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University of the Witwatersrand: Department of International Relations



Assessing the effectiveness of the Kimberley Process in Zimbabwe and the Democratic Republic of Congo

A Research Report Submitted to the Faculty of Humanities by:

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In partial fulfillment of the requirements for obtaining the degree of
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Under the supervision of:
Dr Vishwas Satgar

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Abstract

Prior to the establishment of the Kimberley Process in 2003, the global diamond industry, particularly in Africa, was characterised by secrecy, lawlessness, arms trade, money laundering and armed conflict. The system of diamond regulation was ineffective. The Angolan and Sierra Leonean civil wars of 1975 and 1991, respectively, alerted the international community of the role of conflict diamonds in financing rebel movements which were responsible for the outbreak of civil wars in Africa. As a result action had to be taken and it took a combined effort of national governments, non-governmental organizations (NGOs) and the diamond industry to create a global diamond regulatory system known as the Kimberley Process Certification Scheme (KPCS). The objective of this scheme is to break the link between diamonds and conflict. As such, it traces the flow of diamonds from mines to diamond markets through diamond certification process. The effectiveness of the scheme has since been questioned in the case of the Zimbabwean diamonds and the Democratic Republic of Congo where diamond smuggling and trade in conflict diamonds is rife. Diamond situations in these countries have raised questions pertaining to the effectiveness of the Kimberley Process. The K.P. is nevertheless credited for bringing optimism to a global diamond industry which was faced with multi-faceted problems.

Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of MA in International Relations at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

D. MUNEMO

Signature

29 JULY 2013

To my ever supportive father, Ishmael Munemo.

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ABBREVIATIONS

AA – Action Aid

ACR – African Consolidation Resources

AFEC – Anhui Foreign Economic Construction

AI – Amnesty International

BBC – British Broadcasting Corporation

BCHW – Basel Convention on Hazardous Waste

CAR – Central African Republic

CCDT – Chiadzwa Community Development Trust

CDR – Centre for Research and Development

CEEC – Centre for Evaluation, Expert Analysis and Certification of Precious Minerals

CIA – Central Intelligence Agency

CITIES – Convention on International Trade In Endangered Species

CNDP – National Congress for the Defence of the People

CSO – Civil Society Organisation

DHSAR – Diamond and Human Security Annual Review

DHSP – Diamond and Human Security Project

DMC – Diamond Mining Corporation

D.R.C. – Democratic Republic of Congo

EITI – Extractive Industries Transparency Initiative

EU – European Union

FARDC – Armed Forces of the Democratic Republic of Congo

FDLR – Democratic Forces for the Liberation of Rwanda

GW – Global Witness

GDOSL – Gold and Diamond Office of Sierra Leone

HRW – Human Rights Watch

IPE – International Political Economy

IDMA – International Diamond Manufacturers Association

IDRI – Indian Directorate of Revenue Intelligence

JWP – Joint Work Plan

K.P. – Kimberley Process

KPCS – Kimberley Process Certification Scheme

KPPR – Kimberley Process Peer Review

KPRMT – Kimberley Process Review Mission Team

M23 – March 23 Movement

MD – Mbada Diamonds

MIBA – Société Minière de Bakwanga

MNC – Multinational Company

MR – Marange Resources

MRC – Marange Resources Company

NGO – Nongovernmental Organisation

OI – Oxfam International

PAC – Partnership Africa Canada

PD – Pure Diam

RUF – Revolutionary United Front

SAESSCAM – Small-scale Mining Technical Assistance and Training Service

SAIIA – South African Institute of International Affairs

UAE – United Arab Emirates

UJ – University of Johannesburg

UK – United Kingdom

UN – United Nations

UNCHPR – United Nations Charter of Human and People's Rights

UNGA – United Nations General Assembly

UNITA – National Union for the Total Independence of Angola

UNODC – United Nations Office for Drugs and Crime

UNSC – United Nations Security Council

USD – United States Dollar

UW – University of the Witwatersrand

VAT – Value Added Tax

WDC – World Diamond Council

WFDB – World Federation of Diamond Bourses

ZANU-PF – Zimbabwe African National Union-Patriotic Front

ZDI – Zimbabwe Defence Industries

ZMDC – Zimbabwe Mining Development Corporation

ZNDC – Zimbabwe National Defence College

ZRB – Zimbabwe Reserve Bank

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Appendix

The Kimberley Process Certification Scheme

Chapter 1

Introduction

1.1. Introduction

The period marking the end of the Cold War in 1991 ushered in a new era, which saw many African countries relying more on their natural resources, diaspora remittances and humanitarian aid as their major sources of funds. This resulted from 'superpowers' withdrawing their financial support to African countries, as well as the triumph of capitalism over communism as the dominant global ideology. Since then, Africa's development has not been particularly impressive, as the continent had to go through a series of armed conflicts, which deepened the crisis. Pan-Africanists argue however that the internal challenges of armed conflict, corruption, bad governance and dictatorship facing Africa today emanated in Europe from the curse inflicted upon the continent at the Berlin Conference of 1884-1885, where the so-called 'Iron Chancellor' of Germany Otto Von Bismarck, led the unsympathetic partition of Africa.[1] The effects of this infamous meeting are seen today in the artificial boundaries demarcating Africa, which are partly to blame for the proliferation of deadly conflicts on the continent.[2]

It is common knowledge that mining has immense potential to contribute towards economic development by creating employment, facilitating foreign exchange, and bolstering social infrastructure development and the fiscus.[3] However, the history of Africa's natural resource

[1] Adebajo, A.: The Curse of Berlin: Africa after the Cold War, University of Kwazulu-Natal Press, South Africa, 2010, p. 32.
[2] Ibid
[3] Mtisi, S., Dhliwayo, M, and Makore, G.: Extractive Industries Policy and Legal Handbook: Analysis of the Key Issues in Zimbabwe's Mining Sector, Zimbabwe Environmental Law Association (ZELA), Harare, 2011, (ZELA), p. 14.

extraction has been a disappointment.[4] To avoid repetition of such a history, efforts were made through the establishment of international monitoring regimes, such as the Kimberley Process, whose main aim has been to encourage countries and actors involved in the mining and trade of diamonds to practice sustainable mining and trading patterns that uphold critical standards of transparency, accountability, corporate social responsibility, and environmental justice.

The contemporary view on the diamond industry or diamonds in general was largely influenced by the deadly turn of events that occurred during the civil war in Sierra Leone between 1991 and 2002, which left most areas of the country devastated.[5] Likewise, the diamond war of Angola from 1975 to 2002, alerted the international community to the link between diamonds and the outbreak of armed conflict.[6] However, most recently, it was the 2006 Hollywood movie, *Blood Diamond*, which reminded the world of the problem of conflict diamonds and the effort made by the diamond regulatory system, known as the Kimberley Process, in tracing the movement of diamonds from mines to the formal diamond retail markets, and stopping the senseless killing of civilians by rebels in diamond producing regions.

Now that the effects of (conflict) diamonds on the African continent are more widely known, this research report aims to assess the extent to which the Kimberley Process (K.P.) has managed to minimize further outbreaks of diamond-linked conflict and end the trade in illicit diamonds. This task will be performed by means of unravelling the political economy of conflict diamonds in Africa, and providing special attention to the two countries of Zimbabwe and the Democratic Republic of Congo (D.R.C.), from the period between 2003 and 2012. Guided by neo-Gramscian theory, the research report identifies actors making up the Kimberley Process, the countries targeted by the regime, and ultimately the extent to which it is able to realise its objectives.

[4] Collier, P. "The Political Economy of Natural Resources" in Social Research, Vol. 77, No. 4, Winter 2010, p. 1105.
[5] Silverstein, K, "Diamonds of Death" in Levy, A.V. (ed.): Diamonds and Conflict: Problems and Solutions, Novinka Books, New York, 2003, p. 65.
[6] Collier, P: Op. Cit p. 1111.

Breaking the link between diamonds and the outbreak of civil war is the major priority of Kimberley Process, however it has become increasingly evident that the effects attributable to the circulation of conflict diamonds do not always manifest in civil war or armed conflict, but rather that they can take different forms, such as human rights violations, coordinated corruption, and depriving the citizenry of sustainable forms of development. The Zimbabwean case vividly demonstrates some of the flaws within the Kimberley Process, especially with regards to the violation of human rights. In the Democratic Republic of Congo, the effectiveness of the Kimberley Process is currently under the spotlight since government legitimacy and capability is in question. On one hand, the DRC is recognized by some as a functional state run by a legitimate government, while on the other, it is perceived as a failed state. By admitting the D.R.C. into the Kimberley Process, the scheme automatically acknowledged the legitimacy of the government, although its capability to govern in real terms is actually very weak. Similarly, in other cases such as the Ivory Coast, the Central African Republic, Venezuela and Guyana the Kimberley Process Certification Scheme (KPCS) has been seriously put to the test as the long-running domestic and regional problems linked to conflict diamonds continue to persist. The scheme is however credited for its relative success in the diamond-related conflicts in Sierra Leone and Angola.

By acknowledging a government as legitimate, the Kimberley Process concludes that it shares the same objectives, however, the two selected case studies will demonstrate the need for the Process to reconsider the nature of its engagement with member states and participants such that an effective approach, which could address all possible issues facing the diamond industry, is adopted. Such introspection is important in order to realign the scheme to its objectives, making sure it remains relevant to its principle mandate.

The study brings to light the important role performed by the Kimberley Process, of alerting the world to how the shadow economy of illicit diamonds is linked to rebel movements and partly responsible for the outbreak of civil wars in Africa. Since its inception in 2003, the Kimberley Process has been putting pressure on the diamond industry and national governments to adopt diamond control systems that promote transparency and accountability. Had it not been the introduction of the Kimberley Process Certification Scheme, perhaps the diamond trade would have continued operating in secrecy, supporting rebel movements.

This research report is divided into seven chapters. Chapter 1 outlines the background of Africa's armed conflicts and natural resources, it provides a brief introduction to the study and an overview on the issues surrounding the Kimberley Process in Zimbabwe, and the Democratic Republic of Congo. Chapter 2 focuses on the theoretical framework and a review of relevant literature. The chapter unpacks the neo-Gramscian concepts of social forces, domination, ideology and historic bloc. These concepts assist in identifying the social forces driving the K.P., Zimbabwean diamonds, D.R.C. diamonds, and above all, the forces driving the international diamond trade. As for the historic bloc, this concept is crucial in analysing and explaining how the current status quo of the diamond situation in Zimbabwe and the D.R.C. came about. This concept is examined through historicizing the two cases. The concept of domination explains how the 'fundamental group' in the two cases are able to control the diamond sectors in their respective countries through the use of force as opposed to consent. Identifying the ideology of the K.P. assists in analysing and critiquing its approach towards the question of conflict diamonds. The chapter also situates these concepts in the larger framework of the political economy of conflict diamonds in Africa. Thereafter, the chapter reviews the literature on issues of conflict diamonds, the resource curse, and lootable and non-lootable resources in Africa.

Chapter 3 lays out the methodology of the study. It states the guiding research questions, the aim and rationale behind the study and the challenges and limitations encountered by the researcher. The major sources of data and reasons for selecting such methods are explained in this chapter. Chapter 4 describes and analyses the dynamics of the social forces driving the international political economy of conflict diamonds in Africa. It pays attention to the social forces underpinning the illegal diamond industry and brings to light the link between the illegal diamond trade, money laundering and arms deals. Although it remains a challenge to understand exactly how the diamond industry is run internally, the chapter dedicates a section to a discussion of the monopoly of the industry and how it is influenced by the current neoliberal global order, among other factors of relevance.

Chapter 5 discusses the emergence of the Kimberley Process, its ideology, strengths, weaknesses and the challenges it faces. The chapter discusses the ideological framework driving the Kimberley Process and it identifies key actors and non-actors shaping the

diamond industry. Chapter 6 profiles the case studies of Zimbabwe and the Democratic Republic of Congo. It analyses the impact of diamond mining in these countries and the role played by the Kimberley Process thus far. In doing so, the chapter evaluates the effectiveness of the Kimberley Process, whether indeed the scheme is meeting its objectives.

Chapter 7 is the last section of the report. It wraps up the findings of the study and takes a conclusive position regarding the effectiveness of the Kimberley Process in Zimbabwe and the D.R.C. It concludes that the Kimberley Process was initially established to tackle problems in the trade during the conflicts over diamonds in Sierra Leone and Angola, but since these eras came to a close over a decade ago, there is urgent need for the scheme to restructure its mandate and devise relevant mechanisms that focus precisely on current issues in the international mining and trade of diamonds.

The research report concludes that the problem solving approach adopted by the Kimberley Process does not provide the necessary latitude to make a comprehensive analysis of the political economy of the current illegal diamond trade, hence it struggles with attempts to create a conflict diamond-free industry. The chapter highlights the need for the K.P. to accommodate issues of human rights, environmental rights and socio-economic and cultural rights within its mandate, such that diamond producing countries can be brought to book for the continuous abuses of human rights.

Chapter 2

Theoretical Framework and Literature Review

2.1. Theoretical Framework

In assessing the effectiveness of the Kimberley Process and understanding how the illicit trade in conflict diamonds operates, this study is informed by neo-Gramscian theory. Antonio Gramsci's work has since become of importance especially in understanding the dynamics of international political economy.[7] The Italian school has enjoyed wide academic coverage through the works of contemporary theorist Robert W. Cox.[8] Cox rejects the notion of a grand theory, arguing that a theory is meant for a certain audience and purpose and its standpoint comes from a position in political and social time and space.[9] Cox's theory is understood to be an updated version of historical materialism, which pays special attention to "the role of critical theory, social forces, hegemony and world order".[10]

Neo-Gramscians are adamant that the world can only be interpreted from a nation or social class perspective of dominance or subordination, from rising or declining power, from immobility or present crisis, from past experience, and from hopes and expectations of the future.[11] They find fault in the manner of problem-solving theories such as realism that interpret the world order, questioning how theorists readily accept the world in which they theorise and showing that they fail to question the general pattern of institutions and relationships, that is, how the ideological order came about and whose interest it serves.[12]

[7] Baylis, J. and Smith, S. and Owens, P: The Globalization of World Politics, Oxford Press University, United States, 2011, p. 137.
[8] Ibid
[9] Cox, R.W. "Social forces, states and world orders: beyond international relations theory" in Journal of International Studies: Millennium, Vol. 10, No. 2, 1981, p. 444.
[10] Jorgensen, K.E.: International Relations Theory: A New Introduction, Palgrave Macmillan, New York, 2010, p. 168.
[11] Cox, R.W: Op. Cit. p. 444.
[12] Ibid. p. 445.

Cox opposes the neo-realist perspective, which recognizes the state in international relations as a 'billiard ball', rather he argues that a state is permeable and should be viewed as an entity.[13] His theory put more emphasis on the need to historically contextualize theory.[14]

Cox perceives the world order to be made up of "combinations of ethnic/religious and social forces which have conflicting interests and aspirations."[15] As such, he argues that there is more to production than the physical production of goods.[16] The production of physical goods comes along with knowledge, ideologies, morality, social relations, and institutions.[17]

The selected theory explains phenomena by questioning the way in which "existing social or world orders have come into being, how norms, institutions, or social practices emerge, and what forces may have the emancipatory potential to change or transform the prevailing order".[18] It assists in understanding how power is constituted within a mode of production, as well as which class and non-class forces utilize this power. How is the political economy of conflict diamonds constituted in Africa? Which social forces inform this? What ideas are implicated? What interests are realized?

Neo-Gramscians define social forces, both at national and global level, as potential catalysts or factors capable of transforming forms of state and world order.[19] These forces have a tendency to occur in a way that enables them to suggest specific goals and solutions that advances their own interests.[20] Social forces vary, in some instances they might be driven by the need to acquire as much surplus or revenue as possible, or to gain power to dictate other

[13] Leysens, A.: The Critical Theory of Robert Cox: Fugitive or Guru? Palgrave Macmillan, New York, 2008, p. 17.
[14] Ibid
[15] Schouten, P. "Robert Cox on World Orders, Historical Change, and the Purpose of Theory in International Relations", in Theory Talks, No. 37, 12 March 2010, p. 3.
[16] Bedirhanoglu, P. "The State in Neoliberal Globalization" in Ayers, A.J. (ed): Gramsci, Political Economy, And International Relations Theory: Modern Princes and Naked Emperors, Palgrave Macmillan, New York, 2008, p. 94.
[17] Ibid
[18] Morton, A.D, "Social Forces in the Struggle over Hegemony: neo-Gramsci Perspectives in International Political Economy", Rethinking Marxism, Vol. 15, No. 2, April 2003, p. 154
[19] Leysens, A: Op. Cit. p. 2.
[20] Migdal, J.S. "The State in Society: An Approach to struggle for domination" in Migdal, J.S. and Kohli, A. and Shue, V. (eds): State Power and Social Forces, Cambridge University Press, United States of America, 1994, p. 21.

people's behaviour.[21] To guarantee their interests, social forces might form alliances and coalitions such that they are able to impose their beliefs and practices on others.[22]

In explaining how social forces are linked to forms of states and world order, Cox emphasizes the need to abandon the neo-realist approach of interpreting the state and society as isolated entities; rather he argues that the two are a single unit, which should be referred to as "state-society complex".[23]

In the social sciences, the state has commonly been mistaken as an organic, undifferentiated actor separated from the rest of the society.[24] The influence of the state upon society is only understood by first identifying the different components of the state along with the social forces making up the state hierarchy, as well as the reasons behind that.[25] Identifying social forces making up the state enables one to know how decision-making is undertaken by state offices and forces that influence the outcome of its decisions.[26] Although the state is characterised at once by its international standing as well as its pervasiveness in matters of consequence for a society, it is of course possible that it may strive for acquiescence rather than consent.[27]

It goes without saying too that social forces are not confined within state borders, where at times their influence overflows into neighbouring or other states.[28] At times, locally based petty capitalists or dominant social groups influence the running of big international corporations, big-nation-based enterprises and industrial groups.[29] This demonstrates the power and level of influence of social forces.

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[21] Ibid
[22] Ibid
[23] Leysens, A: Op. Cit. pp. 38-39.
[24] Migdal, J.S: Op. Cit. p. 17.
[25] Ibid
[26] Ibid
[27] Ibid. p. 18.
[28] Bedirhanoglu, P: Op. Cit p. 92.
[29] Cox, R.: Production, Power, and World Order: Social Forces in the Making of History, Columbia University Press, New York, 1987, p. 358.

Conventional international relations theories such as realism, fall short in their analysis of the nature of states and global events.[30] They place more focus on the economic and military capabilities of states, whereas neo-Gramscian theory question how the existing world order, norms and institutions came about and whether the current order is likely to be challenged.[31] Such analyses by neo-Gramscian theory provide a comprehensive approach capable of assisting in understanding of how the world order came into being and how issues of international relations are linked. This goes beyond what realism offers in explaining the international political economy.

The concept of historic bloc is closely associated to social forces as it traces the historical formation of social forces and the different political and socio-economic conditions which fostered their emergence. The concept explains phenomena through historicizing and analysing the interaction between socio-economic relations (base) and political and cultural practices (superstructure).[32] It focuses on classes, institutions, and ideas.[33] Cox identifies this concept as particularly useful, especially "to studies that are constrained by time and space".[34] This report employs this concept to try and understand how the different status quos in the three countries came about, especially prior to the introduction of the Kimberley Process.

In the selected case studies of Zimbabwe and the D.R.C., the political economy approach is employed to identify the social forces involved in these two respective diamond sectors. The approach is also used in understanding the ideology of the K.P. and how that ideology has been embraced by member states in each of these two cases. The theory assists in identifying social forces driving the illicit diamond trade. Identification of these players assist in understanding the dynamics surrounding the diamond industry and the Kimberley Process, that is, the various interests of national governments, non-governmental organizations

[30] Bieler, A. and Morton, D. "A critical theory route to hegemony, world order and historical change: neo-Gramscian perspective in International Relations" in Capital & Class, Vol. 28. No. 85, p. 86.
[31] Ibid
[32] Baylis, J. and Smith, S. and Owens, P: Op. Cit. p. 138.
[33] Bedirhanoglu, P: Op. Cit p. 93.
[34] Leysens, A: Op. Cit. p. 13.

(NGOs) and the diamond industry.[35] The approach permits one to consider different frameworks in identifying the origins of social forces and how their interests are safeguarded at a national and global level.

In Zimbabwe, the social forces making up the diamond sector are the business elite and political elite, military forces and diamond smugglers.[36] The recent involvement by the Chinese and Russian investors in the Zimbabwe diamond sector requires special attention, since the two major foreign investors have the potential to further monopolize the diamond sector and advance their own interests at the expense of the local people.[37] The persistence and determination shown by Zimbabwean non-governmental organizations deserves recognition. Considering the repressive political system under which they work, it is remarkable that they continue to put pressure on both the government of Zimbabwe and the Kimberley Process to take action particularly on issues of human, environmental and cultural rights.[38]

The Zimbabwe diamond sector is characterised by a politics of domination, since it lacks transparency, accountability and consent from other state and non-state actors.[39] The diamonds mined in the country are controlled by the political elite, the military and the police, with the destination of the diamond revenue remaining unknown.[40] Political domination in this case enables the corrupt elite to syphon unlimited amounts of diamonds from the system and profit from these in a way that remains unaccounted for. The situation is

[35] Global Witness (A), Kimberley Process, http://www.globalwitness.org/campaigns/conflict/conflict-diamonds/kimberley-process, 16 June 2012.
[36] The business elite include Zimbabwean business men, Chinese and Russian investors. The political elite group is made up of politicians from President Robert Mugabe's political party, ZANU-PF, who also control the diamond sector. See: Chiketo, B., Marange Diamond fields in Zimbabwe: Zanu-PF's enrichment project? http://www.newstimeafrica.com/archives/30369, Accessed: 13 January 2013.
[37] Bell, A., Russia joins China's fight for Zim diamond control, http://www.swradioafrica.com/news160611/russia160611.htm, Accessed: 16 June 2012.
[38] New Zimbabwe, NGOs step-up anti-Marange fight, http://www.newzimbabwe.com/news-5942-NGOs%20step-up%20anti-Marange%20fight/news.aspx, Accessed: 30 August 2012.
[39] Environmental Justice Trade and Liabilities Project, The Story of Zimbabwe's Marange diamonds: Pollution, Politics, Power, http://www.theafricareport.com/news-analysis/the-story-of-zimbabwes-marange-diamonds-pollution-politics-power.html, Accessed: 12 December 2012.
[40] Ibid

further exacerbated by the collapse of governance in Zimbabwe since 2000 after the infamous land grabs incited at the time by the government of Zimbabwe.[41]

Meanwhile, in the Democratic Republic of Congo, the social forces influencing the local diamond sector are the political elite; rebel movements (M23, CNDP, FDLR) and national forces (FARDC); external actors (Rwanda); illegal diamond diggers; and diamond buyers (middle men). These actors play a part in shaping the D.R.C. diamond sector, and identifying and analysing them is crucial to determining a more complete picture of diamond trade in the D.R.C.[42]

Lack of government control in some parts of the country permits rebel movements and neighbouring countries to illegally exploit the country's mineral resources.[43] In the D.R.C., domination by the central government is partly met by resistance from rebels, hence the political instability in the Eastern part of the country.

Similarly, diamonds in other countries such as the Ivory Coast are controlled by the military and by rebels (viz. *Forces Nouvelles de Cote d'Ivoire*), a situation that has caught the attention of the Kimberley Process and international community at large.[44] Key social forces shaping Africa's diamond industry are usually rebel's activities, government forces, diamond diggers and smugglers.

In explaining the political systems and forms of governance in the selected case studies, the study employs the neo-Gramscian concept of domination, which is the opposite of

[41] Ibid
[42] Leavitt, C. and Mitchell, C. G., Companion Curriculum To: Blood Diamond, Amnesty International and USA Human Rights Education Program, http://www.amnestyusa.org/sites/default/files/bd_curriculumguide_0.pdf, Accessed: 14 May 2012, p. 26.
[43] Ibid
[44] Coulibaly, L. and Bavier, J., Ivory Coast wants blood diamond ban lifted, http://www.reuters.com/article/2012/06/03/us-un-ivorycoast-diamonds-idUSBRE85209O20120603, Accessed: 3 June 2012.

hegemony.[45] Domination is when the elite rule the masses without consent, and dominate them as opposed to leading them.[46] In such a situation, the elite are driven by their zeal to advance their own interests at the expense of the broader interests of the people of their country.[47] The theory of hegemony by Antonio Gramsci asserts that "hegemony and dictatorship are mutually dependent phenomena".[48] It therefore means that where there is domination, there is dictatorship.[49] For hegemony to take effect, there is need for the governed to unreservedly acknowledge their rulers as legitimate, with such consent being influenced by the diffusion and popularisation amongst society of the worldview of the dominant class.[50]

The study argues that the governments of Zimbabwe and the D.R.C. rule the masses by force rather than by consent, hence they exploit their political and economic power in controlling natural wealth and enriching themselves at the expense of the development agenda. Such a model of governance, neo-Gramscians would argue, thrives through fraud and deception.[51]

At a global level, ideas, institutions and material capabilities has been used by powerful social forces in shaping the global order – particularly the Washington Consensus institutions.[52] Institutionalization of ideas through organs such as the United Nations is still the practice of the day, with only powerful social forces having the latitude to review and restructure global policy through advanced material capabilities.[53] In the case of the K.P., one could argue that the forces driving the regime might not necessarily be advancing the ideology of the K.P., since there is a conflict of interest between the various actors making up the scheme. The diamond industry, for instance, was initially interested in merely protecting

[45] Ransome, P: Antonio Gramsci: A New Introduction, Harvester Wheatsheaf, London, 1992, p. 6
[46] Bates, T.R. "Gramsci and the Theory of Hegemony" in Journal of the History of Ideas, Vol. 36, No. 2, April – June 1975, p. 353.
[47] Ibid. p. 352.
[48] Ibid. p. 354.
[49] Ibid
[50] Ibid. p. 352.
[51] Augelli, E, and Murphy, C.N, "Gramsci and International relations: a general perspective with examples from recent US policy towards the Third World" in Gill, S. (ed): Gramsci, Historical Materialism and International Relations, Cambridge University Press, Cambridge 1994, p. 128.
[52] International Relations and Security Network (ISN), Power – A Natural Phenomenon or a Form of Hegemony, International Relations and Security Network, http://www.isn.ethz.ch/isn/Current-Affairs/Special-Feature/Detail?lng=en&id=140406&contextid774=140406&contextid775=140396&tabid=140396, Accessed: 2 April 2012.
[53] Ibid

its own business interests rather than taking action against the trade in conflict diamonds, which was partly responsible for the outbreak of several armed conflicts in Africa.[54] It was only after an intensive NGO-led campaign against conflict diamonds that the industry eventually took part in the structuring of an international diamond regulatory system.[55]

This research report has chosen a 'critical' as opposed to 'problem solving' theory, mainly because the former has more leverage in unpacking the question of how a prevailing order came about in the countries in question and in whose interest it functions. A 'problem solving' theory is ahistorical, and interprets the contemporary parameters of the system "as being a mirror of the past and of the future".[56] An ahistorical theory is characterised by normative bias, where a form of bias works in favour of those who impose and maintain a particular order, whereas critical theory aims to figure out the factors that gave rise to the current system or status quo and how it developed. [57] Critical theory goes further to argue that an alternative order is only achievable when one remains non-utopian, desists from improbable alternatives, and moves away from the idea of a permanent existing order.[58]

As convincing as Cox's ideas are, they are challenged by Marxists who argue that his failure to acknowledge the concept of "mode of production" leads his analysis into becoming a simple pluralist description of the events under study.[59] The methodology of Cox's model has been questioned and described as ambiguous, since it fails to produce "a methodologically structured and systematic account of the nature of capitalist accumulation, and why it is unstable and prone to systematic changes".[60]

[54] Lapp, A., Precious Stones and Deadly Consequences, Association of Young Journalists and Writers, http://ayjw.org/print_articles.php?id=343854, Accessed: 16 April 2012.
[55] Ibid.
[56] Leysens, A.: Op. Cit, p. 39.
[57] Ibid. p. 40.
[58] Ibid. p. 41.
[59] Budd, A. Globalising Gramsci, http://www.isj.org.uk/index.php4?id=712&issue=129, Accessed: 04 June 2012.
[60] Bedirhanoglu, P: Op. Cit. p. 113.

2.2. Literature Review

2.2.1. Conflict diamonds

The terminology 'conflict diamond' is understood and interpreted differently by various actors. The K.P., together with the United Nations Security Council (UNSC), define conflict diamonds as "diamonds that originate from areas controlled by forces or factions opposed to legitimate governments, and which are used to fund military action in opposition to those governments or in contravention of the decisions of the Security Council".[61] The crafting of this definition was influenced by the diamond civil wars of Angola, the D.R.C. and Sierra Leone. The framework and context of this definition has become somewhat unsuitable to the contemporary issues facing the diamond industry. The diamond industry has transformed over the years, and issues of conflict diamonds are no longer limited to rebel movements using diamond funds to topple legitimate governments. Some legitimate governments are using diamond money to buy arms illegally, to violate human rights, and to launder money. The current conflict diamond cases of Zimbabwe, the Central African Republic (CAR), the D.R.C. and Guinea reveal the shortcomings of such a definition, revealing how it fails to withstand the challenge of accounting for the contemporary troubles within the diamond industry.

De Beers, on the other hand, defines the same commodity as "diamonds that are mined or stolen to provide funds for armed rebellion against legitimate, internationally recognized governments".[62] One notices that De Beers' interpretation of conflict diamonds implies intentionality and agency, which can easily be denied.[63] In other words, voiced in these terms, De Beers' perception is that as long as a diamond is not directly mined for the purposes of funding conflict it is to be considered conflict-free, regardless of where it is mined.[64] Unfortunately, such an understanding of conflict diamonds could be deemed misleading, as

[61] United Nations, Conflict Diamonds: Sanctions and War, http://www.un.org/peace/africa/Diamond.html, Accessed: 22 September 2012.
[62] Francis, D.J., Conflict Diamonds and the Analysis of African Conflicts: A Framework for Conflict Prevention, http://archive.niza.nl/docs/200212101524088396.pdf, Accessed: 22 September 2012.
[63] Reddy, S.G, and Henry, D, and Oppong, J. R. "Conflict, Diamonds and the Political Economy of Instability in Africa" in African Geographical Review, Vol. 24, No. 1, December 2005, p. 52.
[64] Ibid

the definition fails to acknowledge all possible scenarios where conflict diamonds might be involved.

The above definitions pinpoint the weaknesses and variances in the understanding of conflict diamonds. An acceptable definition of conflict diamonds should not be limited to a specific area, but rather should cover the entire world where conflict or war is funded by diamonds, and the application of the term should include actors such as governments and peacekeepers involved in the diamond war economy.[65] There are indeed cases where the interests of states, the political elite and mining companies converge and lead them to channel revenue from mineral resources to undermine basic freedoms as well as civil and political rights.[66] As such, a concrete definition of conflict diamonds should be rich in context, such that it covers a much greater proportion of possible scenarios that might be associated with conflict diamonds. One would argue that Ian Smillie's definition is more sound and more relevant, as compared to the official definition. Smillie defines conflict diamonds as "diamonds that have been stolen, smuggled or used for the purposes of tax evasion and money laundering".[67]

The above discussion goes some way to revealing the debates surrounding the term conflict diamond, however, for the purposes of this research report, the term will be used in its broader sense in terms of the multidimensional approach that considers the role of both state and non-state actors, that is, government representatives and rebel groups alike.

2.2.2. History and Significance of Diamonds

Over the past years, the issue of conflict diamonds has since caught the attention of international actors.[68] The link between diamonds and conflict can only be understood by first

[65] Kabia, J.M. "Greed or Grievance?: Diamonds, Rent-Seeking and the Civil War in Sierra Leone (1991-2002" in Omeje, K. (ed): Extractive Economies and Conflicts in the Global South, Ashgate Publishing Limited, Hampshire, 2008, p. 96.
[66] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 16.
[67] Smillie, I. Comparative Case Study 1. The Kimberley Process Certification Scheme for Rough Diamonds. VERIFOR Case Study, http://www.pacweb.org/Documents/diamonds_KP/kimberley-process.pdf, Published: October 2005.
[68] Taylor, I. "Botswana and the Conflict Diamonds Campaign: "Diamonds for Develeopment" vs. "Diamonds for Despair" in Ngowi, A.B and Feldman, C. and Matshediso, B. and Mathiba, M. and Ssegawa, J. (eds.): Challenges

acquiring relevant knowledge on diamonds such as their geological makeup, location, means of extraction, and the operational nature of the diamond industry.[69] By definition, a diamond is "a natural mineral consisting essentially of pure crystallized carbon in the isometric system, with a hardness on the Mohs (scratch) scale of 10, a specific gravity of approximately 3.52 and a refractive index of 2.42."[70] In an apparent contradiction of their symbolic meaning as an emblem of love and affection, these precious stones have been responsible for funding and fuelling brutal conflicts all over Africa.[71]

Geologists state that diamonds were formed more than a billion years ago in the Earth's mantle, which is located over 150 kilometres below the earth's surface.[72] Magma, found in the mantle containing the element carbon, was heated beyond 1,200°C, and due to the intense heat and pressure casued by this, the carbon was turned into crystals.[73] As the magma moved upward towards the Earth's surface, these crystals (diamonds) moved upward too, and over time the magma hardened into igneous rock.[74] Some diamonds remained stuck in the rock and were ferried to the surface, whereas others remained within the kimberlite pipes.[75]

Diamond deposits fall into two categories, namely primary and secondary deposits.[76] Those which are found in pipes or rock columns extending from beneath the earth's crust where the

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Facing the Minerals Industry in Developing Countries, Debswana Diamond Company and the University of Botswana, Gaborone, 2002, p. 36.

[69] Tamm, I.J, Diamonds in Peace and War: Severing the Conflict-Diamonds Connection. World Peace Foundation – WPF Program on Intrastate Conflict. Carr Centre for Human Rights Policy. Report 30. Massachusetts, 2002, p. 3.

[70] Kimberley Process (A), Kimberley Process Certification Scheme Core Document, Kimberley Process, http://www.kimberleyprocess.com/web/kimberley-process/core-documents?p_p_id=110_INSTANCE_ekPGITK4zTkz&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_count=1&_110_INSTANCE_ekPGITK4zTkz_struts_action=%2Fdocument_library_display%2Fview_file_entry&_110_INSTANCE_ekPGITK4zTkz_redirect=http%3A%2F%2Fwww.kimberleyprocess.com%2Fweb%2Fkimberley-process%2Fcore-documents%3Fp_p_id%3D110_INSTANCE_ekPGITK4zTkz%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1&_110_INSTANCE_ekPGITK4zTkz_fileEntryId=20203, Accessed: 16 August, 2012, p. 3.

[71] Kabia, J.M: Op. Cit. p. 95.

[72] Edwards, R. and Dickie, L.: Diamonds and Gemstones, Crabtree Publishing Company, New York, 2004, p. 12.

[73] Ibid

[74] Ibid

[75] Ibid

[76] Edwards, R. and Dickie, L: Op. Cit. p. 11.

diamonds formed are known as primary deposits, with those located further afield referred to as secondary deposits.[77] Diamonds are popular for their natural hardness, which allows them to last longer than any other gemstones on Earth.[78]

Aside from the symbolic associations with eternity that these precious stones possess,[79] they have widespread industrial uses as well, such as cutting, grinding, drilling and polishing procedures.[80] In April 2001, Janine Roberts confirmed before the United States Congress the important role that diamonds have played in the work of almost all of their previous administrations.[81] Throughout history, great kings and queens, respected men and women, nobles and common men alike have been tempted, inspired and awed by the uniqueness of diamonds.[82] In the 1600s and 1700s, it was widely held that diamonds could conquer enemies, guarantee good health, prosperity and happiness and shield against any form of danger.[83]

The value of a diamond is determined by carat, colour, cut and clarity.[84] Additional value can also be added by taking into consideration more than 14,000 commercial assortments.[85] The most valuable diamonds are the ones that are colourless and pure carbon.[86] This kind of diamond is at times referred to as an 'ice' diamond due to its colourless crystal clear nature as well as that it is cold to the touch.[87]

[77] Ibid
[78] Ibid. p. 6.
[79] Diamonds, rubies, sapphires, and emeralds are known as precious stones because they are rare, beautiful and durable, they cannot be scratched easily. See Edwards, R. and Dickie, L.: Diamonds and Gemstones, Crabtree Publishing Company, New York, 2004, p. 6.
[80] Geology.com., Diaomond, http://geology.com/minerals/diamond.shtml, Accessed: 16 August 2012.
[81] Crawford-Browne, T: Op. Cit. p. 56.
[82] Edwards, R. and Dickie, L: Op. Cit. p. 5.
[83] Ibid
[84] The Diamond High Council: Progress Report - Conflict Diamonds: analysis, actions solutions, Belgian Diamond Industry, http://www.conflictdiamonds.com/pages/Interface/reportframe.html, Accessed: 15 August 2012.
[85] Loc cit.
[86] Edwards, R. and Dickie, L: Op. Cit. p. 6.
[87] Ibid. p. 6.

The first diamond was discovered in India about four thousand years ago.[88] It was named 'vajra', meaning 'thunderbolt'.[89] It was stolen from India by Jean Tavernier, a French merchant, who later sold it to King Louis XIV of France.[90] Like the majority of today's conflict diamonds, even this very first diamond is said to have caused immense "financial ruin, death, and insanity", to the extent that people of ancient India believed that it was cursed.[91] Today, seventy-three percent of the world's diamond reserves are found in Africa, but regardless of such massive mineral wealth, Africa is known for its widespread poverty.[92] Because of this poverty, there are those who firmly believe that Africa's diamonds are a curse rather than a blessing to its people, since they have been such a large cause of conflict on the continent.

2.2.3. The Resource Curse Hypothesis

Although it was Alan Gelb[93] who initially coined the expression 'resource curse', many other scholars have since tried to analyze and explain its meaning.[94] Hazel McFerson defines it as the failure of resource-rich nations to achieve economic development, and she points to the factors of bad governance, patrimonialism, lack of the rule of law, accountability, transparency and the absence of citizenry participation as causes of this resource curse.[95] Mcferson argues that the same factors lead to the rise of the "Big Man" syndrome, which she defines as the tendency by African leaders to promote a patrimonial state that fails to advance issues of national economic interests.[96]

[88] Crawford-Browne, T Op. Cit. p. 28.
[89] Edwards, R. and Dickie, L: Op. Cit. p. 6.
[90] Ibid. p. 4.
[91] Ibid
[92] Ibid. p. 53-54.
[93] Gelb, A.: Oil Windfalls: Blessing or Curse? Oxford University, New York, 1988.
[94] Hamilton, K., and Ruta, G. "From Curse to Blessing: Natural Resources and Institutional Quality", Environmental Matters, Issues 24. http://siteresources.worldbank.org/INTENVMAT/64199955-1162240805462/21125342/9FromCurse.pdf, Accessed: 16 June 2012, p. 24.
[95] McFerson, H.M. "Extractive industries and African democracy: can the 'resource curse' be exorcised?" in International Studies Perspectives, Vol. 11, 2010, pp. 342-344.
[96] Ibid

The resource curse is characterized by a long-running decrease in exchange rate inflation and product prices, accompanied by government short-sightedness in implementing relevant economic and political policies.[97]

Although there are debates surrounding the accuracy of the resource curse hypothesis and the lack of a single theory capable of explaining the term completely, scholars place emphasis on the need for proper management of natural resources, if sustainable development is to be achieved.[98] Good management is mostly required in developing countries where the bulk of the country's national budget is acquired from the trade in natural resources.[99] It is unfortunate that in most natural resource-rich developing countries, natural wealth is exploited by the elite in safeguarding their political interests, which later results in a factional state and civil war.[100]

There are numerous cases in Africa where mineral resources such as diamonds have been used in financing civil wars and purchasing arms, resulting in the death of countless people.[101] The effects of conflict diamonds, in particular, have proven to be extensive and long-lasting in Africa and have left many African economies in a terrible state.[102] In explaining why natural resources at times lead to conflict, William Reno points to the rise of warlordism, shadow states, and a host of economic factors.[103] He argues that the outbreak of civil war is extremely high in countries were economic resources are embezzled by warlords through the system of patronage.[104] He provides examples of warlords such as Charles Taylor of Liberia, Foday Sankoh of Sierra Leone, and Jonas Savimbi of Angola, who were responsible for the outbreak of the civil wars in Liberia, Sierra Leone and Angola, respectively.[105]

[97] Hamilton, K., and Ruta, G: Op. Cit p. 24.
[98] Ibid
[99] Ibid
[100] Ibid
[101] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 16.
[102] Reddy, S.G, and Henry, D, and Oppong, J. R: Op. Cit. p. 52.
[103] Reno, W. "Shadow States and the Political Economy of Civil Wars" in Berdal, M. and Malone, D. (eds): Greed and Grievances: Economic Agendas in Civil Wars, Lynne Rienner Publishers, United States, 2000, pp. 45-46.
[104] Ibid
[105] Ibid

2.2.4. Lootable and Non-Lootable Resources

Natural resources are classified into two groups, namely lootable resources and non-lootable resources.[106] Diamonds, likewise, are divided into two major types of deposits, kimberlite and alluvial (surface scattering) diamonds.[107] Kimberlite diamonds fall into the category of non-lootable resources due to their geological location, which requires ample capital and hi-tech machinery for extraction.[108] Alluvial diamonds on the other hand are found very close to the earth's surface and requires very little capital and manual labour to mine; hence they are classified as lootable resources.[109]

In most cases, the political elite monopolize the control of non-lootable resources due to their ability to acquire capital and technological resources for mineral extraction.[110] However, such is not the case with lootable resources, and the political elite struggle to impose the same monopoly, mainly because small-scale artisanal miners do not require capital or complex technology to extract lootable resources.[111]

To be in total control of lootable resources, a state ought to invest significantly in its security sector, such that illegal artisanal miners do not intrude into the mineral fields.[112] Generally, states find it challenging to maintain law and order where lootable resources are involved, especially if a state has weak institutions and poor systems of governance.[113]

Cases of civil war, state failure and political instability are more likely to arise in weak states endowed with lootable resources, than in countries where non-lootable resources drive the

[106] Snyder, R. and Bhavnani, R. "Diamonds, Blood, and Taxes: A Revenue-Centered Framework for Explaining Political Order", in Journal of Conflict Resolution, Vol. 49, No. 4, August 2005, p. 568.
[107] Passas, N. and Jones, K. "Commodities and Terrorist Financing: Focus on Diamonds", in European Journal on Criminal Policy and Research, Vol. 12, No. 1, 2006, p. 3.
[108] Snyder, R. and Bhavnani, R. Op. Cit. p. 568.
[109] Ibid
[110] Ibid
[111] Ibid. p. 569.
[112] Ibid
[113] Ibid

economy of the state.[114] However, there is no guarantee that a state whose economy is sustained by non-lootable resources will always achieve stability, due to the fact that those in high political office have a tendency to embezzle public funds and transfer them to foreign bank accounts at the expense of national economic development.[115] In the same vein, states that receive very low revenue from lootable resources might achieve both economic and political stability, depending on the quality of leadership and institutions.[116] Although the link between natural resources and state stability depends on a range of factors, political will and institutional effectiveness stand out as the most vital factors in evading conflict, and the resource curse.[117]

[114] Ibid
[115] Ibid. p. 570.
[116] Ibid
[117] Ibid. pp. 570-572.

Chapter 3

Research Methodology

3.1. Research Methodology

This chapter aims to explicate the reason why certain research methods were selected over others in this study. The chapter begins by stating the key questions guiding the research. These questions are crucial in their role of keeping the researcher and the reader alike cognisant of the key objectives of the research. Thereafter, the chapter shifts its attention to the rationale of the research, explaining why the research was done, and noting its benefit to the scholarly arena at large. Then it focuses on research methods, explaining the type of research methods that were used and not used, and the reasons behind such choices. The last part of the chapter focuses on the challenges and limitations that the researcher encountered and the actions that were taken in minimizing the effects of such challenges.

3.1.1. Research questions

1. - How effective has the Kimberley Process ideology been in helping to curtail the trade in conflict diamonds?
   - Who benefits in the process?
   - How are the profits spent?
2. Are the internal structures and mechanisms adopted by the Kimberley Process adequate in the pursuit of its ideology?
3. What are the social forces driving the trade in conflict diamonds?

3.1.2. Aim and rationale

Although numerous pages have been written on the subject of the Kimberley Process, one could argue that academics have not done justice in addressing the effectiveness of the Kimberley Process in politically weak countries such as the Democratic Republic of Congo (DRC), Zimbabwe, Ivory Coast, and the Central African Republic (CAR). Such being the case, this study is motivated by the need to stress the importance of a functional diamond regulatory system, if a legitimate diamond trade is to be achieved. The effects of conflict diamonds should not be underestimated, considering that abundance in natural resources, especially in Africa, so significantly influences the quality of governance and institutions. In this circumstance, there is need to constantly examine the diamond regulatory system, checking whether it is still relevant to its objectives, and how best it can be improved to assist member states to achieve a diamond industry that promotes sustainable development. If natural wealth is not managed properly, as is the case of most diamond-rich African countries, it might become a catalyst in the outbreak of conflict. This study serves to identify the strongest and weakest areas of the Kimberley Process, such that the scheme operates efficiently and minimizes the outbreak of diamond-related conflicts, among other key concerns such as the resource curse and the abuse of human rights.

In the selected case studies of Zimbabwe and the Democratic Republic of Congo the research aims to reveal the extent to which the Kimberley Process has succeeded in addressing the problem of conflict diamonds. The study investigates how the political economy of conflict diamonds in Africa works, and how that is linked to diamond mining activities in the selected case studies. The study also aims to identify the social forces involved in the entire diamond trade, those who benefit from the illicit trade, and whether it is the government, political elite, business elite or common people.

The study questions whether it is not yet time that the Kimberley Process focuses more on the crimes and underground diamond deals being committed by its own member states, rather than focusing what is argued here as inordinate attention paid to the issue of diamonds in the hands of rebel movements.

3.1.3. Research methods

Unlike in the natural sciences, where research is conducted through empirical experiments, social science relies mostly on limited time scale predictions, where hypotheses are bound to change over time.[118] The core objective of social science is to understand and "explain social action, social structure and social change"[119]. This paper adopts a similar objective in its aim to assess and explain the extent to which the diamond regulatory system, known as the Kimberley Process, has been able to realize its objectives in Zimbabwe and the Democratic Republic of Congo.

This research was undertaken as a qualitative study through case studies and the careful analysis of primary and secondary data. A qualitative research method involves the use of various "philosophical assumptions, strategies of inquiry, and methods of data collection, analysis, and interpretation".[120] The case study method was chosen due to its strength and relevance in capturing context-specific detail.[121] The method also enables the researcher to thoroughly explore events through the use of various data collection procedures over a continuous period of time.[122] These methods were selected mainly on the basis of their strength in terms of data collection and analysis, which assures an in-depth assessment of phenomena. Additionally, the qualitative method is flexible, allowing for the examination of complex and value-laden questions, unlike quantitative research methods. Ultimately, these research approaches permitted the researcher to gain an understanding of the question at hand, namely the extent to which the Kimberley Process has addressed problems as identified in the two selected case studies.

These case studies will be used not for comparative purposes, but rather to draw out lessons on how the Kimberley Process performed in their two respective countries, thereby determining the extent to which the scheme has thus far been effective in each circumstance on its own terms. Although the focus is placed on the two case studies, it should be

[118] Kingston, W. "A Spectre is Haunting the World: The Spectre of Global Capitalism" in Journal of Evolutionary Economics, Vol. 10, No. 83, January 2000, p. 84.
[119] Gill, S., "Epistemology, Ontology and The 'Italian School' in Gill, S (ed), Gramsci, Historical Materialism and International Relations, Cambridge University Press, Cambridge, 1994, p. 21.
[120] Ibid
[121] Yin, R.K.: Case Study Research, Sage Publications, California, 1994, p. 34.
[122] Creswell, J.W: Op. Cit. p. 13.

mentioned that these are loosely used to demonstrate and reveal a broader understanding of the efficacy of the Kimberley Process.

The two case studies were selected because they are currently the most targeted by the Kimberley Process, and because the trade in diamonds in these countries has come under the scrutiny not only of the Kimberley Process, but of the United Nations (UN) as well. Because of that, it stimulated the need to examine the relationship of the Kimberley Process to these respective countries.

The selection criteria used for case studies in this research was guided by the need to identify the nature of problems characterizing the global diamond trade. For instance, the distinctive features that characterize the diamond sector in Zimbabwe are a lack of transparency and accountability by mining companies as well as the government. Whereas, in the Democratic Republic of Congo, there is a power struggle that characterizes the trade, where the government lacks legitimacy and a capacity to govern, whilst experiencing threats from militant rebel movements and interference from external actors such as Rwanda in the resources-rich areas of the country. These multifarious issues have guided this report in its goal of achieving a holistic approach to understanding what is at stake in the Kimberley Process, and the political economy of diamonds at large.

Primary sources for this study include documents released by the Kimberley Process, the United Nations Security Council, and scholarly journal publications. These were acquired from the Kimberley Process website, the UN online database and various journal sites such as the Journal of International Studies, Rethinking Marxism, Journal of Conflict Resolution, European Journal on Criminal Policy and Research, Social Research and The Round Table. Part of the primary data was also obtained from reports and publications by non-governmental organizations such as Global Witness (GW), Oxfam International (OI), and Partnership Africa Canada (PAC). These NGOs have been assessing the work done by the Kimberly Process since its establishment, hence their historically informed perspectives are crucial in understanding the debates surrounding the Kimberley Process.

Secondary sources were collected from the University of the Witwatersrand main library, the University of Johannesburg library, and the South African Institute of International Affairs library. The library research method allowed for access to an array of scholarly literature, especially on the subject of the political economy of Africa's diamonds; the history of conflict diamonds; Africa's diamond wars in Angola, Sierra Leone and the Democratic Republic of Congo; and the establishment of the Kimberley Process, among other key issues of relevance. Time was invested in digesting textbooks, articles and newspapers with the intention of developing an enhanced understanding of the subject at hand. The reason for combining primary and secondary sources was to enhance the quality of information given in this study and to bridge the flaws of secondary data where necessary.

This study also makes use of prominent daily and weekly newspapers, which include the Mail and Guardian, the Business Day, the Zimbabwe Independent, the Standard and the Daily News. These were of great benefit as they provided access to both current and otherwise classified information surrounding the global diamond trade. They also provided information related to how the illegal diamond market operates, the players involved, and also the efforts made in achieving a 'conflict diamond-free' market. It ought to be borne in mind that such information is not easily available, considering the highly secretive nature of the diamond industry at large.

Leading online news websites such as Al Jazeera, the British Broadcasting Corporation, and the Chicago Tribune were included in media-based research. It was found that these agencies had the scope to cover the diamond trade in particularly great depth for their broad international audiences.

3.1.4. Challenges and Limitations of Study

Although a qualitative method suits this study best, the researcher is aware of the subjectivity that comes with this approach, particularly with regards to the problem of built-in researcher bias. To minimize bias, the researcher confronted his own opinions and prejudices throughout the process of data analysis.

Field research, behavioural observation of artisanal miners, and consultation with mine authorities was not possible in the case of this study, due to the on-going conflict in these areas as well as to financial and time constraints. Also, part of the data on the K.P. website is restricted, which made it impossible for the researcher to access the particular information of member states' mining records and other critical information relevant to this study.

It should be mentioned that initially the Ivory Coast was made part of the case studies but due to lack of information, resources and adequate time, the researcher decided to discard the Ivory Coast and focus only on the two case studies of Zimbabwe and the D.R.C. Acquiring information on the Ivorian diamonds proved to be a challenge, however, diamond issues in the Western African country will be discussed in this report.

Chapter 4

Social Forces Approach to the International Political Economy of Conflict Diamonds in Africa

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"The trade in illicit diamonds is extensive and global in nature".[123]

4.1. International Political Economy of Conflict Diamonds in Africa

This chapter intends to shed some light on the political economy of Africa's natural resources, specifically on conflict diamonds. The focus of the chapter is to identify the social forces driving the conflict diamond trade in Africa and how they are linked to overseas diamond cutting and polishing centres as well as to other prominent global diamond trade centres. To achieve this, the chapter adopts a framework that analyses the effects of the relationship between economic, political, state-centric and rebel-centric factors in natural resource-rich countries and the diamond industry in general. These internal dynamics are important, as they enable one to get to the fundamentals that shape the trade in conflict diamonds. Although the aim of this chapter is to understand the interrelationship between political and economic dynamics in Africa's natural resources, it is important to note that these factors constantly change, hence it is not possible to claim full understanding of the 'resource war'.[124]

Crucial to the international political economy is the connection of interests between markets, states, and civil society.[125] Key issues such as commodity and service production, the politics of trade, development, environmental regulation, currencies, export control regimes, financial

[123] UN Office on Drugs and Crime: Organised Crime and Instability in Central Africa, UNODC, http://www.unodc.org/documents/data-and-analysis/Studies/Central_Africa_Report_2011_web.pdf, Published: October 2011, p. 16.
[124] Cater, C. "The Political Economy of Conflict and U.N. Intervention: Re-thinking the Critical Cases of Africa" in Ballentine, K. and Sherman, J. (eds): The Political Economy of Armed Conflict: Beyond Greed and Grievance, Lynne Rienner Publishers, United States, 2003, p. 20.
[125] Jorgensen, K.E: Op. Cit. p. 129.

flows and globalization all make up and characterise the international political economy.[126] There is no single framework that serves a comprehensive understanding of the international political economy, rather it is understood differently in various parts of the world.[127] By focusing on Africa's political economy and paying attention to the social forces driving the illegal diamond trade, this chapter aims to expose the problems that Africa and the diamond trade are both facing. The International Political Economy (IPE) approach enables one to take an aerial view over the issue of conflict diamond trade, an approach the K.P. has arguably not adopted in understanding how conflict diamonds are connected to various issues of the arms trade, human rights violations, money laundering and the embezzling of diamond funds by member state governments.

Earlier chapters have argued that ideally, natural resources such as diamonds, gold and oil ought to promote economic development, however, in the case of Africa, these natural resources have become responsible for the outbreak of conflict and civil war, as witnessed in the cases of the Democratic Republic of Congo, Angola, and Sierra Leone.[128] Up until now, these conflicts have resulted in the death of more than an estimated 3.7 million people in Africa.[129]

4.1.1. Demand and Supply of Conflict Diamonds in post-Cold War Era

Since the 1870s, Africa has been the main global supplier of diamonds, however, over the years, her role has been transformed to become a mere exporter of raw materials, while the recipients in the developed world, have enjoyed the greatest share of the benefits of rough diamonds.[130] As mentioned earlier in the report, soon after the end of the Cold War era, African countries had to settle for diamonds, among other minerals, as their source of funds

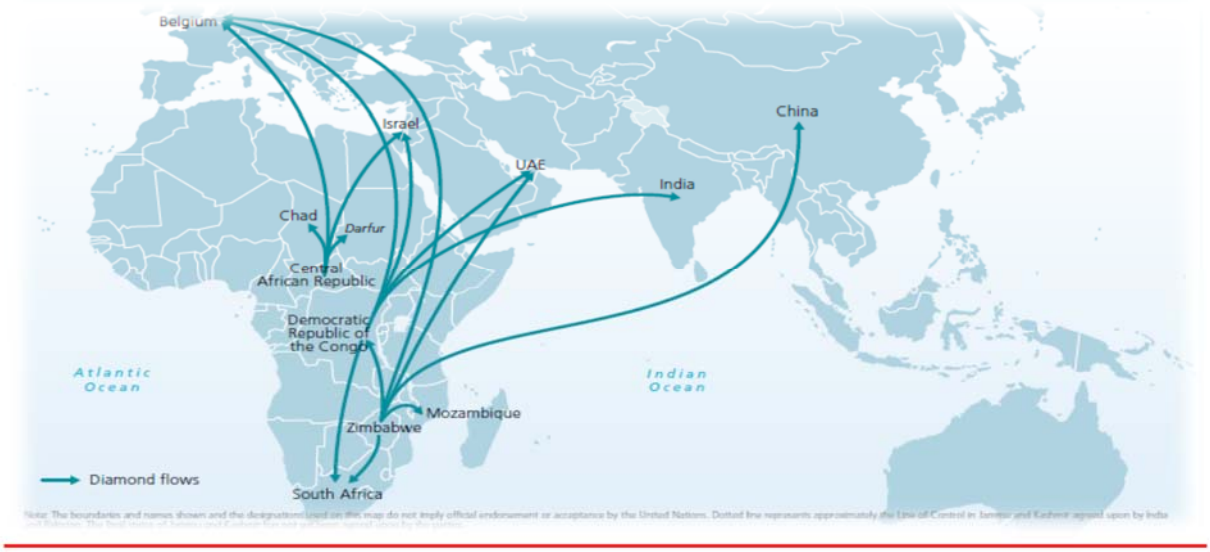
[126] Ibid
[127] Ibid. p. 130.
[128] Reddy, S.G, and Henry, D, and Oppong, J. R: Op. Cit. p. 51.
[129] Chicago Tribune., Diamonds: A War's Best Friend, http://articles.chicagotribune.com/2001-07-06/news/0107060020_1_conflict-diamonds-diamond-markets-brutal-wars, 06 July 2001, Accessed: 22 September 2012.
[130] Even-Zohar, C.: From Mine to Mistress – Corporate Strategies and Government Policies in the International Diamonds Industry. Mining Communications Ltd, London, UK, 2007, p. 2.

to support their wars.[131] Diamonds became the easiest target for both rebels and government officials, mainly because they are easy to smuggle, small in size, highly profitable, and they maintain their value over a very long period of time.[132] Amongst the major sources of conflict diamonds were the D.R.C., Angola, and Sierra Leone.[133] In Angola, Jonas Savimbi of the National Union for the Total Independence of Angola (UNITA) was financially supported by the United States Central Intelligence Agency (CIA) until the early 1990s, thereafter he began supporting his rebel movement through trade in conflict diamonds, which generated a staggering USD 4 billion in the short space of 10 years.[134] In Sierra Leone, the rebel movement Revolutionary United Front (RUF) received military and financial assistance from Liberia's former president Charles Taylor, in exchange for conflict diamonds.[135] During the Second Congo War of 1998, Laurent Kabila received military assistance from Zimbabwe amongst eight other countries in the region, in exchange for diamond concessions.[136] 25 different rebel groups also took apart in the war, which left two million people dead.[137]

The story of Africa's diamonds confirms that both legitimate governments and rebel groups have been involved in the trade of conflict diamonds since the end of the Cold War. Such being the case, diamond producing governments and rebel movements are identified as the key social forces driving the trade in conflict diamonds in the period since 1991. The illegal trade has thrived, due to political instability and poor systems of governance in the majority of diamond producing countries.

[131] Silverstein, K, "Diamonds of Death" in Levy, A.V. (ed): Diamonds and Conflict: Problems and Solutions, Novinka Books, New York, 2003, p. 65.
[132] Ibid. p. 66.
[133] Ibid
[134] Ibid
[135] Ibid
[136] Ibid
[137] Ibid

Fig. 1: Diamonds from the DRC, CAR, and Zimbabwe via East Africa to the World



Source: Extracted from the UNODC 2011 Report.[138]

The United Nations identified the biggest players in the trade of conflict diamonds as Liberia, Ivory Coast, Guinea, Gambia, Togo, Burkina Faso, Zimbabwe and the Ukraine[139].[140] A 2011 Report published by the UN Office on Drugs and Crime added Burundi, the Central African Republic, Chad, the DRC, Rwanda, and Uganda to the list of actors involved in the trade of conflict diamonds and related crimes.[141] These countries and rebel forces in the C.A.R. and the D.R.C. are identified as the dominant social forces driving the trade in conflict diamonds in Africa. Cameroon, Chad and the Darfur region of Sudan are known for providing an overland passage for smuggled diamonds from the Central African Republic, and thereafter they are exported via air to major diamond centres in Europe, the Middle East or South Asia.[142]

It is important to note that Africa remains the key source of conflict diamonds, while countries such as Israel, Belgium, United Arab Emirates, India and China provide markets for

[138] UN Office on Drugs and Crime: Op. Cit. p. 69.
[139] Ukraine particularly has been found guilty by the UN of exchanging arms for diamonds from UNITA.
[140] Silverstein, K. Op. Cit. p. 66.
[141] UN Office on Drugs and Crime: Op. Cit. p. 16.
[142] Ibid

the smuggled diamonds.[143] Generally, diamonds smuggled from Africa do not carry much value on the African continent, however, once they reach key diamond destinations such as India, their value automatically rises, which explains why foreign actors are those mostly involved in the operation of African diamond mines.[144] Financially, the illegal diamond trade is predominantly controlled by entities and individuals from Belgium, India, Israel, Lebanon, the Russian Federation, Switzerland, United Kingdom, Angola, the D.R.C., Mali, Senegal and South Africa.[145] In running their illegal diamond buying operations, these actors routinely deploy experienced diamond buyers from Lebanon or Israel to purchase illegal diamonds from African diamond producing countries.[146]

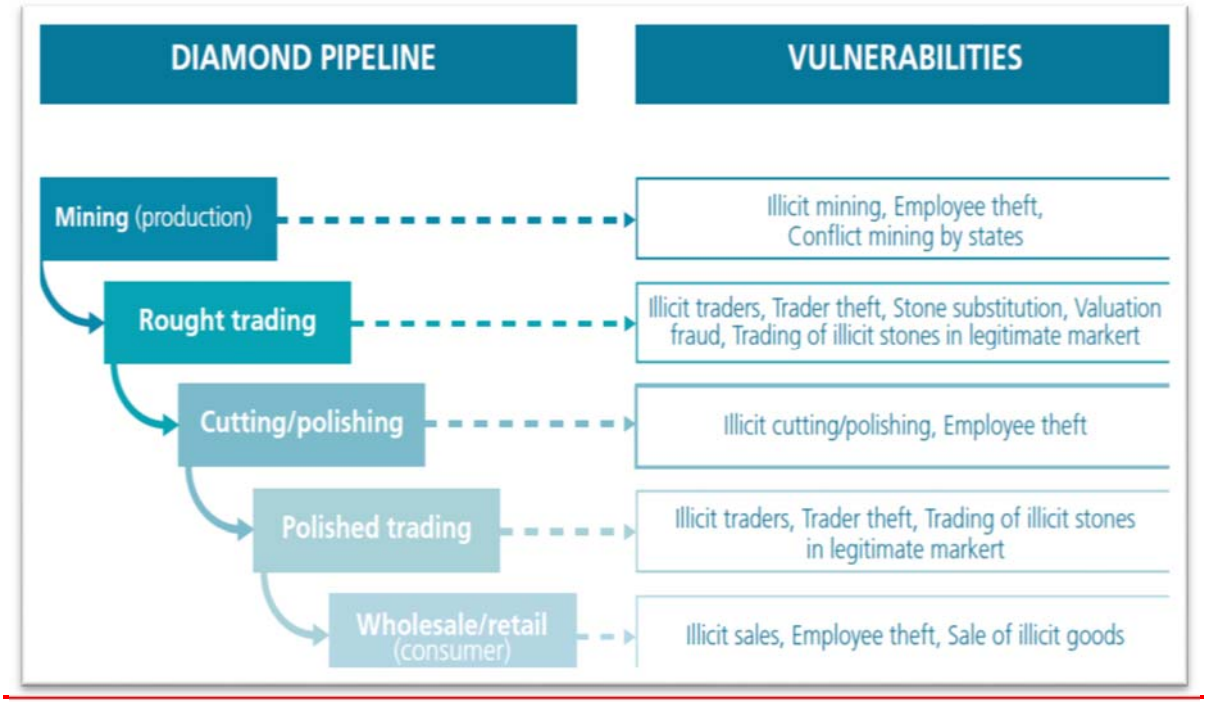
The Indian diamond cutting sector is said to have expanded as a result of the trade in conflict diamonds.[147] A combination of African diamond producing countries, rebel movements, diamond smugglers and global diamond centres has serious consequences for the legitimate diamond industry, and indeed for human development, especially in Africa. This kind of trade has partly been responsible for economic and political instability in most parts of diamond producing countries in Africa. The continent runs a deficit of large sums of diamond money, which could potentially underpin development efforts.

An analysis of the conflict diamond trade in Africa reveals the existence of 'underground' trade routes between Africa and the diamond industry. These routes make it possible for uncertified diamonds to reach the diamond industry without hindrance. The analysis also reveals the absence of common agenda between some K.P. member states and several diamond centres across the world. The illegal diamond trade is closely linked to arms trade, the violation of human rights, corruption and tax evasion.[148]

[143] Ibid. p. 69.
[144] Silverstein, K: Op. Cit. p. 346.
[145] UN Office on Drugs and Crime: Op. Cit. p. 78.
[146] Ibid
[147] Even-Zohar, C. Op. Cit. p. 346.
[148] UN Office on Drugs and Crime: Op. Cit. p. 69.

Diamond smuggling requires certain skills in order to successfully transport the illegal goods from one place to the other, without detection.[149] In most cases, cross border diamond smuggling is done via air transport, with the help of corrupt (or poorly motivated) security and customs officials.[150] Smugglers use different methods, with some diggers go as far as swallowing their stones so as to transport them safely to various diamond selling points, and to completely avoid the legitimate trading protocols.[151] The history of diamond smuggling reveals that a typical smuggling operation makes use of a trusted courier, and upon arrival the diamonds are mixed with local production, making it difficult to trace them.[152] Smuggling is usually performed to dodge export taxes in diamond producing countries, or if the diamond country of origin is under K.P. sanctions.[153] Another technique used by smugglers is bribing custom officials such that they declare a low value on the diamond parcel, resulting in a lower rate of tax.[154]

Fig. 2: Vulnerabilities of the diamond pipeline to illicit activity



Source: Extracted from the UNODC 2011 Report.[155]

[149] Ibid. p. 76.
[150] Ibid
[151] Ibid
[152] Ibid
[153] Ibid
[154] Ibid
[155] UN Office on Drugs and Crime: Op. Cit. p. 76.

The UN mapped a diamond pipeline, which traces diamonds from mines to retail markets.[156] The diamond pipeline identifies the social forces, faults and loopholes within the diamond chain. Dominant social forces identified by the UN are illegal diamond diggers, diamond mining employees, governments of diamond producing countries, illicit traders, diamond cutting and polishing centres and legitimate diamond retail markets.[157] Throughout the diamond processing chain, the influence of these social forces in the diamond trade is evident.[158]

As illustrated in Figure 2, throughout the diamond pipeline, each stage is exposed to loopholes, hence constant surveillance on the flow of diamonds is required. The first stage in the diamond pipeline, which is diamond mining, is exposed to illegal diamond diggers, government interference, and employees.[159] These social forces are capable of extracting or stealing the diamonds illegally and feed the illicit diamond trade.[160] The second stage, which is rough trading, faces the similar issues of illicit traders, valuation fraud, stone substitution and diamond smuggling.[161] The third stage, cutting and polishing, is made vulnerable to illicit cutting and polishing and employee theft.[162] The fourth stage, polished trading, is mainly exposed to trader theft and to the trading of illicit diamonds. The last and final stage of the diamond pipeline, diamond retail, is susceptible to illicit sales, employee theft, and the sale of illicit diamonds.[163]

The above-mentioned social forces propelling the illicit diamond trade usually thrive in areas where diamond control systems are ineffective or non-existent. In the case of Africa, one notices that many diamond rich countries have weak institutions and are governed by authoritative political systems that control natural resources through political domination. The diamond sector in the majority of these countries is characterised by a lack of accountability and transparency, which arguably leads to the resource curse.

[156] Ibid
[157] Ibid
[158] Ibid
[159] Ibid
[160] Ibid
[161] Ibid
[162] Ibid
[163] Ibid

4.2. Neoliberalism and the Illegal Trade of Diamonds

The current global order is characterised by a neoliberal ideology, which is that global political economic force responsible for advancing the private interests of the elite and controlling the social life of the people.[164] At the centre of this ideology lies free market policies that promote the proliferation of private enterprise.[165]

The neoliberal system of economic globalization and free trade markets has permitted the trade in conflict diamonds to flourish, since rebel movements in resource-rich areas have access to regional and international diamond markets the world over and are able to finance their wars through these profits.[166] In most African countries, particularly in the Central African Republic, the Democratic Republic of Congo, and Zimbabwe, government officials, armed groups and illegal miners are identified as the key social forces benefitting from diamond trafficking.[167] These social forces are able to trade diamonds with less difficulty, due to the capitalistic nature of the global system, which has made it easy for both formal and illegal diamond trade to take place.

Apart from providing markets for African conflict diamonds, Western countries are also blamed for exchanging arms for conflict diamonds.[168] The arms used in diamond-centred civil wars are not manufactured in Africa, but in industrialised countries.[169] Conflict diamonds, among other conflict minerals such as oil and coltan, are not at present of significant value in the African context, however, it is in a global context where value is placed on these minerals and where they are hotly traded.[170] Neoliberalism connects the trade of conflict diamonds to other illegal forms of trade, such as the arms trade, which results in massive violations to human rights in Africa.[171]

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[164] McChesney, R.W. "Introduction" in Chomsky, N: Profit Over People, Seven Stories Press, London, 1998, p. 7.
[165] Ibid
[166] Reddy, S.G, and Henry, D, and Oppong, J. R. Op. Cit. p. 53.
[167] UN Office on Drugs and Crime: Op. Cit. p. 78.
[168] Cater, C. Op. Cit. p. 67.
[169] Ibid. p. 33.
[170] Ibid
[171] Oxfam International, Why we need a global Arms Trade Treaty, http://www.oxfam.org/en/campaigns/conflict/controlarms/why-we-need-global-arms-trade-treaty, Accessed 23 November, 2012.

4.3. Armed Conflicts as Money-Making Ploy

The history of Africa has been characterised by violent conflict and civil war, a phenomena commonly associated with the underdevelopment of the continent.[172] The outbreak of civil wars has become more common when compared to interstate wars.[173] Contrary to the popular belief that conflict or war is a negative phenomenon or system breakdown and all parties involved intend to win the war, it should be noted that war, at times, is used as a smokescreen for the attainment of power, protection and economic benefits.[174] Different social forces are driven by a variety of motives for going to war, whilst for others, the longer the warfare unfolds, the more profits they acquire.[175] This argument is supported by literature on the so-called 'political economy of war', which explores the argument that resource-related conflicts are sometimes prompted by national and international economic actors.[176]

In a natural resource conflict, rebel movements are less motivated to win the war, rather, their primary concern is to loot as much natural wealth as possible, and hence most times they prolong a given conflict.[177] Grievance and greed, rather than socio-political grievances of development have been propelling the outbreak of civil wars over the course of the last half-century.[178] Africa's failure to promote political, social and economic stability has resulted in the outbreak of conflict.[179]

Natural resources in Africa are usually governed through the politics of domination.[180] The civil wars in Angola, Liberia, Sierra Leone and the D.R.C. have revealed how the concept of

[172] Moss, T.J.: African Development: Making Sense of the Issues and Actors, (2nd Edition), Lynne Rienner Publishers, United States of America, 2011, p. 57.
[173] Collier, P. and Hoeffler, A. "Greed and Grievance in Civil War." The Centre for the Study of African Economies Working Paper Series. Working Paper 160, 2002, p. 1.
[174] Keen, D. "Incentives and Disincentives for Violence" in Berdal, M. and Malone, D. (eds): Greed and Grievances: Economic Agendas in Civil Wars, Lynne Rienner Publishers, United States, 2000, pp. 19-21.
[175] Ibid
[176] Kantz, C. "The Power of Socialization: Engaging the Diamond Industry in the Kimberley Process" in Business and Politics, Vol. 9, Iss. 3, 2007, p. 2.
[177] Keen, D. Op. Cit. pp. 26-27.
[178] Collier, P. and Hoeffler, A: Op. Cit. p. 6.
[179] Reddy, S.G, and Henry, D, and Oppong, J. R. Op. Cit. p. 53.
[180] Le Billon, P, "The political ecology of war: Natural Resources and Armed Conflict", in Political Geography, Vol. 20, 2001, p. 562.

domination was employed by rebel leaders (Jonas Savimbi, Charles Taylor, Foday Sankoh and Mobutu Sese Seko) in controlling diamond trade.[181]

4.4. Money Laundering in Africa: Corporate Social Providers

As has been mentioned, the majority of African leaders are often criticized by the developed world for high levels of corruption, looting of state resources and the failure to channel national wealth towards economic development.[182] Although these accusations may be justified, certain Western countries are likewise to blame for taking part in corrupt activities and providing safe havens for 'dirty money' from Africa's corrupt officials.[183]

In theory, international money laundering regulations should serve to curb the transfer of corruption money around the world. However, the history of Africa proves that the developed world's financial system remains the prime recipient of dirty money from Africa.[184] The developed world fails to resist the temptation of the large sums of 'dirty money' emanating from Africa, hence they take part in crafting off-shore companies and investment entities for corrupt African leaders.[185] These financial companies are designed in such a way that the true identity of the owner remains hidden, allowing corrupt African leaders to amass millions of dollars in overseas banks without a trace.[186]

Most African countries rich in natural resources are characterized by secrecy jurisdictions and complex legal structures.[187] These conditions promote tax avoidance and off budget government spending by the elite.[188] The Zimbabwean and D.R.C. diamond sectors are an example of how a lack of adequate legal structures, transparency and accountability promotes

[181] Reddy, S.G, and Henry, D, and Oppong, J. R. Op. Cit. p. 52.
[182] Aljazeera (A), How to Rob Africa, http://www.aljazeera.com/programmes/peopleandpower/2012/11/201211714649852604.html, Accessed: 08 November 2012.
[183] Ibid
[184] Ibid
[185] Ibid
[186] Ibid
[187] Ibid
[188] Global Witness (B), Diamonds: A Good Deal for Zimbabwe, Global Witness, http://www.globalwitness.org/sites/default/files/library/A%20GOOD%20DEAL%20FOR%20ZIMBABWE_0.pdf, February 2012, p2.

the embezzling of state funds by the elite.[189] Political elites are able to siphon state resources through political domination, the use of political power to suppress all opposition, and the absence of effective regulatory structures.

4.5. The Diamond Industry: Monopoly, Corporate and Consumer Issues

Tracing the history of the diamond industry enables an understanding of how the contemporary diamond industry came about and the social forces that govern it. By recognizing these forces, one is in a position to identify their different interests in the diamond industry.

Cecil John Rhodes, the founder of De Beers, was a profit-oriented businessman, driven by capitalistic ideas.[190] Rhodes' vision for De Beers was extravagant, wanting his company to be "the richest, the greatest, and the most powerful company the world has ever seen".[191] However, De Beers' involvement in Zaire during the Mobutu era was marred with controversy.[192] It was involved in the trade of conflict diamonds and it established diamond buying offices in neighbouring countries with the intention to buy all the diamonds smuggled out of Zaire.[193] De Beers also admitted to having purchased conflict diamonds from UNITA during the Angolan civil war, which ended in 2002.[194] The company also made use of undercover buyers. One of the most famous of these buyers was Fred Kamil, whose task was to search for diamond smugglers and to purchase their conflict diamonds on behalf of De Beers.[195]

Today, De Beers has succeeded in becoming a demand-driven business, rather than supply-driven one.[196] However, the diamond industry is still faced with corporate and consumer challenges threatening the diamond value chain.[197] Issues of accountability, transparency,

[189] Aljazeera (A): Op. Cit.
[190] Ibid
[191] Ibid. p. 241.
[192] Even-Zohar, C: Op. Cit. p. 345.
[193] Ibid
[194] Ibid. p. 67.
[195] Ibid p. 345.
[196] Ibid. p. 1.
[197] Ibid. p. 3.

social and corporate responsibility, environmental concerns, new technologies, ethical concerns and compliance are the central concerns to the diamond industry.[198] Considering that the diamond industry thrives on consumer confidence, the above-mentioned issues require attention if consumer confidence is to be maintained.[199]

Critics of the diamond industry, such as Representative McKinney, argue that today's successful diamond centres in Antwerp and Tel Aviv are a direct result of the untold human suffering of the people of Sierra Leone, Angola and the D.R.C.[200] The biggest beneficiaries of the diamonds however, are the international diamond corporations in control of the diamond industry.[201]

The dominant social forces making up the diamond industry and partly responsible for the illegal diamond trade are De Beers, African diamond producing countries, global diamond centres and diamond smugglers. These forces appear to be driven by the need to make profit at the expense of human development. Such has been the trend of the diamond industry since its inception.

[198] Ibid
[199] Ibid. pp. 3-4.
[200] Silverstein, K: Op. Cit. p. 66.
[201] Ibid

Chapter 5

The Kimberley Process Certification Scheme

5.1. Diamond Industry prior to the Kimberley Process

Whether or not the unsuccessful Kimberley Process was doomed to failure from the moment it was established one cannot say, however, what is known is that diamond smuggling and regulation began around the 1880s, following the diamond discovery in Kimberley, South Africa.[202] The Trade in Diamonds Consolidation Act of 1882 was adopted to curb smuggling in the old South Africa, and it failed.[203] Up until 1930, it was unlawful to be in possession of an uncertified rough diamond in South Africa and South West Africa (Namibia), with the idea by mine owners to monopolise the diamond industry such that diamond prices remained high.[204]

Prior to the inception of the Kimberley Process in 2003, approximately 25 percent of the entire world's diamond trade was linked to the illegal diamond market.[205] The United Nations General Assembly (UNGA) has meanwhile confirmed the link between conflict diamonds and threat to human safety and security.[206] Lack of significant diamond regulations led the diamond industry to seek help from paramilitary forces and other illegal groups to exploit

[202] Crawford-Browne, T: Op. Cit. p. 33.
[203] Ibid
[204] Ibid
[205] The Diamonds and Human Security Project: Diamonds and Human Security Annual Review 2009, Partnership Africa Canada, http://www.pacweb.org/Documents/annual-reviews-diamonds/AR_diamonds_2009_eng.pdf, 10 August 2012, p. 2.
[206] United Nations General Assembly, Resolution 55/56(2000): The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts, United Nations General Assembly, http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca.minerals-metals/files/pdf/mms-smm/busi-indu/kpd-pdk/un-resol-eng.pdf, 29 January 2001, p. 1. Accessed: 16 January 2013.

diamond resources.[207] These illegal diamonds were able to reach the formal diamond trade due to the widespread lack of transparency and accountability in the industry.[208] They were also being traded for arms, used in money laundering, tax evasion, drug trafficking, sanction-busting and terrorist financing.[209] Diamond producing countries, especially in Africa, have been all the while deprived of full access to diamond profits.[210]

The first steps by the international community to curb the trade in conflict diamonds were taken in July 1998 by the United Nations Security Council (UNSC), when it passed a diamond export embargo on Angola under Resolutions 1173 and 1176.[211] This undertaking by the UN was as a result of rebel movement, the National Union for the Total Independence of Angola (UNITA), using diamonds to fund conflict.[212] To guarantee the effectiveness of the embargo, a diamond certification system to monitor the flow of diamonds from Angola was introduced between diamond producing countries.[213] However, over time the diamond control systems began to be ineffective, as loopholes began to emerge and cases of diamond certificate forgery became common, leading to the smuggling out and trading of Angolan diamonds.[214] A year later, a similar resolution was adopted by the UNSC to curb the trade in conflict diamonds in Sierra Leone.[215]

The case of Angola and Sierra Leone drew international attention and forced the major diamond producing countries of South Africa, Namibia and Botswana to summon fellow major diamond trading and producing countries, representatives of the diamond industry, and NGOs to work together and forge a quick solution to the problem that was threatening their industries.[216] Massive campaigns by NGOs (led by the Global Witness) against the trade in

[207] Kantz, C: Op. Cit. p. 1.
[208] Ibid
[209] The Diamonds and Human Security Project: Op. Cit. p. 2.
[210] Ibid
[211] Ibid
[212] The Diamond High Council: Op. Cit.
[213] Ibid
[214] Ibid
[215] Wright, C. "Tackling Conflict Diamonds: The Kimberley Process Certification Scheme" in International Peacekeeping, Vol. 11, No. 6. Winter 2004, p. 698.
[216] Kantz, C: Op. Cit. p. 2.

conflict diamonds put pressure on the diamond industry, leading to the establishment of an inaugural global diamond regulatory system that was named the Kimberley Process.[217]

It must be noted, however, that although the UN played a key role in facilitating the Kimberley Process negotiations, the Kimberley Process is not a UN initiative.[218] The involvement of the UN was limited from the early stages of the negotiations since the K.P. was created for states directly involved in the international diamond trade, and any other interested parties.[219] K.P. actors concluded that it was not practical to have UN involvement since its efforts was mainly limited to a few diamond exporting and importing countries.[220]

5.2. Establishment of the Kimberley Process Certification Scheme

The Kimberley Process Certification Scheme thus came into effect in January of 2003.[221] A tripartite union, made up of three key social forces, the diamond industry, NGOs, and national governments.[222] The K.P. is regarded as the first international agreement in global trade politics made in this way between governments, industry and NGOs.[223] Throughout the negotiations, the actors proceeded as equal partners.[224] However, the powerful position of the diamond industry is believed to have given corporate actors dominance throughout the negotiation process.[225]

As a socializing agent, the corporate diamond sector used its technological knowledge and its interpretations of ideational and material facts in shaping K.P. discussions.[226] The entire discussions were held in an atmosphere of palpable mistrust, with stakeholders seeming to

[217] Ibid
[218] Wright, C: Op. Cit. p. 701.
[219] Ibid
[220] Ibid
[221] Schefer, K.N: Op. Cit. p. 393.
[222] Bieri, F.: From Blood Diamonds To The Kimberley Process: How NGOs Cleaned Up The Global Industry, Ashgate Publishing Limited, England, 2010, p. 54.
[223] Kantz, C: Op. Cit. p. 1.
[224] Ibid
[225] Ibid
[226] Ibid

hold significantly divergent interests.[227] In the same breath, a number of governments were against the use of the word 'agreement' in drafting the documents, which portrayed how unready they were in working towards a common solution.[228] One notices that the dominance that the diamond industry demonstrated during the negotiation process is still the same dominance it enjoys today, as a self-regulating industry.

Although the scheme was negotiated as a public-private partnership, the final product took a double approach to regulation, namely inter-governmental regime and industry self-regulation.[229] The intergovernmental regime is composed of a number of politically-binding common standards, which are endorsed by each member state's national legislation.[230] It should be mentioned that the KPCS acts not as a legally-binding treaty between sovereign states, but as a set of politically-binding minimum common standards, put into law by member states' national legislation.[231] It is these minimum standards that control and monitor the import and export of rough diamonds in every member state, such that their diamond sectors remain free of conflict diamonds.[232] The agreement also requires member states to uphold various levels of transparency, monitoring and co-operation between member states.[233]

5.3. The Kimberley Process Ideology

The ideology of the Kimberley Process is ostensibly centred on the need to create a conflict-free diamond industry.[234] Once this is realised, the K.P. is convinced that rebel movements will cease to use diamond funds to topple legitimate governments.[235] The K.P. is aware that the trade in conflict diamonds is linked to serious matters of international concern, such as the

[227] Ibid. p. 12.
[228] Schram, F. The Legal Aspects of the Kimberley Process, Fatal Transactions, http://www.fataltransactions.org/Publications/The-legal-aspects-of-the-Kimberley-Process, Accessed: 25 May 2012, p. 7.
[229] Kantz, C: Op. Cit. p. 3.
[230] Wright, C: Op. Cit. p. 699.
[231] Ibid
[232] Ibid
[233] Ibid
[234] Wright, C. Op. Cit. p. 699.
[235] Kimberley Process (B), Kimberley Process Basics, http://www.kimberleyprocess.com/web/kimberley-process/kp-basics, 26 January 2013.

illicit trafficking of arms, which threatens the safety and security of people in or around diamond producing countries.[236] To avoid such cases, K.P. member states agreed to trade only K.P. certified diamonds.[237] They also agreed to trace the flow of rough diamonds from mines to diamond markets through the process of diamond certification.[238] This process requires diamond cutting and polishing centres to identify the origin of rough diamonds and in so doing, to detect illegal diamonds.[239]

The K.P. ideology operates in an extractive industry, which is known for perpetuating human rights abuses, corruption, environmental degradation and the outbreak of conflicts in parts of Africa.[240] The extractive industry is dominated by large Multinational Companies (MNCs), which are difficult to monitor, since they are technologically and financially strong whilst operating in host countries with weak regulatory controls.[241] Unfortunately, such a situation provides MNCs with large amount of structural and business power, making them difficult to regulate.[242]

The K.P. ideology does not account for the fact that problems associated with conflict diamonds do not only emanate from the supply side, and it is argued here that it ignores relevant factors in the global economic context that facilitate illicit trade. If a universal solution to the problem is to be found, there is need for the K.P. to identify the different social forces and beneficiaries involved in the illegal trade of diamonds. The weaknesses of the ideology that governs the K.P. demonstrate its failure to understand or acknowledge the extent of the political economy of conflict diamonds. Moreover, the scheme tries to fix the diamond market, yet the market itself is partly responsible for perpetuating the trade in conflict diamonds. In the end, one notices that the market-solving approach adopted by the K.P. is indirectly promoting the neo-liberal agenda, an agenda responsible for the provision of the markets that support illegal diamonds.

[236] Kimberley Process (A): Op. Cit. p. 1.
[237] Wright, C. Op. Cit. p. 699.
[238] Koh, J., The Kimberley Process: Has it Stopped the Conflict Diamond Trade? www.stanford.edu/class/e297a/**Kimberly**%20**Process**.doc, 16 February 2012, p. 4.
[239] Ibid
[240] Kantz, C: Op. Cit. p. 1.
[241] Ibid
[242] Ibid

5.4. Structural Analysis of the Kimberley Process

The Kimberley Process is a multilateral endeavour, advancing an economic-political agenda to stop the trade in conflict diamond.[243] As of August 2012, the scheme had 51 participants, representing 77 countries, together with the 27 European Union member states.[244] Actors within the K.P. are broadly divided into two categories, that is, observers and participants.[245] Observers consist of civil society, the diamond industry, international organisations and non-participating governments, while participants are made up of state governments or regional organisations that are actively part of the certification scheme.[246]

Ideally, participants and observers should have plenary meetings each year, while participants can meet whenever need to discuss issues affecting the efficiency of the certification scheme arises.[247] These meetings are normally held in the country of the incumbent K.P. Chair.[248] In some instances, a participant or an international organisation may offer to host a meeting and facilitate entry formalities for all attendees.[249]

Unlike member states, which are constantly monitored by the K.P., the diamond industry, which is represented by the World Diamond Council, has adopted a parallel and complementary monitoring system of self-regulation and systems of warranty.[250] This type of regulation put the diamond industry in a powerful position, since it is not accountable to any legislative authority or any form of regulation from KPSC actors.[251] Under the systems of warranty, the diamond industry is expected to provide:

> a Code of Practice designed to eliminate the presence of conflict diamonds; the provision of warranties or guarantees on each invoice for a sale of rough or cut and polished diamonds, attesting that the

[243] Schram, F: Op. Cit. p. 5.
[244] Antwerp World Diamond Centre, Kimberley Process, http://www.awdc.be/en/kimberley-process-0, 27 June 2012.
[245] Kimberley Process (A): Op. Cit. p. 4.
[246] Ibid
[247] Ibid. p. 9.
[248] Ibid
[249] Ibid
[250] Wright, C: Op. Cit. pp. 700-701.
[251] Schram, F: Op. Cit. p. 5.

> goods are conflict-free; maintaining detailed records of purchases and sales of rough diamonds; and the use of independent auditors to attest that the Code, warranties and records are being deployed, provided and maintained correctly.[252]

Failure by diamond companies to comply with these principles results in expulsion from the industry organisation's World Federation of Diamond Bourses (WFDB) and the International Diamond Manufacturer's Association (IDMA).[253]

Following their significant participation in the establishment of the Kimberley Process, civil society groups seem to have been forgotten by both national governments and the diamond industry alike.[254] This is as a direct result of the fact that both national governments and the diamond industry all have a direct role to play in the K.P.[255] National governments dominate the process of implementing the KPCS, through legislation, regulation and administrative procedures; while the diamond industry is self-regulatory, which leaves civil society as the only participant without a direct role to play in the KPCS.[256]

Since the adoption of the agreement, the role of civil society in the KPCS has been severely diminished.[257] Nonetheless, several NGOs such as Global Witness, Action Aid, Oxfam International, Partnership Africa Canada and Amnesty International have continued to operate at national level, helping member states to adopt diamond control systems that promote greater transparency and accountability.[258] A number of NGOs have also continued to apply pressure to the diamond industry, particularly on issues of self-regulation and independent audit.[259] Even so, national governments and the diamond industry continue to identify NGOs as social forces threatening their interests. As a result, NGOs have been side-lined by some national governments through being rejected permission to visit and monitor

[252] Ibid
[253] World Diamond Council, The Essential Guide to Implementing The Kimberley Process, World Diamond Council, http://www.jvclegal.org/kimberely.pdf, New York, 2003, pp.11-12.
[254] Wright, C: Op. Cit. pp. 700-701.
[255] Ibid
[256] Ibid
[257] Ibid
[258] Ibid
[259] Ibid

diamond sites, yet they remain critical forces able to reveal the irregularities within the KPSC.[260]

5.5. Key Challenges facing the Kimberley Process

Like the majority of international arrangements, the Kimberley Process is not a perfect construct.[261] This section of the report discusses the major challenges impacting upon the effectiveness of the scheme. It should be noted, however, that this unique partnership between governments, the international diamond industry is still evolving, hence more time is required for it to be fully effective.[262]

5.5.1. Self-Regulatory Industry

Amnesty International and Global Witness, two prominent human rights and natural resources observers, argue that the self-regulating diamond industry is not fully implementing the system of warranty as per the Kimberley Process Certification Scheme agreement, hence some illegal diamonds are still being traded at the formal diamond retail markets.[263] Since the K.P. does not have the jurisdiction to control the self-regulatory diamond industry, the scheme finds itself with limited options in understanding what transpires when diamonds reach the diamond industry.[264] The K.P. is not in a good position to determine whether the diamond industry buys illegal diamonds or not. As a result, the civil society has since become the watchdog of both the diamond industry and the K.P. itself.[265] Global Witness and Human Rights Watch constantly argue that the K.P. has failed to deliver, considering that conflict diamonds are still reaching legal diamond markets through legal and illegal channels.[266] As a result, it is the people of Africa who pay the price, since the trade in conflict diamonds is

[260] Ibid
[261] Bone, A. "The Kimberley Process Certification Scheme: The primary safeguard for the diamond industry" in Lujala, P. and Rustad, S.A. (eds): Have-Value Natural Resources and Post-Conflict Peacebuilding, Earthscan, London, 2012, p. 190.
[262] Ibid
[263] Yaziji, M, and Doh, J.: NGOs and Corporations: Conflict and Collaboration, Cambridge University Press, Cambridge, 2009, p. 163.
[264] The Diamonds and Human Security Project: Op. Cit. p. 2.
[265] Ibid
[266] BBC, Diamonds: Does the Kimberley Process Work? http://www.bbc.co.uk/news/10307046, Published: 28 June 2010.

linked to the outbreak of armed conflicts, as witnessed in the Democratic Republic of Congo (DRC) and the Ivory Coast.[267]

5.5.2. Weak Internal Diamond System Control

The Diamonds and Human Security Annual Review indicated that the K.P. is failing dismally in its duties to halt the trade in conflict diamonds, due to its failure to strengthen member states internal diamond monitoring mechanisms.[268] Poor implementation of the K.P. requirements by member states is a result of the voluntary and non-binding nature of the scheme.[269] When member states fail to conform to regulations, many a time the scheme has struggled to come up with effective punitive measures.[270]

The Kimberley Process Peer Review mechanism evaluates member states' compliance to the minimum requirements once every three years, and provides recommendations where necessary.[271] However, more often than not, member states such as the D.R.C. and Zimbabwe fail to take heed of the recommendations, thereby creating loopholes in the diamond regulatory system.[272] On the other hand, the KPCS review team is blamed for its failure to follow-up and confirm whether member states have implemented the recommendations.[273] The cases of the Ivory Coast, the D.R.C., Angola, Brazil, and Venezuela exemplify failure of the K.P to convince member states to implement necessary recommendations.[274] These states, among others, have constantly failed to submit their statistical data on time, which is a gesture of poor commitment towards the scheme.[275] This results in the Kimberley Process having an outdated statistical data base, meaning that the scheme will not be aware of the current diamond trading patterns of member states.[276]

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[267] Ibid
[268] The Diamonds and Human Security Project: Op. Cit. p. 1.
[269] Jojarth, C.: Crime, War, and Global Trafficking, Cambridge University Press, New York, 2009, p. 209.
[270] Koh. J: Op. Cit. p. 13.
[271] The Diamonds and Human Security Project: Op. Cit. p. 1.
[272] Ibid
[273] Ibid
[274] The Diamonds and Human Security Project: Op. Cit. p. 2.
[275] Koh. J: Op. Cit. p. 17.
[276] Ibid

5.5.3. Excessive Respect for State Sovereignty

The extent to which the Kimberley Process observes state sovereignty has become a hindrance to the diamond regulating process.[277] Unlike other organisations such as the United Nations, which can deploy peacekeeping troops when the need arises, the Kimberley Process has very limited options to choose from when a member state fails to adhere to its requirements.[278]

The diamond regulatory system operates on the basis of cost and benefit analysis for most member states.[279] Only a few states take the scheme to be of importance and are convinced that a better functioning diamond trading system will benefit them directly.[280] A majority of countries are in the 'neutral zone', they are not eager to fully implement the Kimberley Process Certification Scheme requirements, resulting in the mal-functioning of the scheme.[281]

Failure by the K.P. to significantly challenge sovereign states is explained by the concept of 'captive regulation'. This is when an authority which ought to protect public interests abandons its duty in favour of commercial or special concerns of interests groups that have control over key sectors or industry.[282]

5.5.4. Definition of Conflict Diamonds

The Kimberley Process defines conflict diamonds as "rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate government."[283] The same diamonds are colloquially referred to as 'blood diamonds'.[284]

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[277] Ibid. p. 13.
[278] Ibid
[279] Jojarth, C: Op. Cit. p. 192.
[280] Ibid
[281] Ibid
[282] Woodward, S: "Regulatory Capture at the U.S. Securities and Exchange Commission" Paper presented at the Milken Institute Conference on Markets, March 16 1998, Santa Monica, California, Accessed: 19 July 2013 http://www.sandhillecon.com/pdf/RegulatoryCapture.pdf
[283] Kimberley Process (A): Op. Cit. p. 3.
[284] Grant, J.A. and Taylor, I: "Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems" in The Round Table, Vol. 93, No. 375, July 2004, p. 385.

Although this definition was agreed upon by the United Nations, NGOs, and other stakeholders, it remains weak, as it fails to cover all of the crucial aspects pertaining to conflict diamonds.[285] The definition is biased towards legitimate governments, it does not indicate what the concept 'legitimate government' consists of, and as a result it places full responsibility on each and every so-called legitimate government.[286] There is no guarantee that all legitimate governments will utilize the diamond wealth in any way different to that of rebel movements.[287]

Contrary to the official definition of conflict diamonds, Ian Smillie, a renowned critic of the K.P., defines conflict diamonds as "diamonds that have been stolen, smuggled or used for the purposes of tax evasion and money laundering".[288] Apart from smuggling of conflict diamonds by rebel movements, the K.P. has neglected other cases of diamond smuggling by private individuals, organised syndicates, and employees during mining operations.[289]

It becomes evident that the definition of conflict diamonds by the K.P. is meant not only to protect governments from rebel movements, but also to limit its own authority over its member states' internal affairs.[290] The K.P. is highly exposed to international politics, such that its very operational nature becomes political, as governments utilise the scheme to acquire legitimate powers to protect their interests at all costs.[291]

Whether the definition will eventually be re-defined is not known at this point, but judging from the recent Kimberley Process meetings, the United States and her Western allies are vying for a new definition of the conflict diamond, one that takes into account issues of irresponsible governments, child labour, health issues, safety and security threats of diamond

[285] Jojarth, C. Op. Cit. p. 186.
[286] Ibid
[287] Ibid
[288] Smillie, I: Op. Cit.
[289] Jojarth, C: Op. Cit. p. 182.
[290] Rapaport, M (A), Stop Buying and Selling Blood Diamonds: The Kimberley Process and World Diamonds Council are a sham, Rapaport Diamond Report, http://www.diamonds.net/News/NewsItem.aspx?ArticleID=29578&ArticleTitle=Stop+Buying+and+Selling+Blood+Diamonds, p. 8. Accessed: 26 February 2010.
[291] Ibid

workers, and the key roles that the diamond industry should play in fostering issues of development.[292]

5.5.5. Lack of Central Authority

Lack of central authority compromises the K.P.'s ability to effectively regulate the diamond trade.[293] The K.P. chairmanship, which rotates annually, does not have any significant authority other than the power to convene meetings.[294]In addition, the tendency by the K.P. of shifting critical issues affecting the scheme from one working group to another, compromises the efficiency of the scheme.[295] In trying to make every member state equal, the K.P. runs the risk of blocking progress, since members have to unanimously agree before discussions are made.[296] Collective responsibility weakens the K.P., since shared accountability leads member states to become complacent.[297]

Failure by the Kimberley Process to have key organs, such as a secretariat and a pooled budget, compromises the effectiveness of the scheme, since responsibilities are constantly shifted from one member state to the other in a situation where the scheme relies too much on member states resources.[298] Workload and financial commitments of the initiative ought to be undertaken by a central specialised unit or department, rather than rely upon the voluntary effort of member states.[299]

5.6. Kimberley Process Positive Contributions

In as much as the K.P. has its own limitations, it is still regarded as an important initiative, which seeks to bring different stakeholders together to confront not only the issue of conflict diamonds, which fuels conflicts, but also the other social and economic issues which stem

[292] McConnell, K. Africa: Countries Seek Ways to Stop Trade in Conflict Diamonds, All Africa. http://allafrica.com/stories/201206081424.html, Accessed: 8 June 2012.
[293] The Diamonds and Human Security Project: Op. Cit. p. 1.
[294] Ibid
[295] Ibid
[296] Ibid
[297] Ibid
[298] Bieri, F: Op. Cit. p. 20.
[299] Ibid

from trade in conflict diamonds.[300] Considering that the UN took part in the establishment of the K.P., it demonstrates the uniqueness, importance and potential of the scheme in dealing successfully with issues of illicit diamond trade.[301] The scheme facilitated the convergence of governments, industry and civil society in finding a common resolution to the illegal exploitation of the natural resources.[302] The KPSC has become a tool and a practical measure used by the international community in solving issues of international security and conflict prevention.[303] When compared to other commodity-tracking regimes, such as the Convention on International Trade in Endangered Species (CITIES), or the Basel Convention on Hazardous Waste, the K.P. has a relatively strong certification scheme.[304]

5.6.1. Strict implementation of minimum requirements

The strength of the initiative lies in the voluntary nature of member compliance, however, although it appears voluntary on paper, in practice it is compulsory.[305] Unless a state voluntarily adopts K.P. requirements, it cannot trade with K.P. member states.[306] The minimum requirements of the scheme demands that member states implement national reforms, where weak states are forced to adopt policy which promotes law and order, leading to a degree of transparency and accountability in the diamond trade.[307]

The K.P. article 16 of section 6 guarantees member states the option to lay a complaint against fellow member states, after which a review team will investigate the claims.[308] Unlike the 'veto system' used by other organisations such as the United Nations Security Council,

[300] Dinat, N.: The Kimberley Process Certification Scheme: The International Response to the Trade in Conflict Diamonds Unpublished MA Research Report, The University of Witwatersrand, Johannesburg, 2004, p. 6.
[301] Wright, C. Op. Cit. p. 702.
[302] Ibid
[303] Ibid
[304] Kantz, C: Op. Cit. p. 4.
[305] Smillie, I: Op. Cit. p. 4.
[306] Ibid
[307] Ibid
[308] Muller, E. "Kimberley Process faces big challenge on smuggling", Business Day, http://allafrica.com/stories/200310300289.html, Accessed: 30 October 2003.

the KPSC provides a fair and equal platform for all member states to contribute towards the agenda of the K.P., regardless of their level of development.[309]

5.6.2. Reduction of Conflict Diamonds from Africa

Since the end of the Sierra Leonean civil war in 2002, there has been a significant reduction in conflict diamonds coming from Africa's conflict zones reaching the formal diamond retail markets.[310] However, it is still difficult to confirm the actual percentage decrease, simply because in warzone conditions, it is difficult to account for all diamonds smuggled.[311] The K.P. is credited for its role in the diamond wars of West Africa in the 2000s, where it successfully reduced the trade in illegal diamonds.[312]

Compared to other activist-driven campaigns focused on Africa, such as aid conditionality, debt relief, and the provision of development assistance, the problem of conflict diamonds saw international actors working together in response to the crisis.[313] The NGO sector is credited for instigating multi-track diplomacy amongst international actors.[314] NGOs also managed to influence the public, national governments and the corporate world alike, through their research findings.[315] For partly initiating a campaign that eventually influenced policy both at national and global level, NGOs demonstrated how influential and critical a sector they prove to be.[316]

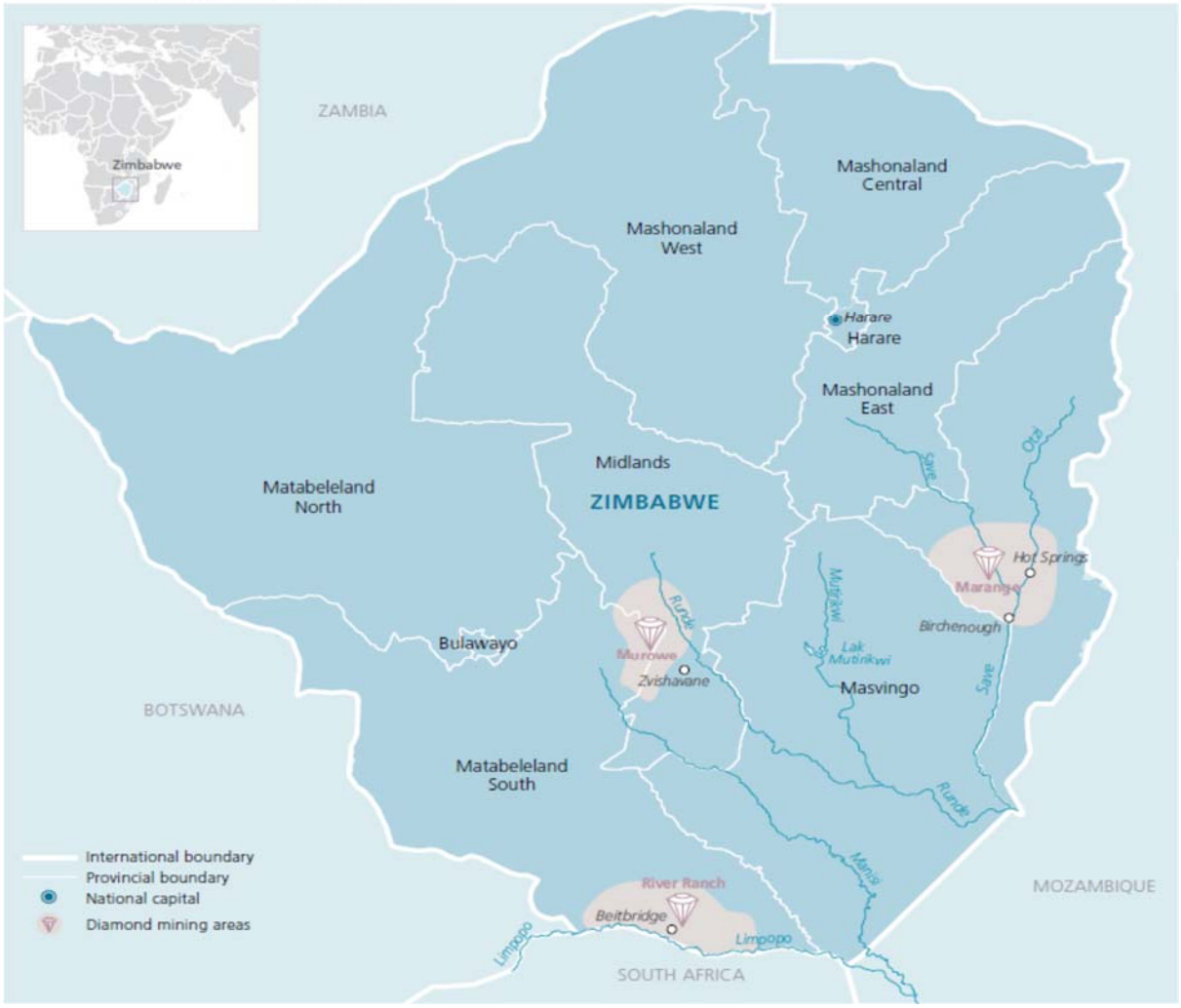
[309] United Nations Security Council. The Security Council, http://www.un.org/en/sc/, Accessed: 17 May 2012.
[310] Hoyt, A., How the African Diamond Trade Works, http://history.howstuffworks.com/african-history/african-diamond-trade.htm, Accessed: 18 August 2012.
[311] Ibid
[312] Lezhnev, S. and Sullivan, Certification: The Path to Conflict-Free Minerals from Congo, Enough Project, http://www.enoughproject.org/files/certification_paper_0.pdf, p. 20. Accessed: 16 May 2012.
[313] Grant, J.A. and Taylor, I: Op. Cit. p. 386.
[314] Ibid
[315] Ibid. p. 387.
[316] Ibid

Chapter 6

Kimberley Process in Zimbabwe and the Democratic Republic of Congo

6.1. Diamond Mining in Zimbabwe

Diamond mining areas in Zimbabwe



Source: Extracted from the 2011 UNODC report.[317]

[317] UN Office on Drugs and Crime: Op. Cit. p. 73.

6.1.1. Background

Diamond mining in Zimbabwe dates back to the mid-nineteenth century, when artisanal mining was the dominant type of mining.[318] But beginning in 2004, industrial diamond mining operations began at the River Ranch and Murowe mines.[319]

Theoretically, diamonds could be discovered anywhere in Zimbabwe due to the geological location of the country along the 'Zimbabwe Archaen Craton', which is known to be rich in kimberlite deposits.[320] The diamond-rich craton runs from north-east, south and west of Zimbabwe and crosses over into neighbouring Botswana.[321] Some of the world's leading diamond mines, such as the Orapa and Lethlekane diamond mines of Botswana, are found close to the border separating Zimbabwe and Botswana, an area referred to as 'Orapa Kimberlite Track'.[322] Apart from diamonds, Zimbabwe is endowed with several other forms of mineral wealth, such as gold, platinum, lithium, coal, nickel, tin and methane gas, with plenty more sources than have yet been exploited.[323] However, the country does not have adequate capital and technological resources to fully exploit these minerals and as a result, its citizens have not benefitted economically, as might be expected.[324]

The Marange diamond fields of Zimbabwe stretch over 66,000 hectares and are rated as the world's largest discovery in the past twenty years.[325] The diamonds, dubbed controversial, were discovered around the early 1990s and were controlled by De Beers via their subsidiary Kimberlitic Searches Limited.[326] De Beers' Exclusive Prospecting Order (EPO) expired in 2006 and extraction was opened to the public, a situation which led to a diamond rush, attracting nearly 15,000 to 20,000 artisanal miners.[327] The situation of lawlessness at the

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[318] Ibid. p. 72.
[319] Ibid
[320] Partnership Africa Canada (A), "Zimbabwe, Diamonds and the Wrong Side of History", The Diamonds and Human Security Project, Occasional Paper No. 18, March 2009, p. 3.
[321] Ibid
[322] Ibid
[323] Bloch, E. "Zim govt in state of paralysis", Zimbabwe Independent, June 22 – June 28 2012, p. 12.
[324] Ibid
[325] Kabemba, C. "The Kimberley Process and the Chiadzwa Diamonds in Zimbabwe: Challenges and effectiveness" in Perspectives, Volume 3, No. 10. July 2010, p. 4.
[326] New Zimbabwe, Zimbabwe and De Beers' decline, http://www.newzimbabwe.com/opinion-10729-Zimbabwe+and+De+Beers+decline/opinion.aspx , Accessed: 19 July 2013.
[327] Partnership Africa Canada (A): Op. Cit. p. 7.

Marange diamond fields worsened, marking the beginning of diamond smuggling and trade in conflict diamonds in the country.[328]

The newly-discovered diamonds were interpreted by the people of Zimbabwe as a panacea to the economic troubles facing their country.[329] It was generally believed that the billions of dollars waiting to be gained from the vast diamond deposits were to be exploited in line with the needs of the people of Zimbabwe, particularly improving their socio-economic livelihoods. However, such has not been the case.[330] The optimism once attached to the discovery of Marange diamonds has since faded away, as there are no signs that diamond wealth will be delivered through the system of the state any time soon.[331] It has turned out to be yet another case in which greed and politicking from politicians have prevented development of this resource, while a sad story for the Marange villagers who claim to have discovered the diamonds first, a finding they interpreted as godsend after years of serious droughts and economic suffering.[332]

6.2. Marange Diamonds: The Politics of Domination or Illusion?

6.2.1. Allocation of Mining Concessions

Although international interest in the Marange diamonds is fast-growing, the allocation of mining rights and ownership at Marange remains uncertain, a situation that prompts fears of corruption, nepotism and tax evasion in the diamond sector, as has been seen prolifically elsewhere.[333] The allocation of mining rights in Marange is generally clouded by the suspicion that stakeholders involved in the diamond trade are corrupt, a suspicion that gained momentum after it became known that the mining company involved, Core Mining and

[328] Human Rights Watch (A), Farai Maguwu, Zimbabwe, http://www.hrw.org/news/2012/08/13/farai-maguwu-zimbabwe, 13 August 2012.
[329] Chimhete, C. "Mystery surrounds Zim's gems revenue", The Standard, August 26 – September 1, 2012, p. 7.
[330] Aljazeera (A): Op. Cit.
[331] Chimhete, C: Op. Cit p. 7.
[332] Ibid
[333] Moyo, J. (A) Murky world of Marange mining firms, Mail and Guardian (Africa), July 6 – 12 2012, Vol. 28, No. 27, p. 27.

Minerals, was awarded mining rights through providing false information regarding its business partners.[334]

When the Marange diamonds were discovered in June 2006, African Consolidation Resources (ACR), a United Kingdom registered company, intially had exclusive mining rights (acquired legitimately from the Zimbabwe government) over the fields, but the Zimbabwe government, through the use of police force, unlawfully expelled the mining company from the Marange fields.[335] Neither was there any form of legal explanation nor transparency in the process leading to the expulsion.[336] By granting the Zimbabwe Mining Development Corporation (ZMDC) exclusive mining rights over the Marange fields, the then minister of mines, Amos Midzi, was convinced that law and order was to be restored at the diamond fields.[337] However, failure of the ministry of mines to consult civil society hinted that the situation at Marange was less likely to benefit the people of Zimbabwe than the few elite.[338]

Currently, the mining companies operating in Marange are Anjin, Mbada Diamonds, Marange Resources, Diamond Mining Corporation, and Zimbabwe-Ozgeo.[339] These companies are widely believed to be a front serving the interests of the military since their diamond activities are not transparent as required by the K.P.[340] The first company, Anjin, is the biggest and the most controversial,[341] occupying the largest area with about seven shafts.[342] Its operations and company profile remain anonymous, along with the amount of money it owes the Zimbabwe government in taxes and royalties.[343] The Kimberley Process

[334] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. pp. 45-46.
[335] Human Rights Watch (B): Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields, Human Rights Watch, New York, 2009, pp. 13-14.
[336] Ibid
[337] Ibid. p. 13.
[338] Ibid
[339] Moyo, J. (A): Op. Cit. p. 27.
[340] UN Office on Drugs and Crime: Op. Cit. p. 76.
[341] Since its inception in 2010, Anjin has been at the centre of controversy, the mining company's board of directors comprises of Zimbabwe serving and retired members of the military and the police. See, Tendai Marima, Chinese cream off US$200m, Zimbabwe Independent, June 22 to 28 2012, p. 2.
[342] Marima, T. (A), Chinese cream off US$200m, Zimbabwe Independent, June 22 to 28 2012, p. 2.
[343] Ibid

stated that Anjin has the capacity to mine roughly two million diamond carats, valued at US$80 per carat, and worth US$160 million per month.[344]

The current Deputy Mines Minister, Gift Chimanikire, stated that 50% of Anjin is owned by the Chinese, 40% by the Zimbabwe Defence Industries (ZDI), and the remainder by ZMDC.[345] According to Finance Minister Tendai Biti, the ZMDC has nothing to do with Anjin. At the same time the ZDI chief executive, retired Colonel Tshinga Dube, has distanced the ZDI from Anjin.[346] Government ministers claim to be unaware of the amount of revenue generated by Anjin, a situation which has led to speculation over the identity of the owners and beneficiary of their activities in the Marange area.[347] According to the Finance Minister, Anjin is expected to pay 17% in royalties, 14% in corporate taxes (based on a net figure), 4% non-resident shareholders, and value added tax (V.A.T.).[348] In other words, the joint venture partnership between the government of Zimbabwe and Anjin should see the government of Zimbabwe receiving 50% of Anjin's proceeds, plus taxes, at an estimate of US$200 million.[349]

Anjin is speculated to be owned by a Chinese firm, Anhui Foreign Economic Construction, which has been partly responsible for the funding and building of the controversial Zimbabwe National Defence College, worth US$98 million.[350] Anhui's partner is not known, however, it is suspected to be Matt Bronze, a shelf company representing the military's investments interests.[351] Since the directors of Matt Bronze are not publicly known either, there are fears that proceeds from Marange might be benefitting individuals in the army rather than population at large.[352]

The Finance Minister argues that since Anjin began its mining operations, government has not received any form of revenue from the company. On the other hand, Anjin remains

[344] Ibid
[345] Moyo, J. (A): Op. Cit. p. 27.
[346] Marima, T. (A): Op. Cit. p. 1.
[347] Ibid. p. 2.
[348] Ibid
[349] Ibid
[350] Moyo, J. (A): Op. Cit. p. 27.
[351] Marima, T. (A): Op. Cit. p. 1.
[352] Ibid

adamant that it has contributed US$30 million to the national fiscus.[353] Anjin's director, Munyaradzi Machacha, repudiates the minister's argument, saying his revenue expectations are too high, as he overestimates the value of a single diamond carat at US$1,500, while its actual value stands at only US$60.[354]

Second is the Mbada Diamonds Company, a joint venture between the ZMDC and several other investors, such as South Africa's Reclamation Group, and Old Mutual.[355] A notable shareholder at Mbada Diamonds is Robert Mhlanga, a former member of the army and President Robert Mugabe's personal pilot.[356] Mhlanga is amongst the richest men in Zimbabwe and has private properties both inside and outside of Zimbabwe including his latest mansion located close to the Zambezi Golf Estate in Kwazulu-Natal, South Africa.[357] The source of his wealth however remains unknown, although he claims to have bought his properties before getting into the diamond business.[358] What is known is that Mhlanga has regional diamond interests, as witnessed by his involvement in the controversial diamonds of Zimbabwe, Angola, and the D.R.C., among other regional diamond producing countries.[359]

Third is the Marange Resources Company, which was once a joint venture between ZMDC and Canadile, however, with Candile's partnership being revoked as a result of fraud and corruption cases, the ZMDC has since retained sole ownership of the company at Marange.[360] Lovemore Kurotwi of Canadile claims that the company pulled out of the partnership after the Mines Minister, Obert Mpofu, demanded a bribe of US$10 million in return for a mining licence.[361] Marange Resources has since been operating independently, and has exported diamonds worth US$11.7 million during the first quarter of the 2012.[362]

[353] Moyo, J. (A): Op. Cit. p. 27.
[354] Ibid
[355] Ibid
[356] Ibid
[357] Ibid
[358] Ibid
[359] Ibid
[360] Ibid
[361] Ibid
[362] Ibid

Fourth is the Diamond Mining Corporation (DMC) made up of the ZMDC and Pure Diam, from Dubai.[363] The shareholders of Pure Diam are anonymous, however what is known about them is that during the first quarter of 2012, the mining company generated US$38.9 million.[364]

The fifth and last company is Zimbabwe-Ozgeo, made up of a partnership between the government of Zimbabwe and investors from Russia.[365] The Russians are yet to resume mining operations in the eastern Chimanimani area.[366] The relationship between the government of Zimbabwe and Russia dates back to the Cold War era, when Russia was one of the chief supplier of military helicopters in exchange for platinum concessions.[367] Considering the track record of the two countries, it remains unclear whether the Russian investors will remain committed to the K.P. norms of transparency and accountability.

After profiling all the diamond companies operating at Marange, it becomes clear that the ZANU-PF political elite, the Zimbabwe Reserve Bank, the military, police, the Chinese and Russian foreign investors, diamond smugglers and other unknown actors are the key social forces driving the Zimbabwe diamond sector. These forces have maintained the secrecy of the diamond sector through political domination and the use of police and military force, in order to squash all form of regulation by non-state actors.

6.2.2. Military Control and Human Rights Issues

The extractive industry in Africa is generally characterized by the violation of civil and political rights, in several aspects.[368] Likewise, at the centre of the Zimbabwe diamond sector are issues of human rights violation and the embezzlement of diamond revenues by the political elite, but since human rights issues are considered to be outside the remit of the K.P., the case of Zimbabwe has left the diamond regime divided.[369] Diamond mining and trade in

[363] Ibid
[364] Ibid
[365] Ibid
[366] Ibid
[367] Ibid
[368] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 16.
[369] Muleya, D. "Kimberley Process nab on Zimbabwe gems lifted", Business Day, November 3, 2011.

Zimbabwe is characterized by high levels of massive human rights abuse, corruption, and smuggling, a situation which once led to the temporary exclusion of Zimbabwe from the K.P. Certification Scheme.[370]

The Marange diamonds are considered a "special breed of conflict diamond", mainly because of the unusual type of conflict they have produced, that is, an abuse of human rights by the legitimate government and not by rebel movements, as the case of the D.R.C. and Ivory Coast.[371] Research on Marange diamonds undertaken by Partnership Africa Canada, a leading human rights NGO, concluded that the Zimbabwe diamonds are indeed 'blood diamonds', even though the official definition by the K.P. fails to classify them as such.[372] They have also been labelled 'unclean' as a result of government's military intervention in the diamond fields, which left hundreds of artisanal miners dead.[373] The Human Rights Watch report of 2009, gave evidence as to how President Robert Mugabe's political party, Zimbabwe African National Union-Patriotic Front (ZANU-PF), was contravening the United Nations Charter of Human and People's Rights through the use of children and adults as forced labour in the mines at Marange.[374]

In November 2006, the Zimbabwe government resorted to a nationwide police operation under the guise of curbing trade in conflict diamonds sourced from Marange.[375] A 2010 report by Global Witness states that the police and the army were the leading culprits in creating underground diamond syndicates, made up of illegal miners whom they controlled and used as forced labour in extracting diamonds.[376] Police intervention in Marange led to a situation of lawlessness, human rights abuse, murder, torture, beatings, and harassment.[377]

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[370] The Diamonds and Human Security Project: Op. Cit. p. 2.
[371] Mirell, H. Keeping Diamonds Kosher: Re-evaluating the Kimberley Process Certification Scheme in the Wake of Zimbabwe's Marange Diamonds Crisis, Centre on Democracy, Development and the Rule of Law Honours Thesis, 5 June 2012, p. 8.
[372] Partnership Africa Canada (B), Diamonds and Clubs: Militarized Control of Diamonds and Power in Zimbabwe, Partnership Africa Canada, http://www.pacweb.org/Documents/diamonds_KP/Zimbabwe-Diamonds_and_clubs-eng-June2010.pdf, Published: June 2010, p. 2.
[373] Ibid
[374] Human Rights Watch (B): Op. Cit. p. 3.
[375] Ibid
[376] Global Witness (C), Return of the Blood Diamond: The Deadly Race to Control Zimbabwe's New-Found Diamond Wealth, Global Witness, http://www.globalwitness.org/sites/default/files/pdfs/return_of_blood_diamond.pdf, Published: 14 June 2010, p. 6.
[377] Human Rights Watch (B): Op. Cit. p. 3.

The force used by the police reaction teams was excessive, with witnesses testifying that some illegal miners were buried alive and some shot at point-blank range.[378] About 1,600 artisanal miners were beaten, tortured and arbitrarily arrested; and such acts of abuse have become common at the Marange fields.[379]

The army, on the other hand, played a leading role in unleashing a brutal military operation dubbed "Operation Hakudzokwi" (You Will Not Return), which led to the death of about 200 defenceless artisanal miners.[380] The military operation was meant to "ensure control of the diamond deposits for the ZANU-PF elite, and to reward the army for its loyalty to this clique".[381] Army brigades were rotated in Marange, giving each military unit the opportunity to benefit from the diamond fields.[382]

It has been noted that vulnerable women, men and youths in the Marange village continue to be abused by both the government and private companies, due to lack of knowledge and resources to challenge non-constitutional actions.[383] Also, the majority of citizens are too afraid to stand up and defend their rights or hold the government and private companies to account each time the government and private companies infringe on their rights hence the need for the legislator to play a key role in defending citizen's rights.[384]

Although the security issues in Marange are said to have subsided, the abuse of human rights is still on-going, especially in areas such as Chiadzwa, Betera, Kusena, Chirasika, Mukwada, among other areas.[385] Apart from that, cases of massive violation of environment, economic, social and cultural rights seem to have overshadowed investigations into issues of the abuse of civil and political rights.[386] The 2012 report released by the Human Rights Watch argues that unlicensed miners continue to be abused by private security guards and the police working at Marange, who use live ammunition, and have been reported to beat miners and to

[378] Ibid
[379] Ibid
[380] Global Witness (C): Op. Cit. p. 6.
[381] Ibid
[382] Human Rights Watch (B): Op. Cit. p. 3.
[383] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 12.
[384] Ibid
[385] Ibid. p. 40.
[386] Ibid

set dogs on them.[387] The Zimbabwean government, together with the K.P. provides a different account, arguing that conditions in Marange are satisfactory such that diamonds from these fields should be certified and allowed onto international diamond retail markets.[388]

The suspended workers at Anjin Investments confirmed cases of victimization by the Chinese and the army.[389] Anjin is renowned for abusing its workers, and it has been reported that in 2012 about 1,000 employees were suspended after they embarked on industrial action against poor treatment by the company.[390] The involvement by army personnel in workers' grievances, according to the vice president of the workers committee, Tavengwa Sitima, is the major problem as the generals seem only concerned about getting paid their allowance of US$1,000 each time they visit the diamond company to resolve workers issues.[391] Sitima himself was dismissed at gunpoint by the army generals after being accused of inciting strikes and violence at Anjin.[392] The army generals involved in the abuse of workers' rights include Colonel Lindiwe Ngwenya (human resources management), Colonel Simeon Sambadzai (power and equipment manager), Brigadier General Charles Tarumbwa (company secretary and lawyer) and war veteran Munyaradzi Machacha (board member).[393]

Employees at Anjin are paid a salary below the minimum wage and discussions with the company have since proved to be fruitless, as the Chinese and the army generals are reluctant to raise worker's salaries.[394] Since 2010, workers have gone on strike eight times, but nothing substantial has changed regarding their grievances.[395]

Again, the social forces responsible for the abuse of human rights in the Zimbabwe diamond sector are identified as the ZANU-PF elite, the military and police force, and the Chinese company owners. These actors take advantage of the lax implementation of the rule of law by

[387] Human Rights Watch (C), World Report 2012: Zimbabwe, http://www.hrw.org/sites/default/files/related_material/zimbabwe_2012.pdf, Accessed: 9 June 2012.
[388] Ibid.
[389] Gombera, K, "Anjin workers feel victimised", Daily News, 6 August 2012, p. 4.
[390] Ibid
[391] Ibid
[392] Ibid
[393] Ibid
[394] Ibid
[395] Ibid

the Zimbabwe government. Such a political environment allows both the government and the owners of diamond mining companies to abuse mine workers, artisanal miners and the people living around the mines.

6.2.3. Diamond Smuggling and Corruption

Zimbabwe's Reserve Bank Governor, Gideon Gono, confirmed that the Zimbabwe government has lost a significant amount of revenue due to diamond smuggling.[396] Similar cases of diamond smuggling during the period between 2006 and 2007 were also confirmed by a number of South African dealers.[397] In 2008, the Marange fields produced about 6 million carats, all of which were smuggled, leaving only those officially produced by the ZMDC.[398]

Although the Human Rights Watch did not successfully manage to trace the global chain of purchase of conflict diamonds from Marange, they discovered that most of the Marange diamonds were being smuggled out of Zimbabwe via South Africa, Mozambique and the Harare International Airport, to various destinations including Lebanon, the United Arab Emirates, India, Pakistan, Europe and many others.[399] In 2006, the majority of smuggled diamonds from Zimbabwe were illegally certified in the DRC, then later exported to major diamond centres.[400]

In September 2008, two Lebanese nationals were arrested at a hotel in Surat after being caught in possession of uncertified diamonds worth 3,600 carats, smuggled from Zimbabwe.[401] The following month, a Zimbabwean woman was arrested by Dubai Customs, after bags containing diamonds worth US$1.2 million were found wrapped around her body.[402] 4000 carats of rough diamonds were returned to Zimbabwe in 2010 after smugglers

[396] Ibid
[397] Ibid
[398] UN Office on Drugs and Crime: Op. Cit. p. 78.
[399] Human Rights Watch (B): Op. Cit. pp. 14-15.
[400] UN Office on Drugs and Crime: Op. Cit. p. 77.
[401] Ibid. p. 78.
[402] Ibid

were caught in the United Arab Emirates.[403] The following year in April 2011, two people were arrested by the Indian Directorate of Revenue Intelligence for smuggling an estimated 9.72 KGs/48 663 carats of rough diamonds from the Marange fields.[404] Apart from these cases, the Gold and Diamond Office of Sierra Leone also confirmed the trading of smuggled diamonds from Zimbabwe inside their country.[405]

The immediate buyers of the Marange diamonds are classified into two categories, one category is made up of the so-called 'agents' or middlemen – who are mostly Zimbabweans – whose duty is to buy diamonds straight from the illegal miners on behalf of their principal buyers.[406] The second group is made up of the principal buyers themselves. These are the political elite, military police, and official patronage that then proceed to smuggle and sell the diamonds to buyers outside Zimbabwe.[407] Such a system has been able to thrive due to the security forces deployed at Marange, most of them relatives of high-ranking officials, key public officials, buyers and at times private sector actors.[408] The diamond revenue from Marange is distributed on the bases of political affiliation, hence members of the president's political party (ZANU-PF) and other close business associates continue to benefit from Marange diamonds at the expense of the broader population of Zimbabwe.[409]

Obert Mpofu, the Minister of mines, has been involved in massive diamond trade corruption in Zimbabwe.[410] The minister is alleged to have embezzled US$2 billion worth of diamonds, and in 2011, his ministry disclosed only US$103,9 million after 700 000 diamond carats were exported.[411] According to Zimbabwe's Finance Minister, a mismatch between diamond

[403] Kubatana.net. CRD calls on Mines Minister Obert Mpofu to resign. http://www.kubatana.net/html/archive/demgg/110427crd.asp?orgcode=civ003&year=2011&range_start=1, Published: June 2011.
[404] Ibid
[405] The Diamonds and Human Security Project: Op. Cit. p. 16.
[406] Human Rights Watch (B): Op. Cit. p. 15.
[407] Ibid
[408] Mayisa, T. and Benkenstein, A. "Zimbabwe's Marange Diamonds and the need for reform of the Kimberley Process" Policy Briefing, No. 43, SAIIA, 2012, p. 2.
[409] Rapaport (B), Smuggling Charges Surface as Conference Starts, http://www.diamonds.net/News/NewsItem.aspx?ArticleID=41632&ArticleTitle=Rapaport%2BTradeWire%2BNovember%2B16%252c%2B2012, 16 November, 2012.
[410] Guma, L., Zimbabwe: Biti Says Diamonds Exports and Revenues not tallying, http://allafrica.com/stories/201107280003.html, Published: 27 July 2011.
[411] Ibid

exports and revenues from Marange continues to exist.[412] On the same note, the Minister of Parastatals and State Enterprises, Gorden Moyo, maintains that the destination of revenues from Marange remains a mystery.[413] Farai Maguwu, a human rights activist who has been paying close attention to the Marange diamonds, is adamant that Minister Mpofu, who is also a top political ally of incumbent President Mugabe, should bear all the responsibility for the scandals and corrupt activities underway in Zimbabwe's diamond industry.[414]

The situation has intensified due to a total disregard of the rule of law, mainly by the political elite, with a failure of responsibility by the K.P. to remain committed to its core obligations in the country.[415] The July 2009 visit by the Kimberley Process Review Mission Team in Marange confirmed Zimbabwe's non-compliance with KPCS minimum requirements.[416] The Review Team gave evidence on how the Zimbabwe government has been the leading perpetrator in human rights abuse, diamond smuggling and weak internal control structures, which permitted the smuggling of diamonds and other irregularities to take place.[417] As of June 2012, Global Witness published a report on the Marange diamonds, revealing how the diamond revenue from Marange is being used to finance off-budget funding for the military by Anjin.[418]

During the 2012 Zimbabwe Diamond Conference held in Victoria Falls, Zimbabwe, an undisclosed non-governmental organization directly attacked the Zimbabwean government for the on-going corruption at Marange diamonds.[419] Also, Partnership Africa Canada (PAC) is convinced that the Zimbabwe government has not done enough in implementing local diamond regulatory systems to guard against corruption, and similar irregularities.[420] It

[412] Ibid
[413] Muvundusi, J. Mineral proceeds used in running parallel government, http://www.dailynews.co.zw/newsarticle.aspx?q=b66b75df-6149-4152-96fd-e13b2fd34803, Accessed: 09 September, 2012.
[414] Kubatana.net: Op. Cit.
[415] Partnership Africa Canada (B): Op. Cit. p. 2.
[416] Ibid. p.4.
[417] Ibid
[418] Global Witness (A): Op. Cit. p. 13.
[419] National Jeweler, After Zimbabwe conference, separate views emerge, http://www.nationaljeweler.com/nj/diamonds/a/~29906-After-Zimbabwe-conference-separate-views, Accessed: 15 November, 2012.
[420] Rapaport (B): Op. Cit

argues that diamonds from Marange continue to be at the centre of illegal activities, such as smuggling, corruption and money laundering.[421] This is corroborated by the continuous arrests of illegal diamond dealers in Zimbabwe from several Africa countries.[422]

Keith Lapperman, a diamond consultant, revealed that in 2010 Zimbabwe lost about US$500 million to diamond theft and smuggling.[423] This has resulted in the establishment of a sub-industry of smuggled diamonds whose effects go beyond Zimbabwe's borders to the global diamond industry.[424] The PAC continues to stress that such irregularities in the case of Zimbabwe have demonstrated the need for the K.P. to abandon its lukewarm approach towards Zimbabwe, as it compromises the efficiency of both the K.P. and indeed the diamond supply chain as a whole.[425] There is need for formal regularization of the diamond sector in Zimbabwe if a reduction in diamond smuggling and related issues are to be reduced.[426]

6.3. Beneficiaries of the Zimbabwean Diamonds

Although all the mines at the Marange fields are in operation, producing gems worth billions of dollars annually, little information is available regarding the destination of the revenue.[427] What is known is that the bulk of the diamonds traded legally are exported to Belgium, China and while illegal diamonds are smuggled via Mozambique, the DRC, and South Africa to the United Arab Emirates, India, Lebanon and China.[428] Minister Mpofu confirmed that diamonds from Marange generate about US$2 billion annually, but the beneficiaries of the diamonds and their revenue remains unknown. It is either the government, or "the faceless shareholders who own the mines".[429] Zimbabwe diamonds are described as the cheapest on the world market, making them more attractive, yet the people of Zimbabwe are yet to financially benefit from them.[430]

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[421] Ibid
[422] UN Office on Drugs and Crime: Op. Cit. p. 78.
[423] Marima, T. (B) Calls to regulate diamond sales to plug leaks, graft, Zimbabwe Independent, June 22 – June 28 2012, p. 4.
[424] Ibid
[425] Rapaport (B): Op. Cit
[426] Marima, T. (B): Op. Cit. p. 4.
[427] Aljazeera (A): Op. Cit.
[428] UN Office on Drugs and Crime: Op. Cit. pp. 76-78.
[429] Moyo, J. (A): Op. Cit. p. 27.
[430] Marima, T. (B): Op. Cit. p. 4.

Various actors and stakeholders have expressed their views on the issue of Marange diamonds, trying to figure out and explain events transpiring at Marange.[431] The idea that diamond revenues are being used to safeguard ZANU-PF's interests, maintaining Robert Mugabe in power, has been gaining momentum since the past years, coming especially from local and international non-governmental organisations.[432] The Finance Minister has constantly made it clear that diamond revenue is not reaching state coffers, a sign of thieving and corruption by the Ministry of Mines.[433] The minister stated:

> We have got evidence of the quantities that are being mined, the quantities that are being exported but nothing is coming to the fiscus […] all I know is that it is not coming to the treasury […] it is not coming to us. That means someone is getting it. The person who is getting it is not getting it legally. Therefore, he's a thief, therefore she's a thief [sic].[434]

On the same not, Malvern Mudiwa, the community leader of the Marange area, confirmed the lack of development in the Marange, despite millions of dollars being generated from within this community's 'own backyard'. Mudiwa gave the following testimony regarding the Marange diamonds:

> So we thought now we are going to benefit from jobs, infrastructure, we thought maybe our roads were going to improve, so that generations and generations will benefit from this, not one individual. But what is happening, honestly, honestly it's a shame! [sic].[435]

The key issue in the Marange diamonds is the manner in which the Zimbabwe government is abusing its power and authority by perpetuating the illicit diamond trade and the abuse of human rights.[436]

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[431] Ibid
[432] Ibid
[433] Ibid
[434] Ibid
[435] Aljazeera (A): Op. Cit.
[436] Koechlin, L., 2009. Zimbabwe and the Kimberley Process: Just how effective are Multi-stakeholder Initiative?, Blog of the European Journal of International Law, http://www.ejiltalk.org/zimbabwe-and-the-

Farai Maguwu, director of the Centre for Research and Development (CDR), is of the view that the people of Zimbabwe are unlikely to benefit from the diamonds, since there is no accountability regarding diamond revenue, and presently revenue has not been reaching state coffers.[437] Maguwu argues that sustainable development can only be achieved through the guidance of the central government, however, as long as the destination of diamond revenue remains unknown, development will not be realized.[438]

In 2012, the K.P. positioned Zimbabwe as the world's seventh biggest producer of diamonds, producing diamonds worth US$ 334 million in 2011, yet its population remain amongst the poorest in the world, with 80% of its people living below the poverty datum line, suffering extremely poor access to health, education and other social services.[439]

Zimbabwe exported diamonds worth US$11 billion to India in 2010, with the massive import resulting in the establishment of a diamond cutting centre in Surat, creating 60 000 jobs, as well as offices in Brussels and Belgium. These same diamonds have not benefited the people of Zimbabwe, and have rather led to an increase in corruption and smuggling.[440]

Based on research conducted by the Human Rights Watch, the key beneficiaries of the Marange diamond trade are the police and military, mainly because they have direct access to the diamond fields.[441] Global Witness, however, points to President Mugabe, his party and supporters as the main beneficiaries of revenue from Marange.[442] However, high levels of secrecy surrounding the diamond sector in Zimbabwe make this impossible to verify.[443] What is known, however, is that the Reserve Bank of Zimbabwe benefits enormously from the Marange diamond revenue.[444] The Central Bank has been financing ZANU-PF's political

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kimberley-process-just-how-effective-are-multi-stakeholder-initiatives/#more-1729, Published: 01 March 2009.

[437] Chimhete, C: Op. Cit p. 7.

[438] Ibid

[439] Chimhete, C: Op. Cit p. 7.

[440] Marima, T. (B): Op. Cit. p. 4.

[441] Human Rights Watch (B): Op. Cit. p. 47.

[442] Global Witness (C): Op. Cit. p. 3.

[443] Human Rights Watch (B): Op. Cit. p. 47.

[444] Ibid. pp. 14-15.

activities in various cities, especially during election seasons. As such, the Human Rights Watch concluded that the Reserve Bank of Zimbabwe and ZANU-PF are equally responsible for the atrocities committed at the Marange fields.[445]

6.4. Kimberley Process' response to Marange Diamonds

The case of Zimbabwe was brought to the attention of the K.P. in 2009 through a combined effort of NGOs, industry representatives, and some governments.[446] These actors unveiled the killing of artisanal miners by the military and the smuggling and trading of conflict diamonds in Marange.[447] Initially, the Kimberley Process was reluctant to take action against Zimbabwe, but continuous pressure applied particularly by the media, Global Witness, Partnership Africa Canada and Human Rights Watch resulted in its intervention.[448] K.P. member states spent months debating the issue of Zimbabwe, with western countries calling for Zimbabwe to be suspended, whereas fellow African countries were sympathizing with Zimbabwe to remain part of the scheme.[449]

The major barrier to finding a solution to the Zimbabwean diamond issue were member states who were arguing that the K.P. is not a human rights-oriented group and that as such, it should not dwell on such matters, but focus on issues concerning rebel groups using diamond funds to overthrow legitimate governments.[450] Already, the flaws of the scheme were beginning to emerge. Member states failed to reach any consensus and no binding resolution could be adopted and implemented.

The decision to suspend Zimbabwe from the K.P. in 2009 was received with mixed feelings. It was made after the inspection conducted by the K.P. Review Team at Marange, which confirmed the non-compliance with K.P. minimum requirements at the diamond fields and

[445] Ibid
[446] The Diamonds and Human Security Project: Op. Cit. p. 19.
[447] Ibid
[448] Ibid. p. 2.
[449] Ibid
[450] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 44.

the violation of human rights.[451] However, in the same year of 2009 in Namibia, the Zimbabwean government, together with the K.P., agreed on a Joint Work Plan to ensure compliance of the minimum standards by the Zimbabwe government.[452] The Joint Work Plan required scrutinizing and examination of diamonds from Marange prior to exportation through the Supervised Export Mechanism, which was led by the K.P. Monitor, Abbey Chikane, a South African and former Chair of the KPCS.[453] The conditions of the Joint Work Plan were that the Zimbabwe government was to de-militarize the diamond fields, identify diamond resource areas, improve the security at Candile and Mbada mining operations, stop smuggling through Mozambique through identifying more investors, and educate the local community about the dangers of smuggling and the benefits of being a registered small-scale miner in diamond mining operations.[454]

The pressure applied to the Zimbabwe government by the K.P. led to positive results, since the government began to show commitment to the agreed Joint Work Plan, through reducing military presence at the diamond fields.[455] Zimbabwe's adherence to the Joint Work Plan in August 2010 led the K.P. to permit the country to conduct two diamond auctions in St. Petersburg.[456] In November 2010, the Zimbabwe issue was brought back to the K.P. during a meeting held in Israel, but member states failed again to agree on a solution, whether Zimbabwe was to be permitted to sell diamonds without supervision of the K.P. Monitors.[457] The suspension, however, was later dropped in 2011 after Zimbabwe, according to the K.P., conformed to KPCS minimum requirements.[458]

NGOs keeping a close eye on the issue of Zimbabwe diamonds remain skeptical of the capability of the K.P. in protecting the economic rights and social and cultural rights of the

[451] Brilliant Earth, Diamond Smuggling From Zimbabwe Forces Acknowledgement of KP Failures, http://www.brilliantearth.com/news/diamond-smuggling-from-zimbabwe-forces-acknowledgment-of-kp-failures/, Accessed: 18 May 2010.
[452] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. p. 44.
[453] Ibid
[454] Ibid
[455] Ibid
[456] Ibid
[457] Ibid
[458] Ibid

villagers in Marange and Zimbabwe as a whole.[459] The K.P. is failing to involve itself in these issues because of its limited legal mandate.[460] The case of Zimbabwe demonstrates failure by the K.P. to give preference to the violation of human rights by the legitimate government.[461] Actors within the scheme, the K.P. Civil Society, have been pressing for the urgent expansion of the definition of conflict diamonds, such that the violation of human rights committed by state and non-state actors might fall under the same definition.[462] It remains doubtful whether the K.P. will ever reform their definition of conflict diamonds, considering that the majority of its African member states are renowned for their human rights violations. It is also a question as to whether it will ever pay attention to the continuous violation of environmental rights, economic rights, and social and cultural rights of communities located close to mining areas.[463]

Asked whether the decision by the Kimberley Process to certify Zimbabwean diamonds was justifiable, the Programme Manager for Chiadzwa Community Development Trust, Melania Chiponda, made it clear that the minimum requirements by the KPCS are in themselves not adequate to putting an end to diamond smuggling in Zimbabwe. Such is the case because the illegal activity of diamond smuggling still thrives through underground channels, and therefore, there is need for more robust mechanisms and frequent reviews by the K.P.[464] As long as the government of Zimbabwe remains irresponsible with regards to its KPCS obligations, it remains a challenge to uproot all forms of diamond trade irregularities.[465] One would argue that for the Kimberley Process to operate as it should, the scheme needs to consider the level of good governance and institutional capacity before providing full membership status to aspiring member states.

The Kimberley Process has visited Zimbabwe only three times since 2004, and there is need for the scheme to adopt a more robust approach that keeps not only Zimbabwe but all member states in line with KPCS norms and expectations, rather than relying on the

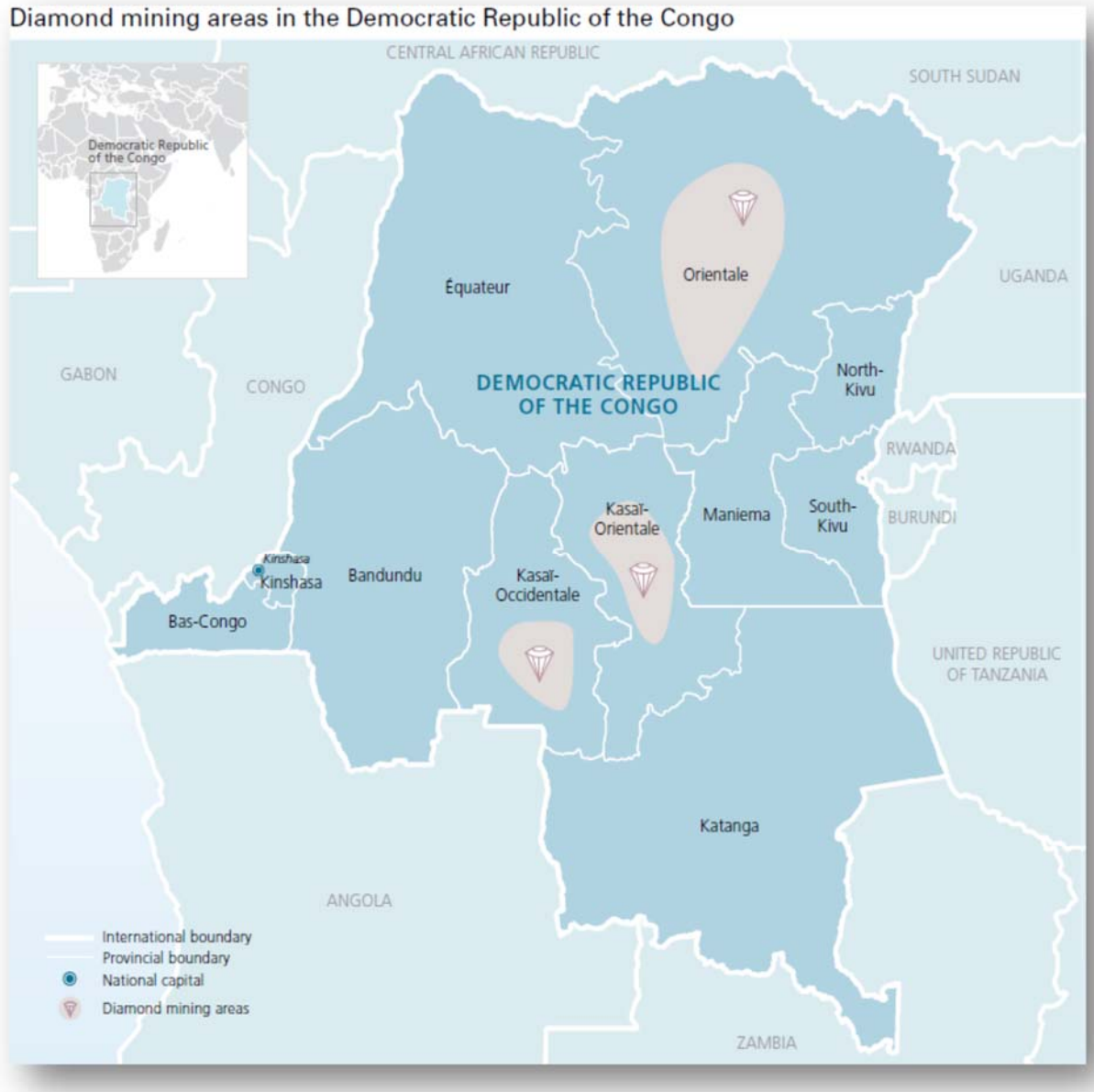
[459] Ibid
[460] Ibid
[461] Ibid. pp. 44-45.
[462] Ibid. p. 45.
[463] Ibid
[464] Chiponda, M: Op. Cit.
[465] Ibid

voluntary review system.[466] The scheme ought to reconsider the current status of civil society and NGOs and perhaps treat them as equal partners, rather than mere partners in the fight against the trade in conflict diamonds.[467] NGO's have been finding it particularly difficult to gain access to the diamond mining areas of Zimbabwe.[468] According to Bieri, such a situation is unacceptable, mainly because it is NGOs, especially in issues of natural resources and conflict, that perform the duties of agenda setting, norm creation, and policing actors and stakeholders involved in the diamond industry.[469]

During the diamond conflicts of Sierra Leone, Angola and the Democratic Republic of Congo the wars took a long time to end, due to corrupt government officials who were benefitting from the situation.[470] It is believed that the entire diamond business in Marange is a complex plot run by individuals who were once involved in the conflict diamonds of the D.R.C., Angola, and Sierra Leone. However, it is very difficult to trace and confirm such claims.[471] Such being the case, if Zimbabwe is not given due attention, chances are high that the state will be held ransom by the political elite at the expense of the entire country and top political officials. Therefore, it is crucial that the Kimberley Process incorporates issues of human rights and transparency, as advocated by NGOs.

[466] Mirell, H: Op. Cit. p. 57.
[467] Bieri, F.: Op. Cit. p. 10.
[468] The Diamonds and Human Security Project: Op. Cit. p. 2.
[469] Ibid
[470] Tamm, I.J: Op. Cit p. 16.
[471] Mtisi, S., Dhliwayo, M, and Makore, G: Op. Cit. pp. 45-46.

7.1. Diamond Mining in the Democratic Republic of Congo



Source: Extracted from the 2011 UNODC Report.[472]

[472] UN Office on Drugs and Crime: Op. Cit. p. 71.

7.1.1. Background

The Democratic Republic of Congo, known as the D.R.C., is located in the central region of Africa and is made up of a population of 56 million people from 200 different ethnic groups.[473] It is endowed with a vast amount of natural wealth, including diamonds, uranium, copper, timber and cobalt, yet it remains amongst the least developed countries in the world.[474] Out of all the minerals in the D.R.C., diamonds are the most valuable, as they are the main source of export revenue and foreign currency earnings.[475] Diamond discovery took place in 1907 in Kasai Province, leading to the diamond rush, which saw the town of Mbuji-Mayi becoming the diamond capital of the country in the 1920s.[476]

Soon after attaining independence from Belgium in 1960, the Congo[477] experienced a brutal civil war which led to the assassination of its first leader, Patrice Lumumba, among other atrocities.[478] Lumumba's death is said to have been orchestrated by the United States' Central Intelligence Agency (CIA) together with General Joseph Mobutu, a rebel leader who later ruled Zaire for 32 years.[479]

The coming to power of General Mobutu Sese Seko in 1965 saw the deepening and spread of corruption in then Zaire, and later the influx of refugees from Rwanda during the 1994 Rwandan genocide, which destabilizes Eastern Congo to this day.[480] Although Mobutu's era eventually came to an end in 1997, the new administration of the renamed country led by President Laurent Kabila[481] did very little in curbing corruption or the looting of minerals by locals and outsiders, a situation which resulted in a full blown war.[482]

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[473] Even-Zohar, C: Op. Cit. p. 337.
[474] Dietrich, C. "Hard Currency: The Criminalised Diamond Economy of the Democratic Republic of the Congo and its Neighbours", in The Diamonds and Human Security Project, Occasional Paper 4, June 2002, p. 1.
[475] Even-Zohar, C: Op. Cit. p. 337.
[476] UN Office on Drugs and Crime: Op. Cit. p. 70.
[477] As it was known at the time.
[478] Cater, C: Op. Cit. p. 25.
[479] Ibid
[480] Tamm, I.J: Op. Cit. p. 12.
[481] Laurent Kabila's administration introduction of the new name, Democratic Republic of Congo. See: Tamm, I.J: Op. Cit. p. 12.
[482] Tamm, I.J: Op. Cit. p. 12

While relative stability has returned in what is now called the D.R.C., failure to disarm rebel groups has deprived the country in moving forward economically.[483] Mark Duffield claims that the violent conflict in the D.R.C., amongst other countries such as Angola and Sierra Leone, is not a result of the short term absence of development, but rather of the interplay between deeply-rooted factors of insecurity, underdevelopment and the effects of globalisation.[484] Grant Masterson shares a similar opinion, where he argues that the lack of functional democratic, accountable and transparent governance in the D.R.C. is a result of numerous factors, which include: the adoption of an incompetent Belgian system of governance after colonial rule; failure by the first Republic to advance the development agenda; Congolese nationalism; the patrimonial rule of the Mobutu era; the increase in the rise of rebel groups; and the intervention of foreign military in the post-Mobutu era.[485] Solutions, according to Duffield, can be devised by encouraging social research to focus on the political and social relations between the elite and subordinate groups, external networks and their economic base.[486]

7.2. Diamond Mining in the Democratic Republic of Congo

Prior to the establishment of the Kimberley Process in 2003, the bulk of diamonds from the D.R.C. were exported via neighbouring countries, especially the Central African Republic and the Republic of Congo.[487] But with the introduction of the K.P. in 2003, most of the diamonds from the D.R.C. are now exported to Belgium, India, Israel, South Africa and the United Arab Emirates (UAE).[488] The K.P. heralded some hope in the D.R.C. diamond industry, which had not been monitored for decades.[489]

[483] Cater, C: Op. Cit. p. 27.
[484] Duffield, M, "Globalisation and War Economies: Promoting Order or the return of History?", in Fletcher Forum of World Affairs, Vol. 23, No. 2, Fall 1999, pp. 25-26.
[485] Masterson, G.E.T: Governance Quality and Government Commitment to the NEPAD African Peer Review Mechanism, EISA, Johannesburg, 2004, p. 41.
[486] Duffield, M: Op. Cit. p. 26.
[487] UN Office on Drugs and Crime: Op. Cit. p. 76.
[488] Ibid
[489] Burbank, J., The Effect of the Kimberley Process on Governance, Corruption & Internal Conflict. Washington, The Fund for Peace, http://www.fundforpeace.org/web/images/stories/programs/kimberley_process-burbank.pdf, Accessed: 01 October, 2012, p. 2.

The UN Office of Drugs and Crime rates the D.R.C. diamond reserves as the largest reserves the world over, reaching about 25% of the world total.[490] The bulk of these diamonds are for industrial purposes, and are artisanally mined, especially in the Kasai provinces and few other areas in the Orientale province.[491] The two major diamond companies in the DRC diamond industry are Société Minière de Bakwanga (MIBA) and Sengamin.[492] However, MIBA has shut down most of its mining operations in most parts of the country since the advent of the 2008 global economic crisis.[493] An exception is a number of semi-industrial diamond mines still operative in Tshikapa.[494]

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While considerable changes are said to have been made in the D.R.C. diamond sector, Global Witness shares a different opinion, arguing that fundamental changes are still required if the D.R.C. diamond sector is to successfully curb the trade in illegal diamonds.[498] The case of the D.R.C. is likened to the diamond cases of the Ivory Coast and the Central African Republic, where the K.P. is struggling to influence member states to adopt the regulations agreed upon in this forum.[499]

[490] UN Office on Drugs and Crime: Op. Cit. p. 16.
[491] Ibid
[492] Partnership Africa Canada and Global Witness (B), The Key To Kimberley: Internal Diamond Controls, http://www.pacweb.org/Documents/diamonds_KP/key_to_Kimberley-eng-elect_Oct2004.pdf, Accessed: 16 September 2012, p. 8.
[493] UN Office on Drugs and Crime: Op. Cit. p. 70.
[494] Partnership Africa Canada and Global Witness (B): Op. Cit. p. 8.
[495] UN Office on Drugs and Crime: Op. Cit. p. 76.
[496] Ibid
[497] Burbank, J: Op. Cit. p. 2.
[498] Global Witness (D), Reforming the DRC Diamond Sector, Global Witness, http://www.ddiglobal.org/login/Upload/GW_RDRCDS_ENG[1].pdf, Published: June 2006, p. 2.
[499] Burbank, J: Op. Cit. p. 2.

Table 1: DRC mineral endowments by province

Province	Minerals
Bandundu	Diamonds, gold, petroleum
Bas-Congo	Bauxite, oil shales, limestone, phosphates, vanadium, diamonds, gold
Equateur	Iron, copper and associates, gold, diamonds
Kasai Occidental	Diamonds, gold, manganese, chrome, nickel
Kasai Oriental	Diamonds, iron, silver, nickel, cassiterite
Katanga	Copper and associates, cobalt, manganese, limestone, uranium, coal
Maniema	Cassiterite, diamonds, coltan
North Kivu	Gold, niobium, tantalite, cassiterite, beryl, tungsten, monzanite
Orientale	Gold, diamonds, iron
South Kivu	Gold, niobium, tantalite, cassiterite, sapphire

Source: Extracted from the UNODC 2011 Report.[500]

The bulk of the minerals in the D.R.C. are located in the Eastern region of the country, which is a conflict-zone area, especially in the provinces of Katanga, West and East Kasai, Oriental, and North and South Kivu.[501] The majority of these minerals are labelled 'conflict resources' since they are used by rebels and state-actors in propelling conflict.[502] Diamonds are found in almost all the D.R.C. provinces, with the exception of Katanga, North Kivu and South Kivu.[503]

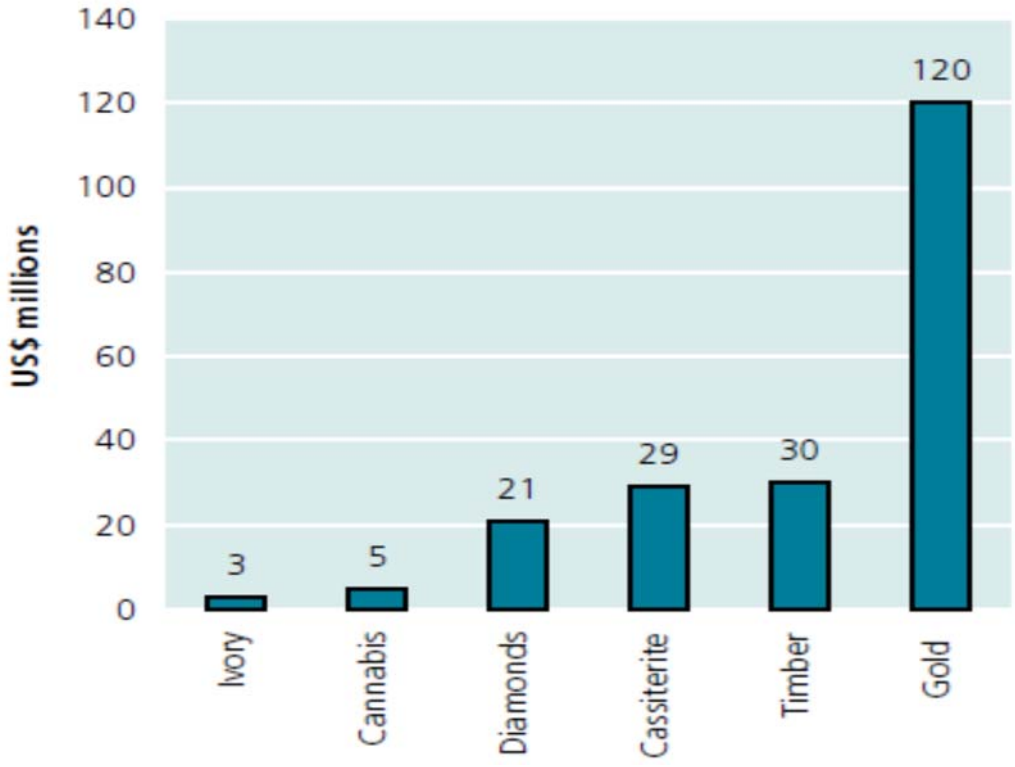
The major difficulty facing the D.R.C. government is the task of coming up with effective internal diamond control systems capable of regulating artisanal mining.[504] This type of mining requires close monitoring by the government, since it is practiced by a large number of illegal miners.

[500] UN Office on Drugs and Crime: Op. Cit. p. 47.
[501] Partnership Africa Canada and Global Witness (B): Op. Cit. p. 8.
[502] UN Office on Drugs and Crime: Op. Cit. p. 47.
[503] Ibid
[504] Partnership Africa Canada and Global Witness (B): Op. Cit. p. 8.

7.2.1. Diamond Smuggling and the Trade in Conflict Diamonds

Diamond smuggling, the undervaluation of annual production and the trade in conflict diamonds are some of the key challenges facing the D.R.C. diamond sector.[505] Illegal diamond dealers find it easy to trade illegal diamonds in the D.R.C.[506] They trade them in Kinshasa and Kisingani, where a number of legal diamond buying houses, known as the 'legal comptoir system', are located.[507] Similar activities occur in the towns of Butembo and Lubero, close to the Ugandan border.[508] Lebanese and Israelis in the D.R.C. are the main diamond buyers of both legal and illegal diamonds in Kinshasa, and because they offer higher prices, artisanal miners prefer selling their diamonds to them.[509] Above and beyond local production, the D.R.C. has become the regional hub of smuggled diamonds from Angola, and the Central African Republic (CAR).[510]

Fig. 3: Gross Value of Contraband Flows from the DRC in 2010



Source: Extracted from the UNODC 2011 Report.[511]

[505] Even-Zohar, C: Op. Cit. p. 337.
[506] The Diamonds and Human Security Project: Op. Cit. p. 13.
[507] Ibid
[508] Ibid
[509] Ibid
[510] UN Office on Drugs and Crime: Op. Cit. p. 16.
[511] Ibid. p. 13.

A study conducted by the UNODC in 2011 shows that large quantities of minerals and other natural resources are smuggled out of the DRC each year.[512] Rated according to gross value, diamonds are the fourth most smuggled mineral from the D.R.C., after gold, timber and cassiterite.[513] The D.R.C. loses approximately US$21 million to diamond smuggling annually.[514] Such a substantial amount of money could have been channelled towards the rebuilding of the country.

Rwanda and Uganda are the two major regional gateways for D.R.C. conflict diamonds, which are later exported to international diamond centres.[515] Once the smuggled diamonds reach Rwanda or Uganda, it becomes a challenge for the K.P. to trace them, since the two countries are not members of the KPCS. The high levels of mineral smuggling in the D.R.C. demonstrates how the central government has failed to implement effective monitoring systems, and at the same time it indicates a failure by the K.P. to enforce more robust diamond control systems in the D.R.C.

Only 60% of rough diamonds from the D.R.C. go accounted for by the K.P. each year, while the rest, approximately 20-24 million carats, are smuggled out of the country.[516] If the D.R.C. government had an effective internal diamond control system, it could be receiving more than its current diamond revenue. On the same note, the K.P. appears to be reluctant to take a more forceful approach in the D.R.C. diamond sector. Considering the huge amount of diamonds smuggled out of the D.R.C., assumptions are that elites in the country might be part of the syndicate, due to the sophisticated nature of fraudulence required. Although diamond smuggling is a concern in the D.R.C., the K.P. has been credited for introducing barriers that have led to a reduction in the amount of smuggled diamonds to the neighbouring countries of Uganda and Rwanda.[517]

[512] Ibid
[513] Ibid
[514] Ibid
[515] Ibid
[516] Ibid
[517] Burbank, J: Op. Cit. p. 2.

The D.R.C. government undervalues diamond prices, and as a result, little tax revenue is received by the state when diamonds are legally traded.[518] The government imposes a total diamond export tax of 3.75%, which is later divided between government departments and producing regions.[519] The country procures very little diamond export tax compared to other diamond producing countries in the region, such as the Central African Republic (11.25%) and Angola (11%).[520] The D.R.C. diamond producing regions are expected to gain 1% of the value of diamonds at the first point of sale, but very little revenue is returned to these regions.[521] Diamond valuation in the D.R.C. is a problem as a result of the government employing valuators from 'private comptoirs', who are faced with a conflict of interests.[522]

The diamond industry in the D.R.C. is made up of both legal and illegal actors. The key social forces driving the illegal trade in the D.R.C. are artisanal miners, illegal diamond dealers, legal diamond buying houses, Lebanese and Israeli diamond buyers, Rwanda and Uganda. The illegal trade begins with the artisanal miners, who extract the minerals illegally and sell them to diamond buying houses in Kinshasa, Kisingani, Butembo and Lubero. In Kinshasa, the diamonds are mostly sold to Lebanese and Israeli buyers, who are renowned for paying high prices for the diamonds. Neighbouring Rwanda and Uganda make up part of the D.R.C. illegal diamond trade, since they are the recipients of smuggled diamonds from the D.R.C.

7.2.2. Rebel Groups and Artisanal Mining

Alluvial diamond mining is mostly artisanal in nature, driven by poverty and practised in poorly developed areas, where the population is illiterate and faced with high levels of unemployment.[523] It thrives in areas where state regulatory and enforcement institutions are dysfunctional, hence in most cases it is conducted illegally.[524] Statistics reveal that more than 13 million people in 30 countries worldwide are artisanal miners and more than 80 million

[518] Global Witness (D): Op. Cit. p. 2.
[519] Ibid
[520] Ibid
[521] Ibid
[522] Ibid
[523] Goreux, L. "Conflict Diamonds" in Africa Region, Working Paper Series No. 13, 2001, p. 4.
[524] Ibid

people earn a living from mining precious stones, such as gold and diamonds.[525] This description fits the case of the D.R.C., where artisanal mining is practiced by a majority of the poor and in areas of lawlessness.

During the Mobutu era in the 1970s, artisanal miners were permitted by the government to work in diamond mines in an effort to reduce levels of unemployment.[526] But lack of government central control led to high levels of diamond smuggling and the emergence of mini-fiefdoms and rebel movements, which took control of diamond fields in certain parts of the country.[527]

Today, artisanal production of diamonds in the D.R.C. amounts to 75% of the total carat production and 62.5% of the total value produced.[528] It could be argued that the practice of artisanal mining in the D.R.C. today emanated during the Mobutu years, and since then, local people of diamond producing areas have adopted it as means of survival.

Years of armed conflict and instability in the D.R.C. paved the way for the emergence of artisanal mining (informal small scale mining practice), which the contemporary D.R.C. government is failing to systematically control and record.[529] A majority of these miners are illegal and the destination of their diamonds is not known, which deprives the state of substantial mineral revenue in tax.[530]

The state's largest diamond mining company, MIBA, suspended its mining operations in Mbuji-Mayi, and although the diamond fields are guarded by the army, illegal miners continue to bribe their way into the fields to extract alluvial diamonds.[531] On the same note, the government organisation responsible for regularizing artisanal miners and the diamond

[525] Ibid
[526] Even-Zohar, C: Op. Cit. p. 341.
[527] Ibid
[528] UN Office on Drugs and Crime: Op. Cit. p. 70.
[529] The Diamonds and Human Security Project: Op. Cit. p. 8.
[530] Ibid
[531] Global Witness (E), Stronger action needed by donors to help reform the DRC diamond sector, http://www.globalwitness.org/library/stronger-action-needed-donors-help-reform-drc-diamond-sector-0, Published: 14 July, 2006.

fields, Small Scale Mining Technical Assistance and Training Service (SAESSCAM), has failed to control alluvial diamond activities and diamond diggers.[532]

The outbreak of armed conflict has considerably decreased in the D.R.C. since the 2002 peace accord, however, the Eastern region is still vulnerable to rebel attacks.[533] The region is politically unstable due to violence caused by militia groups, the M23, the CNDP[534], the FDLR[535] and the national forces FARDC[536].[537] Most mine sites in the Eastern Congo are controlled by armed groups, and their mineral interests have led them to perpetuate conflict and instability to maintain control of the territory and its enormous mineral wealth.[538] It is estimated that the members of armed groups number between 6,500 and 13, 000, who are involved in the ill-treatment of diamond diggers and the people of the Eastern Congo.[539] The political and economic environment in the D.R.C. is hostile to private mining operations; while the government does not have total control over its territory, and is unable to provide the public goods of peace and stability, security and development. Hence, it is at times referred to as a failed state.[540]

The majority of rebel movements in diamond-producing regions originate politically, but over time their agenda usually transforms into criminality.[541] The case of the D.R.C. demonstrates how rebel movements have now embarked on illicit trade in agricultural produce, timber, elephant ivory and cannabis.[542] Cases of organised attacks, looting, forced labour, forced recruitment, describe but some of the predatory behaviour of these groups in the Eastern Congo.[543]

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[532] Ibid
[533] Weir, E.A, DR Congo: Local Communities on the Front Line, Refugees International, http://refugeesinternational.org/sites/default/files/042412_DRC_National_Paralysis%20letterhead.pdf, 24 April 2012, p. 1.
[534] Congres National pour la Defense du Peuple.
[535] Forces Democratiques de Liberation du Rwanda.
[536] Forces Armees de la Republique Democratique du Congo.
[537] UN Office on Drugs and Crime: Op. Cit. pp. 23-24.
[538] Ibid
[539] Ibid. p. 13.
[540] Even-Zohar, C: Op. Cit. p. 340.
[541] UN Office on Drugs and Crime: Op. Cit. p. 9.
[542] Ibid
[543] Weir, E.A: Op. Cit. p. 1.

The D.R.C. President, Joseph Kabila, publicly admitted the syphoning of state resources by criminal networks within the national army, FARDC.[544] He also confirmed a conflict of interest between the army's constitutional security mandate and the exploitation of natural resources.[545] The clash has since led to "pervasive insubordination, competing chains of command [and] failure to actively pursue armed groups", resulting in the army abandoning its mandate of civilian protection.[546] The situation in the D.R.C. reveals a politics of domination by army personnel and rebels groups as they use their political and military might to embezzle state mineral resources.

The 2012 UN Security Council Report on the D.R.C. confirmed the involvement of Rwanda in the Eastern Congo conflict.[547] Paul Kagame's government is supporting the M23 rebel movement through provision of military and financial support.[548] The rebels are taking advantage of the weak state institutions in the Eastern region and the country as a whole.[549] The participation of Rwanda in the D.R.C. mineral conflict shows the need for a better approach by the K.P. in dealing with the issue of conflict diamonds, namely an approach that guards against regional interference, especially in a member state that has weak internal diamond controls.

It is argued that the D.R.C. government is reluctant to regulate artisanal miners because the political elite are benefitting from the substantial amounts of high quality diamonds produced by the illegal miners, especially in areas of Tshikapa and Kisangani.[550] The mineral conflict in the D.R.C. reflects a politics of domination by the military groups and corrupt national forces, which are working together in advancing their economic interests, at the expense of the Congolese people and of stability in the Eastern region.

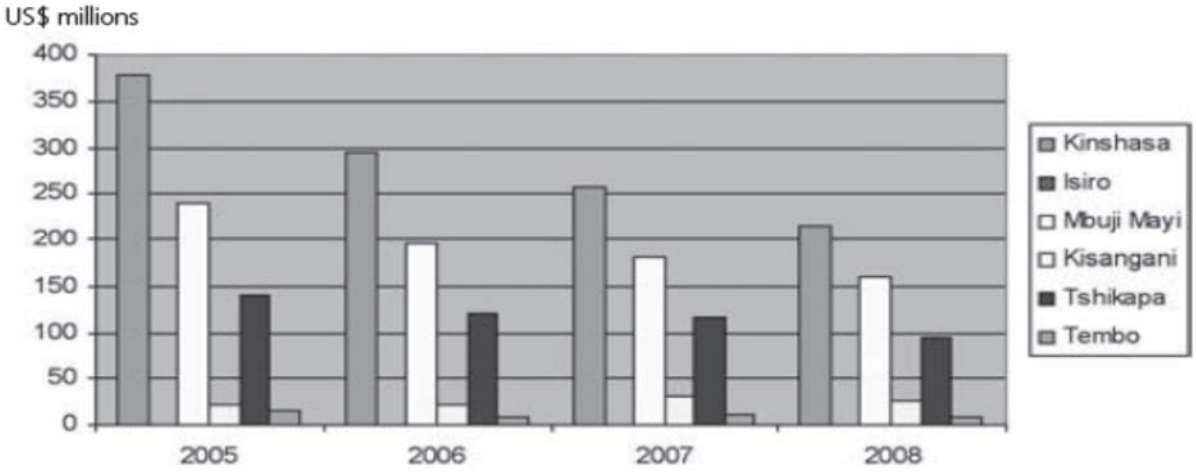
[544] UN Office on Drugs and Crime: Op. Cit. p. 24.
[545] Ibid
[546] Ibid
[547] UN Security Council, UN Group of Experts Report on the Democratic Republic of Congo, http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/843, 15 November 2012, p. 3.
[548] Ibid
[549] UN Office on Drugs and Crime: Op. Cit. p. 24.
[550] UN Security Council: Op. Cit. p. 339.

The social forces involved in artisanal mining are the illegal diamond diggers, rebel movements and national forces. These actors control both the diamond mines and diamond diggers. Rebel movements partly rely on the trade in conflict diamonds, whereas corrupt military forces are interested in self-enrichment from the diamond mines.

7.2.3. Diamond Tracing and the Reliability of National Statistics

About 15 million carats of diamond exported annually from the DRC remain untraceable, which gives an indication of how the D.R.C. government is failing to implement an efficient diamond control system capable of monitoring the flow of diamonds within its borders.[551] Major diamond mining operations are practised in the provinces of Kasai-Oriental, Kasai-Occidental, Oriental, and Bandundu, while small scale diamond mining is practised in Bas-Congo and the region around Kinshasa.[552] Generally, diamond mining in the D.R.C. is a common practice, hence the need for the government to create national structures capable of tracing diamonds such that they do not end up funding wars, or become used in illegal money laundering activities.

Fig. 4: Diamond (by value) Entering Licensed DRC Legal Diamond Buyers 2005-2008



Source: Extracted from the 2009 Diamonds and Human Security Project.[553]

[551] The Diamonds and Human Security Project: Op. Cit. p. 11.
[552] Even-Zohar, C: Op. Cit. p. 340.
[553] The Diamonds and Human Security Project: Op. Cit. p. 11.

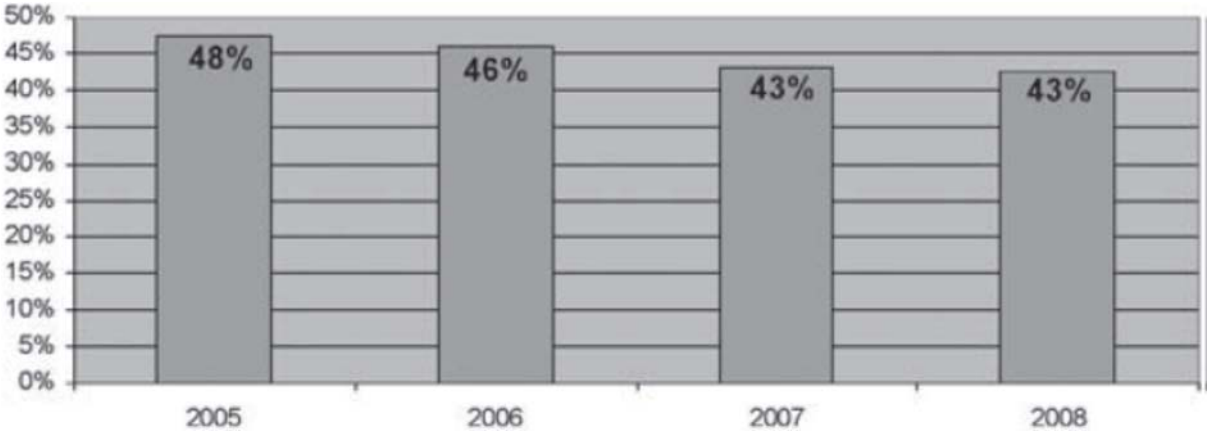
The Diamond and Human Security Project traced the destination of artisanal diamonds and found that most of them are eventually sold in Kinshasa by artisanal miners.[554] Compared to other provinces, Kinshasa receives the highest amount of diamonds from artisanal miners.[555] These diamonds, of unknown origin, are first recorded in the provinces of Kinshasa, Isiro, Mbuji Mayi, Kisangani, Tshikapa and Tembo. Prior to that, no form of record is made, and those who criticise the trade argue that such diamonds ought to be labelled as "origin unknown".[556] Kinshasa is a favourable destination for most artisanal miners because of the concentration there of diamond buyers who pay high prices for the stones. Due to this kind of access to the market, there has been a decrease in the amount of diamonds smuggled out of the D.R.C.

The D.R.C. government does not have statistical records for its diamond production, diamond data is first captured when the gems are sold to the diamond buying house, or *comptoir*, in several provinces.[557] Any individual in possession of a diamond, be it an illegal miner or digger, or *creuseur*, can easily exchange it for money from licensed middlemen, without being required to disclose the origins of the gem.[558] The authorities responsible for purchasing diamonds do not make any effort to know the origins of diamonds or the identification of the seller.[559] Such negligence by the authorities promotes the trade in control diamonds.[560]

[554] Ibid
[555] Ibid
[556] Ibid. p. 12.
[557] Ibid. p. 11.
[558] Ibid
[559] Ibid
[560] Ibid

Fig. 5: Diamonds of Unknown Origin

(Percentage of total DRC production by value claimed to have originated in Kinshasa)



Source: Extracted from the 2009 Diamonds and Human Security Project.[561]

The origin of diamonds from the D.R.C. is very difficult to tell once the diamonds reach major provinces where they are recorded for the first time.[562] From 2005 to 2008, Kinshasa has been identified as the source of almost 50% of all diamonds in the D.R.C.[563] It is interesting however, to note that Kinshasa is identified as the origin of diamonds, despite the fact that no diamond mines are found in Kinshasa.[564]

Officials from the Ministry of Mines and the Centre for Evaluation, Expert Analysis and Certification of Precious Minerals (CEEC) are obliged to monitor both the extraction and trade of diamonds, verifying whether diamond diggers and traders have legitimate mining or trading licences.[565] However, this has not been the case in the D.R.C., where a lack of tight national regulative mechanisms permits illicit traders such as Viktor Bout[566] to freely trade conflict diamonds for cash without difficulty.[567] Lack of government regulation in the D.R.C. perpetuates the trade in conflict diamonds, and as a result it entrenches the illegal diamond

[561] The Diamonds and Human Security Project: Op. Cit. p. 12.
[562] Ibid
[563] Ibid
[564] Ibid
[565] Ibid
[566] Viktor Bout is a well-known arms dealer and sanctions-buster, he was arrested in 2008 in Thailand through the assistance of the US Drug Enforcement Agency. See: The Diamonds and Human Security Project: Op. Cit. p. 12.
[567] The Diamonds and Human Security Project: Op. Cit. p. 12.

networks both at national and global level.[568] Kinshasa International airport reportedly does not even have standard security systems to detect diamond smuggling.[569] It is because of such loopholes, among others, that the trade in illicit diamonds thrives.

Table 2: DRC Diamond Exports, as recorded respectively by the K.P, the CEEC, and the Ministry of Mines.

	KP Statistics		CEEC Statistics		Ministry of Mines Statistics	
Year	Volume (ct)	Value (US$)	Volume (ct)	Value (US$)	Volume (ct)	Value (US$)
2003	n/a	n/a	27,111,526	642,742,788	27,752,627	650,336,071
2004	30,162,413	720,899,077	29,988,062	727,486,407	29,609,872	708,623,102
2005	32,949,849	895,457,801	31,733,747	870,307,938	32,795,555	885,032,408
2006	30,177,840	679,488,866	28,253,572	671,677,791	28,253,571	671,677,791
2007	28,331,376	609,833,223	28,269,337	613,163,797	25,928,301	565,943,295
2008	21,284,137	551,879,602	22,096,489	553,840,000	n/a	n/a

Source: Extracted from the 2009 Diamonds and Human Security Project.[570]

Table 3: Comparison of the various figures for DRC diamond exports: K.P vs. CEEC; K.P vs. Ministry of Mines; CEEC vs. Ministry of Mines.

	Difference: KP-CEEC		Difference: KP-Mines		Difference: CEEC-Mines	
Year	Volume (ct)	Value (US$)	Volume (ct)	Value (US$)	Volume (ct)	Value (US$)
2003	n/a	n/a	n/a	n/a	(641,101)	(7,593,283)
2004	174,351	(6,587,330)	552,541	12,275,975	378,190	18,863,305
2005	1,216,102	25,149,863	154,294	10,425,393	(1,061,808)	(14,724,470)
2006	1,924,268	7,811,075	1,924,269	7,811,075	0	0
2007	62,040	(3,330,574)	2,403,075	43,889,928	2,341,035	47,220,502
2008	(812,352)	(1,960,398)	n/a	n/a	n/a	n/a
Totals	2,564,409	21,082,636	5,034,178	74,402,371	1,016,317	43,766,054

Source: Extracted from the 2009 Diamonds and Human Security Project.[571]

According to the statistics presented by the three actors, the difference between CEEC's figures and those presented to the K.P over six years amounts to 2.5 million carats, which is about US$21 million dollars.[572] From the period 2004-2008, an average of about half a million carats per year appear on K.P.'s statistics, yet fails to appear on the CEEC

[568] Ibid
[569] Ibid
[570] The Diamonds and Human Security Project: Op. Cit. p. 10.
[571] The Diamonds and Human Security Project: Op. Cit. p. 10.
[572] UN Office on Drugs and Crime: Op. Cit. p. 78.

statistics.[573] This effectively means that the CEEC is claiming that such amounts of diamonds were never exported. Such discrepancies would seem to confirm systematic diamond smuggling by actors who ought to be the custodian of the law.

When one further compares the K.P. figures to those of the Ministry of Mines, the difference is even greater. National diamond records by the two D.R.C. leading diamond agencies, the CEEC and the Mines, prove annul differences of over a million carats. If diamond statistics generated by member states is to assist the K.P. in achieving a conflict-free diamond industry, the D.R.C. diamond sector requires immediate attention. This is so because there are serious discrepancies between the diamond statistics presented by the K.P., the CEEC, and the Ministry of Mines.[574] This is an indication of bad governance by the D.R.C. government and also a lesson to the K.P. that good governance is a prerequisite for membership.

If no effort was made in tracing and verifying statistics presented by the three different authorities, the statistical differences in Table 2 and 3 would not have been known. In an ideal world, the table would be containing zeros throughout. Reliable statistics is one important tool that can assist the K.P. to monitor the flow of diamonds, as such, there is need to put pressure on the D.R.C. government to appoint local diamond agencies who would operate within the requirements of the K.P.

7.3. Beneficiaries of the Democratic Republic of Congo Diamonds

During Laurent Kabila's presidency, the D.R.C. diamonds were used in safeguarding the political elite's interests.[575] Kabila received military support from regional countries including Angola, Zimbabwe, Namibia, Chad and Sudan, in exchange for diamond concessions.[576] Today, the same diamonds have still not benefitted the people of the

[573] The Diamonds and Human Security Project: Op. Cit. p. 10.
[574] Ibid
[575] Samset, I. "Conflict of interests or interests in conflict? Diamonds and War in the DRC" in Review of African Political Economy, Vol. 29, No. 93-94, 2002, p. 474.
[576] Ibid. pp. 472 – 476.

D.R.C.[577] The country exports about US$870 million worth of diamonds each year, but the riches have not transformed into development, a sign of the resource curse.[578]

The diamonds have attracted foreign corporations, warlords, corrupt government officials and foreign bandits, who have used the resources in causing conflict, especially in the Eastern region.[579] The resources have also divided the population, as ethnic groups continue to fight over mineral control.[580]

The political elite in the D.R.C. advance their personal economic and political interests through embezzling diamond wealth.[581] They control diamond sites in almost all provinces and as a result they have power over the illegal diggers and artisanal miners. Rebel movements, on the other hand, partly rely on diamonds to fund their insurgencies.[582] Political elites and rebels alike use political domination and military might to control diamond mines in the D.R.C.[583] A considerable amount of diamonds are smuggled out of the country to various destinations at the expense of the local people.[584] As a result, the D.R.C. government is deprived millions of dollars in gross domestic product.[585] The lack of transparency and accountability in the Congo permits rebels and corrupt officials to continue stealing state resources.[586]

[577] BBC, Question and Answer: DR Congo conflict, http://www.bbc.co.uk/news/world-africa-11108589, Accessed: 20 November 2012.
[578] Global Witness (D): Op. Cit. p. 2.
[579] BBC: Op. Cit.
[580] Ibid.
[581] Samset, I: Op. Cit. p. 469.
[582] Ibid.
[583] De Goede, M.J., The Price for Peace in the Congo: The Incorporation of the Political-Economy of War in the State and Governance System, http://www.st-andrews.ac.uk/intrel/media/Goede_criminalisation_of_politics_DRC.pdf, Accessed: 25 May, 2012, p. 10.
[584]Fisherman, J. L. "Is Diamond Smuggling Forever? The Kimberley Process Certification Scheme: The First Step down the Long Road to Solving the Blood Diamond Trade Problem" in University of Miami Business Law Review, Vol. 13, p. 220, 2005.
[585] Ibid.
[586] Voice of America, Congo's Resources: Who Benefits? http://www.congoplanet.com/news/1667/congo-resources-who-benefits-mineral-ressources-coltan-katanga-conflict-minerals.jsp, Published: 5 June 2010.

7.4. Kimberley Process' Response to the DRC diamonds

When the D.R.C. joined the Kimberley Process in 2003, it was full of vigour to implement the minimum requirements of the scheme, and indeed a number of changes were made within a short period of time.[587] The government established many diamond buying-export houses (comptoirs) across the country, in order to increase the level of diamond scrutiny as required by the K.P.[588] It also appointed the Centre for Evaluation, Expertise and Certificate (CEEC) as the state agency responsible for evaluating and certifying diamonds, supervising diamond houses (comptoirs) and monitoring the diamond export process.[589]

Unfortunately, many satellite offices that were set up in the five major diamond trading centres closed down in 2008 as a result of the global economic recession.[590] This resulted in most of the rough diamonds being sent direct to Kinshasa.[591] The K.P. has been encouraging the D.R.C. government to establish a diamond monitoring program that observes and records artisanal diamond mining activities across the country, but government has been slow in response in generating a database of artisanal miners.[592]

Table 4: Kimberley Process Recommendations to the DRC Government

Major Recommendations	**Action Taken**
All identification cards should be checked as their holders enter the office of the *comptoirs* to partake in a transaction,	None

[587] PAC, Democratic Republic of Conhttps://docs.google.com/viewer?a=v&q=cache:jLZv4NQOtxUJ:www.pacweb.org/Documents/diamond_watch_list/DEMOCRATIC%2520REPUBLIC%2520OF%2520THE%2520CONGO.doc+actions+taken+by+the+DRC+governmnet+in+the+diamond+fields&hl=en&gl=za&pid=bl&srcid=ADGEEShMV73akSE79YEC1v-bjfzRcLTNYFhH8gxVU_n-DHZb2wYwvGIzazs55G6Usapz8MBl3egJyozzVgBkpL_jMQDRBFr_BjrR6fnLIdBJ3EeH8TvDVWtd_ANVGtZJpgFkKaLDakqu&sig=AHIEtbTjpyksQCJnK4EM_a5kYLnR8Mo17Q, 14 November, 2012, p. 1.
[588] Ibid
[589] UN Office on Drugs and Crime: Op. Cit. p. 75.
[590] Ibid
[591] Ibid
[592] PAC: Op. Cit.

The monthly production reports from the provincial divisions of the Ministry of Mines should include information on the actual production sites, and link these - wherever possible - to the *Cadastre minier*. This would allow monitoring regular productions and flag any discrepancies that could indicate diamonds being smuggled in or out.	None
Sales slips (*carnets d'achat*) should indicate the precise origin of the diamonds, preferably through a cross-reference to the *Cadastre minier.*	None
DRC authorities should further extend the coverage of SAESSCAM, if necessary with the support of external donors.	None
All possible efforts should be undertaken to ensure that the production of artisanal mines is registered on a regular basis and communicated to the central Ministry of Mines administration and the CEEC.	None

Source: Extracted from the PAC's 2008 Annual Review.[593]

The D.R.C. government has abandoned efforts to implement recommendations highlighted by the K.P. Review Team.[594] A program to register artisanal miners has since been put on hold and the SAESSCAM, responsible for channelling artisanal miners into the formal sector has also done very little.[595] There has been a massive plunge in the diamond export values for D.R.C. diamonds and tax revenues alike, yet world prices for rough diamonds has gone up.[596]

[593] PAC: Op.Cit. p. 1.
[594] Global Witness (E): Op. Cit.
[595] PAC: Op. Cit.
[596] Ibid

The major problem lies in the government's failure to oversee and control its national diamond chain. The exact amount of diamonds extracted in the D.R.C. remains unknown, since record keeping of diamond production statistics only begins at the *comptoirs*.[597]

The government lacks political will and the capacity to monitor and regulate the flow of diamonds, meaning that it cannot prevent the trade in conflict diamonds within its borders.[598] Corinna Gilfillan of the Global Witness equally puts the blame on both the D.R.C. government and donor governments who acknowledge acts of corruption within the diamond sector, yet fail to take action to curb the illegal trade.[599] Gilfillan emphasises the need for the D.R.C. government to manage its natural resources responsibly, since they are so crucial to the stability, peace and economic growth of the country.[600]

The majority of problems facing the D.R.C. government today emanated from the unresolved underlying causes of the past civil wars, which were only in part resolved by fragile peace agreements. The PAC argues that the D.R.C. government, together with the K.P. have both adopted a complacent and indifferent approach towards the diamond problems in the D.R.C.[601] The Congolese authorities ought to go an extra mile in increasing government's control in the diamond fields and to putting in place diamond controls capable of curbing alluvial diamond flows.

[597] UN Office on Drugs and Crime: Op. Cit. p. 75.
[598] Global Witness (D): Op. Cit. p. 2.
[598] Burbank, J: Op. Cit. p. 2.
[599] Global Witness (D): Op. Cit.
[600] Ibid
[601] Ibid

Chapter 7

Summary and Conclusions

8.1. Summary and Conclusions

The research presented here has examined the role played by the Kimberley Process in the two case studies of Zimbabwe and the D.R.C. The individual case studies revealed the different responses by the K.P. in its quest to establish a conflict-free diamond industry. The current state of the global diamond industry indicates the way in which the Kimberley Process has strived to improve the quality of global diamond trade from the late 1990s and early 2000s, when the international community battled to control the diamond civil wars in Angola and Sierra Leone. The research identified and credited the K.P. for its efforts in cleaning up the diamond industry, through establishing diamond control mechanisms capable of tracing the flow of rough diamonds from mines to the diamond retail markets. However, the two case studies also revealed the major weaknesses and challenges still facing the K.P. and the diamond industry.

8.2. Case Study Summaries

8.2.1. Zimbabwe

Although the Zimbabwean diamond sector is still faced with serious challenges, the role played by the K.P. should be commended for the changes in the situation in Marange that have resulted in improvements since beginning of the diamond crisis in 2006, when human rights abuse and diamond smuggling was rife. Nonetheless, the diamond situation in Marange still requires close surveillance by the K.P., as well as non-governmental organisations and civil society organisations (CSOs), since Zimbabwean diamonds are still benefitting only

those in the military, political and business elite, as well as Chinese and Russian investors, ZANU-PF supporters and other unknown actors.

In as much as the K.P. has gained a number of successes in the past, the case of Zimbabwe has overshadowed these past successes. NGOs and civil society groups continue to put pressure on the K.P. to take a more vigorous approach towards the Zimbabwean government. The slow approach of the K.P. in denouncing human rights abuses has paved way for the Zimbabwe government to continue abusing citizen's rights. Apart from human rights issues, the case of Zimbabwe has demonstrated how the scheme is neglecting social livelihoods of the people in the Marange area, by failing to incorporate issues of environmental, socio-economic and cultural rights within the scheme.

The Zimbabwean case study indicated the need for checks and balances to be instituted for the political elite, since they can easily advance their own agenda, and as a result fail to implement the K.P. requirements. The key issue in the Zimbabwe diamond sector is failure by the government to create a transparent diamond tax collecting system. This has resulted in diamond revenue from Marange becoming unaccounted for, and at the same time, the K.P has not put enough pressure on the government to reveal the beneficiaries of the diamond revenue. This demonstrates the relatively weak capacity of the K.P. There is a current need for the K.P. to work together with regional and sub-regional supporting structures to boost their operational capacity.

It is unfortunate that most African countries are governed by authoritarian leaders who run their countries as private entities, and as a result, diamond wealth fails to trickle down to benefit the masses. The Zimbabwean case study has revealed that without political governance, member states are likely not to commit their resources in implementing the K.P. requirements, but rather to advancing their own personal interests.

All in all, the report has found that the Marange diamonds are controlled by a minority political elite and stakeholders whose intentions are to siphon diamond wealth away from the

proletariat in order to advance their personal interests at the expense of the Zimbabwean people. The experience of Zimbabwe reveals the need to revamp the K.P. decision-making processes, transparency and monitoring procedures.

8.2.2. The Democratic Republic of Congo

Soon after joining the K.P. in 2003, the D.R.C. government was under pressure to prove to the international community that indeed, the years of civil war were gone. One way of achieving this goal was to join the K.P. and to implement the KPCS minimum requirements. The D.R.C. government initially performed well in transforming its diamond sector, which had been controlled by rebel movements for the most of the war. However, the research found that the D.R.C. government is currently battling to control the illegal diamond diggers, artisanal miners, foreign illegal diamond buyers and smugglers. The K.P. is not doing enough to insist that the D.R.C. government to improve its diamond sector.

The internal diamond control system in the D.R.C. has become dysfunctional, since it is no longer capable of tracing the origin of local diamonds, nor can it prevent diamond smuggling and the trade in conflict diamonds. The government has no influence over the mining of alluvial diamonds, which explains why armed groups are able to control both the diamond diggers and the diamond mines. This is also the reason why tracing the origins of D.R.C. diamonds is a difficult exercise.

At national level, diamond revenue is not being exploited in advancing the development agenda, but rather it is the political elite who are personally benefitting from the diamond revenue. Global Witness recommends that the D.R.C. government implement the recommendations made by the Kimberley Process since 2004.

The D.R.C. government is commended for becoming a member of the Kimberley Process and the Extractive Industries Transparency Initiative (EITI), however, these initiatives can only produces positive results when favourable conditions are put in place. It is important that the

government promotes transparency and certifies all minerals, such that rebel groups do not continue relying on minerals to subsidize their activities. There is an urgent need to stabilize the on-going conflict in the Eastern D.R.C., which has seen an escalated into lawlessness with weak regional government infrastructure. To stop the insurgencies from spreading, the government ought to deploy national forces to fight the rebellion and to establish a functional and accessible criminal justice system in fighting crime. The research found that, without stable political conditions in the D.R.C., the K.P. will not achieve its goal of filtering illegal diamonds from the formal diamond trade.

8.3. Revisiting Theory

The Neo-gramscian theory, employed in this study, has successfully revealed that the two countries of Zimbabwe and the D.R.C. are oppressive regimes characterised by an unsustainable diamond political economy of a politics of domination, lack of consent (between the government and the governed), and suppression of regime opposition. The status quos in the two diamond producing countries is largely allowed to prevail due to diamond production whose revenues are exploited by the ruling elite, political elite and the business elite in maintaining a repressive system of governance. In short, the theory revealed that lack of transparency and accountability in the two diamond sectors of Zimbabwe and the D.R.C. continues to propel the current undesirable political economies of the two countries.

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KIMBERLEY PROCESS CERTIFICATION SCHEME

PREAMBLE

PARTICIPANTS,

RECOGNISING that the trade in conflict diamonds is a matter of serious international concern, which can be directly linked to the fuelling of armed conflict, the activities of rebel movements aimed at undermining or overthrowing legitimate governments, and the illicit traffic in, and proliferation of, armaments, especially small arms and light weapons;

FURTHER RECOGNISING the devastating impact of conflicts fuelled by the trade in conflict diamonds on the peace, safety and security of people in affected countries and the systematic and gross human rights violations that have been perpetrated in such conflicts;

NOTING the negative impact of such conflicts on regional stability and the obligations placed upon states by the United Nations Charter regarding the maintenance of international peace and security;

BEARING IN MIND that urgent international action is imperative to prevent the problem of conflict diamonds from negatively affecting the trade in legitimate diamonds, which makes a critical contribution to the economies of many of the producing, processing, exporting and importing states, especially developing states;

RECALLING all of the relevant resolutions of the United Nations Security Council under Chapter VII of the United Nations Charter, including the relevant provisions of Resolutions 1173 (1998), 1295 (2000), 1306 (2000), and 1343 (2001), and determined to contribute to and support the implementation of the measures provided for in these resolutions;

HIGHLIGHTING the United Nations General Assembly Resolution 55/56 (2000) on the role of the trade in conflict diamonds in fuelling armed conflict, which called on the international community to give urgent and careful consideration to devising effective and pragmatic measures to address this problem;

FURTHER HIGHLIGHTING the recommendation in United Nations General Assembly Resolution 55/56 that the international community develop detailed proposals for a simple and workable international certification scheme for rough diamonds based primarily on national certification schemes and on internationally agreed minimum standards;

RECALLING that the Kimberley Process, which was established to find a solution to the international problem of conflict diamonds, was inclusive of concerned stake holders, namely producing, exporting and importing states, the diamond industry and civil society;

CONVINCED that the opportunity for conflict diamonds to play a role in fuelling armed conflict can be seriously reduced by introducing a certification scheme for rough diamonds designed to exclude conflict diamonds from the legitimate trade;

RECALLING that the Kimberley Process considered that an international certification scheme for rough diamonds, based on national laws and practices and meeting internationally agreed minimum standards, will be the most effective system by which the problem of conflict diamonds could be addressed;

ACKNOWLEDGING the important initiatives already taken to address this problem, in particular by the governments of Angola, the Democratic Republic of Congo, Guinea and Sierra Leone and by other key producing, exporting and importing countries, as well as by the diamond industry, in particular by the World Diamond Council, and by civil society;

WELCOMING voluntary self-regulation initiatives announced by the diamond industry and recognising that a system of such voluntary self-regulation contributes to ensuring an effective internal control system of rough diamonds based upon the international certification scheme for rough diamonds;

RECOGNISING that an international certification scheme for rough diamonds will only be credible if all Participants have established internal systems of control designed to eliminate the presence of conflict diamonds in the chain of producing, exporting and importing rough diamonds within their own territories, while taking into account that differences in production methods and trading practices as well as differences in institutional controls thereof may require different approaches to meet minimum standards;

FURTHER RECOGNISING that the international certification scheme for rough diamonds must be consistent with international law governing international trade;

ACKNOWLEDGING that state sovereignty should be fully respected and the principles of equality, mutual benefits and consensus should be adhered to;

RECOMMEND THE FOLLOWING PROVISIONS:

SECTION I

Definitions

For the purposes of the international certification scheme for rough diamonds (hereinafter referred to as "the Certification Scheme") the following definitions apply:

CONFLICT DIAMONDS means rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future;

COUNTRY OF ORIGIN means the country where a shipment of rough diamonds has been mined or extracted;

COUNTRY OF PROVENANCE means the last Participant from where a shipment of rough diamonds was exported, as recorded on import documentation;

DIAMOND means a natural mineral consisting essentially of pure crystallised carbon in the isometric system, with a hardness on the Mohs (scratch) scale of 10, a specific gravity of approximately 3.52 and a refractive index of 2.42;

EXPORT means the physical leaving/taking out of any part of the geographical territory of a Participant;

EXPORTING AUTHORITY means the authority(ies) or body(ies) designated by a Participant from whose territory a shipment of rough diamonds is leaving, and which are authorised to validate the Kimberley Process Certificate;

FREE TRADE ZONE means a part of the territory of a Participant where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the customs territory;

IMPORT means the physical entering/bringing into any part of the geographical territory of a Participant;

IMPORTING AUTHORITY means the authority(ies) or body(ies) designated by a Participant into whose territory a shipment of rough diamonds is imported to conduct all import formalities and particularly the verification of accompanying Kimberley Process Certificates;

KIMBERLEY PROCESS CERTIFICATE means a forgery resistant document with a particular format which identifies a shipment of rough diamonds as being in compliance with the requirements of the Certification Scheme;

OBSERVER means a representative of civil society, the diamond industry, international organisations and non-participating governments invited to take part in Plenary meetings; *(Further consultations to be undertaken by the Chair.)*

PARCEL means one or more diamonds that are packed together and that are not individualised;

PARCEL OF MIXED ORIGIN means a parcel that contains rough diamonds from two or more countries of origin, mixed together;

PARTICIPANT means a state or a regional economic integration organisation for which the Certification Scheme is effective; *(Further consultations to be undertaken by the Chair.)*

REGIONAL ECONOMIC INTEGRATION ORGANISATION means an organisation comprised of sovereign states that have transferred competence to that organisation in respect of matters governed by the Certification Scheme;

ROUGH DIAMONDS means diamonds that are unworked or simply sawn, cleaved or bruted and fall under the Relevant Harmonised Commodity Description and Coding System 7102.10, 7102.21 and 7102.31;

SHIPMENT means one or more parcels that are physically imported or exported;

TRANSIT means the physical passage across the territory of a Participant or a non-Participant, with or without transhipment, warehousing or change in mode of transport, when such passage is only a portion of a complete journey beginning and terminating beyond the frontier of the Participant or non-Participant across whose territory a shipment passes;

SECTION II

The Kimberley Process Certificate

Each Participant should ensure that:

(a) a Kimberley Process Certificate (hereafter referred to as the Certificate) accompanies each shipment of rough diamonds on export;

(b) its processes for issuing Certificates meet the minimum standards of the Kimberley Process as set out in Section IV;

(c) Certificates meet the minimum requirements set out in Annex I. As long as these requirements are met, Participants may at their discretion establish additional characteristics for their own Certificates, for example their form, additional data or security elements;

(d) it notifies all other Participants through the Chair of the features of its Certificate as specified in Annex I, for purposes of validation.

SECTION III

Undertakings in respect of the international trade in rough diamonds

Each Participant should:

(a) with regard to shipments of rough diamonds exported to a Participant, require that each such shipment is accompanied by a duly validated Certificate;

(b) with regard to shipments of rough diamonds imported from a Participant:

- require a duly validated Certificate;
- ensure that confirmation of receipt is sent expeditiously to the relevant Exporting Authority. The confirmation should as a minimum refer to the Certificate number, the number of parcels, the carat weight and the details of the importer and exporter;
- require that the original of the Certificate be readily accessible for a period of no less than three years;

(c) ensure that no shipment of rough diamonds is imported from or exported to a non-Participant;

(d) recognise that Participants through whose territory shipments transit are not required to meet the requirement of paragraphs (a) and (b) above, and of Section II (a) provided that the designated authorities of the Participant through whose territory a shipment passes, ensure that the shipment leaves its territory in an identical state as it entered its territory (i.e. unopened and not tampered with).

SECTION IV

Internal Controls

Undertakings by Participants

Each Participant should:

(a) establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory;

(b) designate an Importing and an Exporting Authority(ies);

(c) ensure that rough diamonds are imported and exported in tamper resistant containers;

(d) as required, amend or enact appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions;

(e) collect and maintain relevant official production, import and export data, and collate and exchange such data in accordance with the provisions of Section V.

(f) when establishing a system of internal controls, take into account, where appropriate, the further options and recommendations for internal controls as elaborated in Annex II.

Principles of Industry Self-Regulation

Participants understand that a voluntary system of industry self-regulation, as referred to in the Preamble of this Document, will provide for a system of warranties underpinned through verification by independent auditors of individual companies and supported by internal penalties set by industry, which will help to facilitate the full traceability of rough diamond transactions by government authorities.

Section V
Co-operation and Transparency

Participants should:

(a) provide to each other through the Chair information identifying their designated authorities or bodies responsible for implementing the provisions of this Certification Scheme. Each Participant should provide to other Participants through the Chair information, preferably in electronic format, on its relevant laws, regulations, rules, procedures and practices, and update that information as required. This should include a synopsis in English of the essential content of this information;

(b) compile and make available to all other Participants through the Chair statistical data in line with the principles set out in Annex III;

(c) exchange on a regular basis experiences and other relevant information, including on self-assessment, in order to arrive at the best practice in given circumstances;

(d) consider favourably requests from other Participants for assistance to improve the functioning of the Certification Scheme within their territories;

(e) inform another Participant through the Chair if it considers that the laws, regulations, rules, procedures or practices of that other Participant do not ensure the absence of conflict diamonds in the exports of that other Participant;

(f) cooperate with other Participants to attempt to resolve problems which may arise from unintentional circumstances and which could lead to non-fulfilment of the minimum requirements for the issuance or acceptance of the Certificates, and inform all other Participants of the essence of the problems encountered and of solutions found;

(g) encourage, through their relevant authorities, closer co-operation between law enforcement agencies and between customs agencies of Participants.

Section VI

Administrative Matters

MEETINGS

1. Participants and Observers are to meet in Plenary annually, and on other occasions as Participants may deem necessary, in order to discuss the effectiveness of the Certification Scheme.

2. Participants should adopt Rules of Procedure for such meetings at the first Plenary meeting.

3. Meetings are to be held in the country where the Chair is located, unless a Participant or an international organisation offers to host a meeting and this offer has been accepted. The host country should facilitate entry formalities for those attending such meetings.

4. At the end of each Plenary meeting, a Chair would be elected to preside over all Plenary meetings, *ad hoc* working groups and other subsidiary bodies, which might be formed until the conclusion of the next annual Plenary meeting.

5. Participants are to reach decisions by consensus. In the event that consensus proves to be impossible, the Chair is to conduct consultations.

ADMINISTRATIVE SUPPORT

6. For the effective administration of the Certification Scheme, administrative support will be necessary. The modalities and functions of that support should be discussed at the first Plenary meeting, following endorsement by the UN General Assembly.

7. Administrative support could include the following functions:

   (a) to serve as a channel of communication, information sharing and consultation between the Participants with regard to matters provided for in this Document;

   (b) to maintain and make available for the use of all Participants a collection of those laws, regulations, rules, procedures, practices and statistics notified pursuant to Section V;

   (c) to prepare documents and provide administrative support for Plenary and working group meetings;

   (d) to undertake such additional responsibilities as the Plenary meetings, or any working group delegated by Plenary meetings, may instruct.

PARTICIPATION

8. Participation in the Certification Scheme is open on a global, non-discriminatory basis to all Applicants willing and able to fulfill the requirements of that Scheme.

9. Any applicant wishing to participate in the Certification Scheme should signify its interest by notifying the Chair through diplomatic channels. This notification should include the information set forth in paragraph (a) of Section V and be circulated to all Participants within one month.

10. Participants intend to invite representatives of civil society, the diamond industry, non-participating governments and international organizations to participate in Plenary meetings as Observers.

PARTICIPANT MEASURES

11. Participants are to prepare, and make available to other Participants, in advance of annual Plenary meetings of the Kimberley Process, information as stipulated in paragraph (a) of Section V outlining how the requirements of the Certification Scheme are being implemented within their respective jurisdictions.

12. The agenda of annual Plenary meetings is to include an item where information as stipulated in paragraph (a) of Section V is reviewed and Participants can provide further details of their respective systems at the request of the Plenary.

13. Where further clarification is needed, Participants at Plenary meetings, upon recommendation by the Chair, can identify and decide on additional verification measures to be undertaken. Such measures are to be implemented in accordance with applicable national and international law. These could include, but need not be limited to measures such as;

    a. requesting additional information and clarification from Participants;
    b. review missions by other Participants or their representatives where there are credible indications of significant non-compliance with the Certification Scheme.

14. Review missions are to be conducted in an analytical, expert and impartial manner with the consent of the Participant concerned. The size, composition, terms of reference and time-frame of these missions should be based on the circumstances and be established by the Chair with the consent of the Participant concerned and in consultation with all Participants.

15. A report on the results of compliance verification measures is to be forwarded to the Chair and to the Participant concerned within three weeks of completion of the mission. Any comments from that Participant as well as the report, are to be posted on the restricted access section of an official Certification Scheme website no later than three weeks after the submission of the report to the Participant concerned. Participants and Observers should make every effort to observe strict

confidentiality regarding the issue and the discussions relating to any compliance matter.

COMPLIANCE AND DISPUTE PREVENTION

16. In the event that an issue regarding compliance by a Participant or any other issue regarding the implementation of the Certification Scheme arises, any concerned Participant may so inform the Chair, who is to inform all Participants without delay about the said concern and enter into dialogue on how to address it. Participants and Observers should make every effort to observe strict confidentiality regarding the issue and the discussions relating to any compliance matter.

MODIFICATIONS

17. This document may be modified by consensus of the Participants.

18. Modifications may be proposed by any Participant. Such proposals should be sent in writing to the Chair, at least ninety days before the next Plenary meeting, unless otherwise agreed.

19. The Chair is to circulate any proposed modification expeditiously to all Participants and Observers and place it on the agenda of the next annual Plenary meeting.

REVIEW MECHANISM

20. Participants intend that the Certification Scheme should be subject to periodic review, to allow Participants to conduct a thorough analysis of all elements contained in the scheme. The review should also include consideration of the continuing requirement for such a scheme, in view of the perception of the Participants, and of international organisations, in particular the United Nations, of the continued threat posed at that time by conflict diamonds. The first such review should take place no later than three years after the effective starting date of the Certification Scheme. The review meeting should normally coincide with the annual Plenary meeting, unless otherwise agreed.

THE START OF THE IMPLEMENTATION OF THE SCHEME

21. The Certification Scheme should be established at the Ministerial Meeting on the Kimberley Process Certification Scheme for Rough Diamonds in Interlaken on 5 November 2002.

22. ANNEX I

Certificates

A. Minimum requirements for Certificates

A Certificate is to meet the following minimum requirements:

- Each Certificate should bear the title "Kimberley Process Certificate" and the following statement: "The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds"
- Country of origin for shipment of parcels of unmixed (i.e. from the same) origin
- Certificates may be issued in any language, provided that an English translation is incorporated
- Unique numbering with the Alpha 2 country code, according to ISO 3166-1
- Tamper and forgery resistant
- Date of issuance
- Date of expiry
- Issuing authority
- Identification of exporter and importer
- Carat weight/mass
- Value in US$
- Number of parcels in shipment
- Relevant Harmonised Commodity Description and Coding System
- Validation of Certificate by the Exporting Authority

B. Optional Certificate Elements

A Certificate may include the following optional features:

- Characteristics of a Certificate (for example as to form, additional data or security elements)
- Quality characteristics of the rough diamonds in the shipment
- A recommended import confirmation part should have the following elements:

  Country of destination
  Identification of importer
  Carat/weight and value in US$
  Relevant Harmonised Commodity Description and Coding System
  Date of receipt by Importing Authority
  Authentication by Importing Authority

C. Optional Procedures

Rough diamonds may be shipped in transparent security bags.
The unique Certificate number may be replicated on the container.

Annex II

Recommendations as provided for in Section IV, paragraph (f)

General Recommendations

1. Participants may appoint an official coordinator(s) to deal with the implementation of the Certification Scheme.

2. Participants may consider the utility of complementing and/or enhancing the collection and publication of the statistics identified in Annex III based on the contents of Kimberley Process Certificates.

3. Participants are encouraged to maintain the information and data required by Section V on a computerised database.

4. Participants are encouraged to transmit and receive electronic messages in order to support the Certification Scheme.

5. Participants that produce diamonds and that have rebel groups suspected of mining diamonds within their territories are encouraged to identify the areas of rebel diamond mining activity and provide this information to all other Participants. This information should be updated on a regular basis.

6. Participants are encouraged to make known the names of individuals or companies convicted of activities relevant to the purposes of the Certification Scheme to all other Participants through the Chair.

7. Participants are encouraged to ensure that all cash purchases of rough diamonds are routed through official banking channels, supported by verifiable documentation.

8. Participants that produce diamonds should analyse their diamond production under the following headings:
   - Characteristics of diamonds produced
   - Actual production

Recommendations for Control over Diamond Mines

9. Participants are encouraged to ensure that all diamond mines are licensed and to allow only those mines so licensed to mine diamonds.

10. Participants are encouraged to ensure that prospecting and mining companies maintain effective security standards to ensure that conflict diamonds do not contaminate legitimate production.

Recommendations for Participants with Small-scale Diamond Mining

11. All artisinal and informal diamond miners should be licensed and only those persons so licensed should be allowed to mine diamonds.

12. Licensing records should contain the following minimum information: name, address, nationality and/or residence status and the area of authorised diamond mining activity.

Recommendations for Rough Diamond Buyers, Sellers and Exporters

13. All diamond buyers, sellers, exporters, agents and courier companies involved in carrying rough diamonds should be registered and licensed by each Participant's relevant authorities.

14. Licensing records should contain the following minimum information: name, address and nationality and/or residence status.

15. All rough diamond buyers, sellers and exporters should be required by law to keep for a period of five years daily buying, selling or exporting records listing the names of buying or selling clients, their license number and the amount and value of diamonds sold, exported or purchased.

16. The information in paragraph 14 above should be entered into a computerised database, to facilitate the presentation of detailed information relating to the activities of individual rough diamond buyers and sellers.

Recommendations for Export Processes

17. A exporter should submit a rough diamond shipment to the relevant Exporting Authority.

18. The Exporting Authority is encouraged, prior to validating a Certificate, to require an exporter to provide a declaration that the rough diamonds being exported are not conflict diamonds.

19. Rough diamonds should be sealed in a tamper proof container together with the Certificate or a duly authenticated copy. The Exporting Authority should then transmit a detailed e-mail message to the relevant Importing Authority containing information on the carat weight, value, country of origin or provenance, importer and the serial number of the Certificate.

20. The Exporting Authority should record all details of rough diamond shipments on a computerised database.

Recommendations for Import Processes

21. The Importing Authority should receive an e-mail message either before or upon arrival of a rough diamond shipment. The message should contain details such as

the carat weight, value, country of origin or provenance, exporter and the serial number of the Certificate.

22. The Importing Authority should inspect the shipment of rough diamonds to verify that the seals and the container have not been tampered with and that the export was performed in accordance with the Certification Scheme.

23. The Importing Authority should open and inspect the contents of the shipment to verify the details declared on the Certificate.

24. Where applicable and when requested, the Importing Authority should send the return slip or import confirmation coupon to the relevant Exporting Authority.

25. The Importing Authority should record all details of rough diamond shipments on a computerised database.

Recommendations on Shipments to and from Free Trade Zones

26. Shipments of rough diamonds to and from free trade zones should be processed by the designated authorities.

Annex III

Statistics

Recognising that reliable and comparable data on the production and the international trade in rough diamonds are an essential tool for the effective implementation of the Certification Scheme, and particularly for identifying any irregularities or anomalies which could indicate that conflict diamonds are entering the legitimate trade, Participants strongly support the following principles, taking into account the need to protect commercially sensitive information:

(a) to keep and publish within two months of the reference period and in a standardised format, quarterly aggregate statistics on rough diamond exports and imports, as well as the numbers of certificates validated for export, and of imported shipments accompanied by Certificates;

(b) to keep and publish statistics on exports and imports, by origin and provenance wherever possible; by carat weight and value; and under the relevant Harmonised Commodity Description and Coding System (HS) classifications 7102.10; 7102.21; 7102.31;

(c) to keep and publish on a semi-annual basis and within two months of the reference period statistics on rough diamond production by carat weight and by value. In the event that a Participant is unable to publish these statistics it should notify the Chair immediately;

(d) to collect and publish these statistics by relying in the first instance on existing national processes and methodologies;

(e) to make these statistics available to an intergovernmental body or to another appropriate mechanism identified by the Participants for (1) compilation and publication on a quarterly basis in respect of exports and imports, and (2) on a semi-annual basis in respect of production. These statistics are to be made available for analysis by interested parties and by the Participants, individually or collectively, according to such terms of reference as may be established by the Participants;

(f) to consider statistical information pertaining to the international trade in and production of rough diamonds at annual Plenary meetings, with a view to addressing related issues, and to supporting effective implementation of the Certification Scheme.