
Articles

The Hottest Chaos of Cobalt Mining in the Democratic Republic of Congo:

‘Triadic Abyss’ of Human Rights Abuses, Environmental Pollution, and Illegal Global Trade

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Abstract

The state of Democratic Republic of Congo (hereafter DRC) and corporations violate human rights and neglect environment in cobalt mining. These abuses and degradations/destructions are not only serious but also structural. Many conflicts arise concerning possession of natural resource wealth. The DRC has suffered ceaseless conflict for nearly two decades, as well as ‘highly organized and systematic exploitation’ of its resources. The population of Congo migrates toward mining areas in search of work and means to support their lives even in conditions of slavery, and groups engaged in armed conflict reap the much benefit from mining. Rebel groups and the army are fighting for control of the mines, and have used a mass rape and kidnappings to gain control. In cobalt mining and trade in the DRC, corruption and violence are institutionalized to ‘violent kleptocracy system’.

I. Introduction

The southern part of DRC produces more than half of the world’s cobalt, but its cobalt mining

region is unstable, violent, and the rule of law is mostly absent.

In the DRC, cobalt is extracted from both industrial and artisanal mines. On the one hand, the former industrial or large-scale cobalt mining industry uses heavy machinery and is mainly controlled by foreign companies, which are involved in land grabs, the destruction of community livelihoods, labor rights violations, failure to conduct legally required community consultation procedures. The industry also causes considerable environmental damage to the detriment of local people: biodiversity loss and deforestation, air pollution, and contamination of water with toxic and radioactive elements. On the other hand, artisanal or small-scale mining in the DRC is done mostly by hand, often using only rudimentary tools. Many artisanal cobalt miners died in collapsed tunnels and other underground incidents, alongside the human suffering caused by skin, lung and other diseases contracted by miners exposed to cobalt.

The DRC Mining Code 2002 specifies that mining companies are required to research impacts of their prospective mining operations, to inform affected communities, and to conduct community consultation procedures while maintaining

constructive dialogues with those same communities. While large-scale cobalt mining companies consistently fail to live up to these requirements, the government has been unable to enforce its own mining code, leaving affected communities without the means to influence the construction of mines in their living environment.

In this article, first, we make clear that human rights abuses and environmental pollution happen in the field of cobalt mining in the DRC, second, ‘the triadic abyss’ of the hottest mining chaos in the DRC is found and analyzed, and, third, what should be done at present and in the future is suggested.

II. Human Rights Abuses and Environmental Pollution of Cobalt Mining in the DRC

1. Human rights abuses in cobalt mining

(1) Serious human rights abuses

In cobalt mining, the DRC failures to protect human rights, and corporates disregard respecting human rights. These human right abuses power the non-due diligence of global cobalt trade.

In January 2016, Amnesty International and African Resources Watch (Afresource) jointly published a report, “*This is What We Die For*”, that examined the conditions under which artisanal miners extract a significant proportion of the world’s cobalt supply and traced how this mineral is traded. The report exposed serious human rights abuses in artisanal cobalt mining in southern DRC (Amnesty International 2017: 4).

In the 2016 report, they expose serious human rights abuses in artisanal cobalt mining in southern DRC. Artisanal miners operating outside of authorized mining zones typically lacked basic protective or safety equipment, such as respirators, gloves or face protection and did not enjoy legal protections nominally provided by the state.

Artisanal miners frequently suffered from chronic illnesses, and serious and potentially fatal respiratory diseases as a result of prolonged exposure to dust containing cobalt and other metals (Amnesty International 2017: 17).

Under international standards, any participation in mining by children below the age of 18 falls under the category of ‘the worst forms of child labor’. However, in the artisanal cobalt mining, children as young as seven work in the tunnels alongside adult miners, while most helped to pick through mine tailings or sort and wash minerals prior to sale. Many children are forced to carry out this physically grueling and hazardous work because their families are too poor to pay school fees or else rely on the supplementary income from mining to be able to send their children to school (Amnesty International 2017: 17).

(2) State failure to protect human rights

There are significant gaps and weaknesses in the DRC government’s regulation of artisanal mining. The Mining Code and Regulations contain limited guidance on health and safety and very few provisions to protect artisanal miners’ labor rights. The government was failing to ensure protection for adults mining cobalt in hazardous conditions. It had not created enough authorized zones for artisanal mining, effectively forcing miners to work in unregulated or ‘law-free’ areas. Laws and regulations did not adequately protect the health and safety or other labor conditions of artisanal miners and the authorities responsible for monitoring and enforcing standards lacked the capacity to do so. In addition, state officials were extorting illegal payments from artisanal miners and were ignoring unsafe working conditions (Amnesty International 2017: 18).

In short, the DRC government was failing to adequately enforce the legal prohibition against child labor in artisanal mining. This was despite an international prohibition on the worst forms of child labor, the DRC labor law and the country’s

mining code which bans anyone under 18 from taking part in artisanal mining (Amnesty International 2017: 18).

2. Environmental pollution and human rights violations

The state of DRC and corporations violate human rights and neglect environment in cobalt mining. These abuses and degradations/destructions are not only serious but also structural.

SOMO (Stichting Onderzoek Multinationale Ondernemingen) in Amsterdam and three Congolese partner organizations (Afrewatch, ACIDH and Premicongo) conduct a field research and made a report, *Cobalt blue*, which shows how environmental and human rights violations happen structurally at industrial cobalt and copper mining operations in Katanga. Whilst the companies do not respect human rights, the rule of law and their obligations to communities whose lives are affected by the mines, the DRC government has also failed to enforce laws to protect its citizens and natural environments affected by mining operations (Scheele et al.: 4).

(1) Environmental and health rights violations

In the DRC, the production of copper and cobalt is inextricably linked to violations of peoples' right to a clean environment. One example is the discharge of contaminated wastewater from MKM's mining operations into the Dikanga River, which resulted in the unfit water for human consumption by local communities, but where MKM and several other mining companies were nevertheless granted mining licenses by the Ministry of Mines (Scheele et al.: 4).

The close physical proximity of industrial mining operations to local towns and villages means that thousands of people are exposed to fumes, dust, noise, and effluent water generated by the mines, trucks, and processing facilities. Those people, who live within a few meters of the mines are also exposed to air and noise pollution, as well

as dust containing cobalt compounds. Thousands of trucks travel to and from the mines and related operations all day and through the night, exposing resident in the cities of Lubumbashi and Likasi to heightened air pollution and leaving them rightfully afraid of contracting lung diseases. Chronic exposure to such dust can lead to potentially fatal hard-metal lung disease, as well as a variety of other pulmonary problems, including asthma, decreased lung function, and pneumonia. Previous research has shown that people living close to DRC's mines had 43 times the level of cobalt, five times the level of lead, and four times the level of cadmium and uranium in their urine than is considered normal (Scheele et al.: 4; Congolese Cobalt and Consumer Electronics; Amnesty International 2013).

(2) Land and livelihood rights violations

While wastewater from mining may pollute land and water, mining itself also requires huge swaths of land and vast amounts of water for its operations, which have resulted in the loss of livelihoods in affected communities. In the case of the Ruashi mine, for example, the mine's operators blocked access to a road used by 3,000 people to access their primary water source, which they depended on for their everyday needs and overall livelihoods. Boss Mining's operation left the Kibembe and Luita rivers, which provided drinking water to local communities, in a polluted state. Both Ruashi and Boss Mining subsequently drilled wells to provide clean drinking water, but those wells were either in a state of disrepair, or provided water of insufficient quality for human consumption (Scheele et al.: 4–5; Amnesty International 2013; Amnesty International 2014).

In most of the cases, violating the DRC's law, the mining companies failed to consult communities about their prospective mining operations. The few consultations did not provide information to the communities on the possible impacts of the mines. Under the Congolese Mining Code,

it is the responsibility of the mining company to initiate and maintain constructive dialogue with communities affected by their projects. This responsibility of the companies was systematically and structurally neglected (Scheele et al.: 5).

III. 'Triadic Abyss' of The Hottest Mining Chaos: The Largest Humanitarian Disaster

1. 'Resource curse' and control of 'conflict minerals'

(1) 'Conflict minerals' and 'resource curse'

Many conflicts arise concerning possession of natural resource wealth. The role of natural resources in the violence in the DRC is referred to as 'engines of chaos' (Katunga: 16). The country of DRC has suffered ceaseless conflict for nearly two decades, as well as 'highly organized and systematic exploitation' of its resources (Brisman, South and White: 5; Burnley).

'Conflict minerals' are defined as minerals mined in conditions of armed conflict with the proceeds from the mining being used to fund continued fighting. They are associated with human rights abuses, including beatings, torture, threats, large-scale population dislocations and mass rapes, atrocities that are committed by armed groups and directed at civilians as part of orchestrated campaign designed to gain control of mines and supply routes (Enough Project; DeVoe; Kelly). The necessary mining activities and associated consequences also have enormous implications for the environment and all species (human and non-human) dependent upon it. The combination of these impacts and abuses of human and environmental rights is a stark example of crime and harms that are often overlooked within criminology but are highlighted by a critical, green perspective (Clark: 214; South and Brisman; RCS GLOBAL Making Sure).

(2) Mine control through kidnapping, mass rape and sexual violence

In the DRC the rebel groups and the army are fighting for control of the mines in the eastern part of the country. Allegedly rebel groups have used mass rape and kidnappings to gain control, with the highest rape rates among families in villages closest to the mines. Kidnap victims are forced to work long hours under harsh and dangerous conditions, often carrying heavy bags of minerals through the forest to trading sites. As a result, many villagers have fled into the forest seeking safety, with some villages having experienced a 50 percent loss of population (Global Witness 2006).

The human rights abuses in the minerals trade are geographically concentrated in the DRC and adjoining countries. Once mineral profits reach the hands of armed groups, they fuel and finance not only the general armed conflict in the DRC, but also the particular crisis of rape and sexual violence against women. Now the DRC has the dubious distinction of being the most dangerous place on Earth to women and girls (Raj: 1027, 989; Mukwege 2016; Yancy).

In short, increasing demand for natural resources and inequalities in the distribution of these resources can lead to conflict between groups and environmental degradation. Rich resource can lead to competition between groups, control of access can be a cause of conflict, and exploitation of natural resources occurs as a means for competing groups to finance conflicts. The multimillion dollar global minerals trade is one of the central issues fueling the conflict and the corresponding humanitarian crisis (for example, mass slaughter and rape) in the DRC.

2. Mining slaves in DRC

(1) Conflict and slavery

In natural resource mining in the DRC, there are the extensive scale and diversity of slavery. In order to eradicate causal factors of enslavement,

the risk of exploitation and slavery should be eliminated. Free the Slaves conducted a field investigation to document the types, nature and scale of slavery at major mining sites in South Kivu province, to analyze the characteristics that cause Congolese workers to be vulnerable to enslavement, and to recommend solutions (Free the Slaves: 5).

Many Congolese people in mining zones toil in conditions of slavery, and groups engaged in armed conflict reap the much benefit from mining. Because of very low levels of formal employment, the population of DRC migrates toward mining areas in search of work and means to support their lives. In many cases their lives become entrenched in the mines as a result of debts they have contracted, or work they are obligated to carry out. Under such precarious and dire conditions, modern slavery thrives and takes men, women, and children alike in its diverse forms (Free the Slaves: 5, 10).

(2) Research sites and findings: Diverse forms of slavery

In the South Kivu province of eastern Congo, three primary sites were selected, including mines in and around the cities of Kamituga and Lugushwa (Mwenga territory), and Nyamurhale (Walungu Territory) (Free the Slaves: 11).

Broadly speaking, the research revealed the existence of multiple and distinct forms of slavery across the three sites. The conditions in the mines of South Kivu favor those in power, who control and force their victims to submit to diverse forms of modern slavery, with little opportunity to gain autonomy. The survey findings are valuable information for a wide variety of actors working to improve the status of human rights in eastern DRC, including those focused on human trafficking, conflict minerals, child rights, gender-based violence and rural poverty (Free the Slaves: 5, 16).

In short, the scale and diversity of slavery is extensive, despite legislative developments and national and international investment to end abusive mining. Eliminating the risk of enslave-

ment in eastern DRC also necessitates addressing pervasive causal factors such as poverty, lack of education, and generalized insecurity (Free the Slaves: 29).

3. Institutionalized corruption and violence

(1) Violent kleptocracy: A criminal state and human rights risks

In cobalt mining and trade in the DRC, corruption and violence are institutionalized to 'violent kleptocracy system'. Against this system, we must tackle transparency and human rights risks.

Cobalt benefits and motivates some of the largest corruption networks in the DRC, and is an important source of finance for former President Joseph Kabila's regime. Human rights abuses, state-sanctioned violence, and wide spectrum of corruption at and around the cobalt mining and in the cobalt trade form a crucial pillar in the DRC's 'violent kleptocratic system' (Callaway: 4; Lezhnev; Mukwege 2018).

Hundreds of millions of dollars went missing from Congo's state-owned mining company, Gécamines, between 2011 and 2014 with direct ties from this missing money to deals with international copper and cobalt mining companies. The networks of corruption extend beyond DRC's borders to foreign commercial facilitators such as key Kabila financier Dan Gertler, whom the US Government sanctioned in 2017 for generating illicit wealth, mainly from corrupt and opaque mining deals in DRC. And several industrial cobalt and copper mining companies operating in the DRC are currently under investigation in the United States, the United Kingdom, and Canada for their potential role in corrupt activities (Callaway: 5; Global Witness 2017).

The scale of potential revenue in this trade dwarfs that of tin, tungsten, tantalum and gold—otherwise known collectively as conflict minerals. Although cobalt mines are not located in areas with a history of armed conflict, as was the case

with conflict minerals in DRC's Kivu provinces, the cobalt industry is nonetheless connected to violence. The Republican Guard—the president's elite security force—has been documented illegally controlling artisanal mine sites, sometimes through use of violence or threat thereof. These abuses are in addition to child labor, sexual exploitation, and other violations of human rights (Callaway: 5).

(2) War crime of natural resource pillage

In the mineral mining in the DRC, natural resource pillage is hanging out. Cooperating national and international court, war crime of pillage must be prosecuted and punished.

Often mined and transported by civilians under threat of extreme violence, minerals provide lucrative incomes to rebels, factions of the Congolese army, and the businesses with which they work, helping to sustain their violent activities. Professor Gregoire Mpungu at Kinshasa University mentioned, "Most places where minerals are being exploited, rape is also going on." In some cases, theft in eastern DRC is highly orchestrated, spanning multiple countries and involving a range of actors. In the Great Lakes region, these networks include indicted war criminals, militias, business people, and government officials (Dranginis: 3; UNEP-MONUSCO-OSESG).

The UN and US sanctions regimes for illegal natural resource exploitation linked to armed groups. Several new initiatives aimed at spurring more responsible supply chain management, and a number of companies have taken leading roles in reducing the global demand for untraceable minerals that may help fuel armed violence in the DRC. Many of these initiatives have helped reduce income to armed groups, stimulated more formal minerals markets, and increased transparency and accountability related to illegal activities (Dranginis: 3).

IV. Conclusions

The state of DRC is seriously neglecting its tasks to protect human rights and the environment. Instead, the state is using the worst forms of violence and is killing its own citizens in the process. Hundreds of homes have been illegally demolished by police forces at CMSK, forcing inhabitants to move to tents and never compensating them. Government authorities illegally extort money from artisanal miners living and working under the most terrible conditions. The environment and public health are severely impacted by pollution caused by mining activities, but polluters are not held to account. In the context in which the rule of law is virtually absent as in Katanga, mining companies can operate almost without restriction. This has compromised public health, safety, biodiversity, quality of water, air, and livelihoods, and access to water.

In addition, cobalt production in the DRC is also marked by human rights abuses, including child labor at the mines. Facing the devastating impact which the sourcing of cobalt for the products has on Congolese citizens, urgent action is required to shed light on the insidious linkages in DRC's cobalt trade, to alter the incentive structure away from violence, corruption and human rights abuses towards a transparent, peaceful and responsible supply chain.

[Notes]

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