



Canadian Policy Towards the Democratic Republic of Congo

Four Recommendations

Eugenia Zorbas

In April 2010 the United Nations asked Canada to send a General to lead the 20,000-strong military component of the peacekeeping mission in the Democratic Republic of Congo (DRC), known by its French acronym MONUC. The request, combined with a visit by Governor General Michaëlle Jean in mid-April, prompted journalists and commentators to question the role Canada might play in the fraught international effort to help that country.

The ongoing conflict in the eastern part of DRC is best known for horrific rights abuses, including a rape “epidemic” and other forms of sexual violence. Large parts of the country remain outside government control despite elections in 2006 and the presence of MONUC, the UN’s largest and most expensive peacekeeping force. This conflict is considered the world’s deadliest since the Second World War with conflict-related deaths in the millions.

The Canadian government ultimately declined the UN’s invitation. This policy brief will demonstrate however, that sending a General would have mattered little, as current Canadian policy towards DRC is inefficient and ineffective. I outline four recommendations

At a glance...

- *Current Canadian policy towards DRC is ineffective and inefficient. It can be greatly improved without necessarily committing additional financial or military resources.*
- *Ottawa should champion a more coordinated, multilateral approach to all dealings with the DRC and explicitly involve all stakeholders including China.*
- *Canada should refrain from funding any Security Sector Reform (SSR) activity until an assessment of whether conditions exist for “holistic SSR” is conducted.*
- *Ottawa should enact legislation to clamp down on Rwandan Hutu rebel networks in Canada.*
- *Finally, Canada should support mineral traceability and due diligence initiatives and pass domestic legislation to sanction violations.*

to address this weakness. None necessarily implies an increased financial, much less military, Canadian commitment, yet all will

lead to better policy for Canadians and Congolese alike.

1. The Government of Canada should champion a coordinated, multilateral approach to all dealings with the Government of DRC and increase efforts to include key partners such as China.

Government of DRC (GoDRC) authorities have been keen to assert themselves since the 2006 elections, having chafed under what was described as informal international tutelage during the 2003-2006 official transition period. President Joseph Kabila and other members of the government have indicated a preference for bilateral relationships where possible. In this vein, the GoDRC struck an unprecedented minerals-for-infrastructure deal with China in 2008, the first tranche of which is valued at US \$6 billion. The deal gives President Kabila something to showcase in advance of the country's 50th anniversary in June 2010 and national elections scheduled for 2011. Moreover unlike Western aid, Chinese aid reportedly does not come with conditions such as implementing specific macroeconomic management measures or improving governance and human rights records.

An assertive approach towards international partners is within President Kabila's prerogative. However, authorities in Kinshasa have been adept at avoiding institutional reforms key to recovery. The government has also displayed contempt for democratic checks and balances on the executive. President Kabila has continued to use force to settle conflicts: troops loyal to Kabila helped instigate indiscriminate violence against political opponents both during and immediately after the 2006 elections. The President's "tolérance zero" policy notwithstanding, rights abusers and corrupt officials continue to enjoy impunity.

Despite this worrying context, the international community in Kinshasa remains divided, privileging bilateral trade interests without regard to the fact that their passivity endangers the very business prospects they are pursuing. In August 2009, the GoDRC expropriated Canadian mining conglomerate First Quantum Minerals' copper project in the Katangan

copperbelt, located in the country's relatively stable south-east, on unclear grounds involving in part the legality of a subsidiary company. A DRC court then demanded that First Quantum pay a breathtaking US \$12 billion in compensation in March 2010. An editorial in the *Financial Post* assessed that "The risks come from the DRC government." This risk also applies to Chinese companies which, as part of the \$6 billion deal mentioned above, are supposed to develop copper and cobalt concessions with Gécamines, the Congolese mining parastatal, in exchange for the construction of roads, schools and hospitals. In January 2010, a Congolese parliamentary commission found that US \$23 million destined for Gécamines had gone missing, diverted by senior executives in the parastatal with the complicity of provincial justice officials.

Canada and the broader international community can only have their views on this and other matters heard if they are willing to lead the effort for multilateral coordinated engagement and to end the current modus operandi which allows GoDRC authorities to divide and rule. Canada currently ranks as a secondary player in DRC, with the most recent OECD figures putting Canadian aid at US\$ 23 million for 2008, 17th among donors. But even top donors – the World Bank, the European Commission, the US, the UK and Belgium – are routinely faced with an uncooperative Congolese government: diplomats from these countries reportedly have difficulty securing meetings with DRC officials and power holders. Such multilateral coordinated engagement must therefore be applied in all discussions at all levels by all partners. As a lead stakeholder, China must be engaged with explicit overtures, which have been too timid to date. This will require a delicate balancing act during which diplomats must continuously underscore the principle of the GoDRC's sovereignty. However, shying away for fear of losing access or influence is self-defeating.

2. The Government of Canada should refrain from funding any security sector reform (SSR) activity until an assessment of whether conditions exist

for “holistic SSR” can be conducted.

A functioning security sector is the basis of a state’s sovereignty. Security sector reform (SSR) helps assert that sovereignty by improving the capacity of national armies, police forces and judicial (including penal) systems to provide security for citizens. There have been many SSR attempts in DRC over the years. The Global and All-Inclusive Agreement which ended the second Congo war in December 2002 included provisions for SSR starting with the integration of the different Congolese factions under a unified army command. Every year since then, the GoDRC has either established joint commissions with international community representatives or inter-ministerial bodies, or issued memos and plans on SSR. Donors meanwhile provided some funding, ad hoc training and technical advice. This has ultimately had little effect, for at least two reasons.

First, in any context, SSR, especially its military component, is a sensitive matter, shrouded in a degree of confidentiality and typically dominated by bilateral cooperation agreements. Both the DRC and its chief SSR partners (Angola, South Africa, the US, Belgium, China, and the EU) prefer to work bilaterally and eschew coordination and information-sharing. Given the colossal nature of the task at hand – estimates for the national armed forces, the FARDC, place its rank and file at well over 100,000 – this approach has resulted in a patchwork of piecemeal efforts, sometimes working against each other.

Second, SSR is at heart a process involving changing institutional cultures by, inter alia, implementing and enforcing a degree of civilian and parliamentary oversight and screening out members who are either unqualified or have engaged in corruption or human rights abuses. Technical assistance, no matter how generous or how well coordinated, cannot lead to this type of reform. What is more, in post-conflict contexts, undergoing “holistic SSR”, i.e. SSR that goes beyond technical assistance and seeks to change institutional cultures, will often threaten authorities’ basis for political power, financial gain and personal security. In the DRC, for instance, SSR would mean integrating

President Kabila’s Republican Guard, nominally part of the FARDC but in fact a better equipped, Angolan-trained private militia. SSR also involves the loss of important patronage networks wherein the President turns a blind eye as commanders split the salaries of the soldiers serving under them amongst themselves while also inflating payrolls by registering “ghost” soldiers. Because of these reasons, potential domestic champions for holistic SSR must be identified by international partners and measures found to strengthen their position. Without the fostering of domestic political will and shrewd alliances, donors will continue throwing good money after bad.

Canada should focus international SSR partners’ attention on this challenge and propose a joint political and technical assessment to determine whether holistic SSR is currently possible, including a strategy to identify and approach GoDRC authorities. Canada and its partners must be willing to walk away from SSR programmes should this assessment return a negative response; follow-up assessments could be conducted regularly. Importantly, partners must further commit to the principle of coordinated, not competitive, SSR and to a road map mutually agreed to with GoDRC authorities that includes a timetable for reaching specific milestones.

3. The Government of Canada should enact legislation to clamp down on Rwandan Hutu rebel networks in the country.

In addition to Congolese rebels, there are several foreign rebel groups operating in eastern DRC including the Front démocratique pour la libération du Rwanda (FDLR). This group, along with the RUD-URUNANA (a splinter group) and predecessor movements, have been operating in the two eastern provinces of North and South Kivu since 1994 and have engaged in illegal taxation, looting and human rights abuses such as rape and forceful recruitment of children.

Due to their origins and organization, the FDLR and associated movements are susceptible to non-military international pressure. Several leaders, both civilian and military, are thought to have participated in the 1994

Rwandan genocide, and so are vulnerable to prosecution. FDLR and RUD also rely on diaspora networks based in Europe, Africa and North America, with known FDLR fundraisers and propagandists operating in Canada. Indeed, a 2009 UN Sanctions Committee Expert Panel (Group of Experts) report identified five individuals who had sent funds to the FDLR from Canada. Moreover, a Canadian company apparently hosts the website of RUD-URUNANA, and RUD's spokesman lives in this country. The Group of Experts report demonstrates clear operational links between diaspora networks and military commanders in eastern DRC.

Failing to clamp down on these fundraising and propaganda activities, no matter how small they appear, directly undermines Canada's contributions to MONUC (3% of the Department of Peacekeeping Operations' annual budget or ca. US\$140 million in 2006). It also works against additional sums invested in World Bank and MONUC Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) efforts aimed at returning foreign rebels, such as the FDLR, to their home countries.

The Government of Canada could fix this direct contradiction in its DRC policy by adding the FDLR, its military wing FOCA, and the RUD-URUNANA splinter group to the Canadian Anti-terrorism Act. The government should also work to persuade other national authorities to further stigmatize and criminalize FDLR supporters operating on their territory.

In November 2009, Germany arrested the FDLR's President and overall commander and his deputy on charges of war crimes and crimes against humanity. Both had been openly living in Germany for years. By making similar moves, Canada would send a positive message and potentially encourage field commanders in DRC to consider the DDRRR option more seriously. Such a move would also lend substance to Governor General Jean's official apology over Canada's failures during the 1994 genocide in Rwanda, delivered during her trip to that country in April 2010.

4. The Government of Canada should support min-

eral traceability and due diligence initiatives and pass domestic legislation to sanction violations.

Canada is the largest non-African investor in DRC's mining sector with an estimated 15 Canadian mining conglomerates operating in the country. Most are active in Katanga, part of the Central African copperbelt, which also contains the world's most important reserves of cobalt. Some of the better known Canadian mining companies include Tenke Mining, First Quantum Minerals and Anvil Mining – a Canadian-Australian company infamous for its alleged role in assisting the FARDC in violently putting down a rebellion in the village of Kilwa, Katanga, in October 2004. There are also important Canadian businesses sourcing minerals from DRC, including the prominent technology company Research In Motion and its Blackberry suite of products.

For mining companies, challenges vary in different parts of the country: in the more stable south-east area of Katanga, companies must negotiate with "creuseurs" (Congolese artisanal miners) to relocate them away from industrial sites, as well as Congolese officials demanding barely legal or illegal payments. In the volatile east, rebels and FARDC forces control most mining sites and routes. It is unclear how Canadian companies, such as Banro Corporation which plans to enter production in its South Kivu gold mine in late 2011, will deal with the well-documented fact that revenues from natural resource exploitation in the east are channelled to all sides of the conflict.

For sourcing companies, the challenge is that it is currently impossible to reliably trace the source of minerals. Additionally, no consensus exists on what constitutes illegal exploitation, in part because it is not always possible to determine who controls which mine or road at any given time. Some analysts have proposed establishing independent monitoring teams to be housed within an existing national or regional institution to perform spot-check policing duties at mines and transport routes. A complementary initiative currently being proposed by the UN Group of Experts consists of an independent third party audit mechanism to assess compliance with due diligence


responsibilities. International financial support in the inception phases of both proposals is required and Canadian leadership and financing, as a world leader in mining, would be invaluable.

The consequences for companies in violation of due diligence guidelines are up to the national jurisdictions of their respective home countries. In January 2010, CIPS published a policy brief by Madelaine Drohan analysing efforts to regulate Canadian corporations operating in the mining, oil or gas sectors in the developing world. It recommended that Bill C-300, a private member's bill which has been under consideration by the House of Commons' Standing Committee on Foreign Affairs since April 2009, be urgently improved and passed.

Maintaining the status quo entails reputational costs to Canada and Canadian companies, political risk for foreign investors generally, and the continued abuse of Congolese citizens' human rights. Stricter domestic legislation concerning ethical mining would strengthen the hand of Canadian companies vis-à-vis Congolese officials demanding dubious payments as well as vis-à-vis suppliers claiming ignorance of their minerals' origins. With Canadian mining powerhouses and electronics giants leading the way, the cumulative effect will be to encourage improved governance in DRC, in line with the influential Canadian mining lobby's self-proclaimed objectives.

Not many Canadians are aware of our long history and expertise in DRC. About 400 Canadian peacekeepers were sent to serve under ONUC (Opération des Nations Unies au Congo) in 1960-1964 during what was then also known as the "Congo crisis". For MONUC, the second UN mission, the Canadian Armed Forces have sent about a dozen military officers for 6-month tours of duty continuously since 1999, creating a significant pool of knowledge. Many Canadian civilians have also worked for UN agencies and NGOs in DRC, and there are decades-old civil society links between the two countries. Indeed, the most knowledgeable Canadian on DRC might well be an official from L'Entraide missionnaire, a Catholic group based in Montreal. Yet our DRC policy remains inadequate and ineffective.

The four recommendations outlined above – championing a multilateral approach towards DRC authorities, investing further in SSR only after a comprehensive and honest joint assessment, clamping down on Rwandan Hutu rebel networks in Canada, and Canadian companies respecting their due diligence responsibilities – are neither new nor exhaustive. The Canadian experts referred to above have been exploring these and other ideas for years.

Whether the Government of Canada will adopt a more effective and collaborative approach is unclear. What is certain, however, is that the current approach will yield negative results for Canadian business, Canada's development assistance programme, Canada's reputation regionally and internationally, and Congolese citizens – whom our ODA dollars are meant to assist. Already Canadian companies are suffering adverse consequences from DRC's weak governance and rule of law. As a world leader in mining, it is time Canada rally other countries and international institutions to lead by example and effect real change with a coherent, cohesive and innovative DRC policy. 

Eugenia Zorbas is a post-doctoral fellow at CIPS. Her Ph.D., awarded by the London School of Economics and Political Science, examined the politics of reconciliation in post-genocide Rwanda. She is a former official of the UN Mission in the DRC.



Centre for International Policy Studies
University of Ottawa
55 Laurier Avenue East, Room 3170
Ottawa, Ontario, Canada K1N 6N5

cepi-cips@uOttawa.ca
www.cepi-cips.uOttawa.ca