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Chapter Seven

Providing Humanitarian Assistance Behind Rebel Lines: UNICEF's Eastern Zaïre Operation 1996-1998

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This chapter is a case study of one UN agency's efforts to provide humanitarian assistance to local and refugee populations living in territory under the de facto control of a rebel group, while continuing to work in government-held territory as well. The chapter also outlines what took place after the rebel alliance became the de jure government and then fell apart to such an extent that a rebel state-within-a-state was in effect reestablished in the heartland of the previous rebellion even before armed conflict broke out again. The case study is the United Nations Children's Fund's (UNICEF) Eastern Zaïre Operation from 1996 to 1998. The purpose of this chapter is to give readers an idea of how a multilateral agency responds to a situation where it must work with a state-within-a-state, and to illustrate some of the legal, ethical, and practical issues that may arise in such situations and how they may be dealt with. Implications for theory and policy are derived.

This chapter does not claim to be a purely objective piece of social science research. It is rather a set of reflections from someone who was there, and deeply involved in many of the events and processes described here. Though this chapter is not a memoir, it has many of the strengths and weaknesses of that genre. Nor does the chapter pretend to be comprehensive either in the sense of telling the whole story of the UN's work in the Democratic Republic of the Congo (ex-Zaïre, DR Congo)² in recent years, or in the sense of covering all the issues facing multilateral agencies in dealing with states-within-states. To write a comprehensive essay in the first sense would be an immense task, and inappropriate for this forum. And no case study can be comprehensive in the second sense; that is simply the nature of a case study. What I hope readers will get from this chapter, though, is a sense of what it was like to be there, how issues arose, how they got worked through, what the consequences were, and what lessons there are for the United Nations and others in dealing with other states-within-states.

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Historical Background

The conflicts that have beset the eastern provinces of the DR Congo in the past decade have deep historical roots. The social formations that lie at the origins of much of the current conflict date back at least 300 years.³ These conflicts are also closely linked with recent conflicts in neighboring states, especially Rwanda, but also Uganda and Burundi, with the ways colonialism interacted with precolonial social formations, and with the failed politics of the postindependence era.⁴

The immediate trigger to the conflicts that have afflicted the eastern provinces of the DR Congo since 1994 is usually taken to be the Rwandan genocide of April–June 1994. In fact, however, the fires of ethnic hatred and ethnic cleansing were burning in North and South Kivu provinces of Zaïre for over a year before that, as members of other ethnic groups attempted to clear the Tutsi ethnic group out of the Masisi and Mulenge mountains.⁵ This ethnic cleansing was encouraged by the Zaïrois government of President Mobutu Sese Seko, which had just reversed an earlier decision granting Zaïrois citizenship to the Tutsis, and had since 1990 been alarmed by the Tutsi-led rebellion against the then friendly government of neighboring Rwanda. After the genocide of the Rwandan Tutsis, around a million Rwandan Hutus poured over the border into Zaïre and were settled in refugee camps near the border. Included in their number were some members of the *Interahamwe* militia and the *ex-Forces Armées Rwandaises* (*ex-FAR*) who had been responsible for the genocide in Rwanda. The Mobutu government, which was probably complicit in the genocide itself and certainly complicit in protecting the perpetrators afterward, showed no desire to disarm the *Interahamwe* and *ex-FAR* and separate them out from the genuine refugees. In the absence of any such desire by Mobutu's government, the international community made no serious effort to force the separation of the militias from the refugees. The *génocidaires* of the *Interahamwe* and the *ex-FAR*, for their part, were happy to use the civilian members of the refugee population as human shields and as bait to attract food and other aid from the international community.

The presence of these large refugee camps in North and South Kivu provinces had a profound impact on the host communities. Initially, there was a wave of epidemic diseases affecting both the refugees and the local populations, when the sudden arrival of around a million poor and unhealthy people overwhelmed the already fragile public health infrastructure of the Kivus. In addition, land had to be set aside for the refugees, which displaced some locals. The refugees needed to eat and to cook, and so the local biomass was rapidly degraded as refugees felled trees and took food from nearby natural and domestic sources, including the farms of local Zaïrois. The *Interahamwe* and the *ex-FAR* soon set themselves up as the *de facto* government of the refugee camps and as an organized crime syndicate who committed crimes against their fellow countrymen in the refugee camps, local Zaïrois, and occasionally, the aid workers sent to assist the refugees. The *Interahamwe* and the *ex-FAR* also participated in attacks against Zaïrois Tutsi and in cross-border raids against the new government that was installed in Rwanda in June 1994. All this was condoned by the Zaïrois authorities, who were already unpopular due to decades of misrule on a colossal scale. The amount of aid flowing into the refugee camps, estimated at around US\$1 million per day in 1994–1996, caused further resentment amongst the locals; the economic, nutritional, and epidemiological situation of the Zaïrois populations living next to the refugee camps was broadly similar to the situation of those in the camps, but the locals got far less assistance than the refugees.

The spark that lit living in and around the Tutsis struck back and with Mobutu's regime governments saw an quickly provided military together under the name *Congo* (AFDL). The named after the town The Lemerla Declaration removal of the Rwandan members of the Tutsi ethnic new opposition movement broader legitimacy, by October 1996, Ugandan President and Minister to a Congolese radio in Tanzania years before president of the AFDL.

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The spark that lit the powder keg was an attempted ethnic cleansing of the Tutsis living in and around the town of Uvira in South Kivu in August–September 1996. The Tutsis struck back and quickly formed alliances with other groups who were disaffected with Mobutu's regime and/or hostile to the refugees. The Rwandan and Ugandan governments saw an opportunity to settle old scores against Mobutu's government and quickly provided military and political assistance. A political party was soon cobbled together under the name of the *Alliance des Forces Démocratiques pour la Libération du Congo* (AFDL). The AFDL united behind a platform called the Lemera Declaration, named after the town in South Kivu where the AFDL's founding conference was held. The Lemera Declaration called for the overthrow of Mobutu's corrupt regime and the removal of the Rwandan and Burundian refugees from Congolese soil.⁶ Though members of the Tutsi ethnic group quickly took on leadership positions in the AFDL, the new opposition movement needed a leader from a different ethnic group to give it broader legitimacy, both inside and outside the Kivus. It is widely believed that, around October 1996, Ugandan President Yoweri Museveni introduced the Rwandan Vice President and Minister of Defence Paul Kagame, the *éminence grise* behind the AFDL, to a Congolese radical and failed revolutionary whom Museveni had known in exile in Tanzania years before; that man was Laurent Kabila, and he was installed as the president of the AFDL.⁷

Events moved quickly between late September and early November 1996. The AFDL troops, aided by the Rwandan army and returning Congolese exiles from throughout east Africa, quickly captured most of South Kivu. Rebellion soon erupted in North Kivu in sympathy with the South Kivu rebels, and the two branches of the AFDL joined up by early November. Mobutu's troops, ill-disciplined, unpaid for months, and demoralized, put up only token resistance, preferring instead to pillage local communities, then flee, or desert.

The AFDL made no secret of its hostility toward the Hutu refugees from Burundi and—especially—Rwanda living in Zaïre, and attacked the refugee camps. The camps, each of which contained tens or hundreds of thousands of refugees, quickly disbanded, usually in a matter of hours. Most of the refugees returned to Rwanda and Burundi, but around a fifth or a quarter—no one knows for sure—fled west into the dense rain forests of the central Congo basin, a thinly populated and virtually infrastructure-free zone. Lost under the dense canopy of trees, over a 100,000 refugees disappeared from the world's radar screens; many never came back. It was not long before reports began to emerge concerning massacres of refugees in the forests by AFDL and Rwandan troops. The AFDL denied these reports, or dismissed them as isolated incidents, and certainly not the policy of the AFDL. The Rwandan government, for its part, at the time denied that it had any troops in Zaïre.⁸ I have seen and interviewed enough refugees, and spoken to enough aid workers who were on the spot, to convince myself that the massacres of refugees were deliberate policy. The UN Joint Mission charged with investigating allegations of massacres and other human rights violations in Zaïre came to a similar conclusion.⁹

The situation in eastern Zaïre in late 1996 and the first half of 1997 can only be described as dire. The local population had been deeply impoverished by over three decades of socioeconomic decay and gross misrule,¹⁰ compounded by the refugee crisis and associated armed conflict. Public infrastructure was degraded to the point where, in the 1990s, Zaïre was the only country in the world with fewer kilometres of road than it had had a quarter century earlier.¹¹ Many schools and health centers, already poorly

staffed and equipped before the crisis, had been looted and/or occupied by one military group or another; health and education staff were often dead or internally displaced. Commercial activity had been severely disrupted, especially outside the major towns. Tens of thousands of refugees and internally displaced people were out in the jungle, out of reach of any kind of assistance. Tens of thousands of internally displaced people were scattered in different parts of the country, on both sides of the front line between the AFDL-Rwandan army and Mobutu's *Forces Armées Zaïroises* (FAZ). There was a crying need for international humanitarian relief for both refugee and local populations.

By the end of November 1996, the AFDL was the de facto authority governing a territory covering most of North and South Kivu, an area roughly the size of Uganda and containing perhaps six million people or more. President Mobutu was forced to ask for negotiations and a truce. By the time the United Nations, which had evacuated its international staff from the Kivus in late October and early November, returned to the Kivus almost a month later, they found they had to deal with the AFDL as the de facto government of that territory.

The AFDL and the UN Agencies, November 1996–May 1997

Having liberated large parts of the Kivus from the corrupt rule of Mobutu's government, the AFDL declared itself to be the responsible authority (*autorité responsable*) for the governance of the territory behind its front line.¹² As such, it assumed responsibility for law and order and for relations between eastern Zaïre and foreign states and international organizations. The AFDL also claimed the power to regulate all economic, social, political, and developmental activity, including the affairs of the UN agencies and both local and international NGOs.

The main UN emergency agencies, namely the UNHCR, the World Food Programme (WFP), and the UNICEF,¹³ quickly returned to the AFDL-controlled territory in November 1996. The UNHCR had to return, since its core business, the protection of refugees under the 1951 *Convention on Refugees*,¹⁴ continued to be a burning issue. The WFP returned because food insecurity was a major concern for refugee and local populations alike, and its mandate required it to act to help restore food security. UNICEF, for its part, had in the 1980s and 1990s pioneered three separate humanitarian concepts: humanitarian corridors, days of tranquility for children, and children themselves as zones of peace. UNICEF had for over a decade provided protection and basic services to children on both sides of the front line in several civil wars. Like the UNHCR, UNICEF's obligation to work behind rebel lines was grounded in international law. UNICEF's interpretation of the UN *Convention on the Rights of the Child* was that children on both sides of a civil war had the right to the benefits of "international co-operation,"¹⁵ including UNICEF's assistance. The presence of the UN agencies in AFDL territory was therefore based on more than a simple humanitarian urge; it was grounded in the agencies' internationally agreed mandates and in international humanitarian and human rights law.

In pursuing their mandates in eastern Zaïre in 1996–1997, the United Nations had to work with the de facto authority controlling that area, the AFDL, on a wide variety of issues. The UN agencies were willing to work with the new de facto authorities. This willingness to cooperate was facilitated in many instances by the fact that the UN's counterparts before the AFDL takeover had hardly changed at all after the AFDL takeover. This was particularly true for the technical staff of the line ministries such as

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Agriculture, Public Health, National Education, and Social Affairs, and parastatals such as Water Supply and Roads. Only the political and security staff in areas like the Governors' offices and the *Agence Nationale des Renseignements*,¹⁶ the secret police, had changed after the AFDL takeover, and some new political structures had been created, such as the AFDL Secretariat and the *Comités Techniques* charged with AFDL-UN liaison in North Kivu and Province Orientale (formerly Haut Zaïre). But the United Nations also had to deal with this political side of the AFDL regime in the months before the AFDL took Kinshasa, especially on the refugee question, but also on other issues. In the early months, AFDL-UN relations were severely complicated by political issues, even very old ones. Some of the AFDL's leaders, not least Kabila himself, still had bitter memories of the "betrayal" of the Congo by the United Nations in the early 1960s, and spoke quite openly of their contempt for the United Nations.

More immediately, the main UN agencies in the Kivus had all been deeply involved in the Rwandan and Burundian refugee camps and were therefore viewed as suspect by the AFDL's senior leadership. We were constantly asked why we had supported the *génocidaires* and ignored the legitimate needs of the Congolese people. Of the three big UN agencies in the Kivus, the UNHCR and the WFP had come explicitly to deal with the refugee influx. The smallest of the three, UNICEF, had had an office in Bukavu, capital of South Kivu, since the 1970s and had established an office in Goma, the capital of North Kivu, a year before the refugee influx. Still, the UN's work in the Kivus in 1994-1996 had overwhelmingly to do with refugees, and even UNICEF was viewed by many in the Kivus as a part of the UNHCR or as a junior contractor doing some of UNHCR's business. When I was appointed in March 1997 to head UNICEF's new Eastern Zaïre Operation, one of my first challenges was to prove to the AFDL authorities that UNICEF was there to work with and for Congolese children, while still playing a credible role fulfilling the agency's duty toward children caught up in the refugee crisis, which was grabbing the attention of the world's media. It was not an easy task, nor one at which I succeeded particularly well. AFDL-UN relations were further complicated by an investigation by the UNHCR into the allegations of massacres of refugees by AFDL and Rwandan forces. This investigation was deeply resented by the AFDL—and Rwanda—who wanted to know why the investigation of these alleged massacres was so much more important than the horror of the Rwandan genocide, which had not been so investigated. The UN investigation of the massacres colored the AFDL's views of all UN agencies, even those that had been working and continued to work with and for the Congolese population.

The UN's programs and projects in eastern Zaïre showed both continuity and change in the wake of the AFDL's takeover. The activities of the UNHCR, the biggest UN agency, changed dramatically from a focus on camp management to emergency assistance to Rwandan and Burundian refugees who were on the run in the jungle. The WFP's work also changed significantly to address the plight of the now mobile refugees, though the WFP retained some of its earlier activities supporting the food security of local populations. UNICEF supported UNHCR and WFP in the refugee rescue operation, but still put most of its resources into assisting local populations with immunization, essential drugs, water and sanitation, and child protection services. The large international NGOs present in eastern Zaïre at the time (e.g. Action internationale contre la faim, CARE, Médecins sans frontières, OXFAM, Save the Children) adjusted their program activities in a manner similar to the WFP and UNICEF, that is with a dual focus on both the refugee emergency and assistance to local populations.

The International Committee of the Red Cross did tremendous work in favor of the internally displaced Zaïrois. Unfortunately for the humanitarian relief organizations, the international media's intense interest in the humanitarian aspects of the Zaïre crisis in 1996–1997 centered almost entirely on the assistance to the Rwandan refugees, while the work with and in favor of local Zaïrois went unreported. This media slant, though understandable given the dramatic nature of the refugee crisis, had unfortunate ramifications for humanitarian operations in eastern Zaïre/DR Congo in later months, as it reinforced the AFDL's impression that the United Nations and the international NGOs cared more about Rwandan refugees than about Congolese citizens.

The AFDL was an ideologically disparate alliance, bringing together groups whose only common goal was the removal of Mobutu. Two of the dominant—and interconnected—ideological tendencies in the AFDL in 1997 were, however, an unreconstructed 1960s Afro-Marxism and a strong Congolese nationalism.¹⁷ Both reacted strongly against Mobutu's chaotic rule and his reliance on Western powers for money and military support, as well as against the proliferation of NGOs in Zaïre.¹⁸ Both these tendencies within the AFDL viewed the United Nations with great suspicion and sought detailed state regulation of economic and developmental activity, including UN operations. In their desire to regulate the UN agencies' operations in AFDL territory, the AFDL authorities often asked, or even ordered, the UN agencies in their territory to do things that fell outside of, or even violated, their mandates. The United Nations naturally refused. UNICEF was asked, for example, to provide tents and water facilities for a military cantonment, and to finance construction of a road in a militarily sensitive area. The UN agencies' refusals to comply with such requests were in turn interpreted as a lack of willingness to cooperate with the AFDL.

AFDL officials also routinely referred to UN agencies as "NGOs" and tried at times to register and regulate them as NGOs. This effort was stiffly resisted by the UN agencies, who were understandably protective of their status as international organizations. All the UN agencies had signed basic cooperation agreements with the government of Zaïre or its predecessors and, in both Zaïrois and international law, these were the relevant legal instruments, along with the *Convention of the Privileges and Immunities of the United Nations*,¹⁹ which Zaïre and Rwanda, Uganda and Burundi had ratified. The AFDL authorities either simply did not understand these facts due to inexperience and lack of training,²⁰ or chose to ignore them because it suited their purposes to do so. At times, AFDL officials denied that such agreements existed or that they were binding on a "revolutionary government." Some AFDL officials in the eastern provinces continued to make such denials and evasions even after the AFDL became the internationally recognized government in Kinshasa.

In practical terms, the AFDL forbade direct contacts between UN offices in its territory—or "zone" as the United Nations called it—and UN offices in the rest of the country. The reason given was that the AFDL was afraid that spies could send military intelligence information to the AFDL's enemies in Kinshasa. UN offices were therefore strict in observing radio silence between the two zones, since high frequency radio signals are easily monitored by third parties.²¹ Cellular telephone contact between Kinshasa and the east was cut off by the AFDL through the simple expedient of disconnecting the cell phone hubs in the four cities that had them, namely Bukavu, Goma, Kisangani, and Lubumbashi.²² UN offices did have satellite telephones that could connect the two zones, but access was strictly controlled and interzonal calls were made only in extraordinary circumstances. Faxes could also be sent by satellite phone, but were sent

only in unusual circumstances, since they created a paper trail and the news of a fax arriving from the other side of the front line could start rumors spreading, even if the contents of the fax were totally innocuous. The main form of contact between the two zones was e-mail sent by satellite phone through each agency's headquarters server. Access to e-mail and the small number of computers on which e-mail software was installed had to be strictly controlled, and was usually limited to the head of office, his deputy and the IT or security officer. E-mail traffic was not printed out, but was saved electronically.

Adherence to these strict rules on how (not) to communicate with the other side of the same country paid off for the United Nations in terms of minimizing the number of incidents that might have arisen if communications protocols had been more sloppy, but they did make life more difficult for UN staff. Many issues still had to be discussed between the UN's Kinshasa offices and UN offices in the rebel east, not least the fate of UN local staff displaced onto the other side of the front line, and important questions of management structures and budgets (see later). One way of addressing these questions without arousing suspicions was for senior UN management from both sides of the front line to meet face-to-face. Since both Mobutu's government and the AFDL refused to admit into their respective territories people having visas or stamps in their passports from the other zone, such meetings had to take place in third countries. I attended such meetings in Nairobi and Brazzaville.

Even so, the AFDL showed great interest in the UN's communications hardware, software, and procedures and tried on a number of occasions to interfere with them, regulate them, and monitor them. The fact that such interference, regulation and monitoring are illegal made the UN agencies resist such intrusions vigorously.²³ This resistance was interpreted on the AFDL side as a lack of willingness to cooperate at best, and as proof that the United Nations was on the side of the AFDL's enemies at worst. After reports began to appear concerning the massacres of refugees in the forests, those agencies and the NGOs most involved in assisting refugees in Zaïre had all the more reason to protect their information and communications.

Finally, the UN agencies had to engage in a delicate balancing act from the time they resumed operations in AFDL-held territory in November 1996 until the fall of Kinshasa to the AFDL in May 1997. Mobutu's government in Kinshasa was still the internationally recognized government of the whole of Zaïre, and indeed Zaïre was still the internationally recognized name of the country, the AFDL's assertions notwithstanding. All the UN agencies continued to maintain offices in Kinshasa and in other cities still under the control of Mobutu's forces, and UN-supported projects and programs continued to operate in territory controlled by the Government of Zaïre. The Kinshasa government jealously guarded its role as the internationally recognized government even as the last shreds of its de facto authority were disappearing before the advancing AFDL troops. The Mobutu government constantly reminded the UN agencies to behave "correctly" toward it; since UN offices in Kinshasa had already been looted twice by the FAZ in the 1990s, these reminders were interpreted as thinly veiled threats. By March 1997 the situation became even more complicated as it became increasingly clear that the Mobutu government's days were numbered and that, sooner or later, the AFDL would capture Kinshasa and become the officially recognized government. Not only did the United Nations have to deal with a de jure state and a de facto state within that state but it had to deal with the fact that the latter would soon replace the former, and with the fact that both could do considerable damage to UN staff, property, and project beneficiaries if the United Nations did not play its cards right.

UNICEF's Internal Administration and the Two-Zone System in Zaïre

In addition to the interzone communication issues mentioned earlier, the UN agencies had to address important policy issues in the divided territory of Zaïre in 1996–1997. These policy issues were particularly important for UNICEF as an agency that was present in country before, during, and after the refugee crisis and the ensuing civil war.

In late 1996, UNICEF appointed a temporary “program coordinator” to supervise the UNICEF offices in AFDL-held territory. The donor funds arriving for UNICEF programs in eastern Zaïre were deposited into the budget of UNICEF’s Rwanda country office, though the program coordinator reported to the UNICEF regional office in Nairobi. This situation was less than satisfactory, and a new solution was devised in February–April 1997.

A new “Chief of Operations”—the author—was appointed in March 1997 to run the UNICEF operation behind AFDL lines.²⁴ This operation was called the “Eastern Zaïre Operation” (EZO) and it was given its own budget and a full complement of established posts. UNICEF decided, however, that the EZO, though autonomous in its day-to-day operations, should be linked to the main Zaïre country program run out of UNICEF’s Kinshasa office. The EZO Chief of Operations reported to the head of the Kinshasa office and had to consult him on all strategic issues and on all issues that could potentially cross the front line between the AFDL army and the FAZ. The territory under the responsibility of the EZO Chief of Operations was to be the territory behind the AFDL front line. As various cities with UNICEF sub-offices—Lubumbashi, Mbuji Mayi, and Kananga—fell to the AFDL forces, those sub-offices would come under the authority of the head of EZO. This management system was modelled loosely on UNICEF’s *modus operandi* in another country divided by civil war, namely the Sudan.

UNICEF’s main office in Kinshasa continued to fund those staff posts, administrative costs, and routine program activities—such as immunization—in AFDL territory that had existed before the outbreak of the rebellion in the east. Supplies for such activities were ordered by Kinshasa office from third countries and delivered to EZO territory via the airports in Entebbe (Uganda) and Kigali (Rwanda) and the ports of Mombasa (Kenya) and Dar es Salaam (Tanzania).

Most importantly, it was decided that UNICEF would uphold national—Zaïrois—policies and standards in education, health care, and child protection in all programs and projects in AFDL-held territory. Maintaining the integrity of national standards was easy since the AFDL was never a secessionist organization, and never placed the territorial integrity of the Zaïrois/Congolese state in question. In short, everyone accepted that Zaïre/DR Congo would one day be reunited under one government, so there was never any question of developing separate standards and policies for the east.

This flexible approach to managing UNICEF operations in a country divided by civil war made a lot of sense,²⁵ but it was designed for a long civil war like Sudan’s. In fact, the AFDL’s military victory came much more quickly than anyone expected, after only seven-and-a-half months of fighting. UNICEF was then faced with the problem of having a unified country with two country programs, one for the east and one for the whole country! All new funding received for eastern DR Congo—as the country was renamed in May 1997—was placed in the main budget managed by UNICEF–Kinshasa from December 1997 onward. UNICEF spent the second half of 1997 and 1998 using up the funds in the EZO budget and reconciling and winding up the EZO accounts. A new management structure integrating the former EZO offices

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UNICEF's own internal organization under the EZO period was deeply influenced by that agency's system of country-based programming. Under this system, a locally based office negotiates a program of cooperation with the host government. This system is ideally suited to countries in "normal"—nonemergency—programming situations, and in situations where any emergency does not spill over international borders. This system is in contrast to that of the UNHCR, whose mandate calls upon it to deal with problems that, by definition, have cross-border dimensions, that is refugees. The UNHCR is much more likely to organize itself regionally, rather than in a country-based fashion.

The State-Within-a-State Reemerges: "The Democratic Republic of North Kivu"

Laurent Kabila's honeymoon with the Congolese people, his neighbors, and the international community did not last long. Most of the civil service—and even large parts of the security apparatus—remained unchanged since Mobutu's time, and, despite some positive changes in public sector performance brought in by the new government, the old habits of inefficiency, corruption, and brutality soon reemerged.²⁶ For the ordinary Congolese, the *nouveau regime* came quickly to resemble the *ancien regime* in its day-to-day workings. At the policy level, the new AFDL government, once installed in Kinshasa, struggled to define a coherent political strategy, economic policy, and attitude toward the donors and the international financial institutions, on whose debt Mobutu had already defaulted. There were several ideological and other fault lines. The Afro-Marxist and nationalist tendencies in the AFDL government struggled against the more technocratic elements who argued the need for international assistance and, hence, some accommodation with the United Nations, the international financial institutions, and the Western donors. Divisions within the new government based on ethnic and regional origins were also evident. Much was made of the differences between the "Katangan faction," including President Kabila, "the Kasaiian faction" including Economy Minister Pierre-Victor Mpyoyo, and the "Rwandan" or "Tutsi faction," which included Foreign Minister Bizima Karaha, AFDL Secretary-General Déogratias Bugera, and army chief Moïse Nyarugabo.²⁷

Congolese Tutsis, and their Rwandan and Ugandan allies, became prominent members of the new army, the *Forces Armées Congolaises* (FAC). Tutsi elements of the FAC and the Rwandan army used their military power to extract economic resources from rich and poor Congolese alike, and occasionally from expatriates as well. Such predations usually went unpunished,²⁸ and were particularly frequent when the army's pay day came and went without anyone being paid, a common event in the middle months of 1997, as the new government struggled to get a handle on the looted treasury of the nation. Stories of the Tutsis' newfound wealth, power, and arrogance began to circulate throughout the country. Rightly or wrongly, many Congolese who had months before welcomed the Tutsi-led armies of the AFDL and Rwanda as liberators came to view the Tutsis as interlopers, thieves, and oppressors.

Within a few months of Kabila's installation as president, it became obvious that the alliance that had brought him to power was crumbling. In particular, frictions arose between Kabila and the Tutsi/Rwandan faction, and between Kabila's government and his supporters in the governments of Rwanda, Burundi, and Uganda. First of all, Kabila no longer needed their military support since the war with Mobutu was over and, given

his nationalist leanings, he probably did not want the DR Congo to continue to be under their influence. Second, the Tutsi alliance was becoming a political liability for Kabila as anti-Tutsi feeling rose and as his government's nationalist tendencies became more apparent. Finally, and most importantly, Kabila's new government proved unable and—at least in the Tutsis' eyes—unwilling to control the remnants of the *Interahamwe* and the ex-FAR who still roamed the forests and hills of the eastern provinces, harassing local Tutsi populations and occasionally crossing the border to attack Rwanda itself. Similarly, rebel groups fighting the governments of Burundi and Uganda also were able to use Congolese territory as bases from which to attack those countries. The rising level of mistrust between Tutsis and other ethnic groups was also both the cause and the effect of a dual system of administration, which took root in the eastern provinces of the DR Congo in the months after the AFDL takeover.²⁹

Throughout North and South Kivu, Maniema, Province Orientale, and the northern parts of Katanga, Tutsis were placed in key positions in Governors' offices, district, and zonal offices and in the security forces, especially the FAC, and the *Agence Nationale des Renseignements* (ANR), the secret police. Where a Tutsi was not officially in the top post, one was frequently found in the deputy's post. To a lesser extent, the same was true in parts of the Kinshasa bureaucracy. In the eastern provinces, where a non-Tutsi was in charge of the civil administration, the local military chief was often Tutsi, and relations between the military authorities and their nominal civilian masters were testy, or nonexistent.

Over time, it became evident that this ethnically based arrangement of powers and posts amounted to a system of dual control, since the allegiance of most of these Tutsi officers lay elsewhere.³⁰ Many of the Tutsis were rumored to be Rwandan, and some Ugandan or Burundian. Many whom I met spoke with had Ugandan accents;³¹ some freely confessed to origins in Rwanda, Uganda, or Burundi. It became common both in Kinshasa and in the eastern provinces to differentiate between "Congolese" and "Rwandans," the latter referring to all Tutsis, regardless of whether they originated in DR Congo, Rwanda, or elsewhere. Ethnic tensions mounted dangerously.

The system of dual control of the state structures, especially in the security forces, created high levels of uncertainty for civil servants, the general public, and for the UN agencies and NGOs. It was frequently difficult—even impossible—to tell who was in charge, since job titles meant little and the real power centers rarely dared speak their own names in public. Both sides issued conflicting instructions, or quietly—sometimes, not so quietly—blocked the other side's instructions from being carried out. Opportunists inside and outside the state structures sought to profit from the confusion for political and/or personal gain.

In other instances, two or more branches of government claimed authority over the same area or activity. In any judicial proceeding, several tribunals and quasi-judicial or administrative bodies claimed jurisdiction. Former UN staff who had been dismissed or who had not had their contracts renewed appealed for assistance from the *Parquet de Grande Instance*, the *Parquet de Petite Instance*, the *Tribunal*, the Ministry of Labor, the ANR and the *Comité Technique*. In North Kivu, the ANR, and the *Police des Frontières*, the former rumored to be allied at the time with the Governor's office and the Tutsi/Rwandan faction and the latter reportedly loyal to Kinshasa, argued over who should control immigration at Goma airport and at the border crossings with Rwanda and Uganda. Each body told the UN agencies and international NGOs in North Kivu that it had sole authority for issuing visas to foreign development workers, and each issued summonses to those who did not comply with its directives.

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Of particular interest were the AFDL's two *Comités Techniques*, established during the civil war in North Kivu and Province Orientale to deal with AFDL-UN liaison. After the AFDL took power in Kinshasa and the normal public services slowly reestablished themselves, the *Comités Techniques* continued in both provinces to claim the power to coordinate the developmental and humanitarian activities of the United Nations and the international NGOs, and their relations with the Congolese line ministries. Since the Congolese state was effectively bankrupt and the United Nations and NGOs were a major source of funding for the line ministries, the nature and extent of this coordination function was of concern to the line ministries, no less than to the United Nations and the NGOs. In North Kivu, the *Comité Technique* functioned as part of the Governor's office and, hence, was closely linked to the Tutsi/Rwandan faction. The North Kivu *Comité Technique* had generally poor relations with the line ministries' offices in Goma; civil servants more or less openly challenged the legal basis for the *Comité Technique's* claims to authority. The *Comité Technique* in turn regularly by-passed the line ministries and issued orders directly to UN agencies about what developmental projects and activities should be supported.

In September 1997, the *Comité Technique* in North Kivu sponsored an "evaluation" of UN agencies and international NGOs operating in that province, with the avowed intention of kicking out those who were not performing. The evaluation, which used NGO registration forms identical to those used by the Government of Rwanda, resulted in the expulsion from North Kivu—but not from other provinces—of a half-dozen "nonperforming" international NGOs. Reliable sources put it to me that there had been intense debates between the *Comité Technique* members of the evaluation team and some of the representatives of the line ministries. A few months later, the *Comité Technique* in North Kivu tried to regulate the qualifications of expatriate technical assistance workers in the province, thereby usurping functions of the Ministry of the Interior and the Ministry of Foreign Affairs in Kinshasa. It was around this time that people began talking about "the Democratic Republic of North Kivu," an allusion to the province's increasing de facto independence from Kinshasa.

In Province Orientale, the *Comité Technique* claimed similar powers and enjoyed similarly poor relations with the line ministries, but operated independently of the Governor's office. The *Comité Technique* in Province Orientale did, however, appear to work in close collaboration with a senior military officer of "Rwandan" origin. No *Comité Technique* was established in any other province. The Ministry of International Co-operation in Kinshasa tried on at least one occasion to exert its authority over the *Comités Techniques*, but without success.

Conflicts between the two sides in the dual control system usually simmered, but occasionally erupted into open violence, even before the outbreak of the new civil war and invasion from the east in August 1998. The Kabila government's attempts to rotate army units led to mutiny and running gun battles in the streets of Uvira in South Kivu and Kalemie in Katanga in December 1997, as Tutsi units refused to obey orders from non-Tutsi officers to relocate away from DR Congo's eastern border. The Tutsi troops apparently wished to stay close to the DR Congo's border with Burundi and Rwanda, both to guard Tutsi-inhabited areas and the borders from incursions and predations by the remnants of the *Interahamwe* and the ex-FAR. They believed, quite reasonably, that other Congolese troops would not be so zealous in defending either the Tutsi communities in DR Congo or their cousins in Burundi and Rwanda. The Tutsi troops may also have feared for their own fate if they were rotated at a time of rising ethnic tensions to other parts of the DR Congo, away from their home communities and the support of

friendly neighboring states to the east. The *Police Nationale* fought running battles with the Rwandan army and elements of the FAC in Goma almost every night between May and September 1997. The *Police Nationale* and some Tutsi-dominated units of the FAC also fought in Kinshasa in early 1998 when a Tutsi officer was arrested by the Police.

For many months after the AFDL captured Kinshasa with Rwandan support, both the Rwandan and Congolese governments denied that such assistance had been provided. At the same time, however, the Rwandan army operated openly in North Kivu, South Kivu, and, to a lesser extent, in Province Orientale. The Burundian army operated in the southern parts of South Kivu province. The Burundian troops were easy to spot because they were the only army in the region to use the Belgian FN rifle; every other army used the Russian AK47. I occasionally encountered Ugandan soldiers or Ugandan members of the ANR in North Kivu and often heard rumors of the presence of Ugandan security forces in the eastern parts of Province Orientale. Members of the security forces, the North Kivu Governor's office, and prominent Tutsi residents of Goma all crossed to and from Rwanda without having to go through border formalities; they were simply waved through the border checkpoint while others waited in line.

In addition to these facts, the eastern provinces of the DR Congo in general, and North Kivu in particular, were full of rumors about the role of Rwanda and the Rwandans in the governance of that area in late 1997 and early 1998. All these rumors asserted that the Rwandans—and occasionally the Ugandans and the Burundians—were running the show behind the façade of a Congolese administration; all these rumors asserted that the Rwandans' role was entirely nefarious. Some of these rumors turned out to be false. (Rwanda did not invade and annex the Kivus in September 1997, though dozens of people assured me that it would.) Some of them turned out to be true. (I was warned in May 1998 that "the summer will be hot.") Some others may be true or false; I cannot say anything for sure except that they have some plausibility in the light of subsequent events. (I was told in March 1998 that all tax revenue in South Kivu went to the Rwandese capital of Kigali, not to Kinshasa, and that a Rwandan army unit was to be found at the top of the mineshaft of every gold mine in the Kivus. The United Nations has documented extensive stripping of Congolese assets by all foreign warring parties in DR Congo since the invasion of August 1998 and the ensuing civil war.³²)

Whether these rumors were true or false is possibly of less importance than the fact that they circulated widely and were repeated and believed by so many and with such vehemence. If nothing else, they were evidence of a shocking growth of the ethnic and international tensions that exploded a few months later, and which still fuel the flames of war in the DR Congo as I write this essay four years later. These rumors were also reflections of what ordinary Congolese in the Kivus intuitively felt about their governance in 1997–1998, namely that they were living in a state-within-a-state, and that the most important parts of the governance and security structures in eastern DR Congo were responsive—and responsible—to governments other than the legal government of the DR Congo in Kinshasa.

Needless to say, it was extremely difficult to run humanitarian or development projects in such an atmosphere. Humanitarian organizations were criticized by the civilian authorities for not addressing the crying needs of the Congolese people, while the military authorities were preventing those same agencies from going to the field, citing "insecurity" outside of the major cities as a reason. Frequently, the military requisitioned humanitarian vehicles, communications, and supplies. Appeals from the humanitarian agencies to the civilian provincial authorities for help in recovering these items were

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fruitless, as were appeals to the national authorities in Kinshasa. The situation was made more complicated by the fact that the politics of the dual control system were different in every province and district, and changes in civilian and military personnel—and, consequently, changes in alliances and systems of control—were the only constant. To give just one example of how complicated things had become, in November 1997, an outbreak of polio in Walikale District of North Kivu required immediate action by the Regional Health Director's staff and UNICEF. Since Walikale was a militarily sensitive area rumored to hold lots of *Interahamwe* and ex-FAR, the Regional Health Director sought the permission of the governor, a Tutsi, and the permission of the local military commander, a Katangan. But the area in question was populated largely by Hutus and was the home area of the Vice governor, who was Hutu. The relief flight of vaccines required complicated negotiations over several days before it could take off. In the meantime, of course, the outbreak spread, and hundreds of children were affected.

Conclusions

Three conclusions emerge about states-within-states; two deal with the UN's relations with such entities, and the third is a more general conclusion about the phenomenon of states-within-states. The first is that the UN's humanitarian agencies must inevitably find themselves working from time to time behind rebel lines; their mandates and indeed international humanitarian and human rights law require it. The fact that UN agencies are accustomed to—or even designed to—work primarily with *de jure* national governments does not preclude them from working within—and with—states-within-states. It does mean, however, that UN agencies are at the same time required to deal with the *de jure* authorities as well as the *de facto* authorities, and that the United Nations must often tread carefully between the two, for both practical and diplomatic reasons.

The second is that, when the United Nations works in and with such states-within-states, history is important. Even the apparently long distant past of UN involvement in a country can have important repercussions on cooperation today. This is especially true in the DR Congo, but is also true, for example, in Somalia.³³ The more immediate origins of large-scale UN involvement in a country may also have important implications for how the United Nations is perceived and handled by local authorities. It is impossible, for example, to understand the complex relationships between the AFDL—before and after it became the internationally recognized government of the DR Congo—and the United Nations without looking at the UN's huge refugee programs in eastern Zaïre in the mid-1990s. The circumstances that bring a rebel movement and the United Nations into contact with each other will shape much of the future evolution of their relationship.

The third conclusion, and perhaps most important from a theoretical point of view, is that what constitutes a state-within-a-state may sometimes be hard to tell. The state-within-a-state may come in some respects to resemble what other branches of political science call the "penetrated state," that is, the situation where a state's independence is compromised from within by the agents of another state capturing key parts of the administrative apparatus. Even normal categories like "government" and "rebels" or "bandits" may be of little use. What happened in the eastern provinces of DR Congo after the AFDL took power in Kinshasa is illustrative. At what point did North Kivu become a state-within-a-state? My own experience on the ground tells me that North

Kivu and, perhaps to a lesser extent, South Kivu were out of the control of Kinshasa long before the invasion and outbreak of the new civil war in August 1998. Yet from the time the AFDL took Kinshasa in May 1997 to the outbreak of the new war in the east 15 months later, North and South Kivu looked legally just like any other Congolese province. What lay underneath was a much more complex reality, and one that was much more difficult for the United Nations to deal with.

Notes

1. The views expressed here are entirely personal, and do not reflect the official policy of any organization. I would like to thank the editors for their advice and encouragement.
2. From 1971 until May 1997, the country was called the Republic of Zaïre. Since May 1997, the country has been called the Democratic Republic of the Congo. I will use the terms Zaïre and Zaïrois to describe the country in the period up to May 1997, and the terms DR Congo and Congolese to describe the country since then.
3. Archie Mafeje, *The Theory and Ethnography of African Social Formations: The Case of the Interlacustrine Kingdoms* (Dakar and London: CODESRIA Book Series, 1991).
4. Kisangani N.F. Emizet, "Congo (Zaïre): Corruption, Disintegration and State Failure," in E. Wayne Nafziger, Frances Stewart, and Raimo Väyrynen, eds., *Weak States and Vulnerable Economies: Humanitarian Emergencies in the Third World* (New York and Oxford: Oxford University Press, 2000). See also Mahmood Mamdani, "From Conquest to Consent as the Basis of State Formation: Reflections on Rwanda," *New Left Review*, Vol. 216 (1996); Kakwenda Mbaya, ed., *Zaïre: What Destiny?* (Dakar: CODESRIA, 1993); and William Senteza-Kajubi, "Background to War and Violence in Uganda," in Cole P. Dodge and Magne Raundalen, eds., *War, Violence and Children in Uganda* (Oslo: Norwegian University Press, 1987).
5. Emizet, "Congo (Zaire)." Thomas Turner, "The Kabilas' Congo," *Current History*, Vol. 100 (2001), pp. 213–218.
6. From the very beginning, the AFDL rejected the name "Zaïre," one of Mobutu's innovations, and insisted that the country return to its original name of "Congo."
7. A note on the ethnic politics of the region is in order here. Kagame is a Tutsi who grew up in exile in Uganda. Though his official title at the time of these events was vice president and Minister of Defense he—rather than the president—was the real power in Rwanda. During the Ugandan civil wars of the 1980s, Kagame was a close ally of Yoweri Museveni, who became president of Uganda in 1986 and is himself half-Tutsi. The president of Burundi since a July 1996 coup was Pierre Buyoya, also a Tutsi. Though all three share the same ethnicity, one should not assume that they have always seen eye-to-eye; indeed, since 1998, Ugandan and Rwandan troops have fought each other in DR Congo. Kabila was from much further south, in Katanga; in the 1960s, Kabila's rebel forces allied themselves with the Babembe people in their dispute with the Banyamulenge, a branch of the Tutsi in South Kivu. Many people were thus surprised to find Kabila in the late 1990s at the head of an alliance containing so many Tutsis.
8. The Rwandan vice president, Paul Kagame, admitted after the war was over that the Rwandan army had indeed helped Kabila to power. No one in eastern Zaïre at the time doubted for a moment that Rwandan army troops were in Zaïre; they operated openly, making no attempt to hide themselves or their identity. I have encountered Rwandan, Ugandan, and Burundian armed forces inside Zaïre/DR Congo in both 1997 and 1998.
9. UN, *Report of the Joint Mission Charged with Investigating Allegations of Massacres and Other Human Rights Violations Occurring in Eastern Zaïre (Now Democratic Republic of the Congo) Since September 1996* (New York: United Nations, General Assembly, Document A/51/942, July 2, 1997), para. 42–49.

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10. République du Zaïre, *Enquête Nationale sur la Situation des Enfants et des Femmes au Zaïre en 1995: Rapport Final* (Kinshasa: Ministère du Plan et Reconstruction Nationale, UNICEF, PNUD and OMS, 1996), pp. 6–9.
11. World Bank, *World Development Report* (New York and Oxford: Oxford University Press, 1994), p. 224.
12. Yet the AFDL did not declare itself to be the legitimate government of Zaïre/Congo until it captured the capital city of Kinshasa on May 17, 1997. Kabila was then sworn in as president of the Republic and the AFDL was established as the only political movement allowed to operate.
13. The UNDP and the WHO also had offices and small numbers of staff in the eastern provinces, but their staff, budgets, and operations were very limited in scope at the time.
14. UN, *Convention Relating to the Status of Refugees* (Geneva and New York: United Nations, 1951).
15. UN, *Convention on the Rights of the Child* (Geneva and New York: United Nations, 1989), Article 4.
16. This agency had been called the *Service National d'Intelligence et de Protection*.
17. Turner, "The Kabilas' Congo."
18. The proliferation of NGOs in Zaïre was as much a reflection of the collapse of the state under Mobutu as it was a tribute to the vibrancy of civil society. Many of these NGOs undertook functions that are often associated with the state—e.g. health care, education, water supply, agricultural development—and many were foreign funded.
19. UN, *Convention on the Privileges and Immunities of the United Nations* (Geneva and New York: United Nations, 1946).
20. The AFDL's Commissaire for Foreign Relations, Bizima Karaha, was a medical doctor by training, with no previous experience in diplomacy or international cooperation. The head and deputy head of the *Comité Technique* of the AFDL charged with UN liaison had before the AFDL's "revolution" been respectively a clerk in a rural health center and the head waiter in a Goma tourist hotel.
21. The AFDL had access to the same types of radio equipment as the United Nations, having looted dozens of radio-equipped UN vehicles and at least six UN office base stations. When I first arrived in Goma, my AFDL counterparts were openly using UNICEF stationery looted from UNICEF office.
22. The landline-based telephone system had long since disappeared from Goma due to looting of the wires. Though rudimentary landline systems continued to exist in Kisangani and Bukavu, the AFDL disconnected them from the inter-urban network so that no one could call out or in.
23. The *Convention on the Privileges and Immunities of the United Nations* of 1946 states that UN communications shall be inviolate and that the host country will provide and allow the United Nations such communications as its operations require. The Congolese government ratified that Convention over 30 years before the events in question. The basic agreements between individual UN agencies endorsed the Convention as well.
24. The title was later changed to "Senior Project Officer (Emergency)."
25. I can say this in all modesty, since the system was largely designed by my predecessor, and I contributed only small refinements to the basic design.
26. Associated Press, "Euphoria is Ebbing in Zaïrian Rebel Territory" (May 6, 1997). UN, *Report of the Special Rapporteur on the Situation of Human Rights in Zaïre (Now Democratic Republic of the Congo)* (New York: United Nations General Assembly, Document A/52/496, October 17, 1997). U.S. Department of State, *Democratic Republic of the Congo Country Report on Human Rights Practices for 1997* (Washington DC: Bureau of Democracy, Human Rights and Labor, January 30, 1998).
27. None of these ethnic-based factions was entirely homogeneous, however, and members of an ethnic faction were frequently separated by ideological differences. Much has been

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made of the strength and unity of the Tutsi faction, but it too was never entirely cohesive. In particular, there were important tensions between the Congolese Tutsis and their Rwandan allies, and between Rwanda, Burundi, and Uganda.

28. UN, *Report of the Special Rapporteur on the Situation of Human Rights in Zaire (Now Democratic Republic of the Congo)* (New York: United Nations General Assembly, Document A/52/496, October 17, 1997).
29. Turner, "The Kabilas' Congo."
30. Department of Humanitarian Affairs, *South Kivu, Uvira-Fizi Zone: Overview of the Humanitarian Situation* (Goma: Office of the UN Field Coordinator for Eastern Congo, DHA, 1997). *Libération* (Paris). "Au nouveau Congo" (August 28, 1997).
31. Many Tutsi members of the government that took control of Rwanda in 1994 after the genocide had grown up in exile in Uganda and spoke English with a Ugandan accent. Some of them spoke little or no French, which is the official language of Rwanda and Zaïre/DR Congo, and the medium of instruction in the schools there.
32. *Financial Times* (London). "Plundering of Congo Goes On" (October 22, 2002). Turner, "The Kabilas' Congo."
33. The former Italian Somaliland was a UN mandate territory until it was amalgamated with the former British Somaliland and granted independence as Somalia in 1960.



STATES-WITHIN-STATES
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First published 2004 by
PALGRAVE MACMILLAN™
175 Fifth Avenue, New York, N.Y. 10010 and
Houndmills, Basingstoke, Hampshire, England RG21 6XS
Companies and representatives throughout the world

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ISBN 1-4039-6385-1 hardback

Library of Congress Cataloging-in-Publication Data
States-within-states : incipient political entities in the post Cold War era / edited
by Paul Kingston and Ian Spears.

p. cm.

Includes bibliographical references.

ISBN 1-4039-6385-1

1. National state. 2. Dismemberment of nations. 3. Legitimacy of governments.
4. Developing countries—Politics and government. I. Title : States within states.
II. Kingston, Paul W. T. III. Spears, Ian.

JC11.S773 2004
320.1—dc22

2003064806

A catalogue record for this book is available from the British Library.

Design by Newgen Imaging Systems (P) Ltd., Chennai, India.

First edition: April 2004
10 9 8 7 6 5 4 3 2 1

Printed in the United States of America.

To My Family—P.K.
To Sarah, Jordan, Jack, and Nicholas—I.S.S.

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