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and Injustice
against Artisanal
Miners in the
Congolese Cobalt**

Claude Kabemba & Georges Bokonde



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SARW is an independent watchdog organisation that advocates and promotes human rights and environmental protection in resource extraction activities by monitoring corporate and state conduct in a peaceful and collaborative manner.

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Southern Africa Resource Watch

1st Floor, President Place

1 Hood Avenue / 148 Jan Smuts Avenue (Corner Bolton Road)

Rosebank, Johannesburg 2001

+27 (0) 11 587 5026

info.sarwatch@sarwatch.org

www.sarwatch.org

Editorial Team: Claude Kabemba, Georges Bokonde and Joseph Cihunda

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Overexploitation and Injustice against Artisanal Miners in the Congolese Cobalt Supply Chain

Artisanal mining produced 20% of the cobalt extracted in the Democratic Republic of Congo (DRC) during the boom of the last two years and has drawn the attention of producers and consumers of electric cars, smartphones and the arms industries. For many of them, the problems related to the environment, work conditions, use of toxic or harmful substances and particularly child labour need to be solved in order for Congolese cobalt originating from artisanal mining be certified clean on entering the world market. Although these problems are important in the supply chain and must be solved, this research shows that the fundamental issue at stake is the overexploitation of artisanal miners and their poverty.

The main objective of this report is to address two fundamental and interconnected issues. The first concerns the reasons why, despite progressive mining legislation, the DRC still fails to sort out the artisanal mining situation. The second and more important issue examines the factors preventing artisanal miners and local communities from reaping sufficient benefits from artisanal cobalt production.

Cobalt ore is and will long remain highly strategic in cutting-edge technology and the fight against global warming. Cobalt has become an important stake in the power relations between the major powers seeking to secure access to and gain control of the metal through their multinationals. These powers include China, the USA, the European Union, Great Britain, Russia and Japan

Considering the stakes surrounding cobalt ore and the struggle to gain control over it, the DRC seems poorly equipped to take full advantage of its position as the world's largest producer of cobalt and holder of more than 60% of the world's known reserves.

The report shows that when the price of cobalt shot up, causing artisanal cobalt production to increase to about 20% of national production, the artisanal miners derived no benefit from the soaring cobalt price on the world market. They were subjected to overexploitation, with all benefits accruing to foreign traders dominated by Chinese operators and to some Congolese political actors who have dealings with the artisanal sector.

Raids carried out on the various mining sites revealed the virtual absence of any coherent management policy for the artisanal sector. The absence of such a policy is a major obstacle to artisanal mining's contribution to the sustainable development of the local economy.

Despite the considerable scale of cobalt production by artisanal miners, the latter do not derive enough benefit from this boom which should be helping them to rise out of poverty. Mafia-style practices that reduce the revenue of the artisan miners have been instituted by buying counters held mainly by Chinese nationals for ore sales.

These practices consist of rigging the methods of weighing and grading ores, with the full knowledge of the political and administrative authorities. Unless the state takes measures to protect, assist and guide the artisanal miners, and shelter them from political predators as well as from Chinese, Lebanese and Indian dealers, the miners will remain poor. Among other consequences of this situation is the presence of miners' children and child labour in the mines and on mining sites.

Projects to get children out of the artisanal cobalt mines will not succeed until the principal cause of the presence, namely the poverty of the parent miners, is addressed. To solve the poverty problem and thereby continue the fight to clear mining sites of children and child labour, artisanal cobalt production must contribute to the enrichment of the artisanal miners and, by extension, to the development of local economies. Artisanal miners who receive decent pay for their cobalt will take care of their families, invest in other economic activities and pay state taxes.

Economic policy regarding artisanal cobalt mining in the DRC continues to subject the miners to violence and denigration. They live from day to day in dire poverty even though they provide one-fifth of national cobalt production. Owing to this poverty and the ineffectiveness of the state authority, Congolese who have decided to work as artisanal miners are exploited by Chinese, Lebanese and Indian buyers in full view of the public authorities. These buyers, taking advantage of their alliances with the political and military authorities, stock up on cobalt at miserable prices by resorting to techniques which reduce the weight and grade of the cobalt. Such exploitation is not new. The Chinese have intensified it in the past few years.

This report reveals the failure of the public authorities to monitor this activity, the main consequence of which is the unfair distribution of benefits generated by such mining to the disadvantage of the artisanal miners. Furthermore, it unveils the well-planned and well-executed Mafia-type system of overexploitation of the miners by the Congolese political elite in complicity with foreign operators. It is this systematic overexploitation that is eroding the artisanal mining sector, particularly the cobalt sector, and keeping the miners in a state of permanent poverty.

With industrial mining increasingly aimed at meeting the demand for cobalt on the world market, artisanal mining remains cheaper thanks to an overexploited and impoverished local workforce. Indeed, the report recognizes that these miners work in deplorable conditions, resulting in repeated landslides and loss of human lives. The miners are exploited regardless of whether they work in the ZEAs (Kasulo), within the perimeter of a mining company, without authorisation (TFM) or with authorisation (CHEMAF); however, the degree of exploitation differs.

This study highlights a paradox: the systematic exploitation of artisanal miners through various nefarious practices and the ongoing disorder in the artisanal sector persist and escalate even though artisanal mining has been legalised in the DRC. Clearly, mining legislation is ineffective and the state institutions responsible for the mines are inefficient. On-site surveys reveal that the Mining Code is not complied with, particularly regarding observance of the integrity of the perimeters of industrial mines, the allocation of ZEAs, the supervision of artisanal miners and the purchase and sale of artisanal mining products. It is evident that, in such a context, artisanal miners will never reap any substantial benefit.

Responsibility for this systematic exploitation of artisanal miners lies with the Congolese state for two major reasons.

- Firstly, failure to enforce the law. Whatever the case, artisanal mining is not organised, despite the existence of relevant legislation to that end. It is the duty of the Congolese state to organise it, for an activity cannot be given legal status without being given a formal character.
- Secondly, the “carte blanche” given by the state, knowingly or negligently, to foreigners dominating the artisanal sector, which is supposed to be under the exclusive control of the Congolese with a view to accelerating local development.

In reality, there is an almost total absence of any coherent policy by the Congolese state concerning management of artisanal mining. Artisanal activity thus needs to be rethought for it to be successful, in the ZEAs or, wherever possible, in cohabitation with industrial mining. Coexistence is only possible when both mines respect each other, are organised and can work together.

Solutions are often proposed in terms of respect for human rights, child protection and environmental protection. Far from minimising these problems, solving them would not sustainably resolve the main issue eating away at the heart of artisanal mining: poverty.

The greatest challenge is to ensure that artisanally mined cobalt contributes to the development of local economies and the enrichment of the miners. How can we ensure that artisanal miners are decently paid for their products and that the state collects its duties and taxes? Artisanally produced cobalt is the same as industrially produced cobalt. It is incomprehensible that industrial miners grow rich while artisanal miners remain poor.

In order to reverse this material inequity:

- The state must take responsibility and invest in formalising the artisanal sector. It must ensure that the relevant provisions of the Mining Code are enforced. The national and provincial governments must see to it that artisanal mining remains an activity reserved for Congolese nationals only, in accordance with the Mining Code;
- The formation of cooperatives must be initiated strictly by the artisanal miners, without any political interference and must enjoy the support and guidance of the national government. Appropriate structures need to be set up within the mining cooperatives to ensure rational management of their activities and remuneration of members (co-operators), by approaching commercial banks for assistance;
- The state must put an end to the use of iniquitous practices such as falsifying the weight, grade and price of cobalt by traders and buying counters and must set up trading centres to that end. These must be equipped with all necessary infrastructure and reliable technology. All artisanally extracted ores must be sold in such centres in strict compliance with Congolese legislation on price regulation and in accordance with world market prices;
- The government must establish viable ZEAs for the benefit of legally formed cooperatives. The state must set itself two goals: facilitating access to ZEAs and supporting the artisanal miners with stripping (overburden works). It must set up monitoring mechanisms targeting all participants in the cobalt mining supply chain;
- Industrial operators which have unused spaces must be urged to hand over certain perimeters to artisanal miners, in accordance with the law. When cohabitation is possible, all provisions of the Mining Code must be enforced. At the same time, the state has an obligation to protect and safeguard industrial miners, and
- As the biggest cobalt producer in the country that holds more than half of the world's reserves, the government must define a clear and appropriate policy in due proportion to the economic and geo-strategic stakes. The DRC must be at the centre of all decisions affecting cobalt, starting by demanding that the metal be processed locally for added value prior to export.

SARW Objectives

Monitor corporate and state conduct in the extraction and beneficiation of natural resources in Southern Africa, and assess to what extent these activities uplift the economic conditions of the region's communities.

- Generate and consolidate research and advocacy on natural resource extraction in Southern Africa.
- Create informed awareness of the specific dynamics of natural resources in Southern Africa, building a distinctive understanding of the regional geo-political dynamics of resource economics.
- Provide a platform of action, coordination and organisation for communities, activists, researchers, policy-makers, corporations, regional and global governing bodies in the watching and strengthening of corporate and state accountability in extractive industries.
- Engage with and support government on building accountable and transparent management of extractive resources.
- Build capacity for communities, civil society, parliaments, and media to hold governments and corporations to account, and to participate in decisions about resource management.
- Advocate and promote human rights and environmental protection in resource extraction activities.
- Support efforts to legislate mandatory public disclosure of and access to financial, social, environmental and regulatory compliance information in the extractives industry.
- Promote extractive industries that create wealth for local communities.

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