

Worth the Fight: Human Rights in the context of Minerals in Conflict Zones

Guillermo Otano from ALBOAN and Javier Lautaro Medina from CINEP visited JESC office to discuss their advocacy work on Conflict Minerals related to Justice in Mining in particular about the Gold Extraction in Colombia. They came to Brussels seeking to advocate, at the EU Parliament, the need for due diligence supervision regarding mineral use. It is a process that involves different levels of business players, from local extractors to governments and producers of electronic devices.

Guillermo Otano Jiménez from Foundation ALBOAN NGO (Spain) and Justice in Mining Jesuit Global Advocacy Network Coordinator, together with Javier Lautaro Medina from CINEP / Peace Program Jesuit Foundation in Colombia visited the JESC team and gave an account of their visit to Brussels.



They had a discussion in the European Parliament at an event organised by German Watch, Broederlijk Delen and CIDSE to discuss the issue of Gold Mining in Colombia in the frame of due diligence, human rights, trade and the European Conflict Minerals Regulation passed in 2017, which will come into force in 2021. During the implementation period of the latter, they have to define complementary measures to the European Conflict Minerals Regulation, to ensure that it has a positive impact on the conflict zones where the minerals in question come from. The Regulation covers four minerals: Tin, Tungsten, Tantalum and Gold - *quite a limited focus as there are many other minerals related to human rights violations that are not covered by this Regulation.* The bright side, continued Guillermo, is that it is a globally encompassing Regulation, which means that importers of these conflict zone minerals will have to start applying due diligence policies and systems in order to create preventive measures and address human rights breaches within their supply chain. He gave an

example: If an importer from Europe is importing Gold from a refinery in a third country, they have to ask the refiner to have the third party outed. If the refiner does not comply, they need to have a policy to start a dialogue with their mineral suppliers to collect information, within a year of the conditions and situation of the region, where the mineral extraction is happening. That is the philosophy behind the EU Regulation.



“It was a long process of negotiation. Besides, as you might know, the legislations in Europe take a long time to come into force. I think it was in 2010 when the Parliament asked the Commission to create a legislation on Conflict Minerals because the United States had just enforced the Dodd-Frank Act. It has a section, the 15 CO₂ legislation, that was enforced in 2010, which covers these four minerals coming from the Democratic Republic of Congo

and the neighbouring countries.” This was the first regulation on minerals, but the EU Regulation is different. In Europe they thought that if the Americans had such Regulation, we needed one. In 2014 they embarked on the process of elaborating the Regulation and it took 3 years of negotiations for various reasons.

Firstly, when the European Commission did the initial proposal it was in the format of a voluntary approach, which means telling the companies the guidelines of due diligence and if they comply voluntarily, their efforts will be recognised. *“As an advocacy group we were not happy with this approach because we believe that when a regulation is voluntary, no one is accountable, no one enforces it by their own will.”* Guillermo pointed out their concern and subsequent action. *“Consequently, we started an advocacy campaign with a coalition of almost 120 organisations doing lobby in Brussels and the national states. The proposal of the Commission has to be passed in the Parliament so we went to the MEPs to try to make amendments. The Parliament said the regulation should be binding and cover the whole supply chain, upstream and downstream.”* He explained it is important to cover the whole process because it is in the middle of the minerals’ supply chain where you find the refiners and smelters. They are crucial to track, because if a mineral from a conflict zone and a mineral from a non-conflict zone arrive together to the refinery, they can be mixed and hence, it will be impossible to trace it.

“We wanted a full encompassing regulation for the entire supply chain and the Parliament supported our views. Once in the Council, with the different Members States represented, they alleged that this full encompassing regulation would have an impact on small enterprises. During the negotiations, they made an estimation of 200.000 companies being affected, taking into account

companies which import electronic devices. They used this argument to state that this regulation could not be mandatory for the entire supply chain process as it would hinder the economic performance industry. Finally, after a year they reached an agreement, stating that it would be mandatory for direct importers of minerals, this means, 200-300 companies. It would just be voluntary for downstream companies, those importing phones, laptops and other electronic devices.”

The positive side is that the EU said this regulation is not enough, so 20 million euros were invested in order to promote the formalisation of artisanal miner cooperatives and support the livelihood in conflict zones. The withstanding issue is it contains loopholes and only covers four minerals. *“Now we have the challenge of how to address the rest of the minerals and how to implement this Regulation in the most efficient way and make sure it has an impact in policies.”*



Guillermo then passed the word to Javier from CINEP, the Colombian Jesuit Education Centre with 45 years of tradition. In the framework of Conflict Minerals, they presented a report that was made by CINEP. Javier, works at CINEP Public Action Centres and Research, covering Social Justice related to urban and rural communities in the fight for the rights of the local communities. Historically, they have

been in the Cordoba Department, particularly working in an institute called Tierra Alta, where the Society of Jesus has a Church. As part of Justice in Mining Global Jesuit Advocacy Network, they are working together with the focus on Gold Mining issues in El Alacrán.

“We did a policy paper with recommendations for the EU, the Colombian government and the regional authorities. We have a project on Gold in el Alacrán. There are many other mines, but the problem with this entire region is that there is a mining concession of 20.000 hectares that will be used by a company to open a huge copper mine as there is a huge underground reserve. The problem in Colombia is that when the Central Government comes to an agreement with the company with no consultation with the citizens, so there is no public decision-making process. For instance, after a 30 years dialogue between the communities and the State, only 900 hectares were ceded to 300 families.”

They concluded remarking that due to the relationships complexity it is difficult to disclose the networks of gold mining interests. However, so far they have accomplished to address the issue and raise the concerns of breaches of human rights such as internal displacement of local indigenous and murder rates. They are a leading example in the fight for Social Justice.

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