

**DEFENSE, DIPLOMACY
AND DEVELOPMENT:**

MAKING A 3D STRATEGY WORK
IN THE GREAT LAKES REGION
OF AFRICA



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The map shows the Great Lakes Region of Africa with a light blue background. A yellow star is located in the northwestern part of the region. A yellow diagonal band runs from the northwest to the southeast. A red diagonal band runs from the southwest to the northeast, overlapping the yellow band. Text is overlaid on the map, listing the roles and names of the Task Force members.

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MAP OF THE SUBJECT AREA



Map No. 4004.1 UNITED NATIONS
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Department of Peacekeeping Operations
Cartographic Section

ACRONYMS

ADF-NALU	Allied Democratic Forces - National Army for the Liberation of Uganda
AFDL	Alliance des forces démocratiques pour la libération du Congo-Zaïre
AFP	Armed Forces of the Philippines
AFPC	Alliance des Forces Populaires et Patriotiques du Congo
AFRICOM	US Africa Command
AMIS	African Union Mission in Sudan
AMISOM	African Union Peace Keeping Mission in Somalia
ATI	African Trade Insurance Agency
AU	African Union
BDFSF	Botswana Defense Forces Special Forces
CA	Civil Affairs
CBO	Community Based Organization
CdC	Consultation Group
CELC	Ethics and Anti-Corruption Commission
CLPC	Permanent Local Conciliation Committee
CNDP	Le congrès national pour la défense du peuple
CRONGD	Regional Board of National Development Organizations
CSIS	Center for Strategic and International Studies
CSPA	Child Soldier Prevention Act
CTC	Certified Training Chain
DFID	British Department of International Development
DRC	Democratic Republic of Congo
ECI	Eastern Congo Initiative
EICC	Electronics Industry Citizenship Coalition
ESAP	Emergency Social Action Project
EU	European Union
FAR	Forces Armées Rwandaises
FARDC	Forces Armées de la République Démocratique
FDC	Forces de Défense Congolaise

FDI	Foreign Direct Investment
FDLR	Forces démocratiques de libération du Rwanda
FID	Foreign Internal Defense
FPLC	Forces Patriotiques pour la Libération du Congo
GoE	Group of Experts
GBV	Gender Based Violence
GLR	Great Lakes region
GoE	Group of Experts
I4S	International Security and Stabilization Support Strategy
ICC	International Criminal Court
ICGLR	International Conference of the Great Lakes Region
IDP	Internally Displaced Person
ISR	Intelligence, Surveillance and Reconnaissance
ITRI	International Tin Research Institute
JSOTF-P	Joint Operations Task Force - Philippines
JVM	Joint Verification Mechanism
LRA	Lord's Resistance Army
M23	The March 23rd Movement
MNO	Multinational Organization
MONUSCO	United Nations Stabilization Mission in the Democratic Republic of Congo
NGO	Non-governmental Organization
PARECO	Coalition des patriotes résistants congolais
PEP	Post-exposure Prophylaxis
PPA	Private Party Alliance for Responsible Minerals Trade
PSD	Private Sector Development
RCD	Rally for Congolese Democracy
RDF	Rwandan Defense Forces
RPF	Rwandan Patriotic Front
SADC	Southern African Development Community
SCC	Sino-Congolese Convention
SCSL	Special Court for Sierra Leone

SFA	Security Force Assistance
SFG	Special Forces Group
SME	Small and Medium Enterprise
SOCAFRICA	US Special Operations Command Africa
SOCOM	Special Operations Command
SOF	Special Operations Forces
SSR	Security Sector Reform
TRC	Truth and Reconciliation Commission
UN	United Nations
UNAMID	African Union/United Nations Hybrid Operation in Darfur
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for the Coordination of Human Affairs
UPDF	Uganda People's Defense Force
URCD	Union de Résistance Démocratique Congolais

EXECUTIVE SUMMARY

The eastern Democratic Republic of Congo (DRC) has been the site of cyclical violence for years and, as a result, the country has failed to become a developed member of the international community. The International Rescue Committee estimated that 5.4 million people died in the region between August 1998 and April 2007 with over 400,000 persons displaced.¹ Ethnic tensions exacerbated by non-state and state actors vying for power in the absence of a strong state have fueled a series of wars and crimes against humanity. While many members of the international community have attempted to intervene in the conflict in the hopes of finding a peaceful solution, a large-scale coordinated effort has not yet been structured; the lack of synchronized support allows the conflict to continue and further harm the region.

Unresolved conflicts in Africa have allowed places like Mali and Somalia to harbor al-Qaeda and al-Qaeda-affiliated groups. The instability provides a shelter for terrorist organizations to grow; activity the US cannot and should not ignore. Although terrorist groups have not yet found their way into the DRC, the lack of governance in the region provides a place for them to gather and organize. It is vital for the US National Security Council to encourage capacity building within and around the DRC not only to prevent unscrupulous groups from gaining a foothold but also because of the large-scale loss of human life caused by the succession of wars in the area. The US has a duty as an international power to demonstrate a moral authority and address the massive death toll and sexual crimes that have plagued the eastern DRC.

The above-mentioned wrongs can be attributed to the power vacuum that exists due to the lack of coordinated governance in the area. State and non-state actors have taken it upon themselves to take control of the area, a practice that has had disastrous consequences for the local population. Mai Mai militias seek to protect their own ethnic groups at the cost of others while larger militias like the March 23rd Movement (M23) establish local governments and tax the population. State actors, such as Uganda and Rwanda, pursue their interests by supporting armed rebel groups.

The US can play a significant role, at a very small cost, to stabilize the eastern DRC and promote development. This report lays out several recommendations on how the US can help build capacity of the DRC and the Great Lakes region as a whole. Each recommendation is reliant upon sustainable security that the US can help establish by first acting on the selected recommendations below:

- The US should appoint a special envoy to the region with a Presidential mandate. By sending a Special Envoy that reports directly to the President, the US will show that it is truly committed to helping build capacity in the Great Lakes region.
- The US should work with and encourage the United Nations and African Union to send their own envoys to the region as well as create a task force with the ultimate objective of finding a sustainable solution to the conflict, including limiting harmful state actor interventions.
- Security sector reform is critical to reducing the violence in the DRC and the US should use Special Operations Forces to help train DRC security forces to build a legitimate military. Engaging US Special Operations Forces in local training missions will build the DRC's defense capacities so local armed forces can regain the trust that has been lost through their crimes against civilians including the looting of villages, routine extortion and considerable sexual crimes.
- The US should also work with the DRC, surrounding countries, international organizations and non-governmental organizations (NGOs) to help the DRC build its development capacity to improve economic opportunity and stability in the region. By promoting foreign direct investment, strengthening enforcement of violations related to the conflict mineral trade, and investing in healthcare, education and infrastructure, the DRC may be able to become a regional economic leader.

By taking these and other steps recommended in the report that follows, the US can help reduce the violence and instability in the eastern DRC, build the capacity of the DRC and surrounding countries to provide greater stability and economic opportunity to the region, and build both US credibility and relationships with key countries in Africa that could become partners in addressing many other US interests in the region and beyond.

INTRODUCTION

By Hunter Barrett

BACKGROUND

The Great Lakes region (GLR) of Africa is composed of countries that experience severe political instability, economic stagnation, and conflict. Africa's Great Lakes states illustrate incredible irony, housing vast deposits of lucrative natural resources while their economies fail.² Minerals found in the region are used across the globe and are in high demand. The large deposits of tungsten, gold, tin, and titanium, plus the rich soil conducive to a high-yielding agricultural sector, represent incredible economic potential.³ Sadly, these rich natural resources are mismanaged and squandered.

Beyond resource mismanagement, Great Lakes countries struggle to develop. The DRC, Rwanda, Uganda, and Burundi make up the majority of the region, although neighboring Tanzania, Angola, and Zambia also play significant roles in the area. Most of these states are burdened by histories of war, genocide, resource mismanagement, and economic failure. These challenges are rooted in a colonial past, but it is impossible to deny the negative consequences that come directly from poor governance in recent decades.

The Rwandan Genocide, the fastest-moving violent conflict in recent history, comes to mind immediately when considering the GLR. Like in other states, the genocide was linked directly to political instability and ethnic divides that lead to violence. The insufficient response of the international community, the brutality of the crimes, and the swiftness of the movement certainly warranted the attention that the genocide eventually received. To most, this episode exemplifies the types of troubles that plague the region, leading to the killing of 800,000 people in just three months.⁴

In some regard, the Rwandan Genocide is unique. The sheer brutality of the event and the impetuous adherence to rebel leaders is extraordinary, even relative to Rwanda's neighbors. But Rwanda hardly stands alone when it comes to tense ethnic divisions, violence, and overall instability. In truth, near-by Angola, neighboring Uganda, Burundi, and the DRC experience very similar and often connected challenges. Just as the Rwandan Genocide resulted from institutional decay and ethnic tension, other countries

across the GLR experience an equally malicious environment and similarly violent results.

THE UNSTABLE AND FLUID NATURE OF THE GLR: STATE AND NON-STATE ACTORS

The relationships and transactions between the Great Lakes leadership best illustrates the interconnectedness of the region as a whole. Contemporary leaders of many Great Lakes states crossed paths and were involved in past political overthrow. Uganda's Yoweri Museveni led a resistance movement of young refugees, among them the future Rwandan head-of-state, Paul Kagame. Angola's Jonas Savimbi developed strong ties with the DRC's Josef Mobutu, later and better known as Mobutu Sese Seko. Illicit diamond smuggling from Angola to the DRC was the lifeblood of Savimbi and Mobutu's relationship, providing opportunities for both leaders to accrue incredible personal wealth. Certainly these individuals changed the political and economic landscape of the GLR, but perhaps more significant is the impact of non-state actors and groups that form in response to them.

While state leaders impact a state's functionality and create security problems for their population, non-state actors contribute to insecurity because of their unclear, ever-changing alliances. Non-state actors are characterized by their independence from the state government; in the GLR and particularly in the DRC, non-state actors are rebel groups. These actors are armed groups that form from within the DRC and violently dissent against the government by terrorizing local populations to maintain power and gain influence. In the DRC, non-state actors number in the dozens and are often motivated by ethnic rivalry and political grievance. Their detachment from a state makes them fluid and maneuverable, and therefore more problematic than any individual head-of-state or military commander.

The complicated and ever shifting networks and alliances between non-state actors and GLR governments are often difficult, if not impossible, to convey. This point is best illustrated in an example. On June 5, 2000, after months of Rwandan-Ugandan occupation of the DRC city of Kisangani, a Ugandan offensive against Rwandan forces was unleashed, killing 760 civilians and wounding an estimated 1,700 more.⁵ The

Ugandan and Rwandan troops responsible for the bloody episode had jointly occupied Kisangani for years, having first arrived as allies. Tension between the two groups developed as Ugandan officials claimed their Rwandan counterparts were not equipped to take part in the operation, asserting that while the Ugandan military was professional, Rwandan forces were a mere militia.⁶ Despite decades of harmony within Rwandan borders, including cooperative militaries, Rwandan and Ugandan forces became enemies after entering the DRC. This exemplifies that for non-state actors in the GLR, an ally can become an enemy and an enemy an ally. Power struggles between state and non-state actors evolve and are very fluid.

The following sections will explore non-state actors, including the Forces démocratiques de libération du Rwanda (FDLR), M23, and Mai Mai groups. Review of these three non-state groups is not exhaustive; the three groups described simply provide a framework in which to understand non-state actors at large. While coverage of these particular groups provides some insight into non-state actors in the region, M23, FDLR and Mai Mai groups illustrate the range of multi-faceted composition of the groups found in the region, including their illicit government relations, ethnic motivations, and tactics.

Identification of the FDLR is important because its formation initiated a larger movement towards non-state power in the Great Lakes. Although smaller in number than other groups, the FDLR plays a prominent role in the GLR. In the aftermath of the Rwandan Genocide, Kagame drove the Hutu rebels largely responsible for the mass killing from Rwanda; these Hutu rebels evolved into the FDLR and aimed to overthrow him. The group is prominent in Rwanda, but its influence penetrates the region. The FDLR is absolutely dependent on the support of corrupt state leaders that leverage the rebel's ability to violently attack targeted communities. Although there is little evidence to suggest that FDLR works strategically with the DRC government to advance their influence, it is clear that criminal groups within the Congolese armed forces support FDLR through the sale of ammunition and other resources.

M23 is a rebel group whose name stems from the date of March 23, 2009, when the DRC government signed the 'Peace Agreement Between The Government And Le

congrès national pour la défense du peuple (CNDP)', a peace deal that failed to yield a nonviolent resolution. M23 was also a response to FDLR and was motivated to remove current DRC President Joseph Kabila from power and destabilize the DRC government. M23 grows in influence because of the governments in the region that support the group. The Rwandan government's disregard of the arms embargo established against M23 is a major obstacle in attempting to reign in the group's influence in the Great Lakes.⁷ The Ugandan government likewise supports M23 forces by providing weapons and political advice, while facilitating external relations for M23.

Apart from their cooperative relations with state governments, M23 leaders create networks with other rebel groups. These networks help provide a context by which to understand the group's influence. Planned attacks by M23 are ethnically motivated, targeting, for example, Congolese Hutu communities in the DRC. Conscription of child soldiers into M23 is perhaps the most commonly known tactic used by the group. By using preexisting ethnic divides and recruiting from vulnerable populations, M23 increases its influence.

Mai Mai groups are associated with rural, indigenous Congolese communities and have not been as influential or politically important as FDLR or M23. Like the FDLR, Mai Mai forces often rely on the participation of children to supplement their forces; estimates for youth involvement in Mai Mai groups are upwards of 40 percent.⁸ Mai Mai groups differ from those of M23 and FDLR as they do not boast impressive political networks. Rather, Mai Mais depend on methods that better reflect banditry than organized military force, taking only small villages under their control and executing attacks along roads.⁹ This greatly differs from the strategies of M23 and FDLR, which are very much focused on capturing control in strategically important areas throughout the DRC.

Despite differences, all non-state actors embrace violent disobedience to send a message of discontent to the presiding government. Corrupt governance in the GLR, and the low standard of living that inevitably ensures, provokes the formation of rebel groups in the region. Ironically, these rebel groups are both inspired and maintained by poor governance. The DRC and Mobutu Seso Seko exemplify governance that yields rebellion.

The following section will explore Mobutu's reign in the DRC and former Zaire, explaining his negative impact on the military, state institutions, ethnic divides, and stability across the GLR.

MOBUTU SESO SEKO

Despite the illicit activity and dishonest political tactics of many state and non-state leaders from the Great Lakes, Mobutu Seso Seko is unrivaled in his destructive impact on the region. His reign over the DRC (formerly Zaire) from 1971 to 1997 penetrated nearly every aspect of state society.¹⁰ Mobutu completely destroyed state security and the military, compromised institutional integrity, and exacerbated ethnic conflict.

Mobutu's leadership methods of the DRC military proved particularly problematic throughout his tenure. While military officers in most developed states enjoy substantial salaries and generous benefits, Mobutu's forces remained uncompensated for their trying work. Mobutu's strategy with the DRC military officials was perhaps most clear when he famously declared, "you have guns, you don't need a salary."¹¹ This mentality towards military officials decimated security in the DRC by leaving military officials to fend for themselves. Military officials that chose not to engage in violent pillage of Congolese villages took to growing crops near their military quarters.¹² Military grounds across the country became farms, housing livestock in the dilapidated facilities. Deferred payments from the government led to tattered uniforms and officials hiring themselves out to local farms willing to pay them a wage for their labor.¹³ Eventually, survival methods transformed from begging for food to engaging in corruption and extortion of locals and travelers. Road barricades, manned by DRC officials, arbitrarily required tolls for passage.

Mobutu's neglect also bled over to his management of other DRC institutions. Having risen to power in the aftermath of a coup, Mobutu was keenly aware of the delicate balance required to maintain power. His acknowledgment and fear of uprising was clear as he deliberately dismissed his most competent subordinates, thus eliminating any threat to his position.¹⁴ This approach yields not only a less competent cabinet of decision-makers, but directs absolute power to the head-of-state.

Mobutu also constrained institutional capacity by relying almost exclusively on a system of nepotism and ethnic loyalty for position promotion. Mobutu advanced family members, friends, and ethnic counterparts until half of military leaders were from his home province, Equateur, and a third from his Ngbandi ethnic group.¹⁵ In his role as head-of-state, Mobutu compensated himself handsomely, accruing enormous wealth at the expense of the Congolese citizens and his own personnel.

His blatant disregard for merit-based advancement in DRC institutions weakened security capacities and exacerbated ethnic tensions in the country. Mobutu's habitual nepotism, coupled with his amassed personal fortune, exemplifies the corruption that laced his entire leadership strategy. Still today, Mobutu's self-serving policies present major stumbling blocks for the DRC's security sector, and consequently for the country's development at large.

In addition to his favoritism of certain ethnicities, namely his own Ngbandi ethnic group, Mobutu proactively sought to disintegrate other ethnic communities of Zaire. In 1981 policies that stripped Tutsis and Hutus of citizenship and property became prevalent in Mobutu's regime, increasing tensions in the country, particularly in the North Kivu province. In an attempt to reverse Belgian integration methods that resulted in many Rwandans living in Zaire, Mobutu encouraged ethnic tension and rivalry that permeated Zaire, Rwanda, and Uganda. Although the DRC and other states were burdened with a troubled colonial history even before from the Mobutu regime, his policies uniquely exacerbated ethnic tensions and led to widespread instability. Such policies affected a significant portion of the DRC population, as Rwandans made up an estimated 70 percent of the Congo's population in 1970.¹⁶ Therefore, Mobutu's policies that redefined Congolese citizenship, requiring ancestry dating to 1885, stripped many of citizenship and property.

Mobutu's policies regarding ethnicity and citizenship only partially account for his damaging impact on the GLR. His aforementioned relationship with Angola's Jonas Savimbi provides just one example of his toxicity. Mobutu played a central role in illicit diamond trafficking along the Angola-Zaire border, benefitting himself by allowing the passage of diamonds through Zaire. Mobutu also contributed to Savimbi's regime by

falsifying paperwork to eastern European officials, thus allowing Savimbi to buy weapons.¹⁷

Mobutu's substantial contribution to Angolan, Ugandan, and Rwandan rebel groups also help frame his impact on violence in the Great Lakes. Very often, he found it politically favorable to support regional rebellions in neighboring states. This fact became clear as he provoked the incursion of Angolan, Ugandan, and Rwandan rebels into the Congo, thus promoting rebellion and a fragmentation from the DRC capitol, Kinshasa. Import and export taxes decreased by nearly 70 percent, drawing business from risky business investors, eager to gain from the Congo's lucrative mineral deposits. This enormous mineral business boom, which benefitted Mobutu's personal fortune, highlights the mismanagement of resources that the Congo has suffered from since colonial times. Mobutu's tactics to leverage these minerals to his own advantage is yet another example of his poisonous effect on the GLR.

Mobutu's legacy creates major problems for any attempt to govern the DRC. The influence of said people and groups undermines institutional integrity and completely circumnavigates the tenants of a secure state society. Heightened consciousness to the state the GLR has instigated international efforts to reform the countries involved, namely the DRC. The United Nations (UN), the African Union (AU), and the United States lead efforts to build institutional transparency, security, and development capacities of the GLR. These attempts to increase security and spur political, social and economic development have been largely ineffective.

INTERNATIONAL INTERVENTION: THE UNITED NATIONS AND AFRICAN UNION

After decades of poor governance, violence, and ethnic tensions across the GLR, involvement from the international community was inevitable. The human rights atrocities in the GLR entered the international stage through media coverage of events like the Rwandan Genocide. Increased awareness from the developed world motivated international institutions, such as the UN and AU, to provide rights and protections where the government did not. This section reviews the United Nations Organization

Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), as well as efforts made by the AU in response to poor governance and neglect.

MONUSCO began its mission in the DRC in 1999 after the UN Security Council resolved to monitor the peace-building process in the country. Since that time, the peacekeeping mission has experienced major drawbacks despite the increasing presence of UN officials in nearly all conflict zones.¹⁸ The project has also been expensive, receiving nearly \$9 billion from UN funds.¹⁹²⁰ The lack of a comprehensive mandate for MONUSCO is perhaps the most pressing stumbling block that hinders the mission's progress.

The DRC has proven insatiable in requiring UN personnel to adequately manage the peacekeeping operations.²¹ The presence of UN officials, which peaked in 2010 at 20,000 UN troops, has been consistently inadequate to secure the state.²² A number of countries that contribute substantially to the effort, including India, recently announce a scaling back of troops involved in the mission.²³ Despite widespread efforts from countries around the world, the challenges that face the DRC, including deep-seated colonial histories, ethnic tensions, and conflict resources, challenge successful international intervention.²⁴

Like many other UN peacekeeping missions, MONUSCO received critique regarding fraternization between peacekeeping officials and rebel groups in the DRC.²⁵ UN forces have been accused of having improper relations with the FDLR, such as exchanging UN rations for gold and marijuana.²⁶ UN involvement with rebels is also evident in the forces' chronic inability to disarm and disable rebel forces.

The AU, predated by the Organisation of African Unity, seeks to increase peace, stability, and economic growth of African countries. While the AU is active in some regions of Africa, the Union's involvement in the GLR is limited. Like other international organizations, the AU prescribes to a Constitutive Act, or a mandate that outlines the parameters of AU intervention in sovereign countries on the continent.²⁷ While such mandates are often useful for large organizations, the AU's Constitutive Act is vague and sometimes contradictory. The Act states that the AU is allowed to intervene in mass atrocities, but is not able to infringe on state sovereignty. This mandate provides little

direction when applied to the complex conflicts in many Africa states, which often involve sovereign states engaging in atrocious human rights violations.

The AU is moderately overseen by South Africa. The country's political tensions, rising crime, and recent history of racial segregation are daunting and only qualify the state as a relative leader. Political will in support of the AU in other African states is even more inconsistent and provides little vitality to the organization. The combination of a weak AU mandate, faltering political will, and widespread instability on the continent accounts for the AU's inability to respond to Africa's challenges. Resolving issues surrounding the AU's weak mandate is central to solving the problem.²⁸ In addition, the AU's lack of African support suggests that the AU requires partnership with other international organizations, like the UN, to strengthen its capacity.

Efforts of the United Nations and African Union are not the only responses to the political, economic, and humanitarian crisis of the GLR. While The UN and AU have tackled the problem by attempting to establish norms and protocol within political and security institutions, and NGOs have also been active in Great Lakes states by providing on-the-ground assistance to Congolese communities that do not receive the benefits associated with a function government.²⁹ NGOs are partially dependent on donations and therefore target needs perceived as immediate. The strong correlation between economic development, women's rights, and developed states encourages NGOs to focus on these areas.

INTERNATIONAL INTERVENTION: NON-GOVERNMENTAL ORGANIZATIONS

The lack of development in the DRC and GRL is a direct result of the political corruption, widespread conflict, and failed intervention previously discussed. Other attempts to mitigate the poor standard of living in the GLR come from NGOs, drawn to the GLR by increased attention on the atrocities of the African Congo. The damage accrued by poor governance and corruption in the region penetrates all aspects of contemporary life in the DRC. Economic opportunity and security for women are key indicators of developed states and as such NGOs focus on these specific areas.³⁰ Although NGO efforts offer goods and services that the government is incapable of

providing, a basic lack of coordination between the weak federal government and NGOs on the ground plagues the effort.

Efforts to develop economies in the GLR include the Eastern Congo Initiative (ECI), an NGO that partners with private firms seeking goods produced in the GLR. Theo Chocolate of Seattle, Washington is one such partner, working to promote cocoa production in the DRC by manufacturing chocolate bars made entirely of DRC products. Economic development efforts focus on integrating Congolese goods into the international market, thus increasing demand and awareness of the goods abroad. Efforts that fail to implement community-based strategies will fail to strengthen local economies and do little to establish economic growth in the country itself. Sustainable economic development must include community-based efforts to promote local goods.

A major challenge in responding to DRC poverty and conflict is a general lack of knowledge about efforts already being made. NGOs respond to this knowledge differential by investigating the lives of DRC communities on the ground, an effort that is not always undertaken by institutional security and development programs. NGOs provide insight into communities in the DRC and uncover unidentified challenges that communities face by contributing research and directly contacting DRC communities to help determine where development dollars are best spent.

CONSIDERATIONS FOR IMPLEMENTING AN EFFECTIVE 3D STRATEGY

By Jared Sarkis

As we consider the best US policy approach for the region we should both take a whole-of-government approach, using our tools of diplomacy, defense, and development policy (3D); and focus primarily on capacity building in the region, helping the authorities in the region develop the skills necessary to provide decent governance, security and economic opportunity for their people. A 3D approach in the DRC provides the ability to leverage support from outside organizations, such as multinational organizations (MNOs) and NGOs, while allowing flexibility for US military support. No one element in the 3D approach is more important than the next, and a primary challenge for this type of strategy is the integration of civilian and military efforts to ensure the accomplishment of a common goal in the DRC: stability.

Security within the DRC can be looked at through two distinct lenses. The first is the short-term cessation of conflict that must be achieved through a combination of direct, non-ambiguous diplomatic summits, and security sector reform that provides for capable Congolese military and legal reforms. Substantial changes to MNO interactions in the region need to be evaluated to ascertain which neighboring countries are suitable to assist the DRC in establishing security and providing peacekeeping operations. Additionally, deployment of specialized military units to assist in training the Congolese military and police forces would dramatically benefit the DRC in providing security for its civilian population. Creating a stable area within the DRC in which to operate will create an environment where long-term solutions can be implemented more efficiently.

The aforementioned diplomatic and defense interactions should be viewed as the foundation for a situation in which MNOs, humanitarian organizations and private service actors' capabilities can be realized in the DRC. A capable Congolese military and police, backed by changes to the current legal system, will address the issue of corruption and the long-standing institutionalism of rape. Additionally, stability will

foster an environment where the Congolese government can utilize its vast mineral resources and encourage foreign investment. Each of these considerations, whether needing immediate or long-term attention, will increase the DRC's capacity for security and domestic reforms, and economic growth.

Any implemented solutions utilizing military, diplomatic or MNO support in the DRC must be flexible and agile. However, there must be a shared responsibility in all efforts to mitigate any one solution taking precedence over another. By utilizing a holistic approach to the DRC, the contribution of all parties involved will increase the likelihood of success, while minimizing waste of resources and creating a more balanced society in a post-conflict Congo.

CHAPTER 1: TOWARD A US PRESIDENTIAL ENVOY

By Kellen Ray

As of this writing, diplomatic negotiations in the Great Lakes region are progressing slowly, namely the “Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region”, signed February 24, 2013, which has since deteriorated. This agreement between Angola, Burundi, the DRC, the Republic of the Congo, Rwanda, South Africa, Tanzania and Uganda was constructed under the observation of both the African Union and the United Nations, both of whom have signed as witnesses. The primary purpose of this framework was to recommit regional governments to addressing the untenable cycle of violence in the eastern DRC. Beyond this, the document called for cooperation between regional actors and the international community, specifically the UN and bilateral partners of the DRC, in order to support both regional and DRC national oversight mechanisms. Despite recently renewed violence, the framework of the agreement maintains a solid foundation for integrating all parties in the GLR in hopes of establishing clear delineations of responsibility for violence in the DRC.

The call for cooperative assistance along with the other ongoing negotiations highlight the multiplicity of actors that must be involved in order to successfully establish peace and security in the region. Outside the above framework, talks continue in Uganda between the DRC government and M23 rebels as part of the International Conference on the Great Lakes Region (ICGLR)³¹ as well as a recent Southern African Development Community (SADC)³² agreement to deploy 4,000 troops as a neutral peace keeping force in eastern DRC. The push toward stability is and will continue to be on multiple diplomatic fronts as a necessary means of addressing and including the various states, factions, and ethnic groups involved in the conflict. Regional peace is dependent upon both bilateral and multilateral cooperation between all of these groups, including the United States.

It is the opinion of this task force that President Obama should appoint a Special Envoy for the Great Lakes region and the DRC, specifically focusing on the ongoing conflict in the Kivus region of the DRC. This envoy should enjoy a directly signed

mandate from the President as well as a staff of 10 to 15 assistants, including experienced Foreign Service officers, to help coordinate the multiple policy objectives delineated later in this report and to support oversight mechanisms to be installed in the DRC and the broader region.

WHY A US ENVOY IS NECESSARY

The utility of a United States special envoy is multifaceted. First and foremost, a special envoy would work to bridge the gap between the many US agencies at work in the GLR, as well as the plethora of private and nonprofit actors that are necessary components of a comprehensive foreign policy. Currently, US government groups in the DRC include but are not limited to the Department of Agriculture, the Department of Commerce, the Trade Development Agency and the Department of State,³³ which as of now encompasses the work of the Undersecretary of State for Economy, Ambassador-at-Large of Global Women's Issues Melanne Verveer and Assistant Secretary of State for African Affairs Johnnie Carson, among many others. Outside the DRC, US government involvement is similarly broad in Rwanda, Burundi and Uganda. The sheer number of government entities, along with the 21 listed US companies doing business in the DRC³⁴ and the dozens of nonprofits active in the area, creates a vast community of actors that need coordination in order to be both effective and efficient.

Former Secretary of State Hillary Clinton attempted to address this need in December 2011 when she appointed R. Barrie Walkley as the Special Advisor to the Great Lakes and the Democratic Republic of the Congo, a position he still holds. Ostensibly, he is tasked with helping to coordinate "US foreign policy and programs on regional issues, including conflict minerals, sexual and gender-based violence, and armed groups."³⁵ However, his efforts have been stymied by both a lack of diplomatic jurisdiction and structure to his post. According to a State Department press release, Walkley was to work closely with then-Secretary Clinton, Assistant Secretary Carson, as well as regional US ambassadors and other government officials, yet his authority was not defined and he was given no mandate to work with host governments or agencies,³⁶ a crucial aspect of coordinating a foreign policy focused on capacity building. Because of this, we believe a special envoy with an explicit presidential mandate giving the envoy

the authority to actively coordinate US programs and provide assistance to both oversight mechanisms as outlined in the discussed framework, while also minimally upsetting previous diplomatic channels, is necessary in order to effectively promote peace and security in the region.

More than outlining the jurisdiction of the special envoy, a presidential mandate will demonstrate the administration's commitment to peace and prosperity in the region in two ways. First, by upgrading the diplomatic rank of the current position from Special Advisor to Special Envoy, the administration can signal to the international community an escalation in the urgency of the situation. Secondly, by issuing a presidential mandate, the administration can demonstrate to all actors involved in the conflict a deeper commitment by the US government toward a peaceful resolution. This will also provide the envoy with the necessary political and diplomatic capital to effectively coordinate US policy implementation when working with both US agencies and domestic entities in the Great Lakes region.

Finally and perhaps most simply, the appointing of a special envoy to the DRC and Great Lakes region will allow the administration to better fulfill parts of several congressional acts. The first of these is the Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006, in which it is specifically stated, "Not later than 60 days after the date of the enactment of this Act, the President should appoint a Special Envoy for the Great Lakes Region to help coordinate efforts to resolve the instability and insecurity in Eastern Congo."³⁷ Further, the Dodd-Frank Act requires the Secretary of State to develop a strategy to address the links between conflict minerals, commercial products, armed groups, and human rights abuses in the context of the conflict in the DRC.³⁸ Finally, the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 calls for US policy to be implemented to protect civilians of the entire Great Lakes region from armed attack.³⁹ All three acts provide the impetus and justification to appoint a special envoy, making it both politically defensible and productive.

THE ROLE OF SPECIAL ENVOYS IN THE OBAMA ADMINISTRATION

As of February 2013, the State Department classifies a total of 27 State officials as special envoys, advisers, representatives and coordinators in its list of assistant secretaries and other senior officials.⁴⁰ These positions range in scope from climate change to Holocaust issues to Burma policy. The group of “specials” is large in comparison to previous administrations and is the result of both President Obama and former Secretary Clinton’s diplomatic and foreign policy tactics. Following the elimination of most special positions under Secretary Powell, the Obama Administration has relied on them heavily, favoring specials over classic State diplomatic channels in many instances. Despite the replacement of Clinton by John Kerry, this trend does not look to change given their success and current involvement.

The rapid growth of special positions within the lens of US foreign policy over the last four years can be attributed to several advantages specials have over traditional diplomatic offices. The first is their flexibility as a diplomatic instrument of both the President and State Department. Envoys can work independently or with a staff as large as 30 and have the ability to provide much more concentrated focus on regions and issues that may transcend any single State office.⁴¹ Second, these specials often experience significantly greater political clout while serving under the aegis of the President and are often able to schedule meetings with more senior foreign officials than they would have in a standard ambassadorial role.⁴² Finally, the media attention given to presidential envoys has proven a utilitarian tool for the specials, allowing them to leverage their distinction to further their mandate.

The versatility of special envoys and the successes they have enjoyed have allowed them to be deployed for a broad spectrum of issues, both localized and global. However, the use of presidential envoys during the Obama administration has remained limited. Currently, only one official listed by the Department of State carries the President’s office in her title: Susan Burk, Special Representative of the President for Nuclear Nonproliferation.⁴³ The administration’s sparing utilization of the presidential envoy demonstrates its recognition of both the weight such a title carries and the resistance from State that can accompany it. One of the greatest strengths of the presidential

envoy is its direct connection with the Office of the President. This helps to eliminate much of the bureaucracy that can hinder prompt responses while providing significant political leverage, but it also circumvents much of the institutional structure of the State Department tasked with carrying out the diplomatic and foreign policy efforts of the administration. Generally, State opposes this on the grounds that presidential envoys undercut its mandate and invade its jurisdiction, especially when envoys are not current or former State Department officials. Understanding this, the Obama Administration has saved presidential envoys for issues of specific emphasis, as Burk's posting demonstrates.

SELECTING AN ENVOY

The unique circumstances surrounding the post of special envoy to the DRC and Great Lakes region require a specific selection of skills and characteristics for a suitable candidate. The first is an extensive knowledge of the region and its inhabitants. The complexity of the decades-long conflicts and the breadth of actors in the GLR cannot be briefed properly in the weeks or months before taking the post. A thorough understanding of the Kivus and its state and non-state groups, preferably gained from professional experience in the region, is crucial in coordinating US policy and assisting regional oversight mechanisms. This expertise is also critical to the envoy's legitimacy as a bi- and multilateral negotiator, particularly regarding M23 and other non-state actors.

To further legitimize the envoy when interacting with the plurality of organizations and factions, the candidate must be perceived as an honest broker with no undue ties to any one state or group. Of particular concern is the ostensible impartiality of the envoy with regard to Rwanda. The nature of US bilateral relations with Rwanda already poses a significant obstacle when working with countries in the region due to Rwanda's alleged relationship with M23. Any additional connections a candidate presents would be prohibitive in facilitating cooperation.

Finally, the candidate must have the variegated experience necessary to coordinate the multifaceted policy recommendations laid out in this report. Any comprehensive policy will include the diplomacy, defense and development communities

and the more experience a candidate has in these sectors, particularly diplomacy and development, the more efficiently he or she can harmonize their distinct yet interdependent activities. Although expert staff can supplement a field in which a candidate has limited or no experience, a relatively broad professional base provides legitimacy for the envoy with US organizations, public and private, which better positions the envoy to facilitate cooperation between them.

As stated previously, Special Advisor R. Barrie Walkley is currently serving at a similar post in the GLR. Walkley has served as Ambassador to such countries as the Gabonese Republic and the Republic of Guinea and was the Deputy Chief of Mission in Kinshasa from 1998 to 2001. From 2010 to 2011, he was the senior US official in South Sudan and directed the opening of the US Embassy in Juba after assisting South Sudan in the lead-up to its successful quest for statehood. Ambassador Walkley has also worked closely with the UN in the past, serving as the UN spokesman in Mogadishu during “Operation Restore Hope” in Somalia in 1993.⁴⁴ With superb diplomatic credentials and obvious knowledge of the current conflict after serving in his current role for over a year, Walkley clearly satisfies the first two requirements and is a practical candidate for the position. Despite these qualifications, at this point, his position has not produced significant gains in the US foreign policy programs in the DRC. While largely due to a disjointed policy package and a relatively impotent mandate, this can also be partly attributed to Walkley’s diplomatic stature in the international community. As a mid level ambassador, he does not have the diplomatic celebrity that has proven so useful to previous envoys nor does he have the freedom given to more senior officials to act as a representative of the administration. Both of these issues could at least be partially rectified by elevating his current post to presidential envoy with a mandate from President Obama, but such an upgrade would carry with it less impact as a signal of US commitment and emphasis compared to a newly appointed envoy.

The closest example of the successful utilization of special envoys in a similar situation, both geographically and in nature, is the recent creation of a South Sudanese state after assistance from US diplomats. Although Walkley was heavily involved in the process leading up to the referendum, Princeton Lyman is better known for his role in

the country. From March 2011 to December 2012 Lyman served as the Special Envoy to South Sudan and Sudan. Before this, Ambassador Lyman worked to lead the US team in aiding negotiations between the two countries that ultimately led to a peace agreement. Lyman's diplomatic experience in the region is vast, serving as Deputy Assistant Secretary of State for African Affairs, Ambassador to Nigeria, Ambassador to South Africa and also as a member of the African Advisory Committee to the US Trade Representative. Further, prior to joining the State Department, Lyman was the USAID Director in Ethiopia from 1976 to 1978. Lyman has written extensively on African affairs and has been published both in newspapers around the country as well as in several reports and books. Although he, like Walkley, has spent his career in the Foreign Service, Lyman enjoys considerably more popularity and is renowned for his previous posts. With his undeniable expertise in the greater region as well as experience across a variety of posts and organizations, Princeton Lyman satisfies all necessary qualities of a viable candidate.

While both Walkley and Lyman demonstrate some of the best of the Department of State's diplomatic brawn useful in multilateral relations and negotiations, this task force believes the *sui generis* nature of this conflict, and thus any policy that will successfully respond to it calls for an envoy outside the standard State Department mold. Tony Gambino, currently an independent consultant, is just that candidate. Gambino began his development career in the DRC as a Peace Corps Volunteer from 1979 to 1982, when it was then called Zaire. In 1994, he joined the Department of State working as a special advisor. Then from 1997 to 2004, worked for USAID as the Congo Coordinator, next as the Great Lakes Coordinator and ultimately as the Mission Director for the Congo.⁴⁵ Tony Gambino's expertise in the region and the ongoing conflict is extensive along with his knowledge of the past and current US diplomatic efforts. As has been noted, previous tensions have arisen within the State Department regarding non-diplomat appointees to such positions, but Gambino's experience within State as well as his extensive work with USAID should alleviate much of these misgivings. Tony Gambino has demonstrated his commitment to the region throughout his career and shows no obvious biases to one state or group. Any of his deficiencies in diplomatic conduct

should be addressed by assigning his envoy expert Foreign Service officers who are already in the region or have served there in the past.

While Walkley, Lyman and Gambino are all candidates in their own rights, let us consider them further as models. Walkley represents the standard State Department special appointee to such a position. His role draws some attention to the conflict and his experience as ambassador serves him well as the traditional diplomatic adviser to the Secretary of State. However, because he is less well known, he lacks one of the major tools of a special envoy: celebrity. Lyman, representing the role of a prominent ambassador with extensive experience in the region, does not have this issue. His name alone will guarantee him audience with influential leaders and officials in the area. However, his diplomatic expertise may not serve him as well with the task of coordinating the multidimensional policy recommendation laid out in this report. Gambino, on the other hand, has both experience in the DRC as well as with coordinating development efforts in the region that would bring much attention and awareness to the conflict and his mandate given the unorthodox nature of his appointment.

Ultimately, any of the three candidates or individuals fitting their models would function as a special envoy to the Great Lakes and DRC. However, considering the expertise in the region, the ability to coordinate a multifaceted foreign policy program as well as the attention such an envoy would bring to the conflict and the political capital the publicity would generate, we recommend Tony Gambino or a candidate of like expertise and experience to be appointed by the President as Special Envoy to the Great Lakes and the Democratic Republic of the Congo.

CONCLUSION

This task force believes a special envoy to the DRC and GLR is a necessary component of any comprehensive policy aimed at capacity building in the region. The breadth of US agencies at play requires that they be coordinated to work in concert in order to successfully implement US foreign policy. An envoy is also needed to assist both the DRC national oversight mechanism and regional oversight mechanism as requested in the framework signed in late February. Beyond this, we believe the

President should appoint the special envoy and be directly involved in issuing its mandate. Although presidential envoys are uncommon, doing so will demonstrate US commitment to peace and stability in the region while also satisfying several congressional laws, as listed above. The envoy should have an expert staff of 10 to 15 including officers from the State Department as well as other involved entities.

POLICY RECOMMENDATIONS

- The United States should appoint a Special Envoy for the Great Lakes Region of Eastern Africa, specifically focusing on the continuing conflict in the Kivu region of the Democratic Republic of the Congo.
- This envoy should work directly with the President and have a mandate from his office.
- The envoy should be staffed with 10 to 15 assistants, including Foreign Service officers experienced in the region.

CHAPTER 2: NEXT STEPS IN REGIONAL DIPLOMACY

By Orion Donovan-Smith

BACKGROUND

The current crisis in the DRC is owed in large part to the involvement of neighboring states, which have long influenced the political, economic and security situation in the country through both direct military intervention and the support of proxies inside the DRC. Any comprehensive stabilization effort will thus require the good-faith participation of other states in the region. The roots of the present conflict lie in the arrival in 1994 of an estimated 1.2 million Rwandan refugees as a result of that country's civil war and genocide in what was then eastern Zaire.⁴⁶ This sudden influx of Rwandan refugees into Zaire, triggered by the victory of the rebel Rwandan Patriotic Front (RPF) and its ascension to power in Rwanda, precipitated not only a humanitarian crisis but also diplomatic and security crises between the government of Zairian dictator Mobutu Sese Seko and the new Rwandan government. This was due chiefly to the presence among the refugees of members of the deposed Rwandan government, with which Mobutu had maintained an alliance, as well as the Rwandan military, Forces Armées Rwandaises (FAR) and the Interahamwe militias largely responsible for the genocide.⁴⁷

From their bases in the refugee camps, FAR and Interahamwe troops threatened the new Rwandan regime, which chose to launch an invasion of Zaire to combat the *génocidaires* and depose Mobutu. Rwanda assembled an alliance including Uganda, Burundi, and later Angola to support an ostensibly domestic Zairian rebel group (the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL)), which Kigali organized.⁴⁸ The allied forces moved westward through Zaire, toward Kinshasa and in pursuit of FAR and Interahamwe fighters as well as Hutu civilians, against whom they reportedly committed systematic massacres, although they were not the only group implicated in retributive attacks against civilians. The invasion of the mostly-Tutsi alliance complicated existing ethnic tensions in Zaire, notably those involving the Congolese Tutsi Banyamulenge community.⁴⁹

In May 1997, after roughly six months of fighting, the AFDL took control of Kinshasa, and their leader, Laurent-Désiré Kabila—a man hand-picked by Rwanda—claimed the presidency of the country which he renamed the Democratic Republic of the Congo. In July 1998, barely a year after taking office, worsening relations with Rwanda caused Kabila to dismiss his army chief of staff, Rwandan General James Kabarebe, and ordered all Rwandan troops out of the DRC. This prompted a mutiny of Tutsi soldiers that was backed by Rwanda, Uganda and Burundi, as the DRC's three eastern neighbors once again fought to replace the Congolese government. Kabila, however, received support from the armies of Zimbabwe, Sudan, Namibia, Angola and Chad, and retained power in Kinshasa.⁵⁰

Still, fighting in the DRC continued, while the goals of the aggressors shifted from nominal control of the DRC to control of the country's vast natural resources.⁵¹ Rather than vie for the control or favor of a Congolese government with severely limited control of its territory, the DRC's neighbors chose simply to ignore its sovereignty in pursuing their own goals. The many belligerents have also ignored international humanitarian law, committing atrocious human rights abuses and further stunting the development of the DRC.⁵² Troops from Rwanda, Angola, Zimbabwe and Namibia did not withdraw until 2002, in accordance with the Pretoria Accord,⁵³ and Ugandan troops withdrew only in 2003 after signing the Luanda Agreement.⁵⁴

The DRC, then, is no stranger to foreign intervention. The country's history has been so incessantly marred with violence that delineating discrete wars or conflicts is nearly impossible, and of questionable utility. Since 1994 the eastern part of the country has been uniquely volatile, and the interests of the DRC's neighbors continue to contribute to the humanitarian and security crisis, even with their official military involvement over. A sufficiently comprehensive diplomatic solution to that crisis will require the sincere cooperation of the states sharing the DRC's eastern border, namely Rwanda and Uganda.

THE CURRENT SITUATION

ALLEGATIONS OF RWANDAN AND UGANDAN SUPPORT FOR M23

The governments of Uganda and Rwanda figure prominently in the present crisis with repeated allegations by the United Nations Group of Experts on the DRC (GoE) of material, logistical and direct military support from both governments to M23. The most recent full report from the GoE⁵⁵ was sent to the UN Security Council on November 12, 2012, and alleges that “Units of the Ugandan People’s Defence Forces and the Rwandan Defence Forces jointly supported M23 in a series of attacks in July 2012 to take over the major towns of Rutshuru territory and the Congolese armed forces base of Rumangabo.” The report goes on to implicate both Rwanda and Uganda in supporting the creation and expansion of the political branch of M23, as well as allowing sanctioned leaders of M23 and its allies to visit and even maintain homes in Rwanda and Uganda. This support allegedly comes in addition to “weapons deliveries, technical assistance, joint planning, political advice and facilitation of external relations.” Human Rights Watch has independently corroborated many of the allegations made by the GoE.⁵⁶

Just eight days after the GoE submitted their year-end report to the UN Security Council, M23 forces took over the strategic town of Goma, located on the Rwandan border and at the northern tip of Lake Kivu. The GoE subsequently sent a letter to the UN Security Council reporting that several companies of Rwandan Defense Force (RDF) brigades as well as an RDF Special Forces unit crossed the border to reinforce M23 troops in their push toward Goma.⁵⁷ The letter further alleges that additional RDF troops crossed the border to fight alongside M23 troops in Goma, and that both Rwanda and Uganda provided equipment to M23 fighters before the offensive that ended in the capture of Goma. The equipment reportedly included new uniforms for M23 soldiers, which resembled the uniforms worn by the RDF and were intended to cause confusion during joint RDF-M23 operations. A final, significant claim made in the letter is that M23 Colonel Sultani Makenga and RDF General Emmanuel Ruvusha jointly commanded the operation from Goma, while three other RDF generals planned the strategy of the attack from Kigali.

Rwanda and Uganda have summarily denied all of the charges made by the GoE and Human Rights Watch. The government of Rwanda released a 131-page response to the allegations first made in the GoE's June 27, 2012 addendum to its interim report, questioning the Group's methodology and accusing its members of bias and "retrofit[ting]" evidence "to suit a predetermined narrative." The following is an excerpt from that response:

For example, the addendum builds an elaborate story of alleged RDF-backed troop movements that hinge on the testimony of anonymous FARDC soldiers who recall sighting particular boot tracks. This kind of allegations places the Government of Rwanda in something of a logical blind: it is impossible to prove affirmatively the absence of boot tracks. Such claims permeate throughout the addendum – accusations that are as impossible to definitively disprove as they are to verify – and this is the report's fundamental weakness.⁵⁸

The Group subsequently met with the Rwandan government to discuss the Rwandan response, but declared in its November 12th report that it "found no substantive element of its previous findings that it wishes to alter." Some outside of Rwanda have called the Group's methodology into question as well. Dr. Phil Clark of the University of London, in his written evidence to the International Development Select Committee of the UK House of Commons, noted that the GoE spent "only several days" conducting research in Rwanda, with most of their evidence coming from testimony obtained in the DRC, which "constrained their ability to draw robust conclusions about the precise nature of Rwanda's alleged support for M23." He pointed to the GoE's claim that Rwanda had trained M23 troops at the Kanombe army barracks in Kigali, which "comprise only a military hospital and a cemetery," and suggested that this error was indicative of a lack of rigor in the GoE's investigation.⁵⁹

Despite these criticisms, the GoE's allegations have been widely accepted by Rwanda's bilateral and multilateral donor partners and international NGOs, which have called for the immediate cessation of Rwandan and Ugandan support for M23. In his testimony before the House Subcommittee on Africa, Global Health and Human Rights, US Assistant Secretary of State for African Affairs Johnnie Carson stated:

There is a credible body of evidence that corroborates key findings of the Group of Experts' reports – including evidence of significant military and logistical support, as well as operational and political guidance, from the Rwandan government to the M23. The British government has recently indicated that it shares this assessment. We do not have a similar body of evidence that Uganda has a government-wide policy of support to the M23.⁶⁰

The government of Uganda has not issued a full response as Rwanda did, but has flatly denied involvement and threatened to withdraw its troops from the AU peacekeeping mission in Somalia (AMISOM)—where it contributes roughly one third of all peacekeeping forces—in response to the allegations.⁶¹ Perhaps as a result, Uganda has received relatively little attention for its alleged role in the violence in the Congo.

RWANDAN AND UGANDAN INTERESTS IN THE EASTERN DRC

The involvement of Rwanda and Uganda in the eastern DRC is often attributed to a single causal factor, such as profit from mineral extraction in the resource-rich area or solidarity with minority ethnic groups living in the region. The reality is difficult to discern, as both governments remain fairly opaque about their goals in the Congo, but it is clear that a combination of interests drives their involvement.

There is wide consensus that the Rwandan regime, composed mostly of ethnic Tutsi, has an interest in ensuring the safety of Tutsi populations in the Congo; including those displaced from Rwanda and those who have lived in the DRC for many generations but whose security and citizenship have been threatened on ethnic grounds.⁶² While this ethnic solidarity alone cannot fully explain Rwandan involvement, anti-Tutsi sentiment in the DRC is indeed widespread and has resulted in the displacement and death of many Congolese Tutsi, who are often conflated with the government of Rwanda and suspected of being Rwandan proxies, including massacres of Tutsi Armed Forces of the Democratic Republic of Congo (FARDC) troops by their fellow soldiers.⁶³ Rwanda and Uganda, as well as Burundi to the south, also share national security concerns due to armed groups based in the eastern DRC and opposed to their respective governments. Despite indications that the Hutu-majority FDLR—most of whose members are too young to have participated in the 1994 genocide—pose a limited threat to the Rwandan government, Kigali still expresses concern about their activity in the eastern DRC.⁶⁴

Uganda has similar interests in the eastern Congo, although they seem to be linked less to ethnicity than simply to economic and national security concerns. The Allied Democratic Forces-National Army for the Liberation of Uganda (ADF-NALU) and the Lord's Resistance Army (LRA), two armed groups opposing the Ugandan government from bases in the DRC, have been targeted by the Uganda People's Defense Force (UPDF).⁶⁵ The United States has assisted in training UPDF troops, particularly to eliminate LRA forces, whose human rights abuses have drawn the singular attention of American activists.

Despite cooperation between Rwanda and Uganda and good relations between their presidents—who share a longstanding personal relationship and common history as leaders of rebel movements that came to power through civil wars—the two countries' interests have not always aligned in the DRC. Their record of relatively unified action was tarnished in 2000, when their armies fought for control of the Congolese city of Kisangani, resulting in substantial civilian casualties.⁶⁶ Multiple factors likely contributed to this turn of events, but one stands out: access to mineral wealth.

Perhaps the most lasting interests of the DRC's eastern neighbors are economic. After years of formal military operations in the DRC, Rwanda and Uganda developed business connections in the resource-rich east of the country, chiefly in the mineral industry. Today, re-exportation of Congolese minerals constitutes a significant part of the economies of those countries. This is evident from vast inconsistencies in production and export statistics. While exporting minerals from the DRC to Rwanda and Uganda for processing is not itself destructive, these transactions are currently made illicitly and without generating significant revenue for the DRC's government, instead benefiting local stakeholders who support armed groups to protect their interests.

The key observation here is that the eastern DRC is economically (and to some extent politically) integrated with Rwanda and Uganda. Those neighboring countries have rational economic and security interests in maintaining the *status quo*, as do some local Congolese elites. Until incentives change (that is, until restoring order to the area would benefit those local and regional stakeholders) diplomatic pressure is unlikely to lead to substantive change.

THE ROLE OF THE CONGOLESE STATE

With the recent increase in attention on the responsibility of Rwanda and Uganda for the current crisis, Kinshasa's contribution to the lamentable situation in the eastern DRC risks taking a back seat, but the role of the dysfunctional Congolese state should not be ignored. Its weakness and lack of accountability to its citizens legitimizes the belief that armed force is the best way to secure property and protect personal freedom. Until the state is strengthened and reformed to address these key weaknesses, it will only contribute to the current crisis.

The centralization of authority in the DRC government is another factor that deserves further attention. It is important, as Congolese academic Patience Kabamba cautions, not "to conflate the absence of government [in the eastern DRC] with the absence of governance."⁶⁷ Local elites in the east, without codified opportunities to exert their influence via sufficiently empowered local political institutions, have established governance structures and supported armed groups in order to protect their political and economic interests.⁶⁸ For these local elites, the unification of the DRC represents a direct threat to their authority, and their exclusion from the government has led them to circumvent and further weaken the state. Political reform is necessary to include these multiple sub-state actors in the Congolese state, and reduce incentives for supporting armed groups.

US RELATIONS WITH RWANDA

The US-Rwanda relationship in the nearly 20 years since the genocide has been characterized by a desire on the part of the United States to right the perceived wrongs done by the lack of intervention in 1994. Recent years have seen Rwanda emerge as a unique success story of African development. The US provides Rwanda with roughly \$200 million each year in foreign aid, most of which is used in public health initiatives funded by the State Department and USAID.⁶⁹ The structure of the parallel American foreign aid delivery pathways means that the money given to Rwanda is largely non-fungible. Importantly, the US provides only about \$200,000 to Rwanda in annual Foreign Military Financing,⁷⁰ which is currently suspended for mostly symbolic purposes.

Rwandan president Paul Kagame has also made a network of friends in very high places among Western nations, including former President Bill Clinton, former British Prime Minister Tony Blair,⁷¹ numerous prominent American religious leaders, and a cadre of business leaders whose investments have contributed to Rwanda's remarkable economic growth.⁷² These relations with private individuals and organizations also help to ensure that Rwanda has vocal and influential supporters outside of government in the US

Rwanda's participation in multilateral organizations is also significant. The country contributes a substantial number of troops to the African Union/United Nations Hybrid operation in Darfur (UNAMID),⁷³ and its military (widely thought to be one of the most capable in Africa) has been trained by US Special Forces. Beginning on January 13, 2013, Rwanda is also a member of the UN Security Council for a two-year term, a position that will likely give the government important leverage on matters related to its involvement in the DRC.⁷⁴

Importantly, however, the United States' rhetoric toward Rwanda has recently sharpened, with Stephen Rapp, head of the State Department's Office of Global Criminal Justice, recently warning President Kagame and other Rwandan officials that they could be subject to indictment by the International Criminal Court (ICC) for their involvement in atrocities committed in the DRC.⁷⁵ President Obama also emphasized to President Kagame, in a December 18, 2012 phone call, that any support to M23 "is inconsistent with Rwanda's desire for stability and peace."⁷⁶ Still, the relative vitality of US-Rwandan relations, and the reluctance of the US to publicly censure Rwanda, suggests that further suspension of aid or sanctions are unlikely.

DIPLOMATIC OPTIONS

THE CURRENT PEACE PROCESS

The crisis in the eastern DRC prompted a revival of the UN-led peace process, which took a major step forward with the recent signing on February 24th of an agreement titled "the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region."⁷⁷ The office of the UN Secretary-General Ban Ki-

moon oversaw the formulation of the agreement, whose signatories include the DRC, Rwanda, Uganda, and eight other regional states.⁷⁸ The terms of the agreement are broad enough, and its language sufficiently vague, to leave room for real reform and progress in improving the situation in the eastern DRC. But without a vigorous, sustained effort from the signatory states and the donor community, including the United States, the current peace process is likely to become mired in the same problems that have characterized efforts in the decade since the Second Congo War officially ended in 2003.

The Framework Agreement lays out plans for reform in two main areas: regional cooperation and institutional reform within the DRC. Both of these areas of reform are vital, but without meaningful oversight, it is unlikely that substantial progress will be made. The agreement stipulates oversight mechanisms for the two areas of reform with a common flaw: both mechanisms are to be primarily managed by those whom they monitor. Institutional reform within the DRC is to be overseen by the government of the DRC itself, with the unspecified support of the UN, the AU, and other donor partners. Oversight of efforts to improve regional cooperation, meanwhile, is to be managed by the regional states, with similarly ill-defined “support.” These dual oversight mechanisms must be made meaningfully robust with the active, coordinated involvement of the donor community. The assembly of a donor conference could help to ensure coordinated action and the vitality of the oversight mechanisms.

Perhaps the most glaring problem in the agreement is its conspicuous exclusion of Congolese civil society groups as well as the armed groups, most notably M23, whose actions apparently prompted its drafting. At the time of the agreement’s signing, separate talks were ongoing in Kampala between representatives of M23 and the DRC government, with little progress being made.⁷⁹ Without the involvement of those relevant non-state parties, the agreement leaves the resolution of this so-far intractable conflict to the same three central governments, which have long vied for influence in the eastern DRC, none of which effectively represents the interests of local stakeholders. If the peace process is to succeed, those stakeholders must be brought to the table and given a means to air their grievances and have their needs met through the established

framework. If they continue to be left out of the peace process, they will have little reason to support it and could instead help to ensure its failure.

NEXT STEPS

In the wake of the UN GoE's allegations against Rwanda and Uganda, several of Rwanda's major donors have suspended foreign aid. The US decision to suspend roughly \$200,000 of Foreign Military Financing was symbolically significant, if not fiscally so, and the EU, UK, Germany, Sweden, Belgium and the Netherlands withheld enough to cause a roughly \$98 million shortfall in Rwanda's budget,⁸⁰ certainly enough to pressure the country to act.

Yet the donor community's collective diplomatic effort has not been coordinated, and the public diplomacy of the US has been problematic. Pressure on Rwanda to cease support to M23 has yielded little, in part because Rwanda so staunchly denies the accusation on which the pressure has focused. The surreptitious nature of Rwanda's alleged support for M23 makes compliance with demands to cease support difficult to measure. The threat of suspending humanitarian and development aid to Rwanda is also an unfavorable option, as doing so would cripple vital programs while exerting, at best, indirect pressure on the Rwandan government. Expanding sanctions currently imposed upon M23 officials to target Rwandan officials linked to M23 could pressure the Rwandan government without direct effects on humanitarian and development efforts, but would risk damaging diplomatic ties between the US and Rwanda.

Diplomatic efforts toward Rwanda could be more effective if the interlocutors agreed on a set of facts. Rwanda's eagerness to disprove the allegations of support for M23 should not be ignored. Rwanda has repeatedly endorsed the implementation of a Joint Verification Mechanism (JVM),⁸¹ a multilateral effort envisaged by the ICGLR to monitor the DRC-Rwanda border, which has been implemented to a limited extent.⁸² However, the JVM's usefulness is undermined by covering only the DRC-Rwanda border (and not the similarly suspect DRC-Uganda border) and by its largely Rwandan and Ugandan leadership and staff. The presence of Rwandan forces along the border would certainly do little to dissuade the crossing of Rwandan soldiers, as has been alleged, and would therefore do little to quiet Rwanda's detractors. If Rwanda and Uganda are

committed to exculpating themselves, they should support the implementation of a rigorous JVM to cover both of their borders with the DRC. This would require the involvement of other regional states, and could be part of the regional oversight mechanism outlined in the Framework Agreement.

Uganda, it is important to note, has received relatively little reprimand despite its implication in supporting M23. Its contribution of roughly one third of peacekeeping troops to the high-priority AMISOM mission, and threat to withdraw those troops in response to the GoE's allegations, is likely a major factor in that lack of attention.

The thorough implementation of the Framework Agreement, with the active and ongoing involvement of a coordinated donor community, can provide hope for the beginning of a viable process of peacemaking and stabilization that would benefit all states and non-state groups in the region. A feasible peace process must enfranchise all relevant stakeholders, with appropriate incentives to encourage their cooperation in the process, and must have robust oversight mechanisms. A high-level US envoy, as discussed in the previous chapter, can play a major role in encouraging progress in this direction. The dual oversight mechanisms, made accountable to the interests of all relevant stakeholders, should implement reforms in two key areas:

DECENTRALIZATION OF THE CONGOLESE GOVERNMENT

The institutional reforms made in accordance with the Framework Agreement should consider the political and economic realities in the eastern Congo, and be carried out in consultation with civil society and local stakeholders in order to include local elites in the government, while empowering institutions of local and provincial government to allow those stakeholders to retain their respective shares of power without the use of non-state armed groups. Any current stakeholder not given a means of exerting influence in a formalized role in government would logically seek power by other means, subverting the government at a local level and impeding desired reforms.

INCORPORATION OF ARMED GROUPS INTO DRC GOVERNMENT AND MILITARY

Whatever their underlying motives, armed groups such as M23 (many of which have political wings) frequently cite governmental corruption in justifying their existence and activities. Officials in these groups with political aspirations, except those facing international indictment or arrest warrants for war crimes, should be incorporated into appropriate government institutions and be allowed to prove whether their gripes are primarily political or economic.

An important exception is the FDLR, which should be eliminated by an effort of a reformed and disciplined Congolese military, with the assistance of the intervention brigade proposed in the Framework Agreement when and if it is mobilized. The defeat of the FDLR would remove one of Rwanda's ostensible reasons for intervention in the eastern DRC, and could further reduce violence committed by armed groups against civilians, of which the FDLR is a major perpetrator.

The military wings of these groups should also be folded into the FARDC, but only after (or in conjunction with) necessary security sector reforms

POLICY RECOMMENDATIONS

- Assemble a conference of donors to the GLR to coordinate diplomatic pressure to encourage institutional reforms in the DRC and increased regional cooperation.
- Encourage the rigorous implementation of a JVM, as envisaged by the ICGLR and expanded to include monitoring of the DRC's borders with Uganda and Rwanda. The JVM should be overseen and staffed by representatives of all signatory states to the Framework Agreement, with additional oversight from a US envoy.
- Strengthen the dual oversight mechanisms proposed in the Framework Agreement by ensuring the coordinated involvement of the donor community and the participation of Congolese civil society and other relevant stakeholders. The mechanisms should focus on reform in three areas: decentralization of the government, economic reforms and inclusion of non-state actors in the FARDC.

CHAPTER 3: Non-State Actors and Ethnic Conflict

By Tyler Brenton

MOTIVATIONS OF NON-STATE ACTORS AND UNDERLYING CAUSES OF ETHNIC TENSIONS

The constant upheaval in the Kivus region is more complicated than simple race rivalries between different populations. There are numerous underlying factors that go into the creation and mobilization of rebel groups, community militias, and other non-state actors. Three of the most identifiable underlying causes are the historical exploitation of ethnic tensions for political gains, the role of nationality, and land disputes.

Ethnic conflict in the Democratic Republic of the Congo intensified heavily over the last fifty years, but it is important to acknowledge the role the Belgian colonial state played from 1908 to 1960. The colonial state drew arbitrary geopolitical borders, imported labor, and relabeled communities by indiscriminate geographic and ethnic lines. All of these acts catalyzed the ethnic tensions that plague the DRC today. Belgian authorities divided the nation into eleven ethnically heterogeneous kingdoms, largely ignoring the importance of tribal governance.⁸³ Colonial leaders also imported neighboring Rwandans to work on plantations because they preferred to have foreign laborers. Many of these Rwandans stayed and built families in DRC. The Kivus provinces of the DRC had a lower population density than the bordering areas of Rwanda; higher rates of land availability attracted economic migrants from these areas in addition to the imported labor.⁸⁴ Today in North Kivu indigenous groups such as Bahunde and Banyanga comprise about five percent of the population each, while Rwandaphones⁸⁵ make up account for about forty percent.⁸⁶ Belgian administrators also created the term 'Ngala' used to distinguish people who lived along the Congo River and in doing so created an arbitrary geo-ethnic boundary.⁸⁷ Creating these boundaries between different segments of the population in DRC destroyed unity between different communities. This combination of increased foreign populations and racial categorization marked the beginning of modern race tensions in the DRC. It was not until the Mobutu regime, when

ethnic differences were mobilized as a means of gaining political support, that tensions began to boil over.

Early in his administration Mobutu made a politically calculated move to empower the local Banyamulenge and Tutsi minorities because the groups were too small to threaten his rule. In 1972 Mobutu's director of the Bureau de la Presidence, a Tutsi, took advantage of his power to make pro-Rwandaphone reforms and extended citizenship to all people residing in former Zaire before 1960 through a series of measures.⁸⁸ Nine years later, as the tides began to turn against Rwandaphones, Mobutu's parliament amended the law stating that only people who can trace their Congolese blood relationship back to 1885 would be awarded citizenship.⁸⁹ By the time this law was passed in 1981, Rwandaphones held fewer positions in the national government and wielded less political power.⁹⁰ This new citizenship law created a great deal of instability for tens of thousands of Rwandaphone people, some of whom had been living in the DRC for generations. These changes reinforced the notion that Congolese Rwandaphones, such as Tutsis, Hutus, and Banyamulenge were more foreign than they were Congolese, widening the rift between "indigenous" and Rwandaphone peoples.⁹¹ Since this time, ethnic conflict in the eastern DRC has been tied to the struggle over Banyamulenge, Tutsi, and Hutu citizenship.⁹² The current Congolese citizenship law was passed by the transitional government in 2004, and reintroduces the 1960 date as the benchmark. Sadly the vaguely written document has done little to address the ethnic concerns, and the weak Congolese state seems unwilling and unable to do so.⁹³

While ultimately their citizenship was taken away, Banyamulenge and Tutsi populations came to dominate political and economic life in the Kivus under Mobutu. In 1973, the Zairian government legally changed from a customary to a statutory land ownership system.⁹⁴ Formerly all land had been communally held and local chiefs ascribed usage rights. The new land law technically nationalized all land and took control from tribal chiefs. Most of the land considered to be "vacant," some 27 million hectares, which had been commonly held land and used by peasants for farming and grazing, was quickly sold to local elites.⁹⁵ Additionally the 1973 land law, because it was

poorly written and vague, created a system of legal pluralism where many people make claim to the same land under the former customary system and the new legal system. These dual claims have led to violent disputes over true land ownership and the weak Congolese state has not been able to adequately enforce statutory controls.

Local tribal leaders were reduced to administrators and banned from benefitting from land sales, but many used their remaining influence to act as middlemen in land sales. State administrators had to declare land vacant in order to sell it, often kicking families off plots where they lived and farmed.⁹⁶ In some cases the families would not even know the land they lived on had been sold until they were removed.⁹⁷ Banyamulenge and Tutsi communities began acquiring a disproportionate share of the available land because of their ties to state authority at the time, their ease with writing and the legal system, and their personal wealth accrued under the Mobutu regime.⁹⁸ In the North Kivu area of Masisi and Rutshuru, Banyamulenge acquired more than 90 percent of the plantation land; 512 families owned 58 percent of the total land, and 503 of them were of Rwandan descent.⁹⁹ In South Kivu the Banyamulenge developed a successful mining industry.¹⁰⁰ These Rwandophone populations were in political power at the right time to capitalize economically. The new land system created scarcity and economic stratification.

Politicians would then use the disproportionate power held by Rwandaphones as a base for rallying ethnic strife. In 1993 politicians were faced with the first multi-party elections since the sixties. They responded by mobilizing support through the manipulation of ethnic tensions over the issues of land rights and nationality.¹⁰¹ Tutsis and Banyamulenge became the scapegoats of the nation's problems, in particular they were blamed for the struggling economy, and leaders promised change. In 1998 President Kabila would orchestrate an anti-Tutsi, anti-Rwandan campaign to mobilize support on ethnic and nationalistic terms.¹⁰² Kabila's propaganda helped him to cement legitimacy in Kinshasa. The Congolese state would soon learn that kin solidarities are easily turned into instruments of violence and communal militias, incited by the political rhetoric battled for influence in the Kivus.¹⁰³

Much of the political rhetoric aimed at Rwandaphone populations centered on the term “autochthony,”¹⁰⁴ a word that had larger political implications. Autochthony is a way of distinguishing rights, character traits, and political allegiances between different people based on their heritage. The idea of autochthony resonates heavily with many Congolese who have a nativist worldview and has been successfully used to mobilize support against non-indigenous populations. This nativist hatred for non-indigenous people, in particular Tutsis, has led to the depiction of their ethnicity as furtive like a contagion or vermin.¹⁰⁵ The local vernacular has woven their distrust of Rwandaphones into the language with the term autochthony.

These issues all contribute directly to the formation of ethnically charged non-state militias and rebel groups. In order to combat the political mobilization of ethnic tensions it is important for the Congolese government to ensure the representation of minority groups, to encourage the formation of multi-ethnic political parties, and to ban hate speech. In order to move past these ethnic issues parties must be able to be formed on issues that cut across ethnic lines.¹⁰⁶ To ensure this inclusion the government should establish a system of Congolese citizenship that cannot be deprived based on ethnicity. Political representation is incredibly important to the future of the DRC, but the biggest factor is the issue of land rights. Tutsis and Banyamulenge must be willing to exchange land reform that would cost some of their property in return for guaranteed government representation. It is also imperative for the Congolese to create an impartial organization that is capable of handling land disputes. Currently the Congolese government relies on local conciliation committees, but they have had mixed results thus far and are unable to reform the broken system. The issue of land rights is one of the major motivating factors behind local ethnic tensions. An impartial body to mediate local land disputes is a critical component to reducing sectarian violence. While the presence of large non-state militias may gain the majority of international attention, the real concern for the DRC should be the structural issues that led to the arrival of these groups.

NON-STATE ACTORS

This section will introduce the main non-state actors in the region that are responsible for the bloodshed: M23, FDLR, and the numerous Mai Mai groups. While these groups may be the most powerful and notorious in the region it is important to remember that these few represent only a small fraction of the tens of militias that currently operate in the DRC, a nation plagued by constant violence as different actors vie to fill the vacuum of power left by the weak Congolese state. Disarming these actors one by one will do little good, due to the environment in the Kivu provinces; other groups will quickly pop up in their place. As recently as summer 2010, Jason Stearns identified twenty militias that were operating in the DRC, and the number has grown since then.¹⁰⁷ To effectively combat non-state militias, changes need to be made to address the broken political system and failing state, in addition to any military campaign.

M23

The most powerful actor in the eastern Congo today is M23, a rebel group formed on April 4th 2012. The group was initially formed when former CNDP soldiers, who had been integrated into the FARDC as a part of the March 23rd 2009 peace agreement, defected citing poor conditions and the Congolese government's refusal to adhere to the aforementioned agreement from which they take their name.¹⁰⁸ Initially ex-CNDP General Bosco Ntaganda led the defection but power has since transferred to Sultani Makenga.¹⁰⁹ The real motivations behind the defection are a mixture General Ntaganda's outrage when the FARDC decided they would try to turn him in to the ICC on war crime charges, and Congolese President Joseph Kabila's decision to relocate ex-CNDP troops from the Kivu provinces to other parts of the DRC.¹¹⁰ Over the last ten months the group has grown in power and influence. It is widely believed that the rebels are heavily supported by the Rwandan and Ugandan governments.¹¹¹ M23 maintains strong connections to the former CNDP movement; the new rebellion has remobilized cells across the country and half of the former CNDP leadership has since defected.¹¹² Since their formation M23 has gained a strong foothold in the eastern Congo and now controls most of the area.

Today Sultani Makenga, another former CNDP leader, leads M23's military and Jean Marie Runiga leads the group's political branch.¹¹³ As the group has conquered more and more territory they have developed a more complex and involved political party. To administer these areas M23 has formed a parallel government in the eastern Congo complete with a minister of the interior, minister of foreign affairs, minister of agriculture, and a minister of youth and education, among others.¹¹⁴ Simultaneously the group's political platform has evolved as well. The group was initially formed to protest the Congolese government's refusal to implement the 2009 peace agreement and protect Tutsi communities, a task General Laurent Nkunda said the FARDC refused.¹¹⁵ M23 now demands equal rights and safety for Tutsis and Banyamulenge, the removal of President Kabila who they claim was elected fraudulently, and semi-autonomous Kivu provinces.¹¹⁶ In reality, the M23's actions are primarily aimed at the destabilization of the Congolese state, and the protection of high-ranking officials' business interests.¹¹⁷

In accordance with their goal to destabilize Kinshasa, M23 has allied themselves with any group fighting against the FARDC, regardless of any ideological difference, including Raia Mutomboki, Sheka's militia, Forces de défense congolaise, Bede Rusagera, Mbusa Myamerisi, and some other Mai Mai militias.¹¹⁸ Still, M23's most powerful allies are not militias but the neighboring states of Rwanda and Uganda. Although both Rwanda and Uganda steadfastly deny their support of M23, the international consensus is that both states have been providing arms, soldiers, intelligence and political support with impunity.¹¹⁹ Paul Kagame and Yoweri Museveni, the presidents of Rwanda and Uganda respectively, have both stated that M23 has legitimate grievances.¹²⁰

According to the United Nations' November GoE report, Rwandan and Ugandan forces have supported M23 attacks throughout eastern Congo on the towns of Bunagana, Kiwanja, and Rumangabo. Typically these foreign forces are stripped of their ID's and told to claim they are Congolese if caught, but there have been cases of local leaders and MONUSCO forces encountering Rwandan and Ugandan forces wearing their national government's uniforms. In particular, the Rwandan 305th brigade has a permanent presence as a part of M23 military operations. Additionally the RPF¹²¹ has

been providing M23 with 12.1 and 60mm machine guns, 91 and 120mm mortars, and anti-tank and anti-aircraft launchers.¹²² Perhaps most significantly the Rwandan government has heavily recruited Rwandan citizens into M23 service.¹²³ In some cases Rwanda is believed to have forcefully re-armed former soldiers from the Mobutu demobilization camp.¹²⁴

M23's leaders continuously travel back and forth across the Rwandan border. Many Rwandan political and military leaders including Rwandan Secretary of Defense General James Kabarebe are included in the M23 chain of command.¹²⁵ These powerful political foreign political leaders heavily influence the M23's direction. Many speculate the battle between M23 and FARDC in eastern Congo is a proxy war for Rwanda. The estimated 70,000 FARDC forces would likely crush the 1,500 M23 troops without Rwandan support.¹²⁶ Rand Security Research adds it would have been impossible for the small M23 army to expand their influence over an area the size of Belgium over the course of one week without Rwandan assistance.¹²⁷

The Ugandan state has provided similar assistance, in so far as they have provided arms, soldiers and intelligence but they have taken a less active role in the rebellion. According to the UN GoE Committee's November publication, Ugandan officials have taken more of a hands-off approach whereby they allow local officials who have personal ties to the M23 to lend support.¹²⁸ That being said, these officials are very active in their support of M23 and the group does have ties in Kampala. The Ugandan army is involved in recruiting heavily for M23, and has even been known to return defectors back across the border. One example of Ugandan intervention was the shelling of border town Bunagana by Ugandan forces during a July offensive.¹²⁹

M23's struggle with the Congolese government is as much a battle of public opinion as it is a military battle. Most reports paint the M23 as more organized and disciplined than the government's FARDC forces. According to one colonel, who preferred to remain anonymous, M23 forces are provided with two meals a day, access to medicine, and clean uniforms. These resources allow M23 to avoid preying on local populations for food and other goods. Sadly, this is not the case with the FARDC, which has quickly gained a reputation for rape and looting throughout the Kivus. M23 forces

are prohibited from drinking and are always clad in cleanly laundered uniforms in order to present an aura of professionalism.¹³⁰ While M23 does trump the FARDC in presentation, the group has elicited allegations of coercing locals into cooperation, and the use of child soldiers, and a UN GoE Report cites numerous human rights abuses, so it remains unclear if M23 is winning the battle of public opinion.

These abuses may be one reason why M23 currently does not hold broad support in the Kivus. Currently the M23's domestic support is essentially only Tutsi, but the group is striving to become more representative of all Rwandaphone populations, similar to the way that the CNDP incorporated Banyamulenge and Hutu populations, but thus far attempts to ally with these demographics have been met with resistance.¹³¹ The allegiance of all Rwandaphone peoples would be a boon to the legitimacy of the M23, who currently garner very narrow demographic support. Aside from the ethnic tensions between Hutus and Tutsis, an alliance may be particularly difficult because in 2006 Hutu Governor Eugene Serfuli from North Kivu defected from the CNDP, taking most of the Hutu support with him.¹³² On the other hand, recent Mai Mai attacks on Banyamulenge towns may encourage an alliance with M23 for protection. Many locals share reservations about supporting M23; popular reasons include disenfranchisement from all political organizations after decades of corruption, and the refusal to support a group they see as a puppet of the Rwandan state.¹³³ The perception of M23 as a Rwandan puppet is especially important because there are tensions between the RPF and Congolese Tutsis; not all Tutsis are supportive of Rwandan military interventions in the DRC, and the ties between M23 and the RPF are deep.¹³⁴

Rwanda seeks to protect its considerable business interests in the region and to continue to make fortunes mining the Kivus numerous mineral deposits.¹³⁵ For decades Congolese Tutsis have been a minority group with extra influence in eastern Congo. The Rwandan supported Rally for Congolese Democracy (RCD) controlled the region during the late 1990s and early 2000s following the installation of Laurent Kabila as president. Tutsis were able to amass valuable land because of political influence under the RCD. Tutsis dominated economic and political life in the Kivu provinces during the Mobutu regime and benefitted heavily from the commercialization of land in 1973.¹³⁶ These

leaders continued to have access to these minerals during their time in the FARDC after integration, but Kabila's decision to deploy ex-CNDP units to different parts of the country threatened that grasp.¹³⁷ There have been cases numerous cases of businesses and mining operations launched by Rwandan funded military groups in order to fund their operations.¹³⁸ The Rwandan state would lose millions of dollars if it weakened its grasp on the eastern DRC.

FDLR

The FDLR is a Hutu militia that was formed out of the remnants of the dissolved Rwandan Interahamwe and FAR armies. The goals of the FDLR are to oust the Tutsi RPF and to gain political representation in Rwanda.¹³⁹ The Rwandan state views the FDLR as the remnants of the armies responsible for the 1994 genocide, and thus is determined to pursue the forces in the DRC and bring them to justice. There have been numerous joint efforts between the FARDC and RPF to combat and disarm the FDLR.¹⁴⁰ Since the early 2000s the power of the FDLR has decreased as their numbers have dwindled.¹⁴¹ The goal of overthrowing the RPF is no longer feasible for the weakened militia. As a result the FDLR has changed their tactics to attacking Congolese citizens in an effort to put international pressure on the Rwandan state to hold talks with the FDLR, an accommodation Rwandan leadership in Kingali has refused.¹⁴²

While the FDLR is one of the more powerful militias currently operating in the Kivus, their power has declined substantially over the last decade. The FDLR launched their last major offensive on Rwanda in 2001; 1,000 FDLR soldiers were killed and hundreds were captured in the attack.¹⁴³ In 2005 the group was estimated to have 10,000 soldiers.¹⁴⁴ The November UN GoE Committee estimates that today there are between 1,500 and 2,000 soldiers in the FDLR, an all time low. After a series of attacks from the Raia Mutomboki, the FDLR was forced to focus on self-protection and retreated further into the forests in North Kivu, abandoning their original headquarters.¹⁴⁵

Despite their decline in military power the FDLR does have four regiments operating in areas where they can still participate in the local economy. Most FDLR funding comes from drug and mineral trade. The militia has a well-established Wolframite¹⁴⁶ trade in the Bujumbura region, and profits off of the sale and taxation of

cannabis in North Kivu. The FDLR is also known to trade cannabis to corrupt FARDC officers for weapons.¹⁴⁷

Rwanda has accused the FARDC of cooperating with the FDLR, but there is little evidence to support this claim, and their continued efforts to bring to justice the FDLR is in actuality, somewhat misguided. While some FDLR leaders did hold high ranking posts in the Interahamwe and FAR,¹⁴⁸ in reality most FDLR soldiers were too young to have been a part of the Rwandan genocide.¹⁴⁹ As long as the Rwandan government continues to take a hard line approach to the FDLR, there will be no peace talks between the two sides and the FDLR will continue to take refuge in the Congo.

MAI MAI GROUPS

Some of the main opposition groups to the FDLR and M23 are the individually operated Mai Mai or Mayi Mayi groups. Most of the Mai Mai groups were formed during the Second Congolese War to protect their communities from the inflow of Interahamwe forces.¹⁵⁰ In the absence of a strong state with the capability to protect its citizens the Mai Mai was tantamount to small community militias tasked with protecting towns.¹⁵¹ These groups are formed almost exclusively of indigenous populations, and one of their clearest objectives is to oppose the inflow of Hutu and Tutsi Rwandaphones.¹⁵² Mai Mai groups are particularly strong in areas with large Bembe and Tembo populations.¹⁵³ Due to their lack of unification, it is impossible to determine a singular set of motives and goals that all of the militias have in common; this problem is compounded by differences in the leaders of these militias. While many Mai Mai groups are led by their local tribal chief, some groups are loyal to opportunistic warlords, who often are more motivated by personal gain than communal safety.¹⁵⁴ In 2011, before the defection of M23, the FARDC designated Mai Mai Yakutumba, Mai Mai Nyahiliba, Raia Mutomboki (a Mai Mai militia), Mai Mai Fujo and Mai Mai Kirikicho among the six most important rebel groups currently operating inside the DRC.¹⁵⁵

Mai Mai Lumumba is currently one of the most powerful militias operating in the Kivus. Paul Sadala, who now goes by “Morgan,” is the Mai Mai Lumumba’s leader. Morgan is a long time poacher and minerals trader, and as such find support of funding their operations through the control of several mining sites in the eastern Congo and

through poaching in the National Wildlife Reserves where the soldiers live. Poaching and mining are common sources of funding for Mai Mai and other militias. On Jason Stearns' Congo Siasa blog, Dan Folley, a political science fellow at Colorado College, described Morgan as, "criminal, sadistic, and driven by self-interest." The Mai Mai Lumumba in particular have become famous for brutality because of their practice of burning victims alive while they make survivors watch. This led to a Morgan's capture by Mai Mai Simba on July 31, 2012. The Mai Mai Simba then ransomed Morgan to the FARDC before he escaped and rejoined his troops.¹⁵⁶

This fighting between different Mai Mai groups is not at all uncommon and is indicative of the overall lack of unity. In 2007 clashes between different militias forced hundreds of civilians to flee their homes throughout the Kivus.¹⁵⁷ That being said there have been attempts to bring different Mai Mai groups together in political organizations. In the last several years there have been several political organizations formed to advance Mai Mai agendas. The Alliance des forces populaires et Patriotiques du Congo (AFPC) brought together seven Mai Mai groups: Mai Mai Vurondo, Mai Mai Kasindien, Mai Mai Shabunda, Mai Mai Mongol, Mai Mai Simba North, Mai Mai Simba South, and Coalition des patriots résistants congolais (PARECO).¹⁵⁸ The Union de Résistance Démocratique Congolais (URDC) brought together elements from fifteen different Mai Mai organizations, but was mainly driven by the Mai Mai Yakutumba. However, even with the formation of these organizations, the goals of each Mai Mai are too disparate and often poorly defined to result in real political representation. These indigenous minorities are poorly represented in the Congolese government, and addressing that injustice is one of the areas all of the Mai Mai groups can agree upon.¹⁵⁹

One factor that led to the reformation of the Mai Mai groups in the late 2000s was the lack of leadership roles for former Mai Mai generals in the FARDC. While there were some Mai Mai groups, such as the Mai Mai Yakutumba, that opted to not integrate many of the Mai Mai militias were folded into the FDLR.¹⁶⁰ Shortly after, many soldiers were disenfranchised by the lack of high-ranking positions for former Mai Mai soldiers; the Mai Mai felt that given the large role they played in the Second Congolese War they should be rewarded.¹⁶¹ On May 4, 2009 many of the Mai Mai groups announced that

they were leaving the FARDC. Ultimately, the final catalyst for their defection was their low representation at the Monitoring Committee in Kinshasa compared to numerous Hutu and Tutsi representatives from the Kivu provinces.¹⁶² The Mai Mai groups felt that they were disrespected and underappreciated by the Congolese government. The summer of 2009 saw an acceleration of the formation of new Mai Mai organizations, all of which primarily focused on combatting ex-CNDP elements integrated into the FARDC.¹⁶³

While the Mai Mai militias are not part of one cohesive entity there are overall trends that most of the groups fall into, one of which is who they target. Largely, the groups were founded to protect communities from outside militias. These communities have played a central role in many of the nation's conflicts; including Mobutu's take-over in the 1960s, Laurent Kabila's take over in the 1990s, and the upheaval in the mid 2000s.¹⁶⁴ During the most recent conflict, the groups have mainly focused their efforts on fighting Rwandaphone militias including the Interahamwe, FDLR, CNDP, RCD, and M23. The Mai Mai groups strongly believe in the idea of "autochthony" or native-ness, and are fighting to remove all Rwandaphones from the lands they view to be theirs.¹⁶⁵ Mai Mai militias have moved from fighting against militias to attacking Rwandaphone villages, and their leaders have even gone so far as to consider the movement of refugees into their areas as a Tutsi land grab.¹⁶⁶ Like most trends with these groups, this does not extend across the board. Some Mai Mai groups have allegedly received arms from M23 to fight the FDLR; the organization that has long been their biggest rival.¹⁶⁷

The Mai Mai groups also have a tenuous relationship with the Congolese Government and the FARDC. If the Congolese state and FARDC were stronger there may be no need for these communities to form militias. To make matters worse all of the FARDC's limited capabilities have gone to combatting M23, and as a result the army has not focused on protecting towns in the Kivus region. Ultimately this is the primary factor that mobilized the local Mai Mai armies. Currently there appears to be a mix of cooperation and strife between the FARDC and these militias, dependent on ethnicity. Mai Mai groups have been known to attack FARDC regiments that contain ex-CNDP elements but there also appears to be complicity between the two groups.¹⁶⁸ The FARDC

is suspiciously never present during Mai Mai attacks on Rwandophone villages, even when they are in the area. This cooperation would also explain the presence of heavy machine guns, mortars, RPGs, and AK47s in Mai Mai arsenals.¹⁶⁹

INTERNATIONAL CRIMINAL COURT

Over the last several decades the DRC has been plagued by human rights violations and has struggled to create an environment where leaders cannot act with impunity. One of the most important international non-state actors in this equation is the ICC, an organization that has tried various war criminals, and was designed to guard against human rights abuses. The recent M23 mutiny was in part due to the Congolese Government's decision to go back on its word, and try to turn General Bosco Ntaganda over to the ICC for prosecution on war crimes. Ntaganda has been wanted for war crimes since 2006 from time as a part of the Forces Patriotiques pour la Libération du Congo (FPLC), but was protected by the 2009 peace agreement signed with the Congolese Government.^{170 171} The unsettling reality remains that in this nation many of the people in power could easily be charged with war crimes. Indicting all of these leaders would be disastrous. If all of them had warrants issued for their arrest they would be forced to continue their bloody fight against the government and each other. Thus there is a balance that must be struck between justice and security in the region. In order to include these militias in the political sphere it is imperative that at least some of the leaders are not levied with war crimes. At the same time, it is important that some leaders are arrested so that the nation can show that there are repercussions to human rights abuses.

On July 9, 2012 the ICC convicted Thomas Lubanga, former leader of the Union of Congolese Patriots, of war crimes. While Lubanga will serve 14 years in prison, a sentence that may seem mild to Americans, many saw the conviction as a triumph for DRC. "It's useful in teaching those who, after Lubanga, still play at being untouchable warlords. It's a positive signal for the future of peace in our region," said government spokesman Lambert Mende.¹⁷² The conviction of Lubanga is the most high profile conviction of any leader from the DRC, and while sadly the political realities may have made some leaders untouchable, this case represents progress. The ICC may play a role

in the judicial future of DRC, but in order to maintain stability it cannot be a large one; too many of the leaders in power have blood on their hands to arrest all of them.

CONCLUSION

It is important to engage all actors, both positive and negative, in peace talks provided they have an affiliated political organization. The M23, FARDC, and the majority of the Mai Mai groups all have affiliated political branches and are striving for political voices. These organizations should all be included in peace talks with the Congolese government and the AU. Additionally these groups should be encouraged to engage politically through civil society channels. If these groups are to gain political representation they need to prove they serve the interests of the DRC and local populations, and not a small elite.

POLICY RECOMMENDATIONS

- Encourage the formation of multi-ethnic political groups.
- Ensure government representation for minority groups.
- Create a law banning the deprivation of citizenship based on ethnicity.
- Establish a system of Congolese citizenship.
- Reform land ownership system so that a small Tutsi minority does not hold the largest percentage of land.
- Create an organization capable of mediating land disputes.
- Ban hate-speech and the incitement of ethnic violence.
- Engage militant groups in peace discussion provided they have an affiliated political branch.
- Encourage militant groups to engage politically through civil society networks.
- Limit support groups receive from outside nations.
- Limit their ability to fund themselves through resource extraction.
- Create a stronger and impartial state army capable and willing to protect all communities.

CHAPTER 4: MULTINATIONAL ACTORS IN THE DRC

By Rebecca Dadlani

The inability of the Congolese government to control the eastern part of the country, the lack of enforced law, and the prevalence of armed groups demand that any effort in trying to bring long-term stability to the region involve the international community and key African countries in a coordinated diplomatic front. A US envoy should play a role in unifying the efforts and dramatically increasing the effectiveness of the UN, AU and ICGLR, which are the critical players in the region, to deal with such a conflict. The UN has attempted to forge peace deals to rectify the situation in the DRC; however, their efforts have not been successful. MONUSCO has been a great disappointment, and has not been able to meet the current mandate of protecting civilians, and ensuring peace in the region. The case of Rwanda in 1994 provides a clear example of the UN's failures in the region, immediately followed by a severe lack of faith in the UN's actions by local populations. The UN ignored evidence of an impending genocide, and neglected to act on it once the genocide had begun, disregarding the UN Security Council's resolution of conflict prevention.¹⁷³

The unfortunate experience with Rwanda, followed by the series of atrocities in the eastern Congo where MONUSCO has been inept at best, has crushed the faith of the regional population in the UN's abilities to protect them and uphold their interest. Any sole effort put forward by the UN will not be taken seriously, nor receive the needed support from regional actors, and the population at large. It is time to consider an alternative approach to the peace problem in the DRC. The armed groups that have overtaken the Kivu provinces draw on the local, regional, and national instability to suppress the population, destabilize the region, and paralyze much of the DRC.¹⁷⁴ The DRC lacks effective governmental institutions and as such is unable to maintain peace in many of the conflict zones. In light of the current situation, the AU, UN and US must work in tandem to provide a firm structure for future governance if peace is ever to be achieved in the region.

The weakness of the existing governance structure has generated the belief that the only way to protect individual rights and freedoms is through armed force.¹⁷⁵ In order to correct this problem, the US must gain the confidence of the population by drafting a clear mandate for a Special Envoy that serve the interest of the people, and by bringing in African leaders that are willing to help maintain peace in the DRC. The 2002 peace agreement signed at the Inter-Congolese Dialogue in Sun City, South Africa was successful in reuniting rival factions that had dominated the country since 1998, and produced credible elections in 2006, in which Joseph Kabila was once again elected as president; but it did not put an end to the violence and internal conflict.¹⁷⁶ More recently, the January 28th peace deal mediated by the UN failed to receive the signature of approval of African leaders in the region due to their having presented the deal too late to members of the SADC, who had already conceived a plan of their own.¹⁷⁷ The failed agreement was formulated under the auspices of the UN, which stated that the new regional military forces would operate under MONUSCO's peacekeeping force, while the SADC and the member states of the ICGLR had proposed a similar operation under African leadership.¹⁷⁸ On February 6th a framework agreement mediated by the UN was finally agreed upon, and was signed February 24, 2013 by 11 countries in the region, only to have dissipated when local forces failed to abide by the agreements.¹⁷⁹ For such an agreement to have a lasting impact, there needs to be a reconciliation of interests on all parties involved, a feat that is challenging at best.

One thing that needs to be clarified and understood is that the UN has been a great disappointment in the region, and as such, will not be able to acquire the needed support for such an agreement to take hold. In order for a successful initiative to be implemented, emphasis must be taken off of the UN and incorporate more of the AU into the peacekeeping efforts. However, the AU lacks the military finesse to train troops, and lacks the diplomatic skills to carry out negotiations with the armed forces. The US is able to lend a hand, possibly in the form of deploying an envoy to initiate further steps for institutional capacity building. There have also been talks surrounding the UN and AU working together in the pursuit of agreeing to an envoy under a UN mandate.¹⁸⁰ The US should urge the UN to concede oversight of peacekeeping operations in the region to the AU, and deploy the joint envoy under an AU mandate, which will call for the

participation of regional and local actors in its creation. Allowing the AU to undertake a more supervisory role in the region, as opposed to the UN, will be more palatable to regional actors.

In order to make the impact of our diplomatic initiatives more encompassing it would be advisable to include the ICGLR in capacity building efforts in order for there to be the potential for sustainable peace. The leaders of the countries in the GLR have mutual interests in maintaining peace, and avoiding cross border conflict; as such the ICGLR might prove to be a useful ally in rethinking governance in the DRC.

FAILURES OF MONUSCO

Due to the terms of MONUSCO's deployment, including supplementing the national government, and providing backing for FARDC, it has found itself supporting one of the most corrupt states in the world. The DRC has one of the most exploitative armies in the world, with generals who perpetrate widespread human rights abuses. Herve Ladsous, the Under-Secretary-General for Peacekeeping Operations to the UN, explains that under their mandate, MONUSCO is only responsible for the protection of civilians, but does not have the capacity to do much more.¹⁸¹ However, MONUSCO has not only failed in establishing peace, it has also failed immeasurably in its most fundamental mission of protecting civilians. The largest of the UN's 16 peacekeeping forces in terms of both the number of peacekeepers as well as funding, MONUSCO has accomplished very little in 12 years of existence.¹⁸² In 2005, MONUC (renamed MONUSCO in 2010) expelled 63 of their soldiers for bribing refugee children for sex, and in the same year discovered that Pakistani peacekeepers under their mandate sold weapons to militias in exchange for minerals.¹⁸³ More recently, in September of 2012 when the town of Pinga was taken over by the Mai Mai Cheka, several civilians were decapitated and their heads thrown at MONUSCO bases as rebels yelled for the soldiers to come out.¹⁸⁴ MONUSCO's reaction to this threat was inexcusable; nothing was done to protect civilians. MONUSCO has repeatedly failed to respond effectively to threats in regions within their mandate, let alone threats faced by the rural, more displaced populations. In most cases, MONUSCO provides assistance too late, or worse yet delay responding after having received information.¹⁸⁵ The way in which MONUSCO is

currently set up does not benefit the civilians, and serious revisions need to be made to their mandate. The following are some ways to better address the issue with MONUSCO and strengthen their mandate in order for them to better serve their purpose in the region:

- MONUSCO needs early warning human rights monitoring services for more vulnerable communities in order to report incidents as they happen, thereby enabling a timely response.¹⁸⁶
- MONUSCO should extend patrols outside of primary roads. The UN Security Council needs to make it very clear that patrols should be carried out in communities with a higher likelihood of facing an attack.¹⁸⁷
- MONUSCO should have rapid reaction forces for rural areas that respond immediately following the report of an incident.¹⁸⁸

These recommendations do not aim to fix all of the problems with MONUSCO, but they do provide a better scope for progress and a more proactive approach to civilian protection.

RESTRUCTURING THE WAY IN WHICH THE AU OPERATES

The AU, loosely modeled after the European Union (EU), does not follow guidelines for good partnership that have been laid out by the EU. The credibility of the EU relies on the fact that only democratic countries are allowed participation, and this makes for a successful partnership between their members; the AU does not have such regulations.¹⁸⁹ During its 1999 summit, the Organisation of African Unity decided to make participation more exclusive, and suspended the participation of governments that had come to power through coups, but this policy was applied selectively.¹⁹⁰ The AU exempted some of the more powerful dictatorships at the time, such as Libya.¹⁹¹ There is little uniformity in the implementation of the terms of their mandate, a problem that needs to be seriously addressed if the AU is to be an objective body in the peace process in the DRC.

The AU has reinforced the mandate that member states not intervene in each other's internal affairs, but reserves the right to act collectively under the auspices of the

union itself in dire circumstances if so needed.¹⁹² These circumstances have been vaguely defined so as to allow the AU the flexibility to choose whether or not to pursue active intervention in the internal affairs of member countries, and whether or not to enforce the organizations principles of democracy, human rights, and the rule of law.¹⁹³ The AU has ignored the fact that the DRC is in need of active intervention, but has been successful in other missions, such as Darfur, where they acted alongside the UN in a hybrid organization named UNAMID. To say that AU has failed to meet their mandate because their participation in resolving the crisis in the DRC has been minimal is inaccurate because their mandate is too loosely defined to ascertain whether or not they are fulfilling their obligations. However, the AU formulates mandates to specific missions in different parts of the continent according to the needs of the situation (ex: AMISOM which had widely been considered a success, had a mandate that addresses specific needs in Somalia), which are supplementary to the Constitutive Act of the African Union that stands as their formal constitution.¹⁹⁴ Although the AU has seen success it still has its limitations. In order to improve the way in which the AU operates, some serious revisions need to be made to their Constitutive Act so that the international community can hold the AU accountable in situations where they do not fully meet their obligations. It is of vital importance that the international community recognizes the limitations of the AU and properly addresses these issues, if a successful AU led mission is to be achieved in the conflict ridden eastern DRC.

The success of the AU will largely depend on their ability to respond to the needs of African countries in crisis situations, but their ability to respond to these needs will depend on the political will of their member states. The following measures should be implemented in order for there to be a successful restructuring in the way the AU operates:

- Their Constitutive Act must clearly define that membership will only be granted to democratic regimes.
- Editions need to be made to their Constitutive Act to clearly outline their responsibilities in regional peacekeeping. This would obligate the AU to act more decisively in crisis situations.

- The AU should forge a deal with the UN expressing their willingness to act side by side in complicated regional situations of public administration in conflict zones within the African continent for the next 10 to 20 years. This deal should act as a long-term agreement to provide additional support to UN peacekeeping forces in Africa. Ideally African states should solve their problems collectively; this will be a stepping-stone in allowing the AU to gain the diplomatic capabilities necessary to respond to crises and to possibly carry out their own negotiations in the future.
- The AU should also work closely with other regional actors to gain more support and further legitimize their efforts in any specific region within the continent (the ICGLR and SADC in the case of the DRC). This will make it easier for the AU to carry out initiatives on the ground rather than simply acting representationally.

Despite their problems, the AU has a much better chance of success in tackling the crisis in the DRC because their past mandates to other missions in Africa have been specific enough that they were able to address the issues on the ground. In comparison, MONUSCO's mandate is ambitiously broad and is constrained in the implementation of its goals by restrictive rules of engagement. Although AU participation in the DRC has been minimal up until now, a restructuring of their Constitutive Act and the creation of a joint mission with the UN, similar to UNAMID, under an AU drafted mandate, involving the local government will vastly increase the impact both organizations will have on the ground.

HOW A JOINT AU/UN OPERATION CAN WORK: THE DARFUR CASE

A joint AU/UN operation has the capacity to make drastic improvements in the current situation in the DRC if correctly implemented and commissioned. UNAMID, being the first of such an initiative, is an example of how a joint AU/UN mission can work to resolve regional tensions. The operation, officially inaugurated on December 31, 2007, was built on the military force deployed by the AU in Darfur under the patronage of the African Union Mission in Sudan (AMIS) that had been present since 2004.¹⁹⁵ Since its creation, UNAMID has been met with great resistance from the government of Sudan, which stands as its greatest obstacle in carrying out the terms of its mandate.¹⁹⁶ Allowing the government to help formulate the revisions to the new mandate has worked

in their favor, but has also come with its set of limitations. Welcoming the involvement of the Sudanese government in this venture signaled that UNAMID recognized the sovereignty of the Sudanese state, and was willing to work with them to resolve the internal tensions. In return, Sudanese government granted UNAMID considerably more support than they previously had to AMIS. This represents a less threatening, more inclusive approach to conflict resolution. The emphasis on allowing Africa to solve African problems shows that the international community is ready to transition away from the more invasive approach of full intervention to working with local and regional stakeholders. One apparent flaw that can be examined is the weak stance that UNAMID has taken with regard to conflict resolution: allowing the government to take on much more responsibility than they are capable of, hence rendering both the government and UNAMID minimally effective.¹⁹⁷

While it is very important to work with the local government in resolving local conflicts, rendering the majority of the conflict resolution initiatives to the government alone, will not yield much improvement. It should be recognized that the involvement of the Sudanese government in the revision of the mandate has made it more specific to certain characteristics of the conflict that need serious attention. Such revisions can only be made with a deep understanding of the nature of the conflict, the capacity for reform, and future prospects. However, the over involvement of the Sudanese state has also posed certain limitations on UNAMID forces. A model similar to UNAMID can be successful in the DRC, but serious care must be taken when assigning key responsibilities, in order to avoid weakening the position of the AU and UN. It would prove beneficial to get the Congolese government and other interested local parties to work together with the AU and UN in drafting a mission mandate that would highlight each party's responsibility in the conflict resolution. If local groups are involved, it is much more likely they will provide the joint AU/UN envoy, as well as the US Special Envoy, with their support. Including them in an effort to reform the country is in fact key to peacemaking and peacekeeping processes.

US INVOLVEMENT

The US, being a trusted body in international politics, must commit to securing allies for the peace process in the DRC. An important ally in rendering viable peace to eastern Congo would be Rwanda, and assuring Rwandan support in the peace process is of vital importance to the success of the peacemaking efforts. The US, Germany and the EU have cut a small percentage of aid to Rwanda in response to Rwandan support of the M23 rebels, but this does not appear to have led to a decrease in the Rwandan government's support to M23.¹⁹⁸ The Rwandan government continues to deny funneling support to the M23 rebels even while the US maintains that such support is clearly continuing.¹⁹⁹ The US should push other foreign aid donors to leverage the aid they give Rwanda in order to weave Rwanda's interests together with those of the international community; a possibility the international community has not taken full advantage of due to the difficulty in alleging Rwanda for a crime to which they refuse any accountability. Germany recently reinstated aid to Rwanda under the agreement that it would be used for development projects instead of supplying it directly to the government.²⁰⁰ Cutting off all support to Rwanda, which has successfully used international aid to build post-conflict institutions and undertake significant healthcare reform, is not a reasonable solution and would result in more regional instability.²⁰¹ With that in consideration, we can still strategically limit aid expenses in order to weld a peace process that Rwanda will have little choice but to be a part of.

Further US involvement should mainly come in the form of diplomatic measures such as mediation and the coordination of international leverage in support of the peace process in the DRC.²⁰² As mentioned in an earlier section of this report, the US needs to increase its support of the peace initiative by appointing a Special Envoy to lead its efforts in the GLR. The long history of mistrust among the core states makes it very difficult to reach a solution through regional mechanisms such as the ICGLR, especially when Uganda and Rwanda maintain prominent positions within the ICGLR.²⁰³ Regional efforts to resolve conflicts must be supported by international efforts from the US, and as earlier mentioned, an AU/UN initiative, that together will have the ability to bring opposing parties to negotiations.

HOW THE AU/UN JOINT ENVOY AND THE US ENVOY WILL BE FURTHER INVOLVED IN THE PEACE PROCESS

A joint AU/UN envoy should be tasked with the responsibility of brokering a solution to the immediate issues in the current deadlock between the Congolese government and M23, and providing a more tangible peace process. These processes will have to come in two phases of implementation, with the initial phase addressing emergent issues including the cessation of hostilities, the protection of civilians, and the training of FARDC. The second phase will need to address the long-term objectives of reestablishing a sustainable democracy. The envoys' mandates need to incorporate the interests of the stakeholders while addressing local, national, and regional drivers of conflict.²⁰⁴ The envoy should propose solutions, which respond to these interests while also requiring concessions from all actors involved.²⁰⁵

Phase 1:

- The envoys must facilitate, and expedite the signing of an agreement for the immediate cessation of hostilities between the governments of Rwanda, Uganda, and the DRC. This agreement should demand that Rwanda and Uganda stop funneling support to M23, and further state that Rwanda and Uganda must help ensure that M23 cease to operate in eastern Congo.
- The envoys must uphold the mandate to protect civilians. This can be done by taking small steps toward security sector reform and redirecting aid to ensure that the Congolese military is paid on a regular basis so as to curtail their coercive behavior toward the civilians. Financial compensation for services rendered, provides reasonable cause to believe that the Congolese military will moderate their suppression of the surrounding population.
- The envoys must also encourage the Congolese military to receive proper training so as to enable them to work alongside the AU forces, and MONUSCO to achieve stability in the eastern part of the country.
- The envoy must appoint the Hybrid AU/UN mission as the intelligence unit of all peacekeeping forces, so as to dismantle parallel chains of command and avoid contradicting orders from the top.

Phase 2:

The envoys must assist the Congolese government in restoring peace and security in the eastern regions through cross-border cooperation (with Rwanda and Uganda), security sector reform, decentralization and political representation, and finally through regional economic integration.

- Cross-border cooperation between Rwanda and the DRC would be beneficial in the pursuit of criminal M23 leaders living or travelling in Rwanda as well as indicted FDLR leaders taking refuge in the Congo.²⁰⁶ The envoys must highlight the benefits for both parties when trying to devise such cooperation.
- Security sector reform will be a crucial aspect to achieving sustainable peace in the DRC. The weakness in the security sector of the DRC is the prime enabler to internal conflict. The envoys must work closely with the SADC and ICGLR because this issue is too big for two diplomatic representatives to handle alone. Furthermore, with the involvement of the SADC and the ICGLR, the envoys can smoothly transition out of the endeavor without them risking a collapse of the initiative or a reversal of progress.
- Decentralization can be achieved while considering long-term goals. The envoys should devise a new strategy for gravitating towards a functioning democracy, but starting off with trying to build a democracy out of what is currently the government of the DRC might be too hard a task.^{207 208} A good starting point would be to establish a peaceful centralized government, then slowly expanding the number of groups represented in the ruling coalition, and later granting them more political representation. This can help provide the flexibility in the structure to transition to a truly representative democracy in the future.²⁰⁹
- Regional economic integration between countries in the GLR would have the added benefit of local countries having a mutual interest in upholding the security and stability of individual countries involved in the partnership. This will help minimize cross-border conflicts in the future. The AU/UN envoy should ensure that the ICGLR agrees to the proposal, and will only allow legitimate dealings between partner countries.

The envoys cannot be expected to resolve all issues in the region, but they can suggest practical and measurable ways to increase institutional capacity, and earn the confidence of the key players in the region.

INCORPORATING THE ICGLR: THEIR STAKE IN THE ISSUE

The Rwandan genocide of 1994 has brought a lot of international attention to the Great Lakes region; as a result, the ICGLR was established to address such regional tensions. The ICGLR is comprised of eleven member states: Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Sudan, Tanzania, and Zambia.²¹⁰ Aside from being part of the ICGLR, these countries also hold membership in other regional organizations, each having their own mandates; as such, they often have conflicting interests and find it difficult to agree on a specific matter.²¹¹

The ICGLR has a flawed approach in trying to mediate for the conflict in the DRC. Their closed-door summits between heads of state of member countries without the involvement of other political parties, the civil society, and heads of armed groups representing the different interests in eastern Congo is unlikely to avail much more than temporary solutions.²¹² The ICGLR's mandate is to create favorable conditions for sustainable peace, security, and development between member countries. Although the ICGLR has not successfully met the terms of its creation, its existence opens the platform for regional dialogue and cooperation.

The ICGLR is aware of the fact that most of the conflict within the region is rooted on the deficiency of good institutional structures that create a vacuum of power.²¹³ As such, there is much that can be improved within the ICGLR to enable them to contain conflicts and fill in the need for good governance going forward. The capacity of this organization in conflict resolution and prevention can be greatly increased by encouraging more dialogue between member countries, and increasing the support they receive from other regional and international organizations. The most important contributing aspect to the future success of the ICGLR would be the political will that each member county must demonstrate, and their commitment to not default on their attempts in creating an environment that is conducive to peace.²¹⁴ Going forward, their

strategic objective should be rooted on preventative security measures in the GLR, so that the region will not once again regress into conflict. Their short-term goal should be to diffuse the situation in the DRC through diplomatic means, and their long-term goal should be for another inter-regional conflict like this to have little chance of taking root. There are considerable internal weaknesses within the political institutions that now exist in the GLR, with Rwanda, the DRC's greatest opponent, being the only country that falls within an acceptable margin of 59 to 62 percent government effectiveness.^{215 216} This statistic makes it more evident that Rwandan support in institution building is of dire importance in establishing peace in the DRC.

Building post-conflict institutional capacity requires there to be an integrated strategy with bordering neighbors, with the aim of restoring order and rebuilding dysfunctional institutions. This is where the ICGLR should form a cohesive unit of regional actors with the common interest of establishing peace in the DRC. The ICGLR should work alongside the AU/UN Special Envoy and the US Special Envoy, so that there can be a foreseeable end to unwanted outside intervention. The countries of the GLR can then be charged with maintaining the stability that the UN, AU, and US helped establish in the DRC.

The main weakness of the ICGLR is a lack of funding.²¹⁷ The ICGLR has not been able to secure financial commitments for reconstruction and development, risking the withdrawal of participating countries.²¹⁸ If aid is given directly to the ICGLR as opposed to the individual member countries, it runs the risk of Uganda holding the stakes and using it for their own development. A solution to this problem would be to decentralize power within the ICGLR itself, before aiming to do so in any of its member states. However, it is conceivable that with more regional economic integration, the interests of the member countries will slowly merge, thereby causing regional stability and the allocation of resources to the member states that are most in need to be one of their top priorities. The following are some further steps that can be taken by the ICGLR to ensure a smoother peace process for countries in the GLR:

- The ICGLR should actively pursue a cooperation strategy that encompasses most if not all of the legitimate interests of regional actors to encourage their support for the DRC peace process.
- The ICGLR must hold summits, which include leaders of all member countries, and not only those who are in current conflict. This will promote inclusivity and possibly increase the willingness of other member countries to provide support for the DRC.
- After the DRC has been relatively stabilized, the ICGLR should work closely with Transparency International to monitor acts of corruption within governmental institutions of member countries and relinquish membership to those found guilty. This will deprive corrupt countries of the economic advantages that come with being a member, and dis-incentivize them from committing future acts of corruption. Corruption reduction will also increase political stability and reduce the risk of future coups.
- The ICGLR should also encourage the DRC, Rwanda, and Uganda to repatriate and reintegrate their refugees.

OTHER POSSIBLE ALLIES

It has been established that in order for a successful peace process to take form, Rwandan support has to be secured. Additionally, another key ally would be South Africa with its economic vitality and military strengths. South Africa has come to be a respected player in the region and with their help the US can reduce its involvement in the eastern DRC. However in light of their current instability, South Africa might not be willing to fully engage in mediation for the DRC, as President Thabo Mbeki had done for Sudan. It would be the job of the two envoys to engage in talks with the South African government and determine whether or not their participation can be secured.

Tanzania has recently pledged troops to the DRC and would also be an ideal ally to the US, UN and AU.²¹⁹ Being a member of the ICGLR, Tanzania can have much more of a regional impact than they currently do in peacemaking efforts in the region if put in a position of more importance. Senegal could also be a good ally but are likely not able to render any assistance to the cause due to their involvement with the current conflict

in Mali. The focus should be in gathering more regional support and involving more regional actors rather than international organizations so that Africa can solve their own problems going into the future. Together these envoys can facilitate the formation of a transitional government, in an effort for more tangible goals to be formulated in the future.

POLICY RECOMMENDATIONS

- Create a Hybrid AU/UN operation and deploy a joint special envoy under an AU mandate.
- Separately deploy a US Special Envoy to work in tandem with the AU/UN Special Envoy to carry out negotiations and initiate institutional capacity building. The two envoys should work as a unit to represent the diplomatic interests of rebuilding a democracy.
- Procure the support of key African countries and leaders that will be able to sustain peace in the region post peace process.

CHAPTER 5: THE ROLE OF THE INTERNATIONAL COMMUNITY IN DRC SECURITY AND CAPACITY BUILDING

By Daniel Dedo

REGIONAL ACTORS AND THE INTERNATIONAL COMMUNITY

As the international community works to create a better framework for stability and development in the eastern DRC, they need to formulate a feasible defense strategy that includes the involvement and cooperation of local and regional armed forces. For a successful intervention, the UN needs to improve its reputation in the region. To do this, the UN should consider working with the AU to transition to a hybrid mission. This would be an equal merger between the AU and the UN in the DRC to create a credible mission capable of both peacekeeping and stability operations. Since the AU would have to be able to secure enough troops from member states to justify a collaborative military effort in the DRC with the UN, and because member states do not have many readily available troops, the US could greatly facilitate this by training AU peacekeepers. This solution would involve building partner capacities across the region.

THE ROLE OF THE US

The US should use its influence in the UN Security Council to push the UN to transition MONUSCO to a hybrid mission with the AU. The African peacekeeping troops will likely require training. A temporary increase in US involvement would enable a transition of control to the AU once the peacekeeping troops have received special training, at which point the US could reduce training activities in the region. The goal would be encouraging and enabling African countries to solve African problems. Through training African peacekeeping troops, the US can limit direct military involvement in the DRC while at the same time increase goodwill with surrounding African states and building partner capacities across the region.

In the long term, the goal for security should be comprehensive security sector reform (SSR) in the DRC that includes the creation of competent and self-sufficient indigenous military and police forces, each of which will require separate but simultaneous strategies. While the international community works to develop these

capabilities, international peacekeepers will continue to be necessary until the DRC government is either able to provide sufficient security on its own or can come to an agreement on security with regional actors. The purpose of peacekeepers is to act as a stopgap measure until the DRC is sufficiently stable. This gives breathing room to the regional actors so that ideally they can create and implement a successful regional peace deal through international negotiations. Peacekeepers must limit violence toward civilians through proactive intervention to minimize the damage to society from the current conflict. Peacekeepers are both a prerequisite to a political solution as well as a necessary part of providing any such solution the ability to succeed in the long term.

Effective military and police forces would help consolidate state authority in eastern DRC. The international community should apply more pressure on the government of the DRC to find the political will to engage in long-term reforms. This should include withholding funding as a consequence of non-compliance. While the international community needs to focus on SSR in the short term, the problems in the DRC cannot solely be addressed by technical means; they are fundamentally political and social and thus require long-term strategies to reinforce any gains made by intervening forces.²²⁰ Effective SSR is a peacekeeping strategy and can only occur after a political and military peacemaking strategy has taken root.

Currently, the DRC is in no position to provide its own security. For the foreseeable future, international peacekeepers will have to compensate for the inability of FARDC to provide civilian protection and the rule of law. While up to now the UN has led the peacekeeping efforts in the DRC, other international organizations that have had a successful record elsewhere should be incorporated into the defense strategy. International organizations provide a route for constructive participation within a clearly delineated system. They bolster the credibility of the world system and are a conduit for channeling both regional and international support and involvement.

Other nations provide the troops for peacekeeping operations, so such operations do not require large deployments of US troops. This is important for both diplomatic and budgetary reasons. Encouraging international organizations to facilitate peacekeeping allows the US to focus on providing its unique capabilities, such as

training foreign military forces. By working with and through international organizations, the US can strengthen the capacity of international actors such as the AU and ICGLR. The GLR of Africa has an especially weak set of inter-state organizations that lack the capability to implement vast political reform on their own. Intra-state control is often lacking; not only are individual national governments ineffective at times, regional cooperation is largely *ad-hoc* and reliant on direct contact between national leaders rather than through systemic international organizations and institutions. As long as countries in the GLR deal with each other outside of legitimate international bodies, they continue to marginalize the rule of law and make it harder to institutionalize solutions to conflicts in the future. Ultimately engagements should strengthen international norms in this way.

INCREASING AU INVOLVEMENT

Officially involving the AU and providing it with a larger role in peacemaking efforts would increase its regional capacity in the DRC, and in the African continent at large. Doing this would encourage regional incorporation in the international system and would give the AU the opportunity to play a role in achieving a solution. This would also allow for more sustainable peace in the region, as there would be a regional body capable of monitoring the situation within the DRC. AU involvement would signal that Africa is capable of proactively addressing its own internal problems, and multinational African forces would reinforce that perception. The problem in the DRC heavily involves surrounding states and so will require action and political will on the part of the surrounding governments. While the UN has so far led peacekeeping in the DRC, it is clear that governments in the region have not yet been willing to come to a comprehensive agreement to fix the underlying issues creating instability. Despite a constant string of peace deals over the past decade, none have achieved lasting peace and stability as seen by MONUSCO's continued presence up to the present. The most recent peace effort, signed on February 24, 2013, was marred by violence within days as rebel factions clashed.²²¹ Stability appears tentative at best in the current situation.

The AU has been at least relatively successful in other peacekeeping interventions, such as in Darfur in a hybrid peacekeeping effort with UNAMID and in Somalia, so

inclusion in peacekeeping in the DRC would allow the AU to apply lessons from those interventions. In Somalia, AU forces have captured key cities and driven back the al Shabab rebels there through direct fighting. While civilian casualties have marred the peacekeeping efforts there, they have overall been successful in securing major population centers.²²² While the AU does not have experience providing the full spectrum of military and political peacekeeping work that UN missions engage in, the AU has clearly shown the ability to successfully use troops in peacemaking interventions.

The AU should encourage member countries of the ICGLR to provide troops to an AU peacemaking operation. African countries would likely be more willing to contribute troops to a partially African-led peacekeeping operation, as opposed to extending the failed MONUSCO mission. In light of the inability of the UN to achieve a lasting peace so far, the AU could add to the effectiveness of the peacekeeping operation as well as contribute to a rebranding of MONUSCO's image to the Congolese. The US Department of State has publically expressed support for the integration of a regional intervention brigade into MONUSCO, and doing so through the AU would provide unique advantages.²²³ In addition to contributing to MONUSCO, it would also give the US the opportunity to train AU peacekeepers. The US could thus contribute to building partner capacities of multiple African nations without a large deployment of combat troops. Another way the UN could bring in AU troops could be through a variant of the proposed intervention brigade of 2,500 troops.²²⁴

While the AU should provide more troops to the peacekeeping efforts in the DRC, capable member states are mostly currently preoccupied. Tanzania has pledged 1,000 troops for the eastern DRC to be deployed through the SADC, though disagreements over who would control them kept the recent deal that would have deployed them from succeeding. Nonetheless, Tanzania is willing to provide some peacekeepers under the right international structure. Senegal has a capable military but is currently preoccupied with Mali, having supplied troops as a member of ECOWAS.²²⁵ ²²⁶ Chad is currently preoccupied with the situation in Mali at present,²²⁷ though if Mali stabilizes the AU should consider soliciting troops from them. Uganda has a capable military but is currently preoccupied with peacekeeping in Somalia as part of the AU force there.²²⁸

While Rwanda has a very capable military, its link to the violence in the DRC will certainly complicate any attempts to contribute troops to an AU peacekeeping force in the DRC. The AU should consider soliciting troops from South Africa as well as other nations in the region. As mentioned earlier, the US should consider training AU peacekeeping troops if they lack the necessary training. This would help build partner capacity in multiple nations, build political goodwill between the US and other nations, and possibly improve the security situation in the DRC.

INCREASING ICGLR INVOLVEMENT

Encouraging regional participation in the ICGLR should be a long-term goal. The ICGLR should have an increasing role in solving the security problems of the eastern DRC, even though security is not the only focus of the ICGLR. The focus should be on mediation and coordination between the nations of the Great Lakes in regards to security. The ICGLR cannot implement any peacekeeping forces itself because as a supervisory body it has no peacekeeping personnel and acts primarily as a conduit for increased coordination between the GLR countries. The US should encourage the regional states to use the ICGLR as a regional forum to solve differences and so strengthen international norms.

INCREASING SADC INVOLVEMENT

The SADC is another organization that must be involved in the peace process and future changes to peacekeeping forces. The recent failure of the UN at an AU summit to achieve a peace agreement was largely the result of not sufficiently including the SADC.²²⁹ The negotiations did not take into account the plan that SADC had already developed. The problem also appeared to be a disagreement over who would control additional peacekeeping forces.²³⁰ Both the UN and SADC want leeway to control those forces. While the SADC needs to be involved in further peace processes, they also need to play a larger role in the decision-making surrounding defense. In the future, agreements will have to incorporate South Africa's input and involve other broader regional actors within the SADC. The SADC has pledged troops, 1,000 of which are to come from Tanzania as well as from Malawi, Namibia, Mozambique and South Africa to supplement the forces currently in the DRC.²³¹ Because there was a disagreement over

who would control the proposed extra peacekeepers, folding those troops into a non-UN peacekeeping mission in the DRC might help. Putting them under the AU with a separate mandate formulated with the help of the ICGLR and the SADC would keep them distinct and allow them to focus on specific security issues in the Kivu region while bypassing the confusion over hierarchy.

EXPANDING UN POLICE TRAINING

While this section focuses on MONUSCO's efforts in providing security, it is important to realize that UN efforts in the DRC are not limited to peacekeeping only. As the UN recognizes, peacemaking involves more than just military intervention to create a sustainable end to violence. Recent UN efforts have included the peace talks at the AU summit in Addis Ababa. While those talks failed to create a deal, they highlight the extent of the UN's engagement in the DRC. This is an important improvement relative to the previous unsuccessful UN effort during the 1960s. Focusing only on ending violence is not enough to ensure long-term peace in the DRC as past efforts there have shown.²³²

One possibility with long term potential is for the UN to train police in the Kivus. The UN has considerable experience in police training, namely their contribution to UNAMID,²³³ but perhaps most extensively in the former Yugoslavia.²³⁴ A comprehensive UN training program for DRC police would help keep peace through better governance and stability in the long-term. A training program for police should be implemented at the same time as a training program for the DRC military though the programs would not require coordination beyond simultaneous implementation.

Before recent elections, the UN has trained police in the eastern DRC on techniques for dealing with public protests and running queues. This training has so far been mostly focused only on security during elections, though it did impact a significant number of officers: over 700.²³⁵ Other training, preparing DRC police officers to secure trade centers in the Kivus, has received funding from the International Organization for Migration.²³⁶ Though this training was only for 40 officers it was focused on securing minerals. The extent of police training so far has been focused on either protecting elections or securing minerals, both goals that are too narrow in their scope to contribute to overall police effectiveness. Since there is already a police-training center

near Goma, the UN could use it as an existing institution to house further police training.²³⁷

Much greater problems with the police force in the DRC exist than running elections and securing minerals, and providing training to improve police efficiency and capabilities is necessary but has not been sufficient. While elections are important in any democracy, everyday corruption and insecurity are more significant in public opinion in regards to perceptions of government legitimacy. The US Department of State reports that DRC police are undisciplined, lack training, receive little pay and are widely corrupt.²³⁸ Reforms will have to deal with these multiple issues to ensure stability in the long term:

- The UN should increase the scope of its training programs for police in the Kivus to include preparing police on how to deal with everyday situations and not just elections. This would include training on human rights.
- The international community should pressure the DRC government to create an internationally funded and staffed comprehensive police-training program.
- Corruption in the police needs to be addressed. The DRC should increase police pay from the current rate of \$30 per month.²³⁹ For some context, the lowest Kenyan police salary is \$240 per month, though the proper amount would be a function of the relative size of the economy in the DRC as well as available resources.²⁴⁰ The DRC should also set up an independent judicial body focused on prosecuting police. This should be done in conjunction with a reinvigoration of the judiciary system.
- End salaries to absent police employees by identifying currently working police officers through a census of the police force.

OTHER PROBLEMS AND SOLUTIONS FOR MONUSCO

The UN has led successful international peacekeeping forces around the world in a variety of different places and situations, yet the MONUSCO mission in the DRC has not been successful in ending or even reasonably limiting violence in the region. The general international consensus is that the UN has failed, both in ending violence as well as

protecting civilians. This failure is reflected most glaringly in the lack of support for and even explicit hostility toward the UN among the Congolese population.²⁴¹

In 2002 the UN and South Africa led an effort at talks now known as the Sun City Agreement.²⁴² The purpose was to integrate some rebel movements into the DRC government through the mechanism of a power-sharing agreement. Since all appointees were only accountable to their political leaders, the agreement ultimately encouraged patronage instead of merit based considerations or accountability to a centralized government.

The UN should work with the DRC government to create a governmental organization to deal with government corruption. This could be done with the help of Transparency International. The Sun City power sharing efforts included the Ethics and Anti-Corruption Commission (CELC), which have compromised its independence. Therefore, the UN should work with the highest levels of the DRC central government to create an anti-corruption commission, and clearly define the role of the commission within the governance structure. A key aspect of combating corruption within the government would be for the UN to push for a census of government employees in order to identify false employees. This would deal with the practice of officials hiring fake employees to gain access to illegitimate salaries for personal gain.²⁴³ There has to be a threat to corruption within the government, specifically including the police, in order to change behavior and culture. In order for public perception of the DRC government to improve, there must be a perceived decrease in corruption throughout the Congolese government including the military, judiciary and police. A capable police force will be especially important if there is any demobilization in an eventual peace deal. With this in mind, the UN will need sufficient numbers of personnel, time to train police and monitor their performance, and the authority from the DRC government to make changes in its curriculum when necessary.²⁴⁴

POLICY RECOMMENDATIONS

- The AU should provide peacekeepers, either to replace part of the UN peacekeeping force in the DRC or to create a hybrid force using the AU-UN force in Darfur as a model.

- US should provide training and logistical support to AU peacekeepers in the DRC.
- The US should encourage UN peacekeepers to adopt new tactics (patrolling on arterial roads instead of only on main roads) and technologies (surveillance drones) with a focus on providing real-time intelligence in order that peacekeepers proactively prevent atrocities instead of only responding to them.
- UN peacekeepers should help build the capacity of the DRC police by comprehensively training police in the Kivus and supporting DRC anti-corruption efforts in conjunction with judicial reform.

CHAPTER 6: SMALL SCALE APPROACH TO BUILDING THE DEMOCRATIC REPUBLIC OF CONGO'S MILITARY CAPABILITY

By Madison Strader and Sarah Ernst

The use of United Nations peacekeeping forces while expanding the role of African Union peacekeepers in the region is an important measure to provide security to the DRC. However, as we have seen the UN mission in the Congo has been ineffective, failing to bring security to the region, and has no support among civilians. For long-term security and stability to be possible, a local DRC force must help to provide it. Therefore, in conjunction with reforms to the allocation of peacekeeping forces in the region, the US should provide training and capacity building support to help the Congolese military become a more professional and effective force. The US can play a critical role in achieving security sector reform in the DRC. US help is necessary in the Congo because US armed forces are uniquely capable of meeting the challenge. US Special Operations Forces (SOF) have not only the ability but also the experience to successfully improve the security situation in the DRC through training operations.

CAPABILITIES

While SOF has strong direct action capabilities we should utilize their ability to undertake an indirect approach in the DRC, in accordance with the 2012 Special Operations Command (SOCOM) Posture Statement and former Secretary of Defense Leon Panetta's emphasis on using small-scale operations to achieve US security objectives.²⁴⁵ Of the US Special Operations Forces Core Activities, their expertise in Foreign Internal Defense (FID), Civil Affairs (CA), and Security Force Assistance (SFA) make them the best choice for building the capacity of the DRC military through training. FID operations consist of training and providing other assistance to foreign governments and their militaries to enable the foreign government to provide for its country's national security.²⁴⁶ CA operations support FID operations by aiding host nations determine the needs of an area to ensure long-term stability.²⁴⁷ SFA assists in supporting and sustaining host nations security forces through interagency, intergovernmental, and multinational cooperation.²⁴⁸

US Special Operations Forces' indirect approaches empower host nations, which in turn "increases partner capabilities to generate sufficient security and rule of law, address local needs, and advance ideas that discredit and defeat the appeal of violent extremism."²⁴⁹ Cultural Support Teams, as part of US SOF, make them uniquely capable of gaining operational context through multiple visits to a region, build personal relationships and understanding of the local culture, society, language, economy, history, politics, leadership, physical and virtual terrain, and the enemy. This context allows SOF capacity building operations to be more precise and maximize desired effects.²⁵⁰ Cultural understanding in particular is an important component of the Army and Marine Corps SOF ability to effectively build partner capacity.²⁵¹ The combination of SOF training capabilities and their sensitivity to regional issues makes them ideal to train the FARDC, which needs both basic military training and to regain the trust of civilians.

EXPERIENCE

In addition to US Special Operations Forces' specific capabilities, that make them the best choice to conduct training operations in the DRC, they also have the experience. In the Philippines a Joint Operations Task Force (JSOTF-P) of 500 members has been working with the Armed Forces of the Philippines (AFP) since 2002 to prevent the rise of terrorism on Mindanao.²⁵² Mindanao is historically an impoverished, lawless area where a separatist Muslim insurgency gained strength and established training grounds of groups such as the Jemaah Islamiyah, an Indonesian-based network reportedly responsible for the 2002 Bali bombings that killed over 200 people.²⁵³ Abu Sayyaf, a Philippine terrorist organization with direct links to al-Qaeda was also based in Mindanao.²⁵⁴

The US role in the region is limited by the Philippine constitution, which prohibits direct combat by foreign forces. As a result, Filipino forces execute all counterterrorism operations. US Army Special Forces, Navy Seals, and Marine Force Recon troops have taken an indirect approach in the region by providing FID, focusing on bolstering AFP military capacity by organizing, training, and assisting local security.²⁵⁵ SOF training

has consisted of strategic and tactical methods.²⁵⁶ In addition, SOF has also provided intelligence support and humanitarian aid.²⁵⁷

The SOF operations in the Philippines have been seen as largely successful²⁵⁸, making it “a suitable model worthy of consideration” to work in “a complex and socio-politically sensitive environment” like the Democratic Republic of Congo.²⁵⁹ An important contributing factor of the US indirect operation’s success in the Philippines is that it recognized the need to understand local conditions. This meant a majority of the task force’s operations were of humanitarian nature that helped build legitimacy of the Filipino government and AFP in the eyes of locals who had been living in lawlessness and without security for many years.²⁶⁰ To build AFP legitimacy, US SOF not only conducted training missions but also assisted with humanitarian work. The Philippine security forces needed to improve their ability to work with the local population to be an effective force. The experience gained from the Philippine operations makes SOF the best choice to help build the security sector’s capacity in the DRC. The FARDC are responsible for many human rights abuses in the region. A similar approach to that taken by JSOTF-P (a combination of training and humanitarian work) is necessary to help build support for the FARDC, increase their legitimacy and therefore build their capacity.²⁶¹

In October 2011, the US deployed Special Operation Forces to Uganda to assist them and other countries affected by the LRA.²⁶² As in the Philippines, SOF’s mission has been to increase Ugandan military proficiency through assistance and training. The US is also supporting intelligence and logistics coordination.²⁶³ A total of 100 service members and civilians deployed, followed by a “combat-equipped team and headquarters, communications, and logistics personnel.”²⁶⁴ In a letter to Congress, President Obama stated that while the US forces are armed, they will only “act as advisors to partner forces” and “will provide information, advice, and assistance” but “will not engage LRA forces unless necessary for self defense.”²⁶⁵ In addition to training, in June 2011, the Pentagon sent four small drones, communications gear, and other equipment to Uganda and Burundi to use in Somalia to combat al-Shabab.²⁶⁶

In April 2012, President Obama announced the US SOF commitment to the region would continue with periodic reviews.²⁶⁷ Amanda J. Dory, Deputy Assistant

Secretary of Defense for African Affairs, testified before the Senate Foreign Relations Committee's African Affairs Subcommittee that the "US military advisors have established a good foundation and made initial progress, especially considering the complexity of the operating environment, the number of partners involved and the remoteness of the operational areas."²⁶⁸ The SOF operation has helped to make the Ugandan military "a professional force" that "plays a key role in advancing regional peace and security."²⁶⁹ Head of US Africa Command (AFRICOM), Army Gen. Carter F. Ham, stated to the House Armed Services Committee in February 2012 that US SOF have had "a very positive effect" in Uganda. SOF operating throughout AFRICOM have also received favorable feedback from an opposition leader in Uganda according to Michael Casciaro, AFRICOM's security cooperation programs division chief.²⁷⁰ The Ugandan military has been playing a larger role in the AU peacekeeping mission in Somalia, demonstrating the effectiveness of SOF training in building the capability of African militaries to bring stability to not only their countries but also the region. Using SOF to build the competence of our African partners reduces the need for the US to commit sizable forces to the region.

From June 1 through June 25, 2012, 60 US SOF soldiers from the 10th Special Forces Group (SFG) (Airborne) and members of the Botswana Defense Forces Special Forces (BDFSF) came together for the first combined field training exercises in ten years, under the name Exercise Eastern Piper 12. AFRICOM and US Special Operations Command-Africa (SOCAFRICA) led the training, a FID operation, focused on counter-terrorism. The BDFSF was trained on marksmanship, close quarter battle, medical and tracking training.²⁷¹ Master Sergeant Gary Dewitt, a noncommissioned officer in charge of the SOCAFRICA Exercise Branch stated the Botswanian forces have demonstrated "time and time again that they are a professional military force capable of handling their own affairs."²⁷² Not only was the training an opportunity to train BDFSF soldiers in engaging targets with precision using submachine guns and pistols, and close quarter battle with breaching techniques, but was also an opportunity for "one of the finest Special Operations Forces in Africa and US forces to develop relationships and mutual respect. Major Nathan Swindler, commander, Charlie Company 4th Battalion, 10th SFG stated he was able to see firsthand the professionalism and proficiency of the BDFSF."²⁷³

The BDFSF also led training for US Special Forces on theory and practical application of combat tracking, which they are highly successful at even without the technology US soldiers have at their disposal. The experience in Botswana of the 10th SFG serves as an important experience that will enable our SOF to more effectively carry out a capacity building and training operation in the DRC. Not only did the SOF participants gain more knowledge on how to interact with African forces but the Botswanian example can also serve as a possible framework for future training of the FARDC. SOF experiences in the Philippines, Uganda, and Botswana demonstrate their effectiveness of US assistance to foreign military partners in both human rights and tactical training, therefore, demonstrating why SOF are the best choice for conducting training operations in the DRC.

While there have been some important successes in using US Special Operations Forces in training our partner militaries there have also been instances of US trained soldiers deserting or joining rebel forces. In Mali, hundreds of Malian soldiers have defected to the rebels, including US trained commanders of elite forces. An American-trained captain is also responsible for overthrowing the democratically elected government in a coup, leading Islamist militants to seize half the country.²⁷⁴ This is a serious risk we take when deploying our SOF to train our African partner nations' militaries but without US action security and stability will not come to the region and violence will continue. General Ham, in a press conference, attributed the numerous desertions and defections of US trained Malian troops to the rebels a result of the US not spending enough time training forces on "values, ethics, and a military ethos."²⁷⁵ Including human rights considerations and building a professional military with a strong military ethic, like in the Philippines and Uganda, in US SOF training of FARDC forces will reduce the risk of desertion as seen in Mali.

WHY THE DRC MILITARY IS CURRENTLY NOT A CAPABLE PARTNER

Based on the capabilities and experience of US SOF, the US role in the DRC should be that of military trainers with an emphasis on creating a capable regional partner through training and supportive operations. Building the DRC's capacity will help avoid dependence on a US presence in the region, reducing or eliminating the need for

future, large-scale US involvement. Currently, the DRC is not a capable partner. Social institutions remain uprooted, the government is not present in the Eastern DRC (or at the very least highly ineffective in the region), and civilians face the threat of armed aggression. The estimated 130,000-person FARDC is viewed as weak, abusive, and a non-cohesive force.²⁷⁶ Under Mobutu, the FARDC command structure was weakened because of fears of a military coup.²⁷⁷ Mobutu also failed to adequately pay his security forces, encouraging them to prey on civilians, stating “you have guns; you don’t need a salary.”²⁷⁸

Within the convoluted military structure left behind by Mobutu, armed rebels from the CNDP and other non-state armed groups have been poorly incorporated into the FARDC.²⁷⁹ After decades of violence and chaos the FARDC is guilty of numerous human rights abuses, including rape and other crimes against humanity.²⁸⁰ In addition to widespread incidence of rape committed by security sector members, child soldiers are used in the FARDC.²⁸¹ The US Department of State 2010 Country Report on Human Rights found the FARDC guilty of a “dramatic increase” of child soldiers in 2009.²⁸² This is partly attributable to the poor incorporation of rebel forces into the Congolese military. In April 2012, roughly 300 former CNDP defected from the FARDC, citing poor working conditions and Kinshasa’s unwillingness to implement the March 23, 2009 peace deal.²⁸³ Of those rebels still associated with the FARDC, some are engaged in the abuses against civilians according to UN officials.²⁸⁴

WHAT DOES A CAPABLE FARDC LOOK LIKE?

For the DRC to be considered a capable partner, ultimately the FARDC needs to be a professional, efficient body of soldiers with the ability to conduct routine military operations, engage rebel forces, and respect human rights. This will not happen overnight. The Congolese military should be considered a capable partner when there are small, incremental improvements in reducing the use of child soldiers, incidence of rape, and enhancing the FARDC’s ability to provide security to civilians and maintain the DRC’s territorial integrity. It is most important that their capabilities continue to improve and follow an upward trend towards the creation of a professional force.

In 2010, US SOF led the training operation of the 391st Light Infantry Battalion in the DRC. Three years later, their example serves as a success story and demonstrates not only what a capable DRC partner looks like, but that capacity building training operations can be successful in the country. The 391st is generally viewed as a relatively well-behaved fighting force in regards to human rights issues. However, during a presentation hosted by Congresswoman Bass's office, Jacque Bahati of the Africa Faith and Justice Network accused the US trained DRC force of raping civilians. Bahti's claims have not been substantiated. There have been no credible reports or evidence suggesting that 391st soldiers have been involved in rape or other crimes against civilians according to Ida Sawyer of Human Rights Watch.²⁸⁵ There are concerns over the military effectiveness of the 391st but it is most likely a result of the broken military chain of command and supply lines in the DRC.²⁸⁶ With further US SOF support and training, the chain of command and supply lines can be improved as the DRC's capacity is built. The example of the 391st battalion, while small, indicates further US involvement in training the FARDC will likely be effective because of its success at improving their tactical capabilities and respect of human rights.

CREATING A CAPABLE MILITARY PARTNER

To help strengthen the capabilities of the FARDC and create a more capable regional partner, the US should continue to lead training and support efforts in the Democratic Republic of Congo. US SOF and contractors conducted the 2010 training operation. The FARDC's 391st light infantry battalion was intended to model future reforms in the Congo, increase the DRC's ability to conduct internal security operations, help maintain the territorial integrity of the country, and create a military that is accountable to the Congolese people.²⁸⁷ The US also trained 200 Congolese trainers, with the intent that they would "form the core of [the] future training initiative."²⁸⁸ The training was completed as part of Operation Olympic Chase, which was managed and executed by SOCAFRICA, a sub-unified command of AFRICOM. The training focused on military tactics, respecting human rights, preventing sexual assault, and the relationship between civilian and military authorities in a democratic society. The operation also focused on creating a system where the soldiers can be food self-sufficient through

sustainable agriculture and aquaculture, therefore eliminating a major motivating factor behind many of the crimes against civilians.²⁸⁹ Many army units in the DRC do not have access to enough food.²⁹⁰

The 10th Special Forces Group (Airborne) is responsible for Africa and it is their operational detachments alpha that will conduct training operations in the DRC. Since the FARDC is a weak, non-cohesive, and an ineffective fighting force US SOF training should begin with the fundamentals, such as marksmanship, basic land navigation, safe weapons handling, and rules of engagement. Basic training should be the top priority of US SOF capacity building operations because it will help make the FARDC disciplined and cohesive. This is necessary to be a capable fighting force that respects human rights. Instituting reforms that will allow FARDC members to be paid, through mobile banking for example, is also an important component of building an effective military and incentivizing participation in training exercises. Payment will act as an incentive to behave professionally.

Once FARDC forces have demonstrated competency in the fundamentals, counterinsurgency training should be the next priority. Counterinsurgency training involves not only tactics but also looking at the larger campaign plan.²⁹¹ As Col. John Deedrick, Commander, 10th SFG stated in regards to training Ugandan forces to counter the LRA, military tasks include determining when and where you look for insurgents, and how to use information in your campaign. However, as Col. Deedrick said, “equally important is winning the human terrain.”²⁹² A key component of counterinsurgency training and operations is winning the hearts and minds of the population, just as in the Philippines and in Uganda where civilians are willing to provide information on the LRA because they no longer live in fear of the military.²⁹³ Including this in US SOF training of the FARDC will help build DRC capabilities as a fighting force because it will improve their human rights abuse record and teach them how to effectively fight a campaign while differentiating between civilians and the enemy.

As a final component of US SOF training in military tactics extended operation exercises should be conducted. Such training will focus on making FARDC forces capable of operating in the field for multiple days without returning to villages. The

FARDC will, therefore, be able to stay on the offensive while conducting operations. Extended operations training will also teach DRC military units how to be sustainable without preying on civilian populations. This will only be possible once the fundamentals have been taught because successful extended operations require discipline and a strong military ethos. Training in extended operations will benefit US interests in the region as the DRC will be better able to defend its territorial integrity and function as a capable force, negating the need for future large-scale US intervention. While conducting training exercises SOF forces must be prepared for the possible eruption of violence. As seen throughout Africa a country can transition from peace to violence in days.²⁹⁴ US SOF operations should also integrate US diplomatic mission-strategic plans. This will require an understanding of US policy and objectives in the DRC.²⁹⁵

Continued US training and security sector reform in the DRC should, in addition to military tactics, emphasize creating a military ethic and respect for human rights and law, as in the case of the 391st battalion, Filipino military, and the Ugandan troops. US SOF military training should incorporate human rights law, gender equality, humanitarian aid, humane interrogation techniques, and gender violence workshops among other topics. Building a more capable Congolese force is only possible through human rights training in conjunction with tactics. For the DRC to be considered a capable partner it is necessary that their military not only be effective but also professional, ethical and trusted by civilians. The combination of tactics and training on military ethics and human rights will help mitigate the possibility of defection as we have seen in Mali. It will also enable the FARDC to better protect internally displaced persons (IDPs) because they will be trained in best human rights practices, have a better relationship with the population, be more trusted by civilians, and not have to prey on them for food and other resources.

Additionally, US SOF training of the FARDC will allow the military wings of non-state actors in the region, such as M23, to be better incorporated than the 300 former CNDP members who defected. This is important to create regional stability. If the FARDC is a more professional force with a stronger military ethic the working conditions will be better, therefore eliminating a major grievance and justification for past

desertions and limiting recruitment of soldiers by rebel groups. The rebels who are chosen for incorporation should receive the same basic training, which will make them a more disciplined and cohesive part of the FARDC, as well as educating them on human rights.

As part of a US SOF support operation, providing unmanned aerial vehicles or other intelligence, surveillance, and reconnaissance (ISR) assistance should be considered. US SOF have at their disposal aircraft (manned and unmanned); ground vehicles; communication technology; clandestine tagging tracking and locating technologies; and tactical video system/reconnaissance surveillance target acquisition that can be used to support FARDC-led operations.²⁹⁶ In Uganda, SOF operations have provided intelligence support to combat the LRA and have been viewed as successful. Providing intelligence, surveillance, and reconnaissance support would supplement FARDC capabilities while they are trained and other reforms are made. Once the DRC is a more capable partner, with the ability to finance its own ISR operations, the US should cease such support and continue to focus on training.

LIMITATIONS - WHAT THE US SHOULD NOT DO AND LEGAL RESTRICTIONS

US involvement should be restricted to training and capacity building operations conducted by US SOF. The US has not and should not contribute peacekeeping troops to MONUSCO. Nor should the US deploy a large-scale military operation. The failures of MONUSCO demonstrate that a large force does not mean success; leaving the problems of professionalism and lack of ability unaddressed. Additionally, a large US operation would be costly, domestically unpopular, detract from other regional operations, and would not address the institutional problems of the FARDC.²⁹⁷ A large US troop commitment would also be contrary to stated US policy in the region. The AFRICOM mission is to protect and defend “the national security interests of the US by strengthening the defense capabilities of African states and regional organizations.”²⁹⁸ According to Gen. Ham, the US role in Africa should remain small scale with low costs. This is also in line with former Secretary of Defense Panetta’s assertion that “whenever possible, we will develop innovative, low-cost, and small-footprint approaches to achieve our security objectives.”²⁹⁹ Therefore, meeting US interests and bringing security to the

DRC is best accomplished through small-scale, SOF involvement, not through large-scale military intervention.

The US role in the DRC faces legal limitations and for US assistance to continue there needs to be a new agreement with the DRC that clearly outlines the standards the FARDC must meet according to US laws' human rights requirements. This is inline with US Assistant Secretary of State Johnnie Carson's assertion that US assistance to the region must be conditional.³⁰⁰ Without a framework to improve the respect of human rights in the military the US cannot legally engage in training and support operations. Amendment 620M of the Foreign Assistance Act of 1961 (the "Leahy Law") and the Child Soldier Prevention Act of 2008 (CSPA) place constraints on US military aid to the DRC. The Leahy Law states "no assistance shall be furnished [...] to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights."³⁰¹ The Leahy Law requires the Department of State to vet assistance to foreign security forces, including training programs conducted through the Department of Defense.³⁰² ³⁰³ If credible information on human rights abuses is confirmed, assistance and/or funding for training programs will be withheld. The Leahy Law does not apply if the Secretary of State determines the country is working towards bringing the units of the security forces guilty of human rights abuses to justice. The Secretary of Defense can also circumnavigate the law if corrective measures are being taken or if there is an extraordinary circumstance.³⁰⁴

The CSPA limits US ability to provide financing or military training to countries who conscribe, force recruit, or use child soldiers.³⁰⁵ The Secretary of State is required to list all foreign governments in violation of the CSPA and formally notify them. The President may waive the limitations of the CSPA, authorizing assistance for international military education, training, and nonlethal supplies, if it is in the national interest of the US or aid supports programs that will improve the "professionalization of the military."³⁰⁶ A waiver may also be granted if the country receiving assistance has taken actual measures to become compliant with the CSPA, has implemented policies to prohibit future use of child soldiers, or is taking "reasonable steps" to demobilize, rehabilitate, and reintegrate child soldiers.³⁰⁷

The Leahy Law and CSPA could potentially limit US ability to provide security sector reform, training and capacity building measures through our SOF because of widespread human rights abuses in the DRC. Withholding assistance under both laws is meant to incentivize countries to take appropriate steps to improve the respect of human rights. However, in 2009 the US withheld \$2.7 million of aid to the DRC.³⁰⁸ Instead of motivating Kinshasa to implement reforms the situation deteriorated. M23 presence in the eastern DRC increased and the FARDC continued to use child soldiers.³⁰⁹ Withholding US military assistance because of the DRC's use of child soldiers in 2009 did not improve the situation or change the institutions that allow abuses to continue. Doing so now would not have a different effect.

US SOF training operations in the region are necessary to build the FARDC's capacity and will involve education on not just tactical measures but also values, ethics, human rights, and how to appropriately interact with civilians. Since previously withholding aid did not improve abuses in the DRC and training would include ethics and professionalization, the President and the Secretary of Defense should continue to authorize waivers as they have previously.³¹⁰

The situation of the DRC is in our national interest as President Obama stated in his 2011 Presidential Memorandum, exempting the DRC and other countries from the CSPA. The Memorandum allowed international military education and training to continue.³¹¹ However, it did not authorize foreign military financing and was meant to send a message to the DRC that they need to do more in respect to human rights abuses.³¹² In response, the Congo signed a UN action plan agreeing to end the DRC's use of child soldiers. The DRC has also made efforts to arrest Bosco Ntaganda (a known human rights abuser and child soldier recruiter), improve systems that help identify and remove child soldiers from the military, and increase UN and international humanitarian actors access to the army barracks for inspection.³¹³ The partial waiver reflects the administrations belief that some proactive steps have been taken to reduce the use of child soldiers and the importance of offering aid with conditions. President Obama also praised the country's signing of the UN protocol. The President did admit that the positive change does not "represent the kind of institutional change required to make

real progress toward eliminating child soldiers,” therefore necessitating continued assistance.³¹⁴

In addition to the positive steps taken by the DRC that justify a waiver under the CSPA, the Secretary of Defense should also authorize continued assistance to the DRC, despite the Leahy Law, because of the humanitarian crisis. It is an extraordinary circumstance. The President and the Secretary of Defense should continue to waive the Leahy Law and CSPA so SOF can work with the FARDC to improve their professionalism and effectiveness as a fighting force. Waiving the Leahy Law and CSPA is within the legal limitations of the laws and would not be unprecedented.

CONCLUSION

The US should use US SOF troops to train and support FARDC forces under a new agreement that requires the DRC to meet US laws' human rights standards. Training should include basic military tactics, human rights and after demonstrated competency in those areas counterinsurgency and extended operations. While assistance can still be provided without a new agreement with the DRC, through waivers of the Leahy Law and CSPA, aid to the DRC should not be given unconditionally. The FARDC is a weak, ineffective, corrupt fighting force guilty of many human rights abuses and is incapable of providing security for the DRC. As we have seen in the failings of MONUSCO, foreign forces will not be able to provide long-term stability and security to the region; the FARDC must. US SOF capabilities and experiences should be utilized to help build the capacity and capability of the FARDC. US SOF specialization in FID, CA, and SFA operations makes them the best choice for a training mission in the DRC. Additionally, their ability to gain operational context and an understanding of the region in which they work allows them to more effectively train native forces. US SOF have led numerous successful training operations, including the Philippines, Uganda, Botswana, and the DRC itself. This demonstrates their ability to successfully contribute to creating security through training operations that include both tactical and human rights education. Respecting human rights and creating a military ethos in the FARDC must be a major component of SOF training in the DRC as continued assistance is contingent on the Congo's compliance with US human rights law. Utilizing US SOF to train and help

improve the capabilities and capacity of the FARDC is an important component of bringing stability to the Great Lakes Region. However, training the FARDC to be a more effective, professional fighting force that respects human rights is only one step towards reducing the corruption and abuse that plagues the DRC. There must also be legal reforms that create a more functional judicial system.

POLICY RECOMMENDATIONS

- The US should send SOF forces to the DRC to train the FARDC.
- Training should include military basics, counterinsurgency, extended operations, and human rights.
- Continued assistance should be contingent on improving human rights abuses

CHAPTER 7: JUDICIAL CAPACITY BUILDING

By Eric Parker

INTRODUCTION

The justice system in the Democratic Republic of the Congo is in shambles. The infrastructure is decrepit if not entirely non-existent, the judges are bought off, and known perpetrators of appalling crimes walk the streets fearlessly. Without swift and purposeful action to build judicial capacity, the lawlessness that has characterized the eastern provinces of the DRC for much of the past two decades will continue unchallenged.

Direct, purposeful action will begin to quell some of the problems that plague the country and can ultimately provide the foundation for peace and stability. The lawlessness and instability in the region has produced an incomprehensible amount of violence, corruption, and human rights abuses. Without a highly functional judicial system the chaos is not going to diminish any time soon.

The country is rich in valuable resources and should have a fast-developing economy, but corruption erodes the national wealth and places the country's riches in the hands of a few. Bribery is the *modus operandi* when trying to get anything done in this bureaucracy. If the country is to have any chance of establishing a legitimate, prosperous government in the eastern DRC it needs a powerful judicial system capable of curbing corruption.

Additionally, the DRC needs its branches of government to work cooperatively if any attempts to build judicial capacity are going to be successful. The justice system is not going to rule that elections are fraudulent if they fear the retaliation of the military. Their rulings will be virtually meaningless if the security sector fails to enforce them.

CENTRAL GOVERNMENT DISCONNECT

Disconnect between the central government of the DRC in Kinshasa, and the justice system in the eastern provinces of the country is devastating to the rule of law.

Many justices are paid little, if anything, which contrives a culture of bribery. There is a severe lack of funding for the basic needs of the justice system including courts, prisons, equipment, and security. There is no training provided which would keep justices current with laws in the DRC and ensure that they are doing a satisfactory job. Additionally, justice system rulings are rarely upheld because the central government has not effectively employed the necessary security sector personnel to enforce judgments.³¹⁵ The central government's attempts to build judicial capacity in the eastern provinces have been feeble at best. A wave of new magistrates was hired in 2009, yet by 2011 the majority outside of Kinshasa had yet to take office.³¹⁶

Ensuring that the central government is capable of funding and maintaining a functional justice system is important, but it does not provide an immediate solution to the numerous problems facing the judicial system in the east Congo. The central government does need to develop a sustainable long-term plan, but that does not provide a fix in the interim. Much of the immediate solution is going to fall on local governments with the assistance of international partners. Local governments should begin to use mineral contracts to pay the salaries of the judiciary in eastern provinces. The international community can help by providing temporary funding to help initiate the process and can also build judicial capacity by training Congolese magistrates.

AREAS OF FOCUS

PROTECTION OF WOMEN

Rape and abuse of women are rampant in the eastern DRC and have become a weapon of war. The widespread abuse of women in the region is a massive humanitarian crisis. This treatment leaves women feeling powerless and voiceless. The vast majority of these abused women have nowhere to turn for help. The justice system is largely nonexistent in much of the eastern DRC and traveling to a more central location is out of the question for most people because it is too costly. Local judicial systems are either incapable or unwilling to prosecute the perpetrators of sexual violence. For example, the International Federation for Human Rights reports that in 2005 there were 14,200 recorded cases of rape in South Kivu, only 287 of them were taken to court. 11 of them

reached trial, and over 1,000 cases of bail were granted for these suspects of sexual violence, most of who were never seen again.³¹⁷

TARGETING CORRUPT AND ABUSIVE LEADERS

Although it will be difficult a process, prosecuting top-level leaders in the DRC is necessary if the government, both local and national, desires to establish legitimacy. Many Congolese leaders in the military, civil service, and even the judiciary are the worst offenders of human rights.³¹⁸ If the government hopes to attain any semblance of legitimacy it must deal with them immediately. The worst offenders should be prosecuted by the justice system with the full support of the security sector. Because a large number of governmental leaders are complicit in criminal activity in one way or another, those that have committed smaller offenses should be granted amnesty on the condition that they disclose the full extent of their deeds in a Truth and Reconciliation Commission and pay reparations to the victims of their actions. The United States should collaborate with other countries and international organizations to assist the Congolese government with this.

MITIGATING CORRUPTION

Despite its vast reserves of mineral wealth, the DRC is a devastatingly poor country. The vast majority of the national wealth never makes it past those at the top, leaving a good deal of the population in abject poverty. Human Rights Watch and Global Witness have repeatedly documented how the government enriches itself at the expense of the Congolese people, especially in lawless regions in the eastern provinces.³¹⁹ The justice system needs to play an active role to ensure that contracts are honored and that different branches of the government use the funds they receive responsibly. Without such oversight, international businesses will continue avoiding the DRC and government employees will continue to receive little or no payment.

ESTABLISHMENT OF LEGITIMACY

The Congolese government badly needs to restore legitimacy and gain the confidence of the people. A better-functioning judicial system will be a strong deterrent for criminal activity. If the justice system is effective and the security sector enforces its

rulings, people will be more likely to bring forth their cases that will lead to the imprisonment and punishment of the perpetrators of violence, abuse, and corruption throughout the country.

OVERHAUL OF THE CONGOLESE JUSTICE SYSTEM

ASSEMBLE A JUDICIAL REFORM COMMISSION

The United States should encourage the United Nations to assemble a judicial reform commission that can function to support and train the Congolese judiciary to more effectively do their job. This group of lawyers and judges would be made up of people from many nationalities, though Kenyans would be particularly helpful as they have recently found success in reinventing their judicial system.³²⁰ The commission would work towards building judicial capacity in the region through training and support for Congolese magistrates and support staff. Additionally, the United States should encourage the international community to support organizations like *Avocats Sans Frontières* that are already working to build judicial competence in the eastern provinces.³²¹

MANDATE AND EMPOWER SPECIALIZED MIXED COURTS

In addition to training judicial personnel, one of the primary purposes of the judicial reform commission will be to provide technical, logistical, and personnel support for specialized mixed courts. These courts would operate for two years in order to assist the severely understaffed Congolese judiciary to try the outrageous number of pending war crimes. While local courts would focus on domestic crimes, specialized mixed courts would focus primarily on the international crimes committed on Congolese soil by neighboring states.³²² These courts would be mandated by the national government but focus primarily of local justice in the eastern provinces. They will function as long as necessary and will slowly work to hand over all full jurisdiction and responsibility to Congolese courts. Previous attempts to establish specialized mixed courts have been blocked by the Congolese government. The United States should vocally support their inception and pressure the Congolese government to reconsider.³²³ Such courts have

been highly successful in other regions like Sierra Leone and the model used there could be replicated in the DRC.³²⁴

REMOVE OR REWRITE UNNECESSARY LAWS

Many of the laws in the DRC are contradictory and generally unhelpful. Many laws that never fully intended to be enforced were codified, which hampers the legitimacy of the justice system. For example, according to a study done by the World Bank if you pay all of the codified taxes in the DRC as a business you will make 32 separate payments that would represent 230 percent of your profits.³²⁵ In addition to building effective standards within the legal system, the judicial reform commission should assist in removing or rewriting unnecessary laws. The DRC should do away with laws that cannot be enforced and those that are generally unhelpful.

RECRUIT JUDGES

The DRC has a critical shortage of judges. This shortage leaves the justice system completely incapable of addressing the outrageous number of crimes pending trial. In 2009 a consortium of international legal organizations reported that the Congolese Judiciary was severely understaffed. According to the report, there were only 2,150 magistrates in the entire country, a ratio of one magistrate per 25,000 people. The International Association of Judges suggests that countries have a ratio of one to 5,000 at the very least.³²⁶ The DRC does not need to increase the size of their judiciary by five immediately, but it should begin to recruit more judges. The international community should put pressure on the DRC government to begin recruiting and training more judges immediately, starting with those who have been wrongly dismissed.³²⁷

PAY THE SALARY OF THE JUDICIARY

One of the most paralyzing problems facing the justice sector is that many members of the Congolese judiciary are either underpaid or do not receive any of their salary from the government. The primary reason they are underpaid is that the central government does not allocate enough money per year to pay the justices' salaries for even one month, much less those of the legal staff, administrative costs, and improvement of infrastructure.³²⁸ The cost of paying all of the justices' salaries for one

year would be less than \$25 million, a mere fraction of the roughly \$4 billion in aid that the DRC received by various organizations and outside nations in 2010.³²⁹ The international community should budget the money to pay for the salaries of the judiciary for one year, allowing them to support themselves rather than rely upon bribes from parties that want the ruling to go in their favor. During that year the international community should pressure the Congolese government to increase its budget for the judicial system and encourage local governments in the East Congo to assist in the payment of justices. Local governments can generate revenue through mineral contracts, part of which can eventually be used to pay these salaries. Recently, the monthly salary of the judiciary was raised from \$80 to \$700-\$800.³³⁰ While that amount is seemingly generous, the government is incapable of paying it. In a country where the GNI per capita is \$190 per year, justices' salaries should be lowered to around \$400-500 per month so that the full payment of the salaries is actually tenable.³³¹

INCREASE FUNDING FOR JUDICIAL INFRASTRUCTURE

One deeply rooted problem plaguing the justice system is a lack of infrastructure.³³² Traveling in the eastern DRC is very costly and time-consuming which deters many victims from seeking the assistance of the justice system. For this reason the construction of local courts and prisons should be strongly encouraged. Local governments in collaboration with the central government should begin to apportion funds to increase the ability of the justice system to try cases and properly imprison the convicted. Some development aid should be specifically allocated for construction that aids the justice system.

WORKING WITH THE ICC

Although the United States is not a signatory to the ICC it should support the ICC's work in the DRC so long as it does not hinder peace and as long as Congolese courts are incapable of doing the job themselves. For instance, the ICC issued an arrest warrant for Bosco Ntaganda in 2006 for crimes against humanity.³³³ The United Nations and the international community have supported this action. After a failed attempt to fold him into the government, Ntaganda is now the leader of the M23 movement, which has been a destructive force in the eastern DRC for several years.³³⁴ Arresting and

indicting Ntaganda would be a powerful statement for a rebuilding judiciary, so the international community should support the ICC in this endeavor. Beyond that the United States should encourage local courts to try cases as frequently as possible. The central government of the DRC needs to be able to incorporate people into leadership without fear that they are going to be extradited to The Hague. As the justice system rebuilds and the central government attempts to broker a peace deal the ICC should be hesitant to issue more warrants, which may actually hinder progress.

REGIONAL JUDICIAL CAPACITY BUILDING

EMPLOY TRAVELING COURTS TO TRY WAR CRIMES

Crime in the eastern DRC is rampant and for the most part unchecked. The simple quantity of offenses is overwhelming, especially for the understaffed judiciary in the region. Military Mobile Investigation Units would be an effective way of aiding the regional judiciary in their capacity to investigate war crimes.³³⁵ These investigation units would be comprised of members of the Congolese judiciary from other provinces, new recruits, and members of the judicial reform commission. Such units have proven to be less susceptible to corruption and intimidation because they do not live in the region where they work and do not have to fear long-term retaliation.

FUND MOBILE GENDER COURTS

Sexual violence is a pernicious problem plaguing the eastern DRC. Mobile gender courts have been particularly effective at trying cases of sexual violence in remote regions and bringing suspects to justice. In its first 36 months of existence one mobile gender court in South Kivu heard 382 cases, “with 205 convictions for rape, 82 convictions for other offenses, and 67 acquittals. Twenty-nine cases are pending”.³³⁶ These mobile courts are relatively inexpensive to fund, and the program could successfully grow with a budget of only \$2 million a year.³³⁷ These courts successfully imprison many perpetrators of sexual violence and disseminate the message that such acts will not be tolerated. Despite their success, the program is still relatively small and the United States should encourage international donors to support mobile gender courts.

FACILITATE A JUDICIAL EXCHANGE PROGRAM

Another way that the international community can help build the capacity of the judiciary in the eastern DRC is through education. Because of the nearly non-existent judicial budget, most judges do not receive regular training. The United States should facilitate a partnership between law schools in the United States, EU, and Africa that would provide an exchange program where high-level Congolese magistrates study abroad for a few weeks, and highly acclaimed professors spend a short period of time training the judiciary in the DRC.

COHESIVE GOVERNMENTAL COOPERATION

ENFORCEMENT OF RULINGS

In the DRC there is a distinct fracture between the different branches of government. Nowhere is the lack of unity more apparent than in the relationship between the judicial system and the security sector. These two organizations are often at odds because they lack a common purpose. In a study published in 2009 it was reported that only 30 percent of judgments were enforced nationwide, and that number dips as low as five percent in the Kivus.³³⁸ The root of many of these problems is a lack of money and the noncompliance of the security sector in enforcing laws. The United Nations should work in tandem with the government to monitor these two governmental organizations and ensure that there is mutual cooperation.

NO INTERFERENCE IN JUDICIAL PROCEEDINGS

One of the largest problems facing the justice system of the DRC is that its independence is continually undermined. The security sector often decides to entirely ignore the justice system's rulings. At other times it interferes and ensures that rulings are made as they see fit. The United Nations High Commissioner for Refugees reports that the justice system of the DRC "remains weak and susceptible to executive interference by military or political decision makers".³³⁹ The United Nations needs to initiate investigative procedures and prosecute those who try to intimidate or bribe the judiciary.

RENEWED PARTNERSHIP WITH POLICE FORCE

A healthy, mutually advantageous relationship between the Congolese Police Force and the judiciary is imperative to the success of the Congolese justice system. The police force under the training and oversight of the MONUSCO must be held responsible to protect judges, arrest perpetrators, and enforce the rulings of the justice system.

REGULAR JUDICIAL REVIEWS

The United Nations should help establish a program that executes regular judicial reviews to ensure that suspects are given due process. Negligence of the administration of justice is a common occurrence in the DRC.³⁴⁰ Procedural laws are often broken because of a lack of capability and judicial accountability. The justice system needs to prioritize hearing cases in a timely manner and ensure that a just ruling is provided in the allotted number of days according to Congolese law.

ANTI-CORRUPTION LEGISLATION

Corruption is a widespread problem in every branch of the Congolese government, and is especially destructive in judicial proceedings.³⁴¹ Corruption in judicial proceedings undoubtedly filters into other areas of Congolese society. Corrupt business practices are allowed because companies are able to pay judges to overlook their infringements. The DRC has very strong anti-corruption laws, but they are rarely enforced.³⁴² The international community needs to apply continual pressure upon the DRC to ensure that these measures are respected so that rule of law can be successfully established in the eastern DRC.

PROVISION OF AMPLE PROTECTION

Many members of the Congolese judiciary, especially those in the eastern provinces of the country lack ample security. It is unlikely that members of the judiciary are going to fully prosecute perpetrators of violence if they do not feel that they are going to be protected while doing so. These judges have avoided making some difficult rulings out of fear. Uganda has seen some success in prosecuting criminals in the more volatile northern region of the country by promising and providing security to the magistrates who are willing to try difficult cases.³⁴³ The African Union should provide extra security to justices in the eastern provinces of the DRC while they try difficult

cases, and by nature those increased security forces will ensure that the justices do not partake in corrupt dealings.

POLICY RECOMMENDATIONS

- Assemble a judicial reform commission and fund mobile gender and specialized mixed courts.
- Remove and prosecute corrupt and abusive leaders.
- Recruit more and pay the salaries of judges in the eastern provinces.
- Provide ample protection for the judiciary.
- Enforce anti-corruption legislation.

CHAPTER 8: COMBATING THE RAPE EPIDEMIC

By Emily Weaver

When working to reform the armed forces and judicial system as well as to establish the rule of law within the DRC, the US should give priority to combating the extremely high levels of rape and violence against women that cause people to call the DRC the Rape Capital of the World.

The explanation for the high rate of sexual violence in the DRC varies slightly depending on the person addressing the situation. To some rape is a weapon of war, one that has been used with great frequency for millennia, which will be used less frequently once fighting has ended. For others, sexual violence may have started out as a weapon of war, but decades of fighting caused its institutionalization in the DRC's society and culture. In 2009, the International Crisis Group recommendations for the first steps towards peace building in the DRC included ending the culture of impunity, especially as it pertains to rape, because it most dramatically illustrates "the dramatic breakdown of Congolese society" in which rape is no longer purely a weapon of war but also a widely-practiced procedure for determining power relations.³⁴⁴ Indiscriminate of age, ethnicity, and sex of the victim, anyone in a position of authority—including a family member or wealthier neighbor—might consider rape a legitimate way to solidify his power over someone. The International Crisis Group summed up the incredible size of the issue saying:

Despite unprecedented international condemnation of the sexual violence, impunity remained widespread. Civil society reports show that the national army and the police were both guilty of sexual violence but, unlike civilians, faced no risk of prosecution. An increase in sexual crimes committed by minors was observed by NGO members of the provincial sub-commission on sexual violence in Goma, who estimated that 90 percent of minors in prison had been convicted of rape...In sum, there has been a profound degree of normalisation of violence against women that endangers the basic foundations of social relations in the province.³⁴⁵

The extent to which sexual violence has become interwoven into the power structure of the DRC provides an extra degree of difficulty in putting an end to the epidemic. The extreme prevalence of rape is not just a matter of sexual violence; instead

it speaks to a deeper institution with the DRC in which women are regarded as non-entities, as having no power or agency, and therefore, women are incapable of being productive members of society. In April 2012, the White House published a report stating that each year the United State's two million female domestic abuse victims cost the nation \$8 billion in lost productivity and health care expenses resulted in the loss of 8 million paid workdays.³⁴⁶ Compare the two million abuse victims to a nation in which an estimated 1100 women³⁴⁷ (not to mention men) are *raped* for the first time each day with an unknown number of abuse victims.³⁴⁸ The effects of this epidemic on the DRC's struggle to create a stable economy and society cannot be understated. Women tell aid workers they "are vulnerable in our fields, in the streets, and even in our own homes...even our daughters as young as 3 years old are vulnerable when they are playing with their friends or on their way to school."³⁴⁹ The effects of this epidemic on the DRC's struggle to create a stable economy and society cannot be understated. If women are unwilling to leave their homes in order to work or even to fetch water due the fear of being raped, then they have been compromised as productive members of society. With half the DRC's potential workforce hiding away in fear, the DRC cannot hope to become solvent.

OBJECTIVES

All policy recommendations given have the express goal of strengthening prevention, protection, and response (both in the judiciary and in support to survivors) to sexual violence. Only by fulfilling all three of these areas can any level of success for drastically lowering rates of sexual violence be expected. As such, the overarching objective will be to end the culture of impunity by working to establish a society of accountability. The establishment of such a society will mean that the DRC's citizens understand the institutions perpetuating the rape epidemic, so that they properly know who is to blame for future sex crimes. This knowledge will lead to the proper people being punished as well as an increase in protection for women and support for survivors since society will recognize that victims deserve support and reparations on behalf of the society that led to the crime. However, those are long-term goals.

In the short term, the US should work through a local partner to better respond to mass rapes and other acts of sexual violence as well as to establish a society of accountability, especially within any police or military force, in order to properly punish rapists. The US should also work with the DRC government and NGOs already working within the country to establish or improve support systems for victims and education for women in order to help them become truly productive members of society.

MILITARY AND POLICE

While establishing a system for police and military protection against sexual violence it is important to remember that one of the characteristics of the rape epidemic is that much of the sexual violence is a “highly militarization form of rape,”³⁵⁰ which means that regaining civilian trust in any armed force will require years, if not decades, of disciplined forces who are quickly and decisively punished for sex crimes. Therefore, recommendations concerning military and police forces in relation to sexual violence should include not only training and organization specifications but also a strong oversight committee with quick and strict enforcements. All armed forces should receive special training and counseling on the consequences of sexual violence to their health and the formation of a stable DRC, specifically addressing the risk of HIV/AIDs.

Changing the attitudes of the DRC’s armed forces towards sexual violence must be a priority because the military and militias began the spread of the normalization of violence and therefore will play a pivotal role in its end. Enforcement of laws and strict oversight may help lower the rate of sexual violence, but until the most common perpetrators truly understand and accept that raping women is something that must be stopped, improvement will most likely be negligible. Unfortunately, their acceptance will more likely result from facts about how rape hurts them, the perpetrators, by means of perpetuating the DRC’s instability (and thus their lack of salary and economic opportunities) as well as increasing the risk of catching a sexually transmitted disease. Therefore, lessons on the consequences to society of violence towards women and rape in specific should be made compulsory for all prospective troops during their training. The lessons should focus on how the troops themselves suffer as a direct result of sexual violence.

Troops should also be provided training and counseling on STDs, including HIV/AIDs. While the DRC has a low prevalence of HIV/AIDs,³⁵¹ the combination of a high volume of unprotected sex—through rape or otherwise—and the high prevalence of HIV throughout sub-Saharan Africa, Uganda and Zambia in particular,³⁵² means that the DRC must remain vigilant in order to not become a part of the HIV/AIDs epidemic. The Human Rights Watch advocates also providing confidential HIV testing and counseling as well as free or subsidized condoms. This training could be conducted by one of the counselors already working in the DRC to aid the victims of sexual violence, the best choices being those initiatives USAID has already vetted and with whom it is currently working in conjunction. Special units should be created within the new military and police force with the express purpose of protecting against sexual violence.

Given the high rate of rape, the regular military and police force will not be sufficient protection as they will have many different problems with which to deal and sexual violence would be easily relegated to a secondary or tertiary priority level, meaning that it would rarely if ever be addressed. Units whose only, or primary, priority is sexual violence will not only better ensure that rape epidemic will not be completely ignored and will also engender the good will and eventual faith and trust of the people.

First, units or teams should be dedicated to quick and efficient response to incidents of mass sexual violence. In 2011, the ineffective response to the mass rape incidents in Walikale, North Kivu in August 2010 and Fizi, South Kivu in January 2011 caused Refugees International to report:

In both cases, the response to the violence was slow and few survivors were treated within 72 hours to benefit fully from post-exposure prophylaxis (PEP)³⁵³ kits. Some of the slowness in response is due to inherent problems of insecurity and inaccessibility common to many such incidents. After an attack, survivors tend to run and hide and may not be able to come forward to seek help within the 72 hours. But delays were also caused by a lack of information about services, as well as lack of medical services and PEP-kits and lack of training on how to use them.³⁵⁴

Response teams should receive special training in the areas mentioned as lacking above, as well as how to approach and deal with people after mass rapes. The men picked for the teams should be chosen for their demonstrated commitment to ending the rape

epidemic whenever possible, or, at least to not perpetuate it. These units could also respond to other forms of violence against civilians, such as forced displacement, to make them more economical given the cost of the extra training required and incentives that might be necessary to entice men to serve a unit focused on civilians rather than true combat.

Support teams for the military and police, similar to the Cultural Support Teams utilized by the USSOCOM in Afghanistan, should also be instated. In Afghanistan, such teams consisted of US women attached to SOF units that enabled “dialogue and routine interaction with the Afghan females normally isolated from exposure to male SOF personnel.”³⁵⁵ In this context, women from partner countries educated in rape counseling, could staff such teams in order to aid in interactions between the DRC’s female populations and the military and police. They should be specifically attached to the emergency response teams but have the ability to work with any unit that requests a support team’s aid, provided that a team is available. Not only would support teams serve to aid in interactions between the often feared armed forces and women in general, they would also provide a measure of legitimacy and trustworthiness that the forces currently lack. This legitimacy combined with the ability to report sex crimes to a sympathetic woman rather than an intimidating man increases the likelihood of more accurate and frequent reports. Male victims would hopefully also be more willing to work with women because women would not be seen to judge male victims as harshly as other men might.

COMBATING IMPUNITY THROUGH THE LEGAL SYSTEM

Prosecuting crimes of sexual violence in a country where rape has been normalized into the power structure and the survivors of Gender Based Violence (GBV) are more often than not blamed for their own assault presents a large challenge. Sexual violence is a particularly hidden crime as victims are reluctant or unable to report attacks. Survivors of sexual violence frequently encounter severe prejudice from members of their families and communities and are therefore reluctant to publicize any attacks.³⁵⁶ Often, the violence is seen as somehow “normal” or inevitable³⁵⁷ and as such

victims should accept what has happened to them rather than drawing attention to their plight.

The following recommendations are for the purpose of creating or improving laws and institutions in order to increase accountability within the armed forces and society. The establishment, support, and oversight of an Internal Affairs division committed to exposing wrongdoing within the military and police and handling civilian complaints.

An Internal Affairs division could handle complaints like theft and general assault, but its primary concern should be sexual assault of any nature due to its pervasiveness and ability to undermine the DRC both socially and economically. Based on the relative success of the internal affairs committees and divisions noted by Center for Strategic and International Studies (CSIS) in Liberia, Sierra Leone and Southern Sudan, such a division would aid in gaining the trust of the DRC's non-combatants and would allow for increased accountability within the armed forces.³⁵⁸ Personnel for the division should be chosen with care as they will not only need to be determined to see cases through but also to listen to and support all survivors of sexual assault.

In all cases the divisions are not as effective as they could be and more wasteful over the course of a few years, which CSIS attributes to the divisions' lack of external oversight, improper choices of leadership for the divisions and decreasing financial support. While all three of these problems are not isolated to the Internal Affairs divisions, the lack of external oversight is the one most specific to the division. Without external oversight, certain cases can be overlooked or improperly investigated because the accused has money or high position in the military or police. Therefore, the US should insist on an Internal Affairs division having "a permanent, independent, civilian-led board containing representatives from the media, lawyers, and human rights experts" in order to demonstrate the openness of the police and military to scrutiny as well as their commitment to dealing with allegations of misconduct in a transparent manner.³⁵⁹

ENCOURAGE THE DRC TO ADOPT MONUSCO'S 2009 PLAN FOR COMBATING IMPUNITY FOR SEXUAL VIOLENCE.

In March 2009, MONUSCO drew up the beginnings of a fairly cohesive plan for combating impunity for sexual violence.³⁶⁰ Of its recommendations not already discussed in other sections of this chapter, the US should focus on the following, adjusting the points to more in line with US access to personnel within the DRC:

1. Encouraging special training for the judiciary on sexual violence. Such training would have the purpose of causing courts to treat cases of sexual assault with all due seriousness as well as ensuring that they are aware of all the specifics of laws guiding how such cases should be prosecuted.
2. Working through NGOs to provide guidance to victims on their basic rights and obligations for filing complaints.
3. Clarify the 2006 Law on Sexual Violence.

SUPPORT THE INTEGRATION OF RULE 96 OF THE SPECIAL COURT FOR SIERRA LEONE'S RULES FOR PROCEDURE AND EVIDENCE³⁶¹

The SCSL's Rule 96³⁶² provides an excellent base for conducting trials of cases of sexual violence. It deals specifically with the nebulous issue of consent, detailing situations in which consent cannot be inferred. Most notably, Rule 96 stipulates that consent cannot be inferred if sex occurs in a coercive environment. While this definition of consent is still vague and therefore can easily be manipulated by the defendant, the term 'coercive environments' opens the door for undermining the integration of rape into the power structure because such environments encompass more than just the outright threat of physical violence. 'Coercive environments' also include situations in which sex occurs only because the rapist's position (in the government, military, etc.) implies that he will hurt the victim or his or her family through other means if she does not have sex with him. Because Rule 96 negates the common excuses for rape used by defendants that blame the victim,³⁶³ the Rule establishes a foundation not only for successful prosecutions of rapists, but also for a society in which the proper people are blamed for rape: the rapists and no one else.

WORKING WITH THE COMMUNITY AND NGOS

Currently USAID supports a number of NGOs in five-year programs for combating GBV. These programs aim first to aid survivors through health care, education, and legal assistance. Secondly, they work within communities to increase awareness of the problem and change behavior patterns. They also work with religious and community leaders so that they are better advocates for gender equality. Many also hold discussion groups with men and women of all ages on the problems sexual violence creates as well as to establish a form of masculinity not derived from taking power away from others. A few NGOs, such as the American Bar Association, hold awareness campaigns, which aim to spread information about women's rights under the law. Other awareness campaigns focus on the idea that not only should survivors of sexual violence not be blamed but also that GBV should be stopped.

In the end, though, most of the NGOs' time and effort are given to aiding survivors due to their large numbers. Therefore the United States should support and better coordinate efforts with NGOs' so that their initiatives can be more proactive instead of mostly reactive.

IMPROVED COORDINATION AND FUNDING FOR NGOS ADDRESSING GBV

While current NGO programs work well in concentrated areas, many sections of the country are not covered, and few rape survivors in DRC receive timely and adequate care.³⁶⁴ In order to solve this problem, the US should work with the DRC and the NGOs to help further coordinate their efforts. This goal can be achieved by encouraging key donors to "require their implementing partners to fully cooperate with the comprehensive strategy's implementation." The most prevalent impediment to full cooperation among NGOs in the DRC is the lack of shared information. For this reason, the United States should require the NGOs it funds to cooperate with the people coordinating the DRC's strategy for combating GBV through NGO-based efforts. Without full information sharing, "planning reverts to being *ad-hoc*"³⁶⁵ and money is wasted

Coordination will improve efficiency, allowing current funding to stretch farther, but more money will be necessary to expand aid to the majority of the DRC. Of the NGOs

USAID is currently funding, it should especially increase its support of HEAL Africa as the NGO efficiently aids survivors in the immediate aftermath of rape and then supports them for five-years, focusing on making the women healthy and self-sufficient. HEAL Africa runs one of only three reference hospitals in DRC, aids women in rape follow-up, works to educate the security and judicial sector, to rebuild communities, and to aid in conflict resolution.³⁶⁶ Improving HEAL Africa's ability to aid more women would take only a relatively small amount of aid—in 2011 they ran thirty-one safe houses and the rest of their programs on \$972,961.³⁶⁷

SUPPORT NGOS IN THEIR EFFORTS TO IMPROVE WOMEN'S EDUCATION, SPECIFICALLY IN LIFE-BASED SKILLS

While education may seem like a step that should be relegated to a lower priority, in reality, educating women is pivotal to ending the rape epidemic. Women must be seen as having agency, thereby disrupting the power structure within which GBV is currently ingrained. Education is the quickest way for a woman to gain agency as it allows her to become a productive member of society whereby she will be no longer dependent on men. Becoming productive also increases a woman's value, meaning that the cost to society of harming a woman increases as well, thus generally causing more consistent and harsher punishments of rapists and abusers and lowering the rate rape and abuse.

POLICY RECOMMENDATIONS

- All armed forces should receive special training and counseling on the consequences of sexual violence to their health and the formation of a stable DRC, specifically addressing the risk of HIV/AIDs.
- Special units should be created within the new military and police force with the express purpose of protecting against sexual violence.
- The establishment, support, and oversight of an Internal Affairs division committed to exposing wrongdoing within the military and police and handling civilian complaints.
- Encourage the DRC to adopt MONUSCO's 2009 plan for combating impunity for sexual violence.

- Support the integration of Rule 96 of the Special Court for Sierra Leone's Rules For Procedure and Evidence
- Improved funding and coordination for NGOs addressing GBV to spread awareness, create support systems for GBV survivors, and educate all women in life skills.
- Support NGOs in their efforts to improve Women's education, specifically in life-based skills.

CHAPTER 9: REINTEGRATION AND RECONCILIATION FOR DISPLACED GROUPS

By Shannon Keith

The displaced populations are a critical focus of a DRC security initiative because refugees and IDPs contribute to the region's lack of stability. Displaced groups are a source of recruitment for rebel forces and are targets for predation by soldiers on all sides. Because violent groups leech off of these especially vulnerable communities, both state and non-state leaders feel threatened by the chaos that displacement camps attract. In response, many camps have been forced closed, leaving displaced persons with no other option but to pick up and move to the next spontaneous settlement for fear of returning home and risking repeated attacks. Throughout this process, displaced persons are stripped of their livelihoods and are an economic burden on their place of refuge. In short, society in the DRC has been severely dislocated by conflict, and the displaced community's constant struggle with hunger, disease, and refuge constitutes a humanitarian crisis, which continues to undermine larger peace-building initiatives.

A broader security effort must first establish protection for displaced populations. Refugees and IDPs have often suffered from the worst human rights abuses and are most vulnerable to repeated violations. Through capacity building of the Congolese security forces, a newly trained military with greater respect for human rights can prevent the civilian abuses that cause displacement, while police forces can enforce rule of law at displacement camps and sites of return. Together, these forces can rebuild public trust in the security sector and diminish the chances of resolution by conflict.

The reintegration of displaced populations is a critical next step for lasting stabilization. Supporting the voluntary return of these displaced communities and enabling their participation in the rebuilding of institutions is essential for sustaining security in the Kivus region. This return should be a coordinated effort by international refugee organizations, the Congolese government, and local NGOs in order to reestablish returnees' legal rights and facilitate community-led development.

Finally, engaging the community in reconciliation efforts is necessary to quell continued ethnic feuds, but must be backed by legitimate judicial and government

support in order to repair the widespread mistrust of authority. Wide-ranging consultation with victims should ultimately shape the formation of a mechanism for addressing past grievances. The community must buy in to this mechanism, whether it be through another Congolese truth and reconciliation commission or another truth-telling mechanism to prevent renewed movements towards violence and instability.

CURRENT SITUATION OF DISPLACEMENT

Throughout the process of ethnically and politically-motivated fighting over the past decades in the DRC, millions of Congolese civilians have been forced to flee their homes after being exposed to gross human rights abuses. In many if not most cases, they are leaving behind loved ones who have been slaughtered by rebel militia and Congolese soldiers alike, and displaced persons often carry the scars of brutality and rape themselves. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that there are currently more than 2.2 million displaced people inside the country, with more than 400,000 refugees who have fled.³⁶⁸ However, these numbers are amplified by the many who reside in unofficial settlements or with host families.

UNHCR and other aid organization began managing many of these IDP and refugee settlements around 2008, establishing 'protection clusters' which coordinated groups of NGOs and humanitarian organizations to the most high-priority official camps.³⁶⁹ However, life in the camps has been all but easy. Due to resource constraints, humanitarian assistance has been dwindling while the risk of illness is ever-present in the crowded camps that often lack adequate sanitation or a safe source of water. Access to health care and education is abysmal, leading both IDPs and refugees to regularly sell part of their food aid for school fees or medical supplies.³⁷⁰ Of the five million deaths that have occurred over the past 15 years of conflict in the DRC, most of them are attributed to displacement-related disease and malnutrition.³⁷¹ Still, many camps have been under pressure to close because they can provide a safe-haven for enemies of the state or other militia groups.³⁷²

CAUSES OF DISPLACEMENT

The lack of security in the DRC that forces people from their homes is in many cases perpetuated by ethnic tensions. A long history of ethnic-based violence in the Great Lakes Region continues to spark discrimination and conflict. Following the massive killing sprees, which erupted between Hutu and Tutsi ethnic groups during the Rwandan genocide, throngs of Hutus were pushed across the DRC border into refugee camps. These settlements became a contentious issue because the Hutu '*genocaidaires*,' or the government-in-exile which was blamed for the genocide, were able to regroup under the humanitarian protection of the refugee camps and organize a front against the new Tutsi-dominated Rwandan government.³⁷³

Likewise, ethnic clashes in the DRC have historically forced many people to seek asylum in neighboring countries. Soon after the genocide, a large Congolese population of Tutsis which had migrated from Rwanda decades ago was practically chased out of the country by the surrounding population; many ethnicities at that time associated all Tutsis with the Rwandan Tutsis in power, and such ethnic profiling has changed little since.³⁷⁴ Jason Stearns emphasizes how ethnic tensions continue to be exacerbated by government officials, creating a political obstacle for the return of refugees and contributing to social discrimination.

One of the most potent reminders of these ethnic divides are the 55,000 Congolese Tutsi who remain in refugee camps in Rwanda. Many have been there since 1996. The CNDP and M23 have recruited in these camps; and the Congolese government has dithered in promoting repatriation. A tripartite agreement was concluded between the UN High Commissioner for Refugees (UNHCR), Rwanda and the DRC in February 2010, but returns to the DRC were haphazard and lacked transparency—increasing fears from other communities that Rwandans were being infiltrated into their territory.³⁷⁵

Because of this continued marginalization of ethnicities, militias have formed to 'protect' their ethnic group and wreak havoc on other populations, leading to a never-ending cycle of discrimination and violent displacement.

Warring ethnic militias and rebel groups in eastern DRC have become some of the main perpetrators of displacement. The "systematic destruction of communities" is used as a war strategy of state destabilization in which entire villages are raided for their supplies, terrorized, sexually abused, and forced to flee.³⁷⁶ Rebel groups are also known

to recruit young men from mandatory village meetings, leading many boys to preemptively abandon their homes and families for refuge in neighboring counties, namely Rwanda and Uganda.³⁷⁷ Consequently, movements of people radiate outward from the chaotic eastern DRC; many Rwandan refugees are trying to return home while Congolese victims are either forced abroad or displaced in other parts of the country.³⁷⁸

The other main perpetrator of displacement is the very Congolese army that is deployed to protect the people. Soldiers reportedly force civilians to carry their equipment or beat people to death and burn down their houses if they refuse. Arbitrary civilian arrests for suspicion of collaborating with the enemy, or often just based on ethnic discrimination, are common. One woman recounted her interaction with her supposed protectors as she fled her village: “The Congolese army stopped us on the road near Nyablondo and said, ‘Why are you fleeing? We are coming to save you.’ Then they stole all our things.”³⁷⁹ This exchange depicts the roots of deep mistrust that the Congolese people feel for their own ‘protectors’.

CHALLENGES TO IDP AND REFUGEE PROTECTION

After being forced from their homes, displaced populations are extremely vulnerable to repeated exploitation and sexual abuse when they are on the move, collecting firewood outside of the camp, or settling in a spontaneous camp without humanitarian presence.³⁸⁰ Other times, people are deterred from camps all together after hearing stories of hunger and sickness. Many isolate themselves in the forests near their home and cultivate their fields for food, even though doing so means putting themselves outside the reach of humanitarian aid and at risk of militia attack. Because abandoned property is often re-inhabited by the time the original owners return home, traveling back and forth to check on land is common.³⁸¹

IDPs also stay with host families, who are sometimes friends and relatives but often times strangers. These host families, who often face poverty themselves, take on an extra economic burden by supporting displaced people. In a culture where guests eat first, host families often suffer the most. Even so, international donors’ money does not go towards this form of displacement on which the vast majority of IDPs rely.³⁸² In order

to improve the condition of displaced populations, host families need to be better supported by international refugee organizations.

Even with the official camps and stationary settlements, humanitarian organizations face major constraints. The United Nation's Office for the Coordination of Humanitarian Affairs (UNOCHA) identifies their main obstacles as the "humanitarian lack of access to populations due to insecurity and lack of roads, lack of funding, and administrative barriers faced by many NGOs on the ground."³⁸³ While many in the camps feel unsafe returning home, camps have in the past few years been forced closed either by rebel groups that see camps as a hiding place for their enemies or by the Congolese government to eliminate the visibility of human suffering for the international community.³⁸⁴ None of these IDPs were followed-up on after the forced closures, but it is widely assumed that most relocated to other camps or host families.³⁸⁵ Such conditions of 'return' merely put IDPs at risk of being exploited in their travel and do little to reduce the displaced population.

ESTABLISHING PROTECTION

Capacity building of the DRC security forces is necessary in protecting civilians from forced displacement. More specifically, US Special Operations Forces should train the Congolese military to act more disciplined in their conduct with civilians and to keep rebel groups away from civilian populations. Both the US and the UN have engaged in capacity building of African nations' security sectors before, with moderate effectiveness.³⁸⁶ For example the US Army Sergeant Paul Sanchez recently participated in the training of Ugandan soldiers with regard to humanitarian law. The course involved best practices in dealing with gender-based violence, refugee and children's rights, protection of civilians, and civil-military cooperation.³⁸⁷ A Congolese military that is disciplined in best humanitarian practices has the potential to combat the prevalence of displacement from soldier abuses and to instead protect communities from rebel attacks.

In addition, protection for existing IDPs and refugees needs to be established through the capacity building of police forces that are stationed in areas of displacement. In 1994, the UN proposed a program for placing newly trained police

forces in the massive refugee camps that existed along the border with Rwanda after the genocide, but the plan ultimately fell through because it lacked the willingness of the international community to offer civilian police forces for the training and monitoring process.³⁸⁸ However, the UN's current peacekeeping presence, which was not engaged at that time, could now be utilized for training in a revived effort to build the capacity of local police forces.

Similar models of police reform with a focus on protecting displaced populations have had relative success elsewhere. For example, the UN Mission in the Central African Republic and Chad (the MONUSCO equivalent for that region) took part in training, equipping, and paying carefully selected police forces in Chad. When these forces were placed in displacement camps and associated towns, they were positively received by most and made over a hundred arrests in their first year. However, due to the lacking judicial sector, many of these arrests were never brought to justice.³⁸⁹

To overcome the limited impact of police training in Chad and other countries, police reform in the DRC would have to be matched with the appropriate judicial reform and political will to support rule of law. Past international efforts of police building have too often been undermined by the lack of resources allotted to these forces.³⁹⁰ Improvements in security practices are unsustainable if the police do not receive their salaries from the state, or are refused advancement because of political favoritism. The US and the UN should consider making their aid to the Congolese government conditional on their political and financial prioritization for police reform.

Finally, police reform must engage with local government and civil organizations in order to build trust and support for these authorities. Collaborating with the local power structures in the camps can lend insight to the police forces about the modes of criminality that frequent the camps, and can enable the police to extend their web of protection through the support of community members. For example, there have been volunteer community watch groups that have organized themselves in some of the camps. Reportedly in North Kivu, "there are some 200 community watch volunteers in the four IDP sites, compared to about 60 police officers. They patrol the camps around the clock and report corrupt leaders or rapists to the police."³⁹¹ These community

engagements in rule of law could be helpful for policing the camps as well as in the transition to IDP return and reintegration.

REINTEGRATION

Reintegrating displaced people back into society is the most promising way to rebuild communities and reestablish stability, but continued unrest remains the primary obstacle. Most refugees and IDPs describe resistance to returning home at the current moment because they fear reliving the very abuses from which they fled. For those who have tried to return, they have reported that their villages lack customary authorities, leaving the land to be extorted by rebel soldiers and others with connections to militia.³⁹² Other times, returnees have been forced to run away again to escape another attack. Security must first be established in the region to avoid undermining further humanitarian support for resettlement.³⁹³

LAND RESTITUTION

Next to the threat of physical danger, one of the biggest issues of return is land reclamation. Because the conflict in the DRC has been ongoing for such an extended period of time, people who have previously fled their home often find someone else living on their property when they return. Without a comprehensive system of documented land ownership and competing local and state legal systems, it is difficult to establish the rightful owner.³⁹⁴ Some international aid agencies³⁹⁴ have stepped up to mediate some of these land disputes, but their interventions alone are limited in their sustainability because they lack the supporting political and legal institutions needed for future implementation.³⁹⁵

The Congolese government has established Permanent Local Conciliation Committees (CLPCs) as a part of the state's stabilization plan, but there remain concerns that the political and economic interests of committee members will undermine justice. In addition, their state-issued jurisdiction is often at odds with local power dynamics and pre-existing institutions: "The significant rise in local conflicts in areas where the CLPCs are active is perhaps the best indication of their limited impact."³⁹⁶

A more sustainable and credible mechanism for land mediation needs to take into account local laws and authorities. There have recently been a few small efforts from the local population to suggest strategies for resolving land disputes and reforming land ownership laws. Though they have lacked support from donors, local farmer organizations led by the Forum of the Friend of the Earth and the Federation of Congolese Agricultural Producers' Organization have lobbied for land reforms such as legally defining customary land rights and increasing representation for peasant agricultural workers in local decision-making.³⁹⁷ One land-mediation mechanism for which local groups have advocated is to give customary chiefs legal rights to allocate land, accompanied by an advisory committee representative of the community. Implementation of these ideas has yet to be seen, but the best solution to the land problem needs to integrate a bottom-up dialogue and reconcile statutory and customary land laws.

REPATRIATION, LOCAL INTEGRATION, OR RESETTLEMENT

Beginning in 2005, UNHCR has been assisting the voluntary repatriation of refugees back into the DRC. Reintegration, though, is not limited to displaced persons returning to their place of origin. UNHCR supports options for resettlement in other parts of the country or local integration into their areas of displacement. In these settlement areas, UNHCR is working to rebuild some of the infrastructure and institutions that have been run down from the brutality of the past years. These include roads, sources of water, schools, health care centers, agricultural activities, skills training, and other income-generating opportunities. UNHCR is coordinating with NGOs and other aid organizations in order to meet these objectives.³⁹⁸

One point of focus for the return of displaced populations is the cooperation of the national and local government, especially in receiving the voluntary repatriation of refugees and providing their documentation of citizenship. Some encouraging gestures have come from South Kivu's distribution of title deeds to returning refugees, providing them with legal proof of land ownership.³⁹⁹ Still, in most cases returning refugees have reported "a lack of customary or administrative authorities in their villages and want some sort of legitimate presence, such as troops loyal to the state and not affiliates of

certain ethnic or political groups.”⁴⁰⁰ Accordingly, UNHCR must coordinate the presence of local leaders and police in order to promote rule of law and ensure that returnees have non-discriminatory access to their rights.

RECONCILIATION

The damage [of past abuses] goes far beyond the immediate pain of loss. Where there was torture, there are walking, wounded victims. Where there were killings, or wholesale massacres, there are often witnesses to the carnage, and family members too terrified to grieve fully. Where there were persons disappeared, there are loved ones desperate for information. Where there were years of unspoken pain and enforced silence, there may be a pervasive debilitating fear and, when the repression ends, a need to slowly learn to trust the government, the police, and armed forces, and to gain confidence in the freedom to speak freely and mourn openly.⁴⁰¹

The process of recovery after the prolonged human rights abuses in the DRC is not something a peace effort should overlook. Some form of reconciliation must deal with past atrocities to stop the proliferation of “personal vendettas” amongst civil society and to establish stability.⁴⁰² Many human rights proponents argue that in the transition towards more transparent state institutions, victims must learn the whole truth about the violations from which they suffered in order to regain their personal dignity and their trust in their country.⁴⁰³

Establishing a Truth and Reconciliation Commission (TRC) to shed light on past offenses committed by state and rebel soldiers is one way that many countries choose to move forward from past misdeeds. As opposed to a conventional criminal prosecution, TRCs can be useful in cases where the judiciary has proved insufficient in addressing “serious human rights violations [that have been] perpetrated with impunity on a mass, systematic and widespread basis.”⁴⁰⁴ The DRC did have a TRC as a condition of the 2003 peace agreement, but it ultimately failed because the Commissioners had close ties to the warlords and officers who committed the crimes. Both the UN Mapping Report and the Enough Project⁴⁰⁵ has noted the remaining desire in the eastern DRC for a new truth commission, but the government has reportedly denied support.⁴⁰⁶

In considering the future prospects for any reconciliation effort, there needs to be a careful balance between protecting peace and promoting justice. Some argue that

implicit in a truth commission is a threat to the justice system, because the amnesty that persuades perpetrators to recount their crimes exempts them from prosecution in court. However, there have been many benefits of amnesty, such as in South Africa's TRC, where many future human rights abuses were prevented because of this opportunity for offenders to bow out without punishment. Amnesty without vetting political officials, on the other hand, can allow perpetrators to keep positions of power in the state, potentially enabling them to perpetuate political violence and contribute to future insecurity.⁴⁰⁷

In seeking this problematic balance between peace and justice, many argue that the ICC can play a complementary role with truth commissions by pursuing the top offenders while the TRC can gather incriminatory information through the detailed accounts of those with amnesty. However, this has yet to play out in practice.⁴⁰⁸ Many peace-keepers remain worried that the ICC's non-discriminatory pursuit of justice destabilizes a potential peace agreement, for example, as in the current pursuit of M23 leader Bosco Ntaganda.

The Congolese government is currently in the process of establishing a different judicial mechanism, known as specialized mixed courts. The idea is to empower national courts with the jurisdiction to prosecute crimes committed in eastern DRC between 1994 and 2003, but with international technical support and personnel. The shared responsibility of these courts is designed to "balance two imperatives of justice reform—local ownership of the process and international expertise—while Congolese jurists and lawyers expand their capacity."⁴⁰⁹ But the government has yet to make much progress in implementing this model and many upper-level officials are likely hesitant to support such judicial reform because they could be implicated in war crimes.⁴¹⁰

Though the mixed courts are deserving of the international promotion which they receive, there is an additional need for reconciliation at a more grass-roots level. Judicial reform is an important but time-consuming process. Additionally, both the ICC and the mixed court proceedings take time and would only focus on the worst offenders. With so many victims, a wide-spread community mechanism for truth-telling is important for building sustainable peace: "The act of acknowledging crimes on a local level, in the

presence of victims, goes a long way to facilitate the healing process that must accompany the more technical elements of justice reform.”⁴¹¹

In order to design a new truth-seeking mechanism that mirrors the needs of the wounded Congolese people, a wide-ranging consultation process should allow victims to organize themselves and participate in the creation of a new truth commission. This approach will ensure public understanding of the commission as well as lend it credibility. If another truth commission is desired, the pressure from the Congolese people and the international community should persuade the Congolese government to lend the new TRC its full compliance. Moreover, the membership to the TRC should be autonomous to political influence and should be able to make recommendations for state-provided reparations as well as institutional reforms to the legal system and security forces.⁴¹² But as with all peace-initiatives, the most important component is to facilitate the participation of civil society, so that the Congolese can reconcile with past abuses on their own terms.

POLICY RECOMMENDATIONS

- Congolese soldiers should be trained by US Special Operations Forces in best humanitarian practices in order to end civilian abuses, prevent causes of forced displacement, and rebuild public trust in the security sector.
- Establish protection for displaced populations through the capacity building of the police security forces (led by MONUSCO, US, AU, or equivalent international stabilization force). Station these trained police forces in the most vulnerable displacement camps and areas for patrolling and enforcing rule of law in collaboration with local structures of authority. Work with the Congolese government to prioritize police reform.
- Develop a comprehensive reintegration strategy in collaboration with UNHCR, the Congolese government, and NGOs that (1) reconciles statutory and customary land laws in order to clarify and mediate land ownership, (2) supports the return of refugees and IDPs through rebuilding infrastructure and institutions as well as supporting income-generating opportunities, and (3) protect returnees’ rights and the rule of law through engagement with local authorities.

- Support a wide-ranging consultation process that incorporates victims of past abuses to define the parameters of a new Truth and Reconciliation Commission or alternative truth-seeking mechanism. Work with the Congolese government towards their full compliance and ensure that the members are autonomous to political influence.

CHAPTER 10: ECONOMIC DEVELOPMENT

By Kirk Jackson

In 2011, the Democratic Republic of Congo ranked last on the Human Development Index.⁴¹³ Less than a quarter of the population has access to safe drinking water, less than a tenth has access to electricity, and under-five mortality rates hover around 15 percent.⁴¹⁴ These and other dismal statistics shape the common, widely circulated conceptions of the DRC, a place popularized by war, state failure, mineral wealth, and sexual violence. But the DRC is more than facts and figures; it is a vast web of resilient communities with the power to transform that which they deem wrong in their societies. What they need is not pity but willing partners in their endeavors. Policymakers long for simple answers and fast solutions to the onslaught of problems presented to them by the Great Lakes Region. However, the reality is that with the best of methods, the numbers may change very slowly and progress may be made in less visible ways. Yet, as a leader of great influence, the most vital work the United States government can do in the DRC is to consistently contribute toward the equity and freedom of the Congolese to produce their own change.

Poor governance and corruption have enabled public agencies and officials to impose too many taxes and levies and has lead state-owned enterprises to own monopolies in the private sector without delivering quality goods and services. Lack of organization and infrastructure has subsequently curbed development in the Small and Medium Enterprise (SME) sector.⁴¹⁵ There are few opportunities for skilled and unskilled workers alike and fully registered companies are rare. According to the African Development Bank the approximate overall unemployment is hovering around 70 percent and is higher among the youth.⁴¹⁶ In order to secure a sustainable investment climate in the DRC in coming years, effective stimulation of Private Sector Development (PSD) to promote SMEs and attraction of Foreign Direct Investment (FDI) are essential tools.

The DRC is gifted with natural resources, though it lacks the institutional organization to use these resources to fuel a sustainable economy. Instead the economy is driven by rent-seeking behavior, primarily through corrupt individuals in government

or warlords interested in black market trade. The sources of economic inefficiency can be traced back to a common source of a lack of infrastructure due to corrupt government. The result of this inefficiency is an overarching inability for businesses to gain access to the financial vehicles, which they need to expand their enterprises.

The picture painted of the DRC's economy is quite bleak; however, that is not to say that progress has not been made or that there is no hope for future growth. There has been recent growth in the agricultural sector, especially since 2006 as peace and security had improved. Mobile telephone service, external anchors to strengthen legal procedures and public-private partnerships have occurred increasingly in the past decade. It is apparent that given the right conditions, there are great opportunities for the DRC to flourish.

Naturally, the DRC's mining sector is the largest employer in the formal sector; as well, it accounts for most of the country's exports and is the largest source of FDI. For example, in 2008 the DRC signed an agreement with China's Export-Import Bank of China to receive aid towards hard infrastructure to rehabilitate the mining sector.⁴¹⁷ This agreement is noteworthy as it is the largest deal between the DRC and China and was made in exchange for mining benefits for the Chinese government. The overall issue with an investment such as this would be that the Chinese government is not concerning itself with the issue of corruption and has turned a blind eye to unethical activities linked to the mining trade in the DRC.

Given its favorable placement geographically, the DRC is a prime location for agricultural business. The agricultural sector is a large part of the foundation for the DRC's economy and already accounted for 43 percent of GDP in 2009, employing 70 percent of the total work force.⁴¹⁸ The DRC has yet to make full use of this advantage. The country has over 120 million hectares of land, which is free for farming or breeding; however, only an estimated 3 percent of that is used for agricultural purposes.⁴¹⁹ Recent agricultural growth exemplifies recent advance of domestic production in the sector:

Agricultural Growth, by Data Source, 2007-10				
<i>percent</i>				
<i>Source</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Provincial data	-0.6	6.7	7.0	7.7
Central Bank Data	3.3	3.0	3.0	3.0

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In addition to current growth trends and overall potential capacity for expansion, the agricultural sector is far less subject to armed conflict and corruption compared to other industries (namely mining). These factors make the agribusiness sector the next reasonable step for promoting growth in the DRC. The best PSD initiatives will promote growth while curbing corruption in the DRC.

One of the best ways to achieve intensive growth is through the attraction of FDI in agricultural private sectors. The creation of new wealth in an economy depends on firm-to-firm interactions; FDI is a very efficient way of introducing high capability firms into a lower capability environment.⁴²¹ Given the natural resources, which are so prevalent in the area, initiatives to stimulate FDI have become relatively effective.⁴²²

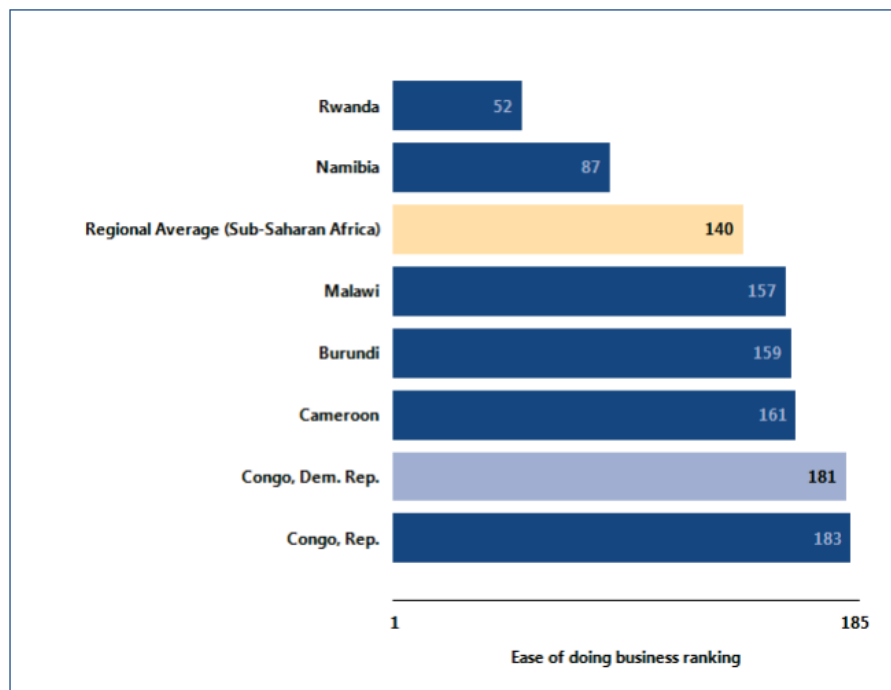
A prime example of such investment is the partnership between the US-based nonprofit organization, ECI and Theo Chocolate, an American-owned company.⁴²³ The positive effects of the ECI-Theo partnership in the DRC are expansive. Theo provides "...the technical information and market awareness farmers need so that they can increase quality and charge more for their product."⁴²⁴ Not only is a business venture such as Theo's creating a more stable investment climate in the DRC, but it is also addressing another major obstacle to growth in the region, which is job creation. Though Theo is only one initiative, promotion of such endeavors by the US government could induce large-scale job and wealth creation.

It is very possible for US enterprises to make a profit by investing in joint-venture endeavors in the DRC, given the proper planning and directed resources. It is advised that the US National Security Council work to ensure that funds be made available to US companies who are willing to commit to pursuing joint-ventures in the DRC. The US government will provide financial support to companies in collaboration with the African Trade Insurance Agency (ATI).⁴²⁵ The collaboration can take the form of monetary

backing towards insurance provision and financial services provided by ATI for interested businesses. The agricultural sector would be the best target given the growth in the industry of agribusiness and the lower levels of armed conflict involved compared to other profitable sectors. The example of Theo Chocolate is a perfect frame for other companies to follow. Enterprises in the United States can help expand the SME sector in the DRC while at the same time expanding domestic US business. If manufacturers follow the theme of establishing supply chains in the DRC to fuel US domestic manufacturing, the effect would benefit US local and DRC business. Financial incentives to US based companies will be granted upon establishment of corruption-free agreements subject to fine and/or legal pursuit. An example of this would be the obligation of companies to commit to building a sustainable fair-trade supply chain in the DRC. There are other examples of supply chains, which could be established in the DRC to the US and are income-generating: for example, cotton, coffee, hevea (used for making latex) and tea.⁴²⁶

The major blocks to prospective ventures are barriers to business and trade. The DRC is placed very low on the following ranking:

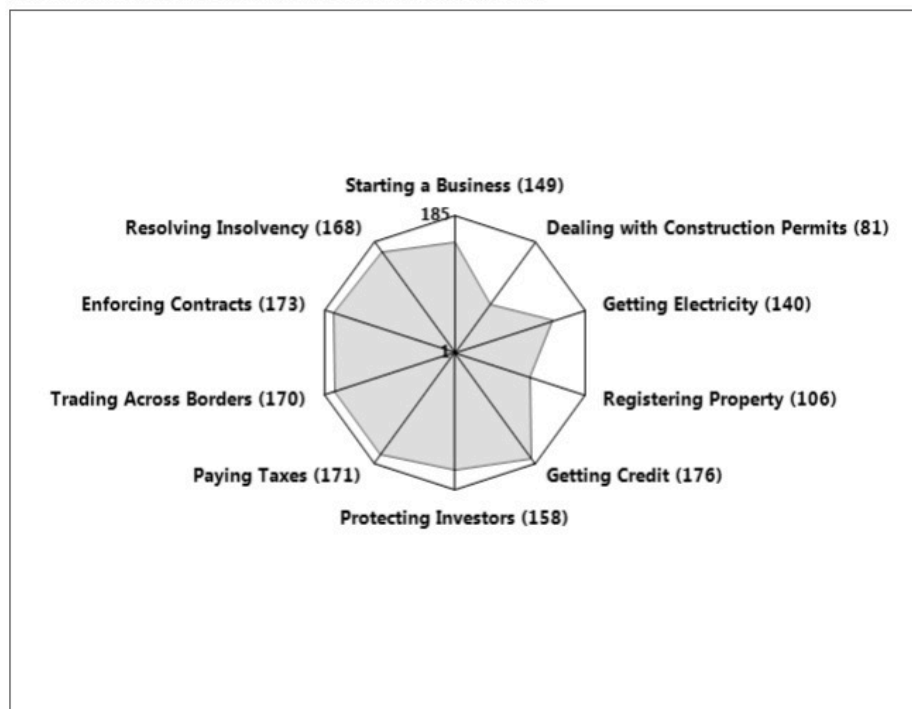
Figure 1.2 How Congo, Dem. Rep. and comparator economies rank on the ease of doing business



Source: Doing Business database.

At first glance, one can see that on average, sub-Saharan Africa is a difficult place to do business. The most troubling realization is that the DRC is worse off in terms of its business environment than almost all other economies in the world. The failure of businesses to thrive in the DRC is based upon numerous considerations, all of which are currently exacerbated by continued conflict. The instable region makes it impossible to engage in private enterprise, when all circumstances that must be met for integration of businesses (i.e. capital and investment gathering, contract enforcement, and physical safety) are constantly threatened by the physical violence unfolding throughout the country.

Figure 1.3 How Congo, Dem. Rep. ranks on *Doing Business* topics



Source: *Doing Business* database.

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In terms of world ranking, businesses in the DRC faces the highest constraints to business operation with credit acquisition, enforcing contracts and paying taxes.⁴²⁹ According to information collected by the International Finance Corporation, this year “starting a business [in the DRC] requires 10 procedures, takes 58 days [and] costs 284.7% of income per capita.”⁴³⁰ The constraints to productivity in the private sector are commonplace throughout sub-Saharan Africa; it is very expensive to open and sustain a business without the proper connections.

Based on another report by the International Financial Corporation titled 'Enterprise Surveys' one can see that corruption has permeated into everyday business operations in the DRC. In 2010 75.7 percent of local firms "expected to give gifts to secure [a] government contract".⁴³¹ This is compared with 33.8 percent of firms in the rest of sub-Saharan Africa and 23.5 percent in the rest of the world. As well, 72.7 percent of interviewed firms identified corruption as a major constraint to their business. Additionally alarming, over 50 percent of interviewed firms expected to 'give gifts' in meetings with tax officials, to acquire operating licenses and construction permits, and have experienced bribe requests at least once. The presence of corruption in regular business transactions is abnormally high, even for sub-Saharan African averages. Not only does the level of corruption make it difficult for domestic investors to make a profit, this inhibits trade across borders.

The internal dysfunction of the DRCs economy causes weak trade relations in the region as well as between the DRC and economies abroad. Considering the manufacturing sector in the DRC, it takes over twice as long (18 days) for direct exports to clear through customs in comparison to the Sub-Saharan African average of seven days (which is also the average time it takes worldwide).⁴³² Imports clear in about one and a half months, while the Sub-Saharan African average is about two weeks. Unsurprisingly, over half of domestic DRC firms interviewed in the manufacturing sector identify with "customs and trade regulations" as being a "major constraint" to business operations.⁴³³ It is apparent that the DRC experiences many blocks with regard to economic growth. Lack of organization in the customs system makes trade even more expensive for the DRC. Informal business practices such as lack of documentation and harassments associated with customs payments are a signal of stunted growth in the SME sector.

Given the barriers to trade in the DRC the existence of trade facilitation agencies is very helpful to common business-owners. Trade agencies within the DRC specialize in facilitating trade by assisting local businesses in the navigation through the complicated process of exporting and importing goods across the border. Trade facilitation efforts

have not been as effective as possible because agencies charge traders directly, creating an inefficient market for investment services.

The United States is advised to fund the establishment of a one-stop window for trade facilitation and investment protection in the DRC under which all trade facilitation agencies and insurance providers could organize to collect payments. The management will be operated by a US-government funded joint-venture company and would comply with international accounting standards. Such an institutional change would bolster growth in the DRC simply due to lower transaction costs to businesses. Their collaborative effort would greatly reduce the time and effort through which businesses attain financial products. Facilitation agencies would have an incentive to join via the marketing aspect of becoming a member; it will be easier for businesses in the SME sector to find a suitable provider. The increased competition among said agencies would drive down the price of their services and drive up quality. This will also build trust among involved parties. This establishment will create more formal trade system and help to streamline trade across borders in the DRC.⁴³⁴

The US government is advised to extend favorable trade benefits to the DRC in order to stimulate the aforementioned policy recommendations. The United States government has little to no direct control over regional trade in the DRC; however, the US does have the ability to incentivize exports to the US. Through the promotion of supply chains of income driving crops such as coffee and cocoa in the DRC, the US could stand to benefit from promoting trade. Due to the favorable climate and abundant labor force, the DRC could develop a comparative advantage in agricultural production in key crops. Given these conditions, importation of the aforementioned agricultural products could benefit both economies, especially the DRC's. While at first the benefits to the US economy would not be as apparent due to the lag in supply chain establishment, the incentive for growth in the DRC would be immediate. US businesses interested in establishing supply chains in the DRC would have an easier time finding local government support for joint ventures, given the added incentive to export to the States. As well this would help solve the problem of expensive export rates for DRC businesses, further reducing barriers to trade for select industries.

The obstacles to growth in the DRC, which are apparent, are corruption and lack of access to finance. If individuals (namely business owners) cannot confidently invest in their futures, there will be no stable growth in the DRC. The solution to business constraints are not a quick check list; but rather is a multifaceted list of efforts which will combat corruption in government and restore infrastructure in the DRC. The development of 'hard' infrastructure, such as roads and more efficient power grid are extremely important; however, 'soft' infrastructure in the form of introducing new and innovative ways streamlining current business processes are essential to sustain the growth of hard infrastructure and intensive growth in the long run.

POLICY RECOMMENDATIONS

- Fund US companies which establish joint venture supply chains in DRC.
- Fund establishment of US operated joint-venture central revenue authority for investment protection/trade facilitation agencies in DRC.
- Extend trade benefits to the DRC.

CHAPTER 11: CONFLICT MINERALS IN THE EASTERN DRC

By Sukhie Patel

The DRC is widely known to be one of the most mineral abundant regions in the world. Unfortunately, instead of generating national revenue that could be reinvested in infrastructural development, the mineral mines are a primary source of funding for armed groups.^{435 436} Profits drawn from illicit mineral trade in the region are integral to the continuation of violence and the ongoing presence of various armed rebels. The securing and regulating of all tiers in the mineral supply chain will be necessary if regional peace is to be attained. Furthermore, the minerals are extracted in ways that are environmentally degrading, and violate international human rights laws. The focus of several humanitarian NGOs, DRC mines are notorious as sites of brutal and unfettered violence. While this section will not focus heavily on human rights and environmental infractions, any security measures enacted must ensure that the proposed practices are sustainable and in alignment with fair labor laws. These conflict minerals^{437 438} also fall under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Three minerals in particular (tin, tantalum, and tungsten) along with gold, are of critical importance in the manufacturing of electronic goods. The “Three T” minerals are present in many products manufactured and/or distributed within the United States. Under the Dodd-Frank Act, the US must ensure that these minerals can be ethically sourced, and that companies comply with trade policies regarding transparent and legal sourcing. Furthermore, with the steady growth of the technology industry across global markets, demand for such minerals will increase, as will their value. China’s involvement in the region’s mining sector warrants US attention in order to ensure these resources will continue to remain accessible to the global market. The following section will attempt to detail the various minerals being mined in the DRC, their role in funding armed rebels, and what can be done to encourage conflict-free mineral extraction.

THE MINERALS

Due to ongoing conflict and violence, it has been challenging for the US Geological Survey and other third party scientific assessments to fully ascertain the scope and

potential of natural resources in the region. The World Bank estimates that there are 2.3 million acres of mineral rich land in the region.⁴³⁹ The majority of the mines in the Eastern DRC source the “Three T’s” as well as gold. The figures used in the following section were primarily compiled by The Enough Project, a nonprofit organization focusing on crimes against humanity in the East Africa region.

The DRC is the sixth largest producer of tin, and the mineral has the highest traceable dollar value for funding militias. In 2008 alone, tin trade contributed an estimated \$115 million to armed groups.⁴⁴⁰ The DRC produces 6-8 percent (about 155 tons) of the total world tin production (approximately 815 tons⁴⁴¹). Over half of this tin is used for electronics; while the rest is primarily used in food, aerosol, and pet food can industries.⁴⁴² The Bisie mine in the Walikale District of North Kivu generates the greatest portion of tin in the region. The mine employs roughly 2000 workers. It has undergone numerous leadership changes over the past few years, shifting from rogue 85th Brigade of national army (acting as a Mai Mai rebel force), to an integrated Congolese army brigade lead by Colonel Manzi.⁴⁴³ Often when mines are under military control, there are no official military personnel present, but rather *de facto* armed rebel guards acting on behalf of their military sponsors. The military usually only takes an active role in collecting taxes from the miners.

The DRC only produces 2-4 percent of the world’s total tungsten production. Tungsten is particularly hard to trace along the supply chain as it is often used in industry tools, which then produce consumer goods, and doesn’t always end up in a finished consumer product itself. This has been a particular loophole in the Dodd Frank Act, which restricts finished consumer products being sold in the US. The DRC produces 13,000 tons of tungsten of a total global production of 54,600 tons.⁴⁴⁴

The first to be labeled as a conflict mineral, Tantalum has provided armed groups with approximately \$12 million per year. Used in automotives, electronics, and super alloys, tantalum is also highly sought after by China. Companies producing and distributing tantalum are some of the most savvy when it comes to navigating and bypassing conflict-free laws. So far, none of the models and policies implemented to regulate tantalum production have been effective in reducing conflict. The DRC produces

approximately 15-20 percent of the world's 815 ton per year. In 2008, the DRC produced 155 tons, but increased conflict has made this figure harder to calculate in recent years.⁴⁴⁵

While the smallest in volume, gold is the second largest contributor to funding armed groups. Easy to conceal and transport, it has the largest profit per unit, and traffics primarily informal and black market trade routes. Of 11 thousand pounds produced in a year, "only 270 pounds were legally exported."⁴⁴⁶ Gold stemming from DRC mines is also virtually impossible to distinguish from gold produced elsewhere, unlike other minerals that can be 'fingerprinted' and tagged as coming from a specific region. While the tungsten and tantalum may be hard for end-product consumers to identify, gold rivals diamonds as a poster-child of humanitarian efforts to combat unethical mining. Just as the phrase "blood diamonds" has lead consumers to question where their jewelry is being produced, conflict-free gold could garner global consumer support and attention in ways that less illustratable conflict-free tantalum electronics may not.

THE MINES

The vast majority of the mines are artisanal (ie. not industrial), yet artisanal mining of any kind is illegal *de jure*, due to current national mining laws. In order for artisanal mining to be legal, it must take place on a government sanctioned artisanal mining zone. With no artisanal mining zones in place, the task of legitimizing the DRC's mines is challenging, as there is little to no legal framework being currently enacted⁴⁴⁷ for anything other than fully industrialized mines. There are 13 major mines in the North Kivu region, 12 of which are currently controlled by armed groups.⁴⁴⁸ The International Peace Information Service has identified approximately 200 total mines in both North and South Kivu, with the following being the largest (employing over 500 workers per mine site): Minembwe, Misisi, Mpofi, Bisie, Gakombe, Bwina, Benzia, Wamiti, Lugushwa, Kinyinya, Mlllimani, Ihani, Bibatama, and Mugerero.⁴⁴⁹ 50 percent of mines overall are controlled by armed groups.

There are several mines outlined by the Enough Project that are particularly critical to funding armed groups. The Bisie Mine in Walikale District in North Kivu,

produces the greatest quantity of tin. The tantalum producing Lueshe Pyrochlore industrialized mine in Rutshuru in North Kivu is now under CNDP control. It may one day serve as a model of how mines may be industrialized, although profits are still seeping out to fund armed groups. The Bisemebe mine in Mwenga in South Kivu is under FDLR rule, almost as a charter city. The depth of the FDLR's involvement presents challenges when attempting to legitimize and reform mining practices in the region. Reforms may risk either destabilizing the region in an attempt to root out the FDLR, or accommodating the politically tenuous FDLR in order to ensure stability. The Misisi gold mine in Fizi in South Kivu, the tin and tantalum mine in Ziralo in Kalehe South Kivu, and the gold mines in Ksugho in North Kivu are also critical.

THE SUPPLY CHAIN

At its most rudimentary, the supply chain for minerals goes as follows. Mines ship their minerals to trading towns (Bukavu or Goma for the 3 T's; Butembo and Uvira for gold). In these trading towns, minerals are bought by buyer-transporters (*negociantes*) who then deliver the minerals to trading houses (*Maisons d'achat*). These trading houses are funded in advance by exporter companies (*comptoirs*); who then ship the minerals out of the DRC. International traders in countries ranging from Belgium to Malaysia often back these exporter companies. There are approximately 100 trading houses in each town, 17 export companies in Bakavu, and 24 export companies in Goma. There are complaints that government issued licenses for trading minerals are prohibitively expensive. It is estimated that less than 10 percent of transporters in Bukavu are registered. Once exported, the minerals are refined at smelters or chemical processing plants. Tantalum is often processed in Germany, US, China and Kazakhstan. Tungsten is processed in China, Austria and Russia. Tin is processed in East Asia, with 10 smelters processing 80 percent of the world's tin. Gold is processed in Dubai, Switzerland, Italy and Belgium. It is at this stage of chemical processing and smelting that minerals become indistinguishable based on geographic origins.

It is along this passage of transportation and local trading within the Great Lakes region that armed groups extort impromptu taxes and bribes. It is estimated that in one year, armed groups extract \$75 million from transportation, out of a total of \$180

million from mineral trade,⁴⁵⁰ Furthermore, if these trade routes are to be regulated to ensure the cessation of conflict mineral trade, stricter forms of certification must be applied at *all* tiers. Often, at the buyer-transporter to trading house level, verbal assurance in the form of “Did you get this from a conflict area?” is all that is necessary. Implementation of mineral tagging is irregular, and will be discussed later in this section. At the time of the latest UN report, not a single *comptoire* has refused a batch of minerals potentially stemming from a conflict zone. Any effective policy targeting conflict minerals will have to suggest regulations at every tier of production—from the work conditions and ownership of the mines, to the licensing of the traders, to the routine auditing of trading houses and exporters, to the smelters overseas, to the corporations worldwide selling product containing these product.

MINERAL TAGGING

Mineral tagging is a process which tracks trade routes and chemical composition of minerals in order to establish the mine from which a specific batch of ore originated. This advancement in technology offers various actors along a supply chain the ability to determine if they are engaging in conflict mineral trade. By rendering the supply chain transparent, it would ideally be easier to uphold litigation against those knowingly dealing in conflict minerals. Mineral tagging would ideally nullify the excuse of not knowing or being able to determine a mineral’s origin. The Ministry of Mines in the DRC had proposed initiatives to implement tagging in both Maniema and Nyabibwe by the beginning of 2013, officials havenot been able to ascertain if these efforts have been even remotely successful. Unfortunately, tags are now being bought, sold, and counterfeited throughout the Great Lakes region, further polluting the supply chain, and threatening any certification programs which rely on due diligence.⁴⁵¹

Tags are issued by mining cooperatives. The coops are selling mineral tags for up to \$50 per 50 kg bag of tantalum ore.⁴⁵² There is photographic evidence of Gisenyi based Alpha Minerals engaging in illicit tagging. Upon Alpha Mineral’s customer, Kigali exporter Minerals Supply Africa, being confronted with this evidence, Minerals Supply Africa ostensibly ended business with Alpha Minerals.⁴⁵³ Many of these tags attribute minerals to entirely inactive mines located within Rwanda.

The burgeoning market for counterfeit or fraudulent tags must be stopped by creating a region-wide standardized tagging system that requires frequent (either annual or biannual) recertification of mines. Tags should be made in quantities, which correspond with the quantities of minerals being produced from the respective mine. A mine that has not produced tin for three years should not have thousands of tags on the market available for any tag-less tin.

ARMED GROUPS, CORRUPTION, SMUGGLING AND CROSS-BORDER MINERAL TRADE

With no reliable figures of actual mineral exports from any countries in the Great Lakes region, tracing conflict minerals becomes a mathematics game of balancing out differences between each country's official export values, and their actual mining production capacities. If minerals are not being officially exported from the DRC in the same volume as they are being extracted, where are these minerals going? This section will attempt to trace some of these illicit trade routes in order to better understand how these routes can be regulated.

Here is a basic example of how these trade figures balance out and what sort of conclusions can be drawn from them. Gold originating in the DRC is frequently labeled as sourced from Burundi, Uganda, and Rwanda. Great Lakes trade expert Nicholas Garrett notes these discrepancies: "Uganda officially produced less than \$600 worth of gold in 2007, yet exported over \$74 million worth of gold. Similarly, Rwanda produced \$8 million worth of tin ore but officially exported at least \$30 million of tin."⁴⁵⁴ It is suspected that this gold was smuggled into these countries from the DRC. In the case of tin, the British Department of International Development (DFID) assumed that the Congolese government reported less than 30 percent of tin trade.⁴⁵⁵ As a counter-narrative, Rwanda reported exporting a total of 2,679 tons of tin per six months, despite Gatumba, its primary tin mine, producing 60 tons per year.⁴⁵⁶ What is driving this flood of tin out of the DRC and into Rwandan markets? This is in part because of vastly different tariff rates. A container of ore shipped from the DRC costs \$6,500 in taxes, yet costs \$200 if shipped from Rwanda.⁴⁵⁷

Illegitimate cross-border supply chains make it virtually impossible to determine just how much of each mineral is being extracted in the DRC, and actually legally exported from the country itself. The informal and black market nature of mineral trade in the Great Lakes region allows profits to be sequestered by militias, and also permits informal taxation enforced by corrupt government officials. There have been numerous incidents of rebel groups and government agencies working in tandem to maximize personal profit whilst maintaining anonymity of all parties involved. If the mineral market within the DRC is to be formalized and generate revenue that aids in developing the country and providing workers with wages, these ghost transactions across borders with neighboring countries must come to an end. It is of critical importance that the mineral production within the country be quantifiable, and thus subject to equal taxation and profit expectations. Without these expectations, it is virtually impossible to pinpoint loopholes in the supply chain, and hold various mineral trade actors accountable for their transactions. Establishing a regionally standardized tariff system through the ICGLR might alleviate the incentive to smuggle minerals to reduce export costs. The US should assist in drafting mutually reinforcing taxation laws so that the region as a whole can benefit evenly from mineral resources.⁴⁵⁸

RECENT TRENDS IN TRADE AND SHIFTS IN POLICY

Starting in 2001, the UN Security Council authorized the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo. The UN Security Council Committee has published a series of reports from a Group of Experts (henceforth referred to as the Group). In a report published in November 2012, the Group traced recent trends in mineral trade in the DRC. The Group attributed a decline in official exports of minerals to three critical changes. Firstly, the DRC Ministry of Mines “Suspended the export houses Huaying and TTT Mining/Congo Minerals in both North and South Kivus.”⁴⁵⁹ Secondly, the ministry banned air transportation from Maniema to Goma and Bakavu, forcing all trade to pass through Katanga. Any minerals stemming from Bisie require air transportation.⁴⁶⁰ This restriction effectively shuts down exporters sourcing minerals from any Maniema mines. Though this air transportation restriction was an attempt to thwart smuggling into

Rwanda, both tantalum and tungsten are lightweight and have high enough profit margins to incentivize transport via more laborious means. Lastly, Chinese exporters are increasingly requiring mineral tagging under International Tin Research Institute (ITRI) Tin Supply Chain Initiative. The ITRI claims to represent 80 percent of the world's tin transactions, and launched the initiative in conjunction with the Tantalum-Niobium International Study Center in 2009.⁴⁶¹ These new requirements established by Chinese exporters seem to only exist on paper, as unofficial exports of minerals continue to skyrocket as counterfeit tagging and smuggling increase to meet demand. The decline in official exports has accompanied an increase in illicit mineral trade. Heavily mined regions only accessibly through air transportation are now turning to illicit trade and smuggling, offering armed groups with increasing opportunities to extract funds. The Group estimates the remote Bisie mine produces 50 to 60 tons per month, yet only 5 tons were exported over four months in 2012.⁴⁶²

The Ministry of Mines has introduced some other interesting, and potentially fruitful, initiatives to keep the mineral supply chain within geographic framework of the DRC. Instead of shutting down mines rife with some of the most flagrant human rights abuse, the Ministry authorized export houses from Maniema, but mandated a \$75 contribution to local development per ton of exported ore.⁴⁶³ There have also been efforts to develop electric furnaces which prevent environmental degradation, and building smelting facilities within the Congo to remove polluting of minerals through counterfeit tagging, reducing transpiration costs, and potentially garnering tax revenue. The pursuit of shortening the supply chain seems to be one of the most feasible models of mineral sector reform. These initiatives were only drafted in mid-2012, so their success has yet to be determined.

Due to government instability and widespread corruption, government-owned and run operations are not a viable model at this time. However, operations managed by public-private joint alliances may be an opportunity once a stable government has been established. The state-owned mining company, Gecamines, has become increasingly active after years of financial ruin and bouts of bankruptcy. Gecamines produces copper, and a negligible volume of cobalt. The company has struggled with corruption of

government officials who serve on its board, and while it produced 500,000 tons of copper annually during the 1980's, its production has dwindled to well under 20,000 tons in 2012. The International Monetary Fund has also canceled its loan to Gecamines due to lack of transparency. If anything, the company models how and why publicly owned mines are not be a viable option for the DRC. The company was also notorious for monopolizing mineral trade during the height of its success, and it wasn't until 2002 that the market was opened up to competition in order to entice investment. The instability of the DRC's government warrants small-scale mining ventures, so the majority of the country's wealth isn't left in the hands of a potentially corrupt and mismanaged central government.⁴⁶⁴

CHINA'S INVESTMENT IN THE DRC

Chinese investment began with FEZA Mining during the Mobutu government. FEZA Mining "was an extension of the Chinese Defence Industry,"⁴⁶⁵ and financial transactions occurred directly between the Mobutu government and Chinese armaments industries. After the collapse of Mobutu's government, China began buying directly from artisanal miners. In 2006, a rise in metal prices internationally along with the 2007 raw ore exporting ban forced Chinese businesses to establish production plants and smelters within the region. Of the 79 processing units listed by the Division of Mines, 22 are owned by Chinese.⁴⁶⁶ The Sino-Congolese Convention (SCC) of 2008 laid out "conventions" rather than "contracts", and established a joint venture between the Chinese government and Gecomines, named Sicomines. While Chinese investors have shown little concern when it comes to conducting business with armed groups, corrupt government officials, and businesses notorious for human rights abuses, China is interested in developing the DRC insofar as it assists efficient transactions and lowering transportation costs. While it can be argued that Chinese ventures in the DRC offer employment opportunities, 10,000 Chinese workers have been stationed in the region, and 70 percent of all workers in Chinese-lead ventures are Chinese nationals. These facilities also have some of the poorest work conditions and pay some of the lowest wages, earning a maximum of \$8.85 a day.⁴⁶⁷ It has also been speculated that Chinese ventures are underway to mine radioactive material such as uranium.⁴⁶⁸

China's heavy investment in the region is concerning, in part because of their lack of due diligence in selecting business partners. It is also concerning because they could easily monopolize the global market for tungsten, tin, and tantalum. These minerals are in high demand across many sectors, and should be easily accessible to various participants in the global market. It is in US interests to ensure that the mining sector of the Great Lakes region remains liberal, open to investment, and at par with global price indexes for mineral trade. However, China's investment could open up opportunities for responsible FDI and infrastructural development. With the incentive of profit for shareholders, Chinese businesses may be able to avoid pitfalls of corruption and invest in local mining communities to ensure that they become thriving hubs of business. Regional stability and infrastructural development is necessary if foreign investors are to ensure their ventures are profitable and secure. Policies regarding conflict minerals must seek the cooperation and collaboration of China to ensure that their needs are being met in the region, whilst also ensuring that they comply with transparency regulations.

SOLUTIONS INVOLVING PUBLIC-PRIVATE ALLIANCES

Policies regarding conflict minerals often suggest the imposition of sanctions. In 2006, the Group recommended such sanctions. However, this could cause even greater humanitarian crisis. Whether legal or illicit, mineral mining is a primary source of income for millions in the region. Displaced or unemployed individuals would further destabilize a region already rife with violence and upheaval. The G-8 summit's proposal of Certified Trading Chains (CTCs) is also a step in the direction of transparency and accountability, yet the world's largest tantalum processing corporations (both based in the US), HC Starck and Cabot Corporation, have had their CTCs deemed "conflict free." The likelihood of two companies processing such vast quantities of tantalum being deemed "conflict free" suggests that the certification process is not rigorous enough. To its credit, H.C. Starck has expressed keen interest in eliminating conflict minerals from its business practices, and could be a strong ally going forward when it comes to setting industry prototypes. Corporations have also complained that the CTC process is

expensive, and that they should not be held responsible for the practices of sub-contracted third party manufacturers.⁴⁶⁹

The World Bank has developed a comprehensive plan for Growth with Governance in the mining sector. Agencies providing development funding, including USAID and DFID have developed a joint initiative known as Trading for Peace. USAID has also funded the NGO PACT, a “partnership with international mining companies to improve conditions for miners and their dependents in the Katanga and Ituri regions”, though it has yet to be applied to the Kivus.⁴⁷⁰ Building business communities around these mines will be critical to the success of stability in the region. Alternate forms of employment are needed aside from mining, whether that entails something as simple as catering to miner’s consumer needs or to agricultural development.

The ICGLR established a Protocol Against the Illegal Exploitation of Natural Resources in 2006, but the cooperation of its participants has continued to be abysmal. However, this protocol may serve as a starting point to rally regional heads of states to uphold practices they had previously committed to. The solution must be locally driven and start with collaborating at both geographic and legal borders. It is within the interests of all regional countries to establish a climate for investment and growth of mining sectors.

Within the US, the multiplier effect of NGO coalitions, such as Make It Fair, pair brand recognition and public campaigning to create a top-down pressure for ethical sourcing. Established in 2008, the Electronics Industry Citizenship Coalition (EICC) also works to trace metal supply chains.

The US Customs Department’s chain specialist teams may also be capable of drafting rigorous third-party auditing mechanism. Additionally, the ITRI’s three-step approach to traceable supply chains is, in writing, a viable model for regulation. While it has failed in practice, the addition of third-party auditors would relieve both miners and corporations of the tenuous responsibility of self-regulating.⁴⁷¹

Public-Private Alliance for Responsible Minerals Trade (PPA) also offers a viable shared stakeholder model of private-sector-driven investments, which seek to market the absence of conflict-minerals in their products. It is critical that corporate investors

across the globe join together to set boundaries and standards for business conduct so as to create an even playing field. Mines in the DRC continually undercut the global prices for minerals, driving companies such as Australia's industrialized tantalum miner Talison out of business, so it is within the interest of corporations headquartered outside of the DRC to ensure prices are remaining stable. Nokia, ATT, Qualcomm, Sony, USDA, USAID, ICGLR and many more have all signed on as members of the PPA.

POLICY RECOMMENDATIONS

- In order to halt the counterfeiting of mineral tags, a single coherent system for mineral tagging across the Great Lakes region must be created. This should be established and monitored by representatives participating governments, IMF and MONUSCO, and foreign corporate investors.
- Establish frequent, preferably annual or bi-annual, standardized third party audits of mines in both the DRC and surrounding countries.
- Tags must only be produced in quantities that align with the current actual production rates of their respective mines, so as to not have an illicit market of tags flooded with unused tags for under-producing or non-producing mines.
- Supply chain specialists from the US Department of Commerce should assist with detailing potential methods of implementing regular—preferably annual or bi-annual—third party audits of each level of the supply chain within the DRC, and within the Great Lakes region. Both corporate investors and the DRC government must fund audits. These audits must entail a re-certification of any party wishing to participate in any level of the mineral trading supply chain.
- Pressure the DRC's international trading partners such as those in Dubai and South East Asia to comply with transparency and ethical sourcing laws.
- Establish a regionally standardized tariff system throughout the Great Lakes region in order to alleviate the incentive to smuggle minerals to reduce export costs. The US should assist in drafting mutually reinforcing taxation laws so that the region as a whole can benefit evenly from mineral resources.

- Seek the cooperation and collaboration of China to ensure that China's needs are being met in the region, whilst also ensuring that China comply with transparency regulations.
- Incentivize conflict-free mineral sourcing partnerships based upon multi-stakeholder representation between both public and private sectors. US corporations taking an active role in ensuring due-diligence and taking leadership roles in such endeavors should receive one-time tax benefits.

CHAPTER 12: ROADS, HEALTH, AND EDUCATION

By Mariah Louie

INTRODUCTION

Capacity building in the DRC is a complex effort; however, international partners understand that the Congolese government and civil society are the most effective agents of transformative change for the DRC's present and future. For its own part, the government of DRC has articulated their comprehensive poverty reduction strategy, developed with the World Bank and the International Monetary Fund. Their vision has five pillars:

- Promoting good governance and consolidating peace through institution building
- Consolidating macroeconomic stability and growth
- Improving access to social services and reducing vulnerability
- Combatting HIV/AIDS
- Promoting local initiatives⁴⁷²

A first step toward supporting the DRC's strategy is committing to cooperate with and contribute toward the harmonization of donor support among the large number of partner countries and multilaterals. Immediately following the 2006 elections, the US and 16 other partners created a Country Assistance Framework to collectivize their impact.⁴⁷³ Though aligned with the poverty reduction strategy, the donors failed to fully consult non-state actors. Officials should be looking ahead to the future, adapting aid platforms to current contexts and fostering long-term, consultative processes. The DRC also recently signed onto the Paris Declaration on Aid Effectiveness, likewise demonstrating their dedication to tackling the huge challenge of coordinating aid among an enormous array of actors.

Alongside efforts to support DRC's governmental institutions, the US can further build capacity among Eastern Congo's network of Community-Based Organizations (CBOs), a bedrock for positive change in the GLR. In the absence of effective governance, CBOs are often unable to deliver direct services in the localities with their limited

resources. ECI's unprecedented Landscape Analysis and Database of CBOs provides an invaluable resource for bolstering grassroots-level work, demonstrating the capacity of these organizations to absorb funding. USAID should provide ongoing support for the maintenance and expansion of the database as well as continue to funnel grants through ECI for the many capable CBOs. Further, programs like the World Bank's Emergency Social Action Project (ESAP) present an effective model for capacity building at the community level.⁴⁷⁴ ⁴⁷⁵ Programs and people that engage at the community level must serve as the foundation for sustainable development in the DRC.

TRANSPORT INFRASTRUCTURE

The DRC is well known for facing the most difficult infrastructure challenges on the continent. The country has only 3,000 km of largely unconnected paved roads, with less than 10 percent of the 152,400 km core road network in fair to good condition.⁴⁷⁶ Road users in the region are becoming increasingly agitated by the state of their infrastructure and the inability or unwillingness of distant Kinshasa authorities to make improvements.⁴⁷⁷ The DRC's stated objectives are to construct and operate infrastructure that (a) connects the regions and provinces, (b) provides access to international markets, and (c) demonstrates the capacity of the state to deliver services.⁴⁷⁸ The government has identified 15,800 km of national roads as "extra high priority," not including provincial or rural roads. Despite significant donor input, the scale of demand far outweighs current investment levels.

During the period of 2002 to 2008 almost all new infrastructure in the DRC was constructed with the help of development partners and MNOs. Then, in 2008, the DRC entered into a \$9 billion partnership with three Chinese companies backed by the Export-Import Bank of China, granting the group a valuable mining concession in exchange for infrastructure financing.⁴⁷⁹ This investment presents an unprecedented opportunity for the DRC to make significant progress toward their infrastructure goals. However, because mining revenues guarantee repayment of the loans, Chinese partners have little economic interest in effective implementation and the selected projects are not subject to regular public procurement procedures.⁴⁸⁰ On the upside, Chinese businesses operating in the DRC do have a mutual interest in engaging in partnerships

that engage socially, working toward gaining legitimacy in local communities and building business connections with other regional actors. Organizing business forums that promote ethical engagement would also provide avenues for developing public-private partnerships that hold immense potential for profitable deals that also add value to communities.

Where the US can play another key role is in building the capacity of CBOs, which can exert upward pressure on the DRC to make the process transparent and accountable. Organizations like The Consultation Group (CdC) in Orientale province or the Regional Board of National Development Organizations (CRONGD) in Maniema province are just a few examples of CBOs with the potential ability to monitor investment dealings. Capacity strengthening could come in the form of lending advisors to train CBO and labor union leaders in accountability practices and community organizing. As a long-term effort, responsibility falls on Congolese civil society to demand equitable outcomes from the DRC's dealings with Chinese partners. The US should seek to support organizations that can promote political activism in this area. One prominent example of the effects of successful activism is that of Ikal Angelei, founder of the Kenyan NGO Friends of Lake Turkana and winner of the Goldman Environmental Prize. Working with international partners, her campaign has helped to defend the interests and livelihoods of 500,000 people against a destructive hydropower mega-dam.⁴⁸¹ Support for Congolese activists who can best defend interests in the localities is a vital ingredient of sustainable, responsible infrastructure development. Further, as private businesses continue to invest in the region, partnerships can be developed among corporations, NGOs, and USAID to raise the level of coordination in the sector. The recent Memorandum of Understanding that USAID signed with Ethiopia and DuPont provides a model of cooperation that the GLR desperately needs.⁴⁸² Organizing forums for multi-stakeholder interaction would provide opportunities for Chinese investors to gain legitimacy in local communities and for those affected most by the projects to voice their concerns.

Programmatically, DFID provides the best donor model for eastern DRC infrastructure projects. The agency's "Roads in the East" project began its second phase

in May 2012, building off priorities identified by the DRC and partners in International Security and Stabilization Support Strategy (I4S).⁴⁸³ USAID, like DFID, has joined the I4S strategy and funded rehabilitation of the Rutshuru-Ishasa road in North Kivu along with 13 accompanying administrative buildings, but the buildings lack a maintenance and operation budget.⁴⁸⁴ Going forward, any projects undertaken should include sharper measures to ensure sustained maintenance, seeking to build capacity of local agencies to exercise ownership of such projects. The US should also look to prioritize projects that focus on regional connectivity versus in country networking alone, working with local agencies to develop plans for strategic projects as funding becomes available.

Recommendations:

- Prioritize regional transport infrastructure projects and build capacity of DRC institutions to prepare a pipeline of investment-ready projects.
- Promote partnerships for private businesses that are already investing in regional infrastructure, engaging CSR initiatives to sync up with the donor networks and providing forums for Chinese investors to improve community engagement. Engage in capacity building of CBOs that can monitor DRC-Chinese investment dealings, advocating for CBO/labor union involvement in a transparent process.

HEALTH SECTOR

In 2008, 50 percent of primary health care services in DRC were provided by NGOs.⁴⁸⁵ While private sector expansion is a common coping strategy in conflict-affected situations, the country runs the risk of setting in place patterns of low-quality, uncoordinated care that are difficult to shift.⁴⁸⁶ However, the DRC has undertaken a number of steps in recent years to improve the health sector, as laid out in the Poverty Reduction and Growth Strategy Paper. The government has: (i) adopted transitional measures to support the decentralization process, (ii) prepared health sector facility inventories, a demographic and health survey, and a survey of the capacity of training establishments nationwide to generate data for the national policy review, rolling out the National Health Development Program, and updated the Health System Strengthening Strategy and national health map, (iii) in connection with reform of the public

administration, conducting an institutional audit with support from the World Health Organization, and (iv) revising and disseminating health standards and directives.⁴⁸⁷

While coordinating with other donors, the US should seek to come alongside the DRC Ministry of Health in strengthening capacity. This will include delivering innovative technical assistance for mapping and statistics tracking through proven USAID contractors where needed and encouraging Kinshasa to forge ahead in the decentralization process. The DRC constitution currently defines primary and secondary education, health, and agriculture and rural development as decentralized sectors, though implementation has been rolled out gradually.⁴⁸⁸ Prioritizing the transfer of competencies and staff to the provinces is an important step that remains to be fully leveraged. Further, additional research and reporting needs to be carried out in order to better understand best practices for local service delivery.

The World Bank's Health Sector Rehabilitation Support Project is gradually improving access to quality health care services in four of the country's provinces, distributing materials, drugs, and an allowance to health care staff, which reduces the cost of treatment for patients. Since 2008, over 1.3 million people in 14 targeted health zones have had access to a range of high-quality basic health care services and used them.⁴⁸⁹ The DFID has also contributed a flexible model for delivering support to the DRC system. While a prior focus on approving work and procurement plans at the central government level had stalled service delivery and limited innovation, the DFID project in DRC is now moving in the direction of compromise, with NGOs working closely with the existing health system but being given more autonomy and increasingly being held accountable for the results achieved.⁴⁹⁰ Likewise, the Global Alliance for Vaccines and Immunization has been supporting civil society organizations in an effort to increase vaccination coverage, with some success, and strengthening cooperation between the Ministry of Health and NGO service providers.⁴⁹¹ These are just a few regional examples of international donors working toward cooperative, coordinated service delivery. The US would be wise to engage CBOs in Eastern DRC and develop mechanisms for their further coordination with the Ministry of Health, with the long-term strategic goal of gradual transfer of responsibility to government provision over NGO reliance.

Recommendations:

- Deploy expertise to research methods that will expedite the decentralization process, empowering provincial localities to more directly manage health service delivery.
- Selectively support capacity building for key health-related CBOs in the region, encouraging flexibility for improved integration with the DRC health system.

EDUCATION SECTOR

Plagued by remnants of the colonial system, the education sector poses a unique set of challenges. Education was officially nationalized in 1972, but the Catholic Church remains responsible for an estimated 80 percent of functioning primary schools and 60 percent of secondary schools. Today, enrollment and literacy rates are alarmingly low; the system-wide challenges cannot be overstated. Up to 7 million children across the country are out of school completely, despite a 2010 government decision to make primary education free.⁴⁹² While the area of access and fee structure requires more research, clearly there are major barriers across the DRC for children and young adults to receive the education to which they are entitled. For the eastern DRC, one of the most enduring challenges has been to provide alternative options for school dropouts and returnees in war-affected areas.

To build capacity in the education sector requires reform of the current system framework as a whole alongside concurrent, targeted interventions to deliver impact at the community level. Firstly, any policy framework developed should include both those in school and out of school, with both formal and alternative mechanisms embedded.⁴⁹³ The Ministry of Social and Family affairs runs a UNICEF-supported remedial program for children aged 8 to 15 years, offering an informal educational opportunity for around 20,000 primary school dropouts.⁴⁹⁴ With about half of this enrollment figure concentrated in Kinshasa, actions should be taken to explore the expansion of these types of programs in the East.

Additionally, reform of the formal education system must include restructuring of secondary education and Technical and Vocational Education and Training. Following

the example of Madagascar's recent overhaul of its education system, the DRC should consider extending compulsory primary education and eliminating vocational training at the lower secondary level.⁴⁹⁵ This step would contribute toward the enhancement of basic mastery for the groups of young adults entering the workforce. Delaying Technical and Vocational Education and Training enrollment puts students in a better position to make informed career choices and puts the focus back on foundational skills and knowledge rather than those that the private sector often already provides.⁴⁹⁶ The US should support progress in education reform by helping to build capacity in the Ministry of Education, lending technical advisors where possible and contributing toward the development of an upgraded statistical database for planning measures.

The resource needs for the DRC's education system are unsurprisingly great. Updated curriculum, textbooks and materials, and qualified teachers are in high demand. In recent years, the US has carried out an array of meaningful assistance programs to bolster schools and expand opportunities. Involvement in curriculum development in particular provides unique opportunities to contribute materials that combat GBV and introduce peace and conflict resolution ideas from a young age. Channeling resources toward curriculum development asserts strategic long-term development interests, particularly in the area of resisting violence against women by targeting the root causes. Equally important to curriculum development is training of the teachers who deliver it, which could be done primarily through local CBOs.

Finally, in addition to partnering with CBOs in the region, the Congolese diaspora holds a wealth of potential as a force for influence in the education sector. In conjunction with CBOs or university organizations, the US could create a fellowship program for skilled teachers living in the diaspora to complete short-term engagements at secondary schools or universities in DRC. Alternatively diaspora engagement could be centered on fostering organization among political advocacy groups and partnerships for more efficient investment of their resources. A large, pooled diaspora investment fund, for example, could harness the power of collectivity while providing a productive space for open dialogue surrounding development funding.

Recommendations:

- Provide technical and capacity building support to the Ministry of Education for sector-wide reform measures, prioritizing updated data collection. Education reform should include eliminating vocational training at the lower secondary level and promoting the development of age-specific, culturally appropriate curriculum that combats GBV and supports peace & conflict resolution, along with training for the teachers who deliver it.
- Engage diaspora communities to develop pooled investment funds and increased opportunities to invest in higher education directly.

CONCLUSION

In the 3D strategy, development tends to take a lower rung than defense or diplomacy. As the US struggles to strike a balance between offering beneficial aid and fostering self-reliant countries, we battle over the extent to which we should implement programs or invest resources. Development can be framed as an afterthought, the things that the rich countries “should do” once the most urgent matters are taken care of. However, to see real peace in the DRC, it will take much more than throwing money at the problems or even implementing programs. Sustainable development is about a long-term process of creating more equity and choice so that communities have the opportunities they need to exercise freedom and ownership. What will generate progress, slow and painful as it may be, are the types of development initiatives that build the capacity of those institutions and organizations that wield influence in their community. Humanitarian priorities absolutely deserve attention and funding, particularly in the conflict-ridden eastern DRC, but equal attention must be paid to building capacity long-term. The DRC not only merits our attention as a humanitarian crisis but as a potentially major economic powerhouse on the continent. Ultimately, to work towards the development of free and productive livelihoods for the Congolese people is to work toward the development of a pivotal partnership for the United States.

POLICY RECOMMENDATIONS

- Prioritize regional transport infrastructure projects and build capacity of DRC institutions to prepare a pipeline of investment-ready projects.

- Promote partnerships for private businesses that are already investing in regional infrastructure, engaging CSR initiatives to sync up with the donor networks and providing forums for Chinese investors to improve community engagement. Engage in capacity building of CBOs that can monitor DRC-Chinese investment dealings, advocating for CBO/labor union involvement in a transparent process.
- Deploy expertise to research methods that will expedite the decentralization process, empowering provincial localities to more directly manage health service delivery.
- Selectively support capacity building for key health-related CBOs in the Eastern region, encouraging flexibility for improved integration with the DRC health system.
- Provide technical and capacity building support to the Ministry of Education for sector-wide reform measures, prioritizing updated data collection. Education reform should include eliminating vocational training at the lower secondary level and promoting the development of age-specific, culturally appropriate curriculum that combats GBV and supports peace and conflict resolution, along with training for the teachers who deliver it.
- Engage diaspora communities to develop pooled investment funds and increased opportunities to invest in higher education directly.

POLICY RECOMMENDATIONS

DIPLOMACY

- The United States should appoint a Special Envoy for the Great Lakes Region of Eastern Africa, specifically focusing on the continuing conflict in the Kivu region of the Democratic Republic of the Congo. This envoy should work directly with President Obama and have a mandate from his office and be staffed with 10 to 15 assistants, including Foreign Service officers experienced in the region.
- Assemble a conference of donors to the Great Lakes Region to coordinate diplomatic pressure in the region to encourage institutional reforms in the DRC and increased regional cooperation.
- Encourage the rigorous implementation of a Joint Verification Mechanism, as envisaged by the ICGLR and expanded to include monitoring of the DRC's borders with Rwanda and Uganda. The JVM should be overseen and staffed by representatives of all signatory states to the Framework Agreement, with additional oversight from a U.S. envoy.
- Strengthen the dual oversight mechanisms proposed in the Framework Agreement by ensuring the coordinated involvement of the donor community and the participation of Congolese civil society and other relevant stakeholders. The mechanisms should focus on reform in three areas: government decentralization, economic reform and incorporation of non-state actors into DRC's military and political arena.
- Encourage the formation of multi-ethnic political groups.
- Ensure government representation for minority groups.
- Create a law banning the deprivation of citizenship based on ethnicity.
- Establish a system of Congolese citizenship.
- Reform land ownership system so that a small Tutsi minority does not hold the largest percentage of land.
- Create an organization capable of mediating land disputes.
- Ban hate-speech and the incitement of ethnic violence.

- Create a Hybrid AU/UN operation and deploy a joint special envoy under an AU mandate.
- Separately deploy a US Special Envoy to work in tandem with the AU/UN Special Envoy to carry out negotiations and initiate institutional capacity building. The two envoys should work as a unit to represent the diplomatic interests of rebuilding a democracy.
- Procure the support of key African countries and leaders that will be able to sustain peace in the region post peace process.

DEFENSE

- The AU should provide peacekeepers, either to replace part of the UN peacekeeping force in the DRC or to create a hybrid force using the AU-UN force in Darfur as a model.
- US should provide training and logistical support to AU peacekeepers in the DRC.
- The US should encourage UN peacekeepers to adopt new tactics (patrolling on arterial roads instead of only on main roads) and technologies (surveillance drones) with a focus on providing real-time intelligence in order that peacekeepers proactively prevent atrocities instead of only responding to them.
- UN peacekeepers should help build the capacity of the DRC police by comprehensively training police in the Kivus and supporting DRC anti-corruption efforts in conjunction with judicial reform.
- The US should send SOF forces to the DRC to train the FARDC. Training should include military basics, counterinsurgency, extended operations, and human rights.
- Continued assistance should be contingent on improving human rights abuses
- Assemble a judicial reform commission and fund mobile gender and specialized mixed courts.
- Remove and prosecute corrupt and abusive leaders.
- Recruit more and pay the salaries of judges in the eastern provinces.
- Provide ample protection for the judiciary.
- Enforce anti-corruption legislation.

- All armed forces should receive special training and counseling on the consequences of sexual violence to their health and the formation of a stable DRC, specifically addressing the risk of HIV/AIDs.
- Special units should be created within the new military and police force with the express purpose of protecting against sexual violence.
- The establishment, support, and oversight of an Internal Affairs division committed to exposing wrongdoing within the military and police and handling civilian complaints.
- Encourage the DRC to adopt MONUSCO's 2009 plan for combating impunity for sexual violence.
- Support the integration of Rule 96 of the Special Court for Sierra Leone's Rules For Procedure and Evidence
- Improved funding and coordination for NGOs addressing GBV to spread awareness, create support systems for GBV survivors, and educate all women in life skills.
- Support NGOs in their efforts to improve Women's education, specifically in life-based skills.
- Congolese soldiers should be trained by US Special Operations Forces in best humanitarian practices in order to end civilian abuses, prevent causes of forced displacement, and rebuild public trust in the security sector.
- Establish protection for displaced populations through the capacity building of the police security forces (led by MONUSCO, US, AU, or equivalent international stabilization force). Station these trained police forces in the most vulnerable displacement camps and areas for patrolling and enforcing rule of law in collaboration with local structures of authority. Work with the Congolese government to prioritize police reform.
- Develop a comprehensive reintegration strategy in collaboration with UNHCR, the Congolese government, and NGOs that (1) reconciles statutory and customary land laws in order to clarify and mediate land ownership, (2) supports the return of refugees and IDPs through rebuilding infrastructure and institutions as well as supporting income-generating opportunities, and (3) protect returnees' rights and the rule of law through engagement with local authorities.

- Support a wide-ranging consultation process that incorporates victims of past abuses to define the parameters of a new Truth and Reconciliation Commission or alternative truth-seeking mechanism. Work with the Congolese government towards their full compliance and ensure that the members are autonomous to political influence.

DEVELOPMENT

- Fund US companies which establish joint venture supply chains in DRC.
- Fund establishment of US operated joint-venture central revenue authority for investment protection/trade facilitation agencies in DRC.
- Extend trade benefits to the DRC.
- In order to halt the counterfeiting of mineral tags, a single coherent system for mineral tagging across the GLR must be created. This should be established and monitored by representatives participating governments, International Monetary Fund and MONUSCO, and foreign corporate investors.
- Establish frequent (preferably annual or bi-annual) standardized third party audits of mines in both the DRC and surrounding countries.
- Tags must only be produced in quantities that align with the current actual production rates of their respective mines, so as to not have an illicit market of tags flooded with unused tags for under-producing or non-producing mines.
- Supply chain specialists from the US Department of Commerce should assist with detailing potential methods of implementing regular (preferably annual or bi-annual) third party audits of each level of the supply chain within the DRC, and within the Great Lakes region. Audits must be funded by both corporate investors and the DRC government. These audits must entail a re-certification of any party wishing to participate in any level of the mineral trading supply chain.
- Pressure the DRC's international trading partners such as those in Dubai and South East Asia to comply with transparency and ethical sourcing laws.
- Establish a regionally standardized tariff system throughout the GLR to alleviate the incentive to smuggle minerals to reduce export costs. The US should assist in drafting mutually reinforcing taxation laws so that the region as a whole can benefit evenly from mineral resources

- Seek the cooperation and collaboration of China to ensure that China's needs are being met in the region, whilst also ensuring that China comply with transparency regulations.
- Incentivize conflict-free mineral sourcing partnerships based upon multi-stakeholder representation between both public and private sectors. US corporations taking an active role in ensuring due-diligence and taking leadership roles in such endeavors should receive one-time tax benefits.
- Prioritize regional transport infrastructure projects and build capacity of DRC institutions to prepare a pipeline of investment-ready projects.
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- Deploy expertise to research methods that will expedite the decentralization process, empowering provincial localities to more directly manage health service delivery.
- Selectively support capacity building for key health-related CBOs in the Eastern region, encouraging flexibility for improved integration with the DRC health system.
- Provide technical and capacity building support to the Ministry of Education for sector-wide reform measures, prioritizing updated data collection. Education reform should include eliminating vocational training at the lower secondary level and promoting the development of age-specific, culturally appropriate curriculum that combats GBV and supports peace & conflict resolution, along with training for the teachers who deliver it.
- Engage diaspora communities to develop pooled investment funds and increased opportunities to invest in higher education directly.

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¹⁰⁴ Autochthony is a term that implies "native-ness," but today the term has socio-political connotations. Many view autochthony as a way of delineating rights and standing in a community.

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¹⁰⁹ While Sultani Makenga has taken over as the top military leader of M23 Ntaganda has remained extremely influential. Jason Stearns reports that a rift has developed between the two leaders recently, one that may have boiled over into the assassination of Anicet Musana, an officer in the M23 on February 24th, 2013. It is unclear whether Makenga or Ntaganda supporters killed Musana. The two leaders have feuded since Ntaganda was named head of CNDP forces in 2009. Ntaganda fears that peace talks would diminish

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- i. Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent;
- ii. Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent;
- iii. Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence;
- iv. Credibility, character or predisposition to sexual availability of a victim or witness cannot be inferred by reason of sexual nature of the prior or subsequent conduct of a victim or witness.

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⁴³⁷ “CONFLICT MINERALS- The term ‘conflict minerals’ means columbite-tantalite (coltan), cassiterite, wolframite, or their derivatives, or any other mineral determined by the Secretary of State to be financing conflict in the Democratic Republic of the Congo.” (see affiliated endnote)

⁴³⁸ Ibid.

⁴³⁹ Enough Project Team, and Grassroots Reconciliation Group. *A Comprehensive Approach to Congo’s Conflict Minerals*. Report. April 24, 2009. Accessed February 2, 2013. <http://www.enoughproject.org/files/Comprehensive-Approach.pdf>, 3.

⁴⁴⁰ Bates, Nick, and Hilary Sunman. *Trading for Peace: Achieving Security and Poverty Reduction through Trade in Natural Resources in the Great Lakes Area*. DFID/USAID/Comesa. October 2007.

⁴⁴¹ This figure used by the humanitarian nonprofit, Enough Project, is lower than in previous years, perhaps due to misreporting on behalf of the Congolese government. These figures were calculated by Enough Project with an assumed 35 percent rate of underdeclaration by the official agencies. Initiative For Central Africa (INICA) more generously assumed an underdeclaration rate of 30 to 135 percent. Nicholas Garrett and Harrison Mitchell, “Trading Conflict for Development (DFID, April 2009); Nicholas Garrett, “Artisanal Cassiterite Mining and Trade in North Kivu: Implications for Poverty Reduction and Security” (CASM, June 2008); Aloys Tegera and Dominic Johnson, “Rules for Sale: Formal and Informal Cross-Border Trade in Eastern DRC” (Polé Institute, June 2007), p. 52-54; Nick Bates and Hilary Sunman, “Trading for Peace: Achieving Security and Poverty Reduction Through Trade in Natural Resources in the Great Lakes Area” (DFID/USAID/Comesa, October 2007)

⁴⁴² International Tin Research Institute. “Review of Tin Use and Recycling for 2007.” ITRI. 2007. Accessed March 01, 2013. http://www.itri.co.uk/pooled/articles/BF_NEWSART/view.asp?Q=BF_NEWSART_308811.

⁴⁴³ Ibid.

⁴⁴⁴ Garrett, Nicholas, and Harrison Mitchell. *Trading Conflict for Development: Utilising the Trade in Minerals from Eastern DR Congo for Development*. Technical paper. Resources Consulting Service LLC, 2009, pg 31. *Mineral Commodity Survey for Tungsten*. US Geological Survey, 2009. Accessed 2013. <http://www.usgs.gov>.

⁴⁴⁵ Ibid.

⁴⁴⁶ Abedi, Cadet. “La RDC Perd 70 Millions \$US à Cause De La Fraude Du Métal Jaune.” All Africa. July 15, 2009. Accessed February 2, 2013. <http://fr.allafrica.com/stories/200907150336.html>.

⁴⁴⁷ Enough Project Team, and Grassroots Reconciliation Group, 3.

⁴⁴⁸ Prendergast, John, and Sasha Lezhnev. *From Mine to Mobile Phone The Conflict Minerals Supply Chain*. Report. November 10, 2009. Accessed February 02, 2013. <http://www.enoughproject.org/files/minetomobile.pdf>, 2.

⁴⁴⁹ “Interactive Map of Militarised Mining Areas in the Kivus.” Map. INTERNATIONAL PEACE INFORMATION SERVICE. 2009. Accessed 2013. <http://www.ipisresearch.be/maps/MiMiKi/Areas/web/index.html>).

⁴⁵⁰ Prendergast and Lezhnev, 2.

⁴⁵¹ *Final report of the Group of Experts on the DRC submitted in accordance with paragraph 4 of Security Council resolution 2021 (2011)*. Issue brief no. S/2012/843. November 15, 2012. Accessed March 01, 2013. http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/843. para. 160.

⁴⁵² Ibid. para. 169.

⁴⁵³ Ibid. para. 170 to 171.

⁴⁵⁴ Garrett and Mitchell.

⁴⁵⁵ Bates and Sunman.

⁴⁵⁶ *The National Bank of Rwanda: Export Statistics*. Report. August 2008. Accessed February 01, 2013. <http://www.bnr.rw/statistics.aspx>; ITRI. "MPA to Step up Rwanda Investments." February 20, 2009. Accessed March 01, 2013. https://www.itri.co.uk/index.php?option=com_zoo&task=item&item_id=1017&Itemid=177.

⁴⁵⁷ Enough Project Team and Grassroots Reconciliation Group, 14.

⁴⁵⁸ Ibid.

⁴⁵⁹ *Interim report of the Group of Experts on the DRC submitted in accordance with paragraph 4 of Security Council resolution 2021 (2011)*. Issue brief no. S/2012/348. June 21, 2012. Accessed March 01, 2013. http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348, para. 141-142.

⁴⁶⁰ *Final report of the Group of Experts S/2012/843*, para. 162.

⁴⁶¹ Ibid. para. 159.

⁴⁶² Ibid. para 162

⁴⁶³ Ibid. para 199.

⁴⁶⁴ Kavanagh, Michael J. "Gecamines of Congo Plans to Raise \$1 Billion for Copper Plant." Bloomberg. January 16, 2013. Accessed February 01, 2013. <http://www.bloomberg.com/news/2013-01-16/gecamines-of-congo-plans-to-raise-1-billion-for-copper-plant.html>.

⁴⁶⁵ Kabemba, Claude. "Chinese Involvement in DRC." Open Society Initiative for Southern Africa (OSISA). October 4, 2012. Accessed February 1, 2013. <http://www.osisa.org/books/regional/chinese-involvement-drc>.

⁴⁶⁶ Ibid.

⁴⁶⁷ Putzel and Kabuyaya, 27.

⁴⁶⁸ Ibid., 28.

⁴⁶⁹ Melcher, Frank. "Of Conflict Minerals: Columbite-tantalite ("coltan") Ores." *Society for Geology Applied to Mineral Deposits News*, June 2008.

⁴⁷⁰ Enough Project Team, and Grassroots Reconciliation Group, 7.

⁴⁷¹ International Tin Research Institute. "Tin Supply from the Democratic Republic of Congo." 2007. Accessed March 01, 2013. http://www.itri.co.uk/POOLED/ARTICLES/BF_PARTART/VIEW.ASP?Q=BF_PARTART_310250.

⁴⁷² Johannes Herderschee, Kai-Alexander Kaiser, and Daniel Mukoko Samba, *Resilience of an African Giant: Boosting Growth and Development in the Democratic Republic of Congo* (Washington, D.C.: The World Bank, 2012), 13.

⁴⁷³ Renata Dwan and Jean-Luc Siblot, *The DRC's Country Assistance Framework: A 'Big Tent' Built from 'Big Ideas'?* (Washington, D.C.: The World Bank, 2008), 8. Accessed February 13, 2013. http://www.peacekeepingbestpractices.unlb.org/PBPS/Library/MONUC_CAF_LL_2008.pdf.

⁴⁷⁴ The ESAP Project is comprised of: (i) Sub-projects targeting the construction and rehabilitation of community-based and medium-scale social and economic infrastructure nationwide as well as piloting of income generating activities; (ii) capacity building for government agencies and NGOs involved in the implementation; (iii) provision of scholarships to increase enrollment in universities and a literacy program, including the provision of community libraries and training in library management; and (iv) project coordination. The project is executed by the Social Fund of DRC, a public organization created in 2002 to improve the living conditions of the poor by making available to communities the resources, financial and human, necessary for implementing self-selected sub-projects.

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- ⁴⁷⁸ Bynens and Taylor, 65.
- ⁴⁷⁹ Herderschee, Kaiser, and Samba, 6.
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- ⁴⁸¹ Peter Bosshard, “Goldman Prize for Kenyan River Activist Ikal Angelei,” *International Rivers*, April 16, 2012, accessed February 20, 2013, <http://www.internationalrivers.org/blogs/227/goldman-prize-for-kenyan-river-activist-ikal-angelei>.
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- ⁴⁸⁵ Samuel Carpenter, Rachel Slater, and Richard Mallett, *Social Protection and Basic Services in Fragile and Conflict Affected Situations* (London: Overseas Development Institute, 2012), 42. Accessed February 8, 2013. <http://www.dfid.gov.uk/r4d/PDF/Outputs/SLRC/SLRC-WP8.pdf>.
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- ⁴⁹⁰ Carpenter, Slater, and Mallett, 41.
- ⁴⁹¹ *Ibid*, 42.
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- ⁴⁹⁴ *Ibid*, 32.
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