address SGBV; and increase access to quality of services for survivors of SGBV.

While the State Department called for civilian protection conceptually in 2009 and 2010, implemented results to these objectives are few. Further, while some funding and programmatic expertise has been allocated to address the first objective of reducing impunity. But efforts to increase protection and improve the security sector are essentially non-existent insofar as their impact on vulnerable communities in eastern Congo. While admirable, this strategy has a long way to go, and continual stewarding from senior leadership within the White House and Foggy Bottom will be critical to success. USAID's new \$20 million livelihood fund announced in August should be helpful in furthering its aims on the ground. It is designed to focus on livelihoods work, civil society support, and community conflict resolution with an emphasis on issues related to sexual violence and mining.⁸

The administration should:

- **Expand training of combat units to protect the most vulnerable and enhance MONUSCO's Joint Protection Teams.** Expand the Kisangani model battalion training program to include additional battalions to be deployed to protect the most vulnerable mining communities in the east. Bolstered by the Joint Protection teams, these units could support efforts to protect civilians by liaising with communities and reaching out to former combatants who could be demobilized and protected within the MONUSCO demobilization program.
- **Work with the Congolese government and other regional partners to design a new counter-insurgency strategy that is much more focused, uses a smaller force made up of elite units targeted at FDLR leadership. Simultaneously create incentives—through the U.N.-backed “DDR” initiatives—for the disarmament, demobilization, and reintegration of rank-and-file combatants.** This is admittedly not an easy task in the chaotic climate of eastern Congo, but it is possible. The Congolese army has professional Angolan-trained units that are capable of pursuing a much more effective

counter-insurgency strategy, and the Congolese government has indicated interest in deeper military partnerships with the U.S.

- **Work at a senior level with Rwanda and donor countries to design a specialized demobilization, dialogue, and economic reintegration program for mid-level FDLR commanders.** The FDLR is made up of a number of different elements, and the U.S., Rwanda, and other key actors should do much more to exploit their differences. While top FDLR leaders must face accountability for committing heinous crimes, mid- and lower-level officers can and should be dealt with through specialized reintegration programs that build upon successful lessons from Uganda and Sierra Leone. This should include working with Rwanda to publish a list of those facing criminal charges for the genocide to speed up reintegration of those not accused.
- **Pressure the Congolese government to prosecute the worst offenders.** Use conditionality based pressure through military training and economic incentives to put pressure on the Congolese government to take actionable steps towards reducing impunity in the east through the establishment of the Specialized Mixed Courts law being debated in Parliament, described in greater detail below, and by arresting and trying high level perpetrators of war crimes in the east.

3) Combating conflict minerals

“The international community must start looking at steps we can take to try to prevent the mineral wealth from the DRC ending up in the hands of those who fund the violence here.”

– Secretary of State Hillary Clinton, August 2009

Secretary Clinton’s acknowledgment that the minerals trade is fueling the conflict in eastern Congo, and her commitment to do something about it, has led to greater attention to the issue from the State Department. The administration has followed up with useful technical initiatives, but has not yet shown the political leadership necessary to catalyze the change needed in the Congolese mineral sector. Underneath the deeper social fissures, the conflict in eastern Congo has now become a fight amongst armed groups for the vast profits to be earned from extracting and exporting minerals. The mine sites and trading routes of the 3 Ts—tin, tantalum, tungsten—as well as gold, are the main battlefields of the war. As two former FDLR fighters observed, “All the time you hear people saying: ‘I’d rather loot in Congo than be unemployed in Rwanda.’”⁹ The profits that armed groups earn from the conflict minerals trade is in the hundreds of millions of dollars per year, and the trade itself is worth over a billion annually.

The Obama administration has taken several individual laudable steps to address the trade since Secretary Clinton’s visit. U.S. Ambassador to the United Nations Susan Rice has worked actively at the U.N. to facilitate the U.N. Security Council’s endorsement

of due diligence guidelines for companies using potential conflict minerals from the Congo. These guidelines have successfully pushed to expand the U.N. sanctions listing criteria in the DRC Sanctions Committee to include those supporting illegal armed groups through illicit trade of natural resources, and have shaped MONUSCO's mandate to focus on conflict minerals-related tasks on the ground.¹⁰ Following the launch of the administration's strategy to address the linkages between human rights abuses and conflict minerals in March 2011, the State Department and USAID are also due to launch a technical aid initiative, the Public-Private Alliance on Conflict Minerals, in October, 2011.¹¹ The alliance, which is meant to foster coordination between the private sector and U.S. government, is a useful step to garner U.S. and corporate funding to help on-the-ground tracing initiatives and potentially monitoring mechanisms. After the passage of conflict minerals legislation in the Dodd-Frank act, Secretary Clinton issued a supporting statement, and the State Department weighed in with helpful recommendations to the Securities and Exchange Commission, or SEC, on regulations to the bill, including support for a strong supply chain inquiry by companies, and request for no delay in issuance of the rules.¹² These initiatives have come in tandem with helpful projects from the electronics industry on audits, regional governments on tracking, and initial mine validation from Congo and the UN.

But separate measures will not solve the conflict minerals problem. There is still disagreement on standards, allowing for serious loopholes that permit conflict minerals to flow through to consumer products. For example, gold is not yet part of the on-the-ground initiatives, armed groups continue to trade weapons for gold in high volumes, and 1.7 million displaced people in Congo bear the brunt of the trade. The initiatives also do not set up incentives for companies to invest in a legitimate Congolese minerals trade, and each program operates independently, controlled by its own governing body. Furthermore, U.S. initiatives need to be more strategic. For example, regular phone calls between Washington and the International Conference on the Great Lakes Region, or ICGLR, have been a step in the right direction. However, the State Department has not established a strategic partnership with the ICGLR to transform the institution into one that undertakes credible action on the ground. Several of its member countries continue to actively smuggle conflict minerals from Congo with no consequences, and all of ICGLR's initiatives have been significantly delayed from their original start dates. A senior-level strategic partnership by the administration would help change this equation.

The administration should follow up on these separate projects and kick off a larger diplomatic process to close the gaps in the current initiatives that impede a sustainable solution to conflict minerals. A process leading to a certification scheme is now the missing link for conflict minerals following the legislation. Certification is a carrot to help the population on the ground, as it will allow for the legal exploitation of minerals with independent verification. The administration is the best positioned actor to lead this process: it has the most leverage with Congo and regional governments and with electronics and end-user industries. All actors are now looking to the administration to follow up with the Dodd-Frank legislation.

The administration should:

- **Convene high-level representatives from industry, civil society, and regional governments to launch a time-bound negotiation process dedicated to developing an internationally-accepted certification scheme for conflict minerals.** Because much work on conflict minerals is already underway, it will be critical to clearly lay out the objectives of the negotiation process from the beginning. The main goal would be to unite current initiatives around a mine-to-product certification system to assure consumers that the items they purchase do not include conflict minerals, and to enable a legitimate conflict-free supply chain from the Great Lakes Region of Africa. The negotiation process should also include six main sub-goals, which include: broker agreement on standards for auditing and transparency of minerals data; finalize agreement on an independent monitoring system that would act as a credible check on tracing information and due diligence on the ground in Congo and the region; broker agreement on incentives for responsible investment and sourcing from the Great Lakes region; develop on-the-ground initiatives for conflict gold; build consensus for moving the processes beyond their current scope to a unified certification scheme from mines to end products, including oversight of audits and monitoring; and report back in six months.
- **The U.S. should partner with the Congo and the International Conference on the Great Lakes Region, or ICGLR, to set up an independent monitoring team for conflict minerals in Congo.** This is the biggest gap on the ground in Congo: companies are sourcing minerals, but no one will be there to independently verify whether the minerals are conflict-free. The U.S. should help to support an ICGLR joint international-regional team of 20-30 people, that would work alongside its Independent Mineral Chain Auditor.

4) Accountability for war criminals

“I stressed that the perpetrators of these crimes, no matter who they are, must be prosecuted and punished. This is particularly important when they are in positions of authority, including members of the Congolese military, who have been allowed to commit these crimes with impunity.”

– Secretary of State Hillary Clinton, August 2009

The culture of impunity continues unabated in eastern Congo, and U.S. policy has only scratched the surface of what is necessary to ensure accountability. The attempted nomination of Jean-Pierre Bemba as presidential candidate for the opposition MLC party while he awaits trial at the ICC for war crimes is a particularly galling case in point, but the more immediate issue has been the continuing trend of the worst human rights abusers serving as generals and commanders in the Congolese National Army, or FDLR, and other armed groups, with little or no consequence.

The U.S. government has paid greater attention to the issue of accountability in eastern Congo over the past year, and has taken some initial steps to address this problem. U.S. Ambassador-at-Large for War Crimes Issues Stephen Rapp has visited the Congo twice in 2011, and advocated for the Specialized Mixed Court initiative in 2011. The U.S. worked with the UN Security Council to put forward a list of five Congolese army officers with heinous human rights records, and the Congolese government has reportedly placed two of these officers under house arrest. The State Department has also continued to call for the arrest of Bosco Ntaganda. These efforts by the U.S. government are commendable, but there must be a more sustained, high-level effort, if there is to be success on such a difficult issue as accountability.

In the current fight against impunity in the east, a number of minor sensitization efforts exist to build the understanding of Congolese citizens about constitutional rights and justice mechanisms that are available to them, particularly as they relate to sexual violence cases. However, there are there major initiatives the U.S. government has influence over that can positively support the infrastructure and judicial process of the Congolese system—the Specialized Mixed Court initiative, the bolstering of military and civilian mobile courts, and pressing the ICC to issue indictments against war criminals for the pillaging of natural resources. Each of these efforts has significant potential for success in the fight against impunity.

The Specialized Mixed Court law is currently being debated within the Congolese Parliament and would create an independent national court with a degree of international involvement to try war crimes, crimes against humanity, and other serious human rights abuses committed on Congolese soil since 1990—including specific abuses described in the [2010 U.N. Mapping Report](#). The mixed court will be housed in Kinshasa, as well as in all provincial appeals courts, and would have mobile capability to provide proximity justice for more rural areas. This initiative is being supported by the U.S., the UN, elements of the Congolese Government, Congolese civil society, and a number of international human rights groups. In April 2011, after the Congolese Government drafted the Specialized Mixed Court Law language, international and local human rights groups met in Goma to adopt a common position on the proposed law. The groups produced a document expressing overall support for the proposed mixed court, which provided key amendments to the law that would guarantee the court's independence, credibility, and effectiveness¹³. Those amendments, which include provisions for transparency, credibility, and protection of civilians, have yet to be accepted by Congolese lawmakers.

Recently, we have also seen steps toward accountability through the use of mobile courts. These courts prosecuted some of the individuals who were involved in the mass rape incident in Walikale that took place during July and August 2010, although many believe those prosecuted were not at a high enough level. The Congolese government also tried and convicted several military officers for their role in an incident of mass rape

in Fizi, South Kivu, in January 2011. It is important to note that the U.S. was instrumental in the creation of both of these mobile courts by placing significant pressure on the Congolese Government to try the perpetrators, and by providing financial and logistical support for the mobile courts.

The mixed court and mobile court initiatives are indicators of Congo's willingness to pursue rule-of-law reform, and should continue to be expanded to focus on crimes beyond sexual assault. Efforts to expand the mobile court system, as well as requisite training programs, now have a baseline for success after the recent trials and could act as a supplement to higher-level cases that will hopefully go before national chambers in Kinshasa.

There is also a current gap in the battle against impunity in regards to the prosecution of war criminals for the pillaging of natural resources and economic crimes. The U.S. could use its influence within the ICC to work with the Office of the Chief Prosecutor to issue additional indictments in Congo against those who have committed war crimes in connection to the pillaging of natural resources. The current Chief Prosecutor, Luis Moreno Ocampo has stated publicly on multiple occasions the need for this action in the case of Congo.¹⁴

The administration should:

- **Make the implementation of the Specialized Mixed Court a priority.** Use conditionality-based pressure focused on military training and economic incentive to ensure that the Specialized Mixed Court Law to try international war crimes and crimes against humanity is adopted, the court is implemented, and the worst human rights offenders are initially tried. The amendments to the law, drafted by local and international human rights groups, should be adopted and implemented in full.
- **Continue to support and expand the mobile court system in eastern Congo, while simultaneously strengthening local judicial centers.** The recent trials to prosecute the Fizi rape perpetrators were held using mobile courts near the location of the incident in the town of Baraka. The trial and subsequent convictions were a promising example of how the government—in conjunction with the international community—can begin to stomp out the environment of impunity in the east and send strong signals to malicious actors. However, mobile courts should only be a stop-gap measure to address the impunity issue in the east. Long-term reform will hinge on the reform of traditional courts structures and the capacity of legal professionals to perpetuate a credible justice system.
- **Pressure to expand punishable war crimes to include economic crimes.** In order to end impunity in eastern Congo, prosecution can not only be targeted at those who commit physical crimes. It is often those that profit from the illicit trade and smug-

gling of natural resources that encourage or give the orders to enact human rights abuses. These conflict entrepreneurs must also be held accountable for their actions under the jurisdiction of both the mixed court and mobile courts.

5) Security sector reform

“You need an army that is ... well paid and well trained, that will protect the people and not feel as though it has to feed off of the people, and victimize the people.”

– Secretary of State Hillary Clinton, August 2009

The FARDC is one of Congo’s greatest obstacles to stability and legitimacy in the east. U.S. policy on Security Sector Reform, or SSR, saw an improvement in 2009 and 2010, but is sadly now backsliding at a time when reform is needed most. Since the early 2000’s, the international community has focused on the need to strengthen the institutional capacity of the Congolese military and police structures, which historically have been under-trained, under-fed, and under-paid. The negative effects of both institutions corruption and abusiveness have undermined their credibility and effectiveness, particularly in the east where the FARDC has been one of the worst perpetrators of resource exploitation and human rights abuses. The result has been the evolution of an environment of impunity, where Congolese military and police can operate independently of central guidance and prey off the communities they are supposed to protect for food and money.

In 2005, the U.S. Senate, led by Barack Obama, Joseph Biden, and Hillary Clinton, introduced legislation intended to support peace and stabilization in Congo. A priority of the legislation was to assist the government of Congo to establish a credible national army and police force, under civilian control that respected human rights and the rule of law.¹⁵ In 2006, President George W. Bush signed the bill, the DRC Relief, Security, and Democracy Promotion Act into law, and as a result the U.S. began its most recent phase of engagement in SSR in Congo that has yielded limited returns.

The current public momentum to address conflict minerals presents a catalytic moment to use U.S. economic influence as the missing leverage for SSR. Criminal networks within the Congolese army—reaching up to senior commanders and Kabila’s inner circle—are a major impediment to reform. Many are also involved in the mineral trade. Provided that Kabila complies with steps toward minerals certification, the U.S. government should be prepared to commit to significant investments in Congo SSR. Military justice is essential and the U.S. can provide significant contributions by investing in, and helping to push, a serious military justice initiative within the Congolese army. Such an initiative will take the revitalization of a multi-donor framework to address national army reform using financial, technical, and political carrots and sticks to create the political will to address ineptitude and abuses in the national military structure.

The problems within the Congolese national army are daunting. Numerous militias have been incorporated into the army, but little or no effort has been made to re-train or properly reintegrate them into the army ranks. In fact a large majority of FARDC soldiers in eastern Congo are not even registered within the army at the national level making, among other things, regular pay largely problematic. The violence-prone CNDP was incorporated into the national army in 2009, but retains a separate command and tax administration structure, and its former rebel commanders have not been vetted for their atrocious human rights records. Barracks remain in conditions that resemble refugee camps, brigades are poorly trained and too large to undertake effective operations, and soldiers are not paid for months. Moreover, the UN Group of Experts reports that the FARDC is the major source of weaponry for anti-government militias because of extensive leaks. If the army is not reformed, it will continue to be a vehicle for violence and chaos in the east. Unfortunately the political will from Kinshasa to reform has yet to be seen and it is unclear whether Kabila is unwilling or unable to act. The U.S. must play a leading role in applying pressure or providing incentives if any forward progress is to be made.

In recent years, the State Department, in partnership with AFRICOM, has developed a pilot training program in Kisangani for a light infantry battalion, vetting for human rights records and ensuring that the Congolese Army agrees to keep the unit together for at least two years. U.S. military personnel actively maintained a presence in the unit for the full two years for the sake of continuity, and now there is internal debate as to whether or not to expand the program. Currently, the battalion is on its first active deployment to northeast Orientale Province to engage in a mission to pursue the LRA. In addition to the Kisangani battalion, donor governments have now also developed a coordination group to synchronize security aid—a mechanism that can be built on.

The Kisangani training, while promising, remains small in scope, and SSR to date has been far too piecemeal to have a serious impact. Recent lessons learned from army reform endeavors in Iraq and Afghanistan should be applied to the Congo, and multi-lateral coordination mechanisms similar to the International Committee in Support of the Transition, or CIAT, employed in previous years should be utilized. Such a package would provide the leverage for a newly designed anti-FDLR operation. Given the incredibly high human and financial costs of the status quo in eastern Congo, such a revamped strategy is necessary.

The administration should:

- **Address the issue of pay to soldiers and other military personnel.** SSR in Congo cannot, and will not, happen if military personnel do not receive fair and regular pay. A payment system that soldiers are able to access and that is independent from the chain of command is essential. The international donor community must work with partners to help set up a systematic payment system.

- **Focus US bilateral assistance on the greatest opportunity—military justice.** This would pay dividends both in fighting impunity and reforming army behavior. There is a need to broaden the focus of existing military justice training programs so that in addition to sexual violence, they include economic crimes. President Kabila must hold up his commitments and crack down on senior FARDC commanders who are profiting from minerals and abusing civilians. In addition, there is a need to ensure that current U.S. training military justice training programs are followed through to implementation by supporting prosecutions in the military justice system, focused on holding senior commanders to account.
- **Based on assistance conditionality, use the Department of Defense’s Defense Institution Reform Initiative, or DIRI, to strengthen bilateral military relations and build capacity for effective training within the FARDC.** DIRI uses U.S. military advisors to streamline support for partner nation defense ministries. It identifies gaps and capabilities then supplies teams of subject matter experts to work together with host country officials for a sustained period of time. Such a partnership would allow the U.S. to better map and prioritize needs to share with international partners in order to develop a comprehensive strategy that prevents against multi-stakeholder uncoordinated approaches. This reform must ultimately be driven by military to military relations, which the Congolese government values highly.
- **Building on the outcomes of the DIRI assessment and the ongoing AFRICOM training, lead a sustained inter-agency SSR investment package with the FARDC.** This should be done in coordination with key donors possessing military expertise, as well as significant bottom-up input from civil society organizations, women’s groups, and local leaders in the east. A reasonable package would include: training of at least five battalions, building livable barracks and livelihood alternatives for units and their families in the east, and helping to streamline overly large units into smaller and more effective units with mechanisms to prevent regional manipulation by former rebel commanders or other external elements.
- **Through consultation with local and international stakeholders, develop a standard system for vetting soldiers and recruits for crimes and human rights abuses.** This would act as a means to establish an end-state vision for model units and a set of core crimes and wrongful acts to serve as the foundation for exclusion from security forces. U.S. efforts must ensure, as a pre-requisite to legitimacy, that human rights violators within the national army and police forces are dismissed and held accountable for their crimes. This process should include both international and Congolese officials and should include conditional benchmarks tied to U.S. bilateral and UN-channeled assistance.

Endnotes

- 1 Enough interview with Congolese civil society leader, Goma, May 18, 2011.
- 2 This is the Public-Private Alliance, which is due to be launched in early October 2011. The State Department also released its strategy on conflict minerals in March 2011, which provides overarching goals but little detail. See <http://www.resolv.org/site-ppa/> U.S. Department of State, "U.S. Strategy to Address the Linkages Between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals, and Commercial Products," March 2011.
- 3 Michael Kavanagh, "Congo's Horrifying Rape Toll Rises to More Than 300, UN Says," Bloomberg Businessweek. <http://www.businessweek.com/news/2010-09-24/congo-s-horrifying-rape-toll-rises-to-more-than-300-un-says.html>
- 4 United Nations Office of Coordination of Humanitarian Affairs, "IDPs Need Further Assistance in Context of Continued Attacks and Insecurity," ReliefWeb, September 2011. http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_217.pdf
- 5 According to the survey, three-quarters of the 1,705 people polled in 2011 said that they felt their security had not improved since last year. *'We are entirely exploitable': The lack of protection for civilians in eastern DRC*, Oxfam, 28 July 2011. <http://reliefweb.int/node/437505>
- 6 Jason Stearns, "Is the Congo more peaceful than a year ago?" *Congo Siasa*, May 13, 2011. <http://congosiasa.blogspot.com/2011/05/is-congo-more-peaceful-than-year-ago.html>
- 7 United Nations Office of Coordination of Humanitarian Affairs, "IDPs Need Further Assistance in Context of Continued Attacks and Insecurity," ReliefWeb, September 2011. http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_217.pdf
- 8 See Sasha Lezhnev, "U.S. to Fund Livelihoods Project worth \$20 million in Eastern Congo," Enough Project blog, August 30, 2011. <http://www.enoughproject.org/blogs/us-fund-livelihoods-project-worth-20-million-eastern-congo> For the full USAID request, see <http://www.grants.gov/search/search.do?jsessionid=Gkk9TL4G0MhkkYsjyXL6QcZjQMTgPq8092GrjbTb00vMJXC2p1q!747832409?oppld=114513&mode=VIEW>
- 9 Rakiya Omaar, "The Leadership of Rwandan Armed Groups Abroad with a Focus on the FDLR and RUD/URUNANA," December 2008, p. 19.
- 10 MONUSCO's mandate was amended in June 2011 to include "spot checks and regular visits to mine sites, trading routes, and markets" and this should be followed up to include deployments around key mines. UN Resolution 1991 (2011). Available at www.un.org For information on the UN due diligence guidelines, see <http://www.un.org/sc/committees/1533/egroupguidelines.shtml> See also Jason Stearns, "MONUC: Aiding and Abetting?" February 3, 2010. Congo Siasa, <http://congosiasa.blogspot.com>
- 11 This strategy composed of five primary objectives included to promote an appropriate role for security forces in the region through training and political pressure to demilitarize mining sites; enhancing civilian regulation of the minerals trade increasing capacity of mining authorities, improving access to data, and strengthening reform efforts; protecting artisanal miners and local communities through attempting to reduce vulnerability and formalize the artisanal sector; strengthen regional and international efforts through working with regional stakeholder and international donor nations to harmonize and coordinate efforts and guidance; and finally, to promote due diligence and responsible trade through public outreach.
- 12 See Secretary Clinton's statement at <http://www.state.gov/secretary/rm/2010/07/145039.htm> For the comments to the SEC, see <http://www.sec.gov/comments/s7-40-10/s74010-201.pdf>
- 13 See "Establishment of a Specialized Mixed Court for the Prosecution of Serious International Crimes in the Democratic Republic of Congo: Common Position Resulting from the Workshop Held in Goma," April 6-8, 2011. http://www.fidh.org/IMG/pdf/Position_Commune_Cour_Specialise_Mixte_14_avril_2011_EN.pdf
- 14 Agence France-Presse, "Exploitation of natural resources fuels crimes in DR Congo: ICC Prosecutor," ReliefWeb, 2003, <http://reliefweb.int/node/134605>
- 15 Public Law 109-456-Dec. 22, 2006, "Democratic Republic of Congo Relief, Security, and Democracy Promotion Act of 2006." Available at: <http://www.gpo.gov/fdsys/pkg/PLAW-109publ456/pdf/PLAW-109publ456.pdf>

Enough is a project of the Center for American Progress to end genocide and crimes against humanity. Founded in 2007, Enough focuses on the crises in Sudan, eastern Congo, and areas affected by the Lord's Resistance Army. Enough's strategy papers and briefings provide sharp field analysis and targeted policy recommendations based on a "3P" crisis response strategy: promoting durable peace, providing civilian protection, and punishing perpetrators of atrocities. Enough works with concerned citizens, advocates, and policy makers to prevent, mitigate, and resolve these crises. To learn more about Enough and what you can do to help, go to www.enoughproject.org.

