

A Progress Report on Conflict Minerals

The United States Senate

Committee on Foreign Relations

Subcommittee on Africa and Global Health Policy

Testimony by Mvemba Phezo Dizolele¹

Professorial Lecturer

Johns Hopkins School of Advanced International Studies

Wednesday, April 5, 2017

Chairman Flake, Ranking Member Booker and Distinguished Members of the Subcommittee on Africa and Global Health Policy:

Thank you for the invitation and honor to testify before your subcommittee. I appreciate your continued interest in developments in the Democratic Republic of Congo (DRC) and your support for the Congolese people.

Mr. Chairman, the views expressed in this statement are mine, and mine alone. With your permission, sir, I would like to submit my written statement into the record.

The last time I testified before your subcommittee four years ago, Congo had been grappling with the M23 rebellion. The insurgents had seized parts of North Kivu, laid siege on the provincial capital city of Goma, and displaced thousands of civilians before withdrawing into neighboring Uganda and Rwanda.

¹ @MvembaDizolele

That crisis reflected yet another escalation of the protracted violence that has come to define Congo. The rebels exploited the Kabila regime's unwillingness to raise an adequate professional army to defend the country's territorial integrity and protect the Congolese. The M23 also exposed the limitations of the United Nations peacekeeping mission, which has been reticent to apply its Chapter VII mandate and use force to protect civilians. Troop contributing countries lack the required political will and adequate personnel level and equipment to carry out their mission.

The United Nations Security Council is notorious for its schizophrenic Congo policy, which consistently places the interests of the Kabila regime above the aspirations and rights of the Congolese people.

It is this regime of suffering, violence and unbridled looting of natural resources that inspired Section 1502 of the Dodd-Frank Act. Proponents of 1502 sought to bring peace to Congo's eastern provinces of North and South Kivu by regulating mineral trade through United States law, cleaning up the supply chain and reducing armed groups' access to financial means. The regulation would *de facto* curb the violence and human rights abuses, they claimed.

Today, nearly seven years since the Act became law, there is a clear horizon over which we can analyze the impact of Section 1502.

What are the merits of this law?

1. Section 1502 supporters mobilized media and social networks in an unprecedented manner to raise American consumers' awareness of the links between the conflict in Congo and their electronics. By and large, consumers now expect technology firms to mind the supply chain.

2. The law had an immediate psychological effect on Congolese authorities and business operators, regional political and economic actors, and international firms. For instance, Congo's President Joseph Kabila sought to pre-empt the impact of the law before it went into effect and temporarily suspended mineral exploitation in the Kivus.
3. The law attempted to clean the mineral supply chain to curtail the illicit and illegal mineral exploitation and trade, and eradicate the scourge of conflict minerals, so to speak.
4. The law also contributed to Congo's acceleration of the delimitation and registration of mining sites and quarries; the training of the mine police; increased capacity-building for mining agents and inspectors. These initiatives encouraged consultations between concerned parties.
5. Armed groups found it difficult to export minerals and raise revenue from mines in areas they controlled.

Where did the law fail?

1. From its inception, Section 1502 cast a negative shadow on otherwise legal and legitimate businesses and immediately led to a *de facto* boycott of mining products from Congo's eastern provinces.
2. The boycott caused closures of trading posts, known locally as *comptoirs*.
3. This law treated the mineral trade as a stand-alone process, divorced from local, national and regional politics, and its proponents presented the regulation as a silver bullet to a much more complex problem.

4. The implementation of Section of 1502 led to increased unemployment, loss of revenue for artisanal miners, and increased fraud. Artisanal mining has sustained hundreds of thousands of families since the collapse of the agriculture sector in the Kivus in the early 1980's and the collapse of state-owned mining giant Gécamines in the former Katanga Province.
5. The increased unemployment has caused a recrudescence of banditry, including kidnappings for ransom.
6. The law did not account for other sources of revenue at the disposal of armed groups, i.e., taxation of commercial activities and racketeering in the areas they controlled.
7. With a better organized state administrative infrastructure, Rwanda has taken advantage of Section 1502 to launder and certify mineral resources from the illicit and illegal trade in Congo and export them as Rwandan products. Despite insignificant mineral deposits, Rwanda has become the world's largest exporter of coltan. In other words, Section 1502 legalized the looting of Congolese mineral resources.

Unintended Consequences

Focused on the so-called conflict minerals in the Kivus and their certification, Section 1502 provided a false sense of progress on the security front. Captains of the high technology industry and policymakers in the United States and Europe invested disproportionate amount of energy and political capital to solve the mineral trade problem at the expense of the larger governance crisis that fuels insecurity and instability in DRC.

In the seven years that the Dodd-Frank Act has regulated this mineral trade, Congo is no closer to peace than it was in 2010. On the contrary, the situation

is arguably at its most explosive level in two decades, as violence has spread both geographically from the east to the south and the west, and intensified in scale.

The heightened volatility stems from President Joseph Kabila's determination to subvert the Constitution and stay in office beyond his second and last five-year term, which ended in December of 2016. Efforts by the international community and the Catholic Church to broker an interim power-sharing agreement have failed. President Kabila has remained silent throughout this process, sustaining the impasse.

The Congolese people now view Joseph Kabila and his government as extra-constitutional, illegal and illegitimate. Within this volatile context, they fear a resurgence of the wider conflict that engulfed DRC from 1996 to 2003 and caused an excess of 6 million deaths.

Beyond the mobilization of armed militias in the eastern Kivus, the years 2015 and 2016 were particularly violent as new centers of instability emerged in other parts of Congo, including western Kongo Central, southern Tanganyika and southern Kasai Central.

In Kongo Central, Bundu dia Mayala partisans have regularly met violent death by gunfire from security forces. In North Kivu, residents of Butembo, Beni, Erengeti and other localities, are massacred on a daily basis in their sleep by elusive death squads that the UN peacekeepers and the Congolese Army have failed to either apprehend or vanquish.

The populations of Kasai Central have witnessed never-before-seen violence reminiscent of ISIS. Beheading is now a common practice in a region that had not experienced armed conflict since the 1960's. It is uncertain at this point as to whom -- the Congolese Army or the militia -- is most to blame for this violence. The conflict resulted from the Government's mismanagement

of a royal succession dispute in the Bajila-Kasanga's Kamwina Nsapu chieftaincy.

Michael Sharp, the American who coordinated the United Nations Group of Experts in Congo, was killed in this conflict along with colleagues.

Whether the Congolese embrace civil disobedience or armed struggle, their grievances are rooted in blatant violation of democratic principles by the Kabila regime, bad governance, mismanagement of resources, and incompetence. This popular discontent has nothing to do with minerals.

Over the past two years, pro-democracy protests brought thousands of young people and political opposition partisans to the streets in several cities to demand the respect of the Constitution and better governance. The ensuing police and military repression in the capital city of Kinshasa resulted in tens of youths being either killed by gunfire or arrested.

Political opposition leaders, civil society leaders, youth activists and other proponents of the respect of the Constitution remain the primary targets of this campaign of repression.

President Kabila and his supporters' intransigence to remain in power no matter the cost will continue to fuel tensions and exacerbate violence.

Due to its myopic approach, Section 1502 misdiagnosed the mineral trade as the root of the conflict, not as a symptom, and offered inadequate prescriptions and no reprieve from the aforementioned incidents.

Proponents of the law ignored the multidimensional nature of conflict and failed to adjust their narrative as it became clear to independent analysts that Section 1502 would not and could not bring peace.

What should be done?

1. This legislation might have worked better had it been part of a comprehensive political process. As it now stands, Dodd-Frank Section 1502 launders, legalizes and certifies the looting of Congolese resources – a net loss for DRC. This law should be folded and discontinued.
2. The United States should pursue what Ambassador Nikki Haley has started at the United Nations Security Council, demand greater accountability of the UN peacekeeping mission along with a credible exit plan to be implemented over the next five years. MONUSCO has long been part of the problem, serving as an extension of and a broken crutch to the Kabila regime, and stifling the emergence of a functional state and an adequate professional army in Congo.
3. The United States should continue to exert pressure on the Kabila regime to open the political space, protect citizens' rights and liberties, respect the Constitution, and engage in a credible political process that will culminate in the election of a new president.

I thank you.