



## Humanitarian aid at the whim of predators in RDC

By Valentin Migabo Nshurani, PhiLab student

### Introduction

In Central Africa, since the wars of independence (1958-1960), the region is confronted with internal conflicts that continue to fragment social relations and force populations into exodus. The displacement of populations has been significantly more accentuated since 1994, after the Rwandan genocide. According to the High Commissioner for Refugees (HCR), the African Great Lakes sub-region has welcomed over two million refugees, half of whom are from the Democratic Republic of the Congo (DRC). In fact, 24 years after the crisis in Rwanda, the DRC, mainly the Eastern side, has become the home for asylum seekers, mainly Rwandans and Burundians, but also an accommodation zone for millions of internally displaced persons. This is a consequence of the persistence of the insecurity brought on by recurrent confrontations between local armed groups and foreigners. Currently, the Democratic Republic of the Congo is facing one of the largest humanitarian crises in the world. Other than the 540 000 refugees, mainly Rwandans and Burundians, who actually reside in the country<sup>1</sup>, 807 000 Congolese have become refugees in neighbouring countries<sup>2</sup> and over 2.2 million Congolese citizens are displaced, including 422 000 in South Kivu and 883 000 in North Kivu (OCHA, January 2017).

In response, certain States, individuals and philanthropic individuals, as much private as public, are incessantly mobilizing significant financial resources to provide for those most in need in the Democratic Republic of the Congo. The traceability of these funds is causing problems. The difficulty is caused by the fact that many donors act on an individual basis. In order for aid to reach its destination, they address themselves to individuals or organizations of civil society, mainly religious faiths and NGOs, even those not recognized by the State. This coordination problem pushed humanitarian donors, as of 2006, to initiate the Pooled Fund (PF) or the *Fonds Humanitaire* to federate interventions and fight against the arbitrary allocation of funds. Placed under the supervision of the Humanitarian Coordinator, the PF is currently one of the significant sources of humanitarian aid in the Democratic Republic of the Congo. Between 2006 and 2016, they allocated

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<sup>1</sup> <http://www.klvinmag.com/rdc-528-millions-de-dollars-de-promesses-pour-laide-humanitaire/>.

<sup>2</sup> Antonio Guterres, Secrétaire général des Nations Unies, <http://www.klvinmag.com/rdc-528-millions-de-dollars-de-promesses-pour-laide-humanitaire/>.

950 million American dollars, which helped over 70 million Congolese<sup>3</sup>, including 1.8 million in 2016. The main contributors to the PF are the States. Once the aid is mobilized, it reaches those in need through United Nations Agencies and national and international NGOs.

However, channelling humanitarian aid towards those who truly need it is still subject to misappropriation, corruption and favouritism (Kramer, 2007). Nearly one third is misappropriated and, paradoxically, those at fault remain unpunished. There is an entire legal arsenal as well as applicable norms to save lives. This phenomenon is thus against humanitarian standards and violates national and international legal instruments in place for the assistance of refugees and displaced persons. Admittedly, the Democratic Republic of the Congo's constitution is a party to the 1969 Organization of African Unity (OAU) Refugee Convention which assigns duties regarding the improvement of the fate of refugees to the States. They are also a signatory of the Cotonou Declaration of 2004 which implements the actions to be taken by the States for the proper care of refugees. In addition, The Democratic Republic of the Congo has signed the Kampala Convention, adopted in October 2009 by the African Union for the protection and assistance of displaced persons.

From the previous statements emerge the following questions. How is humanitarian aid misappropriated? What is the role of institutions and their impact on human rights?

The humanitarian drift in the Democratic Republic of the Congo is seldom studied and seems to be of less interest to academics and philanthropic organizations. Thus, through this study, we would like to highlight a practice that has been observed in the field and that is far from being recommended. Our work follows the approach of organizations, such as Doctors without Borders and other human rights NGOs such as Amnesty International and Human Rights Watch (HRW), which consists of speaking out against abuses to improve the system. Through this work, we aim to improve the conditions of care of forcefully displaced persons and the consolidation of peace in displacement zones. Our work is meant to be an advocacy tool as well as a contribution on ethics and humanitarian aid management. Researchers, donors and other decision-makers seeking to inform themselves will hopefully use this tool to develop a better definition of the public policy of care of vulnerable persons including the displaced, returned, repatriates, refugees and other victims of catastrophes.

The study covers the period from 2006 to 2018. It is true that it is as of 1994 that the DRC in general, South Kivu and North Kivu in particular, have welcomed a significant number of Rwandan refugees but, since our focus is on the *Fonds humanitaire* which exists since 2006, investigations were done in South Kivu between 2011 and 2017, mainly in nearly all rural regions (Fizi, Uvira, Walungu, Kabare, Kalehe, Mwenga, Shabunga) and in the city of Bukavu. These entities were, or still are, sanctuaries from armed forces, or welcoming zones for displaced persons.

### **Planning humanitarian aid misappropriation**

The evaluation of humanitarian needs and the targeting of recipients are key moments in the implementation process of humanitarian aid projects. The evaluation of needs allows for “humanitarian experts” to confirm, deny or qualify the alert received from partners who are not specialized in the humanitarian rhetoric and to

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<sup>3</sup> <https://www.humanitarianresponse.info/fr/operations/democratic-republic-congo/pooled-fund-0>.

find the difference to be covered urgently. The victims' most pressing needs are determined, including the number of people who need help and their location.

At this stage, the numbers are inflated. Lists of fictional names are elaborated and validated by local leaders before being transmitted to the different clusters. Local authorities validate the data, well aware that they are unrealistic, in exchange for a bribe or with the idea of pressuring and pushing donors to act quickly. Regarding the implementing actor, beyond the pressure on donors given that these numbers either command or invalidate intervention, the idea is to inflate the envelope as it is usually the organizations who carried out or participated in the evaluations who have a high chance of executing the projects. NGOs use these numbers to prepare for their proposals when allocations are to be made. There is, of course, the concern for the survival of both their staff and the organization itself, as the absence of funding leads to welfare, ranging from staff reduction to the actual closing of the organization. This can be summed up by a saying that is currently popular East of the DRC: « no Nkunda<sup>4</sup>, no job », meaning: no war, no jobs. It is almost like saying, no humanitarian aid, no life.

There is thus somewhat of a resemblance between humanitarian aid and armed forces as the presence of war is in the interest, in one way or another, to local humanitarian aid actors in the DRC. Furthermore, during elections, the misappropriated funds serve to finance the election campaigns of several local leader candidates. In 2011, several individuals at the head of NGOs who received funds from Pooled Fund applied to the national and provincial deputation as independent candidates or as members of political parties, using the funds from humanitarian aid projects for their campaigns. This survival economy finds its place in the failure of a State which is incapable of providing statistics on the movement of peoples.

### **Misappropriation per se**

Several strategies are used to misappropriate funds during the implementation of humanitarian aid projects. Namely, they resort to sponsorship and consortium/subcontracting; cheating through the shrinking of the covered zone, by producing fictional lists of recipients, and diverting direct aid. In any case, the transgressor never discloses his intentions. Let us review these strategies.

### **Sponsors and Sub-contractors**

Non-governmental organizations don't have enough expertise, but their contribution is requested in the implementation of humanitarian aid projects. Thus, in order to be evaluated and hope to receive funding later on, they must be sponsored, either by someone with decision-making power at the *Fonds humanitaire*, generally in Kinshasa, either to sign a subcontracting agreement or to form a consortium with an International NGO who knows the workings of the PF. Evidently, the partnership allows for the capacities of local partnerships to be reinforced. but entering this circuit opens the doors for sexual harassment, corruption and the

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<sup>4</sup> Laurent Nkunda est un ex-rebelle, leader du mouvement appelé Congrès National pour la Défense du Peuple (CNDP), qui a fait que plusieurs personnes se retrouvent en situation de déplacement au Nord Kivu et au Sud-Kivu. Il a été arrêté par l'armée rwandaise en 2009.

misappropriation of funds. As of the first disbursement, a portion of the funds must return to the sponsor and in many cases, the advance is transferred before even gaining access to facilities.

In the absence of cash, valuable goods are used as collateral. Generally, it is houses and vehicles that are used. Unwanted sexual advances are often made in exchange for favourable treatment. In order to avoid leaving traces, the money or collateral is given in person and any written or phone communications are avoided. In these cases, the representative of the NGO must travel to Kinshasa to set the rules of the game or to clear their debt. *“If you don’t know Kinshasa and you don’t give, you can forget about being funded by the Fonds Humanitaire. And, to recover your funds, you have to be creative, you have to figure it out”*, exclaimed a coordinator of a national NGO. Call it creativity or resourcefulness, what is really meant is being discrete and refers to resorting to cheating to compensate for the committed expenditures. In the end, corrupted staff give directions or simply take over the project in their place.

### **Redimensioning and fictional benefits**

Redimensioning and the elaboration of lists of fictional recipients are practices of humanitarian professionals that persist in the remote areas of the Democratic Republic of the Congo. It is most often observed in the food security sector (agriculture and food) and in the sectors of essential household items and housing, including Food for Work. Redimensioning consists of reducing the surface area of the fields as well as the quantity and quality of items as originally planned in the project document, while keeping the same number of recipients or not. In consequence, some recipients do not receive all of the expected items. They do this by splitting up the fields into small units. This way, instead of organizing the distribution of incoming items one one site and cultivating for example five hectares in one location, the distribution of input is done in several sequences and the planting is done in four or five fields of varying sizes with a focus on distant locations so that in the case of an audit, it is impossible to find the time to visit them all. To avoid attracting attention and citizen control, recipients living in easily accessible areas or big centers receive the full, best quality kits, while others receive the kit in which several items are missing. For example, in each kit there could be a loincloth missing, valued at 10\$, for 400 recipients, that is 400 loincloths that were misappropriated, representing 4000\$. There is also the coexistence of parallel lists. A list of true recipients, and one of fake ones. This latter one does not appear in public but is already signed and is present at the distribution site to be validated at the end of the operation. To avoid any form of control, kits do not arrive at the same time and distribution is done at several locations without giving the impression of the least amount of cheating. Local authorities receive the rest of the kits or money at the end of the distribution operation, where they then quickly validate the lists without verifying their contents.

### **Deviation of the humanitarian convoy**

While there has been a recent reduction due to the controversies they cause and the risks that they incur, namely the loss of jobs and a cut in funding, the deviation of convoys is generally an initiative of the logistics/warehouse manager of the NGO. It is done in collaboration with those in charge of the distribution in the field. The convoy changes itineraries and the content is sold on the local market at ridiculously low prices. When the decision to deviate humanitarian aid comes from the NGO’s management, the operation of emptying the store occurs at night or on a holiday. In any case, in both cases, the precautions taken are to

validate the distribution lists by the local chief, including the expedition slips in order to launder the operation. In very rare cases, the convoy is deviated by gangsters. If not, armed groups avoid getting involved with humanitarian convoys given their reputation and to limit threats as they don't have the means to face international pressure or a dissuasive army. They prefer to camouflage themselves or stop targeting teams from considering them as displaced or returned depending on the case.

### **Factors that favour deviation**

Factors that favour the deviation of aid include the impunity and naivety of recipients; the problem of physical access; available takers; the underpayment of humanitarian staff and more.

### **The impunity and naivety of recipients**

There are applicable legal instruments in humanitarian work. In times of peace, during natural disasters, national law applies. However, humanitarian international law is applicable in the case of armed conflict and provides victims with the right to receive assistance and protection. The third Geneva convention of 1949 gives the International Committee of the Red Cross more complex prerogatives to intervene in international conflicts.

However, the existence of these legal instruments does not protect humanitarian aid from deviations in the DRC. Humanitarian aid being considered as being the donors' business, legal constraints do not concern the recipient communities or governments whatsoever. "The beast's money"<sup>5</sup> is how they refer to it in the streets of Bukavu. This is to say that it is nebulous. The source is unknown and so it is the money of a monster (Leviathan). This caricature seems to clear predators of humanitarian aid in the DRC of all mercy. They do not feel guilty as they obviously have not sinned. No contract exists between the donor, the government and the recipient. Donors and the government live with their daggers drawn. This crisis of trust definitely causes inconveniences. Donors prefer passing through NGOs due to the lack of experience of State structures, but also because they are often criticized for deviating funds without qualms. From the government's point of view, humanitarian aid is perceived as an interference in their internal affairs. Of course, the government would not want this tragedy, which affects the population on a daily basis, and for which they are partially to blame, to be unveiled. In this way, by not being associated to the activation or management process of this aid, they criticize donors for their lack of consideration and NGOs of tarnishing the country's image in the eyes of third-parties in order to be noticed and make money. In consequence, "to deviate humanitarian aid or not, comes down to the same thing", exclaimed a minister who required anonymity.

Regarding recipients, they consider themselves to be good for nothing, if not, slaves. This is to say, they are individuals without rights and thus predisposed to naively submitting themselves or to be passively happy with what they have received as long as they can access water, food and other essential goods. The technical prescriptions interest them in no shape or form.

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<sup>5</sup> In South Kivu, the funds destined to humanitarian aid are called "pesayumunyama" which literally means "money of the beast" in Kiswahili, meaning the money of a monster, a stranger. A masterless good.

Obviously, the PF has an operational follow-up and evaluation unit, but without any coercive powers. Complaints from recipients are receivable but are not processed and do not often receive answers. Those who are vulnerable must then fold in the face of the tricks of humanitarian agents. It can be said that humanitarian aid in the DRC has become the arena of the “rights of the strongest” (Rousseau). No morality can result from the effects of force and “*immoral have to conscience remorse about murder or rapé*” (Locke).

The National authorities, civil society, international NGOs, the International Committee of the Red Cross and the United Nations Agencies have known for a long time of the blatant deviation of humanitarian aid by national NGOs and international staff, but no legal action is taken. The Pooled Fund, including the International Committee of the Red Cross, limit themselves to the termination of contracts or to blacklisting the culprit partner, without any further form of constraint. Regarding the NGO MSF, they content themselves with transmitting the case to the floor. The rare cases of individuals who are stopped by the police or called upon by the magistrate are released without a trial under the claim that there is no plaintiff (civil side). Of course, corruption plays its part. Brigitte Lacharte and Philippe Lena<sup>7</sup> write on the subject of the role and place of NGOs in a number of public action domains, rendering them suspect of contributing to the weakening of the State. Indeed, the Congolese State is the first to be responsible for this treason. In the absence of sanctions against the perpetrators and because of their ungratefulness of the efforts of donors who intervene with the sole purpose of filling the gaps, humanitarian aid is at the mercy of predators today.

### **The issue of physical access**

The fragility of communication channels in the DRC and the growing insecurity in the living space of displaced persons create a favourable environment for the misappropriation of aid. On the one hand, under the “do no harm” principle, humanitarian agents are conscious that no evaluator will risk exposing their lives by going to the most distant regions. On the other hand, between the period of recipient targeting and that of the project’s implementation, confrontations between belligerent forces are observed. This means that individuals that have already been identified to benefit from the aid are forced to move once again and during this displacement, some of them die. In this way, kits destined to these people are sold by humanitarian agents at low prices. In principle, non distributed aid is the property of PF. This latter can authorize to proceed to the targeting of new recipients. They can also alter the localization of the project or decide to transfer the non-distributed kits to another organization to fill sudden gaps. This process seems quite long and is not agreed upon by local authorities, security services and public administration agents who collect the non-distributed kits on site and resell them later on to the victims or to local merchants.

### **Available takers**

Humanitarian aid also attracts non-targeted members of the community as well as local merchants. Agents responsible for distribution, as well as recipients of aid, do not grasp the true cost of the different items included in the kit, or at least, do not concern themselves with the question. Also, recipients (generally displaced persons) and humanitarian agents are volatile. They aren’t in control of their future. They are not

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<sup>6</sup> Our translation

<sup>7</sup> <http://books.google.fr/books?oh/> consulté le 24/11/2015, à 10H20.

reassured by staying in the zone for a long period of time, or to return for a similar activity. Thus, takers fix the prices themselves. Since they are essential household items and food, takers with cash are never lacking. In this way, for example, a kit of essential household items valued at one hundred and thirty American dollars is sold for fifty dollars by the recipient of the humanitarian agent.

### **The underpayment of staff**

In order to earn more or to compensate for deficits, organizations charged with the distribution of aid pay their project staff minimal wages. If for example, the provided wage for a distribution agent is of a thousand American dollars, they will receive two hundred American dollars but have to sign the receipt for the total. This means they have to resort to illicit channels including the total or partial deviation of aid just to survive.

### **Conclusion**

The foundations of sound management of humanitarian aid are defined in the general guidelines of the minimal norms for humanitarian aid. These are the SPHERE, HAP norms. While they are known by humanitarian actors, a number of recipients are not sufficiently informed but are also indifferent towards the issue of the deviation of funds or goods.

Humanitarian aid is considered as a favour, not a right. Lacking proper infrastructure and due to the lack of impunity and the dysfunctioning of the State, predators are free to do as they please and those who are stopped are quickly released, and so they relapse. Philanthropic organizations limit themselves to the termination of contracts and placing organizations who are caught deviating funds on a list of non-trustworthy or corrupted organizations.

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