

# AMNESTY INTERNATIONAL

## OP-ED

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### **Amnesty International's efforts to ensure the arrest of Bosco Ntaganda**

*By Yuna Han of Amnesty International's Campaign for International Justice*

It is nearly six years since the International Criminal Court (ICC) issued an arrest warrant naming Bosco Ntaganda on charges of enlisting and conscripting under 15s to take part in hostilities in the Democratic Republic of Congo's (DRC) Ituri province in 2002/3.

The charges relate to his time as a commander of the armed group *Forces Patriotiques pour la Libération de la République Démocratique du Congo* (FPLC), regarding the recruitment and use of child soldiers, and are expected to be expanded to include the crimes against humanity of murder and rape.

Like Joseph Kony, the Lords Resistance Army (LRA) leader, whose notoriety has been dramatically boosted by the Kony 2012 campaign, Ntaganda remains at large.

Reportedly living openly in the city of Goma he serves as a general in the national army after being integrated along with part of a new armed group he formed – *Congrès National pour la Défense du Peuple* (CNDP) – into the DRC armed forces. He is known in the country as 'the terminator'.

The integration – which has, until now, meant he has been granted a safe haven from justice – was explained as the price of peace. But there can be no peace without justice.

Plus, sheltering an ICC fugitive is clearly in violation of the DRC's legal obligation as a state party to the Rome Statute of the ICC through which it has agreed to cooperate fully with the ICC by executing its arrest warrants and surrendering suspects for trial.

And it's not as though Ntaganda quietly retired from his former life. From Ntaganda's stronghold in Goma in eastern DRC, soldiers under his command have continued to be involved in numerous human rights violations, even after the ICC issued the arrest warrant.

Members of the CNDP allegedly committed unlawful killings, sexual violence, torture, and recruitment of child soldiers in the Ituri district, in north-eastern DRC, and in North Kivu province.

One of the worst crimes occurred in November 2008 when the CNDP killed at least 150 civilians in Kiwanja, Rutshuru territory, in North Kivu province.

But it may be the ground is beginning to shift under Ntaganda's hitherto firmly planted feet.

Recently, information coming out of the eastern Congo indicates the political will to bring Bosco Ntaganda to justice may be at long last crystallizing.

Media reports say hundreds of Congolese troops, known to be loyal to Ntaganda, have defected from the national army.

Last week, President Kabila stated: “We don’t need to arrest Bosco and bring him to the ICC...We ourselves can arrest him and we have more than a hundred reasons to do so and try him here, and if that’s not possible, elsewhere, possibly in Kinshasa. It is not reasons that we lack.”

Arresting Bosco, a powerful army commander, will not be easy. Many fear that civilians could be at risk in an attempt to arrest Bosco and remove him from power. The UN peacekeeping force in the DRC, MONUSCO, must play a role in supporting his capture and ensuring civilians are not put in harm’s way.

And while President Kabila’s words are in some senses a positive sign, should Bosco be arrested and not transferred to the ICC, the DRC is at risk of violating its obligation to cooperate with the ICC.

Under the Rome Statute, Bosco Ntaganda could only face trial nationally if the DRC could successfully demonstrate to the ICC judges that its courts are genuinely willing and able to prosecute the crimes he is charged with.

Amnesty International has documented how decades of neglect, corruption, and political interference in the DRC has resulted in a domestic justice system that lacks trust and is unable to address the most serious crimes.

The 2011 report, *The Time for Justice is Now!: New Strategy Needed in the Democratic Republic of the Congo*, documented the inability of the DRC judiciary to protect witnesses and victims, enforce its own rulings, or even keep convicted prisoners behind bars.

At present, military courts have exclusive jurisdiction over genocide, crimes against humanity, and war crimes - including in cases concerning civilian defendants.

But the military justice system has been unable to prosecute or arrest Ntaganda due to lack of support from the Congolese government and persistent threats and intimidation.

Putting Ntaganda to trial for unspecified crimes before a military court where he may face the death penalty, and ignoring the existing warrant by the ICC, would be a flagrant violation of the DRC’s international obligations.

Amnesty International opposes the death penalty in all cases without exception, as a violation of the right to life and the right to be free from cruel, inhuman, or degrading punishment.

Amnesty International is calling on the government of the DRC to arrest Bosco Ntaganda and hand him over to the ICC to face trial without further delay.

### **The time for justice is now**

Since its establishment in ten years ago in 2002, the ICC has issued arrest warrants against 17 people. However, to date only seven of those suspects have been delivered to The Hague. Those who remain at large continue to enjoy impunity and the victims of the crimes they are accused of continue to suffer without justice or reparation. It is one of the biggest challenges facing the new system of international justice.

The reasons for the lack of arrests are specific to each situation.

- Joseph Kony and three other Lord’s Resistance Army leaders are hiding in remote areas of Central African Republic, the Democratic Republic of Congo and South Sudan. One of them – Vincent Otti – is widely thought to be dead.

- Sudanese President Omar al-Bashir remains in control of the country and is protecting three other government officials charged by the ICC with crimes committed in Darfur. Disturbingly, Bashir has travelled to many countries which have refused to arrest him.
- Saif al-Islam Gaddafi has been captured in Libya but the new government is refusing to hand him over to the ICC, insisting on a national prosecution before a collapsed national justice system, which cannot meet international standards. Abdullah al-Senussi was recently arrested in Mauritania. However, instead of handing him over to the ICC, the government has indicated it will extradite him to Libya.

However, a renewed spotlight of global attention on the ICC fugitives brings hope that this situation will change.

- The Kony 2012 campaign has heightened the public's awareness of the continuing violations of the LRA. International efforts have also intensified in recent years to arrest them.
- Increasingly, President Bashir is being forced to re-think his travel arrangements and he risks arrest every time he sets foot outside Sudan. A real test will be whether the government of Malawi, which was strongly criticized for allowing him to visit the country in 2011, will allow him to participate in the African Union Summit coming up in June.
- The apprehension of the former Libyan intelligence chief Mohammed al-Senussi during his attempt to flee to Mauritania signaled that some states are no longer willing to provide safe haven for fugitives of international justice. Pressure is building on the Libyan authorities to hand over Saif al-Islam Gaddafi to the ICC for trial, following a recent ICC ruling insisting on their cooperation.
- Under increasing international and national pressure as a result of the ICC's conviction in March of his then superior Thomas Lubanga Dyilo, President Kabila has indicated that Bosco Ntaganda may be arrested. However, the President indicated that it would not surrender him to the ICC but seek to prosecute him nationally.

Public action demanding the arrest of ICC suspects and their transfer to the ICC is playing a major role in building the pressure for governments to ensure these fugitives from international justice are brought to trial. Amnesty International's [Campaign for International Justice](#) is committed to working with its members around the world to highlight these cases.

### **Global action to end impunity**

The new public interest in the ICC fugitives serves to pressure the international community to take more effective measures to ensure that those charged with genocide, crimes against humanity and war crimes are not allowed to evade justice. The failure to hold those responsible for such grave violations has a pernicious and far-reaching impact. It undermines the effort to establish rule-of-law and damages the credibility of the justice system in the eyes of the people. Perhaps most importantly, impunity leads to the continued suffering of the numerous victims by denying them access to justice, truth and full reparation.

Each of us can help arrest Bosco Ntaganda and other ICC suspects. Right now we encourage you to take part in Amnesty International's action to [tell the United Nations Secretary-General that you support the UN playing an active role in arresting ICC suspects](#), particularly by bolstering UN peacekeeping missions. You can follow future actions and developments on Amnesty International's Campaign for International Justice [Facebook](#) pages and [Twitter](#).