



**A GREEN TRANSITION  
BUT AT WHAT COST?  
COBALT MINING IN THE DEMOCRATIC  
REPUBLIC OF THE CONGO**

PREPARED BY

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# INTRODUCTION

The rapid advancements in technology throughout the last decades have resulted in many people across the globe acquiring access to phones, computers, and high-speed internet. The electronics industry overall produces trillions of dollars annually. Because of the imminent threat of human-caused climate change, there has also been a shift towards green energy. Innovations such as electric cars, wind turbines, and solar panels can provide clean or renewable sources of energy. These innovations share a common factor: they rely on a mineral resource known as **cobalt**. This increase in demand has led to a dramatic increase in the mining and production of cobalt.

Cobalt is found in several areas of the world; however, over 70% of the world's cobalt comes from the Democratic Republic of Congo (DRC). The DRC's mining sector represents a key driver of global economic development, especially on the road to economic recovery from the COVID-19 pandemic. Cobalt mining is a billion dollar industry, but the mining sector in the DRC is riddled with severe human rights violations, including labor exploitation, child labor, and deadly work conditions. Cobalt mining also is having a devastating impact on public health and failing to provide meaningful economic benefits to impoverished communities in the DRC. If we examine the mining and production of cobalt, we can trace a human rights narrative seen all over the world, of colonization, exploitation, corruption, poverty, and economic dependence.

Despite these issues, hundreds of thousands of Congolese people depend on cobalt mining as a way of life. The DRC's history was marked by violent colonial rule and genocide under the Belgium King Leopold II at the turn of the 19th century. This was followed by a difficult transition to independence due to various political crises, foreign intervention, and ethnic conflict caused by divisions put in place under colonialism. Today, foreign states as well as multinational corporations have a huge interest in the DRC and its natural resources. But they are operating under a legislative system that still reflects their colonial past, allowing for exploitative resource extraction and little to no checks on mining practices and policies.

Solutions to the human rights issues associated with cobalt mining in the DRC are anything but simple. Any practical proposal needs to consider international cooperation, regulation of private investors, the fragile political context in the DRC, and the severe economic repercussions that might result from adaptations

# INTRODUCTION

to the industry. While many people in the West enjoy the benefits of more efficient and greener energy sources, these privileges come largely at the expense of the Congolese people. The mining industry that supplies the building blocks of clean technology are causing a crisis of modern slavery and an abundance of human rights and environmental issues in the DRC.

This report is designed to provide political, historical and human rights context for cobalt mining in the DRC. By researching and creating this report HTS hopes to help raise awareness about the current situation and foster informed dialogue on solutions that work for both the planet and the people of the DRC.



*Luwowo Coltan mine near Rubaya, North Kivu [DRC] the 18th of March 2014*

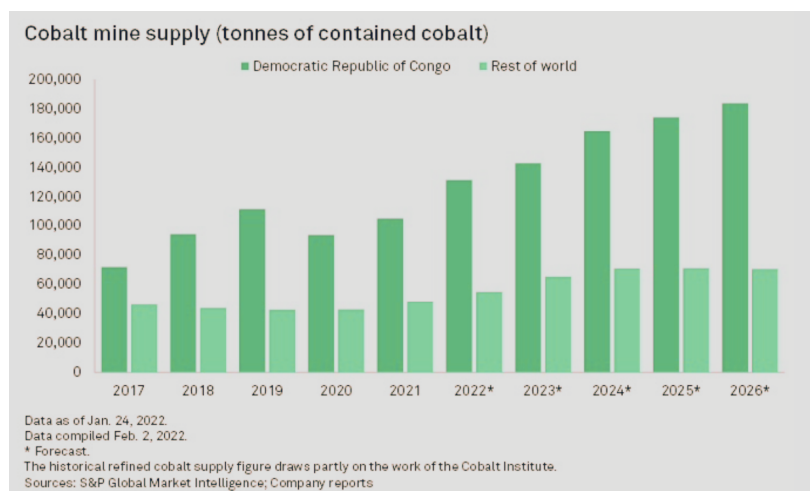
# BACKGROUND: COBALT AND POLITICAL CONTEXT

## COBALT AND COBALT MINING

Cobalt is an extremely important mineral due to its range of uses in key industries, including energy, communication, and transportation. As a key ingredient in creating greener and cleaner technology, cobalt has emerged as an invaluable element in the battle to reduce environmentally destructive carbon emissions that come from the use of fossil fuels. The crucial role cobalt plays has led to its being listed as a critical mineral by many countries, including the United States, United Kingdom, and South Korea. It is particularly important as a raw material used in the production of rechargeable lithium-ion batteries. These rechargeable batteries are widely used for electronics such as cell phones and computers, in electric vehicles, and in storing wind and solar-powered electricity.

Given such a broad range of uses, it is no surprise that the mining and production of cobalt has heavily increased over the last few decades. Across the globe, more industries are shifting to renewable energy, and the market for electric vehicles is booming, especially in Europe and China. Widespread implementation of green transition treaties and policies demonstrates that the market for renewable energy, and, therefore, cobalt, is only set to exponentially increase in the years to come.

Cobalt is primarily extracted as a by-product or co-product of other metals such as nickel and copper, meaning it is very rarely mined on its own. Therefore, cobalt mining is traditionally entrenched in broader mining industries. Once mined from the earth, it is then processed, traded, and put into use



as it makes its way down the supply chain to a finished product. While cobalt is mined as a byproduct of different minerals in many countries such as Russia, Canada, Australia, and Morocco, the DRC currently produces an estimated 70% of the world's cobalt supply. China and the United States, in particular, remain in fierce competition in the clean energy race, and, therefore, for cobalt.

Although the DRC leads the world in raw cobalt resource deposits, market-ready cobalt is almost entirely traded, refined, and manufactured outside of the country. Mines are largely owned by multinational corporations, primarily from the United States, Europe, and China. China, in particular, has hugely increased its presence in the mining sector of the DRC over the last several years. Since cobalt is extracted immediately after being mined, the Congolese people see virtually none of the profits produced as cobalt makes its way down the supply chain into high-end technology products. This continued extraction of the DRC's natural resources by foreign stakeholders and the exploitative conditions on the ground perpetuate the market colonial relationship and devastation that has kept the DRC in a low socio-economic development category for decades. With the increasing importance of clean energy in ending human-caused climate change, the cobalt mining sector begins to feel like part of a geopolitical arms race, with the DRC losing on every side.



## THE DR OF CONGO: THEN AND NOW

The exploitation of both the Congolese people and the DRC's natural resources have been part of the narrative since 1885, when Leopold II of Belgium claimed the DRC as his private property. During Leopold II's and later Belgium's 1908 to 1960 colonization of the DRC, an estimated 10 million of Congolese died of disease and exploitation, mainly involving forced labor. Although the DRC gained ostensible independence in 1960, that independence did not lead to freedom from Western influence and control. In 1965, just 5 years after independence, a coup by Mobutu Sese Seko made him the new President. In a Cold War context, this was seen as beneficial for the United States and Western powers due to Mobutu's perceived anti-Communist stance. Mobutu was able to centralize power to himself and the ruling elite with the support from the United States, France, and Belgium. This monopoly of power in post-colonial DRC, described by Jean-Francois Bayart as "the politics of the belly" created a fertile ground for corruption, kleptocracy, patrimonialism, and the lack of control at the border, enabling smuggling. This only worsened the DRC's socio-economic situation resulting in civil wars, ethnic violence, and genocide. The result of these humanitarian crises left the DRC's economy heavily crippled and underdeveloped to the present day.

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Ongoing and persistent lack of financial resources and infrastructure across public, security, social, education, and health services born under colonial rule in the DRC remain entrenched. In 2018, 60 million people, 73% of the Congolese population, were living in poverty. The DRC has the second highest number of poor in Sub-Saharan Africa, with one in six persons living in extreme poverty in Sub-Saharan Africa living in the DRC. This figure has undoubtedly increased due to the COVID-19 pandemic, the economic consequences of the war in Ukraine, and the continued lack of ability for local populations to reap benefit from the resources of their land.

THE DRC IN NUMBERS	
<u>HDI (human development index)</u>	0.480 (low development category) 175/189 rank (has been increasing though)
<u>Corruption</u>	169/180 rank 19% Consumer Price Index
<u>Malnourished Children</u>	43%3.4 million children
<u>Years in Education (avg)</u>	On average, a Congolese child receives 9.1 years of schooling, though translating into 4.5 years of learning-adjusted years of school.

THE DRC IN NUMBERS CONT.	
<u>GDI (gender development index).</u>	0.845 (low equality in GDI achievement)
<u>GII (gender inequality index).</u>	0.617 rank 150/162
<u>Electricity.</u>	19% of the population has access to electricity. (This is lower than both the average for its region (50%) and the average for its income group (41%).)
<u>The MPI (the share of the population that is multidimensionally poor, adjusted by the intensity of the deprivations — identifies multiple overlapping deprivation suffered by individuals in 3 dimensions: health, education, and standard of living — for more information on this measure, please click here.)The breadth of deprivation (intensity) (average deprivation score experienced by people in multidimensional poverty).</u>	0.331 (Deprivation score is 33.3% or greater, the household (and everyone in it) is classified as multidimensionally poor.) The share of the Congolese population considered to be multidimensionally poor is 64.5% or 54,239 thousand people. The intensity of deprivations is estimated at 51.3%, ranking below Sub-Saharan Africa, with the standard of living being the first contributor to overall poverty of deprivations.
<u>Internally Displaced People</u>	More than 5.3 million total
<u>Armed Groups.</u>	120 — vast amount of human rights violations reported including recruitment of child soldiers
<u>Severe food insecurity.</u>	27 million people
<u>People living on less than \$1.90 a day (international poverty rate).</u>	60 million people 73% of the Congolese population

As the figures above underline, the recent increase in use of cobalt for lithium batteries (the DRC's leading industry) has yet to result in economic and social improvement for the local population. Instead, the exploitative policies on the



extraction of raw minerals begun under colonization continue to leave the DRC one of the economically poorest countries in the world. Contrary to increasing economic prosperity, cobalt's new importance in global markets has resulted in increased violence, social conflicts, and rampant corruption, particularly apparent in the ongoing conflicts in Eastern DRC. This is due to local economies and the presence of armed groups becoming intertwined, including in the mining industry. The natural resources in the DRC are amongst the richest in the world. But ethnic and political grievances, coupled with regional geopolitics as armed groups fight for control of these valuable resources, mean this abundance only adds to the ongoing conflict. When layering on the lack of economic opportunity across the DRC, which bolsters recruitment for armed groups, and the stolen mineral wealth financing these militias, breaking this cycle can seem almost impossible.

# COBALT MINING IN THE DRC

The DRC's cobalt mines are currently responsible for a host of well-documented human rights abuses. Cobalt mining largely takes place in the southern region of the DRC known as Katanga. Cobalt mining is broken up into two primary divisions: industrial and artisanal mining. The former (large-scale mines or LSM) makes up the majority (around 65 to 85%) of mining operations in the DRC. These mines are primarily owned by multinational corporations and operated with heavy machinery and other equipment. Artisanal and small-scale mining (ASM) make up the remain-

Selection of cobalt-producing mines in the Democratic Republic of the Congo



Data compiled Feb. 8, 2022.  
\* Mine undergoing planned expansion or opening.  
Map credit: Joe Felizadio  
Source: S&P Global Market Intelligence

S&P Global  
Market Intelligence

ing quarter-or-so percentage of Congo's mining operations. ASM operations are done by hand or with basic tools, without the use of sophisticated equipment and the backing of large companies. ASM persists due to the ongoing conflicts, the early 2000s collapse of a large state-owned mining operation, and

the presence of areas where LSM cannot viably operate. As will be discussed, both ASM and LSM operations are connected to grave human rights issues.

## LARGE SCALE AND INDUSTRIAL MINING

The majority (around 80%) of the DRC's cobalt is mined from LSM. Industrial mines in the DRC are owned and run by partnerships between the DRC's state-owned mining company, Gécamines, and private multinational corporations from multiple foreign countries. Ownership of these mines is split between different mining shareholders, and they dig up a number of minerals, primarily cobalt and copper.

### Top-producing cobalt companies in 2020

Global rank	Company	Cobalt		
		Attributable production (tonnes)	Production value (\$M)	Global production share (%)
1	Glencore PLC	25,946	815.28	18.708
2	China Molybdenum Co. Ltd.	12,349	388.03	8.904
3	Gecamines SA	11,663	366.48	8.410
4	Eurasian Group LLP	10,500E	329.93	7.571
5	Shalina Resources Ltd.	6,650E	208.96	4.795
6	Zhejiang Huayou Cobalt Co. Ltd.	5,390E	169.37	3.886
7	Vale SA	4,192	131.73	3.023
8	PJSC Mining and Metallurgical Company Norilsk Nickel	4,102E	128.89	2.958
9	Chemaf SPRL (Shalina Resources)	4,000E	125.69	2.884
10	Jinchuan Group International Resources Co. Ltd.	3,293	103.47	2.374

Data compiled Feb. 8, 2022.

E = estimated

Source: S&P Global Market Intelligence

Less public scrutiny has been given to industrial mining companies in the DRC, and they often promote their operations as clean, sustainable, and free of human rights abuses. The same rhetoric has been taken up by companies that supply cobalt from LSM. However, recent investigations and research into LSMs reveal that these mines are far from the picture painted by their marketing teams. Instead they are fraught with exploitative labor practices, workplace abuses, health and safety issues, and blatant racism and discrimination against Congolese workers.

Instead of directly hiring Congolese people as formal employees to work in the mines, industrial mining companies in the DRC rely heavily on subcontracted labor. As much as 68% of the workforce in many mines from miners, cleaners, drivers, security guards, and other personnel are hired through subcontracting firms. Subcontracting is used as a way to reduce costs of labor, prevent unionization, and limit mining companies' liability for safety issues. Compared to direct hires who theoretically have greater job security, employee benefits, and wage rates regulated by the State, subcontracted workers make significantly less money for the same amount of work. Most make below the minimum living wage, and the subcontracting firm ensures that they move work sites often to avoid detection and regulation. Additionally, this frequent moving means subcontracted workers cannot advance, do not receive benefits, work longer hours without overtime compensation, and can easily be discarded and fired. The Congolese 2002 Code du Travail or labor code does not provide protection, but subcontracting enables companies to avoid scrutiny and compliance with the existing laws and to continue the exploitative labor practices largely without penalty.

Due to the level of investment and scale of LSM, the industrial mines utilize heavy, sophisticated equipment as opposed to ASM. As such, industrial mines generally have better safety standards relative to ASM. Nevertheless, serious injuries and death occur as mining is among one of the most dangerous lines of work. Because of weak

regulations/enforcement and attempts to keep costs low, companies operating industrial mines in the DRC do not do enough to ensure worker safety. Some miners claim that safety standards have worsened in recent years, especially under the expanded management of mines by China, particularly Molybdenum. Many have also complained of health issues related to working in the mines, including lung issues, chronic coughs, and severe body pains. Health and safety concerns are even more pronounced for subcontracted workers on these sites as they do not receive any health benefits.

As the demand for cobalt grows, reports and videos of racist tirades and discrimination against Congolese workers in LSM by their managers have also grown. This is due in large part to expatriate workers from the country where the multinational mining companies are headquartered, coming to the DRC, usually in positions of power and authority over the local workers, with no training or oversight on racial sensitivity and cultural awareness. The expatriate workers also receive preferential treatment by the companies, including better food and water, higher pay, and opportunities for advancement. Many Congolese workers report degrading treatment, abuse, and frequent racist comments by their managers and expatriate coworkers. Investigative work reveals that Congolese workers in LSM receive unsafe drinking water and are not allowed in mine facilities and eating quarters that serve only expatriates. Evidence points to a two-tiered system at LSM, which favors foreign expatriate workers and unfairly discriminates against Congolese people.

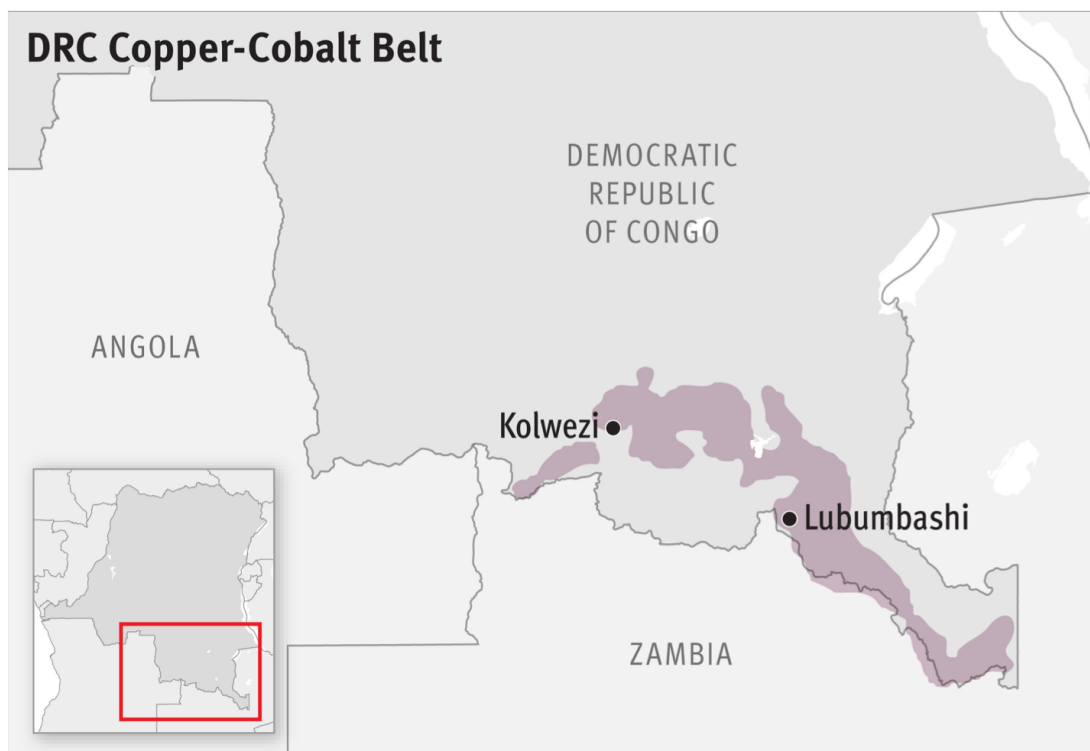


## ARTISANAL AND SMALL SCALE MINING

ASM operations also suffer from a severe lack of regulation, and include child labor, extremely low pay, and highly dangerous work conditions. Between 15 to 30% of global cobalt's provenance stems from small-scale and artisanal mining, representing the second-largest production of cobalt in the world following the large-scale cobalt mining in the DRC previously mentioned. According to the World Bank, ASM involves individuals and groups of individuals, with nearly a quarter-million of artisanal and small-scale miners reported. Despite making up a smaller (yet still significant) portion of the DRC's mining operations, artisanal mines have been excoriated by human rights groups and activists due to exploitative and child labor practices as well as extremely dangerous working conditions.

ASM operations are carried out by independent miners and some small mining cooperatives. Miners extract cobalt manually, using their own basic tools and often just their hands. Some dig tunnels and "open-air mines" of their own, while many

others scrape through giant embankments of excess dirt from the commercial mines, which rest on the outskirts of their towns. Private security forces of foreign-owned mines tasked with protecting the commercial mines shoot at Congolese people who dig for cobalt in the giant dirt piles. These types of mines, mostly unregulated, leave space for dangerous working conditions leading to injury, health issues, and fatal accidents. Despite all the dangers and risks, Congolese people in these grindingly impoverished communities have few other options for earning income and are dependent on extracting cobalt as a way of life. As large-scale mining operations in the DRC are mostly owned by foreign investors and corporations, the inability of people from traditional mining communities to access and generate income from their own land continues to generate tension and security issues across the mining areas. Despite making less than \$2 a day from the amount of cobalt they collect to sell, they continue to risk their lives.



Map Source: *RAID Report, Road to Ruin*



# COBALT MINING ISSUES IN THE DRC

Cobalt mining in the DRC in both ASM and LSM practices has been linked to various human rights abuses as mentioned previously, ranging from child labor and insufficient pay to racism and dangerous work conditions leading to illness, injury and sometimes, death.

## CHILD LABOR

There is a growing awareness about the connection of cobalt mining, especially from ASM, to child labor, with children as young as age 6 documented working in the mines. A multitude of studies and reports highlight the prevalence of children (below 18 years of age) working and living near these hazardous mines sites. Children and child labor at cobalt mines result from multiple issues stemming mostly from social, economic, and security factors. One primary reason children are often present at mines is that both parents are working at the mines, with no one else available to care for the child while their parents work. In addition, there is little to no separation between mines and residential areas. It is technically illegal for children to work in mines. But weak and corrupt law enforcement, coupled with low accountability on the part of the mines and the easy availability of the cheap labor that children represent, has resulted in child labor being baked into standard practice. In addition, access to education remains challenging for most families, and the majority cannot afford the economic strain for secondary education. This means a significant number of children are out of school and have few other options besides working in the mines.

They work to earn income for their families or towards their continuing education, sometimes even working alongside their parents. The prevalence of child-headed households and young mothers (below the age of 18) who need to provide for themselves and their families also contributes to the child labor numbers. Multinational corporations such as Apple and Tesla, who use cobalt in

their products at the market end of the supply chain, voice intolerance in their marketing materials of child labor but fail to adequately address or investigate human rights abuses in their supply chain — instead shifting the responsibility to eliminate child labor to their suppliers and claiming ignorance or innocence.

Per the Congolese “*Code du travail*,” employers must adhere to certain rules relating to the type of employment they provide to a worker. The Code requires temporary employees working for more than 2 years to be granted permanent worker status and benefits. But subcontracted workers masquerading as short-term laborers have been found to be working on the same mine site for more than two years: mine workers, catering staff, security personnel, truck drivers, etc., which is a violation of Congolese labor laws. Subcontractors and mining companies are unwilling to grant permanent worker status and pay for the benefits that come with this status. The result is that subcontractors force workers to shift subcontracting jobs every couple of years to prevent the need to hire them as official employees.

Mining companies take advantage of outsourcing labor in these ways, as it costs less, limits their accountability for health, safety, and labor standards and reduces the probability of workers forming unions to advocate for better benefits and treatment. It also enables abusive practices such as long hours, unlivable wages, limited or no access to healthcare, no rest and paid leave, wages not paid on time, and contracts abruptly terminated with no explanation. The lack of transparency provided by the “subcontractor work around” allows mining companies to avoid violating the Congolese labor law, and is a major factor in subcontracting being extremely popular as a way to find workers within the mining industry in the DRC. reduces the probability of workers forming unions to advocate for better benefits and treatment. It also enables abusive practices such as long hours, unlivable wages, limited or no access to healthcare, no rest and paid leave, wages not paid on time, and contracts abruptly terminated with no explanation. The lack of transparency provided by the “subcontractor work around” allows mining companies to avoid violating the Congolese labor law, and is a major factor in subcontracting being extremely popular as a way to find workers within the mining industry in the DRC.

Labor exploitation on these mines is paired with discriminatory and racist practices that violate both the Congolese Labor Code and international conventions ratified by the DRC. Children under 14 years of age are reported to earn an average of \$0.81 per day; adult women, an average of \$1.02; and adult men, an average of \$2.04 for the same type of work. As mentioned previously, the degradation and racism on mines sites includes regular physical and verbal abuse with little to no accountability due to the subcontracted labor model. In

recent reports, non-Congolese workers were consistently found to be placed in higher positions at the mines and were also earning disproportionately higher wages for the same work as their Congolese counterparts. Some mining companies and sites claim the deterioration and degradation of labor standards on mines sites are attributable to the increase of Chinese companies in recent years. They cite their Chinese competitors as responsible for standardizing the practice of lower wages, benefits cuts, outsourced labor, and a reduction of standards due to resource cuts.

The ongoing COVID-19 pandemic has also increased vulnerability to exploitation due to the precarious nature of clear, adequate policy and no oversight at the height of the pandemic. In the mining sector of the DRC, certain mining companies were linked to forced labor during the pandemic, locking down their workers in unsanitary and unsafe accommodation as well as violating their freedom of movement. Other companies made workers redundant due to the hardships of the pandemic. In a recent article, the organization Rights and Accountability in Development (RAID) highlighted the additional danger miners were faced with during the COVID-19 lockdown. RAID found that miners were forced to live in overcrowded unsanitary accommodations. The Mining Manager confined workers on mine sites in close quarters during the pandemic, which required social distancing, protective equipment, and constant sanitation in order to maintain a safe environment. Miners locked on site also received inadequate food and water rations. Mining companies claimed their aim with these practices was to control the spread of the virus. These sanitation risks were paired with miners working almost 10 hours a day (the DRC's legal working hours for 5 days during a 7-day week) and no transparency or information on when these new requirements would stop.



## **DANGEROUS WORKING CONDITIONS: HEALTH**

The harmful health effects of working on cobalt mines, especially in ASM, due to the low prevalence and provision of protective gear and inadequate infrastructure have been well documented. As Mark Dummett, Head of Business, Security and Human Rights at Amnesty International, remarked, “men, women and children were working without even the most basic protective equipment such as gloves and face masks.” These dangerous working conditions led to both short-term and long-term potentially fatal diseases and health conditions. These conditions arise particularly from the dust and waste generated from mining cobalt.



The dust and metals from mining pollute water, air, and soil causing decreased crop yields, contaminated food and water, and respiratory and reproductive health issues. Not only are there severe health consequences for the individuals directly working and staying on the mines but the environment and living conditions of the nearby communities are made unsafe due to the mines. The alarming levels of pollution, toxic exposure to dust, food, and water contamination resulting from both ASM and LSM in mining regions present a direct threat to the Congolese people and their future.

## **DANGEROUS WORKING CONDITIONS: INJURY AND DEATH**

Along with the health risks associated with these mines, workers are especially vulnerable to fatal injury as a result of the dangerous working conditions and poor safety standards. As previously mentioned, miners have little to no basic protective gear and inadequate infrastructure for the extraction process, resulting in unsafe mines. Narrow tunnels regularly collapse, often leading to fatal accidents, and demonstrate the life-threatening working conditions miners face. The range and number of common accidents on mine sites found across multiple investigations speak to the entrenched inadequate safety standards implemented in both LSM and ASM. In addition, impoverished miners are overworked and tired due to poor labor standards, receiving very few breaks and the enticement of bonuses to continue working beyond safe working hours. This overwork has led to fatal incidents and injury. The RAID report found especially dire health and safety conditions on Chinese-owned mines.

Accidents and deaths going undeclared, working despite injury or being fired in case of a debilitating injury coupled with a lack of adequate rest time highlight the preventable tragedy and blatant labor violations happening on these mines. Congolese legislation and International Labor Organization (ILO) conventions have been put into place that include compensation for the individual and their dependents in case of injury, weekly rest requirement, and access to free healthcare provided by the employers to the workers and their dependents. Unfortunately, these measures are not respected, enforced, or fulfilled in practice for Congolese working in the cobalt mines.

# THE ROLE OF MULTINATIONAL COMPANIES AND CORPORATIONS

The privatization of the mining industry of Africa in the 1990s resulted in the presence of international, mainly European, North American, Australian and Chinese companies buying the mining land and taking control of the sector in many African countries, including the DRC. The cobalt extracted and produced is then sent out globally to be processed and used in any product requiring cobalt. Cobalt is especially prevalent in the tech and automotive industries. As previously discussed, the products created using cobalt from the DRC and sold globally are built from resources extracted through abusive practices. The end product companies have little to no knowledge of their supply chains. So far they have refused to be held accountable for the human rights violations uncovered through countless studies and reports claiming due diligence is impossible, particularly due to the significant use of subcontractors. As a result, mining companies and the multinational corporations they supply are failing to abide by basic international labor standards. With the increased demand of cobalt as an important component of the “green energy” lithium batteries, addressing these issues becomes paramount to prevent the people of the DRC from paying the price for a cleaner environment.

In 2016 Amnesty International published a report urging corporations that purchase components or use cobalt from the DRC to fulfill their human rights and environmental obligations. The report asked them to commit to conducting due diligence in their supply chain, including multi-stakeholder initiatives. The report also called on international companies and subcontractors to stop shifting the blame and take accountability for adhering to the DRC's “*Code du Travail*,” as detailed previously. Alongside this report, a historic lawsuit was filed against some of the most powerful multinational corporations in Washington, DC, in 2019 on behalf of 14 Congolese families. The lawsuit concerned child labor and the dangerous working conditions that led to serious and fatal accidents on mine sites. This lawsuit managed to bring much needed global attention to the horrific conditions in the DRC cobalt mines.

Since the release of Amnesty International's report and the lawsuit, mining companies in the DRC have begun publishing annual sustainability reports. They are also sharing information about their involvement with initiatives aiming to both regulate and hold the sector accountable such as the Cobalt Institute and the Global Battery Alliance. These initiatives coupled with a push for mining companies to be a part of sustainable and abuse-free supply chains seem to have improved standards at some companies. Although no multinational corporations have taken all

recommended actions to address these issues, some of them have taken moderate action towards promoting transparency in their supply chains and responsible sourcing. However, those that have made changes remain in the minority. Some of the largest and most powerful corporations are still failing to take steps to ensure a “clean” supply chain, leaving abusive practices and child labor reports uninvestigated. In the *Time to Recharge* report by Amnesty International all the companies involved, their actions and inactions, are researched and laid out in black and white. Actions that have been taken by some companies include publishing the name of their cobalt suppliers and engaging with them to tackle child labor and rights violations. However, these actions are far from resolving the issue, nor do they go far enough to guarantee a truly “clean” supply chain. Many abuses are still going undisclosed and the remaining gaps in supply chain scrutiny make an accurate assessment difficult.

## STATE COMPLICITY

The Congolese Government holds the primary responsibility for respecting, protecting, and fulfilling human rights in the DRC. The Congolese 2002 “Code du Travail” and the 2018 revised mining law aim to regulate and monitor the labor standards in the DRC, including the mining sector. In addition, the DRC has signed and ratified the eight fundamental ILO conventions linked to labor standards as well as additional conventions regarding the illegal deductions of wages, rights to rest, and rights to compensation in the event of an injury. Although both the national and international legislations are binding, there are many reports of breaches of both, with few monitoring mechanisms and regulations in place. These violations are far reaching and worsened by subcontractors subverting the law, and there appear to be no repercussions nor accountability for the reported violations.

The mining sector and politics in general in the DRC show a long history of corruption and bribery, stemming from the previously mentioned causes. Reporting for the Organization for Economic Co-operation and Development (OECD) on cobalt mining in the DRC, RAID found numerous instances of “corruption linked to the acquisition and negotiation of mining rights, and corruption linked to the role of intermediaries and subcontractors.”. Israeli mining tycoon Dan Gertler was recently sanctioned by the United States and accused of corruption and human rights violations, which include his activity in the mining sector of the DRC. Gertler appears to have benefited from a close relationship with Joseph Kabila, former president of the DRC, which may have enabled these abuses to go on. In addition, “Congo Hold Up” reported corruption charges against Gecamines, one of the largest mining companies in

Africa. This report gave a shocking account of corruption under Kabila pointing to the use of a private bank to channel millions of dollars' worth of public funds to Kabila's family and associates. RAID's "Road to Ruin" report further corroborated these claims by detailing the monopoly of subcontracts owned by the political elite in the DRC.

Unfortunately, legislative violations continue with relative impunity, resulting in part to the high levels of corruption still in place and ineffective, inadequate, and weak enforcement mechanisms. There is a lack of resources and funding for Congo's General Labor Inspectorate "Inspection Générale," which is the body tasked with monitoring and regulating the implementation of domestic labor standards. This lack of funding results in weak or no enforcement of the country's existing labor legislation. Without adequate funding the office can only provide low wages leading to severe staff shortages. Funding issues also contribute to a shortage of transportation of inspectors, communication tools, insufficient training as well as increased vulnerability to corruption and bribery of inspectors from lack of a living wage. The lack of funding allocation and prioritization from the national government of the DRC leave little that can be done at a national level to address the human rights, labor, and environmental abuses suffered by the impoverished mining populations.

Looking externally, there are a variety of international stakeholders who have reacted or failed to react to the pressing issues and exploitation in the mining industry discussed. This is especially relevant since, as mentioned, most mining companies in the DRC are owned and operate outside the DRC, with the cobalt extracted and produced for use on an international scale. Unfortunately, the lack of overarching international mining regulations also continues to enable ongoing labor exploitation and environmental harm happening in the DRC. Without domestic policy in the mining corporations home nation that binds foreign investors and mining companies through robust legislation, there is only a requirement to adhere to the DRC's domestic mining legislation and enforcement mechanisms.

As detailed, with the current political instability, weak law enforcement, and high corruption levels in the DRC, these national regulations are often circumvented and/or violated. This is especially important to keep in mind when looking at the two of the most prevalent foreign investors in the DRC's cobalt industry, China and the United States of America. Recently, the European Union took leadership in this area by putting in place both environmental and labor regulations in regard to its mining sector. On February 23, 2022, the European Commission released and adopted a proposal for a Directive on Corporate Sustainability Due Diligence. The proposal's goal is to ensure that the EU, including both the private and public sectors, adhere to its international commitments on the protection of human rights, sustainable development, and trade rules on the international stage. All industries and companies that are based in the EU using cobalt from

mines in the DRC must abide by this policy.

The EU is followed by the United Kingdom, which is in line to publish The Critical Minerals Strategy later this year. This strategy sets out steps to ensure long-term security for the United Kingdom's supply of critical minerals including cobalt, creating international standards and ensuring supply chains are robust. In addition, the United Kingdom's Modern Slavery Act of 2015 and its revisions are also applicable to the cobalt mining industry. This creates mandatory due diligence obligations to identify, mitigate, and remedy human rights abuses along their entire value chain for UK multinational businesses. The currently tabled Modern Slavery (Amendments) Bill, would go even further, creating two new offence categories and new disclosure requirements. These would provide a legal basis to hold corporations accountable for non-compliance in UK courts. It could be potentially argued that government and mining companies' decades of inaction combined with the lack of dedicated research and services provision in the DRC present an ongoing violation of Congolese human rights.



# SOLUTIONS

Like most human rights issues, there is no simple fix to the problems surrounding cobalt mining in the DRC. As this report has explained, there are a number of causes behind the current crisis and a multitude of stakeholders. Many policy experts and organizations have come up with policy recommendations that target the DRC's government, Congolese and foreign mining companies, companies down the supply chain that use cobalt, the People's Republic of China and other nation states invested in the mining industry, and different international institutions. Each has a responsibility to address the issues in their respective industry. In addition, contextual factors like the history of colonialism and exploitation of Congolese resources reinforce the weakness of the government and extreme poverty across the country today and play an immense role in the appalling material conditions seen on the ground.

It is also of utmost importance to balance the integral role cobalt mining plays in people's daily lives and the dire need for a green energy revolution to mitigate human-caused climate change against any policy changes or proposals for finding alternatives to cobalt. The global push for green and clean energies in an effort to curb climate change cannot come at the expense of the Congolese. This includes their human rights and their ability to earn much needed income from their own resources. Currently the cobalt mining industry contributes to an increase in violence, food and water insecurity as well as physical and mental health issues, even as impoverished communities continue to rely on cobalt mining as a primary income stream. That is why it is vital to place the Congolese people at the center of these conversations and include their voices in any proposed solutions to the labor abuses of the DRC's cobalt mining industry. The rights of hundreds of thousands of people in the DRC are violated on a daily basis as part of the cobalt mining industry right now. One challenge is putting a stop to these violations without creating a series of new issues for the Congolese people and leaving them without a way to earn income at all.

In response to the human rights issues associated with cobalt mining in the DRC, many have suggested sourcing cobalt from other countries, avoiding cobalt produced by ASM, and even transitioning away from cobalt entirely. This set of solutions seeks to clean up raw mineral supply chains and avoid upstream complicity in human rights violations, while also appealing to companies who wish to lower costs and lessen their dependence on China. Yet each of these "solutions" seems to create similar problems for the DRC, and research from the

OECD and other international bodies even suggest that these “de-risking” strategies create more issues than they resolve. Hundreds of thousands of Congolese work in both ASM and LSM operations within the country, and their families are dependent on this income for meeting basic needs. Restricting or closing off their primary income stream could have devastating economic consequences on already destitute communities. Furthermore, as an unfortunate result of its colonial past under Belgium and the present-day neo-colonial relationships with outside countries, the DRC’s economy depends on mineral resource extraction. As mentioned, mineral extractions account for 90% of exports today. Transitioning away from cobalt produced in ASM, the DRC as a whole, or cobalt altogether may resolve some issues in the DRC’s mining industry. But completely shutting off the country from its economic lifeline is not the humane way to solve the problems.

Because ASM provides income to millions of people in the DRC, many have endorsed the idea of “formalizing” these mining operations rather than trying to do away with the practice altogether. Successful formalization of ASM could reduce human rights issues such as child labor without crippling impoverished communities that rely on this industry for survival. Overall, ASM formalization entails developing a common set of standards for the industry in line with global human rights norms and establishing bodies to monitor and assess these standards. ASM formalization has been successfully implemented on a large scale for artisanal gold mines in South America, and formalization projects have even begun in Kolwezi, the “mining capital” of the DRC. While early results show some positive signs, expanding the formalization of ASM remains a difficult task. For one, this requires many different stakeholders, primarily the DRC government, mining companies, and outside countries, to get on board with formalization. Currently, many seem reluctant or unable to facilitate such a process due to costs and the complexity of implementation and enforcement. Additionally, the level of resources required to monitor and enforce standards and provide support services to miners creates a host of logistical issues. However, ASM formalization could be key to the process of improving economic conditions for many Congolese people.

Some of the issues, such as child labor, are still heavily tied to the severe level of poverty in the DRC because a large percentage of the country lives below the poverty line. The economic challenges that lead to children working in the mines are likely to continue regardless of outside efforts and pressure, without an increase in social services to help lift people out of poverty. Some of the most crucial tasks that should be addressed are the root causes of poverty for people in the DRC. These issues include extreme poverty and food insecurity, the absence of free accessible education for children, weak social protections for families and communities, and weak infrastructure throughout the country.

When China ramped up its involvement in the DRC's mining industry, it made a commitment to the Congolese people and government that it would invest \$9 billion in infrastructure in the country in exchange for access to the country's mineral resources. The 2007 deal with Chinese conglomerate Sicominex should have helped build roads, highways, hospitals, and schools —much needed infrastructure to help improve material conditions throughout the country. Yet today's analysis shows that China has failed to live up to this commitment. While some changes have occurred, major setbacks such as political instability, unexpected costs, and delays due to pre-existing infrastructure issues all seem to have inhibited progress. Evidence supporting accusations of corruption between involved companies and both the Congolese and Chinese governments are likely true.

While the concept of foreign infrastructural development can seem promising for improving economic and social issues in the DRC, this deal highlights that many challenges remain. The Congolese government should make decisions that benefit its people, work to eliminate corruption and closely monitor opportunities such as this to ensure that promises are fulfilled. Countries and companies that invest in DRC's mines do not come for the purpose of improving conditions in the country, but rather to extract maximum profits at minimal costs. It is up to the DRC government and home countries of the multinational mining companies to ensure that the work done contributes to the improvement of the Congolese living standard. Without strong oversight and due diligence from the government of the DRC and national legislative requirements from the mining companies home countries, real change will likely remain elusive. Each player must be a part of creating and enforcing the solution.

As previously stated, the DRC government carries the first responsibility of enacting and enforcing policies that protect the rights of its workers. Experts have suggested many steps the government could take to improve conditions in the cobalt mining industry and reduce the prevalence of human rights violations. Amnesty International and the World Economic Forum point to ways that various government institutions in the DRC can improve their policies. As a first step, the DRC's government needs to invest and formalize ASM. Drafting, enacting, and monitoring formal industry standards and providing resources and training will go a long way towards improving safety in the mines. As a step to mitigate child labor, Amnesty International calls for the government to improve access to free, compulsory education, which would eliminate one of the primary reasons children are working in the mines. Pointing to LSM, RAID suggests that the government should better enforce laws and step up the monitoring of mining subcontractors, which are responsible for many issues of labor exploitation as detailed in this report. While these recommendations are well researched and straightforward, there are multiple challenges to implementation. The current



backdrop of poverty, corruption, and harsh social and economic conditions make enacting stronger policies or the enforcement of existing labor laws difficult.

The international community also has an important role in correcting the cobalt mining human rights crisis in the DRC, particularly the countries currently invested in the cobalt mining industry. The United States and China are the major investors in cobalt in the DRC, and their respective governments could put pressure on mining companies through strong national legislation. Similar legislation was recently passed in the United States, the [Uyghur Forced Labor Prevention Act](#). The U.S. and Chinese governments could also apply pressure on the DRC government to improve current human rights violations. [Amnesty International](#) and [RAID](#) recommend that countries update and review their labor policies, investigate the human rights violations of their mining corporations, step up the enforcement components, and ensure that any cobalt entering the supply chains in their countries has been ethically sourced by legislating supply chain transparency. One significant challenge to getting legislative changes in place is that human rights standards differ vastly across the origin countries of mining companies. Also, companies today can easily obfuscate the exploitation of the DRC's minerals under the protective "green washing" blanket of improving the climate impact of the energy sector. A standardized set of labor practices across all major origin nation states with consistent enforcement mechanisms would go a long way towards improving the plight of miners in the DRC. But arriving at such a solution is incredibly difficult given different countries' domestic and international political challenges. As it stands, it does not seem that most international players are willing to prioritize the human rights issues in the DRC mining industry. They are much more concerned with extracting profit and keeping up production on popular high-end clean energy products.

Mining companies and companies down the supply chain that purchase and use cobalt in their products could also play a huge role in correcting issues in the DRC mining industry. Mining companies have a direct responsibility to improve pay and working conditions for miners, set standards, review subcontracted labor, and investigate and halt work abuses when uncovered. Moving down the supply chain, companies that purchase the mined cobalt should put pressure on companies they do business with to comply with minimum human rights standards. But the narrative of cheap labor and resources that are the result of exploitation, labor, and environmental abuses is one seen all over the world and has been going on for decades. The reality is, without external pressure from national governments and a groundswell of consumer outrage, companies are unlikely to change exploitative practices.

During a [webinar](#) for Global Justice London, Maurice Carney, Executive Director of Friends of the Congo spoke about his thoughts on where an effective solution

to the issues in the cobalt mining industry should begin. Carney notes that it is important to go back in history to the late 1800s when the idea of the Congo was conceived. It was not designed by the Congolese people, he says, but rather by the European colonial authorities as an extractive outpost to exploit the region's natural resources. Though over time the resources being extracted have changed from rubber and ivory to cobalt and copper, the essential design and system in place remain unchanged. The Congolese people do not have ownership over their country's resources and are, therefore, not the beneficiaries of the profits seen from this hugely profitable industry. Without real sovereignty over the mining industry and keeping in place the exploitative system that mirrors the original colonial system set up over a century ago, the situation in the DRC will likely not improve.



# CONCLUSION

The cobalt mining industry in the DRC exposes deep flaws in the mineral's global supply chain in general, minerals on which modern technology and the green energy revolution depend. From artisanal to industrial mines, hundreds of thousands of Congolese people, including children, are exploited for their labor to extract cobalt. In addition to appallingly low pay that places workers in the mines beneath the poverty line, they face mistreatment by foreign multinational corporations. They risk severe injury and death on a daily basis in this precarious industry. Compounding the problem, their communities and the surrounding environment are often damaged and uprooted as mostly unregulated mining continues and the global demand for cobalt increases. While the colonization of the DRC formally ended in 1960 when it gained independence, the country continues to be exploited by companies and countries across the globe for its natural resources and supply of cheap labor.

The green revolution is touted as a positive step to make the world a better, cleaner place, but the human rights and environmental violations currently taking place prove it is doing anything but that for families and people of the DRC. From the DRC government to the multinational mining companies invested in cobalt extraction to the international community and individual nation states, each must take appropriate steps to put an end to the labor exploitation and abuse surrounding cobalt mining in the DRC. Indeed, all stakeholders have a responsibility to identify, prevent, address, and account for both the human and environmental cost of this industry while providing services to mitigate the harm already suffered. With 90% of the DRC's exports coming from mineral extraction and because of its central role in the Congolese economy, reducing mining and specifically cobalt mining during a period of increased demand would harm local populations. This will take not only policy on paper but serious collective commitment to human rights and a shared responsibility to protect those rights for everyone, as our technology and world evolve.

# RESOURCES

- [Cobalt Mining \(humantraffickingsearch.org\)](https://www.humantraffickingsearch.org)
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- <https://www.amnesty.org/en/latest/news/2017/11/industry-giants-fail-to-tackle-child-labor-allegations-in-cobalt-battery-supply-chains/>
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- <https://www.whitecase.com/publications/alert/european-commission-issues-major-proposal-due-diligence-obligations-protect>

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- [Cobalt Mining - Cobalt Institute](#)
- [What to Know About the Frantic Quest for Cobalt - The New York Times \(nytimes.com\)](#)
- [Cobalt Mining: Where Jeff Bezos, Bill Gates, and Michael Bloomberg Are Spending Their Money | Vanity Fair](#)
- [Understanding cobalt's human cost: Social consequences of green energy must be assessed in addition to environmental impacts, researchers say -- ScienceDaily](#)
- <https://www.mining-technology.com/analysis/artisanal-mining-drc/>
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