

Reinforcing efforts to seize the fleeting window of opportunity in North Kivu

Summary

Violent hostilities have re-erupted in the Democratic Republic of Congo's eastern province, North Kivu, despite a January ceasefire agreement. Fighting between an armed opposition Tutsi group led by Laurent Nkunda, the Congolese national army and various militias, has caused an estimated 250 000 people to flee their homes since August 2008 and resulted in a severe humanitarian crisis. The recent lull in hostilities and the initial signs of a willingness to dialogue represent a fleeting window of opportunity which must now be seized. Far greater international diplomatic pressure, coupled with the deployment of a neutral external force to help stabilise the situation and build confidence, is urgently required to create the conditions for successful mediation and dialogue. These are essential preconditions for identifying a workable political settlement which addresses deep-seated tensions that exist between communities in North Kivu and for breaking the cycle of armed conflict which has plagued the province since the early 1990s.

Unresolved tensions and sources of insecurity

In the densely populated eastern Democratic Republic of Congo (DRC), home to a large number of ethnic groups, land tensions deteriorated into civil conflict in the early 1990s. The arrival in 1994 of Rwandan Hutu farmers led by soldiers and politicians from the defeated *génocidaire* regime further exacerbated the situation. Two years later Rwanda and Uganda backed a Tutsi rebel group which pursued *génocidaires* in Congolese refugee camps and, led by Laurent Désiré Kabila, went on to overthrow President Mobutu Sese Seko in May 1997. When the newly instated President Kabila broke off ties with his former backers in mid 1998, Rwanda and Uganda used proxies to engage Kabila's government in a war which eventually drew in four other neighbouring countries and lasted until 2002. The Sun City peace agreement which set up a transition period that paved the way for democratic elections in 2006 did not however succeed in ending the violence or militarization of North Kivu. Deep-rooted, controversial issues at stake in the province such as identity, nationality, land ownership, exploitation of natural resources,

justice and reconciliation were not sufficiently addressed by the peace process. Furthermore several armed groups operating in North Kivu were not effectively disarmed and reintegrated or repatriated, and have thus continued to operate, notably:

- *Forces Démocratiques pour la Libération du Rwanda* (FDLR). A group of Rwandan Hutu rebels which evolved out of a previous group composed of *génocidaires* and refugees fleeing Rwanda in 1994 and now comprises a young rank and file many of which were not involved in the genocide. Although the group is much smaller than in the 1990s, it nonetheless still controls significant portions of North and South Kivu and benefits from the exploitation and illegal trade in minerals from its territories. Its political aim is regime change in Rwanda.
- Laurent Nkunda and his supporters representing Congolese Tutsis. Nkunda, initially trained by the Rwandan army, was a leader of the insurgent *Rassemblement Congolais pour la Démocratie* (RCD) supported by the Rwandan Government during the 1998-2002 conflict. In 2004 he marched on Bukavu and in November 2006 on

Goma. Attempts to integrate his troops into the Congolese army failed in May 2007. He is now the head of a political armed militia, *Congrès National pour la Défense du Peuple* (CNDP), which purports to protect the *Banyarwanda*¹ and neutralise Hutu militias. CNDP now controls important parts of North Kivu and notably border posts with Rwanda and Uganda through which illegally exploited natural resources transit.

- Mai Mai. Community-based militia groups, particularly active in North and South Kivu, representing local tribes which were formed to defend territory against other armed groups.

The Congolese Government's main preoccupation in North Kivu is Laurent Nkunda; it has reinforced its military presence in the region and attempted on several occasions to neutralise his forces. However thus far the military offensives undertaken by the national army, *Forces Armées de la République Démocratique du Congo* (FARDC), have failed. Indeed, FARDC is extremely poorly trained, equipped and disciplined, and not always under Kinshasa's control. Plans to reform the army, initiated in 2004, have thus far produced negligible results, largely due to a lack of political will. Elements of FARDC operating in North Kivu have been accused of involvement in the illegal trade of natural resources and of collaborating on a tactical level with FDLR and other militias such as the Mai Mai.

Recent escalation of hostilities

Laurent Nkunda's latest military offensive, launched in August 2008 on Goma and subsequently north towards Kanyabayonga, marks a change in those of previous years in that his troops have demonstrated clear superiority over FARDC. The latter have put up little resistance and many soldiers have fled, often leaving their weapons behind. Nkunda's CNDP has been using tanks which several analysts consider evidence of continued support from Kigali. The United Nations (UN) peacekeeping force, *Mission de l'Organisation des Nations Unies au Congo* (MONUC), has been unable to quash CNDP's advances and, critically, has failed to protect the civilian population who have suffered grave human rights abuses at the hands of all parties to the conflict. The resulting

¹ Literally 'the people who speak the language of Rwanda'; an ethnic grouping now spread over Rwanda, Uganda, Tanzania, Burundi and DRC.

displacement of a quarter of a million people and difficult access for emergency aid organisations amidst continuing hostilities have produced a severe humanitarian crisis.

Since a meeting with the UN Secretary General's Special Envoy to the Great Lakes, Olusegun Obasanjo, in mid-November, Laurent Nkunda has pulled back his troops on two fronts as a sign of commitment to the mediation process. Indeed, having the upper hand militarily has strengthened Nkunda's bargaining position, and he is now demanding direct talks with President Joseph Kabila. Since the last peace process initiated in January 2008, Nkunda has broadened his political discourse beyond the protection of Congolese Tutsis to criticising Kabila's governance of the country.

Urgent need for stabilisation by an impartial force

The current lull in fighting is nonetheless incredibly fragile, especially given that Nkunda's troops still remain poised outside of Goma. The deployment of an external credible force is urgently required in order to stabilise the situation, build confidence and thus create the conditions for successful mediation and dialogue.

It is crucial that such a force remain impartial in order to avoid escalating the conflict and drawing in other powers. In the face of Nkunda's August offensive Kinshasa requested support from Angola. The president of Angola has however assuaged the fears of a 'regionalisation' of the conflict that might ensue if he were to provide bilateral military support as during the 1998-2002 conflict, by declaring, after discussions with UN mediator Olusegun Obasanjo, that he would only contribute troops in the context of a Southern African Development Community (SADC) initiative.

SADC has discussed deploying a force but is considering providing military assistance to FARDC. Laurent Nkunda has declared that he will only accept a SADC force in North Kivu if it is impartial; if it's not he threatens to target it. Aside from the potential risk of escalating the conflict, on a practical level it is unlikely that SADC has capacity to deploy such a force rapidly.

The UN Security Council approved a temporary increase of MONUC's size by 3,085 personnel on 20 November 2008 and urged the peacekeeping

force to implement its mandate in full through robust rules of engagement. This is a welcome development, however the additional troops must still be identified and it could be several months before they are on the ground. In the meantime MONUC must use this UN Resolution as an opportunity to review the interpretation of its mandate, notably on the use of force; troops with the strongest rules of engagement should be deployed to the eastern provinces and troop contributing countries should agree to engage militias when necessary.

Unless European Union (EU) member states are willing to put forward troops for MONUC's temporary increase under the recent Security Council Resolution – so that the deployment of additional forces in North Kivu is as rapid as possible –, the EU, as the only multilateral organisation with the capacity to project an external, effective and neutral force swiftly, has the responsibility to commit such a force. It could be projected for specific security objectives such as shoring up Goma and other strategic locations in order to allow MONUC to fan out more widely and implement its mandate more effectively. Besides the urgent security imperative, deploying such a force would enable European nations to send a strong message to the parties to the conflict and to maintain diplomatic pressure on them. Within EU discussions it appears that Nordic, Belgian and Dutch governments are the most likely to commit troops.

Diplomatic intervention key

Military intervention, although critical for containing armed groups and halting the violence committed against civilians, will not provide a solution to the current situation in North Kivu. The international community must increase diplomatic pressure on the parties to the conflict, in conjunction with the mediation process led by Olusegun Obasanjo, to respect the commitments made in the two main peace-brokering initiatives in 2007 and 2008: the Nairobi Agreement and the *Goma Actes d'engagement à la paix*.

Nairobi Agreement

Building on the basis of the Pact on Security, Stability and Development signed by the eleven countries of the International Conference on the Great Lakes Region in December 2006, the UN, with the support of the US and EU, facilitated

negotiations between the Government of Rwanda and the Government of DRC in November 2007. The resulting Nairobi Agreement stipulated that Kinshasa forcibly disarm FDLR and that Kigali put an end to Nkunda's cross-border movements. Unfortunately in the months following the signature of this agreement, the international community neglected to put sustained pressure on the two governments and as a result they have not implemented their respective commitments. It is feasible for the Rwandan Government to prevent the free movement and operations of CNDP on Rwandan territory. Given that it has not yet done so, bilateral and multilateral donors must coordinate, strengthen and sustain the recent diplomatic activity demonstrated by meetings between President Paul Kagame and visiting European ministers Karel de Gucht and Lord Malloch Brown.

The real challenge in the implementation of the Nairobi agreement remains the Disarmament, Demobilisation, Reintegration, Repatriation and Resettlement (DDRRR) of FDLR given that FARDC does not have the capacity or technical expertise required. An encouraging first step in this process is Kinshasa and Kigali's recent decision on a joint verification mission and joint operations against FDLR, however the practical feasibility of this collaboration remains to be seen. Lessons learned show that reintegration, repatriation and resettlement phases need to be planned and prepared as early as possible. In terms of preparing for reintegration in DRC, MONUC's stabilisation plan must be restarted and donors must commit more funds and development programmes for North and South Kivu if viable social and economic integration opportunities are to be created. Top-level political discussions must take place with Kigali to discuss the options for repatriation and resettlement in Rwanda.

Goma Actes d'engagement à la paix

An unsuccessful FARDC offensive against CNDP in December 2007 led to the organisation the following month of a Congolese conference in Goma at which the Government of DRC, CNDP and Mai Mai militias were represented. *The Actes d'engagement à la paix* signed on 23 January 2008 at the closure of the conference defined a ceasefire between the Government and CNDP, and allowed for the withdrawal of troops from certain zones and the creation of a UN buffer zone. Regrettably numerous ceasefire violations have since been

recorded and CNDP and another militia group have withdrawn from the ceasefire monitoring commissions.

Neither FDLR nor the Rwandan Government were represented at the Goma conference and Laurent Nkunda did not participate himself. Key issues such as demobilisation, reintegration, the status of the militia leadership and amnesty were not dealt with during the conference but transferred to an elaborate system of commissions that took several months to set up. This caused a lot of frustration, raises the question of the degree of political will that exists and has ultimately resulted in the non-implementation of what is known as the Amani programme.

Fleeting window of opportunity

The non-implementation and collapse of these peace-brokering initiatives goes some way to explaining the recent escalation in the hostilities in North Kivu. However several recent developments such as (i) an improvement in relations between Kinshasa and Kigali on handling FDLR, (ii) Laurent Nkunda's support for Obasanjo's mediation, and (iii) the likelihood of talks between FARDC and CNDP, imply that there is a fleeting window of opportunity which must be seized in order to get the peace process back on track.

Coordinated and sustained diplomatic pressure, in consultation with the UN mediation team led by Obasanjo, is required to encourage as priorities:

- respect of the ceasefire agreements and the reestablishment of the tripartite +1 (DRC, Rwanda, Uganda and Burundi) ceasefire monitoring mechanism;
- direct talks between Presidents Kagame and Kabila on one hand, and between the Government of DRC and Laurent Nkunda on the other;
- Kigali to close its border and end its support to Nkunda's CNDP;

- Kinshasa to stop supporting FDLR and to ensure better discipline on the part of FARDC in this respect;
- Kinshasa to revisit the outdated national Disarmament, Demobilisation and Reintegration (DDR) law, draft a realistic and tailor-made programme for the eastern provinces and begin disarmament of illegal militias; and
- Kinshasa to pursue the reform of defence and security forces.

However in order for these diplomacy, mediation and dialogue processes to produce sustainable results it is imperative, once the current situation is stabilised, that a political settlement which addresses underlying factors of the conflict, is agreed to. The following issues, thus far neglected by the Nairobi and Goma agreements, must be addressed in such a settlement: (i) return of refugees and internally displaced persons; (ii) justice and reconciliation; (iii) citizenship, intercommunity tensions and access to land; and (iv) the need for an effective management system for the region's natural resources including regional trade arrangements, border control and taxation systems.

The international community must act now. The EU or its member states need to provide the special forces required rapidly to stabilise the current situation in North Kivu and MONUC must reassess its terms of engagement in an effort to contain armed groups. This military pressure combined with coordinated diplomatic intervention and support for UN mediation is required to create the conditions for the parties to the conflict to identify a workable political settlement which addresses key issues neglected during the previous peace process. Donors must commit to continued funding of the DDR and Security Sector Reform (SSR) processes and to medium/long term development projects in the province to ensure that the terms of the political settlement can be sustained.

The views expressed here are those of the authors and are not necessarily those of the Clingendael Institute or its staff members.

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