



THE FUND FOR PEACE

GLOBALIZATION & HUMAN RIGHTS SERIES

**THE EFFECT OF
THE KIMBERLEY
PROCESS ON
GOVERNANCE,
CORRUPTION, &
INTERNAL
CONFLICT**

This paper examines the successes and failures of the Kimberley Process and provides recommendations for improving it, placing particular emphasis on the role of governance. In addition to examining the ways that corruption and lack of state capacity hinder successful implementation, it also discusses whether the Kimberley Process could help to improve governance in diamond-producing countries. Recommendations include linking foreign aid to compliance and increasing external oversight of internal controls.

Introduction

The role of natural resources in funding internal conflicts throughout the developing world, especially in Africa, has been well documented.¹ Much research has focused on “lootable” resources in particular, which are natural resources, especially mineral resources, which are both valuable, easy to transport, and have low economic barriers to entry.² Lootable resources can therefore be easily extracted by any organization that is able to physically control the area where they are produced, making it easy for rebel groups to use them to fund wars. Lootable resources have been instrumental in financing conflicts such as those in Sierra Leone and the Democratic Republic of the Congo. Alluvial diamonds³ are often considered to be the ultimate conflict commodity because they are both extremely valuable and easily smuggled.

In addition to funding civil wars, natural resources create opportunities for corruption and can allow governments to be less accountable to their citizens. As William Reno states, during the Cold War, many developing countries received large amounts of foreign aid from the superpowers, including military aid. This external support allowed corrupt strongmen to stay in power for years despite low levels of popular legitimacy and economic collapse. Countries lost much of their external financial and military support when the Cold War ended, however, because they were no longer of strategic importance to the superpowers. Leaders were forced to seek alternative sources of funding, such as the exploitation of lootable resources, to maintain the patronage networks on which their political survival depended.⁴

In reaction to the sharp rise in resource-related conflicts since the end of the Cold War, a number of commodity control regimes have been created that seek to reduce corruption and conflict in resource-rich countries by requiring them to document their trade in commodities. Two examples, both of which are voluntary processes, are the Kimberley Process, which focuses on the trade in rough diamonds, and the Extractive Industries Transparency Initiative (EITI), which calls for companies and governments to publish what they pay or receive for the resources they extract.

This paper examines the successes and failures of the Kimberley Process as a means of studying whether commodity control regimes in general are indeed capable of halting the trade in conflict commodities. In addition, it investigates whether commodity control regimes can have a positive impact on governance in developing countries. Good governance is critical to development, and the lack of good governance has often been cited as a key reason for the poor performance of so many countries that are rich in

Research Associate Joelle Burbank prepared this paper under the supervision of Krista Hendry, Senior Associate at The Fund for Peace, in the Spring of 2006 while completing her B.A. at American University. Copyright © 2006 by The Fund for Peace. The views expressed herein are the personal views of the author and are not intended to reflect the views of The Fund for Peace or participants in any of its projects.

natural resources. While good governance is critical to the success of the Kimberley Process and all other commodity control regimes, there is also the potential for the Kimberley Process to encourage better governance. Although the direct effects of the Kimberley Process and other similar initiatives in ending trade in conflict commodities are important, they have the potential to do far more than this. A narrow focus on halting the trade in a certain conflict commodity also has limitations because there will always be another resource that can be used to fund conflicts. Therefore, it is important to examine how commodity control regimes in general can help not only to end conflict, but also to encourage good governance in resource-rich countries.

Overview of the Kimberley Process

As a result of an international NGO campaign during the late 1990s, talks were started in 2000 to discuss the establishment of an international certificate of origin system to document the path of rough diamonds from mine to polishing factory in order to prevent so-called “conflict diamonds”⁵ from entering the global market. The Kimberley Process, formally initiated in 2003, is a voluntary certification program with 67 participating countries, including all the major producers and traders of rough diamonds. Diamonds from Kimberley Process Participants now account for 99.8% of the global production of rough diamonds.⁶

The Kimberley Process requires its members to establish export and import control regimes to document the path of rough diamonds from the time that they are mined or enter the country until they are exported. While there are few explicit criteria for these internal controls, they generally involve packaging the diamonds for export in tamper-proof containers accompanied by a certificate stating the weight in carats, where they were mined, and other information. As part of this process, members are encouraged to issue licenses to mines and to ensure that only licensed mines are allowed to operate. Countries with small-scale diamond mining are encouraged to implement a licensing program for all artisanal miners⁷ and to allow only those with licenses to mine diamonds. In addition, participating countries are required to submit statistics on rough diamond trade and production in order to identify any possible trade in illicit diamonds. These statistics are intended to highlight any irregularities in the volume produced or to draw attention to discrepancies between imports and exports.

Successes and Failures of the Kimberley Process

In the two years since its implementation, some progress has been made in certifying the origin of diamonds from participant countries and ensuring that conflict diamonds do not enter the legitimate market. However, there is still a long way to go in ensuring that warlords are not able to fund conflict through diamond sales. Global Witness and Partnership Africa Canada have found that diamonds continue to fuel conflict in the Democratic Republic of the Congo (DRC),⁸ and there are numerous other cases of conflict diamonds making their way into the legitimate market.

The situation in Cote d'Ivoire illustrates many of the failures of the Kimberley Process. Cote d'Ivoire has been a member of the Kimberley Process since it began in 2003, although the government there has banned diamond exports since November 2002 due to the fact that the diamond mining areas are outside government control.⁹ Cote d'Ivoire has been engulfed by civil war since an attempted coup in 2002. But a United Nations Panel of Experts has found that diamonds continue to be mined in rebel-held areas and that they provide an important source of income for the Forces Nouvelles.¹⁰

Given that the mining areas in question are not under government control, the task of ending the trade in diamonds from Cote d'Ivoire falls to neighboring countries. But these countries are often unwilling or unable to stop such diamonds from entering their territory. Many d'Ivoirean diamonds are smuggled out through Mali, a country that is not a member of the Kimberley Process. But Global Witness has found evidence that d'Ivoirean diamonds are also being exported through Guinea, a Kimberley Process member, where they enter the legitimate trade.¹¹ In addition, Global Witness has discovered that Liberian diamonds (which are sanctioned by the United Nations Security Council) are routinely smuggled into Sierra Leone. Global Witness interviewed over 30 Sierra Leonean diamond dealers who admitted to buying diamonds from Liberia. Because there is no effective government control over diamond sales, these dealers have no incentives to abide by Kimberley Process rules. There is no reason for them to pass up the opportunity to collect a commission by selling Liberian diamonds.¹² National governments may also have little incentive to control the smuggling of diamonds into their countries because if they can certify the diamonds as originating in their countries, they can also collect taxes on those diamonds.

According to Global Witness, the main problems of the Kimberley Process are that "governments are not capturing accurate production data at mine sites; many diggers, supporters and dealers are not licensed and therefore operate outside official oversight; there are no effective checks of transactions between dealers; law enforcement authorities lack training, funding and expertise to tackle the illicit diamond trade; governments lack the political will to govern the diamond industry; and there is little regional coordination to stop illicit trading."¹³ Many of these issues are illustrated by the case study of Cote d'Ivoire. First, the certification process can only be successful if the mining areas are under government control. Governments often have little influence over these areas, whether because they are controlled by rebel groups or because the government lacks the resources to set up monitoring teams. Second, the process presumes that governments can control their borders, which is often not the case. Even when border guards exist and are able to discover something as easily smuggled as diamonds, in many cases they can be bribed to allow the diamonds through.¹⁴

As these cases illustrate, the Kimberley Process is weakest in states that produce diamonds, especially alluvial diamonds, as opposed to those that merely trade in rough diamonds. It is much easier to establish monitoring and control over imports and exports than over mining areas. The problem of monitoring mines is compounded by the prominent role of artisanal diamond mining in many countries. Artisanal miners are generally involved in the informal economy, making it difficult for the government to

track the origin of diamonds or to compile accurate statistics on diamond production. The Kimberley Process includes recommendations that “all artisanal and informal diamond miners should be licensed and only those persons so licensed should be allowed to mine diamonds.”¹⁵ But the governments of many diamond-producing countries do not have the capacity to implement and enforce such a licensing program. For example, in the DRC, where diamonds are contributing to the ongoing conflict, there are an estimated 700,000 artisanal miners.¹⁶ It is therefore almost impossible to trace the origin of diamonds exported from the country, especially given the lack of government capacity. While the DRC has strong controls on the export end of the diamond production pipeline, there is no mechanism to verify where the diamonds were mined, or even in which country they originated.¹⁷ This is illustrated by the fact that when the Republic of the Congo was expelled from the Kimberley Process in July 2004, official diamond exports from neighboring DRC increased significantly the next month.¹⁸

Another weakness of the Kimberley Process is that governments must volunteer for a review visit, and eight countries (Bulgaria, China, Croatia, Korea, Laos, Namibia, Thailand and Venezuela) have so far failed to do so.¹⁹ This voluntary aspect of the Kimberley Process allows lack of government commitment to undermine the whole certification scheme by making it difficult to monitor whether all countries participating in the Kimberley Process are actually in compliance with its requirements.

These problems with the Kimberley Process relate to two underlying issues: lack of commitment and lack of capacity. In some countries, the Kimberley Process is weak because governments are not fully committed to it, while in others governments may be committed but simply do not have the capacity to implement the Process successfully. Commitment is a problem in countries with high levels of corruption, such as the DRC and Angola, but also in countries such as the United States where government oversight of the diamond industry is simply not a high priority. Particularly in diamond trading countries, strict implementation of the Kimberley Process may not be a priority because the country is not faced directly with the risk of resource-related conflict. Lack of capacity, on the other hand, tends to be more of an issue in producing countries rather than trading countries. As mentioned previously, it is much easier to establish controls over imports and exports than over diamond production. Many of the diamond trading countries also tend to have greater state capacity to begin with and are less likely to be developing countries. There are also cases where both commitment and capacity are lacking, such as in the DRC. Both problems are important to address for the Kimberley Process to be successful.

Aside from countries where political will is clearly lacking, most participants have embraced the idea of the Kimberley Process. However, in many cases the national laws do not go far enough, or are not enforced with enough diligence to be truly effective. This is especially true in countries with alluvial diamond deposits, although many trading countries also have not done enough to ensure the success of the Kimberley Process.

Governance-Related Challenges to the Kimberley Process

Governance and government capacity in member countries are critical to the success of the Kimberley Process and all similar initiatives because of the emphasis on national laws and enforcement mechanisms. Reliance on national laws means that if participating governments are not fully committed to eliminating all trade in conflict diamonds from their territory, the Kimberley Process cannot be effective. The need for government commitment and accountability applies not only to the top levels of government, but to the lower levels as well. Since the Kimberley Process relies on monitoring by national officials at all levels of the production chain, lower level officials must also be free of corruption and committed to the program.

Political will varies by country and continues to be a major issue for the Kimberley Process. Depending on the dynamics of the diamond trade in each individual country, a government may or may not have an incentive to improve the transparency of the diamond trade. If government elites control diamond-producing areas and have unofficial access to diamond revenue for personal gain or for maintaining their political support through patronage networks, they will be less willing to improve oversight of the diamond industry and provide accurate statistics to the international community. If, on the other hand, rival groups or trading networks control the resources, the government could stand to benefit from increased transparency and oversight because this could lead to increased tax revenue while reducing an important source of revenue for potential rebel groups.

High levels of corruption have been an impediment to complete implementation of the Kimberley Process because, as mentioned earlier, the loss in external support following the end of the Cold War has forced many governments to rely on resource rents to maintain the patronage networks they developed during the Cold War. Many heads of state are therefore as reliant on illicit diamond revenue as rebel leaders, and can be expected to oppose measures to increase the transparency of the diamond industry. According to Corinna Gilfillan of Global Witness, government involvement in the illicit diamond trade has been an issue in countries such as the DRC and Angola, where high-level officials continue to benefit from the trade, making them opposed to complete transparency. This is also the case in Sierra Leone, although to a lesser extent. While some corruption remains, Sierra Leone has become increasingly committed to greater transparency and oversight of the diamond industry in hopes of preventing another civil war such as the one that almost destroyed the country during the 1990s.²⁰

Does Lack of Control over Diamond Revenue Contribute to Governance Problems?

While it is clear that governance problems reduce governments' ability and desire to maintain transparent control over the diamond industry, there is most likely a reverse effect as well: lack of control over the diamond trade or natural resources in general may lead to weak and unaccountable governments.

Corruption and patronage politics are present in many diamond-producing countries. In fact, the very nature of the economies of countries that rely on natural resources such as diamonds are believed to make them more vulnerable to patronage politics.²¹ According to de Soysa, “It might very well be that dependence on subsoil assets, which provide quick profit and largely require material resources rather than extensive human cooperation for their extraction, prevents the development of good governance and consensual political processes that result from bargained outcomes between state elites and the mass of society.”²² In other words, the ability to collect revenue relatively easily through the exploitation of resources allows rulers to stay in power even when they do not have the support of the majority of the population and when the economy as a whole is in a state of rapid decline. Moore also proposes that countries that do not rely on tax revenue as their main source of income are in general less accountable to their populations.²³ Kimberley Process participants, many of which depend on natural resource rents and/or development assistance as the primary source of income, are therefore less likely to have transparent and accountable governments.

Reno explains in detail the process through which governments in resource-rich countries have neglected bureaucratic state structures and revenue collection through the taxation of individuals in favor of personal rule and patronage politics. Elites find it easier to develop patronage networks that allow them to interfere in private markets rather than developing bureaucratic state institutions to collect revenue. They then use the revenue gathered through such illicit channels both to maintain their political power and for personal gain.²⁴ In countries where state capacity or legitimacy is already weak and where natural resources are abundant, this may be the easiest way for a ruler to consolidate his or her hold on power.

In this way, the availability of resources has allowed governments to neglect state capacity and accountability in favor of corruption. Neglect of state capacity is especially problematic for the Kimberley Process because its success relies on bureaucratic structures. Corruption and lack of state capacity therefore become self-reinforcing problems, creating a vicious cycle leading to increasing state weakness and deterioration.

Can the Kimberley Process Help Improve Governance?

Improving governance in participating countries is not one of the stated goals of the Kimberley Process (in contrast to some other commodity control regimes such as the EITI). However, successful implementation of the Kimberley Process could lead to better governance, which could indirectly reduce the risk of conflict in participating countries, since many authors have linked the disproportionately high risk of conflict in resource-rich countries to the combination of resource wealth and poor governance.

If diamonds are important in maintaining patronage networks in a given country, the monitoring of the diamond trade required by the Kimberley Process could help to improve governance by making it clear where diamond revenues are flowing and by restricting the flow of illicit resources. It will then become more difficult for diamonds to be used to fund corruption, especially in countries with large artisanal diamond mining

sectors. Resource rents provide a large non-tax income for the state or anyone who can control the territory where the resources are found, making them all the more important in countries where tax revenue is small or almost nonexistent (as in countries depending on hard-to-tax artisanal mining).

Full implementation of the Kimberley Process can therefore be expected to generate resistance from elites in corrupt countries, which will pose a challenge to the success of the Kimberley Process. However, the Kimberley Process has the potential to restrict flows of resource wealth to government rivals as well. In many developing countries, wealth is often converted into political power because it can buy both loyalty of rivals and weapons for coercion. By reducing or eliminating political rivals' access to resource wealth, governments may be curbing a threat to their own security. It may therefore be a wise political move to support complete implementation of the Kimberley Process in order to prevent rival political figures from increasing their power through the appropriation of resource revenues.

Although rulers may not believe the implementation of the Kimberley Process to be in their interest because of its constraints on patronage politics, a transition away from patronage politics could help to reduce the frequency of conflict in resource-rich countries. Research has shown that the high incidence of conflict in resource-rich countries is partly due to governance failures. Ballentine and Nitzschke find, for example, that "the high risk of conflict attributed to natural resource abundance in a given country is not a direct relationship, but rather one that is mediated by critical governance failures by the state."²⁵ This happens in a variety of ways. First, corruption and poor governance may cause grievances among the population over perceived economic mismanagement or the government's neglect of state functions such as social services. The state could also neglect the security forces, reducing its defense capabilities and thereby opening itself up to challenges by dissatisfied groups. Second, weak government capacity may mean that the state is unable to tax its citizens, reducing its ability to generate revenue while giving others the opportunity to capture those funds.

Herbst reaches a similar conclusion through his examination of the rise in resource-related conflicts since the beginning of the 1990s, finding that "rebellions motivated by coercion and looting are on the rise because *states* have become weaker."²⁶ As states become increasingly unable to control their territories, it becomes possible for rebel groups to organize against them. The availability of valuable and lootable natural resources makes this situation much more dangerous for the state because such resources can easily be used by rebel groups to fund a war.

While it is unrealistic to expect the Kimberley Process to eliminate all governance problems in participating countries, it could be an important tool in encouraging better governance and greater accountability. In this regard, how the international community deals with the more corrupt participants of the Kimberley Process is important. The international community should take a clear stance in favor of Kimberley Process compliance. For example, governance and Kimberley Process compliance should be taken into consideration in dispensing foreign aid to the countries in question.

Strengthening the Kimberley Process

While the Kimberley Process is a step in the right direction in terms of preventing trade in conflict diamonds, it needs to be strengthened in order to truly be effective. Due to the voluntary nature of the process, governments must find it to their advantage to comply with the Kimberley Process. There are already incentives for a government to become a member, such as the fact that nonmembers cannot trade diamonds with member countries. But the incentives for government compliance with the Process once a country has joined should be increased. Diamond processing companies could agree to buy rough diamonds only from countries that are fully in compliance with the Kimberley Process, increasing the economic benefits of compliance. Compliance could also be tied to foreign aid. Since many participants are heavily reliant on aid, linking aid flows to Kimberley Process compliance would force many governments to take the process much more seriously.

Technical assistance for countries that have the political will to comply but are lacking in capacity would also increase the effectiveness of the Kimberley Process. Technical assistance is mentioned in the Kimberley Process document but little assistance has actually been provided. Sierra Leone would be a good candidate for assistance because, although corruption remains an issue at various levels of government, there is an overall desire to improve oversight of the diamond industry due to the country's history of diamond-funded conflict. Sierra Leone has large amounts of alluvial diamonds, which dramatically increases the cost of monitoring the diamond industry. Although the country has special police units to detect diamond smuggling, they face serious staffing and financial shortages.²⁷ The Kimberley Process could be used to direct aid to where it is most needed to ensure proper monitoring of the diamond trade.

In addition to incentives and technical assistance to encourage compliance, there must be greater enforcement mechanisms to attach real consequences to lack of compliance or half-hearted efforts. While it is important to keep countries in the Kimberley Process in order to prevent trade in conflict diamonds, there must also be mechanisms in place to allow a country that has not made sufficient efforts to be removed from the Process. The expulsion of the Republic of Congo in 2004 set an important precedent in this regard, but this aspect of the Kimberley Process needs to be strengthened.

Review visits should play an increased role both in determining whether a country should be allowed to remain in the Kimberley Process and in identifying ways in which it could be made more effective in each individual state. Many countries that apply for voluntary review visits expect to automatically be granted a clean bill of health even though there may be real problems with the way the Kimberley Process has been implemented. Review visits should become a mandatory condition for membership in the Kimberley Process and it should be made clear that countries need to make an effort to correct any problems that such a review visit might uncover.

Recommendations:

- Increase incentives for governments to comply with commodity control regimes by linking compliance to foreign aid.
- Different policies will be needed depending on whether governments are hesitant to fully implement the Kimberley Process or whether they are simply unable to do so.
- Support should be provided to help governments develop the capacity to ensure the success of the Kimberley Process.
- International diamond traders should only buy rough diamonds that have been properly certified by the Kimberley Process.
- The Kimberley Process should require greater external monitoring of internal controls, such as making review visits mandatory rather than voluntary.
- Mechanisms for the expulsion of countries that do not make a good faith effort at full compliance should be strengthened.
- Greater international cooperation such as that between customs and intelligence agencies is needed to detect and stop smuggling.

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- ¹ Indra de Soysa, for example, finds that abundance of mineral wealth is positively and significantly related to armed conflict. "The Resource Curse: Are Civil Wars Driven by Rapacity or Paucity?" in Mats Berdal and David M. Malone, eds., *Greed and Grievance: Economic Agendas in Civil Wars*. Boulder, CO: Lynne Rienner, 2000. pp. 113-136.
- ² For discussion of how lootable resources contribute to the risk of internal conflict, see Richard Snyder and Ravi Bhavnani, "Diamonds, Blood and Taxes: a Revenue-Centered Framework for Explaining Political Order," *Journal of Conflict Resolution*, Vol. 49 No. 4, August 2005.
- ³ Alluvial diamonds, also known as secondary diamonds, are found in the sediment of riverbeds or former riverbeds and can be easily mined by hand. Kimberlite diamonds, on the other hand, are found deep in the earth and require machinery for their extraction.
- ⁴ William Reno, *Warlord Politics and African State*. Boulder, CO: Lynne Rienner, 1998. 223.
- ⁵ Conflict diamonds are diamonds that are used to fund civil wars.
- ⁶ www.kimberleyprocess.com
- ⁷ Artisanal miners are small-scale miners who are often self-employed.
- ⁸ "Implementing the Kimberley Process," Washington DC: Global Witness and Partnership Africa Canada, June 2005. 2.
- ⁹ The country is currently divided by a "zone of confidence" enforced by UN peacekeepers, with government forces controlling the south and the Forces Nouvelles rebel group controlling the north.
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- ¹¹ "Making it Work," 12.
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