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Congo's Enough Moment

The Case for Conflict Minerals Certification and Army Reform

John Prendergast | October 2010¹

At rare moments during the course of a war, a confluence of factors come together to provide a window of opportunity for real conflict transformation. Now Congo has a unique opportunity to bring an end to more than 125 years of having its people and resources pillaged by colonial powers, international traders, neighbors, and foreign and domestic armed groups. Growing international attention to atrocities in Congo, both recent and historical, and widespread interest in conflict minerals has shined a spotlight on eastern Congo as it has never done before—from the U.S. Congress, from regional heads of state, and from multinational companies. This has opened a significant new window for policy reform and it is time for the U.S. government and Secretary of State Hillary Clinton to help leverage the end of the war in eastern Congo through leadership on two of the issues that will catalyze a broader solution to the cycles of violence there: minerals certification and comprehensive army reform.

Consumers and human rights activists in America and around the world are saying “Enough is Enough” of the killing, raping, and smuggling that has helped to satisfy our demand for cheaper cell phones, laptops, and other products powered in part by conflict minerals from the Congo. The result is congressional legislation—signed by President Obama—that requires real transparency from those companies profiting from this exploitation.² That message has echoed from the board rooms of multinational companies to the presidential palaces of Central African leaders, right down to the rank and file of the rebel groups and army units that feed off of the war.

I've spoken with the CEOs of electronics companies, the leaders of Central African nations, mineral exporters and traders, mine owners, miners and their families, survivors of some of Congo's worst violence, U.N. peacekeepers, Congolese civil society groups, and even some of the armed warlords. The new U.S. law on conflict minerals and the growing global campaign have shaken up the supply chain, and all those that are profiting say they are willing to change.

President Joseph Kabila of Congo has imposed a temporary export ban on minerals from the three main provinces in the war zone to clamp down on what he calls “a kind of

mafia involved in minerals exploitation.” President Paul Kagame of Rwanda indicated his support for a mineral certification program, asking me repeatedly, “Who would oppose this?” A major electronics company CEO has shown me how he is personally investing his company in tracing and auditing its supply chain for products like cell phones and laptops to ensure that they are conflict-free. The traders and exporters are screaming about a possible embargo and are forwarding proposals of their own, including full audits of their supply chain right down to the tunnel manager at the mine. As one major regional mineral exporter proclaimed to me, “The American bill has stopped everyone in their tracks and made us realize that there has to be change, and it has to start at the top.”

The next six months will be a dangerous moment for people in Congo, as the horrific gang-rape of nearly 250 women in the mineral-rich area of Walikale in early August shows. But the response of President Kabila and the high-level attention to the region also gives all key actors an enormous opportunity to make the fundamental changes that need to be made to end the war. The message has been sent that the status quo on conflict minerals is unacceptable and the profits purchased with so much Congolese blood are at risk. If we miss the window for change now, these incidents will only get worse. But if we seize this moment and help shake up the system, conflict minerals and the war will become things of the past. This is Congo’s Enough Moment.

The missing ingredient for change

What is missing is a conductor to orchestrate the process of change aimed at producing a solution that involves governments in Central Africa and around the world, companies that benefit from these minerals, and civil society groups in Congo and globally that have worked to bring this issue to light. The solution must satisfy consumers of cell phones, laptops, and other electronics products, so that they know what they’re buying is truly conflict-free. And it must satisfy survivors in Congo’s war zone, so that they begin to see movement toward stability and an end to the abuses that haunt them daily.

That missing conductor is the United States, and more specifically, its highest ranking official to travel to Congo and make it a priority: Secretary of State Hillary Clinton. Throughout my recent trip with traveling partner Ashley Judd, I kept hearing, “Hillary is key.” Secretary Clinton’s trip to eastern Congo a year ago provided hope because she went beyond simple sympathy and identified some of the core causes of the conflict, including conflict minerals, an unreformed army, a lack of accountability, and the need for an enhanced strategy to deal with the primarily Rwandan militia called the FDLR.

A year after her trip, the time has come for Secretary Clinton to personally re-engage and take advantage of this moment of opportunity to catalyze a minerals certification program that is internationally accepted as the standard for mineral exports from the Great Lakes region of Africa. The United States and other interested countries should then use

the leverage afforded by their support for certification—a long-term solution to the problem of a de facto embargo on the region’s mineral exports—to secure more fundamental, long-term reform of the Congolese army, and work with Congo, Rwanda, and Uganda to develop more comprehensive and effective counter-insurgency strategies to end the threats posed by the FDLR and the LRA and create security for threatened civilians.

The case for certification

There is no question that a de facto embargo on Central African minerals could result from the U.S. legislation. Many electronics companies appear willing to invest in tracing and auditing capacities, but not yet in an internationally acceptable certification system, which means most of them for now will simply be looking to ensure that their minerals do not come from anywhere near a conflict zone. The only effective antidote to this unintended consequence is the development of an internationally accepted minerals certification process, improving on the model that was developed to weed out blood diamonds 10 years ago, which contributed to ending wars in Sierra Leone, Liberia, and Angola.

As Ashley Judd and I wrote in our op-ed on CNN.com, the objective of minerals certification is to change the commercial calculus from violence to stability, from smuggling to legality, from collapsed state to rebuilding state, from private bank accounts to public revenues. The chain of change begins with the consumer of the end products: laptops, cell phones, jewelry, etc. The consumer demands change from companies and governments. Companies and governments lean on minerals smelters. Smelters in turn press Central African exporters. Exporters subsequently—for their economic survival—demand transparency from suppliers right down to the mines, if that is what making money requires.

It is a classic domino effect. Change in the first instance won’t come from the gun or the courtroom. It will come when it no longer pays off to violently and illegally extract minerals from the Congo.

The current system is so corrupt that it won’t be cost-free to change. Some miners may lose their livelihoods. Violence may increase in the short run in some places as armed groups worried about losing out will make a play for expanded territory. But the status quo is so deadly and parasitic, it must be disrupted. It is crucial to understand that a powerful few benefit enormously from that status quo; the rich indeed get richer, and better armed.

The institution that is already leading the pack in finding a way to certify regional minerals as conflict-free is the International Conference of the Great Lakes Region, or ICGLR. As part of this initiative, 11 heads of state from the region will convene on November 17 in Congo to endorse a Minerals Tracking and Certification System from the Great Lakes Region of Africa. Although until recently this initiative was largely stalled, during the past

six months the governments of the region have developed the principles for a five-part certification system building on lessons learned from the Kimberley Process for conflict diamonds. This system is developing rapidly at a conceptual level, and the principles were approved by the region's mining ministers in Nairobi, Kenya on October 1, 2010.

The ICGLR has legitimacy because its membership consists of all 11 governments in the region. In order to succeed, it will need political support at the highest levels of government both within the region and in the Obama administration and other key donor governments.

There are two key aspects that merit immediate attention. First, there is an urgent need for a coherent process. In order to succeed, the ICGLR will need to bring together the multiple industry initiatives with government and civil society efforts under one unified process for certification. This should closely involve end-user industries like electronics, jewelry, automotive, and aerospace in order to weed smugglers out of international supply chains. In the absence of such a unified process, nine other initiatives are attempting to fill the gap: electronics companies are beginning to audit their mineral supply chains through their industry association, gold companies are beginning to take action through the World Gold Council, the tin industry has launched their tracing program in Congo, and several other industries from automotive to tantalum smelters have participated in the Organization for Economic Cooperation and Development, or OECD, process to develop guidelines on due diligence. In addition, the United Nations, the German government, and the World Bank all have initiatives related to demilitarizing or reforming the mining sector in eastern Congo. With U.S. support, the governments of the region can help to harmonize all of these efforts under the rubric of the ICGLR.

Second, certification depends upon independent monitoring (a roving spotlight, if you will). The key to making a process work on the ground will be data transparency and cross-checks. This will ensure that auditors and monitoring teams conduct spot checks through the supply chain, and that there is sufficient disclosure of key data on volume, shipments, and mines of origin, allowing consumers to see for themselves that their laptops and cell phones are verifiably conflict-free. This mechanism will be important to ensure that the paper documentation of chain-of-custody is accurate and that the trade is not supporting armed groups and military units. A joint monitoring team with Congolese and international staff will need to be able to visit mines and trading routes throughout the region, and should be given authority from the respective government to substantially penalize traders found to be purchasing from tainted sources. The ICGLR process agreed to independent monitoring in April 2010, but successful implementation will require political will from both governments in the region and the United States and other donors.

A unique and powerful alliance for change

Who actually most wants reform of this deadly minerals trade? Unfortunately, the armed actors, governments, minerals traders, and international companies all have a vested interest in the status quo. No armed group has an interest in security, including governments in the region, because far more money can be made and personalized in an insecure, illegal environment. Profits are individualized; losses are socialized.

As Ashley Judd and I wrote, it turns out that the two constituencies that have the biggest interest in reform are the survivors of violence in Congo and consumers of electronics products in the United States and Europe who learn what their purchases are doing to the Congolese people. That means the primary allies of our human rights consumer movement for conflict-free products are the women and girls who have survived sexual violence, the families who have been displaced, and the kids who want opportunities beyond the barrel of a gun.

But now, because of the legislation and the growing consumer movement in the United States and beyond, other actors are joining in the rush to reform. Regardless of their motivations, the chance to make major changes in the deeply exploitative nature of natural resource extraction is unprecedented. As one Congolese mine owner told me, “You need to tag and certify the minerals at the mine of origin. That will require independent monitoring and auditing. And you need to sanction the cheaters.” And a Congolese civil society leader urged during my last visit there, “The legislation is very important. We need people in the United States and around the world to keep saying they don’t want conflict minerals in their phones. It will make it more and more difficult for all those benefiting to bury their heads in the sand.”

Time for a grand bargain

The multiple roots of Congo’s crisis can’t be addressed one by one in isolation. If major progress in dealing with the unparalleled violence in the eastern part of the country will be achieved, a number of causes have to be attacked at once as part of a larger vision or strategy. The time is ripe for a grand bargain to be struck among Congo, its neighbors, and the broader international community.

Motivation for such a deal for Congo and its neighbors would come from the urgency to avoid an embargo of minerals from the region. A United States-led international effort to create an accepted certification of Central African minerals is the best route to forestalling an embargo. International efforts on conflict minerals provide the point of leverage on all parties that did not exist before to drive broader reform and peacebuilding. Conflict mineral certification is a means to an end, a catalyst for peace. For the Congo, donors should use that leverage to work for a comprehensive multiyear plan to reform

the Congolese army, which may be the largest single violator of human rights in the east. Simultaneously, a major diplomatic effort should unfold to work with Congo, Rwanda, and Uganda to create comprehensive counter-insurgency plans against the FDLR and other foreign armed groups in Congo.

President Kagame told us that the Rwandan people and Congolese people share similar traumas: “We are in the same problem together with Congo.” As Rwanda’s history has unfolded since 1994, there was a period certainly where violent extraction from Congo was prioritized. Increasing scrutiny of Rwanda’s present human rights record and its involvement in Congo during the 1996-2003 period comes at the same time as the Rwandan government’s development record is being celebrated internationally. At such a moment, it becomes less and less tenable for the Rwandan government to be associated with and tainted by the smuggling and violence across the border with Congo. Therefore, Rwanda’s political and commercial logic has shifted towards an interest in more transparent, legal, and peaceful regional development. Just as the threat of an embargo on regional mineral exports looms, this trend reinforces Rwanda’s willingness to be an advocate and willing participant in a certification program and to make whatever contributions are necessary for peace in the region. These are powerful, if largely unspoken, motivators for a grand bargain involving mineral certification and an end to the FDLR once and for all.

During the last 16 years, the FDLR in its various iterations has provided a useful role to regional governments, whether as an ally for the Congolese government in its eastern wars or as a rationale for intervention by Rwanda and Uganda. Now, however, the commercial logic has shifted from violent extraction to peaceful development, and the international mood is less accommodating of neighbors contributing to instability in Congo. This is a moment that should be seized by diplomats, corporate actors, and civil society as an opportunity to reinforce efforts at good governance, transparency, and reform, firm bedrocks of future peace in the Congo.

The devolving military context

Hauntingly similar to Darfur, the increased insecurity and attacks in eastern Congo are a result in part of the fragmentation of armed groups, which itself is caused in part by the failed attempts at integrating various armed groups into the government army. The breakdown of the command structures of a number of groups, the failure of the integration and disarmament, demobilization, and reintegration, or DDR, processes, plus an intensifying scramble for Congo’s resources—not just minerals but also land—are the primary culprits. Little militias are proliferating. Amani Leo, the Congolese government’s offensive against the FDLR, conditionally backed by MONUSCO, is almost totally focused on the acquisition of lucrative mines, given that is where many of the FDLR units were based. A year ago, ex-CNDP units that were integrating into the FARDC were going after FDLR

units. Now, money and alliances have clouded that dynamic and led to much more cooperation than confrontation. And as one high-ranking government official from the region told me, “The FDLR survives due to minerals.” And when FDLR units come back to areas they were driven out of by military operations over the past year, they exact horrific revenge on the local populations for alleged collaboration.

Among the greatest shortcomings during the past two years in Congo is that the détente between one-time enemies Kabila and Kagame, instead of leading to improved security on the ground in eastern Congo, has produced greater levels of violence and displacement. Now the constellation of actors opposed to both governments has created unlikely alliances among armed groups. This includes dissident Rwandan general Kayumba Nyamwasa; ex-CNDP forces including those led by Bosco Ntaganda, who are opposed to President Kabila’s call for them to be transferred out of the Kivus to other parts of Congo; and FDLR and Congolese mai mai groups. The FDLR has also relied increasingly on heavy recruitment of Congolese to replenish its ranks.

The silver lining in the storm clouds around eastern Congo is the pragmatism of armed groups on all sides of the conflict. Despite political and ethnic grievances, these groups cooperate commercially to profit from sharing the pie rather than fighting over it. The ex-CNDP are deepening economic relationships with FDLR units. This demonstrates that these groups are quite adept at adaptation for profit maximization. This could be viewed actually as a point of hope: If they need to exploit minerals legally and peacefully in order to make money, they will adapt.

New tools needed

The related phenomena of conflict and atrocities in eastern Congo have continued largely without interruption since 1994, for the most part only mildly affected by a series of peace agreements and a slowly expanding U.N. peacekeeping mission. These conventional tools—peace processes and peacekeepers—are misplaced when dealing with an unconventional war. If the economic roots of the conflict in Congo—ground zero for the scramble for African resources—are not addressed, war and atrocities will continue.

Transforming the U.N. mission

At \$1 billion a year, the U.N. peacekeeping mission is by far the biggest investment the international community—and the United States, which pays nearly 30 percent of the tab—is making in support of peace in the Congo. The mass rape at Luvungi has further exposed MONUSCO’s inability to carry out its primary civilian protection mission. This latest incident is just the tip of the iceberg of how little protection U.N. forces are willing and able to offer.

A wholesale revision of the U.N. mission is in order. General deployments all over eastern Congo are a very expensive and inefficient use of U.N. troops. The mission should be radically restructured with a focus on monitoring mining sites and other hotbeds of violence, investing in a beefed-up long-term army reform effort, and deploying special forces units to go after commanders in the FDLR and the LRA.

Sanctions

With an aggressive and integrated plan to trace, audit, and certify minerals originating in Central Africa, those who play by the rules and don't foment violence should benefit over time. A flexible, fast-acting sanctions regime should be established for those that ignore the new systems and continue to benefit from violent, illegal extraction of resources. As one high-ranking government official from Central Africa told me, "There should be sanctions against those making money off the illegal mining."

The need to address impunity is overwhelming. Beginning to sanction armed groups leaders and other human rights abusers is paramount. Account freezes and travel bans will hurt; self-image and travel to Europe and the United States matter to many of them. There is thus a need for serious investigations resulting in naming and shaming as well as sanctioning those who are benefiting most from the gravy train through their abusive behavior.

Security sector reform

As Tony Gambino has pointed out, the key to army reform is TPA: Train the troops, including in human rights law; pay the troops; and hold accountable the troops for war crimes and other crimes against civilian populations. Military justice is key and the United States can make a big contribution by investing its comparative advantage in helping to capacitate a serious military justice initiative within the FARDC. At present, FARDC commanders and armed group leaders believe they are going to skate away free despite their human rights records. There needs to be a real accounting for the second-tier abusers, the ones not included in the ICC indictments. This requires serious investigations, naming and shaming, and prosecuting those that deserve it.

DDR and development

How do the rank and file of armed groups develop a vision of the future so they do not perceive looting and raping as their way of life? In addition to more credible DDR strategies, some sense of economic opportunity for civilian activities must be restored. Since there will never be enough international investment to move that needle, development

initiatives that can possibly catalyze real economic development should be prioritized. A big investment, therefore, in road construction and rehabilitation might have the biggest payoff. Increased transport capacity could be transformative. Legal mineral development and agricultural production could lead to real economic growth.

Land and refugee returns

Refugee return could be the biggest potential flashpoint. Having some 50,000 Tutsis coming back to eastern Congo from Rwandan camps and telling non-Tutsis to leave their land will be inherently destabilizing. The CNDP has focused on a number of issues, but this one is at the top.

There is tremendous speculation as to what Rwanda got in return for arresting CNDP leader Laurent Nkunda. Many diplomats and Congolese believe that Rwanda got a green light to deal with their demographic pressures by resettling young Rwandan males in North Kivu, in addition to giving mine access to CNDP officers.

Justice and accountability

As long as impunity reigns for perpetrators of past atrocities, it will be nearly impossible to convince armed actors that they will ever face a cost for violence and human rights violations. Tackling this challenge will require multiple approaches, including ongoing support to the International Criminal Court, as well as a long-term effort to help rebuild and reform the Congolese justice system and the military justice system in particular as mentioned above. On the international side of the equation, the United States should continue to push for the apprehension of Bosco Ntaganda, who continues to command Congolese military operations in the Kivus. Although some Congolese are understandably concerned that a push to arrest Bosco could upend the peace agreement between the CNDP and the government, in fact Bosco's status as both an international fugitive and as a key commander in the Congolese army's actions against the FDLR actually perpetuates the fragility of peace in the Kivus. In addition to Bosco, the encouragement and support should be given to the ICC to launch a case against one of the senior FDLR commanders. In terms of long-term efforts to rebuild the justice sector, consideration should be given to using the momentum toward accountability from the release of the U.N. mapping report to develop Congolese institutions capable of holding perpetrators of war crimes and other atrocities to account.

Conclusion

At this pivotal moment, it is imperative that Secretary Clinton's 14 month-old commitments to Congo are translated into concrete actions from the U.S. government. The first step is putting in place the right policy-making structure, in the form of a special envoy with stature commensurate to the urgency of the issue, who reports to the president and the secretary of state. The envoy will need an experienced staff with the regional expertise to advance discussions on and help to implement both minerals certification and comprehensive security sector reform, the two main catalysts for peace. With this team in place, the United States can lead efforts to bring together the leaders of Congo, Rwanda, Uganda, and the wider region to follow through on the potential for a certification system that would enable the peaceful exploitation of the region's mineral resources. Similarly, a high-level partnership to finally address Congo's security sector will require unprecedented levels of international commitment and coordination. U.S. leadership on military justice would help create a center of gravity on both army reform and accountability. Absent such steps, U.S. rhetorical commitments will ring hollow and add to a lamentable track record of international involvement in Congo that has often been far more harmful than helpful.

Endnotes

- 1 I traveled throughout Eastern Congo with Ashley Judd during late August and early September 2010, along with Enough researchers Noel Atama and Fidel Bafilemba. All of the interviews and quotes referenced in this report come from that trip.
- 2 Section 1502 of the Dodd-Frank Wall Street Reform Bill, which was signed into law by President Obama in July 2010, requires all manufacturing companies listed on U.S. stock exchanges to trace and audit their supply chains for tin, tungsten, tantalum, and gold sourced from Congo and its adjoining countries to ensure that the minerals did not come from mines or trading routes controlled by armed groups.

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

