

## HUMAN RIGHTS WATCH

2nd Floor, 2-12 Pentonville Road  
London N1 9HF UK  
Tel: +44 (0)20 7713 1995  
Fax: +44 (0)20 7713 1800  
Email: hrwuk@hrw.org

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H.E. President Joseph Kabila Kabange  
Gombe, Kinshasa  
Democratic Republic of Congo

New York, February 1, 2009

Your Excellency,

Human Rights Watch writes to express its deep concern that your government is considering appointing Bosco Ntaganda to a senior position in the military operations in eastern Democratic Republic of Congo (DRC), rather than arresting him. Ntaganda, formerly military chief of staff for the National Congress for the Defense of the People (CNDP), is currently playing a key role in the integration process of CNDP troops into the FARDC. He was granted the rank of general in the Congolese armed forces in January 2005, though he did not take up the position at the time.

You certainly know that Ntaganda is being sought by the International Criminal Court (ICC) for the war crime of enlisting and conscripting children under the age of 15 as soldiers and of using them in hostilities between 2002 and 2003 in the Ituri district of eastern Congo.

As a party to the Rome Statute that established the ICC, Congo has an obligation to assist the court in arresting persons for whom arrest warrants have been issued. In May 2007, Congo recognized that responsibility by asking the United Nations Mission in Congo (MONUC) for assistance in arresting Ntaganda, a request that took great courage and which we applauded at the time.

Despite having an international obligation to arrest Ntaganda, your government has to date made no attempt to do so. On January 16, Ntaganda was in Goma for a joint press conference alongside the Congolese Minister of the Interior and Security, Célestin Mbuyu Kabangu, the Inspector General of the Police, General John Numbi, Rwanda's Chief of Defence Staff, General James Kabarebe, and other senior Congolese military officers. On January 29, the Minister of Defense, Charles Mwando Simba, and other senior officials, were at a ceremony in Rumangabo alongside Ntaganda.

Efforts by Congolese authorities to legitimize Ntaganda as a "partner for peace" reinforces the perception that those who commit heinous crimes against civilians in Congo will be rewarded rather punished. Rather than promote respect for the rule of law, such practices feed the vicious culture of impunity that has ravaged Congo to date.

In your press conference on January 31 in Kinshasa you said that there was a difficult choice between justice and peace, stability and security in eastern Congo, and that your choice was to prioritize peace. We too want to

see peace in eastern Congo and an end to the horrific human rights abuses that the people there have suffered for too long. But sustainable peace rarely comes without justice. Peace and justice should be seen as complementary, not contradictory. Fostering respect for the rule of law is the only solution for ensuring protection for Congolese citizens who suffer the brunt of the human rights violations.

The frequency with which Ntaganda has been accused of terrible abuses against Congolese civilians underlines the importance of his arrest. In addition to the war crimes that form the basis for the ICC arrest warrant against him, charges against Ntaganda include the following:

- On November 4 and 5, 2008, CNDP troops under Ntaganda's command killed an estimated 150 people in the town of Kiwanja, one of the worst massacres in North Kivu in the past two years.
- As chief of military operations of the Union of Congolese Patriots (UPC), Ntaganda was in command of combatants who arrested, tortured or killed hundreds of civilians of Lendu and Ngiti ethnicity between August 2002 and March 2003.
- In November 2002 Ntaganda led troops who slaughtered at least 800 civilians on ethnic grounds at Mongbwalu, including the first priest killed in the Ituri conflict, Abbe Boniface Bwanalonga.
- In November 2005 Ntaganda was placed on a UN sanctions list for having violated the arms embargo. He remains on the list.
- According to UN peacekeepers, troops under Ntaganda's command were responsible for killing a Kenyan UN peacekeeper in January 2004 and for kidnapping a Moroccan peacekeeper later that year.

That forces under Ntaganda's command continue to commit serious crimes, as demonstrated by the recent massacre in Kiwanja, underscores why it is urgent and essential that Congolese authorities arrest Ntaganda.

Mr. President, you have been a strong advocate for ending the culture of impunity in Congo. Your government has been at the forefront of cooperation with the ICC with the transfer of three Congolese individuals to The Hague to stand trial for charges of war crimes and crimes against humanity. You have repeated your commitment to establishing the rule of law in numerous speeches such as those to the Congolese parliament and to the United Nations General Assembly. For these commitments to be realized, we urge you to instruct your judicial authorities to arrest Ntaganda and to transfer him to the jurisdiction of the ICC.

We also believe that Laurent Nkunda should be held responsible for crimes troops under his command committed in Kisangani in May 2002, in Bukavu in June 2004 and in North Kivu between 2006 and 2008. We note that your government is calling for his extradition to Congo to stand trial. We urge you to establish a special judicial mechanism within the Congolese justice system to investigate and hold to account individuals, such as Nkunda, who committed serious violations of international humanitarian law. Such a mechanism should meet international fair trial standards and hold to account not just Nkunda but also individuals from other armed groups and the Congolese army who have committed war crimes and crimes against humanity.

Your government has been strong on denying amnesty for serious crimes. Lasting peace in eastern Congo requires justice for those who have committed atrocities against Congolese people. We hope you will act to arrest Ntaganda and surrender him to The Hague, and to put in

place a judicial mechanism that can realize justice for the victims and an end to the culture of impunity.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Roth". The signature is stylized with a large, sweeping initial 'K' and a long, horizontal stroke extending to the right.

Kenneth Roth  
Executive Director

Cc: His Excellency, Adolphe Muzito, Prime Minister  
His Excellency, Charles Mwando Simba, Minister of Defence  
His Excellency, Luzolo Bambi Lesa, Minister of Justice  
His Excellency, Upio Kakura, Minister of Human Rights  
Hon. Vital Kamerhe, President of the National Assembly  
Hon. Leon Kengo Wa Dondo, President of the Senate  
General John Numbi, Inspector General of the Police