



Taking the Terminator

Congo's Golden Opportunity to Deliver a Warlord to Justice

Aaron Hall May 2012



enough

The project to end genocide and crimes against humanity

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COVER: In this June 30, 2010 file photo, Congolese former warlord Bosco Ntaganda in his national army uniform attends the 50th anniversary celebration of Congo's independence in Goma in eastern Congo. In a marked turnaround, Congo's president Joseph Kabila called Wednesday, April 11, 2012 for the arrest of Ntaganda, a notorious ex-warlord and army general, who has been allowed to walk freely despite an international indictment, an official said. Ntaganda is accused of using child soldiers for fighting in Ituri, in northeastern Congo, from 2002 to 2003.

Executive Summary

On March 31, indicted war criminal and rebel leader turned Congolese General Bosco “The Terminator” Ntaganda launched a rebellion against the Congolese state while facing the threat of arrest and prosecution for war crimes under international and Congolese criminal law.

Ntaganda’s unexpected defection followed soon after the conviction of his former rebel ally, Thomas Lubanga, for the recruitment of child soldiers by the International Criminal Court, or ICC. This conviction, coupled with a weakened Congolese government grasping for international legitimacy in the wake of fraudulent presidential elections, sparked renewed international pressure for the arrest of Ntaganda and his deliverance to the ICC on similar charges.

Upwards of 600 soldiers and senior-level commanders loyal to Ntaganda defected with him, causing the unstable Kivu region of eastern Congo to brace for the worst. Those commanders and rank and file who are loyal to him must choose between mutiny and loyalty to the state.

These recent events on the ground have presented an opportunity for the Congolese state to finally take action to arrest Ntaganda and deliver him to justice. Ntaganda’s continued presence as a warlord/general is a fundamental impediment to progress on the interconnected issues of democratization, security sector reform, justice sector reform, and mineral sector reform in Congo.

In order for this situation to result in a positive outcome, the Enough Project calls on the U.S. government and other donor nations to:

- Support and pressure the governments of Congo and Rwanda, to the fullest extent possible, to arrest Bosco Ntaganda and the senior commanders who defected with him and deliver them to justice.

- Urge the establishment of the Specialized Mixed-Courts system, which has been provided for by the Congolese government to try individuals charged with war crimes and crimes against humanity in Congo.
- Pressure the government of Congo to implement security-sector reform. This should include a focus on increasing civilian protection in areas most vulnerable to local militia movements and military operations; supporting the professionalization of Congolese troops; and establishing a credible method of payment for troops.
- Assert to the governments of Congo and Rwanda that Bosco is bad for business. Significant progress has been made in the region over the past three years in transforming the conflict minerals trade, as Rwanda and Congo have recognized that they benefit from a stable and legitimate minerals business. Ntaganda now threatens to put this progress at risk, as no company will invest in minerals from rebel-held territories.

Introduction

On March 31, indicted war criminal and rebel leader turned Congolese General Bosco “The Terminator” Ntaganda launched a rebellion against the Congolese state while facing the threat of arrest and prosecution for war crimes under international and Congolese criminal law.

The rebellion began when Ntaganda organized a defection of a significant number of troops loyal to his command. A majority of them belonged to the rebel group he previously commanded, the National Congress for the Defense of the People, or CNDP, an ethnic Tutsi group with strong links to the Rwandan government.

The defections coincided with the recent conviction at the ICC of Ntaganda’s former ally and commander Thomas Lubanga for war crimes and recruitment of child soldiers. Lubanga’s conviction, coupled with the state of a weakened Congolese government grasping for legitimacy in the wake of recently fraudulent presidential elections, sparked renewed international pressure for the arrest of Ntaganda and his deliverance to the ICC.

In reaction to Ntaganda’s defection, upwards of 600 soldiers and senior-level commanders loyal to him defected as well, causing the unstable Kivu region of eastern Congo to brace for the worst. At the outset of the rebellion, it appeared that the region could potentially spiral into large-scale violence. Ntaganda and his loyalists secured their positions to the north and west of the North Kivu capital Goma, between the areas of Rutshuru and Masisi. Meanwhile Congolese national army, or FARDC, elements—including reinforcements deployed from Kasai Occidental and Maniema provinces—took up defensive positions in Goma and the South Kivu capital Bukavu.

Recent progress that had been made by a joint United Nations Mission to the Congo, or MONUSCO, and FARDC operation to dismantle other local armed rebel groups. These military operations focused heavily on the notorious Rwandan-linked Hutu rebel group known as the Democratic Forces for the Liberation of Rwanda, or FDLR. Operations against the FDLR were weakened as FARDC's defecting forces pulled back from positions aimed at diminishing FDLR ranks and influence. This dynamic continues, enabling the FDLR and its allies to regroup and rearm.

In response to the mutiny and the increased instability, Congolese President Joseph Kabila dispatched a high-profile delegation from the national army, along with hundreds of additional troops, to Goma to wrest control of the situation and prevent any further desertions. Shortly thereafter President Kabila himself traveled to Goma in an unprecedented move to attempt to defuse the situation. Speaking publicly in Goma, Kabila ambiguously signaled that he was considering the arrest of Ntaganda and that there were "hundreds of reasons" to arrest him.

Both the presidential visit and the show of force were important signals that there had been a shift in the Kabila regime's strategy for dealing with the notoriously divisive and destabilizing Ntaganda. Previously the government believed that co-opting and cooperating with Ntaganda were necessary to maintain stability in the region. This theory supported the 2009 peace process that paved the way for the CNDP to be folded into the national army. By 2012 the government had come to perceive Ntaganda as a liability, not only for Kinshasa and Kigali, Rwanda, but even to many in his CNDP party. For Kabila, it is an opportunity to take significant step forward to establishing justice in Congo. For the international community, this shift is seen as an opportunity to arrest one of the most heinous war criminals in the world, and set a renewed precedent for international criminal justice.

Who is Bosco Ntaganda?

Bosco Ntaganda, 39, was born in Kinigi, Rwanda but fled to eastern Congo as a teenager following attacks on Tutsis in Rwanda. He got his start fighting alongside the Rwandan Patriotic Army, or RPA, in the early 1990s and took part in the RPA's overthrow of the Rwandan government's genocidal regime in 1994. Following the genocide and the shift in power to the new Tutsi-led government of Rwanda, Ntaganda joined the Rwandan army, or RPF.

As a rank-and-file soldier he took part in the 1996 invasion of Congo in an effort to root out remaining Hutu militant remnants existing in refugee camps in the eastern portion of the country. In 1998, as a second round of conflict broke out in eastern Congo, Ntaganda joined a Rwandan-backed rebel group in Congo called the Congolese Rally for Democracy, or RCD.

This led to a series of involvements with Rwandan-backed rebel movements in eastern Congo seeking to establish Rwandaphone control of the region, its resources, and its people. In 2002 Ntaganda served under ICC-indicted war criminal Thomas Lubanga as chief of military operations for the Union of Congolese Patriots, or UPC, and was connected to several instances of massive human rights abuses including conscription of child soldiers, murder, rape, and torture.

In 2006 Ntaganda left the UPC and became the military chief of staff for the CNDP, at that time under the command of the notorious leader Laurent Nkunda. During this period the CNDP, backed by Rwanda, controlled most of the territory in eastern Congo. In 2009, following a still-secret rapprochement between President Kabila and President Paul Kagame of Rwanda, Nkunda was seized by the Rwandan government and placed under house arrest in Rwanda. Ntaganda was given control of the CNDP, and the group was to be subsumed into the Congolese armed forces with Ntaganda receiving the rank of general and the deputy command of military operations in eastern Congo. In this position, he served as a shield for an alleged Rwandan opposition building up in eastern Congo with former President Kagame's right-hand men, exiled generals Faustin Kayumba, Patrick Karegeya, and others.

Since this period Ntaganda has used his position to run a parallel command structure within the FARDC to consolidate the power of Rwandaphone commanders and stakeholders in the region. This network run by Ntaganda has engaged in unprecedented exploitation of minerals in the region through the militarization of eastern Congo's largest mine sites to amass personal wealth for himself and his followers. They have forced Congolese Hutu and Hunde off their land to expand control of grazing areas for Tutsi loyalists and have practiced years of intimidation, torture, rape, and assassination to keep communities fractured and obedient.

Implications of the Terminator's mutiny

Recent events present a good opportunity for the Congolese government to finally take action to arrest Ntaganda and deliver him to justice. It is unlikely that Bosco would be able to turn back the clock, return to the FARDC, and resume his position as commander of military operations in eastern Congo. Those officers and rank and file who are loyal to him now have to choose between mutiny and loyalty to the state.

This rift within the military structure has created a seismic shift in the security landscape of eastern Congo. Its implications will resonate across security, justice, and mineral sectors and must be addressed in order to seize the opportunity to rid the region of Ntaganda and to attempt to advance positive reforms in the region. Motivated by regional security, the Kabila-Kagame-Ntaganda arrangement was ineffectual before the mutiny and now appears broken.

Civilian protection: Ntaganda's mutiny and subsequent consolidation of power in Masisi created widespread anxiety in the region about renewed conflict between Rwandaphone elements loyal to Ntaganda and the FARDC. Further, the defection situation allowed other rebel groups, especially the FDLR, to expand their presence in the region, particularly around Masisi in North Kivu. The decrease in pressure from the highly successful FARDC and MONUSCO joint operations has raised morale within the FDLR.

This tension as Bosco also rebuilds in Masisi and the expansion of the FDLR in both North and South Kivu is extremely problematic for vulnerable communities in areas where these groups operate. These armed groups prey upon civilian populations to get resources and force loyalty. Should full-on conflict erupt, it will be these populations that suffer most. Protection of the most vulnerable communities must be a priority for the FARDC and MONUSCO.

Security sector reform: Since Ntaganda's mutiny, President Kabila and the FARDC have suspended the joint military operations, known as Amani Leo, which Ntaganda led. In recent years, this operation provided cover for Ntaganda and his forces for much of the exploitation of land and resources in the region and resulted in numerous incidents of gross human rights violations.

President Kabila and the FARDC now have an opportunity to wrest control of the military operations in the east and eliminate command structures that favor ethnic backgrounds or tribal/regional affiliations. It is promising that a military tribunal has been established in Goma to try mutineers who have returned to the FARDC. Moving forward, it is critical that a single chain of command is instituted, that mutineers are tried in a fair and transparent manner, and that there is a shift toward professionalism of the armed forces with a focus on paying troops and protecting civilians against armed militias.

Justice sector reform: As long as Ntaganda is allowed to move freely in eastern Congo, corruption, intimidation, and impunity will continue to shape the political, economic, and security landscape. The justice sector—both civilian and military—is in a shambles, and there are systemic obstacles in terms of resources, capacity, infrastructure, and political will that must be addressed for sustainable reform if the Congolese justice system is to improve. However, a show of force from the Congolese government to arrest Ntaganda and deliver him to justice could have a tremendous impact on advancing reform in Congo. Further, it is critical that mechanisms to try such a case be put in place so that in the future the state is able to credibly detain and try those accused of serious crimes.

Mineral sector reform: Over the past year, significant progress has been made in demilitarizing mining sites in Congo's eastern provinces. While considerable work remains to be done, a series of initiatives the Congolese government took to push militia groups out of mines and wrest control of some of largest mine sites in the Kivus has met with some success. These initiatives have been backed by an array of international stakeholders,

including regional and international governments, as well as multinational corporations interested in increasing investment and development in the region. There appears to be a willingness from those actors to work with community, business, and political leaders in Congo to develop shared value through the establishment of free and fair markets in eastern Congo. Any continuing involvement of Ntaganda in the minerals sector jeopardizes this progress and would sustain one of the key drivers of conflict in the region.

Recommendations

Bosco Ntaganda's mutiny provides an important opportunity for the Congolese government and international actors to take positive steps toward peace and reform in eastern Congo. This turn of events presents the possibility that, finally, the interconnected issues of democratization, security sector reform, justice sector reform, and mineral sector reform might be addressed in conjunction with each other. Therefore, the Enough Project recommends that the U.S. government and partner donor nations:

- Support and pressure the governments of Congo and Rwanda, to the fullest extent possible, to arrest Bosco Ntaganda and the senior commanders who defected with him and deliver them to justice.
- Urge the establishment of the Specialized Mixed-Courts system to try war crimes and crimes against humanity in Congo.
- Pressure the government of Congo to implement security-sector reform. This should include a focus on increasing civilian protection in areas most vulnerable to local militia movements and military operations, supporting the professionalization of Congolese troops, and establishing a credible method for payment for troops.
- Assert to the governments of Congo and Rwanda that Bosco is bad for business. Significant progress has been made in the region over the past three years in transforming the conflict minerals trade, as Rwanda and Congo have recognized that they benefit from a stable and legitimate minerals business. Ntaganda now threatens to put this progress at risk, as no company will invest in minerals from rebel-held territories.

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, South Sudan, eastern Congo, and areas affected by the Lord's Resistance Army. Enough conducts intensive field research, develops practical policies to address these crises, and shares sensible tools to empower citizens and groups working for change. To learn more about Enough and what you can do to help, go to www.enoughproject.org.

