# 1 *Diamonds after Blood?*

## *Explaining State Responses to the Kimberley Process in Africa*

In October 2008, government troops descended upon the diamond-rich Marange region in eastern Zimbabwe. Their goal was to clear the area of illegal miners who only a few years before had arrived in the region to search for diamonds, in what has been one of the most significant diamond discoveries in decades. Allegedly at least 200 miners died in these attacks, although the Zimbabwean government denies that this happened. The conflict led the Kimberley Process, a diamond certification scheme that had been created to prevent "conflict diamonds," to place a ban on diamonds originating from the Marange region. In turn, the Zimbabwean government agreed to follow a joint work plan in which a series of steps would have to be followed for the ban to be lifted.

Despite the ban, diamonds continued to be traded from the Marange region in violation of the agreement. Even more troubling, at least to some observers, is that in 2011 all sanctions preventing the trade of Zimbabwean diamonds ended. These dynamics prompted the influential nongovernmental organization Global Witness to leave the Kimberley Process. Others argued that the Kimberley Process was unable to stop the trade in conflict diamonds and concluded that the institution was too weak and ineffective.

In contrast, some participant countries in the Kimberley Process, especially Zimbabwe's politically allied neighbors, claimed that Zimbabwe had complied with the joint work plan. Since decisions in the Kimberley Process are based on consensus, this made Zimbabwe eligible to participate in the diamond trade. States that see the Kimberley Process as working point to potential successes and argue that many countries have invested scarce resources in complying with the Kimberley Process. For instance, it is telling of the motivations of domestic policymakers that the Zimbabwean government decided to comply with the Kimberley Process at all; given that it has ignored



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other international regimes and that the Kimberley Process appeared unable to act forcefully in this case.[1]

The controversy surrounding the diamond trade in Zimbabwe illustrates how the domestic political economy matters when looking at cooperation and compliance with international agreements. Since the Kimberley Process is indecisive in many cases, it is a paradox why states such as Zimbabwe will use scarce resources to stay in compliance. Furthermore, it is an interesting puzzle why comparable states in Africa, such as those examined in this study – Angola, Central African Republic, Namibia, Sierra Leone, and Zimbabwe – have varied significantly in their levels of compliance and cooperation with the Kimberley Process. This puzzle is essential to understanding the nature of the postconflict/postapartheid states that emerged in Africa and the central role that private diamond companies have played in the political economy of these states.

## The Kimberley Process

In the late 1990s, there were ongoing conflicts in Africa that started to be tied to diamonds, especially in Sierra Leone and Angola, leading nongovernmental organizations to publish reports on the diamond trade and demand action (Global Witness 1998).[2] Also, in academia scholars were beginning to argue that a state's risk of experiencing a civil war can rise considerably if it is wealthy in natural resources and resource extraction provides a funding opportunity for rebel groups (e.g., Collier and Hoeffler 1998).[3] On July 1, 1998, the United Nations made the first attempt to ban conflict diamonds by placing an embargo on diamonds from areas that were being held by the National Union for the Total Independence of Angola (UNITA), a rebel group that

[1] Information on the Kimberley Process in Zimbabwe was drawn from Global Witness (2010, 2011a, 2011b); Kimberley Process reports (2009, 2011); Nyamunda and Mukwambo (2012); Towriss (2013).

[2] Accounts of the role that diamonds played in African conflicts can be found in Campbell (2002); Cleveland (2014); Le Billon (2008, 2012); and Smille (2010a, 2014).

[3] Collier and Hoeffler (1998) found a strong correlation between the level of resource wealth a state has and the onset and duration of civil war. While the findings of this study have been heavily debated (Fearon 2005), it influenced a significant amount of research on the relationship between a state's economic activity and the risk for civil war.

used diamonds for funding (Global Witness 1999). This ban was somewhat successful in that it did force rebels to sell their diamonds for less as it raised the costs of trafficking these diamonds, even though it did not necessarily make diamond mining itself more difficult (Cater 2003). The issue of conflict diamonds started to get far more coverage in the media and the potential for a reduction in demand for diamonds and even a boycott forced actors to pay attention to an issue that was once overlooked.

The threat of a consumer boycott and the possibility of declining demand for diamonds led to the creation of the Kimberley Process in 2000 (Bieri 2010a). According to the Kimberley Process agreement, states would be responsible for passing domestic legislation that complied with the Kimberley Process regulations.[4] Compliance with the Kimberley Process is straightforward, in that all diamonds that are produced within a state or enter a state's borders are supposed to be accompanied with a certificate of origin and held in a "tamper-resistant container" (Kimberley Process 2013a). It is up to the states to print the certificates and to enforce the certification process. A state that complies at a high level is successful in certifying most of the diamonds that either originate or enter its territory. On the other hand, where diamonds either originate in a country that does not provide certification or enter its territory without certification there are low levels of compliance. Since the Kimberley Process deals directly with the transborder trade of a resource, cooperation between states is a necessary, but not always sufficient, condition for a high level of compliance. Primarily, cooperation between states involves coordination between law enforcement agencies to prevent uncertified diamonds from being smuggled across a border. Other instances of cooperation involve sharing technology, expertise or other resources to make it easier for a state to comply.

Most states had diamond regulation systems in place before the Kimberley Process, mainly for taxation purposes and to stop smuggling that led to tax evasion. These systems were often unsuccessful, especially in states where diamonds contributed to conflict.[5] The Kimberley Process did change policy in virtually all member states

[4] For instance, in 2003 the United States passed the "Clean Diamond Trade Act" and joined the process (Public Law 108-19 2003).
[5] See Reno (1995, 1998).

because under the process they must address the issue of diamonds that originated from outside their borders and entered the legitimate trade without being accounted for (Bockstael 2008). This had not been a prominent issue before the process, but because most major diamond importers joined the Kimberley Process, these regulations became de facto requirements for countries that wanted to access most of the world's market. The Kimberley Process decided on consensus decision-making, in which each member state or "participant" would have a vote.

In an idyllic scenario, Kimberley Process certification would be able to trace diamonds from where they were mined to their final export destination, but this has proven difficult (Bockstael 2008). Since the beginning of the Kimberley Process in January 2003, the ability for the process to deal with the problem of conflict diamonds and create a reliable certification scheme for all diamonds is a matter of debate (Bieri 2010a). Some argue that conflict diamonds are not nearly as prevalent as they once were and that the Kimberley Process has been able to accomplish international cooperation on this challenging issue.[6] The Kimberley Process has come under increased scrutiny as several observers have argued that the process is deeply flawed and does not have a decision-making structure that allows for effective regulation of the global diamond trade.[7]

While most critics of the Kimberley Process see it as not going far enough in regulating conflict diamonds, some argue that the project of certifying the global diamond trade to prevent "conflict diamonds" is inherently problematic. For instance, Siegel (2009) argues that the Kimberley Process is misguided in that it is dominated by Western countries that do not understand local dynamics in Africa, it may hurt poor diamond miners in Africa if consumers are less likely to buy their diamonds, and trying to certify diamonds for countries that have never been tied to conflict diamonds is a waste of resources. Thus, according to this view, the Kimberley Process is an example of what Easterly (2006) has termed the "white man's burden," in which Western states

[6] For instance, the World Diamond Council (2013) portrays the very existence of the Kimberley Process as being a success. See also Taylor (2012).

[7] This has been a particularly common line of criticism from nongovernmental organizations that helped create the Kimberley Process, such as Global Witness (2011a) and Partnership Africa Canada (2006, 2013), and some activists and scholars, see Murphy (2011); Smille (2010b).

try and "help" poor states by imposing policies that do not consider local factors. According to this perspective, this can leave the people who are supposed to benefit from these policies worse off than if Western states had never interfered in the first place.[8]

## Anatomy of a "Weak" Regime

To situate this study in the overall literature of international agreements and to understand the nature of the Kimberley Process as an institution, we will look at the nature of the agreement here. Two central points need to be made about the institutional history of the Kimberley Process. First, it is a weak agreement with little ability to use sanctions or other mechanisms to shape state responses. This illustrates that Kimberley Process interaction with states alone is insufficient to understand variation between states and temporally in a single state. Second, the decision-making process and relative influence that the Kimberley Process has had, in its ability to influence state behavior, has been relatively constant since its implementation in 2003. Thus, changes in state response to the Kimberley Process over time have little to do with changes in the institutional nature of this agreement.

The Kimberley Process is based on consensus decision-making in which every "participant" country has a vote. With fifty-four participants in the Kimberley Process, any one of them can block a resolution. A useful theory in understanding how institutions function is the "veto players" theory developed by Tsebelis (2002). According to this theory, the more actors there are that can block a resolution the smaller the "win set" or the acceptable range of outcomes to all actors will be. It follows from this that the more actors there are that have a veto over changing policy the harder it will be to change it significantly. Furthermore, in institutions where there are several veto players, change to a "status quo" policy is usually slow and changes to current policy are more incremental because this is usually acceptable to more actors.[9] It

[8] See also Easterly (2013); Moyo (2009).

[9] Another important political organization that used consensus decision-making was the General Agreement on Tariffs and Trade (GATT), in which votes on an issue were a possibility but almost never happened (Scott and Watal 2000). This was one of the factors that caused the GATT to decline or become impractical over time. Scott and Watal (2000, 284) describe how consensus worked under the GATT: "the system worked by consensus: no votes on senseless resolutions, no

could be predicted from veto player theory that the United Nations, which has five veto players, would be able to act far more efficiently in regulating conflict diamonds than the Kimberley Process, although this has never been looked at in a study. This theory applies to a wide variety of institutions. As Tsebelis (2002) argues, the number of veto players is more important in looking at decision-making than how these veto players are selected.[10]

Given the number of veto players, the Kimberley Process has had difficulty in acting forcefully as an institution. Nevertheless, the agreement has been under constant pressure to appear relevant. These dynamics have led to a situation where sanctions have been imposed on some countries, and the goal has been to appear to be taking a hard line while still ignoring larger violators or countries with issues of noncompliance that the process would have a harder time pursuing politically. A good example of these dynamics is Ghana, a country where diamonds had been banned from November 24 to December 5, 2006, and February 17 to March 7, 2007. Through interviews with miners, Hilson and Clifford (2010, 449) found that

> reflecting on the impacts of the ban, many miners and buyers interviewed in Akwatia expressed concern over why Ghana was targeted and not countries

decisions by majority rule. The consensus rule was not abused. Developed countries, particularly the United States and European Community, drove the GATT agenda and negotiations but did not insist on full participation by all countries." When GATT expanded into the World Trade Organization (WTO), consensus no longer worked because there were too many members, and more was at stake for all members, so that "free riding" off other decisions became more impractical (Schott 1994). Therefore, the GATT trading system reached a point where consensus decision-making was no longer efficient. By looking at the GATT we can see a weaker international organization that was able to use consensus for a while, but this system broke down when there was more at stake for specific countries. Given how the GATT worked for many years, it seems as though there would be disincentives for actors to try and push forward any change that would clearly fall well short of consensus, even if this is what they wanted. Thus, it is easy to see how this decision-making system affected both the boundaries of what would be decided and the influence that the GATT had over trade in general. The history of consensus in the GATT trade regulations would seem to predict that institutions that use consensus decision-making, such as the Kimberley Process, will have difficulty making controversial decisions or significant change in policy over a short time.

10 For instance, according to Tsebelis (2002), the number of veto players a government has is more important to the study of policymaking than whether a government is presidential or parliamentary.

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such as Sierra Leone, Guinea, or the DRC – where diamond smuggling is arguably a far more pressing concern. Did Kimberley officials target Ghana because of the potential to make a more visible impact – and in the process, appease critics such as Amnesty International and Global Witness?

While the diamond sector is vital for some areas of the economy in Ghana, it is not pivotal to the economic or political structure of the society as a whole, at least in comparison to several countries in sub-Saharan Africa. Thus, this might be a case where the Kimberley Process could pursue sanctions that may change policy to some extent by showing countries that the process has some coercive power, which they would not want to challenge. However, it does not set a direct precedent in which a larger diamond producer is suspended.[11]

From reviewing the few cases in which sanctions have been implemented, listed in Table 1.1, two central claims can be made. First, the consensus nature of decision-making in the Kimberley Process results in suboptimal policy outcomes that rarely impose sanctions on diamond-producing countries. Second, the Kimberley Process does appear to have some ability to impose sanctions for one type of state:

[11] After some smaller producers were found to have smuggled coffee into other countries that had not exceeded their quota, the International Coffee Organization instituted a certification mechanism that was to be collected by importing countries. Countries that exceeded their quota could be penalized by "excess shipments from one year be deducted from the quota for the next; that excess shipments in a second year be penalized by a doubling of the deduction in the next; and that a third violation lead to the loss of voting rights and the possibility of expulsion from the International Coffee Organization" (Bates 1997, 145–146). These rules only constrained the behavior of small producers who had little influence on the decision-making process of the organization. Voting structures in the organization followed the market share, so Brazil and Columbia dominated the decision-making process by being able to outvote the smaller producers. Given the power distribution in the International Coffee Organization, rules were set up so that the major voters would be unlikely to break them and would not face sanctions if they did. Compliance among the large producers was taken as a given, especially since they set the rules themselves and there was a clear economic incentive to do so. However, the International Coffee Organization did have the potential to affect the production levels of smaller producers that lacked political influence in the organization. While some countries did consistently violate their quotas, the organization lacked the capacity and political will to enforce them. Smuggled coffee made up a small enough share of the global market that it was not crucial to change the behavior of small producing countries, even if they produced well beyond their quota. Therefore, sanctions by the International Coffee Organization only existed for one type of member and had no record of enforcing compliance.

**Table 1.1** *List of countries in the Kimberley Process and sanctions*

| All members[3] | Problematic countries | Review visits[3] | Missions[3] | Indirect sanctions | Suspension | Expulsion | UN sanctions[7] |
|---|---|---|---|---|---|---|---|
| Angola | Angola[1] | Angola | CAR (June 8–15, 2003) | Ivory Coast (United Nations Ban 2005–present[7]) | Central African Republic (March 17–July 15, 2003[4] and May 23, 2013–present[5]) | Congo (ROC) 2004–2007[7] | Angola (1998–2002), |
| Armenia | Brazil[1] | Armenia | Republic of Congo (May 31–June 3, 2004) | Venezuela (“self-suspended” 2008–present)[7] | Lebanon (April 1, 2004–June 2006[6]) | | Sierra Leone (2000–2003), |
| Australia | CAR[2] | Australia | Zimbabwe (June 30–July 4, 2009 and August 9–14, 2010) | | Ghana (November 24–December 5, 2006 and February 17–March 7, 2007[8]) | | Liberia (2000–2007) |
| Bangladesh | Congo (DRC)[1] | Bangladesh | | | | | Ivory Coast (2005–present) |
| Belarus | Congo (ROC)[1] | Belarus | | | | | |
| Botswana | Côte d’Ivoire[1, 2] | Botswana | | | | | |
| Brazil | Ghana[1, 2] | Brazil | | | | | |
| Cambodia | Guinea[1] | Canada | | | | | |
| Cameroon | Guyana[1] | CAR | | | | | |
| Canada | Lebanon[2] | China | | | | | |
| CAR | Liberia[1] | Cote d'Ivoire | | | | | |
| China | Sierra Leone[1] | DR Congo | | | | | |
| Congo (DRC) | Togo[1] | EU | | | | | |
| Congo (ROC) | Venezuela[1, 2] | Ghana | | | | | |
| Côte d’Ivoire | Zimbabwe[2] | Guinea | | | | | |
| Croatia | | Guyana | | | | | |
| EU | | India | | | | | |
| Ghana | | Israel | | | | | |
| Guinea | | Japan | | | | | |
| Guyana | | Laos | | | | | |
| India | | Lebanon | | | | | |
| Indonesia | | Lesotho | | | | | |
| | | Liberia | | | | | |
| | | Malaysia | | | | | |

Israel
Kazakhstan
Japan
Laos
Lebanon
Lesotho
Liberia
Malaysia
Mauritius
Mexico
Namibia
New Zealand
Norway
Panama
Russia
Sierra Leone
Singapore
South Africa
South Korea
Sri Lanka
Swaziland
Switzerland
Tanzania
Thailand
Togo

Mauritius
Namibia
New Zealand
Norway
Republic of
Congo
Russia
Sierra Leone
South Africa
South Korea
Sri Lanka
Switzerland
Tanzania
Thailand
Togo
Turkey
UAE
Ukraine
USA
Zimbabwe

**Table 1.1** (*cont.*)

| All members[3] | Problematic countries | Review visits[3] | Missions[3] | Indirect sanctions | Suspension | Expulsion | UN sanctions[7] |
|---|---|---|---|---|---|---|---|
| Turkey | | | | | | | |
| Ukraine | | | | | | | |
| UAE | | | | | | | |
| USA | | | | | | | |
| Venezuela | | | | | | | |
| Vietnam | | | | | | | |
| Zimbabwe | | | | | | | |

1 Partnership Africa Canada (2006).
2 Smille (2010b).
3 Kimberley Process (2013b).
4 International Crisis Group (2010).
5 International Crisis Group (2010).
6 Kimberley Process (2013c).
7 Partnership Africa Canada (2013).
8 Bieri (2010a).
9 Hilson and Clifford (2010).

those that do not have a high level of domestic diamond production but serve as smuggling centers.

Examining the weakness of the Kimberley Process as an institution, especially in terms of dealing with countries that have a large amount of diamond wealth, raises the question of why states take this regime seriously at all. Furthermore, why do some states not just comply at a basic level that would avoid sanctions, which from the history of the Kimberley Process is very low, but instead spend extensive resources to implement Kimberley Process regulations? This is an important question because, as Knill and Lehmkuhl (2002, 42) point out, "the development, formulation, and implementation of international policies are generally a highly time-consuming and complex process." Thus, the study of state responses to the Kimberley Process is an ideal case for understanding state behavior in relation to international agreements in general, especially those that have weak enforcement mechanisms. Furthermore, it is a goal of this study to uncover the complexity that leads to variation in state responses to international regimes.

## The Domestic Political Economy of International Regimes

In the study of international agreements there has been a long debate between scholars who argue that international agreements seldom change state behavior (Goldsmith and Posner 2005; Mearsheimer 2004) and those that view international agreements as having the ability to make states pursue policies that they would not otherwise (Alter 2014; Hillebrecht 2014; Keohane 1984; Keohane and Nye 1977; Simmons 2009).[12] This approach assumes the latter in that under some conditions international agreements can constrain state behavior. However, this is not necessarily because of the nature of the international agreement itself, as some agreements if not most are notorious for having little independent power to constrain states. Instead, when examining international agreements, especially those with clear economic aspects, it can be domestic private actors that shape state responses to international agreements and get states to pursue policies that they would be unlikely to pursue otherwise.

[12] A useful overview of the theoretical debate on international regimes is given by Haggard and Simmons (1987).

The first area of inquiry in the domestic political economy approach is to look at how dependent a state is on an economic sector that could potentially influence the decision-making process around a regime. This part of the theory draws from the "dependency school," which argues that government actors in states where resource exports dominate the economy are often dependent on this sector for revenue and thus constrained in the policy options that are available to them (Frank 1966, 1978; Rodney 1974; Smith and Lee 2018; Taylor 2016; Wallerstein 1974, 2004). This theory also draws on the idea of political survival, in that governments are likely to form policy preferences in economic governance that improve their ability to hold onto state power regardless of what is best for the average citizen or prior ideological predispositions (Bueno De Mesquita et al. 2005).

In many relevant economic sectors, preferences around state responses to international regimes vary. In states where private economic firms have considerable influence over policy preferences, which increases according to how dependent a government is on the economic sector, it is essential to figure out what the preferences of these actors are. Preferences of private actors can often differ in terms of their preferred policies concerning international agreements. For example, Robert Falkner (2008) examines how the conflict between firms that have numerous different interests and viewpoints over regulation can partially explain why cooperation around environmental issues varies considerably in different regimes. This is an important point because usually private firms in the same economic sector do not have the same goals. In this approach, the preferences and relative power distribution between private economic actors are used to explain variation in state-level responses to the Kimberley Process, across countries and across time within the same country.

The influence of private actors is an understudied area in the literature on regimes, especially in terms of explaining variation in state responses in a single regime. However, international agreements have the potential for economic actors to lock in favored policy preferences at an international level and support regulations that improve their market position against competitors. The desire of private firms to influence regulatory policy has long been observed on a domestic level by neoclassical economists. These scholars argue that regulation can be a good way for large firms to maximize profit against competitors and convince governments to take on regulatory costs that the firm would have to pay in the absence of regulation (Akerlof 1970; Bates 1998a; Peltzman 1976; Stigler 1971).[13] Furthermore, multiple scholars have found that a motivating factor behind participation in international agreements around human rights issues is to lock in policy preferences for future government administrations (Cardenas 2007; Hillebrecht 2014; Simmons 2009). According to this logic, future government administrations will face more constraints in changing state policy at an international level than they would if the policy process only took place domestically. Thus, there is good reason to believe that economic actors see the potential for international agreements to lock in policy preferences. This may particularly be the case if firms anticipate a future decline in power relative to competitors and desire to maintain preferred policy preferences well into a future where they are likely to have less control over the domestic decision-making process.

## Diamonds, Geography, and State Capacity

In addition to making an argument about the political economy of state responses to international agreements, this research also draws on past studies in both the political geography and "resource curse" literature. It may be the case that some states intend to comply with the Kimberley Process, but the distribution of diamonds in the country and an overall lack of state capacity could make compliance difficult.[14] Weak states may require cooperation from members of the Kimberley Process to maintain higher levels of compliance given the challenges to certifying diamonds in that state. Thus, while examining diamond dependence and the preferences of private actors can give us an

[13] A classic example of the complexity of regulatory policy is the support that some large meat-packing companies gave to government regulation of the industry after *The Jungle* by Upton Sinclair (1906) was published. Some large meat-packing companies calculated that they could better pay the costs of regulation in comparison to smaller competitors, thus allowing them to gain an advantage in the competition over market share. For more information on the role of regulation in the meat-packing industry see Azzam and Anderson (1996). The global chemical sector has experienced some of these dynamics as well. Garcia-Johnson (2000) argues that large American chemical companies have pushed for more environmental regulations in South America to secure a comparative advantage and have raised their own environmental standards in anticipation of policy changes.

[14] This idea draws from the "managerial school" developed by Chayes and Chayes (1993, 1998).

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understanding of what leads to cooperation with the Kimberley Process, political geography becomes a crucial intervening variable in understanding compliance. Alternatively, even if the level of domestic diamond dependence, the preferences of private actors and cooperation would predict a high level of compliance with the Kimberley Process, it is possible that this might not be the case because of a political geography that makes regulation of the diamond trade difficult. Minimally it would seem as though an explanation for compliance with the Kimberley Process would be incomplete if geography were not examined, given that this has been a prominent part of the civil war literature.

There is a significant amount of literature on the role that diamonds play in civil wars.[15] This literature makes a distinction between two types of diamonds: alluvial and primary. Alluvial diamonds are usually found in the dirt or a riverbed and can be mined by individuals with little equipment, whereas primary diamonds require expensive extraction procedures and significant capital investments. The former is more tied to conflict and diamond smuggling in general, as it provides an opportunity for rebel groups to get immediate funding since all that is needed is the control of a region where diamonds are found, and individuals to mine for them. Ross (2003) points out that the most common way for rebel groups to finance themselves is looting and to Le Billon (2008) diamonds are the "ultimate loot" for a rebel group.

In the civil war literature, scholars have debated whether alluvial diamond wealth makes a country more at risk for civil war.[16] There is little debate that in some cases rebel groups have acquired a substantial amount of funding from diamond mining. For instance, in Sierra Leone the Revolutionary United Front made about $25–75 million a year from diamonds, and in Angola the National Union for the Total Independence of Angola (UNITA) made about $200–500 million a year (Le Billon 2012). Therefore, under some conditions, diamonds can provide a lucrative funding source for rebels. Challenges with regulating illegal mining are prominent in the literature that looks at local diamond mining, as even if diamonds are not tied to conflict there

[15] Some of the most influential studies are: Humphreys (2005); Le Billon (2008, 2012); Lujala, Gleditsch, and Gilmore (2005); Ross (2004a, 2004b, 2006).
[16] For a meta-analysis of research on the influence diamond wealth has on conflict, see Le Billon (2008).

can still be an incentive to escape taxation (Gooch 2008).[17] The interest that conflict diamonds received led to more research on alluvial diamond mining in general.[18] Thus, looking at the dynamics caused by the geographical location of diamonds and the type of diamonds a country has are essential in studying state responses to the Kimberley Process.

## Diamond Mining in Independent Africa

From the discovery of diamonds in South Africa in 1866 until the end of 2013, Africa is estimated to have produced almost 3.2 Bct out of a total global production of 5.03 Bct, or 63.6% of all diamonds that have ever been mined.

(de Wit et al. 2016, 199)

Anyone who visits the Namibian coast today is likely to encounter "ghost towns" that have been completely abandoned. Towns such as Pomona or Kolmanskop were once vibrant mining communities, around the time of World War One, but today they are silent, with only tourists visiting.[19] These towns are witness to the changing nature of diamond mining in Namibia, as over half of diamond mining since the early 2000s takes place offshore, and most mining otherwise is centered around Oranjemund, a restricted city on the far southern coast. While the "diamond rush" may be long over, the diamond sector in African states is still as important as ever, if not more so. Understanding the political economy of the modern diamond sector in sub-Saharan Africa is vital to understanding the region more generally and the variation that exists between states that have some important similarities.

In 1867 diamonds were first discovered in Southern Africa and would play an essential role in the development of the modern

[17] This has been documented in Sierra Leone (Wilson 2011), Ghana (Banchirigah 2008), Cameroon, and the Central African Republic (International Crisis Group 2010; Schure et al. 2011).

[18] For example: Le Billon (2008, 2012); Munier (2016b); Snyder and Bhavnani (2005).

[19] De Juan, Krautwald, and Pierskalla (2017) demonstrate that during German colonization the police force was mostly concentrated on ensuring resource extraction, especially of diamonds.

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Southern African state.[20] From the late 1800s onward, De Beers essentially held a monopoly on the legal rough diamond trade as the founder, Cecil Rhodes, bought all competitors in Southern Africa. This gave De Beers a dominance over the diamond industry that was mostly unrivaled by any other company in any other major economic sector worldwide. More important for the socioeconomic development of African states, this gave De Beers a wide range of influence not just on mining sector policy but on economic policy more broadly.

Diamonds entering the global market outside of De Beers' control caused a constant challenge to the company's near monopoly over the global diamond trade. This led De Beers to either buy these diamonds or convince governments to secure the diamond trade. In some weak African states with large deposits of alluvial diamonds, this led to longstanding political engagements with local governments to secure the diamond fields or allow De Beers to use private security to prevent smuggling and police local areas. In some regions that were particularly difficult to govern, in states where De Beers had a high level of influence, such as Angola or Sierra Leone, De Beers was able to take over many of the local administrative functions usually associated with states.[21] These arrangements became difficult to continue after independent African states replaced colonial regimes. Furthermore, in the 1990s arrangements that were made between De Beers and some of the larger diamond producers would break down altogether. Diamonds from conflict zones, particularly in Angola and Sierra Leone, presented a challenge to the De Beers monopoly, as these diamonds accounted for as much as 15 percent of the global trade (Global Witness 2006). Thus, at the end of the 1990s, De Beers faced a situation in which its near monopoly over the global diamond trade was no longer sustainable, and change became inevitable.

## Change and Competition in the Global Diamond Trade

Changes in the global diamond trade, particularly since the early 2000s when the Kimberley Process first came into effect, have had a

[20] Comprehensive historical accounts of diamond mining in Southern Africa are given by Meredith (2008); Roberts (2016).

[21] Examples of historical mining communities under the control of De Beers are the Luanda province of Angola (Cleveland 2015) and the Kono district of Sierra Leone (Reno 1995).

significant influence on the domestic political economy of states in Africa. De Beers' share of the global value in rough diamonds has dropped considerably, from about 85 percent in the late 1980s to about 65 percent when the company decided to give up on price fixing the global market in 2000 (Stein 2001). In 2010 De Beers' market share was at about 45 per cent and in 2018 at about 37 percent (Zimnisky 2018). While this decline is notable, it is important to point out that De Beers continues to be the largest company in the diamond sector globally and when looking at Southern Africa it still occupies a position of dominance, especially in Botswana, Namibia, and South Africa.

The investor who would be able to capitalize on changes in the global diamond sector, and ultimately be the first to mount a credible challenge De Beers in Africa, was an Israeli citizen who once had close ties to De Beers. Lev Leviev was born in Tashkent, Uzbekistan in 1956 and immigrated to Israel in 1971.[22] In Israel, Leviev opened a diamond-cutting factory in 1977 and quickly expanded to twelve factories. Leviev became a sightholder for De Beers in 1987. The system of being forced to blindly buy boxes of diamonds at any price De Beers wanted gave Leviev a desire to challenge this system. Forming a joint company with the Soviet-owned firm Alarosa gave Leviev a chance to supply rough diamonds directly to polishing companies without De Beers' involvement. When mass privatization took place

[22] Largely through changes in global diamond trade, Leviev has become one of the world's wealthiest and most influential people. In 2004, Leviev was worth about US$2 billion (The Economist 2004). In 2007 he had an estimated wealth of $4.1 billion although some suspect that it may be double this (Chafets 2007). Leviev is known for extensive spending on charity, possibly around $50 million a year (Chafets 2007). Through this immense wealth Leviev has been able to gain an influence on global politics in many different contexts. Most of Leviev's giving has been for Jewish charities, especially in the former Soviet Union where he grew up (Chafets 2007). He has been known to fund the Orthodox Jewish Hasidic Chabad group in many endeavors and is seen as a leader in the movement. Leviev has also been a consistent supporter of right-wing Israeli politics and was long suspected of investing in Jewish settlements in the Palestinian territory. Bowing to international pressure in 2014, Leviev disbanded a plan to build 935 apartments in West Jerusalem and stopped building in Palestinian territory (Mezzofiore 2014). Leviev has been a longtime friend of Russian president Vladimir Putin and has had some economic and political influence in Russia (Green 2017). Leviev also gained publicity for alleged ties to Donald Trump and his son-in-law Jared Kushner through New York real estate deals (Green 2017).

after the fall of the Soviet Union Leviev would emerge as the sole private owner of Alarosa in a joint agreement with the Russian government.

In 1996 Leviev first entered the Angolan diamond market with an investment of US$60 million. The People's Movement for the Liberation of Angola (MPLA) government had long resented De Beers' control of the Angolan diamond trade and the firm's willingness to buy any rough diamonds that became available in the country, including those that originated in UNITA-controlled areas. In 2001 De Beers suspended operations in Angola altogether, leaving Leviev as the sole active partner with the MPLA government in the diamond sector. Although De Beers did continue to maintain negotiations and some ties with the MPLA government in this period, when the Angolan civil war ended in 2002 Leviev had access to all the countries diamond mines, worth around $850 million. However, in 2003 the Angolan government moved beyond allowing Leviev to have a near monopoly over the state's legal diamond trade when it canceled over half of the mining contracts that had been signed the year before. Leviev's inability of to pay miners market value for rough diamonds may have been a significant factor in the loss of some licenses; this led to widespread smuggling as miners knew they could get more for diamonds in illegal channels. Nevertheless, Leviev was able to operate successfully in a region where De Beers had long monopolized the legal diamond trade.

By the early 2000s, Lev Leviev had become a direct challenge to De Beers across Southern Africa. He started making inroads into the rough diamond trade in Namibia, in return for a promise to beneficiate some of the diamonds locally. On June 28, 2004 Lev Leviev opened the largest diamond polishing plant in Africa at the time in Namibia. Lev Leviev's involvement in Namibia would have important implications for establishing Kimberley Process regulations in the country and became a way for the Namibian government to leverage influence with De Beers. In the early 2000s, Leviev tried to attract interest from Botswana to allow him to mine for diamonds in the country. Government officials showed interest and even toured some of his operations in Namibia. However, allowing Leviev to invest in the country never materialized, and De Beers maintained its critical monopoly in Botswana. Leviev has been willing to set up local diamond beneficiation plants in Angola and Namibia, even if this does not turn a profit directly, in order to get governments in the region to provide him with more access to mining rough diamonds.[23]

For many years Leviev has had ties to the Hong Kong-based company the 88 Queensway Group. This group has extensive mining investments in Angola and Zimbabwe.[24] While Leviev does not appear to own any diamond mines in Zimbabwe directly, it is likely he has invested in companies that do. However, given the secretive nature of the diamond contract in Zimbabwe, ownership can be hard to determine.

Beyond Leviev, the significant challenge for De Beers came with the massive discovery of diamonds in the Marange region in eastern Zimbabwe. De Beers had long dominated mining in Zimbabwe but had fallen out with the Mugabe regime over the push for indigenization policies. Until 2006 De Beers had exploration rights in the Marange region and was allegedly mining for diamonds without public knowledge (Katsaura 2010a; Southhall 2013). After 2006 De Beers was removed from the diamond fields and a government monopsony was set up. However, De Beers continues to claim a right to the diamond fields (Nyamunda and Mukwambo 2012).

The absence of De Beers from the Zimbabwean mining sector has allowed a large number of rough diamonds to be produced in Southern Africa outside of the company's control. Private diamond companies did not gain access to the Marange diamond fields until 2009, and most did not start mining until 2011. Previously, the government had tried a monopsony until 2008, when the military took over the diamond fields directly. From 2011, until the government nationalized diamond mining in 2016, many private diamond companies had joint extraction agreements with the Zimbabwean government through the Zimbabwe Mining Development Corporation (ZMDC).

The most prominent diamond companies were Anjin, a partially Chinese-owned company, and Mbada Diamonds. Both diamond companies had secretive ownership structures and are believed to have had ties to factions within Zimbabwe African National Union-Patriotic

[23] Information about Lev Leviev was drawn from Smith (2007); Stein (2001). See also a profile published by *Forbes*, which can be found at www.forbes.com/global/2003/0915/046.html#7f3374bc4567 and *The Economist*, which can be found at www.economist.com/node/2921462

[24] For more about the 88 Queensway Group and alleged connections with Lev Leviev, see Lee, Ross, and Warner (2009); Mailey (2015); Melman (2010).

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Front (ZANU-PF).[25] While neither of these companies had any real chance of challenging De Beers in other African states, it is telling that they exist at all. Without the changes that the global diamond industry went through in the early 2000s, it is likely that the Zimbabwean government would have turned to De Beers to mine the Marange diamond fields out of necessity.

With challenges to De Beers' dominance in Africa since 2000, other options that do not involve De Beers in the mining sector have become an increasing possibility for states. Furthermore, the threat of ending or modifying longstanding agreements with De Beers has given states more bargaining power. These dynamics have had important implications for how these states responded to the Kimberley Process after 2003, as will be demonstrated in depth in the case study chapters.

## Talking Left and Walking Right

At the dawn of independence in Africa, Algerian writer Franz Fanon (1963) predicted that the new elite would obscure the same exploitive policies that existed under colonialism with leftist rhetoric. The global economy has changed dramatically since this time but when the diamond trade is examined Fanon's prediction has been accurate. From all the cases examined in this study, "liberation" movements promised transformative change in mining policy after independence yet for the most part once in power they found themselves trying to justify aspects of the former status quo. While these governments had far more legitimacy than their predecessors, in many cases there was continuity in policy, at least in the sense that mining wealth was rarely used for public goods provision.

The African diamond trade can be viewed as a mode of exchange. Lie (1992, 510) defines a mode of exchange as "an ensemble of traders engaged in commodity exchange under historically specific technological and socio-institutional constraints. Exchange relations among traders, while central in this framework, stem from the underlying dynamic of macrostructural change. Macrostructural changes create opportunities for groups to construct exchange networks and to establish social organizations with an infrastructure, rules and norms." This definition is useful for examining the African states in general because

[25] See Global Witness (2012a, 2017a) and Chapter 5.

if new opportunities for exchange are not being created and rules and norms are relatively similar then this means that "macrostructural" change is not taking place. This research presents the current mode of exchange that exists in the African diamond sector because of a complex bargaining process between private firms and African governments. When examining the African state, it is important to note that in some cases private firms can have "power" comparable to the state itself, if not more, in deciding policies in some sectors.

Several observers, including Fanon (1963), mainly focused on the "mode of production" in postindependence Africa. What we can see from examining the diamond trade is that as important is the "mode of exchange" in which Africans at all levels, including government elites, get systematically shortchanged in the bargaining process. The clearest example of this is that, despite multiple efforts by African governments not just to produce rough diamonds but also to participate in the beneficiation process, and thus keep far more of the country's diamond wealth within its borders, these attempts have always failed.[26] Thus, sub-Saharan Africa remains at both the bottom of both the production process and the exchange process where both local producers and states only receive a fraction of what their diamond wealth is worth. In fact, in 2014 the overall value of legal diamonds traded from India was US$17,000 billion according to Kimberley Process (2014) statistics. This is from a country that has very little production but serves as the world's major polishing center. Furthermore, Israel. which had no domestic diamond production in 2014, traded almost US$5 billion worth of diamonds according to Kimberley Process (2014) statistics. These increases in diamond value may however pale in comparison to how much dealers eventually get for selling them in Western countries, especially when it comes to diamonds that can be used for jewelry, most of which originally came from Africa.

While African countries are often portrayed as being aid dependent, it is notable that the value of aid is only worth a small fraction of what they export in diamonds, gold, oil and other minerals every year.

[26] Botswana, Namibia, and South Africa have all made attempts to beneficiate more diamonds locally (Grynberg 2015). Interestingly, Botswana has been most successful in creating opportunities for local beneficiation, whereas the most "powerful" state in the region, South Africa, has been least successful. Increasing political pressure in these states is likely to make diamond benefaction an important political issue.

Burgos (2015) referred to this as a "looting machine" in which local government leaders in Africa are often complacent with this process but are also constrained in their ability to change this reality without facing state collapse or a backlash from powerful global actors. It is within this context that the Kimberley Process was first implemented and continues to operate. As we will see from this study, in practice the Kimberley Process has reinforced the position of De Beers, and large multinational companies in general, with little benefit to the local population. While the Kimberley Process was implemented under the auspices of change, it has served to reinforce an unequal "mode of exchange" in the global diamond trade that has little to do with its original intent.

At a time when the process of exchanging goods is getting increased attention from political economists across the political spectrum, this study of the Kimberley Process is ideal for understanding the role of international agreements in either reinforcing past patterns of exchange or facilitating new ones.[27] Furthermore, with the growth of international agreements in regulating or reinforcing traditional patterns of exchange, a function that once fell solidly in the realm of state behavior, it is essential to examine what this means for these patterns and the actors involved. When more of the decision-making process in terms of domestic policy is outsourced to international agreements, does that enhance the higher level of democracy and positive cooperation between states that this is supposed to facilitate? Alternatively, is this a way of reinforcing already existing patterns of economic behavior in a changing world in which domestic governments are no longer capable of providing the context in which the same patterns can be followed? It is these crucial questions that this project hopes to understand better.

## Compliance, Cooperation, and Cases

In this study, I use a most-similar comparative case study design to examine Angola, Central African Republic, Namibia, Sierra Leone, and Zimbabwe.[28] These five cases are similar in many respects except

[27] See Collier (2010); Karatani (2014); Yifu Lin (2012).

[28] This research relies predominantly on case study research. Creswell (2013, 97) defines a case study as "a qualitative approach in which the investigator explores a real-life, contemporary bounded system (a case) or multiple bounded systems

for their level of compliance and cooperation with the Kimberley Process (Basedau 2005a, 2005b; Geddes 2003; King, Keohane, and Verba 1994; Landman 2003). These cases provide a significant amount of variation in their response to the Kimberley Process, both in comparison to each other and within single states over time. All five cases I have chosen are alluvial diamond producers in sub-Saharan Africa that have a significant diamond trade and have emerged from conflict. Therefore, it is an interesting puzzle why these states that have several similarities have nevertheless varied in their response to the Kimberley Process.

This research uses a most-similar method of case selection. For this purpose, cases need to be similar except for the dependent variable, which should vary (Basedau 2005a, 2005b; Geddes 2003; King, Keohane, and Verba 1994; Landman 2003). With a most-similar design "the researcher looks for cases that differ on the outcomes of theoretical interest but are similar on various factors that might have contributed to that outcome" (Gerring 2007, 131). For this research, I have selected a small-*N* of five countries: Angola, Central African Republic, Namibia, Sierra Leone, and Zimbabwe. These cases were chosen because they are similar in several ways, but the dependent variable – compliance/cooperation with the Kimberley Process – varies. The most important similarity for these countries is that the diamond industry is pivotal to the economic and political nature of the countries. Table 1.2 shows some characteristics of these states.

over time, through detailed, in-depth data collection involving multiple sources of information (e.g. observations, interviews, audiovisual material, and documents and reports), and reports a case description and case themes." Here I will focus on textual analysis of documents to build a thick description of the cases and interviews to better understand the Kimberley Process. A major benefit of the case study approach is the potential for thick analysis of the cases. According to Merriam (2009, 50), "the case study offers a means of investigating complex social units consisting of multiple variables of potential importance in understanding the phenomena." Along the same lines, Creswell (2013, 100) says "a hallmark of a good qualitative case study is that it presents an in-depth understanding of a case." Thus, in-depth discussion of many important variables and contextual factors are what case studies are best for. As Creswell (2013, 100) goes on to say, "relying on one source of data is typically not enough to develop this in-depth understanding." Therefore, it will be a goal of this study to approach the research question from as many angles as possible, as this is consistent with case study methodology.

Table 1.2 *Country indicators*

| Country name | State fragility (2017)[1] | HDI Index (2018)[2] | Diamond-related conflict[3] | Type of diamonds[3] | Production in carats (2017)[4] | Value in dollars (2017)[4] |
|---|---|---|---|---|---|---|
| Angola | 16 | 0.581 | Yes | Both | 9,438,802.06 | 1,104,622,553 |
| Central African Republic | 23 | 0.367 | Yes | Alluvial | 47,636.70 | 6,505,304.82 |
| Namibia | 5 | 0.647 | No | Alluvial | 1,948,412.28 | 1,010,716,178 |
| Sierra Leone | 13 | 0.419 | Yes | Alluvial | 289,141 | 122,316,627 |
| Zimbabwe | 17 | 0.535 | No | Both | 2,507,604 | 175,379,664 |

1 Marshall and Elzinga-Marshall (2017).
2 United Nations Development Program (2018).
3 Le Billon (2008).
4 Kimberley Process Diamond Statistics (2017).

One could argue that any country that is a Kimberley Process member could have been chosen. However, these countries are selected because they represent a variety of cases in which the effectiveness of the Kimberley Process matters. Thus, they are all large producers of diamonds, have a history where diamond wealth has been influential, and will continue to have large diamond sectors well into the future. Participants that are large importers of diamonds, such as the United States or the European Union, are unlikely ever to face sanctions from the process and while their compliance might not be perfect, it is not controversial. Therefore, all cases have been chosen from sub-Saharan Africa, a region where diamonds have often been tied to conflict, where compliance with the Kimberley Process has been the most difficult, but at the same time most important.

In terms of setting up a useful most-similar case study it is notable that, at least in terms of formal decision-making, the Kimberley Process has varied little as an institution since its founding. Therefore, the amount of pressure the institution places on states and the type of response it expects in return is to a large degree constant. Thus, this is an important constant across all cases that make the explanatory potential of these cases greater than if compliance and cooperation were examined across different agreements or a single agreement that had undergone significant institutional change.

Sierra Leone and Angola are essential to look at as they are the countries in which diamonds have been most clearly tied to conflict in the past.[29] Despite some similar challenges, how these countries have implemented Kimberley Process rules and interacted with the process varies significantly as Sierra Leone has been inclined to cooperate with the process whereas Angola has argued that it can certify its diamonds on its own (Grant 2012). The Central African Republic is a crucial case for this study because it is the only country where most observers can agree that "conflict diamonds" have originated since the Kimberley Process was implemented in 2003.[30] Furthermore, the Central African

[29] In fact, these cases are often used as examples of diamonds contributing directly to conflict (Le Billon 2008, 2012; Ross 2004a, 2004b, 2006; Snyder 2006; Snyder and Bhavnani 2005).

[30] See Global Witness (2017b); International Peace Information Service (2018); Kimberley Process (2015c).

Republic probably has the lowest level of compliance with the Kimberley Process of any country that has been part of the agreement. Zimbabwe is chosen because it has become a large producer of diamonds and is the most controversial case for the Kimberley Process.[31] As discussed in the introduction, this case presents an interesting puzzle. While the Zimbabwean government has ignored numerous human rights regimes, it has at least attempted to expend resources to stay in compliance with the Kimberley Process and has attracted help from other states to do so. Namibia adds to the representativeness of the sample because it is a large producer of alluvial diamonds in sub-Saharan Africa and is not usually seen as having trouble complying with the Kimberley Process.

I analyze documents from several sources for this project. The Kimberley Process has reports of review missions and administrative decisions on specific countries. This has proven to be a useful source for measuring a state's level of diamond production, the value of exports, and insight into the role that the Kimberley Process has played in a specific state. Many governments publish reports on the diamond sector and compliance with the Kimberley Process. These documents are useful to find information on diamond production, tax structures, and challenges that countries are having with compliance domestically. Furthermore, government sources often outline which companies are operating within the country and give information about the location of diamonds. Nongovernmental organizations, particularly Global Witness and Partnership Africa Canada, frequently publish reports, often critical, on the Kimberley Process and issues related to regulating the diamond trade. These organizations are invaluable sources because they publish information that is difficult to find elsewhere. Also, nongovernmental organizations often publish reports that are country-specific and are based on local-level research. Newspapers, relevant academic scholarship, and media sources are analyzed as well. Newspapers, in particular, are useful in tracking changes in diamond policy over time.

[31] The case of Zimbabwe created a legitimacy crisis for the Kimberley Process that has never been fully resolved. One of the major sources of legitimacy for the Kimberley Process was the participation of NGOs and many left over the perceived mishandling of the Zimbabwe case (Global Witness 2011b).

## Outline of Chapters

This study will proceed as follows. Chapter 2 outlines theories of compliance and cooperation with international regimes and discusses how these theories would predict state responses to the Kimberley Process. Next, the domestic political economy approach is defined, and an explanation is given of why it has more potential than past approaches to account for variation in compliance and cooperation in response to the Kimberley Process . Finally, specific hypotheses that result from this approach will be presented along with an outline of how they will be tested in the case studies.

The following chapters examine the cases of Angola, Central African Republic, Namibia, Sierra Leone, and Zimbabwe. Chapter 3 presents a case study of Angola. Of all the states examined in this research, the case of Angola best illustrates how state responses to the Kimberley Process can be a result of competition for market share. Angola was an initial member of the Kimberley Process in 2003 but was mostly indifferent to the agreement until De Beers reentered the country in 2005 after the resolution of a court case (Grant 2012; Munier 2014). De Beers' main competitor in Angola, Lev Leviev, had a monopoly over the legal trade until then. This company is known for ignoring the Kimberley Process (Globes 2011, 2012; Wall Street Journal 2010). Since De Beers has gained in market share continuously since 2005, the Angolan state has become more responsive to the Kimberley Process and served as president in 2015 (Grant 2012; Munier 2014).

Chapter 4 examines Namibia, the state with the highest level of compliance in the study. It is also the clearest example of compliance with the Kimberley Process reflecting diamond dependence, specifically the Namibian government's longstanding dependence on De Beers. Other companies have tried to enter the Namibian market, but the Kimberley Process has played an essential role in creating a regulatory environment within Namibia that is advantageous to De Beers.

Chapter 5 examines Zimbabwe, the state with the most in-country variation in response to the Kimberley Process. Zimbabwe has had five different regulatory strategies, which are defined in this study. This research argues that variation in regulatory policy is due to the political economy of factional rivalries in which Kimberley Process regulations are used as a political instrument to gain market share.

Chapter 6 emphases that the state administration in Sierra Leone is too weak to comply with the Kimberley Process at a high level, despite a preference for compliance. This shows how cooperation is a necessary but not always sufficient condition to bring about a high level of compliance. The case of Sierra Leone also brings up interesting questions over whether complying with the Kimberley Process should be a priority of a state at a low level of institutional development and is an excellent example of how Kimberley Process regulations can become a "moving target" over time.

Chapter 7 examines whether or not the Kimberley Process has been successful in preventing conflict diamonds from reaching the global market by looking at a country where "conflict" diamonds exist: the Central African Republic. The lack of any private diamond companies with a preference for compliance with the Kimberley Process means that there is almost none. Furthermore, the political geography of the country makes enforcing Kimberley Process regulations almost impossible.

The final chapter ties the findings of the case studies into the theoretical framework. Here the different cases are compared both within cases over time and with each other. The chapter ends by discussing what the findings of this study mean for understanding the big picture of state responses to international regimes, regulatory policy in the diamond sector, and the economic future of African states.