

Position Paper

Bon Pasteur Kolwezi and Good Shepherd International Foundation's position on Human Rights Violations at the Upstream of the Cobalt/Battery Supply Chain.



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1. Human Rights Violations in the Cobalt/Batteries Supply Chain

A sustainable, low-carbon, future seems unthinkable without batteries and without cobalt, one batteries' essential components. Yet the human and environmental costs of cobalt extraction are still unsustainable for the communities living at the upstream of the supply chain. While the demand for cobalt keeps growing and projections show that it will keep that pace for a long time, human rights conditions in the mining communities in Kolwezi (DRC), the global capital of cobalt, have not improved accordingly and, for many, have declined. Since 2012 Bon Pasteur and GSIF have been working in the artisanal mining communities of Kolwezi, collecting data on human rights violations, referring and managing cases of violence and abuses, particularly involving girls, women and children, including large number of children involved in worst forms of child labor and girls victims of a trafficking in persons.

Surveys and regular monitoring conducted from 2012 in the village of Kanina and from 2016 in seven other surrounding Kolwezi villages, have confirmed the following conditions of high vulnerability and widespread human rights violations in the communities at the upstream of the cobalt/battery supply chain:

- Child labour and worst forms of child labour in mining and in other sectors;
- Girls and women disproportionately affected by the negative impact of extractive industries;
- High levels of illiteracy;
- Poor labour standards (collapsing mines, regular fatal accidents involving adults and children);
- Severe health impact due to high exposure to toxins;
- Weak law enforcement;
- Lack of infrastructures and weak/absent provision of basic welfare and protection services, hampering access to basic human rights for children and other community members (water, food, education, healthcare);
- Insufficient investment by mining companies in infrastructures and services to prevent, protect and remediate to violations of human rights.

Violations of children's rights

- 70% of children engaged in labour - causing trauma and long-term health hazards;
- 90%+ illiteracy;
- 50% unattended orphans.

Sexual and gender-based violence (SGBV)

- 75% women abused (50% sexual abuse);
- 70% of women and 50% of girls are illiterate/semi-literate;
- High birth-mortality rate.

Poverty and hunger

- 90% of the population lives on less than 1\$ per day;
- Only 53% of population have access to clean drinking water;
- 100% of children could not recall when they had their last meal;
- Unpredictable and intermittent household income from mining.

*2013 Sample of 465 girls, women, children, men from Kanina

Bon Pasteur and GSIF have observed that significant barriers, mainly due to lack of information and resources, prevent local communities and individuals from obtaining an effective remedy when they suffer harm caused by mining. Affected communities and individuals have often insufficient or no information about operations that will affect their rights and are not consulted sufficiently nor involved, in preventing abuses to the environment and to the individuals. Corporate self-regulation, although there has been progress, especially within multi-stakeholders' initiatives such as RMI and GBA, is still inadequate and there are insufficient third-party independent systems (recommended by the OECD Due Diligence Guidelines) to monitor progress and hold corporations and governments accountable.

2. What we demand

Gender perspective

Current guidelines and initiatives taken by government, corporations and multistakeholders' platforms have failed to include a robust gender perspective. Based on our experience, girls and women in the mining communities of Kolwezi suffer the most from the negative effects of the extractive industry and are not sufficiently protected and involved in remedial actions. A situation in line with what has been documented internationally by human rights observers:

"When women work in the extractive industries sector, they often face discrimination in wages and unhealthy working conditions, or suffer from sexual abuse by male workers. A study from 2011 showed that the rate of sexual harassment of women in the mining industry was 71 cases per 100,000 female workers, which is 31 times the male rate¹.

Women standing up for their rights and defending their land, communities, and the environment often face gender-specific threats and violence from corporations, as well as from state and local authorities, military and police forces, or private security services. Women human rights defenders confronting extractive industries frequently experience criminalization of their actions, violence, sexual abuse, intimidation, reprisals, and discrimination in their communities².

Violations of women's human rights in the context of extractive industries are most often inadequately addressed, and are rarely prevented or remedied³."

1 - See Hersch, Joni (2011): Compensating differentials for sexual harassment. American Economic Review Papers and Proceedings 101:3, p. 630–634. 12 See <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/HRDefenders.aspx> and <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>.

2 - See Hersch, Joni (2011): Compensating differentials for sexual harassment. American Economic Review Papers and Proceedings 101:3, p. 630–634.

3 - See Barcia, Inmaculada (2017): Women Human Rights Defenders Confronting Extractive Industries. An Overview of Critical Risks and Human Rights Obligations. AWID/Women Human Rights Defenders International Coalition (https://www.awid.org/sites/default/files/atoms/files/whrds-confronting_extractive_industries_report-eng.pdf).

- While states step-up to meet climate change targets by incentivising a shift to renewables, corporations must fulfil their human rights obligations to **identify, prevent, address** and **account** for abuse from start to end, and throughout the battery life cycle process, following the international standards (UN Guiding Principles on Business and Human Rights, relevant OECD standards on Due Diligence and Worst Forms of Child Labour);
- **Human rights abuses and environmental devastation** arising within the production lifecycle at the upstream of the rechargeable batteries chain **must end**, companies must fulfil their duties to prevent human and environmental devastation and, where abuses do occur, they **must fulfil the right of the communities to be adequately compensated**;
- **Child labour must be eliminated through community-based** interventions (see 5 Conditions below);
- All children from mining communities **should have access to free primary education, adequate nutrition and basic healthcare services** (vaccinations etc.) to ensure their physical and social development;
- Informal and formal **workers' rights** to decent and fair work in safe conditions must be protected;
- Information on human rights and environmental impacts relating to rechargeable batteries should be **transparent and open-source** to the final-consumers.
- Government and companies should **incentivize programs to mitigate the "resource curse"** that determines a chronic underinvestment in agriculture and services in the cobalt mining areas, which results in high levels of poverty and food insecurity for the local communities;
- **Alternative livelihoods** to mining must be incentivized, through cooperative and transparent initiatives, particularly for women, transferring know-how and resources to set-up viable and sustainable sources of income to break the cycle of poverty that determines high levels of commercial sexual exploitation in the area.
- Including a **gender perspective** in all initiatives and policy recommendations promulgated or implemented by governments and corporations: Mandatory gender impact assessments, Gender-sensitive justice and remedy mechanisms, Respect, protection and an enabling environment for Women Human Rights Defenders.

3. Duties of Governments

- In the upstream countries, ensure free primary education for all children, in accordance with the national and international laws and Conventions.
 - Invest in infrastructures and personnel to provide adequate services for the **protection and promotion of the rights of the most vulnerable children in the mining communities;**
 - **Implement robust legislation**, including legally requiring (and monitoring) companies to conduct human rights due diligence in line with international standards (UN Guiding Principles on Business and Human Rights and relevant OECD standards on Due Diligence and Worst Forms of Child Labour);
 - Ensure that all corporate actors (from manufacture to end-user companies) that directly or indirectly engage in illegal activity, are officially investigated and held to account, particularly for human rights abuses in relation to: Economic Social and Cultural Rights (e.g. health, livelihoods, water etc.), labour (discrimination, women, children), Civil and Political Rights;
 - Ensure that those communities and individuals negatively affected within or by the extraction of key minerals, such as cobalt, in the battery production process have access to an **adequate remedy**, including **addressing legacy issues and creating a fund to rehabilitate the environment;**
 - Report on the risks in the supply chains through **independent** mechanism that can actively engage with the local communities at the upstream of the battery supply chain
 - Make sure and monitor that companies involved at all levels in the supply chain, comply at the same time with their obligations (i.e. adequate compensations for land expropriation) and with the **duties of corporate social responsibility, investing transparently in community development projects.**
- ### 4. Duties of Companies
- Larger companies, especially multinational corporations, involved in mining extraction and trading of minerals, as well as battery manufactures and end-users, should participate in multi-stakeholders initiatives to **implement** meaningful, effective regulation and commit to transform their practices **to engage in solving the problem;**
 - Corporation should be able to demonstrate respect for all human rights at all phases of battery production by **identifying, preventing, addressing**, and disclosing human rights abuses in their global operations line with international standards;
 - Disclose **negative impacts on the environment.** More specifically, in Kolwezi, corporations should publicly disclose the list of the chemicals being used in the extraction and processing of cobalt and how they **dispose of the waste to prevent water and land pollution;**
 - Ensure **human rights and environmental safeguards** are in place so that the mining sites and surrounding areas are safe and healthy places to work and to live;
 - Ensure **fair working conditions**, including health and safety, and fair wages for those directly employed;
 - Eradicate corruption and smuggling practices;
 - Ensure that if companies engage local cooperatives for extraction or processing of minerals, the **remuneration systems** of the cooperative members and the sharing of dividends to the lowest paid workers, formal or informal, are fair and compliant with the law;
 - Ensure that **standards and procedures are implemented** to guarantee the protection of local community rights as the industry expands, and prevent (potential) human rights violations, especially those affecting girls, women and children. This includes conducting meaningful consultation with affected communities, including women groups, before initiating mining explorations and extractive operations, in line with international standards.
 - Corporations must act and remediate harm suffered by people whose human rights have been abused at the upstream of the supply chain of battery, specifically in the cobalt mining areas. This includes, but it is not limited to creating the socio-economic conditions to ensure that children are not engaged the worst forms of child labour (see list of **5 Conditions for Effective Initiatives to Ensure Ethical Cobalt Extraction** below);

5. Systemic change we aim for

1. **Human rights of the individuals and communities at the upstream of the chain are respected and promoted**, child labor is eliminated and other abuses are significantly reduced, especially those against women and girls;
2. **Governments** and companies are no longer able to profit from corruption, tax evasion, smuggling or other financial crime linked to any stage of battery production.
3. **Companies** that are willingly to act accountably and transparently emerge as leaders.
4. **Consumers** demand that products are 'ethical' not only in name, but in practice.

6. How can we achieve change?

All private and public stakeholders involved in the battery supply chain should contribute to adopt the following approach to make business respectful of human rights:

- **PREVENT** human rights violations and environmental damages, in and around the areas of minerals extractions, by consulting and negotiating with the local communities in advance;
- **PROTECT** the local communities and their environments by putting in place adequate community-based mechanisms to support those who will be most affected by the negative effects of the extraction;
- **REMEDiate** to the caused damages to the individuals and the communities.

7. Our position

As an NGO in consultative status at the UN ECOSOC and with a significant presence in the mining communities most affected by human rights violations in the extraction of key minerals (cobalt) for batteries, we call enterprises and governments to adopt an **ethical approach throughout the lifecycle of batteries, with a special focus on supporting and implementing initiatives aimed at: Preventing, Protecting AND Remedying** abuses happening at the upstream of the battery value chain.

8. What works? 5 Conditions for Effective Initiatives to prevent, protect and remediate human rights violations in the Cobalt Supply Chain

In light of the seven years' experience of GSIF-Bon Pasteur Kolwezi in working on the above matters with eight mining communities in the Kolwezi areas, whose rights have been negatively affected -directly and indirectly- by the extraction of cobalt and other minerals, we can affirm that the root causes of the human rights violations mentioned above are multi-faceted and must be approached through an multi-dimensional approach, that cannot be limited within the perimeter of the industry operations, to ensure traceability of minerals.

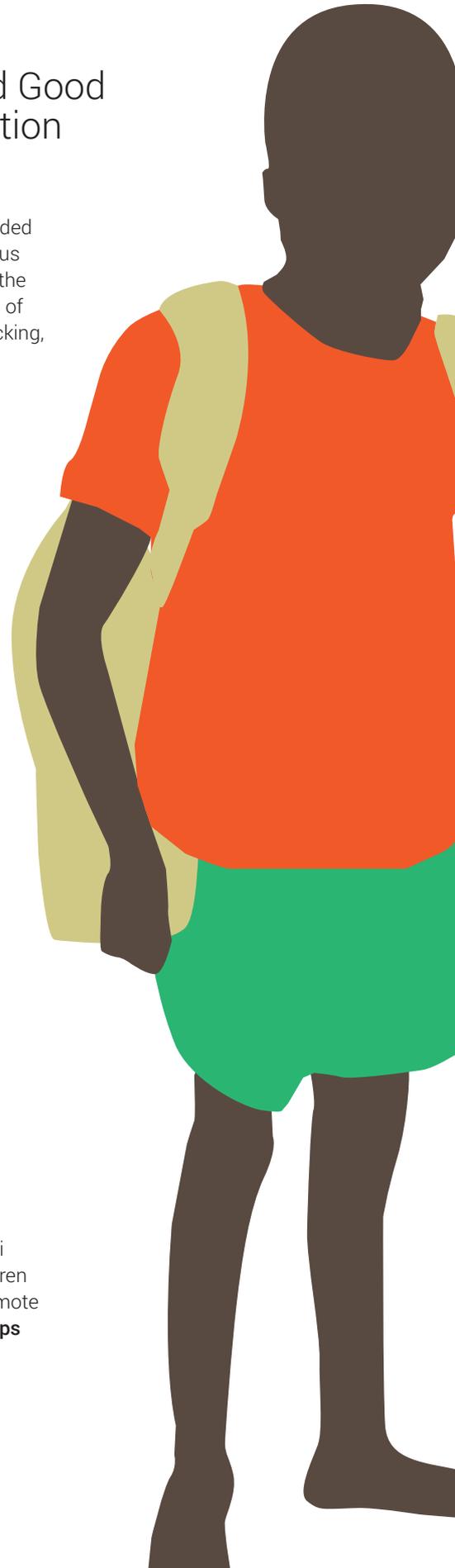
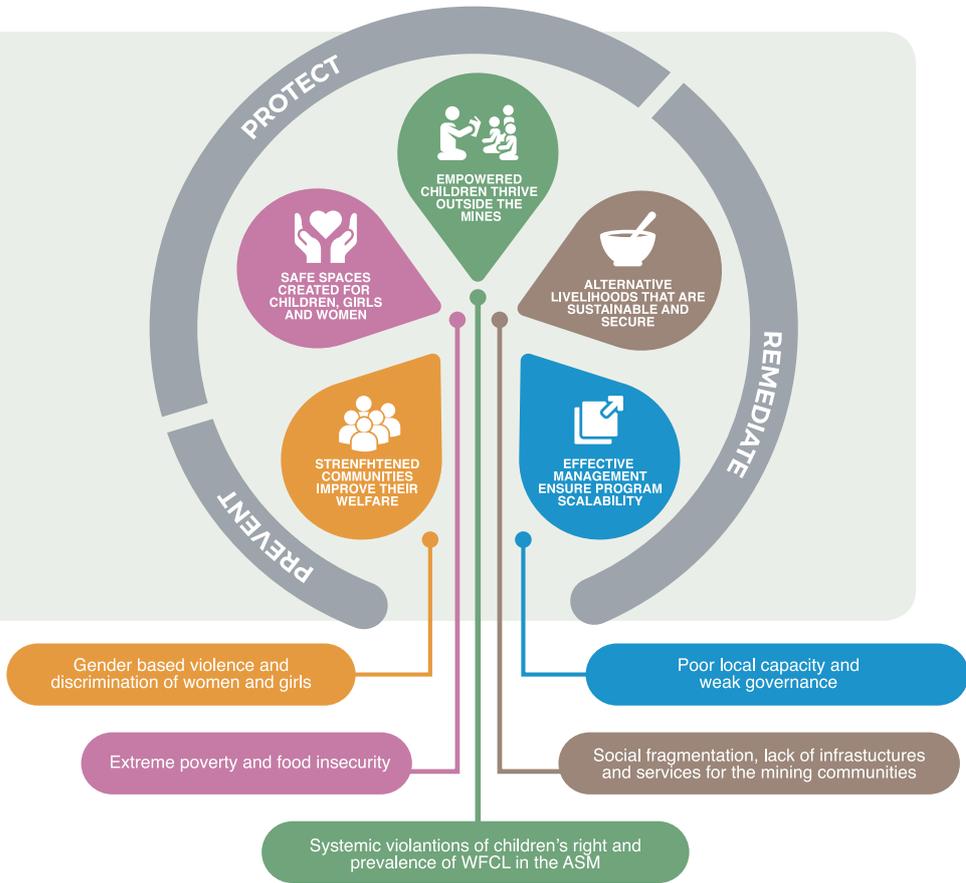
To address child labour and human rights violations, companies and government must support and engage in MULTI-DIMENSIONAL and COMMUNITY BASED PROJECTS combining the following **5 Conditions**:

- I. **STRONG COMMUNITIES:** programs must ensure long-term engagement in community mobilization for the education and support of local committees advocating for their rights, with a special emphasis on women-led groups. Any government or corporate sponsored initiative must ensure that the communities involved in, or affected by, the battery production process, are properly consulted and empowered to participate in the planning process and are fully engaged, through local committees, in the implementation of the initiatives.
- II. **SAFE SPACES:** Providing formal and informal legal/ psycho-social assistance for the most vulnerable (esp. children, girls and women) in collaboration with the local committees;
- III. **SUSTAINABLE ALTERNATIVE LIVELIHOODS:** Promotion/support of women-led alternative livelihood projects in agri-business, possibly connected with the local company's procurement programs for long term sustainability;
- IV. **BASIC RIGHTS:** Provision of affordable education (free primary education and accessible secondary education), healthcare and food security for children;
- V. **EFFECTIVE PARTNERSHIPS:** Continuous capacity building of local implementing partners.

We ask all stakeholders to adopt these 5 conditions as a standard to assess the effectiveness of interventions in the communities at the upstream of the supply chain and to measure progress in the level of responsibility of the battery supply chain.

9. About Bon Pasteur Kolwezi and Good Shepherd International Foundation

The Good Shepherd International Foundation (GSIF) is a nonprofit organization founded by the Good Shepherd sisters (GSS), an international Congregation of women religious present in **70 countries**, to support their mission in the least developed countries of the world. GSIF operates as a Non-Governmental Organization, to support the programs of the GSS for children, girls and women focusing on poverty eradication, human trafficking, migration, elimination of all forms of violence and discrimination.



Bon Pasteur Kolwezi, is the program initiated by the Good Shepherd sisters in Kolwezi (DRC) in 2012 in response to the needs of the most vulnerable girls, women and children living in the mining communities of Kolwezi. The program is based on 5 pillars to promote a **fair and sustainable development to break the cycle of poverty and abuse that traps the most vulnerable children in exploitative conditions**, including the worst forms of child labour and commercial sexual exploitation.



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