

Monitoring Marange

Human rights surveillance, the Kimberley Process, and Zimbabwe's blood diamonds

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Philosophy*

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ABSTRACT

This thesis examines the Kimberly Process (KP), a joint government, industry, and civil society initiative that launched a certification scheme in 2003 to stem the flow of ‘conflict diamonds’. It traces its origins and early years and focuses on its later involvement in the politics around Zimbabwe’s Marange diamond fields, where it entered into the terrain of human rights. Marange is used as a case study to explore a particular conception of power as it relates to the pursuit of human rights by local and international institutions. I use the debate around Stephen Hopgood’s *The Endtimes of Human Rights*, specifically his argument that we are seeing the beginnings of a transnational rejection of international human rights law and the global institutions imposing it from above, as a springboard for an argument that we need to go beyond his top-down, legal-institutional emphasis if we are to explain the workings of human rights at Marange. I argue instead for a conception of disciplinary power that draws on Michel Foucault’s work.

The thesis offers a new perspective that focuses on how disciplinary power was exercised through the KP, and the surprising ways in which it came to bear on human rights. I describe the KP as a ‘monitoring assemblage’ that developed out of the diamond cartel, and rendered industry and state actors more visible as objects of knowledge, thereby disciplining them along norms promoted in the language the KP used to give meaning to its monitoring practices. This language was initially one of ‘formalisation’, of heightened state regulation with industry cooperation. Yet, the meaning given to the growing corpus of knowledge produced through the assemblage was changeable. This proved to be the case when there was a shift in the KP’s founding ‘strategic alignment’, that is, the field of actors that first sought to constitute the monitoring assemblage by interacting and enabling each other through the common usage of a monitoring language.

In making this case, I deploy a close reading of key texts, understood as forms of knowledge production that shaped disciplinary power, that were constructed by KP actors and their interlocutors for a range of public and private audiences. I argue that Marange precipitated a shift in the KP’s founding strategic alignment, which brought about a human rights turn at the KP, partially subsuming its assemblage into the much vaster monitoring assemblage of the global human rights ‘ecosystem’, and giving rise to a new human rights language and knowledge production through the KP that disciplined the Zimbabwean state’s behaviour in and around Marange. This outcome reflected forms of power that did not operate solely in top-down ways, through legal-institutional channels, or indeed for the sake of human rights norms. It represented acts of disciplining and self-disciplining that responded to ways in which knowledge and effective monitoring interacted with wider pressures and goals, including those of an ailing diamond cartel, rising international NGOs, Hollywood filmmakers, predatory Zimbabwean elite state actors, imperilled local Zimbabwean civil society actors, and a US-led western government push for Zimbabwean regime change.

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ACRONYMS

ACR	African Consolidated Resources
ACLU	American Civil Liberties Union
AIM	Alternative Investment Market
AU	African Union
Debzim	De Beers Prospecting Zimbabwe
CEO	Chief Executive Officer
CIA	Central Intelligence Agency
CID	Criminal Investigations Department
CIO	Central Intelligence Organisation
CNRG	Centre for Natural Resource Governance
CPC	Committee on Participation and Chairmanship
CRD	Centre for Research and Development
DDC	Diamond Dealers Club of New York
DHRF	Democracy and Human Rights Fund
DMIA	Diamond Manufacturers and Importers of America
DRC	Democratic Republic of Congo
EPO	Exclusive prospecting order
EPU	European Peace University
EU	European Union
GAO	US Government Accountability Office
GNU	Government of National Unity
GPA	Global Political Agreement
IG	Inclusive Government
ICC	International Criminal Court
IMF	International Monetary Fund
JA	Jewellers of America
JOC	Joint Operations Command

JVC	Jewelers Vigilance Committee
JWP	Joint Work Plan
KP	Kimberley Process
KPCS	Kimberley Process Certification Scheme
LTTE	Liberation Tigers of Tamil Eelam
MAB	Mining Affairs Board
MDC	Movement for Democratic Change
MDC-M	Movement for Democratic Change – Mutambara
MDC-T	Movement for Democratic Change – Tsvangirai
MMCZ	Minerals Marketing Corporation of Zimbabwe
MPDU	Mining Promotion and Development Unit
MPLA	Movimento Popular de Libertação de Angola
NED	National Endowment for Democracy
NCA	National Constitutional Assembly
NGO	Non-governmental organisation
NIZA	Netherlands Institute for Southern Africa
R2P	Responsibility to Protect
RBZ	Reserve Bank of Zimbabwe
RJC	Responsible Jewellery Council
RUF	Revolutionary United Front
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
UN	United Nations
UNITA	União Nacional para a Independência Total de Angola
UNMIK	United Nations Interim Administration Mission to Kosovo
US	United States
USAID	United States Agency for International Development
USKPA	United States Kimberley Process Authority
WDC	World Diamond Council

WGDE	KP Working Group of Diamond Experts
WGM	KP Working Group on Monitoring
WGS	KP Working Group on Statistics
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZBC	Zimbabwe Broadcasting Corporation
ZDF	Zimbabwe Defence Force
ZELA	Zimbabwe Environmental Law Association
ZEN	Zimbabwe Europe Network
ZLHR	Zimbabwe Lawyers for Human Rights
ZMDC	Zimbabwe Mining Development Corporation
ZNA	Zimbabwe National Army
ZRP	Zimbabwe Republic Police

INTRODUCTION

Human rights, the Kimberley Process, and Zimbabwe's Marange diamonds

The Kimberley Process (KP) is an international organisation of states, industry, and civil society groups, launched in 2000 as a response to negative publicity brought upon the diamond trade by a transnational advocacy network known as the blood diamond campaign. The KP implemented an international regulatory agreement called the Kimberley Process Certification Scheme (KPCS) in 2003, to keep the trade free of 'conflict diamonds', defined as 'rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments'.¹ Juxtaposing 'rebel movements' and 'legitimate governments', this definition left the meaning of 'legitimate' unexplained and identified rebels as the only perpetrators, hostage to fortunes that rapidly took on a tainted meaning.

From 2006, the KP was drawn increasingly into contestations emerging around the Marange diamond fields in Manicaland, Zimbabwe, where state-perpetrated violence became rife. The Marange case gave rise to growing calls for a change to the KP's rules, particularly to the narrow conflict diamond definition in the core KPCS policy document (the 'Core Document'), as this definition did not recognise governments and industry as possible violators of human rights. These calls came from international NGOs, western state participants at the KP, and Zimbabwean civil society actors, who together with commentators in media and academia,

¹ Kimberley Process, 'Kimberley Process Certification Scheme', 2002, p. 3. The definition appeared earlier in United Nations General Assembly, 'The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts', Resolution 55/56, 29 January 2001.

cited Marange as a crucial test of KP legitimacy rooted in broader human rights concerns. Yet, concerted efforts towards human rights policy reform were stifled. Elite networks of violent and corrupt accumulation developing around Marange were abetted, as diamonds from the area acquired KP certification. These networks gained access to the 'licit' diamond trade, and effectively a place within the diamond cartel.

This thesis uses the case of the KP and Marange to address a recent debate about the future of human rights, and in so doing it offers a particular understanding of power, which makes more sense of the case in question but also the workings of human rights. While the language of human rights has become globally pervasive since the mid-1970s,² its efficacy is increasingly debated. As a leading sceptic of global human rights norms and their international institutions, Stephen Hopgood claims to see the beginnings of the 'Endtimes of Human Rights' in a transnational rejection of international human rights law and the global institutions imposing it from above, and the waning of the American superpower that since the 1970s has driven the extraordinary ascent of human rights to worldwide prominence. Hopgood heralds the emergence of a 'neo-Westphalian' world, in which the BRIC nations (comprising Brazil, Russia, India, and China) have greater influence, sovereignty is reasserted, and while global markets continue their advance, global liberal norms stagnate and contract.³

While the case of the KP and Marange lends significant credibility to Hopgood's argument, this thesis challenges his emphasis on the growing rejection of human rights law from above. Though this rejection may gather momentum, Hopgood's outlook falls short of accounting for

² S. Moyn, *The Last Utopia: Human Rights in History*, (The Belknap Press of Harvard University Press, 2012), pp. 7 – 8.

³ S. Hopgood, *The Endtimes of Human Rights*, (Cornell University Press, 2013), p. xiii.

the ongoing global impact of a pervasive, fluid human rights language, and, most importantly, the visibility that this language can bring to oppressive acts. Indeed, Hopgood's analysis neglects a particular form of power, which is exercised when international institutions and the networks they are connected to render actors as visible objects of knowledge.

HUMAN RIGHTS AS AN ECOSYSTEM

Hopgood's outlook on human rights is driven by a top-down, legal-institutional focus, that has elicited a wide response from human rights proponents. This debate has led me to question how the KP worked, and whether it did in fact fail to impose global human rights norms through its handling of Marange. This section outlines Hopgood's arguments, before turning to two critics who point (implicitly) to the mechanism of power that is central to this thesis, and is neglected in both Hopgood's understanding of human rights and in scholarly critiques of the KP. This mechanism is called 'disciplinary power'. It is explored in the next section with reference to Michel Foucault's account of the relationship between power and knowledge, and refers to how actors are disciplined through their own rendering as knowledge objects.

Hopgood uses a simple dichotomy to characterize human rights as a global practice. On one hand, he sees 'human rights', in lowercase, as 'local and transnational networks of activists who bring publicity to abuses they and their communities face and who try to exert pressure on governments'.⁴ These networks are citizen-driven, and employ non-hegemonic languages adapted to individual nations and cultures. On the other hand, Hopgood sees uppercase 'Human Rights', as imposing an authoritative, universal language that purports to represent all of humanity. 'Human Rights' comprise:

⁴ S. Hopgood, *The Endtimes of Human Rights*, p. viii.

a global structure of laws, courts, norms, and organizations that raise money, write reports, run international campaigns, open local offices, lobby governments, and claim to speak with singular authority. Often highly legalized, Human Rights norms are not flexible and negotiable.⁵

For Hopgood, this dichotomy marks a tension between top-down and bottom-up authority, and despite numerous accounts of transnational linkages between the two, he argues that ‘the global inevitably structures, disciplines, channels, institutionalizes, and eventually colonizes the local reproducing hierarchies of power and influence’:

What is at issue is who gets to decide global rules and to define legitimate *exceptions* to them. This is the essence of sovereign power – setting and breaking the rules. To become the supreme authority – a court of law above all politics, national and international – is the inner logic of Human Rights.⁶

While the international non-governmental organisations (NGOs) that preceded Human Rights were distinctly sceptical of governments, Hopgood observes that from the 1970s they became increasingly tied to the promotion of neoliberal democracy, driven by American state power. He believes that Human Rights reached its zenith from 1991 to 2008, during what was a ‘unipolar moment’ of American post-Cold War dominance.⁷ Yet, in this ascendancy he sees the seeds of decline, a waning of moral authority:

The opportunity to build global normative institutions using state power comes with a caveat, in other words: when the sovereign changes its mind and declares itself and its clients exempt from its own rules, the Global Human Rights Regime is left bereft of moral authority, its claim to universal legitimacy undermined, its compliance with power exposed. It is not credible to name and shame a government with which you consistently align. Human Rights, handmaiden to neoliberal democracy, are unveiled as ideological, opening a legitimacy gap that has allowed their opponents to make increasing inroads against them.⁸

⁵ *Ibid*, p. ix.

⁶ *Ibid*, p. x.

⁷ *Ibid*, p. xii.

⁸ *Ibid*, p. xiii.

As key examples of American hypocrisy, Hopgood cites four decades of United States (US) Senate resistance to the 1948 Genocide Convention, the US refusal to ratify the 1989 Children's Rights Convention, the US decision to revoke President Clinton's assent to the 1998 Rome Statute that established the International Criminal Court (ICC), and the overt use of torture and extraordinary rendition during the US' global war on terror.⁹ America's gradual loss of global dominance has exacerbated the effects of its moral decline. With the weakening of a global authority once able to push effectively for globalisation of Human Rights, a growing defiance began from governments (especially the 'BRIC' nations), and various religious movements. Thus, Hopgood believes that we are entering a neo-Westphalian world of renewed sovereignty, resurgent religion, and the stagnation or roll-back of Human Rights. The US is becoming 'first among equals in a system where other states have started to assert their sovereignty, declaring their right to make exceptions, whether in terms of the International Criminal Court, torture, suspension of civil liberties, or targeted assassinations.'¹⁰

Hopgood points out that of the 193 states in the international system, only 63 percent have ratified the ICC, and the non-joiners include the US, China, India, Indonesia, and Russia – the world's most populous countries and three out of five United Nations (UN) Security Council permanent members. The ICC took ten years to secure its first successful prosecution, a Congolese militia leader; it has only prosecuted Africans, and lacks authority over strong states and their client nations. As examples, Hopgood holds that the 2005 Andijan massacre of allegedly over a thousand anti-government protestors in Uzbekistan was off limits to the ICC because China and Russia backed President Karimov; also exempt was Operation Cast

⁹ *Ibid*, p. 18.

¹⁰ *Ibid*, p. xiii.

Lead (2008 – 2009) in Gaza, and over a thousand Palestinian deaths, because the US backed Israel.¹¹

Hopgood also observes that the BRIC nations have all condemned the neo-colonialism of the Responsibility to Protect (R2P) doctrine, previously endorsed at the UN's 2005 World Summit to prevent genocide, war crimes, ethnic cleansing, and crimes against humanity. For example, US attempts between 2011 and 2013 to pass a UN Security Council resolution invoking R2P to justify military intervention in the Syrian Civil War were vetoed by Russia and China, who claimed that the US had previously abused R2P as a pretext for regime change in Libya, and was seeking to do so once again.

At the 2012 Rio+20 Conference on Sustainable Development, a coalition of religious and national groups secured the removal of reproductive rights from the final outcome document, despite the efforts of UN actors, countries such as Norway and Iceland, and organisations like Human Rights Watch.¹² Hopgood points to data which shows that support within the UN for European Union (EU) human rights positions has declined steadily since the 1990s, while the same period has seen an increasing number of General Assembly votes go China's way.¹³ For example, EU and other human rights proponents at the UN repeatedly failed to set up an independent international investigation into the Sri Lankan government's alleged war crimes and crimes against humanity committed during its conflict with the Liberation Tigers of Tamil Eelam (LTTE), which ended with a violent all-out state offensive in 2009. Sri Lankan state impunity was bolstered by an allegiance with China.

¹¹ *Ibid*, pp. 142 – 143.

¹² *Ibid*, p. 20.

¹³ *Ibid*, p. 149.

There are clearly convincing aspects to these arguments, but as critics of Hopgood point out, the reality of human rights is far messier than his dichotomous thinking suggests, and his own positioning as a human rights commentator has drawn him towards a preoccupation with human rights capitalized, as well as an overemphasis on top-down legal-institutional effects.

For example, the Executive Director of Human Rights Watch, Kenneth Roth, holds that there is truth to Hopgood's critique, but also caricature. Roth dwells upon Hopgood's criticism of abstract human rights norms, which are set out in international accords on human rights and humanitarian law, and questioned increasingly, Hopgood says, by non-westerners. Roth acknowledges that the global human rights movement's achievements include codification of international standards, noting that 'Hopgood dismisses these as formalistic – a legal and institutional superstructure divorced from the populism that informed the movement's simpler past and is the ultimate source of its strength'. However, Roth's view differs:

But the current activities of the human rights movement do not, as he implies, rely on lawyers quietly and mechanistically comparing governmental behaviour with rarefied treaties that few have read. Rather, the movement is powerful because of its ability, often at great risk, to conduct detailed, on-the-ground investigations of human rights abuses and then to use the information gathered to shame and pressure governments that fall short of public expectations of their conduct.¹⁴

Human rights groups can subject abusive governments to 'opprobrium among their public and governmental peers that officials often go to great lengths to avoid. When the pressure works, it is because leaders realize that they can end the bad press only by stopping their bad conduct.'¹⁵ Indeed, it is because such leaders are rendered as objects of knowledge by these

¹⁴ K. Roth, 'The End of Human Rights?', *The New York Review of Books*, 23 October 2014, p. 3.

¹⁵ *Ibid.*

groups, that they can be imbued with meaning rooted in human rights language, a negative meaning that is only addressed by (at least) appearing to observe the language's norms.

By Roth's reckoning, the view that rights are an imposed western construct is false, since all citizens of the world tend towards opposing their own oppression, and many see a benefit in the appropriation of a universal language of rights both to express their own opposition and gain a wider audience. A universal human rights language is not a solely western aspiration or imposition. Hopgood's failure to fully gauge this broad receptiveness to and embracing of the language stems from his focus upon international NGOs like Human Rights Watch and Amnesty International, while giving little attention to the lowercase version of human rights.

César Rodríguez-Garavito, an academic and director of the human rights NGO, the Centre for Law, Justice and Society in Bogotá, Colombia, has expanded on this criticism. Many of Hopgood's views resonate with Rodríguez-Garavito's own scholar-practitioner experiences: the identification of the dominance of northern states and NGOs; a vertical, rigid structure, particularly in international criminal law; a predominance of legal language, legal tools, and lawyers; and ongoing questions about human rights work's actual impact.¹⁶ However, Rodríguez-Garavito echoes Roth in claiming that Hopgood exaggerates these views to the point of caricature. While the result is provocative and useful in its destabilising, questioning effects, he argues that one must see Hopgood's limitations and the failure to provide adequate alternatives, as rooted in how little he has to say about lowercase human rights.

¹⁶ C. Rodríguez-Garavito, 'Towards a Human Rights Ecosystem', in Lettinga and van Troost (eds), *Debating the Endtimes of Human Rights*, p. 39.

This asymmetry exists, says Rodríguez-Garavito, because Hopgood is himself confined largely to the experiential and epistemological limits of a critique from inside Human Rights, based on a career at Amnesty International and an overwhelmingly Euro-American bibliography.¹⁷ As Rodríguez-Garavito points out, Hopgood describes lowercase human rights with various adjectives, but these tend to be uppercase opposites: grassroots (versus elite), bottom-up (versus top-down), mass political mobilisation (versus law-fare), local (versus global), south (versus north), and malleable (versus rigid).¹⁸ This language serves as a form of othering or exoticising that defines uppercase rather than lowercase, and gives rise to over-accentuated dyads instead of revealing the profusion of interconnections that blur them with each other.¹⁹

Rodríguez-Garavito sees global human rights as constituting an 'ecosystem' rather than a set of dichotomies. He observes interconnections between social movements and NGO professionals, organisations from the South and the North, between human rights discourse and other social justice discourses.²⁰ He cites the proliferation of law-oriented NGOs in the Global South. He reiterates Keck and Sikkink's much-cited 'boomerang effect', wherein 'domestic NGOs bypass their state and directly search out international allies to try to bring pressure on their states from outside'.²¹ He sees multi-boomerang effects amid a growing

¹⁷ *Ibid*, p. 40.

¹⁸ *Ibid*, p. 42.

¹⁹ For similar criticisms of Hopgood's dichotomous thinking, see S. Moyn, 'Apocalypse Now: The Endtimes of Human Rights By Stephen Hopgood', *Literary Review*, December 2013/January 2014, p. 83; M. Barnett, 'What's So Funny About Peace, Love, and Human Rights?', in Lettinga and van Troost (eds), *Debating the Endtimes of Human Rights*, p. 20; C. Bob, 'The Endtimes of Human Rights by Stephen Hopgood', *Ethics and International Affairs*, 29:1 (2015), pp. 114 – 116; J. H. Quataert, 'The Endtimes of Human Rights by Stephen Hopgood (review)', *Human Rights Quarterly*, 37:1 (2015), p. 259; and T. Landman, 'Social Magic and the Temple of Human Rights: Critical Reflections on Stephen Hopgood's Endtimes of Human Rights', in Lettinga and van Troost (eds), *Debating the Endtimes of Human Rights*, p. 31.

²⁰ Rodríguez-Garavito, 'Towards a Human Rights Ecosystem', p. 42.

²¹ M. E. Keck and K. Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Cornell University Press, 1998), p. 12.

multipolarity. He argues that institutions have become increasingly decentralised. He claims human rights language has been 'domesticated, adapted and vernacularised by local communities' organising transnational campaigns that embody legal globalisation from below.²² Indeed, there has been an explosive diversification of actors using human rights language, aided by new information and communications technology, and the rise of networks as an increasingly dominant form of organisation. Grassroots communities, social movements, online activists, religious organisations, think-tanks, artist collectives, scientific organisations, filmmakers, and journalists have all become part of a burgeoning ecology.

For Rodríguez-Garavito, this cannot be conceptualised as a unified movement or seen in terms of the rules that constitute institutional architecture; nor can it be crudely dichotomised into top-down and bottom-up dyads. Rather, it is an ecosystem, wherein relationships between a great diversity of actors are assembled into broader networks, forming a vast, protean field of decentralized interconnectivity that promotes an enormous range of human rights causes. This notion of an 'ecosystem' is preliminary, however, offered as a brief response to Hopgood. Yet, combined with Roth's insights on the power of pervasive human rights monitoring, and drawing on Foucault's observations of power, knowledge, and discipline, discussed below, I argue that the notion can be further developed to show that the ecosystem gives rise to an expansive human rights surveillance, a disciplinary regime, which produces disciplinary power through its great capacity to render actors as knowledge objects. The pervasiveness of this disciplinary power confounds a top-down, legal-institutional lens,

²² Rodríguez-Garavito, 'Towards a Human Rights Ecosystem', p. 43.

and so I argue that it is more accurate to see human rights as an ecosystem that gives rise to a vast and powerful monitoring assemblage.

THE ECOSYSTEM AS A MONITORING ASSEMBLAGE

We can draw an analogy between the basic composition of the human rights ecosystem, in Rodríguez-Garavito's conception, and the Foucaultian idea of power in a modern state system. Both are relational. In Foucault's view, 'power is not something that is acquired, seized, or shared, something that one holds on to or allows to slip away'.²³ It has a 'net-like organization', like a 'chain or a system'.²⁴ Thomas Wartenburg's notion of power builds on these concepts in a useful way. His view that power is always mediated by 'social alignments' ('alignments' from hereon) helps to explain these net-like linkages: a field of actors becomes an 'alignment' with respect to one actor, when the behaviour of all the actors with respect to that actor are coordinated in a certain manner, such that when that actor encounters this alignment, what is encountered is an experience of having power, of control over certain wants or needs, and perhaps control over certain actors.²⁵ We may see an actor as having power, but that power really depends on other actors acting in concert with that actor.²⁶

As examples, Wartenburg refers to teachers grading students and employers firing employees. These actors only exercise power because others act, or can act in ways that enable them. These others might include school administrators, principals, parents, university admissions officers, corporate human resource managers, future employers, and state

²³ M. Foucault, *The History of Sexuality: Volume 1: An Introduction*, (Penguin Books, 1998), p. 94.

²⁴ Foucault, *The History of Sexuality*, p. 92; M. Foucault, *Power/Knowledge: Selected Interviews & Other Writings*, (Pantheon Books, 1980), p. 98.

²⁵ T. Wartenburg, *The Forms of Power: From Domination to Transformation*, (Temple University Press, 1990), p. 150, in J. Rouse, 'Power/Knowledge', in G. Gutting (ed), *The Cambridge Companion to Foucault*, (Cambridge University Press, 1994), pp. 105 – 106.

²⁶ Rouse, 'Power/Knowledge', p. 106.

ministers of education and labour. Indeed, as these examples suggest, while alignments give rise to experiences of having power, they also give rise to experiences of being subjected to power. Actors may exercise power intentionally, or unintentionally, unknowingly perhaps, and sometimes against their own intentions. Thus, alignments can be intentional, unintentional, or both. Where they are intentional, involving collaboration towards an intended effect, and it is possible to identify them as such, I refer to 'strategic alignments'.

For Foucault, power is the process of 'ceaseless struggles' that 'transforms, strengthens, or reverses' these alignments. Power is the support different alignments find in each other, as they develop into nets, chains, or systems. Alignments may develop into the 'general design or institutional crystallisation' that comes to be 'embodied in the state apparatus, in the formulation of the law, in the various social hegemonies.'²⁷ Countless 'alignments' make up the human rights 'ecosystem', but I argue that these develop into an overall alignment that justifies reference to human rights as one system. This overall alignment operates as a 'monitoring assemblage', wherein actors enable each other by using a common human rights discourse, which allows them to render other actors as objects of knowledge, thereby disciplining these other actors but also society more broadly, in accordance with the norms promoted through use of the discourse. This is not to say that the ecosystem and its manifold alignments can be reduced to a monitoring assemblage. Certainly, there is much more to it, not least of all the imposition of international human rights law by its global institutions. Yet, this imposition contributes to the creation of a pervasive human rights surveillance capacity, a disciplinary regime, where a potential to render actors visible may lead to self-discipline

²⁷ Foucault, *The History of Sexuality*, p. 92.

along human rights norms, thereby promoting such norms. This disciplinary regime gives us reason to talk of global human rights as a system, even if it is imperfect and not necessarily hegemonic, and even if its language and norms are not entirely coherent from case to case. The basis of this regime is disciplinary power, the form of power that most concerns Foucault, and which neither Hopgood nor his critics adequately address.

In his book, *Discipline and Punish*, Foucault claims that modern disciplinary techniques for criminals have become a model for other sites of control, such as schools, hospitals, and factories, so that prison discipline pervades all of society, creating a 'carceral archipelago'.²⁸ The human rights ecosystem gives rise to a monitoring assemblage that has parallels to the carceral society that Foucault observes, and which draws on its practices: 'hierarchical observation', where actors are controlled simply by being observed, or simply through the possibility of being observed; the 'normalising judgement', through which actors are appraised comparatively, rather than in and of themselves; the 'examination', a combination of hierarchical observation and normalising judgement that establishes 'over individuals a visibility through which one differentiates them and judges them.'²⁹ The examination is a prime locus of power/knowledge, combining 'deployment of force and the establishment of truth'.³⁰ Students, patients, and jobseekers are forced to offer themselves as objects of knowledge to the institutions that cater to their needs, whether these needs be training, medical treatment, or work. The human rights ecosystem may not employ the same spatial technologies that Foucault sees in the carceral society, in the layout of prisons, schools,

²⁸ M. Foucault, *Discipline and Punish: The Birth of the Prison*, (Penguin, 1991), p. 298.

²⁹ *Ibid*, p. 184.

³⁰ G. Gutting, *Foucault: A Very Short Introduction*, (Oxford University Press, 2005), p. 86; and Foucault, *Discipline and Punish*, p. 184.

hospitals, and factories, and it is not concerned with individuals in the same way. The parallel lies in the way that state and corporate actors may nevertheless find themselves obliged to offer themselves as knowledge objects to actors who can discipline them by pronouncing on their legitimacy using a human rights language.

State and corporate actors are not controlled in the same way as students, patients, or jobseekers. Yet, they are faced with a far-reaching monitoring assemblage, a human rights surveillance, aimed at making state and corporate human rights practices visible. While the effects vary from case to case, disciplinary power is constantly exercised through knowledge production across the monitoring assemblage, as for example, in the human rights monitoring that Roth highlights in his response to Hopgood. While the ecosystem cannot be reduced to a monitoring assemblage, much of its power lies in the visibility this assemblage can bring to the behaviour of human rights violators. These capacities give rise to a disciplinary regime, of which international human rights law and the global institutions imposing these laws form an important part. However, we must ask whether the rolling back of such laws and the weakening of such institutions identified in Hopgood's work necessarily mean the roll-back of the monitoring assemblage itself, the language it speaks, and the knowledge and disciplinary effects it produces. The case study in this thesis suggests that that is not necessarily so, and thus that the way in which power works must be reconceived.

THE CARTEL AND KP ASSEMBLAGES

I argue that, like the human rights ecosystem, the KP was itself a monitoring assemblage, though smaller in size. While I do not regard the overall alignment that constitutes the human rights monitoring assemblage as a strategic alignment, I argue that the KP was founded upon

a strategic alignment between governments, industry, and international NGOs, which saw the KP develop out of the older monitoring assemblage of the diamond cartel. Neither the KP monitoring assemblage, nor the diamond cartel before it, were based upon a human rights language. However, as I will argue, the KP assemblage was increasingly infused with human rights speak through its involvement with Marange, and this would have disciplinary effects, even though concurrent calls for the introduction of human rights policy at the KP were successfully opposed during this period. This failure in policy reform along human rights lines, particularly the frustrated involvement of geopolitically-interested American state actors, lends significant credence to Hopgood's arguments about the 'Endtimes'. Yet, the disciplinary effects that nonetheless ensued indicate that his sense of power could be broadened, thereby complicating his dichotomous, top-down, legal-institutional thinking.

The diamond cartel is an industry-government partnership that monopolized the rough diamond trade by controlling supply and pricing throughout the 20th century, under the aegis of the company De Beers, before a decrease in De Beers' dominance towards the century's end led to a period of reconstitution, wherein the cartel came to include new industry players. As we will see, the KP was an accessory to this reconstitution. While the cartel monitoring assemblage had operated primarily through the diamond industry itself, the KP increased oversight from states. From its start, the KP's orthodox language was one of 'formalisation', that is, increasing state regulation of the rough diamond trade with cooperation from the industry's dominant players, ostensibly to keep conflict diamonds out of the trade, but also amounting to a reconsolidation of the 'licit' trade through imposition of new entry barriers.

While I introduce ‘formalisation’ as the dominant, orthodox KP discourse from the organisation’s start, KP members did not use this word, but instead frequently referred to improved ‘regulation’. However, after Marange became a KP predicament, the word ‘formalisation’ did come into KP use, to describe the introduction of joint mining ventures between the Zimbabwean state and private capital, which the KP favoured as a means of bringing Marange’s ‘illicit’ artisanal diamond mining rush under state control.

The language of formalisation was to the KP assemblage what the language of human rights is to the human rights ecosystem. However, I argue that a shift in the founding strategic alignment underlying the KP’s launch, led to a partial appropriation of the KP’s monitoring assemblage for the purposes of human rights monitoring. A strategic alignment of predominantly western KP actors, often led by US government officials, and supporting human rights policy reform brought this shift about, as a pro-Zimbabwe strategic alignment arose in opposition. The western KP bloc failed to achieve human rights policy reform, yet due to its efforts and those of Zimbabwean civil society actors concerned with human rights, the KP’s monitoring assemblage was attached to and in part subsumed into the human rights ecosystem’s monitoring assemblage. As a result, Zimbabwean human rights practices in and around Marange became widely visible, posing a reputational threat to the diamond industry, undermining Zimbabwean elite state actor efforts to become a part of the diamond cartel, and giving rise to new disciplinary effects.

In making this argument, I engage with two distinct literatures here and in the next two sections. Both literatures offer criticisms of the KP, and an interpretation of its handling of the politics around Marange. Both make crucial contributions to an understanding of the KP and

Marange, but I argue that their explanations are limited by the conception of power they deploy. The first literature, which I deal with in this section, is akin to Hopgood's analysis of Human Rights in the top-down approach it uses. I call this literature the institutional critique, because it focuses on the KP's institutional rule-making, rule implementation, and the influence of rule-maker interests. By rules, I simply mean the instructions contained in KP policy texts, primarily its core policy document, also known as the Kimberley Process Certification Scheme (KPCS). Strictly speaking, the KPCS is not a piece of international law. It is not a treaty or accord. Nevertheless, it can be referred to as a piece of soft law, because it requires state participants to implement domestic legislation that enforces KPCS regulations. Soft law refers to rules that are neither strictly binding, nor completely lacking legal significance. If the KP changed its conflict diamond definition to include human rights, this would change the rules, and alter the legal import of domestic KPCS legislation designed to reduce the trade in conflict diamonds. Thus, an emphasis upon these rules exhibits a similar legal-institutional bent to Hopgood.

Though a minority of scholars anticipated the trend,³¹ the KP's Marange predicament saw a larger shift toward an institutional KP critique that cited state violence as a cause for concern over the organisation's human rights policy mandate or the lack thereof.³² These critiques

³¹ See P. Le Billon, 'Fatal Transactions: Conflict Diamonds and the (Anti)Terrorist Consumer', *Antipode*, 38:4 (2006), p. 778; T. Hughes, 'Conflict diamonds and the Kimberley process: Mission accomplished-or mission impossible?', *South African Journal of International Affairs*, 13:2 (2006), p. 128; and P. Le Billon, 'Diamond Wars? Conflict Diamonds and Geographies of Resource Wars', *Annals of the Association of American Geographers*, 98:2 (2008), p. 366.

³² For examples of this shift, see L. Koechlin, 'Zimbabwe and the Kimberley Process: Just how effective are Multi-Stakeholder Initiatives?', *EJIL: Talk!*, November 2009; F. Bieri, 'The Roles of NGOs in the Kimberley Process', *Globality Studies*, 20 (2010); L. Wexler, 'Regulating Resource Curses: Institutional Design and Evolution of the Blood Diamond Regime', *Cardozo Law Review*, 31:5 (2010); V. Haufler, 'The Kimberley Process Certification Scheme: An Innovation in Global Governance and Conflict Prevention', *Journal of Business Ethics*, 89 (2010), p. 412; A. Bone, 'The Kimberley Process Certification Scheme: The primary safeguard for the diamond industry', in P. Lujala and S. A. Rustad (eds.), *High Value Resources and Peacebuilding*, (Earthscan, 2012), p. 192; C. Wright,

often highlighted the narrowness of the KP's conflict diamond definition. However, while this growing human rights emphasis was something of a departure from prior critiques, which tended to embrace orthodox KP formalisation language and assess regulatory efficacy, this shift kept an emphasis on institutional rules and rule-maker interests.³³ These perspectives did not acknowledge the role of monitoring assemblages more powerful than rule-makers, their rules, and interests. Nevertheless, the institutional critique showed that rule-makers, their rules, and interests were crucial, and like Roth and Rodríguez-Garavito, these accounts sometimes pointed implicitly to a monitoring assemblage with disciplinary effects.

Commenting on the design of the KP, and pointing to the interests of key rule-makers, Virginia Haufler draws on an economic theory of 'clubs': institutions or rule systems that confer 'club goods', or benefits exclusive to members.³⁴ The KP offered a reputational benefit to industry and state members meeting its international standards, which required members to identify, certify, and audit rough diamonds from point of mining to point of export to ensure that these

'The Kimberley Process Certification Scheme: A model negotiation?', in Lujala and Rustad, *High Value Resources and Peacebuilding*, p. 186; J. A. Grant, 'The Kimberley Process at ten: Reflections on a decade of efforts to end the trade in conflict diamonds', in *The Global Diamond Industry: Economics and Development Volume II*, (Palgrave Macmillan UK, 2015), p. 176; A. P. Jackobi, 'Governing War Economies: Conflict Diamonds and the Kimberley Process', in A. P. Jackobi and K. Wolf (eds.), *The transnational Governance of Violence and Crime*, (Palgrave Macmillan, 2013), pp. 99 - 100; H. Cullen, 'Is there a Future for the Kimberley Process Certification Scheme for Conflict Diamonds?' *Macquarie Law Journal*, 12 (2013), p. 61; J. A. Grant, 'Commonwealth cousins combating conflict diamonds: an examination of South African and Canadian contributions to the Kimberley Process', *Commonwealth & Comparative Politics*, 51:2 (2013), p. 227; and J. A. Grant, 'Consensus dynamics and global governance frameworks: insights from the Kimberley Process on conflict diamonds', *Canadian Foreign Policy Journal*, 19:3 (2013), p. 334.

³³ For examples of pre-Marange crisis institutional KP critiques that emphasize formalisation without acknowledging the institution's limited human rights scope, see I. Tamm, 'Diamonds in Peace and War: Severing the Conflict-Diamond Connection', *WPF Report* 30, 2002; C. Wright, 'Tackling conflict diamonds: the Kimberley process certification scheme', *International Peacekeeping*, 11:4 (2004); J. A. Grant and I. Taylor, 'Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems', *The Round Table*, 93:375 (2004); D. L. Spar, 'Continuity and Change in the International Diamond Market', *The Journal of Economic Perspectives*, 20:3 (2006); C. Jojarth, *Crime, War, and Global Trafficking: Designing International Cooperation*, (Cambridge University Press, 2009), pp. 181 - 220.

³⁴ M. Potoski and A. Prakash, 'Voluntary Clubs: An Introduction' in M. Potoski and A. Prakash (eds), *Voluntary Programs: A Club Theory Perspective*, (MIT Press, 2013), p. 2.

stones did not come from warzones, because these standards raised the cost of trading conflict diamonds.³⁵ Haufler sees not only reputational benefit for KP members, but also the establishment of a new and 'improved' diamond cartel.³⁶ She repeats Deborah L. Spar's view that the KP was highly beneficial to De Beers, the multinational corporation that controlled the diamond trade for much of the 20th century and played a key role in the KP's launch.

According to Spar, while De Beers was increasingly unable to keep excess supply off the market and prevent new suppliers from entering the industry, the KP could achieve just this. Like a cartel, the KP restricted supply and fortified the position of the large, established players, keeping 'the warlords and the small diggers and the shady traders out of the acceptable stream of commerce', as well as imposing 'costs (for tagging, monitoring and auditing) that make it even more difficult for new or smaller players to enter the global market.'³⁷ In this view, formalisation, or increasing state regulation of the rough diamond trade with the cooperation of industry leaders, was what the KP was all about, in both the rules its core policy document set out for members, and in how these rules were put into practice. Both the 'licit' and 'illicit' diamond trades were increasingly policed, purportedly to stifle conflict diamond trade, and perhaps with some success, but certainly also some success in the tacit reconsolidation of an ailing cartel. Indeed, as Susan Falls pointed out, the KP emerged out of an interplay, an unlikely ideological convergence, between states,

³⁵ V. Haufler, 'The Kimberley Process, Club Goods, and Public Enforcement of a Private Regime', in *Voluntary Programs: A Club Theory Perspective*, p. 90.

³⁶ V. Haufler, 'The Kimberley Process Certification Scheme: An Innovation in Global Governance and Conflict Prevention', *Journal of Business Ethics*, 89 (2010), p. 413.

³⁷ Spar, 'Continuity and Change in the International Diamond Market', p. 206.

corporations, and NGOs, who despite seeming at odds, advanced parallel neoliberal agendas, strengthening existing political and economic structures.³⁸

The strategic alignment that underlay the founding of the KP amounted potentially to much more than the effects intended, as I show. I argue that there is a need to recognise that while KP rule-makers, particularly government and industry actors linked to the diamond cartel, were highly influential, what they cultivated was something larger than each of them, particularly as De Beers' dominance waned. Indeed, while these actors exercised some control over the cartel monitoring assemblage, this assemblage also exercised control over them. This control was extended through the KP, not least of all through the increased intervention of regulatory state machinery that the organisation brought about, and which civil society representatives gained oversight of. Thus, a powerful new monitoring assemblage arose, producing disciplinary power that was not easily tempered by influential state and industry actors.

The De Beers diamond cartel of the 20th century is striking as an example of an emerging assemblage that evolved and propagated itself over time, arising out of an increasingly manifold set of alignments, of coordinated actions and interests. Commenting in 1994, Spar attributes De Beers' continued dominance over the cartel to 'the vast cooperative arrangement over which De Beers presides and the discipline that it has been able to impose on all its members.' How did such discipline operate? As Spar continues,

It is an intricate network of production quotas, quality controls, and stockpiles. It is a formidable system of fixed prices and controlled distribution. It is an incredible array of rules and regulations, rarely violated and meticulously enforced. Most of all,

³⁸ S. Falls, 'Picturing blood diamonds', *Critical Arts: South-North Cultural and Media Studies*, 25:3 (2011), p. 441.

however, the diamond cartel is a staggering edifice of cooperation: it works because its members play by the rules of the game, resisting the temptations of defection and keeping their own sales within strictly defined limits.³⁹

Spar places too much emphasis perhaps upon cooperation as a choice, and not enough on cooperation as an action that actors were disciplined into. The signs of discipline are abundant in her description, however, in all the information that was clearly produced about each cartel member, and that could be used to intervene in that member's affairs. These arrangements pointed to the relationship Foucault sees between power and knowledge, and, specifically, to the monitoring assemblage of a reconstituted cartel in the 21st century, manifested in part through the KP and the underlying strategic alignment that developed between international NGOs and the governments and companies of the cartel. Members of the cartel and KP offered themselves as objects of knowledge to the overlapping cartel and KP assemblages, for these catered to their needs, providing access to profits from the legitimate 'licit' trade, and because they would be punished if they did not. But there would be effects they did not anticipate.

Developing out of the cartel's monitoring assemblage, and then the KP assemblage, disciplinary power advanced and reproduced itself by shaping knowledge production. Thus, the KP came to exercise disciplinary power over participants in the process of producing knowledge about them. State and corporate members exposed themselves to the KP's monitoring assemblage, benefiting by doing so, but at the same time became part of it, reproducing its orthodox formalisation discourse and the regulatory, 'licit' norms thereof. This operation of power was especially evident in what the KP required of state participants. Each

³⁹ D. L. Spar, *The Cooperative Edge: The Internal Politics of International Cartels*, (Cornell University Press, 1994), p. 52.

participant was expected to: establish a system of internal controls ‘designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory’; ensure rough diamonds were imported and exported in tamper resistant containers; ‘amend or enact appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions’; and ‘collect and maintain relevant official production, import and export data, and collate and exchange such data.’⁴⁰ Through these internal controls, participants had to ensure no shipment of rough diamonds was imported from or exported to non-participants. They were asked to encourage, through their relevant authorities, a closer cooperation with law enforcement agencies and with customs agencies of other participants. If they found another participant’s regulations and practices fell short of ensuring the absence of conflict diamonds in that participant’s exports, they were expected to inform that participant through the KP Chair.

These requirements were all KP rules, codified in the core KP policy document. Their making, implementation, and the interests underlying them have attracted much scholarly attention. What is lacking in these analyses, however, is the recognition that these rules were the expression of an advancing monitoring assemblage that was manipulated and driven by powerful rule-maker interests, but never altogether controlled by these interests, nor by the rules that were made. With the advent of the Marange crisis, and a new western strategic alignment that put unprecedented emphasis upon human rights concerns within the KP, commentators in academia and elsewhere gave much more attention to the conflict diamond

⁴⁰ Kimberley Process, ‘Kimberley Process Certification Scheme’, p. 7.

definition, and the rule-maker interests that first made the definition part of the rules, and then obstructed its reform. Yet, the ongoing effects of disciplinary power continued to go largely unrecognised in the institutional critique.

Since government and industry actors linked to the cartel were among the KP's most influential rule-makers at the outset, it was not surprising that the KP offered them reputational benefit, and the creation of new, defensive cartel entry barriers, as well as a conflict diamond definition that protected them. In its only mention of 'human rights', the KP's core policy document decried 'gross human rights violations' committed in conflicts fuelled by the trade of conflict diamonds. This solitary mention was confined to the document's preamble, and the conflict diamond definition it went on to use in the instructions it gave to state participants referred only to rebel movement violence, thereby implying that rebels were the only possible violators of human rights. As I argue in the following chapter, the KP was not originally a human rights organisation: human rights received this solitary and tokenistic reference, but no presence in any KP policy requirements, nor in the formalising KP practices subsequently implemented. Not until the Marange predicament, did human rights make a significant entrance. This change could not be reduced to the detail and implementation of KP policy. Rather, it was brought about through knowledge the KP assemblage produced, knowledge production that was driven by a new strategic alignment at the KP, given meaning using a human rights language that was novel to the KP, and giving rise to disciplinary effects upon actors connected to the KP assemblage.

Scholars who focussed on rule-making, rule-implementation, and rule-maker interests were hard-pressed to see this disciplinary shift. The legal scholar Lesley Wexler's thorough

investigation into the KP's regulatory scope was a case in point. Her observations were replete with indications of a monitoring assemblage, and the disciplinary regime it gave rise to, yet by her own admission her focus was on 'organizational design and development', and offered 'scant evidence of the Kimberley Process's ability to change the market'.⁴¹ Turning towards rule-making and interests, she offered two possible narratives to explain the KP's narrow regulatory scope.

Firstly, a sceptical narrative hypothesized that the KP allowed governments to keep a monopoly over legitimate use of force. Simultaneously it facilitated 'a cartel's ability to whitewash its involvement in diamond-related abuses while creating expensive barriers to entry for new producers and while buying off general reform efforts to improve human rights conditions'. Any resulting human rights protection was 'a by-product of the institution, not its underlying goal'.⁴² Secondly, an optimistic narrative held that the initial adoption of a narrow mandate induced an international agreement that put a workable regulatory framework in place, thereby promoting good governance, while also paving the way for broader human rights concerns to be addressed in the long term. Wexler's findings 'complicate' the two narratives. She could not be sure which narrative was in the ascendant, but stated sceptically that the original rule-makers prioritised their own interests above human rights, while believing optimistically that 'evolving levels of institutional legalization' indicated potential for human rights progress.⁴³

⁴¹ Wexler, 'Regulating Resource Curses', p. 1775.

⁴² *Ibid*, p. 1731.

⁴³ *Ibid*, p. 1779.

These deepening levels of institutional legalization were, I argue, extensions of an advancing monitoring assemblage, cultivated by a tenuous founding strategic alignment of rule-makers who could not predict exactly what would be made visible, nor what the repercussions would be. Making her case for deepening institutional legalization, Wexler points to the emergence of new KP reporting and review processes, which included three interlocking information mechanisms that monitored compliance.⁴⁴ First came a system of self-reporting that required participants to provide information on ‘relevant laws, regulations, rules, procedures and practices’ to other participants through the KP Chair, keeping this information updated.⁴⁵ This system also required participants to compile statistical data on imports, exports, and certificates issued, while encouraging them to regularly exchange ‘experiences and other relevant information, including on self-assessment, in order to arrive at the best practice’.⁴⁶ Second, and crucially, the KP later agreed to implement a peer review mechanism, where teams of representatives from other participants, the diamond industry, and NGOs, conducted reviews of participant countries to assess KPCS compliance. A Working Group on Monitoring (WGM) was established to administer these reviews. Participants could invite ‘Review Visits’, or more severe ‘Review Missions’ could be deployed where there were ‘credible indications of significant non-compliance’, provided the host country consented.⁴⁷ While optional at first, peer reviews became a periodic process that all countries were expected to undergo. No participant refusing a peer review could stay in the KP. Third, the KP allowed for a periodic review of the entire KPCS, the first of which was carried out in 2006. This third-year review observed that the thoroughness of review missions was varied, and

⁴⁴ *Ibid*, p. 1745.

⁴⁵ Kimberley Process, ‘Kimberley Process Certification Scheme’, p. 8.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*, p. 10.

recommended minimum standards for peer review teams, leading to a 17-page WGM 'checklist' to ensure adequate scrutiny of each country's internal controls.⁴⁸

In addition to the progression from self-review to peer review, Wexler noted enhancements to internal controls in the world's largest diamond wholesaler, the US, through the US KP Authority (USKPA), as well as new government and third party oversight of a warranty-based voluntary system of industry self-regulation set up to complement state participants' implementation of internal KP controls. She also observed progress in the form of an eventual decision to allow for enhanced public transparency of statistical data on diamond production and trade, and recommendations that amounted to a partial inclusion of cut diamonds in the KP's coverage. These developments all fed into a broadening of the KP's monitoring scope, in which continuing pressure from KP civil society actors was a key driver.

Wexler was unsure about underlying intent among those party to the KP's founding strategic alignment, whether some had hidden human rights objectives before the Marange predicament arose, but she saw in this broadening regulatory scope a growing potential to address human rights concerns. However, she went on to observe that this potential went unfulfilled due to institutional rules already in existence, and the use of these rules by Zimbabwean government KP delegates and their allies from other governments at the KP to block human rights policy reform. Broaching the Marange predicament, she noted growing human rights concerns within the peer review mechanism. As early as January 2009, a WGM group of experts issued a report decrying violence in Marange, as well as a burgeoning illicit

⁴⁸ Kimberley Process, 'Third Year Review', 2006, p. 37, and Kimberley Process Working Group on Monitoring, '2007 Checklist for KPCS Review Visits and Review Missions', 2007.

trade. A US-led Review Mission allowed into Marange later in 2009 amplified these concerns, and recommended that the KP suspend Zimbabwe's diamond exports and also consider temporarily suspending the country from the KP. Despite the willingness of some to substantiate human rights violations in Marange and a push for Zimbabwe to be sanctioned for them, Wexler pointed out that several states relied upon the KP's consensus-based decision-making policy to block condemnation of Zimbabwe's human rights violations and prevent its expulsion. This decision-making policy allowed only state participants to vote at the KP, and allowed just one state to veto a decision unless it pertained to that state's possible expulsion. The fact that the KPCS had not given clear directives on how to deal with non-compliance was also an aid to Zimbabwe and its allies.⁴⁹ These outcomes turned Wexler towards her sceptical account, towards serious concern with 'limitations on the ability to successfully push for the institution's expansion to address state initiated human rights violations.'⁵⁰ She did not observe that while the WGM experts and the Review Mission to Zimbabwe had no human rights policy mandate, they were nevertheless able to go to great lengths to facilitate a visibility of Zimbabwean state human rights violations in Marange. She did not consider the implications of a temporary suspension of Zimbabwe's exports of Marange diamonds, following the 2009 Review Mission. Nor did she emphasize the relative calm that emerged in Marange from 2009.

Most contributors to the institutional critique of the KP during and after the KP's Marange predicament joined Wexler in emphasizing the relationship between rule-maker interests and

⁴⁹ J. A. Grant, 'The Kimberley Process at ten: Reflections on a decade of efforts to end the trade in conflict diamonds', in R. Grynberg and L. Mbayi, *The Global Diamond Industry: Economics and Development Volume II*, (Palgrave Macmillan, 2015), p. 165.

⁵⁰ Wexler, 'Regulating Resource Curses', p. 1773.

the failure to bring about human rights policy reform at the KP. Holly Cullen was perhaps the most emphatic, questioning whether the KP had any future role. She pointed to divisions over how to deal with alleged state human rights violations committed against alluvial diamond miners in Zimbabwe, as an indication of the limits of the KP's consensus-based decision-making.⁵¹ She criticized the failure to reach consensus on expanding the conflict diamond definition to address the full range of human rights abuses potentially associated with diamond mining. In her view, the failure to reform the conflict diamond definition was 'an indicator of resistance to change' among a sizable bloc of government and industry actors, putting the KP in a precarious position after its first ten years of existence.⁵²

I argue that these critiques were about rule-maker interests, but particularly the interests of the strategic alignment that arose in support of Zimbabwe in response to the pro-human rights western strategic alignment. Rather than picking apart the politics of the western strategic alignment, the scrutiny in the literature was upon the pro-Zimbabwe strategic alignment, how it benefited from the KP's institutional rules, and the limits it thereby imposed upon the institutional rule-making that may have brought about human rights policy reform. Yet, there is a general neglect of disciplinary power, a failure to adequately recognise that while Zimbabwean state actors manipulated the KP to meet their ends, they were also disciplined because it made their human rights practices in and around Marange highly visible.

J. Andrew Grant, who has written extensively about the KP since its early years, makes observations that offer something of a counter-current. His observations point more clearly

⁵¹ H. Cullen, 'Is there a future for the Kimberley Process Certification Scheme for Conflict Diamonds?', *Macquarie Law Journal*, 12 (2013), p. 72.

⁵² *Ibid*, p. 77 and p. 79.

to an alternate conception of power, indeed the disciplinary power at the centre of this thesis. Firstly, Grant finds it remarkable, rather than predictable, that in 2009 the Zimbabwean government was successfully pressured into allowing a KP Review Mission into Marange, a team that included US, Canadian, and civil society actors, and which came to investigate reports of smuggling and human rights abuses.⁵³ While the Review Mission's subsequent recommendations that the KP consider suspending Zimbabwe from the KP were blocked, its findings still led to a temporary suspension of Marange diamond exports. Secondly, Grant notes that 'Zimbabwe has not only been able to better regulate its diamond sector but the government is cognisant that it is under the gaze of the international community in terms of human rights abuses in its diamond mining areas.'⁵⁴ Grant moves beyond the hints that Wexler's reference to broadening KP monitoring capacities gives. He shows a cognisance of how the KP facilitated a greater visibility of what the Zimbabwean state was up to in Marange, and how this appeared to have disciplinary effects. As I go on to argue in the chapters ahead, it was only possible to lift the KP suspension of Marange exports once Zimbabwean state actors exposed themselves to heightened KP monitoring, greatly reduced state violence in and around Marange, and ceased with state persecution of one of Marange's foremost local civil society human rights monitors. This state of affairs demonstrated disciplinary effects along the lines of certain global human rights norms.

While Grant is the exception, the institutional KP critique tends towards Hopgood's top-down legal-institutional perspective, and in so doing its findings reflect his arguments. Indeed, the failure to advance human rights law through an international organisation at the behest of

⁵³ Grant, 'Consensus dynamics and global governance frameworks', p. 332.

⁵⁴ Grant, 'Commonwealth cousins combating conflict diamonds', p. 227.

the US affirms Hopgood's view of weakened American influence and moral authority, and the waning influence of top-down Human Rights. I do not reject this view altogether, but I make the point that the global human rights monitoring assemblage and its disciplinary effects were in fact extended through the KP because of Marange. Zimbabwean state human rights violations in and around the diamond fields were rendered as knowledge objects, through knowledge production that was driven by a western strategic alignment and its collaboration with Zimbabwean civil society actors. Consequently, state violence and repression was curtailed in ways that would not have been possible had state activity in and around Marange been less visible to human rights monitoring. I am concerned in this thesis with explaining why these disciplinary effects came about, and how they can be shown.

DIAMONDS AND CRISIS IN ZIMBABWE

The second literature that offers a critique of the KP comes from several Zimbabweanist scholars. The Zimbabweanist critique, as I call it, offers a textured account of the damaging social impact of KP-assisted formalisation in Marange from 2009 onwards. This critique cannot be adequately addressed, however, without a contextualising outline of Zimbabwean post-2000 politics. As we see in this contextual section, the KP's orthodox formalisation discourse could dovetail with a parallel process of Zimbabwean formalisation, wherein state control over commodity sectors was heightened. As this section also notes, while Zimbabwe's ruling party rejected human rights as a western neo-colonial imposition, Zimbabwean opposition and civil society actors would be especially receptive and in some instances propagative of the human rights discourse that infused the KP monitoring assemblage as it was oriented towards Marange. Thus, this Zimbabwean political context is also essential as a

backdrop to later chapters, and particularly the western interventions that would be made through the KP.

There is a scholarly consensus that, from 2000, Zimbabwe entered a protracted period of crisis. A damaging disruption of economic, cultural, social, and political life marked this period, during which the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) put its status as a legitimate government in serious question, overseeing the stifling of its citizens' rights with a chain of impositions. These included:

an effective merging of party and state, politicisation and cooptation of the army, police and intelligence agencies ... undermining of the independence of the judiciary; normalisation of violence and the social production of terror ... while reinforcing a culture of impunity; rejection of accountability to both domestic and international standards of justice and human rights; severe constraints placed on the independent media and on civil society more generally through both legal and extra-legal means; denial of democratic rights to the majority in terms of freedom of information, association and expression, the holding of free and fair elections, and equal protection under the law; denial of economic and social rights to many through the withholding of public and even private resources.⁵⁵

Resource-based conflict was central to this broad crisis from the outset. Following an unprecedented referendum loss in February 2000, and just before a serious electoral challenge to ZANU-PF in June, a series of nationwide 'invasions' of largely white-owned farms began to occur, spearheaded by ZANU-PF, war veterans, and security forces. Redistribution of land was put under the partisan control of a number of new party, veteran, traditional, and state institutions, undermining the bureaucratic state that preceded them, and ensuring that expropriated land was passed largely on to those showing allegiance to ZANU-PF. In the

⁵⁵ A. Hammar and B. Raftopoulos, 'Zimbabwe's Unfinished Business: Rethinking Land, State and Nation' in A. Hammar, B. Raftopoulos and S. Jensen (eds) *Zimbabwe's Unfinished Business: Rethinking Land, State and Nation in the Context of Crisis*, (Weaver Press, 2003), p. 31.

manner of a Gramscian ‘passive revolution’, certain ruling class interests were protected through a transformation of economic relationships to include and enrich several other supportive parts of society.⁵⁶ Violent displacements were legitimised by an exclusionary discourse of ‘Patriotic History’, proclaiming the continuity of a Zimbabwean revolutionary tradition, and the indisputability of ZANU-PF as its guardian. The history of Zimbabwe’s liberation struggle was distilled to emphasize the regaining of land from colonial settlers, drawn into a patriotic narrative of Zimbabwe’s ongoing struggle for sovereignty against the moral and economic imperialism of the west.⁵⁷ This championing of land redistribution shunned the western-backed opposition party the Movement for Democratic Change (MDC) and its civil society allies, condemning their prioritizing of human rights over economic redistribution as the consequence of illegitimate western interventionism.⁵⁸

As the first decade of the new millennium wore on in Zimbabwe, the devastating economic effects of land reform, international isolation, and hyperinflation were increasingly felt, leading many to turn to the informal economy for survival. Facing a loss of legitimacy and support, ZANU-PF took to promoting the ‘indigenisation’ of the country’s resources, broadening the focus on land redistribution, and leading to the 2007 Indigenisation and Economic Empowerment Act, which decreed that control and majority ownership of foreign-owned companies in Zimbabwe be transferred to black Zimbabweans. It was just prior to this Act that Marange’s shifting fortunes surfaced as a key facet of Zimbabwe’s future. As Brian

⁵⁶ B. Raftopoulos, ‘The Global Political Agreement as “Passive Revolution”: Notes on Contemporary Politics in Zimbabwe’, *The Round Table*, 99:411 (2010), p. 707.

⁵⁷ B-M. Tendi, ‘Patriotic History and Public Intellectuals Critical of Power’, *Journal of Southern African Studies*, 34:2 (2008), p. 379.

⁵⁸ B. Raftopoulos, ‘The 2013 Elections in Zimbabwe: The End of an Era’, in J. Alexander, J. McGregor, and B-M. Tendi, *Politics, Patronage and the State in Zimbabwe*, (Weaver Press, 2014), p. 973.

Raftopoulos lamented, 'Broader struggles for indigenisation of the economy, and in particular the looting of the large diamond deposits in the Chiadzwa area [where the Marange fields were located], have added another dimension to the militarisation of the state, the terror of the population and the crude accumulation of the elite.'⁵⁹

Marange was plagued by intermittent instability from 2006, when the wealth strewn across its 66,000-hectare expanse first began to attract widespread attention. That year, Zimbabwe's Ministry of Mines and Mining Development revoked the claim of African Consolidated Resources (ACR), a British-registered company with white Zimbabweans at its helm, which had controversially superseded De Beers Prospecting (Debzim) in the area, as we shall see in Chapter Three. Despite ACR's legal proceedings against it, government officials visiting Marange publicly invited informal miners to be a part of indigenization and mine the land, provided they sell their rough diamonds to the parastatal Minerals Marketing Corporation of Zimbabwe (MMCZ). A chaotic diamond rush ensued, as tens of thousands flocked to the fields. A black market began to flourish, undercutting a cash-strapped MMCZ. Government responded from 2007 with increasing violence, attempting to exert control. The violence peaked in 2008 with Marange's 'militarization', as the Zimbabwe National Army (ZNA) joined the Zimbabwe Republic Police (ZRP) in the area, while the country reached a political and economic nadir.

In the midst of a rallying of opposition political forces, and sustained punitive international measures, ZANU-PF was accused of using extreme violence to 'win' the re-run of a

⁵⁹ Raftopoulos, 'The Global Political Agreement as "Passive Revolution"', p. 707.

presidential election, while human development indicators fell to unprecedented levels.⁶⁰ As David Towriss argues, Marange was a crucial asset to ZANU-PF in 2008, buying the loyalty of security forces whose violent support helped the party survive, despite defeat in the parliamentary elections and first round of the Presidential vote. The ZANU-PF politicians who facilitated illicit security force accumulation in Marange, the methods implemented, and the major beneficiaries that emerged, all suggested parallels with earlier forms of security force accumulation, through land reform, but also the ZNA's participation in the Second Congo War, where it aided the Kabila regime from 1998, while also exploiting local gold, timber, and diamonds.⁶¹

As Richard Saunders observed, with the growing incorporation of black market trade by security forces in Marange, 'networks of security-linked trading "syndicates" emerged involving illegal miners, traders, and security personnel', subsumed gradually into transnational, 'thickly-woven political-security-business networks, cemented through corrupt forms of accumulation' over decades.⁶² Norma Kriger made similar observations, about informal ZANU-PF networks of patronage and violence, arguing that they were hierarchically expansive, and reached into and beyond state institutions, amounting to a 'parallel government'.⁶³ These forms of party and state control were increasingly prominent between 1998 and 2008, and were, according to Kriger, rooted in opportunities that certain political

⁶⁰ United Nations Development Programme, *Human Development Report 2010: The Real Wealth of Nations: Pathways to Human Development*, (New York, 2010), p. 27.

⁶¹ D. Towriss, 'Buying Loyalty: Zimbabwe's Marange Diamonds', *Journal of Southern African Diamonds*, 39:1 (2013), p. 113 & p. 116.

⁶² R. Saunders, 'Geologies of Power: Conflict Diamonds, Security Politics and Zimbabwe's Troubled Transition', in R. Saunders and T. Nyamunda (eds), *Facets of Power: Politics, Profits and People in the Making of Zimbabwe's Blood Diamonds*, (Weaver Press, 2016), p. 17 and p. 24.

⁶³ N. Kriger, 'ZANU-PF politics under Zimbabwe's 'Power-Sharing' Government', *Journal of Contemporary African Studies*, 30:1 (2012), p. 12.

and military elites uncovered in the DRC, in the expropriation of land and mines, privatization of violence, and the succession battle inside ZANU-PF. While intra-party conflict was rife, helping to spawn these networks, a unifying need to keep the MDC-T from taking control held them together. However, their economic survival also came to depend increasingly upon a simultaneous process of 'formalisation' that Kriger does not discern, one in which Marange's future would figure centrally. This formalisation process re-established and extended state control over key commodity sectors, in certain cases such as Marange's with the aid of foreign capital. ZANU-PF and later the KP depicted new forms of predatory elite accumulation as a restoration of the 'licit' economy. Indeed, this exclusionary Zimbabwean state strategy would fit well with the ends the cartel sought to achieve with KP entry barriers.

Despite maintaining *de facto* rule, a dwindling of legitimacy forced ZANU-PF in September 2008 into an interim power-sharing deal with the two Movement for Democratic Change (MDC) factions, MDC-Tsvangirai (MDC-T) and the smaller MDC-Mutambara (MDC-M), at the behest of the African Union (AU) and the Southern African Development Community (SADC). In October 2008, the ZNA joined the ZRP in Marange as part of Operation Hakudzokwi ('you will not return'), leading to the alleged killing of over 200 people, as I explore at length in Chapter Four.⁶⁴ Despite this horrific escalation of state violence in Marange, January 2009 saw the emergence of a so-called Inclusive Government (IG) that would reinforce the ruling party's advantage. ZANU-PF incumbent Robert Mugabe retained his position as President, and the MDC-T's Morgan Tsvangirai became Prime Minister. Control of ministries was split across the three parties, yet with the exception of the Finance Ministry, which was put under

⁶⁴ Human Rights Watch, 'Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields of Zimbabwe', June 2009, p. 28.

the control of the MDC-T's Tendai Biti, ZANU-PF kept control of the key ministries, not least of all the Ministries of Defence and Mining.

As Jocelyn Alexander and JoAnn McGregor reflect, rather than a basis for democratic transition, the IG offered ZANU-PF the political space it needed to restore its authority.

Economic formalisation was vital to this process:

Edging back from a situation of acute loss of legitimacy during the nadir of 2008, ZANU-PF has been able to formalise partisan regulation over land and mineral resources, thereby consolidating control over earlier patterns of chaotic survivalism. This has been done in various ways: in some instances through military intervention, as in the diamond fields, and in others through building control through (partisan) state authorities. Violence and coercion was part of this process, but so too were systems of surveillance and state regulation that created insecurity and promoted compliance, with the threat of material punishment constituting a powerful inducement to perform political loyalty to ZANU-PF.⁶⁵

The causes of ZANU-PF's outright victory in the July 2013 general elections were complex. While there was little in the way of overt violence, there was evidence of extensive coercion, intimidation, and fraud.⁶⁶ Faced with a divided MDC-T lacking in campaign funds, ZANU-PF and the military united under Mugabe, and were determined to regain the electoral legitimacy lost in 2008.⁶⁷ The party rebuilt membership, blocked democratic reforms the SADC demanded, and appealed with good effect to Patriotic History, indigenization, and peaceful elections, while continuing to reject human rights norms and their institutions as western imperialism. ZANU-PF's campaign was well-funded, which together with its internal

⁶⁵ J. Alexander and J. McGregor, 'Introduction: Politics, Patronage and Violence in Zimbabwe', *Journal of Southern African Studies*, 39:4 (2013), pp. 758 – 759.

⁶⁶ See Solidarity Peace Trust, 'The End of a Road: The 2013 Elections in Zimbabwe', October 2013, Appendix Six.

⁶⁷ P. Zamchiya, 'The MDC-T's (Un)Seeing Eye in Zimbabwe's 2013 Harmonised Elections: A Technical Knockout', *Journal of Southern African Studies*, 39:4 (2013), p. 955, and B-M. Tendi, 'Robert Mugabe's Presidential Election Campaign', *Journal of Southern African Studies*, 39:4 (2013), p. 963.

cohesiveness, pointed to influential patronage economics furthered through processes of formalisation of which Marange and the KP were part.

FORMALISATION AND ITS DISCONTENTS

The Zimbabwean political context that surrounded the KP's intervention in Marange gives much credibility to the condemnations that certain Zimbabweanist scholars have directed at the KP for its socio-economic impact upon Zimbabwe. The Zimbabweanist critique questioned the limited scope, negative impact, and dubious motives of the KP's intervention in Marange. These scholars pointed to exclusionary cartel-like machinations operating through the KP, and enmeshing with the Zimbabwe situation to prolong the debilitating rule of a predatory elite. These views often carried a scepticism towards the human rights talk that circulated at the KP following state violence in Marange, a discourse that emphasized physical violence perpetrated against civilians much more than associated forms of socio-economic violence, such as displacement, loss of local livelihoods, and theft of public mining revenues. The Zimbabweanist critique focussed on the language and practice of KP-assisted formalisation in Marange and how it dispossessed Zimbabweans. It challenged ZANU-PF's hollow appeals to economic rights, and endeavoured to win this ground back for opposition politics. My approach to this critique is twofold. Firstly, I recognise its importance, allowing it to provide a vital qualification to my observations about disciplinary power. Secondly, however, I point out that it does not adequately identify the workings of disciplinary power, and the impact this power had in reducing state violence in Marange, as well as in deterring other civil and political rights abuses such as the persecution of civil society actors.

In a notable contribution to this literature, Patrick Bond and Khadija Sharife observed the looting by political, corporate, and military elites in Marange, the displacements and state violence there, how violent elite accumulation was followed by due diligence approvals granted from 2009 to mining companies based in secret jurisdictions, and the fact that the KP went on to certify Marange's diamonds. They questioned whether the KP 'was constructed for the purpose of eliminating corporate and state-sanctioned exploitation, or for normalising and sanitising it'. They asked

whether the KP was devised simply to protect the partnership preserving control of the diamond market through 'single channel' pipelines, ensuring artificial scarcity, between then-market leaders De Beers and the bulk of the world's rough diamond producers, primarily in Africa.⁶⁸

Bond and Sharife found it particularly suspicious that the KP's conflict diamond definition omits 'the world's primary agents of "conflict": governments', as well as mining corporations that may pair with governments in developing countries to extract diamonds.⁶⁹ Indeed, they reflected the institutional critique's concerns around the KP's original rule-makers and their interests, yet their main concern was with the impact upon Zimbabwe. Marange's diamonds could not be classified as conflict diamonds, paving the way for an 'open diamond pipe' despite the country's 'clogged political drain'. Certainly, citizens were subjected to physical state violence, but there was also socio-economic violence, as artisanal miners were denied a right to mine in Marange, and local communities were forcefully evicted, while state control over the mining deposit and the disappearance of diamond revenues raised grave social justice concerns around the distribution of wealth and economic opportunities in the country.

⁶⁸ P. Bond and K. Sharife, 'Zimbabwe's clogged political drain and open diamond pipe', *Review of African Political Economy*, 39:132 (2012), p. 361.

⁶⁹ *Ibid.*

For Richard Saunders, another significant writer on Marange, the diamond field led to a 'problematic model of alluvial diamond management', a 'highly functional, lucrative regime' that 'formalisation of mining in Marange in 2009' brought about:

On the one hand, regular access to international diamond markets was secured via a degree of legalisation which met the KP's minimum standards; on the other, the process of mine licensing created opportunities for elite predation by various means, including the establishment of stealth partnerships in mining ventures, participation in parallel markets and multiple forms of tax evasion.⁷⁰

In Saunders' view, the KP became an accessory to formalisation processes that helped to keep ZANU-PF afloat, thereby further prolonging Zimbabwe's political crisis.

This view found traction with Samuel J. Spiegel, who held that conflict diamond discourses served economic interests among both Zimbabwean and global elites from 2006 to 2013, 'contributing to an exclusionary form of capitalism that marginalized artisanal miners'.⁷¹ Spiegel opposed scholarly reviews of the KP that celebrated it as a breakthrough in socially-responsible mining, and an innovation in global governance towards conflict prevention. He engaged with a growing body of literature in the discipline of geography, which questioned the ethical and political foundations of initiatives that brand commodities as 'fair trade' or 'conflict free'.⁷² Spiegel contributed to a growing scepticism towards global commodity certification schemes that reproduce inequalities rather than promoting social justice, and which, in the case of Marange and the KP, conjoined symbiotically with the authoritarian control tactics of the Zimbabwean state. Spiegel's scepticism extended to the human rights advocacy that came to circulate increasingly at the KP in the wake of Operation Hakudzokwi,

⁷⁰ R. Saunders, 'Introduction: The Many Facets of Marange's Diamonds', in *Facets of Power*, pp. 2 – 3. Legalisation refers to several Zimbabwean laws that were adjusted to meet minimum KP requirements, including the Mines and Minerals Act, Precious Stones Trade Act, Exchange Controls Act, and others.

⁷¹ S. J. Spiegel, 'Contested diamond certification: Reconfiguring global and national interests in Zimbabwe's Marange fields', *Geoforum*, 59 (2015), p. 259.

⁷² *Ibid*, p. 258.

because it highlighted physical, violent acts of human rights abuses by soldiers, while neglecting the broader socio-economic 'rights of artisanal miners and marginalized communities to pursue their livelihoods.'⁷³ Indeed, he pointed out that during the KP's Marange predicament, 'advocacies *against* diamond certification as well as advocacies *favouring* certification *both* tended to overlook the interest of artisanal miners, focusing narrowly on certain forms of conflict while associating artisanal mining with illicitness.'⁷⁴

For Spiegel, the discourses that arose in the KP and around Marange obscured the complexity of conflicts in contemporary capitalist accumulation processes. Specifically, he criticized KP civil society's narrow interpretation of human rights as first generation political and civil rights. Saunders echoed this view in his introduction to the first academic book entirely dedicated to Marange's politics, entitled *Facets of Power: Politics, Profits and People in the Making of Zimbabwe's Blood Diamonds*. According to Saunders, the book

aims to contribute to the growing literature on African alluvial conflicts by expanding the focus of analysis beyond the frame of weaponised violence and intra-state clashes, to include a range of contestations among multiple interests. As the authors here illustrate in multiple ways, the absence of war and resource-fuelled political violence does not suggest the absence of conflict - or for that matter, that the conditions for resource-based 'development' are in place.⁷⁵

As Saunders explained, the scope espoused in *Facets of Power* concerned economic disputes that may not be militarized, that may be largely administrative or bureaucratic, yet lead to such injustices as forced displacement, the abrogation of cultural rights, or the private capture of public revenues. An adjunct of this work was consideration of the 'shortcomings of international regulatory bodies in coming to terms with new anti-development models of

⁷³ *Ibid*, p. 265.

⁷⁴ *Ibid*, p. 258.

⁷⁵ Saunders, 'Introduction: The Many Facets of Marange's Diamonds', p. 11.

extraction led by “legitimate” governments’, particularly considering ‘the increasing prominence of such weaknesses within organisations like the KP.’⁷⁶ A range of criticisms of KP shortcomings followed in the collection, all of which helped to spell out the clear limitations of the human rights language that prevailed across the KP’s monitoring assemblage as it became involved in Marange, a language that focussed for the most part on first generation civil and political human rights.⁷⁷

The dominant view in *Facets of Power* was well-expressed elsewhere by Spiegel, who observed the deployment of a ‘discourse of securitization’ in the KP’s handling of Marange, a discourse that ‘obscured the conceptual distinction between spaces of *regulation*, where norms for promoting legitimate mining could be distinguished and enforced, and spaces of *dispossession*, where certain classes of small-scale producers could be systematically excluded.’⁷⁸ This notion of dispossession could be extended beyond small-scale producers, to local communities, and towards a national citizenry. It also bore much resemblance to the orthodox KP discourse of formalisation, which appealed to regulation, to keeping the trade ‘clean’ by keeping it ‘secure’ or ‘licit’, but amounted to excluding many smaller players by reconstituting cartel entry barriers.

⁷⁶ *Ibid.*

⁷⁷ For example, see T. Nyamunda, ‘“Free-for-All”? Artisanal Diamond Mining and Economic Redistribution on the Edges of the State, 2006-2008’, p. 113; M. Ruguwa, ‘The Social Impact of Diamond Mining on Schools in Marange, 2006-2013’, p. 155; C. Madebwe and V. Madebwe, ‘Forced Removals and Hidden Power: Involuntary Displacement and Resettlement in Marange’, p. 169; M. Chiponda and R. Saunders, ‘Holding Ground: Community, Companies and Resistance in Chiadzwa’, p. 197; A. Martin, ‘Reap What You Sow: Corruption and Greed in Marange’s Diamond Fields’, p. 50; F. Maguwu, ‘Marange Diamonds and the Kimberley Process: An Activist’s Account’, p. 104; and S. Mtisi, ‘Enforcer or Enabler? Rethinking the Kimberley Process in the Shadow of Marange’ p. 87.

⁷⁸ Spiegel, ‘Contested diamond certification’, p. 259.

It was of little surprise that the KP's formalisation discourse interlocked so smoothly with the Zimbabwean state's own tailor-made equivalent, and its tacit mechanisms of socio-economic violence. The implications, set out most comprehensively in *Facets of Power*, are damning. The call in Saunders' epilogue, to go back to the beginning, to search out 'a meaningful, transparent, actionable account of the recent past' to chart the best way forward, remains vital, and must surely bring a focus toward the webs of complicity that reach with such opacity into the KP.⁷⁹

However, as I argue, this retrospection should be careful not to neglect the disciplinary power that was exercised through the KP in the name of human rights, and what effects this had. This thesis is ultimately about the disciplinary effects of human rights monitoring, about powerful assemblages that reached into and extended outwards through the KP because of Marange. Shamiso Mtisi's somewhat anomalous position in *Facets of Power* had strong parallels with Grant's anomalous position within the institutional critique. Both observed disciplinary power. Mtisi's observations in this regard provide a clear direction for further exploration. As he wrote,

While some observers have questioned the impact of civil society monitoring in addressing government's human rights abuses in 2008 and beyond, it can be argued that the simple act of noting and including such abuses in review mission reports acted, to some extent, to deter the government from committing further atrocities after 2010. In Zimbabwe this seemed clear: whenever a KP Review Mission or monitoring team visited, government was prompted to create an impression of peace and order in the diamond fields. Some have argued that this demonstrated that the KP's global regulatory authority and influence could, in some cases, act as a checking mechanism against states violating its standards.⁸⁰

⁷⁹ R. Saunders, 'Epilogue: Back to the Beginning...', in *Facets of Power*, p. 205.

⁸⁰ Mtisi, 'Enforcer or Enabler?', pp. 88 - 89.

Mtisi's repeated reference to human rights strongly suggested that by 'standards', he meant to include human rights norms, even if they were not written into the policy requirements of the KP's 'Core Document'. As his observations suggested, these norms, or at least the civil and political rights norms that ensured physical integrity, life, safety, and the right to participate in the political life of a nation, all became increasingly key to the practices of the Zimbabwean state with respect to its extraction of Marange diamonds. State violence in Marange decreased markedly after late 2008, and the KP outcry that Operation Hakudzokwi had elicited. Furthermore, the Zimbabwean state was obliged through the KP to be more accommodating of local civil society monitoring efforts in and around Marange, after huge censure was directed at it in the KP for the persecution of Zimbabwean civil society activist Farai Maguwu in 2010. Much of the Zimbabweanist literature that appraises the KP does not acknowledge these disciplinary effects, because the focus is on a language and practice of formalisation that reproduced cartel entry barriers and dispossessed Zimbabweans.

METHODOLOGY AND CHAPTER OUTLINE

A useful means of uncovering the operation of disciplinary power over time, and seeing how it constrained and enabled actors, and how actors reproduced it and sought to manipulate it, is a text-driven methodology built upon a close examination of influential texts gathered through primary research. While I draw upon numerous texts to provide detail that is uncontentious, the influential texts that I focus on are often contentious, and are analysed above all as productions of knowledge, which reproduced and manipulated disciplinary power, thereby shaping the KP's origins, early years, and later encounters with Marange. What emerges is a 'thick' history of the KP monitoring assemblage, which traces how its disciplinary power developed out of the diamond cartel and blood diamond campaign, and

advanced through the early KP years along orthodox formalisation monitoring lines, before taking on new meaning as a result of the predicament posed by Marange when it became partially subsumed within the monitoring assemblage of the human rights ecosystem.

This approach to texts has long been deployed by historians. A recent example is Luise White's *The Assassination of Herbert Chitepo*, which analysed a series of narrative texts that pronounced upon the murder of a prominent Zimbabwean nationalist in 1975. White maintained she was 'in pursuit of history, of how narratives about the past are produced and reproduced and how power is produced and reproduced by these narratives.'⁸¹ For White, evidence was a 'chronological production', the layers of which revealed 'an archaeology of the conflicts in which they were produced'.⁸² Texts and politics were entangled: 'Actions, and what is written about actors, are influenced by each other'.⁸³ I carry these insights about texts, politics, and power into the analysis ahead, which uses a text-driven method to illuminate the workings of disciplinary power, and a shifting monitoring assemblage.

The thesis draws upon a considerable range of texts, including: NGO reports, newsletters, public statements, and emails; UN reports and resolutions; the KP Core Document, other KP agreements, speeches given at KP meetings, end-of-meeting communique, KP Review Visit and Review Mission reports, and other monitoring mission reports; industry public statements, reports, and internal communications; US and Zimbabwean government internal

⁸¹ L. White, *The Assassination of Herbert Chitepo: Texts and Politics in Zimbabwe*, (Indiana University Press, 2003), p. 2; also see M-R. Trouillot, *Silencing the Past: Power and the Production of History*, (Beacon, 1995), pp. 46 – 58; and P. A. Cohen, *History in Three Keys: The Boxers as Event, Experience, and Myth*, (Columbia University Press, 1997), pp. 284 – 97.

⁸² *Ibid*, p. 10.

⁸³ *Ibid*, p. 15.

communications; geological texts; a movie script; and a plethora of articles in international, national, and local media. While many of these texts are publicly available, some were obtained through interviews held in England, South Africa, Zimbabwe and online. Approximately 70 interviews were conducted during this thesis research, with international and Zimbabwean NGO members, Zimbabwean lawyers, British, South African, Zimbabwean and US government officials, industry officials, geologists, journalists, and academics. While these interviews are not prominent in the thesis, they were vital stepping-stones in obtaining, contextualising, and picking apart the meaning and significance of texts under examination.

Such a great range of texts require different kinds of handling and interpretation, based on questions around authorship and audience. The thesis asks about the positioning of authors, as well as their audiences (both intended and unintended), what alignments they formed part of, sought to influence, or give rise to, and how alignments authorised and reproduce knowledge. It examines different techniques of knowledge production, such as framing, narrative construction, silencing, audience selection, and the rendering of targeted actors as visible objects of knowledge. It looks for the subsequent disciplinary effects, the changes in behaviour, the reproductions, and counter-productions. What emerges is a 'chronological production', as White calls it, wherein the agency of certain influential actors and strategic alignments, their intentions and adopted strategies, greatly influenced the advancement of disciplinary power over time, across such monitoring assemblages as the KP and the human rights ecosystem, even if the exact outcomes these key actors sought were never reached.

This text-driven methodology has weaknesses and strengths. Marange's past and present remain contentious topics, particularly in Zimbabwe, where the risks of approaching state

actors during fieldwork induced a greater focus on national and local civil society actors. This limitation also encouraged a greater reliance on texts, to gauge what different actors knew, what their motives were, and what strategies they adopted to pursue their interests. Yet, in time it became evident that texts were often a more reliable indicator of knowledge, motives, strategies, and interests than interviews. The interviews conducted took place years after the events they addressed, making it hard for interviewees to recall precise detail. Furthermore, new modes of thinking would at times supersede earlier modes. For example, international and Zimbabwean civil society actors often implied in interviews that prohibition of human rights violations was always a core KP tenet, when certain key texts that preceded the KP's Marange predicament, particularly international NGO reports and public statements, indicated that civil society actors in the KP had not always taken this position on human rights. Indeed, many of the texts drawn on have a contemporaneity with the events described that brings us closer to the entanglement of actions and what was written or spoken about actions. Thus, the methodology I adopt is very arguably the most apt means of plotting an accurate and detailed timeline of disciplinary cause and effect.

Chapter Two begins with an examination of the two seminal reports of the blood diamond campaign. These texts posed a reputational threat to the states and corporations of the diamond cartel, and to the marketability of diamonds, by reporting on industry efforts to source rough diamonds from rebel movements in Angola and Sierra Leone. I argue that the framing of these reports tacitly protected states and corporations, by painting rebel movements as the primary problem. I call this framing 'statist-corporatist', and point out that while it disciplined the cartel, it also initiated the start of a strategic alignment between international NGOs, industry, and governments. This alignment was based on a conflict

diamond definition that was statist-corporatist, omitted human rights concerns, and paved the way for the KP's initial emphasis upon formalisation, or a heightened state regulation of the trade that reconstituted the cartel.

The chapter then turns to the KP's early years. NGO reports are again the focus. They articulated growing levels of discontent among blood diamond campaigners-turned KP civil society representatives around the implementation of KP regulatory practices. I argue that KP civil society gained new leverage from the publicity threat of Hollywood's 2006 blockbuster *Blood Diamond*, but nonetheless kept to orthodox KP formalisation discourse, despite recent instances of African state violence connected to the trade. I hold that a human rights turn did not come at this stage, because for it to be effective, KP civil society actors needed a new strategic alignment that included at least some government and industry KP members. Marange would provide the requisite moment, but in the meantime, KP civil society continued to push for formalisation, which meant improved monitoring. These efforts advanced the KP's monitoring assemblage, normalised industry's heightened visibility, and made new forms of knowledge production possible, knowledge that was subject to different interpretations over time and thus unanticipated disciplinary effects.

Chapter Three turns the focus to Marange. It contrasts public and internal De Beers communications, as well as changing claims by head Zimbabwe KP delegate and Mines Minister from 2009 Obert Mpofu, concerning the 'discovery' of diamonds in Marange and the history of De Beers Prospecting Zimbabwe (Debzim) in the area up until Debzim's abrupt 2006 exit. In picking apart these texts, the chapter gives essential background to the predicament that developed at the KP from 2008. This textual analysis also locates the contentiousness of

the 'discovery' in the disciplinary effects of the KP's assemblage. It notes how actors reproduced these effects, but also tried to manipulate them by influencing what knowledge the assemblage produced. The chapter yields two insights on disciplinary power. Firstly, it shows how actors 'self-disciplined' because the KP monitoring assemblage rendered them as knowledge objects, or because they saw certain renderings of themselves as possible. Secondly, it shows the importance of agency, how certain influential actors could manipulate though not entirely control the orientation of the monitoring assemblage.

Chapter Four analyses texts produced in the wake of Marange's violent militarization. These texts were produced by KP civil society, the World Diamond Council (WDC), the KP's Working Group on Monitoring (WGM), and the KP as a whole. The chapter also considers local NGO reportage, the reports from the ensuing 2009 KP review mission to Zimbabwe, internal US communications from the Wikileaks 'Cablegate' files, and the Joint Work Plan (JWP) that set out a brief KP consensus on Marange in late 2009. Against the backdrop of the previous chapters, this chapter reveals a discursive shift in the KP towards human rights, propelled by a new strategic alignment between western governments, NGOs, and companies, which saw significant parts of the KP monitoring assemblage appropriated for human rights monitoring purposes. As internal US communications strongly suggest, a significant driver of the western strategic alignment was a US-led push to cut off ZANU-PF's Marange lifeline and effect Zimbabwean regime change.

A pro-Zimbabwe strategic alignment arose within the KP in response, and successfully blocked the western strategic alignment's calls for human rights policy reform. However, the western bloc succeeded in making Zimbabwean state human rights practices in Marange highly visible.

This harnessing of KP monitoring capacities posed a brinkman-like, reputational threat to the cartel and KP, the threat that ultimately it would be the market that exacted discipline, but the immediate pressure fell upon Zimbabwean state actors able to make this threat go away. As the KP's assemblage was oriented increasingly towards Marange, state violence declined in 2009, and Zimbabwean government delegates committed to a process of formalisation, demilitarization, closer KP monitoring, and a temporary suspension of Marange exports. While the phrase 'human rights' did not feature in the JWP's text, the western bloc could now use the KP's consensus-based decision-making arrangement to veto any resumption of these exports. And, like western KP actors had done before through the 2009 KP Review Mission, human rights concerns could be drawn upon once again to guide and give meaning to the KP's knowledge production, even though there was no KP policy language that mandated KP actors to do so. Exposed to increased KP monitoring, the Zimbabwean state 'self-disciplined' in and around Marange, so as not to provide the western bloc with new knowledge of human rights violations that could be used to block exports.

As we see in **Chapter Five**, this is exactly what the western bloc did the following year, after a momentary 'disciplinary lapse' on the part of the Zimbabwean state. The chapter centres on texts relating to the 2010 arrest and incarceration of Farai Maguwu, a local Zimbabwean NGO leader at the forefront of monitoring Marange. The texts include: fact-finding reports from a KP Monitor assigned to Zimbabwe under the JWP; a classified state document reporting on recent military activity in Marange, which the NGO leader handed to the Monitor, who then passed it on to Zimbabwean authorities, who then arrested him; a ream of email updates from the NGO leader's counsel, sent out to hundreds, many within the KP and human rights assemblages, and detailing the NGO leader's mistreatment at the hands of

the state; the texts of subsequent performances at the 2010 KP Intersessional in Tel Aviv, where certification of Marange exports was blocked; and the KP agreement reached soon after at an extraordinary Saint Petersburg summit in mid-2010, arranged to address the Tel Aviv stalemate reached over Marange after the NGO leader's arrest, and concluded at the summit a day after his release. The chapter shows how Zimbabwean KP delegates learned what kind of self-disciplining was required of them, following this lapse in an otherwise improving human rights record in and around Marange, at least along the lines of first generation civil and political rights. These delegates and their KP allies (the Monitor included) continued to resist human rights policy reform, but the lapse in discipline gave rise to new knowledge productions within the KP assemblage, which put the Zimbabwean delegates under pressure and fortified the positioning of the western bloc. ZANU-FP-state actors needed to control Marange violence, and allow for local civil society monitoring in Marange to be improved, before they could gain the leverage they needed to attain full certification in 2012, while conclusively blocking ongoing western calls for human rights policy reform.

The textual tracing of disciplinary power in this thesis, as it advanced from the diamond cartel assemblage, into the KP assemblage, and then through the subsuming of the KP assemblage into the wider assemblage of the much vaster human rights ecosystem, offers an important qualification to criticisms levelled at the KP for its human rights policy failings, and for its complicity in the social injustices of formalisation in Marange. This qualification also offers a response to the top-down, legal-institutional focus that Hopgood adopts in his critique of contemporary human rights. Indeed, while all three of these critiques make important contributions to their respective fields, there is a need to better acknowledge what happens to actors when they are rendered as knowledge objects, made visible by far-reaching

monitoring assemblages that draw on certain discourses and associated norms to give meaning to the knowledge they produce. Certainly, this disciplinary power is greatly influenced by powerful actors who can occupy influential positions within the alignments and strategic alignments that constitute assemblages. Yet, such actors are never wholly in control of the assemblages they help to constitute, nor can they anticipate how knowledge production and its discursive norms will shift.

BLOOD DIAMONDS AND CONFLICT DIAMONDS

The origins and early years of the Kimberley Process

And it is true that young people are in many cases attracted to a rebellion because they have grievances, many of them poignant and very genuine. But that does not excuse or explain butchery. Those who flocked to the Nazi party had grievances, as did the Hutu who killed their neighbours in Rwanda. Grievances were always ready on the lips of those who stole diamonds to pay for weapons.

Ian Smillie, *Blood on the Stone: Greed, Corruption and War in the Global Diamond Trade*, 2010.¹

INTRODUCTION

We are in pursuit of an understanding of power, hitherto neglected in the institutional and Zimbabweanist critiques of the Kimberley Process (KP), but also in Hopgood's outlook upon the future of human rights. And in this chapter, we are in pursuit of how and why this power first came to operate through the KP. This power was a 'disciplinary power', exercised through capacities to render actors visible, as objects of knowledge, and thereby discipline them according to norms prescribed in the language used to make them visible. I attribute such capacities to 'monitoring assemblages', systems of actors interacting and enabling each other through the common usage of such a language, which allows them to render other actors as knowledge objects and thereby discipline them as well as society more broadly according to the language's norms. I argue that the human rights ecosystem constituted such a system, and so did the KP albeit on a much smaller scale. In time, the two would become attached, but at its outset, the KP was something quite different.

¹ I. Smillie, *Blood on the Stone: Greed Corruption and War in the Global Diamond Trade*, (Anthem Press, 2010), pp. 196 – 197.

The KP was always a monitoring assemblage. It developed out of the older monitoring assemblage of the diamond cartel. However, the language that first gave the KP monitoring assemblage disciplinary power was not a language of human rights. It was a language of 'formalisation', of establishing and heightening state regulation of the diamond trade with increased industry cooperation, of cultivating a 'licit' trade and undermining an 'illicit' one, ostensibly to purge conflict diamonds, yet also reconstituting an ailing cartel's entry barriers. To understand why this monitoring assemblage and its formalisation discourse came about, we need to consider what 'alignment' gave rise to it.

All monitoring assemblages emerge out of alignments, fields of actors whose actions, or potential to act, together bestow certain actors with power. Some alignments are 'strategic', or intentional, involving deliberate collaboration towards an intended effect that is powerful. As I argue in this chapter, the emergence of the original KP monitoring assemblage was based upon a founding strategic alignment that international NGOs initiated with governments and industry. Once we understand these KP beginnings, through a close observation of key texts, the impression of a Faustian pact emerges, of NGOs sacrificing independence and ideals as professed civil society voices, for a strategic alignment that would make them more powerful. Yet, we must acknowledge what this strategic alignment made possible at a later stage.

The quote from Ian Smillie that I opened the chapter with was an extraordinary statement to make after more than ten years of experience as a diamond activist. He had helped lead the blood diamond campaign, and headed research at Partnership Africa Canada. A decade earlier, the campaign agreed to a conflict diamond definition and thus a certification scheme

that did not recognise the illegitimate violence of states and companies. In the wake of this agreement, the popular idea 'blood diamond', of countless imaginings about how the sale of a diamond might lead to the shedding of blood, was widely conflated inside the KP and beyond with its narrow policy term 'conflict diamond'. It seemed a remarkable play then, for Smillie to now conflate the illegitimacy of rebel movement violence with the violence of actors connected to past German and Rwandan states.

Smillie's statement was published in 2010, at the height of the KP's Marange predicament. At the time, KP civil society actors began to maintain that the KP had, in principle, always been about human rights, which of course included concerns around illegitimate state violence. However, closer observation of the KP's core policy document and the scheme's early years of operation shows that from the start, 'human rights' were given one ceremonious, preambular mention, but were completely eschewed as far as policy rules and practice were concerned. Indeed, KP policy and practice was based upon the conflict diamond definition, which made no allowance for the censure of state and corporate human rights violations. This approach can be called 'statist-corporatist'.² The definition allowed cartel governments and companies to focus on formalisation and its many benefits, rather than human rights concerns that might threaten them. What makes Smillie's 2010 text appear out of keeping is the fact that he and his NGO had agreed to this definition, but also that the blood diamond campaign had promoted a statist-corporatist thinking long before the KP's launch.

² Noting that the KP only censured rebel movement violence, Wexler has called this approach 'statist', but it would be more accurate to call it 'statist-corporatist'. L. Wexler, 'Regulating Resource Curses: Institutional Design and Evolution of the Blood Diamond Regime', *Cardozo Law Review*, 31:5 (2010), p. 1730.

None of the academic literature concerning the KP has pointed out that the organisation's original lack of a human rights mandate, rooted in its narrow conflict diamond definition, can be traced back to a statist-corporatist framing inherent in both the blood diamond campaign's two seminal reports. Indeed, no scholar has looked closely enough at either of these texts. Philippe Le Billon has come the closest, focussing on the European 'Fatal Transactions' campaign that arose as an offshoot of the blood diamond campaign, and noting the European campaign's tendency to focus on rebel movement violence, while overlooking state violence.³ This chapter locates this tendency in the statist-corporatist framing of the blood diamond campaign's two seminal reports, and underlines how this framing laid a foundation for future avenues of collaboration with states and corporations. Indeed, while the criticisms these texts levelled at governments and companies obscured their statist-corporatist position, it was evident in the way they framed two complex African civil wars, singling out rebel movements as the fundamental problem. Whether or not they knew exactly what they were doing, their statist-corporatist framing made the founding strategic alignment much more of a possibility.

This statist-corporatist thinking, and the language of formalisation that it gave rise to, went largely unquestioned all the way up until the KP's Marange predicament. During the early KP years, blood diamond campaigners-turned KP civil society representatives showed a growing disenchantment in their reports and during KP meetings, about the failure of governments and industry to properly implement the KP Certification Scheme (KPCS). Yet, examination in

³ P. Le Billon, 'Fatal Transactions: Conflict Diamonds and the (Anti)Terrorist Consumer', *Antipode*, 38:4 (2006), p. 794. For other scholarly accounts of the blood diamond campaign, see J.A. Grant and I. Taylor, 'Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems', *The Round Table*, 93:375 (2004), pp. 389 - 392; I. J. Tamm, 'Dangerous Appetites: Human Rights Activism and Conflict Commodities', *Human Rights Quarterly*, 26:3 (2004), pp. 687 - 704; F. Bieri, *From Blood Diamonds to the Kimberley Process: How NGOs Cleaned Up the Global Diamond Industry*, (Ashgate Publishing, 2010), pp. 1 - 102.

this chapter of the NGO texts that articulate this discontent shows that it still revolved solely around formalisation concerns. Significant moments arose during which KP civil society could have appealed to wider human rights concerns, but they did not attempt to seize upon these moments. Instead, they kept the founding strategic alignment intact, promoting improved formalisation, and thus increased monitoring that advanced the KP assemblage, heightened the visibility of state and industry actors, and made this visibility the norm.

To alter the formalisation discourse that the founding strategic alignment put in place, KP civil society actors needed powerful backing inside the KP, a new strategic alignment. Marange would provide the requisite moment, wherein KP civil society found this new alignment, through which they could strengthen their efforts to continue advancing the KP monitoring assemblage, by adopting a human rights language that was novel to the KP, and which attached it to the much vaster monitoring assemblage of the human rights ecosystem. Smillie's 2010 statement was symptomatic of this discursive shift, and the new alignment that underlay it. This shift and the new disciplinary effects it gave rise to, would not have been possible without the preceding founding strategic alignment, and thus the statist-corporatist approach that Smillie and his NGO colleagues adopted during the blood diamond campaign and early KP years. In detailing the origins of the KP's founding strategic alignment, and the monitoring assemblage it gave rise to, this chapter and the next set the stage for the later reconfiguration – a human rights turn, which was a significant break from the KP's past.

DEFINING AN ALIGNMENT

This section shows how the first blood diamond campaign texts adopted a statist-corporatist framing that allowed for a strategic alignment between NGOs, governments, and companies,

which underlay the KP's founding and its adoption of the narrow conflict diamond definition. The blood diamond campaign might appeal to notions of an emergent 'global civil society' that represents victims of abuse and opposes state and other perpetrators. Yet, as Jens Bartelson argues, like domestic ideas of civil society, ideas of global civil society 'provide answers to the question of how to govern effectively, in this case by constituting the global realm as a sphere of governmental activity, as well as by justifying the exercise of authority within this emergent sphere.'⁴ Like many transnational advocacy NGOs, blood diamond campaigners depended upon states to give effect to their demands in policy and law.⁵ This dependency and the founding strategic alignment that it would lead to is evident in the framing of the seminal blood diamond campaign reports, particularly when these texts are compared to certain UN texts that preceded and followed them, and to the 'Core Document' that embodied the KPCS.

'Framing' is a concept common to social movement theory, referring to 'conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action'.⁶ It shows how NGOs gather, refine, reshape, and distribute information, how they produce knowledge, which targets niches in popular consciousness with an entrepreneurial nous for political opportunity. Framing is polemical. It uses a simple language of right and wrong, rendering situations neither acceptable nor

⁴ J. Bartelson, 'Making Sense of Global Civil Society', *European Journal of International Relations*, 12 (2006), p. 371.

⁵ N. Chandhoke, 'The Limits of Global Civil Society', in M. Glasius, M. Kaldor and H. Anheier (eds), *Global Civil Society 2002*, (Oxford University Press, 2002), p. 51.

⁶ D. McAdam, J. D. McCarthy, and M. N. Zald, *Comparative Perspectives on Social Movements: Political Opportunities, Mobilising Structures, and Cultural Framings*, (Cambridge University Press, 1996), p. 6 in M. E. Keck and K. Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics*, (Cornell University Press, 1998), pp. 2 - 3.

accidental. It identifies those responsible, and recommends solutions. However, while it may purport to address global citizens and galvanise collective action, I argue that such gesturing may ultimately amount only to a threat, intended to induce a response from another audience altogether. Indeed, I hold that while the blood diamond campaign invoked the threat of a diamond boycott, its impact lay in the disciplinary leverage it gained over state and corporate actors, in the strategic alignment this led to, and in the disciplinary regime which then arose.⁷

The original framing of the blood diamond campaign posed a credible threat to the legitimacy that consumers ascribed to the purchasing of diamonds, thereby gaining NGO campaigners newfound leverage over cartel governments and companies. Two factors were particularly enabling at the outset: the nature of the diamond trade, and the persistence of two African civil wars that could be clearly linked to it. For most of the 20th century, the industry operated with an exceptional lack of accountability, largely self-regulated and independent of state laws. Reputation, trust, secrecy, and private dispute resolution mechanisms were key to its regulation.⁸ Many diamond traders, as well as cutters and polishers, operated out of small to medium-sized family firms. Business relations could last for generations; deals were regularly sealed by handshake, not written contract.⁹ This lack of transparency and state regulation meant the industry could easily be cast in suspicious light. Moreover, the near-monolithic

⁷ Le Billon makes a similar argument, maintaining that Fatal Transactions ‘used consumer awareness and the *threat* of a boycott to mobilize complacent business and governments.’ Le Billon, ‘Fatal Transactions’, p. 785.

⁸ P. Le Billon, ‘Diamond Wars? Conflict Diamonds and Geographies of Resource Wars’, *Annals of the Association of American Geographers*, 98:2 (2008), p. 363.

⁹ W-C. Paes, ‘“Conflict Diamonds” to “Clean Diamonds”’: The Development of the Kimberly Process Certification Scheme’, in M. Basedau and A. Mehler (eds), *Resource Politics in Sub-Saharan Africa*, (Hamburg African Studies, 2005), p. 308.

presence of De Beers meant that a campaign against the industry need not be weakened due to responsible parties being numerous and diffuse.

Into the 1990s, De Beers maintained a near-monopoly on the production and marketing of rough diamonds. For decades, it had overseen a cartel that kept prices high by controlling supply. Its ongoing pursuit of monopolisation led the corporation into a range of relationships with discordant partners. Though based in apartheid South Africa, De Beers had sought business with various newly independent diamond producing nations elsewhere in Africa, such as Zaire, Tanzania, and Guinea. As Smillie claimed, it did so ‘through the distribution of large blocks of equity to the new regimes and by an assiduous avoidance of public attention’.¹⁰ De Beers had reason to be wary of public attention, as did many of its partnering governments, because its product was a luxury good, brilliantly marketed and widely cherished as a symbol of love, but vulnerable to changing consumer whims, and thus to consumer boycott. This vulnerability was a potential threat not only to governments that partnered with De Beers through the cartel to produce rough diamonds, but also to the many governments that benefitted from the sale of diamonds further down the supply chain. For certain international NGOs, it was a potential opportunity, a chance to direct new disciplinary power at state and corporate actors, but this emerging disciplinary power would not be based on any language of human rights.

The first international NGO to take serious note of a relationship between diamonds and conflict was Global Witness. Global Witness was started in the early 1990s by three friends

¹⁰ Smillie, *Blood on the Stone*, p. 21.

working for an environmental organisation that focussed on investigative conservation. They saw a niche in the exploitation of natural resources, conflict, and corruption, and started in Cambodia, where the Khmer Rouge was sustaining itself by smuggling timber across the border into Thailand.¹¹ Their campaign led to the border's closure. However, this early work suggested that natural resources, conflict, and corruption was perhaps too broad a label for their focus. Rather, I contend that their starting niche concerned natural resources, and rebel movements thoroughly discredited on the international stage. The Khmer Rouge was removed from government in 1979, but then turned to rural guerrilla warfare, and lost its representation at the United Nations (UN) in 1993. Global Witness' initial focus was about promoting formalisation, or improved state regulation of certain commodity sectors, in the face of illegitimate rebel movement exploitation of natural resources. In this way, the NGO could threaten the legitimacy of underperforming state regulators, while at the same time opening collaborative avenues through which the influence of such states as well as the NGO itself could be advanced. This model worked in helping to control Khmer Rouge depredations, but could it be applied elsewhere?

Having found early success, Global Witness turned to the protracted civil war in Angola, between the incumbent Movimento Popular de Libertação de Angola (MPLA) and the rebel União Nacional para a Independência Total de Angola (UNITA), two rival liberation movements unwilling to work with one another after independence in 1975, and bolstered by foreign support from Cold War adversaries. As Christine Messiant held, the legitimacy of both sides was dubious:

¹¹ Center for Global Development, 'Q&A with Patrick Alley, Co-Founder of Global Witness, Winner of the 2007 Commitment to Development Ideas in Action Award', 17 December 2007.

UNITA found determined foreign allies to help mount heavily-armed guerrilla attacks, while the MPLA government could count on socialist support and oil revenue to resist. The strength of both parties in terms of wealth and allies reinforced the dynamics of war and obliged people to seek shelter in one camp or the other. The violence of the other side seemed to legitimise each party or make its protection necessary. Through their war and a parallel building of instruments of coercion, both sides consolidated their grip on the lives of Angolans. Through the powerful instruments of propaganda of their international allies, they were also able to disseminate the 'useful' part of any truth about the war and the country, and any 'useful' lies that might help their cause and that of their foreign supporters.¹²

As Global Witness sought to publicize in its December 1998 report 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict', UNITA was also heavily reliant on one commodity: diamonds. However, the NGO was concerned about appearing partisan in reporting about a war where both sides lacked legitimacy, and so its report made the following disclaimer:

This document must necessarily concentrate on one factor in the Angolan equation, diamonds, a difficult task given the extreme complexity of the ongoing war in Angola. This document does not seek to play down the political and social issues at stake, nor the way in which the international oil industry has underwritten a government widely seen as corrupt and unaccountable to its own electorate.¹³

Without any further justification for its choice of focus, the report set about exposing an unacceptable state of affairs in Angola, and who could be held responsible for it. Controlling over 60 percent of the country's diamond reserves, the rebel group UNITA had generated \$3.7 billion between 1992 and 1998 to support its efforts in a war which had led to the deaths of over half a million Angolans since 1989 and the displacement of many more. In demonising UNITA rather than the MPLA, Global Witness swam with a prevailing international current,

¹² C. Messiant, 'Angola: The Challenge of Statehood', in D. Birmingham and P. M. Martin (eds.), *History of Central Africa: The Contemporary Years since 1960*, (Longman, 1998), p. 150.

¹³ Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict', December 1998, p. 2.

making a strategic alignment with states possible. Indeed, UNITA was a pariah movement, supported by South Africa's apartheid government, and targeted by UN sanctions. However, while opening collaborative avenues, Global Witness still needed to threaten the legitimacy of the states tasked with imposing UN sanctions, as well as the legitimacy of the company that various governments partnered with or whose sales many governments benefitted from. Thus, Global Witness harnessed the prevailing international current and the information it had gathered, to gain new and extraordinary leverage over De Beers, and the states that had neglected to police this corporation. 'De Beers' annual reports', according to Global Witness,

clearly state the company's heavy involvement in buying Angolan rough diamonds, at the height of resumed fighting and at a time when UNITA controlled the majority of Angola's diamond production. Given that De Beers were, according to their own reports, buying a substantial proportion of Angolan rough diamonds, at a time when a large section of the country's diamond mines were under UNITA's control, one could conclude that the drive to keep the lucrative outside market buoyant was a primary concern – despite the consequences this might have for the people of Angola during this period.¹⁴

The term 'outside market', which referred to diamonds *not* marketed through Angolan state diamond company Endiama, was crucial to the report's framing, and subtly contradicted its disclaimer recognising a lack of legitimacy on both sides, by largely ignoring the MPLA's own involvement in the Angolan diamond trade.

According to Global Witness, part of the solution to Angola's conflict was a closer monitoring of the Angolan diamond trade, including better efforts by Angolan government authorities, and thus the state diamond company, to certify 'official diamond exports'. The report reprimanded those responsible for the purchasing of diamonds from UNITA, but not those linked to purchases from government. The report's disclaimers aside, the impact of the text,

¹⁴ *Ibid*, p. 3.

which in Smillie's words 'landed in diamond circles like a fragmentation bomb' and was 'a bombshell at the UN', would be hard to describe as non-partisan.¹⁵ That the NGO would publish a report the following year on corruption and the Angolan oil industry, with little effect upon a trade not vulnerable to consumer boycott, would do little in the way of bringing balance to Global Witness' influence, and to the strategic alignment its newfound leverage would soon give rise to between the NGO, governments, and industry.¹⁶

Global Witness also had harsh words for the UN Security Council, and the expansion of the 1993 UN Security Council Resolution 864, extending UN sanctions against UNITA in June 1998 to include an embargo on any Angola diamond imports without a certificate of origin from the Angolan government. The report argued that 'overall the impact of the embargo has been minimal ... The traders have simply altered the routes and obtained deceptive paperwork from obliging countries.'¹⁷ These findings seriously threatened the UN's legitimacy as a global authority capable of imposing sanctions, as well as the legitimacy of the 'licit' diamond trade that many of its state members benefited from. The UN response was swift.

In May 1999, the Security Council Sanctions Committee on Angola, chaired by Canada's UN ambassador, Robert Fowler, led a panel of experts in assessing the efficacy of the sanctions. The severity of the subsequent 'Final Report of the UN Panel of Experts on Violations of Security Council Sanctions against UNITA', or the 'Fowler Report' as it came to be known after its March 2000 release, was unprecedented for a UN document. Adopting the practice of

¹⁵ Smillie, *Blood on the Stone*, p. 168.

¹⁶ Global Witness, 'A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets', December 1999.

¹⁷ Global Witness, 'A Rough Trade', p. 9.

‘naming and shaming’ normally used by advocacy groups, the Fowler Report singled out a range of ‘sanctions busters’, including not only arms dealers and companies but also heads of state, for continued involvement in the trafficking of diamonds and weapons.¹⁸ In addition to the recently deposed president of Zaire, the sitting presidents of Togo and Burkina Faso were identified as transgressors. UNITA had made diamond payments to Mobutu Sese Seko for favours from Zaire, while the governments of Burkina Faso and Togo had arranged meetings between UNITA and diamond dealers from Antwerp, providing protection for the participants of the transactions, and facilitating the exchange of diamonds for cash and arms.

As the Panel went on to conclude, UNITA could sell diamonds because it had access to diamond rich territories and safe external locations where deals could be transacted, but also because it was easy to trade illegal diamonds on major diamond markets, particularly the largest one, Antwerp.¹⁹ The Fowler Report concurred with Global Witness’ observation that the ‘importance of the diamond industry to the Belgian economy is a counterincentive to a rigorous application of the embargo’ against uncertified Angolan diamonds.²⁰ The Panel found ‘that extremely lax controls and regulations governing the Antwerp market facilitate and perhaps even encourage illegal trading activity.’²¹ Its commentary on the role of De Beers in the Angolan conflict was less disparaging. According to the Panel, De Beers had stopped purchasing Angolan diamonds, with the exception of production at one mine from which it was contractually obligated to purchase.²²

¹⁸ I. Smillie, ‘What Lessons from the Kimberley Process Certification Scheme?’, in K. Ballentine and H. Nitzschke (eds), *Profiting from Peace: Managing the Resource Dimensions of Civil War*, (Lynne Rienner Publishers, 2005), p. 50.

¹⁹ United Nations Security Council, ‘Final Report of the UN Panel of Experts on Violations of Security Council Sanctions against Unita’, United Nations document S/2000/203, 10 March 2000, para 106.

²⁰ Global Witness, ‘A Rough Trade’, p. 10.

²¹ ‘Final Report of the UN Panel of Experts on Violations of Security Council Sanctions against Unita’, para 87.

²² *Ibid*, para 96.

Global Witness' heavy criticism of governments and the UN, and their regulatory failings, did not necessarily amount to undermining them, nor ruling out an opportunity to collaborate with them. In fact, the resultant effect, embodied in the subsequent launch of the KP, was quite the opposite. This was because the framing of 'A Rough Trade' adopted the same position the UN had taken in imposing sanctions on UNITA, which in effect pronounced upon who was and who was not a legitimate actor in a complex civil war. This approach reflected Global Witness' prior Cambodian experience, targeting a thoroughly discredited rebel movement, and aligning with UN monitoring capacities and views. However, while the NGO's position was chiefly anti-UNITA, it also promoted a broader anti-rebel movement position, or a statist-corporatism that would take hold at the KP, regarding states and corporations only blameworthy if they were accessories to the sustenance of rebel movements. This broader statist-corporatist approach, paved the way for the strategic alignment between NGOs, states, and corporations, which underlay the KP's founding and its adoption of the narrow conflict diamond definition.

Both the UN sanctions regime and the Global Witness report identified UNITA as the party primarily responsible for a particular state of affairs depicted to be neither acceptable nor accidental. Both organisations favoured similar solutions, which amounted to depriving UNITA of a crucial means of subsistence. Yet as Global Witness argued, the UN Security Council was mandated to enforce the UN's policy on Angola but had failed to do enough in practice. The rapid UN response that was the Fowler Report, as well as hasty changes made by De Beers to buying operations in Angola, was indicative of the political leverage Global Witness quickly gained, and the disciplinary effects it exacted. However, another key player

was yet to join the NGO's cause, before governments and industry were finally compelled to begin negotiations among themselves and with the blood diamond campaign towards a strategic alignment that would bring about a heightened state regulation of the trade.

Shortly before the March 2000 release of the Fowler Report, pressure upon the diamond industry was raised a further notch, with another international NGO report revealing a connection between diamonds and rebel movement violence in Africa. Partnership Africa Canada's 'The Heart of the Matter: Sierra Leone, Diamonds, and Human Security' detailed how Sierra Leone's Revolutionary United Front (RUF) waged a war against government, financed and motivated primarily by the smuggling of diamonds to neighbouring Liberia, where De Beers kept a trading company after withdrawing from Sierra Leone. Lax controls in Belgium meant that masses of Sierra Leonean diamonds had found their way from Liberia to Antwerp.

In similar vein to 'A Rough Trade', the report simplified a complex African conflict so that it might be fit for western consumption, and thereby incite the desired pre-emptive actions from governments and industry. 'The Heart of the Matter' did little to recognise ongoing debates around claims that participation of youths fighting in the rebel forces was driven by a 'crisis of youth', arising from exacerbated economic, educational and socio-political constraints in post-colonial, patrimonial Sierra Leonean society, that a sizable portion of Sierra Leonean youth had few if any alternatives to fighting, and that they were led by a credible intelligentsia.²³ These claims did not fit with the framing Partnership Africa Canada sought.

²³ See P. Richards, *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone*, (James Currey, 1996), P. Richards, 'Rebellion in Liberia and Sierra Leone: A crisis of youth?', in O. W. Furley (ed.), *Conflict in Africa* (I. B. Tauris, 1995), K. Peters, *Re-Examining Voluntarism: Youth Combatants in Sierra Leone* (Institute for Security

'The Heart of the Matter' aligned with the views of academics and others who held that the RUF's violence had little connection to the programme of any intelligentsia, and much more of an association with a violent, anti-social 'lumpen' youth distinct from the majority of young Sierra Leoneans.²⁴ Similar to the Global Witness report's view of UNITA, the Partnership Africa Canada report's view of a particular rebel movement moved with a prevailing political current upon the international stage: a demonization of the RUF based upon its widely-publicized atrocities, not least of all in the controversial but popular 'new barbarism' thesis of Richard Kaplan. Kaplan eschewed political and economic interests as a reason for political violence in developing nations, pointing to traits embedded in local cultures, to 'primitive ends', and a 'liberation in violence' achieved 'where the Western Enlightenment has not penetrated'.²⁵ Kaplan's beliefs were the subject of a confidential meeting between top UN officials, while his article 'The Coming Anarchy' in *The Atlantic* was faxed by the United States (US) Department of Global Affairs to every US embassy in the world.²⁶

According to 'The Heart of the Matter', the RUF was a 'brutal' force 'devoid of ideology, political support and ethnic identity'.²⁷ The NGO report's framing ignored complexity on the ground. It was ironic that it named its report after Graham Greene's 1948 novel *The Heart of the Matter*, about a white colonial officer's personal crisis of faith and morality in a coastal

Studies, 2004), and K. Peters, 'Reintegrating young excombatants in Sierra Leone: Accommodating indigenous and wartime value systems', in J. Abbink and I. van Kessel (eds), *Vanguard or Vandals?* (Brill, 2005).

²⁴ See I. Abdullah (ed.), *Between Democracy and Terror: The Sierra Leone Civil War*, (CODESRIA, 2004).

²⁵ R. D. Kaplan, 'The Coming Anarchy: How scarcity, crime, overpopulation, tribalism, and disease are rapidly destroying the social fabric of our planet', *The Atlantic*, February 1994. However, it was Richards who introduced the term 'new barbarism', in his ethnographic critique of Kaplan's influential thinking – see footnote 21.

²⁶ D. Tuastad, 'Neo-Orientalism and the New Barbarism Thesis: Aspects of Symbolic Violence in the Middle East Conflict(s)', *Third World Quarterly*, 24:4 (2003), p. 593.

²⁷ Partnership Africa Canada, 'The Heart of the Matter: Sierra Leone, Diamonds, and Human Security', January 2000, p. 1.

colony in West Africa during World War Two. While the setting was based upon Greene's experiences as a British intelligence officer in Freetown, Sierra Leone, George Orwell's review of the book questioned why it had to be set in West Africa at all,

the whole thing might as well be happening in a London suburb. The Africans exist only as an occasionally mentioned background, and the thing that would actually be in Scobie's mind the whole time - the hostility between black and white, and the struggle against the local nationalist movement - is not mentioned at all.²⁸

An NGO report that took aboard the complexities of Sierra Leone's conflict would struggle to muster the polemic needed for a framing that threatened the public legitimacy of states and corporations connected to the diamond cartel in a way that induced their openness to strategic collaboration. Partnership Africa Canada duly demonized the RUF, and, whether unwittingly or cunningly, promoted the same statist-corporatism that Global Witness had.

Global Witness and Partnership Africa Canada soon became what Christine Jojarth called 'the analytic backbone of a much larger network of more than one hundred NGOs – including the heavyweights Amnesty International, Oxfam, and Human Rights Watch – that used the media to generate growing public awareness of conflict diamonds'.²⁹ And yet, neither of their landmark reports ever mentioned the term 'conflict diamond'. The term's actual origins were indicative of the strategic alignment that these NGOs successfully initiated. The definition came from the world's principal governmental organisation, the UN, where the disciplinary effects of the blood diamond campaign were experienced, but where actions were also taken to seize upon the potential of a statist-corporatism inherent in the NGOs' two seminal reports.

²⁸ G. Orwell, 'The Sanctified Sinner: Review of the "Heart of the Matter" – Grahame Greene', *The New Yorker*, 17 July 1948.

²⁹ C. Jojarth, *Crime, War, and Global Trafficking: Designing International Cooperation*, (Cambridge University Press, 2009), p. 190.

'Conflict diamond' was first mentioned in UN General Assembly Resolution 55/56 in December 2000. It followed a meeting in May that included the governments of South Africa, Botswana, and Namibia, three of the largest diamond producing countries, and the US, the UK, and Belgium, three of the largest traders and consumers, which had explored the possibility of a global certification scheme. With much encouragement from De Beers, the South African government had proposed the meeting, which took place in the South African historical mining town of Kimberley. Both industry and civil society representatives were present. Recognising the role of diamonds in fuelling conflict, the UN Resolution defined conflict diamonds as 'rough diamonds which are used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate Governments.'³⁰ No effort was made to clarify what 'legitimate' meant, nor was consideration given to how oppressive governments and unscrupulous companies might behave in their efforts to exploit diamonds. This was an outcome that clearly served the interests of the government and industry representatives present.

The statist-corporatist framing had gone full circle, from UN Security Council Resolution 864, to the blood diamond campaign reports, to UN Resolution 55/56, each time portraying rebel movements as the problem fundamental to the relationship between diamonds and conflict. Various scholars offer accounts of the blood diamond campaign, but none underline the adoption of a statist-corporatist framing in the texts of its two seminal reports, which threatened cartel companies and states, but at the same time paved way for a collaboration

³⁰ United Nations General Assembly, 'The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflicts', Resolution 55/56, 29 January 2001.

with them, thereby initiating a founding strategic alignment that would eschew human rights concerns in favour of formalisation.

After the Kimberley meeting, the threat of a diamond boycott receded, as numerous meetings were subsequently held between October 2000 and November 2002, which aimed to address blood diamond campaign concerns and setup a new regulatory mechanism. A report in late 2001, claiming that Al Qaeda operatives had laundered millions of Dollars using West African conflict diamonds injected renewed urgency.³¹ On 5 November 2002, at Interlaken in Switzerland, 54 governments, the European Community representing its member states, the diamond industry, and NGOs representing over 100 civil society groups adopted the KPCS. The scheme was launched in February 2003.

The KPCS was finalized through consensus between governments, industry, and civil society: all were treated as equals in negotiations, and no decision was taken without the full consent of all.³² While the KP was not a UN initiative, Resolution 55/56 offered a UN mandate for negotiation toward the KPCS, and UN Security Council Resolution 1459 endorsed the completed Core Document in early 2003. The document was not a legally-binding treaty between sovereign states, yet it carried a legal element by imposing a common set of minimum standards that each state would have to enact through national legislation, or in the case of the European Community through EC Regulation applicable to all member states.³³

³¹ D. Farah, 'Al Qaeda cash tied to diamond trade', *Washington Post*, 2 November 2001.

³² C. Wright, 'Tackling conflict diamonds: the Kimberley process certification scheme', *International Peacekeeping*, 11:4 (2004), p. 699.

³³ *Ibid.*

Had human rights been included in the conflict diamond definition, then human rights would have been implicit to the domestic laws the KP required, since these laws were meant to assemble 'a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from' each participant's territory.³⁴ The Core Document only mentioned the phrase 'human rights' once, and in its preamble, which recognised

the devastating impact of conflicts fuelled by the trade of in conflict diamonds on the peace, safety and security of people in affected countries and the systematic and gross human rights violations that have been perpetrated in such conflicts³⁵

This line would become oft-cited after 2008, following a reconfiguring of the KP's founding strategic alignment, which led many, NGOs included, to proclaim human rights as a founding, core tenet of the KP. Yet, beyond its preamble niceties, the Core Document reproduced the UN and blood diamond campaign's statist-corporatism and defined conflict diamonds as 'rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments'.³⁶ If human rights violations were a problem in the conflicts the KPCS referred to, then its conflict diamond definition implied that the only possible perpetrators of such violations were rebel movements.

The blood diamond campaign's statist-corporatist framing and the strategic alignment with governments and industry this initiated, stood the test of several ongoing instances of state violence linked to the diamond trade during the KP's emergence. For example, Partnership Africa Canada did not emphasize the violence of Charles Taylor's Liberian government, its

³⁴ Kimberley Process, 'Kimberley Process Certification Scheme', p. 7.

³⁵ *Ibid*, p. 1.

³⁶ *Ibid*, p. 3.

connections to the Sierra Leonean diamond trade, and what implications this had for the conflict diamond definition, nor the complexities of the Second Congo War (1998 – 2003), the deadliest conflict in African history and in the world since World War Two. The Second Congo War was fought between a former rebel movement turned government and its former allies, with both sides assisted by other African governments and each accused of diamond looting and human rights violations. It was a morass that made a mockery of the conflict diamond definition. Global Witness reported on how Zimbabwe had joined the Second Congo War on the side of the Kabila regime and exploited extensive timber reserves in Katanga Province.³⁷ The NGO gave scant regard to Zimbabwe's concurrent exploitation of diamonds in the same country, and to the significance this had for the scope of the KP's mandate.³⁸ Both NGOs also did not fully consider the significance of London-based NGO Survival International's campaign against the Botswana government's 2001 forced eviction of Basarwa inhabitants from their ancestral homes in the Central Kalahari Game Reserve.³⁹ The Botswana government stood accused of forcefully removing the Basarwa for diamond exploration purposes.

The blood diamond campaigners skirted issues of state human rights violations connected to diamonds. This was a product of the KP's founding strategic alignment, and the operation of a disciplinary power that opened formalisation as an avenue of knowledge production, and, for the time being, foreclosed human rights concerns. However, the formalisation that was brought about would have crucial effects moving forward, not least of all the normalisation

³⁷ Global Witness, 'Branching Out: Zimbabwe's Resource Colonialism in Democratic Republic of Congo', February 2002.

³⁸ See M. Nest, 'Ambitions, Profits and Loss: Zimbabwean Economic Involvement in the Democratic Republic of the Congo', *African Affairs*, 100 (2001).

³⁹ I. Taylor and G. Mokhawa, 'Not Forever: Botswana, Conflict Diamonds and the Bushmen', *African Affairs*, 102 (2003), pp. 274 – 275 and p. 277.

of a new, evolving monitoring assemblage, the disciplinary regime it established, and the growing corpus of knowledge it could produce. While knowledge accumulated, and the assemblage advanced, there remained the possibility that the founding strategic alignment might later shift, along with the assemblage's orthodox language of knowledge production.

Clive Wright, head of the UK delegation during negotiations towards the setting up of the KP, gave a telling account a year after its launch, of new disciplinary power operating through it,

During the negotiation phase, the accepted figure for the proportion of the world's trade in rough stones attributable to conflict diamonds was 4 per cent. That has now fallen to less than 1 per cent, although this is not a consequence of the Kimberley Process alone. The ending of the armed conflict in both Sierra Leone and Angola was a far more influential factor. Nevertheless the Kimberley Process has brought a discipline to the international trade that many believed could not be achieved. The realization within the industry that it could no longer be linked even tenuously to events in certain African countries, and that it did bear some responsibility for due diligence in terms of the nature and intent of the people it did business with, produced a rapid change in attitude and modus operandi. Paperwork and accurate records, long anathema to the diamond industry, have become the norm under the KPCS. Governments too have learned valuable lessons, not least in facing up to their responsibility to do something to help to bring about an end to armed conflict.⁴⁰

The KP's founding strategic alignment in formalisation, in paperwork and accurate records, may have had different meanings to different stakeholders, speaking to varying interests in reducing conflict diamond trade, avoiding consumer boycott, reconstituting cartel entry barriers, and advancing certain actors' statuses in the sphere of global governance. Yet for all involved it heralded the establishment of a new disciplinary regime. This regime redefined the 'licit' diamond trade, heightening state regulation with corporate assistance but also NGO oversight, thereby introducing hitherto unseen levels of trade visibility. The NGOs became champions of formalisation, pushing its reforms as far as possible. They prioritized monitoring

⁴⁰ Wright, 'Tackling conflict diamonds', p. 702.

and transparency at the negotiations, and continued to advocate for improvements in the early KP years. As Wright observes, 'Monitoring, verification and transparency became the battle cries of the NGOs, concerned that the KPCS lacked any teeth'.⁴¹

After the KP's February 2003 launch, the year continued to bear fruit for the NGOs. In April, the KP agreed to a mechanism for the peer review of each state participant's legislation, internal controls, and administrative procedures. Eighteen state participants were asked to leave, before six were re-admitted. In addition to the more severe 'Review Missions' to investigate credible indications of non-compliance, October saw the introduction of 'Review Visits', with participants agreeing to routinely host teams of experts from other KP members to review KPCS implementation and share best practice methods. Government and corporate control of the 'licit' trade expanded, while blood diamond campaigners became ever more prominent KP watchdogs, elevating their status in global governance. However, 2003 soon gave way to more challenging times, as the costs and complexities of running a global certification scheme became more tangible.

WITHERING HONEYMOON

An examination of the politics of the KP's early years shows that the organization continued to eschew human rights concerns, keeping within its orthodox formalisation lines. The founding strategic alignment was not, however, altogether static. The power of KP civil society's position declined, then resurged, before declining once more. When the resurgence came, civil society representatives looked to enhance formalisation by increasing KP monitoring capacities, and thus the disciplinary power they could wield through the KP

⁴¹ *Ibid*, p. 703.

assemblage. Compared to the later Marange moment, these politics did not offer the possibility of an alternative strategic alignment that KP civil society would need to push effectively for human rights reform, even if there was already considerable evidence in Africa that justified such reform. Indeed, there was not yet enough of an appetite among industry and state members for a reconfiguring of the founding strategic alignment and the discourse of formalisation it deployed. Until the Marange moment made this reconfiguration possible, NGOs kept the founding alignment intact and continued to develop the assemblage along its orthodox formalisation lines.

As the texts explored in this section show, KP civil society actors began in late 2005 to sense a decline in their influence within the KP. Once blood diamond campaigners were subsumed in the KP as civil society representatives, their initial sense of empowerment gave gradual way to a sense of disenfranchisement. State participants, the only voting members, appeared reluctant to fully implement KPCS regulations. KP civil society became more critical, but governments dug in their heels, describing the KPCS as a work in satisfactory progress. The founding strategic alignment greatly enabled states with the overwhelming share of influence among stakeholders. This distribution was, however, unexpectedly disrupted by Hollywood's blockbuster *Blood Diamond*, due to be released in December 2006.

Despite its focus on formalisation, the KP assemblage promoted an unprecedented visibility of the diamond trade, increasingly rendering both the industry and the KP itself as objects of knowledge, thereby producing disciplinary power. Disenchanted KP civil society watchdogs could make more of this knowledge publicly visible. Indeed, they were now an integral part of the assemblage, and the disciplinary regime it established, with a hand in and significant

access to much of the knowledge it produced. They were a powerful component of the monitoring assemblage. Through their capacity to disseminate such knowledge, particularly knowledge of the KP's monitoring limitations and where its discipline was found wanting, they served to propagate the assemblage, increasing the visibility of the industry to its own players, to state actors, and to the public. However, their efforts to draw scrutiny towards industry (in)discipline paled in comparison with the vast consumer audience that Hollywood could loosely attach to the KP assemblage. The prospect of a negative Hollywood portrayal of the diamond trade, far worse than the conflict diamond subplot in the 2003 James Bond film *Die Another Day*, allowed KP civil society to greatly increase pressure for industry openness. Resurrecting the threat of consumer boycott, *Blood Diamond* greatly bolstered KP civil society's waning leverage in 2006, further heightening the KP regime's disciplinary effects.

As the KP began in June 2005 to compile its first mandatory 'Three Year Review', due in 2006, the scheme entered a period of intensified self-examination, which saw civil society members raise mounting doubts around the willingness of participants, particularly governments, to ensure the scheme functioned according to its stated purpose. These doubts were articulated in a series of reports by Partnership Africa Canada and Global Witness in 2005 and 2006, generally published in the weeks before either a KP Intersessional meeting half way through the year or a Plenary meeting towards the end of the year, so as to impact as much as possible upon internal KP discourse and the setting of agendas.

In May 2005 and April 2006, the publication of Partnership Africa Canada investigations in Brazil uncovered extensive diamond fraud under KP certification.⁴² Brazil moved to denounce the NGO's findings at the November 2005 Plenary in Moscow, where a stir was also created by a Global Witness report, which held, firstly, that diamonds mined in rebel-held areas of Côte d'Ivoire were reaching international markets, in part through non-KP member Mali, and, secondly, that diamonds from Liberia, at the time under UN Security Council sanctions, were entering the legitimate diamond pipeline through Sierra Leone and Guinea. The Global Witness report warned that 'internal systems of controls put in place by governments to prevent the trade in conflict diamonds are not strong enough or adequately enforced to keep conflict diamonds out.'⁴³ Brazil was later forced to conduct its own internal review, make arrests, and apologize formally to Partnership Africa Canada at the June 2006 Intersessional in Gaborone, where yet another Partnership Africa Canada study was on the agenda, this time an assessment of the scheme's implementation in Guyana, which found large-scale and systematic diamond smuggling.⁴⁴ In September 2006, the US Government Accountability Office (GAO) released a report showing that conflict diamonds could be entering the US due to weaknesses in implementation of the Clean Diamond Act, the US law implementing the KPCS.⁴⁵ In October 2006, while a draft of findings from a KP Review Mission to Ghana and

⁴² Partnership Africa Canada, 'The Failure of Good Intentions: Fraud, Theft and Murder in the Brazilian Diamond Industry', May 2005; Partnership Africa Canada, 'Fugitives and Phantoms: The Diamond Exporters of Brazil', April 2006.

⁴³ Global Witness, 'Making it work: Why the Kimberley Process must do more to stop conflict diamonds', November 2005, p. 1.

⁴⁴ Partnership Africa Canada, 'Triple Jeopardy – Triplicate Forms and Triple Borders: Controlling Diamond Exports from Guyana', April 2006.

⁴⁵ United States Government Accountability Office, 'Conflict Diamonds: Agency Actions Needed to Enhance Implementation of the Clean Diamond Trade Act', September 2006.

Togo in December 2005 sat on backburners, a UN Group of Experts found that conflict diamonds from Côte d'Ivoire were being certified by Ghana.⁴⁶

Reviewing the state of the KPCS in a November 2006 report, entitled 'Killing Kimberley: Conflict Diamonds and Paper Tigers', Partnership Africa Canada declared 'with reluctance and great concern' that the 'KP response to all of this has been weak, slow or non-existent.' Moreover, 'Several participants have blocked consensus on important recommendations contained in the current Three Year Review that could have strengthened the KPCS'.⁴⁷ Recommendations concerning better internal controls in participating countries, a professionalized data system for the collection and provision of statistics, and better financing of the scheme to aid its development and expansion were all rejected, leading an anguished Partnership Africa Canada to suggest that perhaps

the preternatural abhorrence of self-criticism by governments – and especially by civil servants representing governments – has taken control of the Kimberley Process, eclipsing the fervour that caused the KPCS to be created, dulling memories about the ultimate purpose of the KPCS: to end diamond-fuelled conflict now and forever.⁴⁸

Having successfully put pressure on governments and industry through the blood diamond campaign, the campaign's leaders now found themselves incorporated within an institution that was tripartite in composition, yet controlled by governments, who as noted were the only members that enjoyed the status of voting participants. Industry and civil society were both restricted to observer status. In addition, individual governments were further enabled within the KP by its consensus-based decision-making arrangement, meaning that one

⁴⁶ United Nations Security Council, 'Letter dated 13 September 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire addressed to the President of the Security Council', S/2006/735, 5 October 2006.

⁴⁷ Partnership Africa Canada, 'Killing Kimberley: Conflict Diamonds and Paper Tigers', November 2006, p. 1.

⁴⁸ *Ibid*, p. 10.

government participant could block a decision, unless the decision concerned the possible suspension of that government's country for transgression of KP membership requirements. Encased in these bureaucratic structures, KP civil society actors developed a growing sense of their own subjugation through incorporation within the KP, where they seemed increasingly to lack the leverage they once mustered through the blood diamond campaign. As KP civil society actors battled with these quandaries, they found themselves aided by an unlikely ally.

The approaching December 2006 release of Edward Zwick's Warner Brothers thriller *Blood Diamond* forced the diamond industry to fret and manoeuvre in anticipation of the negative publicity the film might bring at a time when reputations were being carefully safeguarded.⁴⁹ Set during the Sierra Leone civil war (1991 – 2002), the film would tell the story of a Mende fisherman and a white Rhodesian-born mercenary in search of a rare and exceptionally valuable pink diamond, which the fisherman had left hidden along an alluvial diamond field, where RUF insurgents once forced him to pan. While the story was one of redemption for Leonardo DiCaprio's cynical white mercenary, it was not so for the fictional London-based diamond corporation aptly named 'van de Kaap', which was tricked into incriminating itself by buying the pink diamond despite knowing of its origins.

Blood Diamond's formulaic lack of any fastidiously revealing socio-political nuance was well summed up by film critic David Edelstein,

As I watched the senseless brutality, the shooting of mothers and children as they fled, I was torn up, divided. I thought, *Why do I need to see this?* Then I thought, *This happened in Sierra Leone and is still happening in parts of Africa—I need to see it.* Then I thought, *If I need to see it, I need to see more than a sneering villain with an eye patch. I need to understand how this man—and the people under him—become the*

⁴⁹ C. Even-Zohar, *From Mines to Mistress: Corporate Strategies and Government Policies in the International Diamond Industry*, (Mining Communications LTD, 2007) p. 145.

monsters they are. That's what you don't get in *Blood Diamond*, what you don't get in even the best melodrama: insight. After we stop buying blood diamonds from conflict zones, what then?⁵⁰

Edelstein might not have known it, but the film's failure to offer insight on what might make a warlord and his rebel movement so dissolute, or the country any safer for its people once his diamonds were no longer bought, resembled the stories the blood diamond campaign once told about two complex African conflicts, and the statist-corporatist framing underlying the certification scheme that drew upon these stories. As this framing would have it, rebel movements were brutish agents of violence, and preventing them from selling diamonds was the solution to the problem they posed. Indeed, the film reproduced the same framing, drawing upon and greatly increasing the publicity of the blood diamond campaign and the KP, thereby enabling KP civil society actors looking to push for improved formalisation measures.

Unsurprisingly, a lack of nuance and insight did not diminish the popularity of *Blood Diamond*. The BBC's Mark Kermode praised the film as both 'acceptably solid mainstream fare' and effective 'issue-tainment', successfully placing the issue of conflict diamonds at 'the forefront of the public's consciousness'.⁵¹ Through its far-reaching audience, Hollywood strongly amplified and prolonged the resonance of the blood diamond campaign. Ideas that were too abstract, too distant from the everyday lives of consumer audiences, were now rendered distressingly palpable in cinemas, on televisions and computers, through the sound and imagery of wanton violence that pervaded the film, and which were attributed quite unequivocally to the diamond cartel. Released during the lucrative Christmas shopping season, when some 25% of all diamond-jewellery sales in the US were expected to take place,

⁵⁰ D. Edelstein, 'They cut glass. And hands.', *New York Magazine*, 29 June 2007.

⁵¹ M. Kermode, BBC Radio Five Live, 29 January 2007.

Blood Diamond left celebrities deliberating over whether they should wear diamonds to opulent awards ceremonies such as the Oscars, where the film received five nominations.⁵² Leaders in the diamond industry saw these eventualities on the horizon in late 2005, and wondered what resurgence of reputational risk they might bring.

Diamond industry analyst Chaim Even-Zohar had been particularly concerned, even if he feigned otherwise at the time. Commenting in October 2006, when the film's release was imminent, he opined that 'conflict diamonds are hardly an issue today – they are largely an issue for historical Hollywood movies.'⁵³ Yet looking back in 2007, he acknowledged that while the issue of conflict diamonds had

transformed the diamond pipeline, making diamonds the most regulated commodity in the world, diamond-jewellery retailers and consumers remained, by and large, amazingly unaware of these issues. This changed dramatically in 2005/2006 when Hollywood producer Warner Brothers started to shoot 'The Blood Diamond' ... The industry at large (but, especially, De Beers) went into a frenzy, and some US\$15 million was spent on public relations activities, mostly among retailers, to neutralise (or at least minimise) the widely expected consumer backlash.⁵⁴

Even-Zohar's retrospection noted the trade formalisation of the KP, but, more revealingly, the industry view that public awareness about the relationship between diamonds and conflict remained limited. This limited public awareness was what the industry wanted, and what the KP helped to preserve. A momentary bout of ethical thinking on the part of the retailer, the consumer, or any other member of the public, was easily soothed with a cursory glance toward the KP. *Blood Diamond* threatened to make this glance more than cursory. The

⁵² Jewellery Consumer Opinion Council, "'The Blood Diamond' Study – October 2006', in Even-Zohar, *From Mines to Mistress*, p. 146.

⁵³ *Diamond Intelligence Briefs*, 'US Government KP and WDC Chairmen Appeal to Blood Diamond Movie Producer', 2 March 2006, p. 3850.

⁵⁴ Even-Zohar, *From Mines to Mistress*, p. 145.

industry needed a counteractive KP narrative to defuse the film's content and discourage public sensibilities from turning against the trade and against the KP. It therefore engaged with the makers of *Blood Diamond*, to see if some of its content and meaning could be favourably adjusted. Crucially, the diamond industry needed KP civil society to be on its side.

Spearheading a pre-emptive media response to the film and its potential backlash, the World Diamond Council (WDC) created a task force headed by a De Beers representative, which set about 'educating' both the industry, particularly retailers, and the public about the significance of the KP, the reduction of conflict diamonds from four to one percent of overall trade, as well as the positive impact of the trade in Africa.⁵⁵ In addition to full-page print advertisements in ten major US and international newspapers, including *The New York Times*, *USA Today*, *Los Angeles Times*, *The Times* in the UK, *International Herald Tribune* and *Financial Times*, the WDC also launched its website www.diamondfacts.org in August 2006. This website continues to provide information favourable to the industry, including perspectives on the history of the trade, its socio-economic benefits in developing countries, and how the industry is dealing with matters such as conflict diamonds.⁵⁶

Efforts were also made to canvass the makers of *Blood Diamond*. WDC Chairman Eli Izhakoff and KP Chairman Kago Moshashane of Botswana's Ministry of Minerals wrote an open letter to Edward Zwick, the contents of which were released during the Fourth Annual Meeting of the WDC in February 2006. The letter noted that African diamond-producing countries had raised the subject of the film at the recent 2005 KP Plenary in Moscow. Plenary participants

⁵⁵ *Diamond Intelligence Briefs*, 'Izhakoff: Industry Can't "Rest on its Laurels"', 25 May 2007, p. 4376.

⁵⁶ *Diamond Intelligence Briefs*, 'Diamond Industry Launches Diamondfacts.org Website and Major Consumer and Trade Advertising', 19 September 2006, p. 4073.

recognised that the 'story of conflict diamonds is an important one that needs to be told'.

Indeed,

all stakeholders in the Kimberley Process are determined that revenues from diamonds should never again be used to finance armed conflict and undermine the security of innocent civilians and their livelihoods. However, there was an equally strong feeling among the governments and industry bodies represented at the Moscow Plenary meeting that it would be a great pity if a movie as important as the one you are now producing told only a part of the story – and suggested that the situation in Sierra Leone today, and indeed in other diamond-producing countries, had remained unchanged. In fact, nothing could be further from the truth.⁵⁷

Quoting Nelson Mandela's 1999 response to the blood diamond campaign, that 'Rather than boycotts being instituted, it is preferable that through our own initiative the industry takes a progressive stance on human rights', the letter maintained that the KPCS had gone on to have an extremely positive impact upon conflict diamond affected countries, particularly Sierra Leone, Angola and the DRC, where rough diamond exports channelled through 'legitimate government institutions' had increased substantially. Indeed, a 2005 KP monitoring team visiting Sierra Leone had found much government progress towards ensuring that rough diamonds 'are exported through legitimate channels and benefit the development of the country as a whole.' Underlining the extent to which Sierra Leone 'and the livelihoods of millions of people in Africa' depended upon the diamond trade, the letter emphasized that 'the story would be incomplete without the message of hope contained in the unprecedented international effort to eliminate conflict diamonds.'

⁵⁷ *Diamond Intelligence Briefs*, 'KP and WDC Chairmen Appeal to Blood Diamond Movie Producer', 2 March 2006, p. 3850.

Given the risk of the film solidifying an association between diamonds and African conflicts, and thereby damaging consumer confidence, the letter requested that the film find a way to acknowledge the changes which the trade had undergone, perhaps through inclusion of

a written broadcast message at the end of the film, and in accompanying promotional literature. We would like to suggest that it includes the following language: “The conflict in Sierra Leone ended in January 2002. This was followed by free and democratic elections and today, virtually all global trade in rough diamonds is now conducted through the Kimberley Process – an international diamond watchdog bringing together governments, industry and civil society. Sierra Leone is now using its diamond wealth to help build a secure future for all its people.”⁵⁸

The diamond industry’s campaign was vulnerable, and would carry limited muster in the face of scrutiny. The rise of the KP and the decline in conflict diamonds was just a positive correlation, not a causal link anyone had proven. Quoting Mandela about a ‘progressive stance on human rights’ was brazen for a certification scheme that excused both industry and governments from censure for direct human rights violations. A string of incidents of African state violence connected to the diamond trade could be drawn upon to challenge the industry campaign’s statist-corporatist framing, at a time when civil society representatives held more leverage than ever before in the KP era. The potential to manipulate consumer sentiment was the basis of the disciplinary power that KP civil society could direct at state and corporate actors, and this potential was heightened in 2006. These civil society actors might have used this moment to make a concerted push for human rights at the KP, particularly in its policy language. However, they chose to keep within the bounds of the orthodox framing, and continued their push for enhancements to the formalisation that this framing translated into.

⁵⁸ *Ibid*, p. 3851.

When the Marange predicament emerged in later KP years, KP civil society actors would show a great awareness of human rights concerns. What then was the difference between these early years and the later Marange years? As a detailed examination of the Marange moment indicates in the following chapters, the difference was that during the early KP years, KP civil society actors did not have the critical mass of state and corporate support within the KP to push effectively for human rights reform. The KP assemblage was made up of alignments, particularly a founding strategic alignment, and in 2006 KP civil society actors could not effectively challenge this strategic alignment without causing the KP's tripartite structure to collapse. Keeping this alignment intact, and maintaining the key positioning of blood diamond campaign actors within a global governance mechanism was paramount to these actors.

In mid-2006, Global Witness focussed on formalisation. It lamented that industry appeared more concerned with stymieing any bad publicity that might arise from the film, than with delivering on its promises to keeping conflict diamonds out of the trade. The NGO urged industry to move beyond rhetoric and ensure that self-regulation was backed up with substantive policies and independent auditing measures. It called on the WDC to advance a common standard for independent, third-party verification of the self-regulation undertaken by the KP, and it encouraged governments to increase their oversight of industry's KP compliance. According to Global Witness, these recommendations needed to be acted upon as part of the KP Three Year Review carried out in 2006.⁵⁹

⁵⁹ *Diamond Intelligence Briefs*, 'NGO Says Diamond Industry Needs to Get Serious About Stopping Conflict Diamonds', 13 June 2006, p. 3968.

Partnership Africa Canada's critical November 2006 report 'Killing Kimberley' held that the diamond industry's pre-emptive publicity campaign regarding the film *Blood Diamond* would have been much easier had the KP been 'willing and able to deal with the more blatant recent cases of conflict diamonds, the fraudulent use of KP certificates and the smuggling of illicit diamonds in Ghana, Brazil, Guyana and Côte d'Ivoire.'⁶⁰ As the report concluded,

the KPCS can be an effective regulatory system for conflict diamonds if it is strengthened, and *most importantly*, if its provisions are enforced. Without significant and urgent change, it will be little more than what it has shown itself to be during 2006: a paper tiger. Conflict diamonds do not represent a huge proportion of the world diamond trade today, but they do exist, and without effective controls, they could erupt again in any one of a dozen places. The KPCS is a remedial undertaking, but it is also a *preventive* mechanism. It is worth preserving, but only if it is done well.⁶¹

KP civil society was a part of the KP's disciplinary regime, it was privy to the organisation's evolving monitoring assemblage and much of the knowledge this produced. This knowledge included the quality of monitoring itself and who was responsible. With the looming release of *Blood Diamond*, KP civil society actors threatened to draw public scrutiny toward the many deficiencies of these mechanisms, and the dragging of government and company feet, at a time when the integrity of the industry was likely to be placed in more serious question than ever before. The subsequent behaviour of state participants and industry members suggested that they realised that a sizable part of this unwelcome attention could be mollified if KP civil society was appeased, and an appearance of KP unity and collaboration attained. The result was an unusually responsive and internally coherent KP in late 2006, which would give rise to a procession of new disciplinary measures.

⁶⁰ Partnership Africa Canada, 'Killing Kimberley', p. 6.

⁶¹ *Ibid*, p. 11.

Commenting in its quarterly report *Other Facets*, after the November 2006 KP Plenary in Gaborone, Partnership Africa Canada went so far as to concede that much of its 'Killing Kimberley' report's 'pessimism turned out to have been misplaced.'⁶² The NGO maintained, nevertheless, that the report 'may have been instrumental in shaping events, and the advent of the *Blood Diamond* film also helped to provide momentum.' As the NGO explained, the Gaborone Plenary had taken a tough stance on Ghana, requiring the country to tighten its internal controls over a three month period, during which no diamonds would be exported without external oversight. Review Missions would be sent to Ghana as a follow-up, and also to Venezuela to determine whether the South American nation was capable of remaining a KP member. All 43 recommendations in the Three-Year Review were accepted; those issues that did not invite consensus in an ad hoc working group eventually found consensus at the Plenary. Agreement was reached that 'interim measures' for naming and suspending non-compliant participants would be developed. Furthermore, the WDC made an unprecedented request to governments for effective and credible oversight of the industry. The prickly issue of statistical transparency of each country's production and trade of rough diamonds was resolved, and it was agreed that issues relating to the financing of the KPCS would be addressed over the months to follow. According to Smillie, then Partnership Africa Canada's research coordinator, 'We came to this meeting with deep concerns about the future of the Kimberley Process. All of these concerns were addressed in a constructive manner.'⁶³

While KP civil society might have been pleased with the year's conclusions, so too was the diamond industry. According to the Rapaport Diamond Report, one of the industry's key

⁶² Partnership Africa Canada, 'Kimberley Process: Collapse averted', *Other Facets*, December 2006, p. 1.

⁶³ P. Gonnella, 'Botswana Plenary Helps Rejuvenate KP Commitments', *Rapaport*, 1 December 2006.

sources of price and market information, the Gaborone Plenary helped ‘rejuvenate KP commitments’, allowing members to come away from the meeting ‘feeling good about themselves’.⁶⁴ WDC Chairman Eli Izhakoff held that the Plenary ‘ensures effectiveness and credibility of the Kimberley Process’. KP Chairman Kago Moshashane stated that the ‘clear message being sent by participant nations, civil society and the diamond industry is that this unique collaboration is determined to work together. We may not always agree on everything, but we are united in our view that the Kimberley Process is the best mechanism to bring a complete end to the trade in conflict diamonds.’⁶⁵ For industry, this emphatic show of tripartite unity at the KP was a healthy antecedent to the release of *Blood Diamond* the next month. KP members could fondly refer to themselves in the collective as a ‘family’, as the ‘KP family’, not the fractured arena that they were in recent times and would soon become again.⁶⁶

The ending of *Blood Diamond* would provide further relief, suggesting that industry’s lobbying of the film-makers had found considerable success. Having assisted in the criminalisation of diamond cartel van de Kaap, Djimoun Hounssou’s Mende fisherman Solomon Vandy appears as keynote speaker at the KP’s inaugural 2000 meeting in Kimberley. The film’s epilogue fades out as he receives a standing ovation, and the following text of odd non-sequiturs appears:

In January 2003, forty nations signed ‘The Kimberley Process’ - an effort to stem the flow of conflict diamonds.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ I. Smillie, ‘Comparative Case Study 1: The Kimberley Process Certification Scheme for Rough Diamonds’, Verifor Case Study, October 2005, p. 7; F. Bieri, ‘The Quest for Regulating the Global Diamond Trade’, (International Catalan Institute for Peace, 2009), p. 30, L. Koechlin, ‘Zimbabwe and the Kimberley Process: Just how effective are multi-stakeholder initiatives?’, European Journal of Internal Law blog, 24 November 2009; I. Smillie, ‘Paddles for Kimberley: An Agenda for reform’, (Partnership Africa Canada, 2010), p. 8.

But illegal diamonds are still finding their way to the market. It is up to the consumer to insist that a diamond is conflict-free.

Sierra Leone is at peace.

There are still 200,000 child soldiers in Africa.⁶⁷

CONCLUSION

Commenting in early 2007, De Beers CEO Gareth Penny held that *Blood Diamond* had no discernible effect on company sales. Penny remarked that the film had been ‘fantastic’ for the industry, because it raised consumers’ awareness of the steps industry had taken to ensure that the diamond trade was regulated and blood-free.⁶⁸ Though De Beers’ rough diamond sales slowed slightly toward the end of the year, the company hailed 2006 as ‘an extraordinary year’, wherein rough diamond sales reached \$6.15-billion, the second highest figure it had ever achieved, second only to \$6.5-billion the preceding year.⁶⁹ In 2007, sales dropped to \$5.92-billion, though De Beers noted ‘constraints in supply principally as a result of the planned gradual reduction of purchases from Alrosa’.⁷⁰ In the interests of promoting competition, the EU had persuaded the company that by 2009 it would completely stop buying diamonds from the Russian parastatal, which was extracting about 20 percent of global production.⁷¹ De Beers’ sales figures suggested, firstly, that the blood diamond campaign of the 1990s had not had any lasting negative impact upon De Beers’ profits, and secondly, that *Blood Diamond*’s impact was negligible enough for the company to maintain that the film had actually been beneficial.

⁶⁷ *Blood Diamond*, Dir. E. Zwick, Warner Brothers Pictures, 2006.

⁶⁸ *Diamond Intelligence Briefs*, ‘The New Friends of De Beers’, 28 February 2007, p. 4266.

⁶⁹ J. Mackenzie, ‘De Beers: 2006 “an extraordinary year”’, *Mail & Guardian*, 5 June 2007.

⁷⁰ De Beers, ‘Operating and Financial Review 2007’, p. 5.

⁷¹ *The Economist*, ‘Changing facets’, 22 February 2007.

De Beers' good fortunes were partly attributable to the fact that the film neglected to question the statist-corporatist framing of the blood diamond campaign, and the subsequent conflict diamond definition. Instead, the film reproduced this same framing, as well as the obfuscation of an underhanded synonymy between 'blood diamond' the popular idea and 'conflict diamond' the policy term. In this way, it helped to constrain consumer consciousness, limiting the ways in which it might threaten the legitimacy of the diamond trade and the KP. While the film passed a degree of responsibility on to consumers, the logic of this responsibility was ultimately about reproducing a specific disciplinary power, about ensuring that industry continued to formalise the trade to prevent 'illicit' diamond flows, and in so doing prevent narrowly-defined conflict diamonds from finding their way into the 'licit' trade.

KP civil society actors could themselves have petitioned Hollywood and Edward Zwick to produce a film script that was more aware of the scope of human rights concerns connected to the trade. These NGOs refrained from doing so, pursuing the same strategic alignment that first made the KP possible. Indeed, the extent of their role in the rise of a certification scheme that eschewed human rights has gone largely unnoticed in the academic literature on the KP. After the reconfiguration of the founding strategic alignment and the shift towards human rights that Marange brought about, the role of international NGOs in the original eschewal of human rights concerns at the KP was further obscured. Indeed, this shift saw NGOs and their mostly western KP allies proclaim that human rights were always a core KP tenet, a stance that obscured the nature of the founding strategic alignment that underpinned the KP's origins, and which is revealed in the texts this chapter analyses.

The founding of the KP would, however, make possible the later human rights gains that the organisation would make through its handling of Marange. As the KP developed out of the older assemblage of the cartel, the watchword of campaigners turned KP civil society representatives was 'monitoring'. Even if their early pushes for better monitoring were not about human rights monitoring, they enhanced the monitoring assemblage, advanced its capacity to produce a vast, diverse corpus of knowledge, and maintained the founding strategic alignment that gave rise to the assemblage and held it together. These were all crucial precursors to the human rights turn that would eventually come. They were crucial because they advanced a disciplinary power, which was pervasive and engulfing, yet changeable and unpredictable. As we see in the following chapter, this power could result in unexpected threats to even some of its most powerful progenitors.

GREEN CLASTS

Contesting the 'discovery' of diamonds in Marange

Debzim is aware of a small diamond deposit at Marange, which Debzim considers to be of no commercial interest to Debzim due to the limited size of the deposit and its poor grade.

Martin Roberts, Manager of Exploration, De Beers Prospecting Zimbabwe (Debzim), 2006.¹

That should be the work of our gods. Many of our sons and daughters have managed to build the types of houses that can only be afforded by people living in the cities. Some of them have even bought cars, even though they cannot drive. The spirits had the noble idea of empowering the local community, but things started going wrong when makorokoza from all over the country invaded Marange and turned it into a wasteland. Even the government had initially agreed that we pan for diamonds, but when the greedy ones came the politicians changed their minds.

'Clephas Mharidzo, a village headman in Marange district', *IRIN*, 'Zimbabwe: Desperate miners to dig to escape poverty', January 2007.

You don't need a sample to realize that Marange has diamonds. You pick them up as you walk through.

Obert Mpofu, Zimbabwean Minister of Mines and Mining Development, 2010.²

INTRODUCTION

This chapter revisits and reinterprets the story of the 'discovery' of Marange diamonds, providing a background to the Marange predicament that developed at the KP from late 2008.

In so doing, it reveals additional aspects of the workings of disciplinary power connected to

¹ M. Roberts, 'Debzim not mining diamonds in Zimbabwe', *The Standard*, 30 July 2006.

² Mpofu was speaking at the 2010 International Diamond Conference in Mumbai, India. A. Krawitz, 'Mpofu pushes industry to accept Zimbabwe diamonds', *Rapaport*, 1 November 2010.

the KP. It locates the contentiousness of the discovery in the KP monitoring assemblage's disciplinary effects, and the ways in which certain actors sought to manipulate these effects by influencing the knowledge the assemblage produced.

In 2006, public attention in Zimbabwe and further afield was drawn to the existence of an alluvial diamond field in eastern Zimbabwe, reaching across the Chiadzwa and Mukwada wards of Marange district in Mutare West constituency, Manicaland province. The early surges of a protracted but fluctuating diamond rush, which swept across Marange's arid rock-strewn savannah landscape in mid-2006, frequently encouraged the view in media, civil society, and academia that 2006 was the year in which these diamonds were discovered.³ More informed accounts agreed that Marange's diamonds were first discovered years before by De Beers Prospecting Zimbabwe (Debzim). Yet, what year Debzim made the discovery, what this discovery revealed about Marange's diamondiferous nature, what the company then opted to do in Marange, and why it later chose to abruptly exit Zimbabwe in mid-2006, remain points of contention.

As a means of showing the workings of disciplinary power, and thereby explaining why Marange's discovery remains so contentious, this chapter examines a series of texts that address the diamond field's discovery. The focus is on contrasting public and internal De Beers

³ For examples in the media, see R. Mukimbira, 'AIM listed Zimbabwe diamond miner evicted from its claims', *Mineweb*, 12 December 2006; *The Economist*, 'Zimbabwe and its diamonds: Forever dirty', 30 June 2010; and D. Smith, 'Zimbabwe Regime accused of stealing \$2bn in diamonds', *The Guardian*, 12 November 2012. In civil society, see *Sokwanele*, 'The Marange diamond fields of Zimbabwe: An overview', October 2011, p. 2; Human Rights Watch, 'Diamonds in the Rough', June 2009, p. 3; T. Vircoulon, 'Time to rethink the Kimberley Process: The Zimbabwe Case', The International Crisis Group, 4 November 2010. In academia, see J. E. Nichols, 'A Conflict of Diamonds: The Kimberley Process and Zimbabwe's Marange Diamond Fields', *Denver Journal of International Law and Policy*, 40:4 (2012), p. 666; D. Towriss, 'Buying Loyalty: Zimbabwe's Marange Diamonds', *Journal of Southern African Studies*, 39:1 (2013), p. 99; and S. Mawowa, 'The Political Economy of Artisanal and Small-Scale Gold Mining in Central Zimbabwe', *Journal of Southern African Studies*, 39:4 (2013), p. 923.

communications in 2006, changing claims by Obert Mpofu, Zimbabwe's head KP delegate and Minister of Mines and Mining Development from 2009, and finally, more recent descriptions of Marange from a geologist on the Debzim team that discovered alluvial diamonds in the area.

From this textual analysis, the chapter yields two key insights about disciplinary power. Firstly, we see how actors 'self-disciplined' because the KP monitoring assemblage rendered them as objects of knowledge, or because they saw certain renderings of themselves as a possibility. Secondly, we see the importance of agency, how certain actors could manipulate, though not entirely control, the monitoring assemblage. They did so by producing knowledge that fed into the assemblage and oriented it in certain directions, giving rise to new disciplinary effects that constrained other actors.

The story told here differs in important ways with prior scholarly accounts. Certainly, no scholar has focussed extensively on Marange's discovery or linked its contentiousness to effects of disciplinary power. Several Zimbabwean scholars have speculated briefly about the history of De Beers in Marange, and while they correct the widely-held view that 2006 was the 'year of discovery', their views reflect versions of the changing narratives that Mpofu produced over time, as he sought to manipulate the KP assemblage's disciplinary effects.⁴

⁴ See S. Nyota and F. Sibanda, 'Digging for Diamonds, Wielding New Words: A Linguistic Perspective on Zimbabwe's "Blood Diamonds"', *Journal of Southern African Studies*, 38:1 (2012), pp. 129 – 130; M. Hove, T. Nyamunda, and P. Mukwambo, 'Violent state operations at Chiadzwa (Zimbabwe) diamond fields 2006-2009', *Journal of Aggression, Conflict and Peace Research*, 6:1 (2014), p. 58.

Both Mpofu and De Beers' discovery narratives changed over time, in part as a function of the KP's disciplinary effects and the efforts of these and other actors to manipulate such effects. This chapter delves into these effects and their manipulations, providing a background to Chapters Four and Five and in some respects anticipating them. The chapter's penultimate section is something of a departure: I delve into more recent geological texts to cast prior workings of disciplinary power into sharper relief. These texts were produced by an actor who became increasingly detached from the disciplinary effects of the KP assemblage, and therefore offer a more independent explanation of how diamonds in Marange were discovered, casting the self-disciplining and agency of De Beers and Mpofu in stronger light.

EARLY PROSPECTS

This section observes the workings of disciplinary power through an examination of several texts, primarily from 2006 and 2007, which concern the prospecting in Marange of Debzim and African Consolidated Resources (ACR). Public and internal Debzim communications are the primary focus of the section, and point to a self-disciplining on the part of De Beers, which amounted to behaving in a manner that discouraged any censure from the Zimbabwean state for contravention of the KP's formalisation norms. The section starts with ACR, even though this smaller company arrived in the area after De Beers. This initial focus on ACR helps to give a sense of the changing Zimbabwean context in which De Beers found itself, and in which the multinational's approach to prospecting in the country was forcibly adjusted. The focus on ACR also emphasizes the second insight this chapter offers on disciplinary power, which is the importance of agency through knowledge production. Indeed, both ACR and Debzim produced knowledge on Marange that fed into the KP assemblage and re-oriented it, thus giving rise to new disciplinary effects.

AFRICAN CONSOLIDATED RESOURCES (ACR)

ACR was a minerals exploration company listed on the London Stock Exchange's Alternative Investment Market (AIM) from mid-2006, with several white Zimbabwean men at its helm and over 25 black Zimbabweans said to be among its investors.⁵ Labelled the first UK-listed mining company to invest in Zimbabwe since the onset of the country's crisis in 2000, ACR was audaciously bullish in its regard for the Zimbabwean mining sector, and had approximately 1,000 claims to its name by the end of 2006.⁶

In early 2006, ACR began pegging claims in the south of Marange, in the vicinity of a creek named Mukodzi. These claims had been part of an exclusive prospecting order (EPO) belonging to Debzim. ACR had employed a number of Zimbabwean geologists recently retrenched by Debzim, and one of them, Archibold Patsanza, believed that the Mukodzi area held great promise.⁷ Debzim needed to renew their EPO before its 28 March expiry, but appeared not to do so, allowing ACR to quickly commence with pegging once the EPO had expired. Allegedly unbeknownst to ACR, Debzim had applied for renewal approximately two months before expiry, but the Mining Affairs Board (MAB) in Zimbabwe's Ministry of Mines and Mining Development had not sat for its bi-monthly meeting to consider the Debzim application.⁸ Consequently, the Debzim EPO was left to expire, and ACR were granted their claims in Mukodzi.⁹

⁵ *Africa Confidential*, 'Diamond disputes', 14 May 2010.

⁶ P. Thornycroft, 'Mugabe joins massive diamond rush', *The Telegraph*, 8 December 2006.

⁷ Interview with A. Cranswick, London, 6 February 2014.

⁸ *Ibid.*

⁹ Hungwe J, *African Consolidated Resources Plc and others v. Minister of Mines and Mining Development and others*, Case No. HC 6411/2007, 24 September 2009, p. 6.

Once the Mukodzi claims were granted, ACR set about preparing prospecting operations, which included a substantial capital outlay towards fencing off the claims, putting up buildings and hiring staff.¹⁰ The company's progress in Marange did not go unnoticed. ACR CEO Andrew Cranswick recalled a phone call over Easter 2006 with Patsanza, who said he had 8 diamonds in his hand, 'industrial, very weird-looking'.¹¹ In searching for these alluvial diamonds, Patsanza depended on the labour of local people, who clearly realized that there was more significance to these stones than many of their coarse, darkly irradiated exteriors suggested. In late April, ACR caught wind of someone trying to sell diamonds on the side of the road in Marange. Their head geologist, Dirk Benade, was sent to investigate. Before long, Benade came across an artisanal miner who sold him a perfect 20 carat gem, which strongly suggested that Marange had more to offer than industrial grade stones. ACR had unwittingly drawn unwelcome attention to its EPO in Mukodzi, where the company would soon find itself purchasing numerous stones dug up within the porous confines of its peggings from queues of artisanal miners.¹²

On 21 July 2006, the Assistant Mining Commissioner in Mutare sent a letter to ACR advising them that their claims had been 'invalidated because De Beers had already submitted an application extension'.¹³ Furthermore, on 11 August then Mines Minister Amos Midzi, acting in terms of the Mines and Minerals Act, reserved a segment of Marange including the Mukodzi claims against prospecting and pegging.¹⁴ However, ACR received mixed signals from

¹⁰ *Ibid*, p. 3.

¹¹ Interview with A. Cranswick, London, 6 February 2014.

¹² Interview with J. D. Ward, Stellenbosch, 22 December 2014.

¹³ Legal opinion by D. G. Palframan, 9 October 2006, endorsed by advisor to ACR, the retired Justice L. G. Smith, 8 July 2007.

¹⁴ Hungwe J, *African Consolidated Resources Plc and others v. Minister of Mines and Mining Development and others*, pp. 3 - 4.

a Mines Ministry seemingly wracked by internal communication problems, or perhaps internal conflict. On 19 September, it received a letter from the Mining Commissioner in Harare, contradicting the July letter from the Assistant Mining Commissioner in Mutare, and maintaining that ACR's Mukodzi claims were still valid. In response, the company kept up exploration and infrastructural development, which included fencing an extensive area to stem what had become a widespread and uncontrollable influx of artisanal miners.

On 21 September, ACR announced 'a diamond find in Zimbabwe' to the London Stock Exchange, without explanation of where in Zimbabwe this find was made.¹⁵ According to the announcement, ACR's directors believed 'the gem and industrial diamonds which have been recovered in the past few weeks are significant both as to quantity and as to value but neither have yet been definitively established.' The company would make a full evaluation of the find 'as soon as practicable and will announce the results as soon as known.' The announcement did not acknowledge the swelling torrent of political and economic forces likely to stand in the way of 'practicable', nor did ACR seem concerned about what attention its news-making might draw from the Zimbabwean government.

ACR had made no profit since its AIM listing in mid-2006 and, as detailed in its financial reports, survived on floatations on the stock exchange for years to come.¹⁶ Rumour would soon emerge that ACR was reliant upon a certain well-positioned black Zimbabwean shareholder, Vice-President Joice Mujuru's husband General Solomon Mujuru.¹⁷ The General

¹⁵ London Stock Exchange Regulatory News Service, 'African Consolidated Diamond Discovery', 21 September 2006.

¹⁶ *The Insider*, 'ACR's Cranswick – a cowboy capitalist!', 15 December 2010.

¹⁷ Partnership Africa Canada, 'Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe', June 2010, p. 9.

may well have bolstered ACR's bullish pluck, and was perhaps a factor in the conflict inside the Mines Ministry.

ACR had seemingly secured an alliance with an actor linked to the Zimbabwean state. In starting to disseminate knowledge of Marange abroad, it sought to augment this alliance by obtaining additional overseas funding, and thus greater backing from foreign capital. By drawing international attention to Marange, and making the area increasingly visible, the company provided greater disciplinary stimulus for the Zimbabwean state, pressuring it to defer to international norms in the management of Marange mining. This meant submitting to global norms of formalisation, or a heightening of state regulation overseen by the KP. In Marange's case, formalisation also likely meant bringing in reputable but politically well-connected capital to mine the diamond fields. ACR mistakenly believed that it was well poised to assume such a role, but, even so, its manoeuvrings would render Marange as an object of knowledge in novel ways.

The Mining Commissioner did not take long to retract his notification that upheld the validity of ACR's Mukodzi claims, and on 28 September, only a week after ACR's announcement to the London Stock Exchange, Amos Midzi visited Mukodzi with officials from the Minerals Marketing Corporation of Zimbabwe (MMCZ) in tow, to inform a crowd comprising artisanal miners, police, and ACR officials that the MMCZ was the only authority lawfully permitted to be on site and buy diamonds from artisanal miners.¹⁸ Police interrogated ACR officials on site, and seized several ACR diamond samples. Days before the Minister's visit, the MMCZ had

¹⁸ Hungwe J, *African Consolidated Resources Plc and others v. Minister of Mines and Mining Development and others*, p. 3.

lodged an application with the Mining Commissioner for a Special Grant that would include the Mukodzi claim. The Special Grant was approved on 1 October, but later transferred to the parastatal Zimbabwe Mining Development Corporation (ZMDC), after ACR protested that The Precious Stones Trade Act prohibited the conflict of interest that would arise from the sole diamond marketing and dealing agent in the country also engaging in mining activities.

On 2 October, ACR was warned by police to cease all activities in Mukodzi. The same day the Provincial Governor for Manicaland Tinaye Chigudu and the Mines Minister's deputy arrived in the area and addressed a throng of artisanal miners, announcing that diamond purchases would commence immediately. MMCZ officials then began buying diamonds from the miners present. These transactions were reported in the Mutare-based newspaper *The Manica Post* on 5 October, which estimated that 4,000 people were now searching for diamonds in Marange, causing student enrolment and teacher attendance to decline drastically at local schools.¹⁹ Within days of *The Manica Post* report, the estimated number of artisanal miners active in Marange swelled to 15,000.²⁰

This was a time of economic collapse and hyperinflation in Zimbabwe, with huge numbers of people desperately seeking livelihoods. Continuing to drum up industry alarm in December, ACR officials claimed that £120 million's worth of diamonds had already been dug up. 'Between 6,000 and 15,000 people moved one million tonnes of earth by hand in a 1.4 square mile area in a month,' exclaimed Dirk Benade, 'World class machinery couldn't have moved what they did.'²¹ While the MMCZ sought to mop up the diamonds dug up by artisanal miners,

¹⁹ *The Manica Post*, 'Diamond Rush', 5 October 2006.

²⁰ Legal opinion by D. G. Palframan, 9 October 2006, endorsed by Justice L. G. Smith (retired), 8 July 2007.

²¹ P. Thornycroft, 'Mugabe joins massive diamond rush'.

the 'black market' increasingly undercut the parastatal, leading to a newspaper report in early December 2006 that Zimbabwe was feared to have lost as much as US\$300 million's worth of Marange diamonds to smuggling.²² While neither this number nor ACR's could be verified, these stories meant Marange was now enveloped by a diamond rush that companies and authorities were hard-pressed to control, giving rise to much speculation about what diamond values were at stake.

In response to its eviction, ACR employed three interwoven strategies. Firstly, it took legal recourse, filing an urgent High Court application in March 2007 seeking a provisional order to compel government to return the Mukodzi claims to ACR.²³ The company also held that it had been wrongly dispossessed of more than US\$2 million worth of diamonds following a police raid on its Harare offices in January 2007. Cranswick expressed a starry-eyed conviction: 'I don't believe Zimbabwe would allow illegal seizure of claims without due process'.²⁴ These efforts through the Zimbabwean legal system would prove fruitless, even when ACR emerged victorious in court.

Secondly, ACR sought to communicate and develop an alliance with government, in the hope that even a momentary victory in the courts might help convince certain key officials to form a joint venture with an amenable ACR in Marange. It also drew international attention to Marange, courting investors who might sweeten such an alliance. Referring to its legal proceedings, ACR Financial Director Roy Tucker declared in late 2006, 'We feel confident we

²² D. Muleya, 'US\$300m feared lost in diamonds scam', *The Zimbabwe Independent*, 7 December 2006.

²³ I. Mushekwe, 'British firm takes govt to court over Marange diamond claim', *The Zimbabwe Independent*, 31 March 2007.

²⁴ P. Thornycroft, 'Mugabe joins massive diamond rush'.

will win and we are in negotiations with government now.'²⁵ ACR reportedly went so far as to appeal to Robert Mugabe to intervene. However, Mugabe seemed suspicious of ACR's British links, stating that government would facilitate the entry of blacks into the mining industry but not through joint ventures with Zimbabwe's enemies.²⁶ The UK newsletter *Africa Confidential* contended that the underlying reason, divulged by government insiders, was that one of ACR's key shareholders was General Mujuru, who also owned River Ranch diamond mine in Beitbridge district, Matabeleland South, following a controversial take over in 2004.²⁷ Mujuru and Mugabe's relationship had previously broken down over ZANU-PF succession politics.²⁸ ACR had not only backed the wrong ZANU-PF player, it had also alienated key state actors by taking them on in court, and by being registered on the London Stock Exchange, it ran against the grain of ZANU-PF's rhetoric of Patriotic History and indigenization.

Thirdly, ACR sought to appeal to its Zimbabwean state actor audience by addressing another audience from afar, one that might exert international pressure. Having produced knowledge that caused unease about lawlessness in Marange, it sent its Financial Officer Ian Harris to the November 2006 KP Plenary in Gaborone to ask why a global regime policing the illicit diamond trade would not act against the mass theft of Marange diamonds. ACR sought to use the KP's disciplinary effects in its favour, yet was once again unable to align its interests with those of more powerful actors. Its protestations that Marange diamonds were taken from it illegally were not a compelling reason to review the KP's limited mandate, which did not pertain to

²⁵ R. Mukimbira, 'AIM listed Zimbabwe diamond miner evicted from its claims'.

²⁶ *Africa Confidential*, 'Diamond disputes'.

²⁷ *Africa Confidential*, 'Diamond disputes'; L. Guma, 'General Solomon Mujuru legacy divides opinion', *SWRadio Africa*, 16 August 2011.

²⁸ B-M. Tendi, 'Ideology, Civilian Authority and the Zimbabwean Military', *Journal of Southern African Studies*, 39:4 (2013), p. 839.

disputes over mining rights. Harris found himself on the Gaborone Plenary's margins, an isolated voice with no audience. ACR could offer no compelling case, nor could it forge a strategic alignment with any influential KP insider. The governments Harris approached, the EU included, declined to intervene in his company's dispute.²⁹

Nonetheless, ACR's manoeuvrings had an important effect on the KP. While it failed to turn the KP's disciplinary regime to its purposes, it still produced effects through its own production of knowledge. By drawing attention to Marange's existence, and helping to precipitate the diamond rush in 2006, it had encouraged a growing belief that these diamondiferous fields were one of the most substantial diamond finds of the past century, and that their riches were fast disappearing into 'illicit' channels that would evade the Zimbabwean state and cause a swelling in global supply large enough to threaten the cartel. ACR helped render Marange an object of knowledge at the KP, and thus an object for intervention. This rendering raised questions about what had gone on in the area prior to 2006, and what should be done next. In this way, ACR also helped to render Debzim as a potential knowledge object. However, by late 2006 Debzim had already moved decisively to stop the KP monitoring assemblage from turning towards its past in Marange.

DE BEERS PROSPECTING ZIMBABWE (DEBZIM)

ACR received another letter from the Assistant Mining Commissioner as late as November 2006, re-affirming the cancellation of their claims on the grounds that the Debzim EPO was still current.³⁰ Yet by this time, Debzim had already informed government of its decision to exit both Marange and Zimbabwe. In an internal report written for senior De Beers' officials

²⁹ Interview with A. Cranswick, London, 6 February 2014.

³⁰ Hungwe J, *African Consolidated Resources Plc and others v. Minister of Mines and Mining Development and others*, pp. 3 - 4.

in London, Martin Roberts, Debzim Manager of Exploration since February 2006, wrote that Debzim was only alerted to the 'irregular' granting of the Mukodzi claims to ACR when it began to hear reports of artisanal miners digging on and around the claims.³¹ Debzim would later acknowledge in correspondence with ACR that the latter had not acted in bad faith, attempted to disenfranchise Debzim, or breached any law.³² Yet Debzim would find itself under legal scrutiny in late July 2006, when Zimbabwean newspaper *The Standard* reported that the Mines Ministry was investigating the misappropriation of diamonds in Marange, and that government officials were blaming the illegal exports on the 'complacency' of De Beers.³³ One government source regarded the company as more culpable than complacent, 'They tell the ministry that they are still prospecting but in the meantime they are exporting the mineral illegally. The problem is Zimbabwe does not have the technical expertise when it comes to diamond mining so government can be cheated easily.'³⁴ These developments, *The Standard* claimed, had shaken officials at the Ministry of Mines, who feared the wrath of the KP.

Debzim's public and internal communications at the time indicate that it was also increasingly unnerved, as government officials leaned toward placing the blame for the chaos in Marange squarely upon the shoulders of De Beers. What response would there be to such allegations at the KP? If such blame was found to have any substance, or even just popular resonance as an explanation of what had happened in Marange, there could be dire repercussions for De Beers' reputation and its influential KP positioning. Debzim quickly began to self-discipline

³¹ M. Roberts, 'Diamond mining in Zimbabwe and Kimberley Process implications', December 2006, p. 10. This document was sent to me by an anonymous contact who obtained it legally.

³² Email, M. Roberts (Exploration Manager, De Beers Prospecting Zimbabwe) to Andrew Cranswick (CEO, ACR), 16 October 2006, cited in S. Doran, 'Zimbabwe's Economy: A Report Card, mid-2009', Brenthurst Foundation Discussion Paper 8/2009, p. 24.

³³ D. F. Ndlovu, *The Standard*, 'Government investigates diamond theft', 23 July 2006.

³⁴ *Ibid.*

and produce knowledge, in an effort to counter further scrutiny from the Zimbabwean state and the KP, and thereby stem reputational damage.

A letter from Martin Roberts appeared in *The Standard* a week later, to point out ‘some factually incorrect assumptions’ in the newspaper’s 23 July report. Roberts began by asserting that Debzim had no mining operations anywhere in Zimbabwe, and was not involved in the mining or export of diamonds from Marange, nor from anywhere else in the country. Furthermore, Roberts maintained that Debzim had been less than impressed with what Marange seemed to offer:

Debzim is aware of a small diamond deposit at Marange, which Debzim considers to be of no commercial interest to Debzim due to the limited size of the deposit and its poor grade. We understand that in April 2006, prior to the current activity in the Marange area, mining claims were granted to another company and we wish to state categorically that no diamond digging took place whilst Debzim was actively managing this ground.³⁵

Roberts’ internal report (the ‘Debzim report’ hereafter) concurred with his public letter that Debzim was not mining in Zimbabwe, and that Debzim considered the Marange deposit to be of limited size. The Debzim report did not address the deposit’s grade, or, in other words, the concentration of diamonds per unit of ore. Yet, it held that the diamonds were of poor quality. It contrasted significantly with the public letter in noting that Debzim’s understanding of the deposit was ‘admittedly limited’, and, furthermore, that the deposit was indeed of possible commercial interest. According to the Debzim report,

The Marange diamonds were discovered by De Beers during routine prospecting activities in 2000. Thirty-three diamonds recovered from the host conglomerate that totalled 239 carats were tentatively valued by De Beers as being less than \$9/carats. Most of the other diamonds observed in situ within the conglomerate were also of very poor quality (highly fractured, coloured and abraded). De Beers had made the

³⁵ Roberts, ‘Debzim not mining diamonds in Zimbabwe’, *The Standard*, 30 July 2006.

decision to hold onto this secondary deposit of fossilized alluvial diamonds until the end of tenure of the prospecting license in order to find suitable partners to take over what is believed to be a small localized deposit in a joint venture agreement.³⁶

Debzim had not intended to let go of EPO 1523, across which ACR's peggings were placed. Yet as the report indicated, the manner in which Marange's diamonds became widely known had worsened Debzim's outlook. When Debzim realized that government officials and early media reportage on Marange were suggesting that De Beers was involved in the illegal exporting of these diamonds, it requested to meet in the latter half of 2006 with the Department of Geological Survey and the Mining Affairs Board, both in Zimbabwe's Mines Ministry, as well as the Mines Minister himself. As the Debzim report explained,

We asked the Geological Survey how it was possible that another company could have been granted that ground within our prospecting license, to which they replied that it was erroneous, not valid. Subsequent to that meeting, De Beers made the decision to drop the ground in that area (based on the huge reputational issues that were developing quickly as a result of our ground holdings and presence in the area, and our assessment of the poor quality of the diamonds and limited extent of the secondary deposit). When we notified the Government of our intention to drop the ground and our displeasure at the illegal activities taking place, they made the decision to put a Government reservation over the area.³⁷

Contestation around De Beer's indistinct history in Marange was short-lived in 2006. While questions were asked in certain state quarters about Debzim's activity in Marange, these questions soon went mute, superseded perhaps by the story of a renewed Debzim EPO in Marange, intermittently posited by certain Zimbabwean mining officials as the reason for ACR's eviction. Yet, these questions also likely went mute because Debzim was stricken with a fear of 'reputational issues' that might lead to any kind of association with lawlessness in

³⁶ Roberts, 'Diamond mining in Zimbabwe and Kimberley Process implications', p. 10.

³⁷ *Ibid.*

Marange, particularly the field's glaring lack of anything along the KP's regulatory lines of formalisation. The company self-disciplined accordingly, doing its utmost to avoid public confrontation with Zimbabwean state actors responsible for the regulation of the country's diamond trade, which meant approaching such actors in private to cordially discuss Marange, before removing itself from Zimbabwe altogether, rather than contesting its Marange mining claims. Debzim also moved to shape public knowledge of Marange in a manner more amenable to De Beers' interests: Debzim was not mining anywhere in Zimbabwe, and it had no commercial interest in Marange because the deposit was of limited size and grade.

While Roberts' letter produced its own useful public narrative and knowledge, it was also written in a manner that would give state officials as little reason as possible to question the regulatory legitimacy of prior Debzim operations in and around Marange. Indeed, Roberts' letter was only combative to the extent that it defended Debzim's record in Zimbabwe, and De Beers' compliance with the KP more generally. The letter ended with a string of customary KP assurances, about the international certification scheme that sought with much success to end the diamond trade's involvement in civil war, through efforts to 'legitimize' the trade, with pivotal support from De Beers. As was routine, the silences around the meaning of 'legitimate governments' were kept, as were those around the failure to address human rights violations by states and corporations. In line with these silences, the legitimacy of the Zimbabwean state was not questioned. Crucially, however, the letter also did not address whether Zimbabwe was KP compliant. As it read,

The De Beers Group of Companies (De Beers) is one of the primary initiators of, and contributors to, the Kimberley Process; a worldwide diamond industry initiative to protect diamonds from those who seek to use them to fund civil war. ... The KP has been successful in bringing into the legitimate channels of trade 99.8% (two tenths of one percent of diamonds still remain questionable) of the diamonds traded in the

world and for this success De Beers stands proudly alongside the world's leading governments and companies engaged in producing, cutting and trading diamonds. We are not aware of any other industry that has sought to certify its product in such a way. We take seriously the role and responsibilities with regard to this membership.³⁸

With the release of *Blood Diamond* on the horizon, its cinematic portrayal of a violent and lawless African alluvial diamond field looming, and the diamond industry's pre-emptive mass publicity campaign gathering momentum, De Beers found itself accused by state officials of smuggling diamonds out of an African alluvial diamond field undergoing a chaotic diamond rush in a country suffering from economic collapse. At this global juncture, which we saw in Chapter Two, few reputational threats could have caused the company more alarm, other than the threat of the film *Blood Diamond* itself. While less than impressed with what it believed Marange had to offer, Debzim had sought to renew its EPO in Mukodzi towards the end of 2005, seemingly because it saw limited but sufficiently attractive commercial value in the deposit, but perhaps also because it knew its understanding of the deposit was limited, and it hoped to continue prospecting in the area. Yet, the reputational threat that ACR helped precipitate and which *The Standard* heralded in July 2006 dramatically changed De Beers' outlook, causing the company to make a swift and smooth exit from Zimbabwe, leaving state official's feathers unruffled, and temporarily nipping accusations against Debzim in the bud.

Roberts' letter made no reference to a chaotic diamond rush, only to the 'current activity in the Marange area', which was not posited as the reason for De Beer's lack of interest in Marange, nor as an indication that the Zimbabwean government had lost control of the area and thus of its KP compliance.³⁹ Indeed, Roberts was very careful to avoid appearing in any

³⁸ Roberts, 'Debzim not mining diamonds in Zimbabwe'.

³⁹ *Ibid.*

way to be criticising the Zimbabwean state, particularly its own regulation of Marange, for fear of what recriminations might be levelled at Debzim in response. The Debzim request to meet with the Mines Ministry was a further attempt to deter any more public criticism from state officials, and alleviate any ongoing suspicions they might have. These acts of self-disciplining went hand-in-hand with acts of knowledge production, of which meeting the Mines Ministry was also part.

Why did De Beers behave so cautiously? In part this was because, though De Beers might be powerful within the KP, this did not mean its agendas would always be satisfied. Indeed, as De Beers' near-monopolistic control of the diamond trade waned in the 21st century, and new players ascended into positions of influence, the importance of maintaining the cartel to limit supply and keep prices high was more important than ever. The KP was a crucial instrument in this regard. It erected new entry barriers to keep smaller players out, but it also brought about a heightened visibility of players inside the cartel, De Beers included. Thus, despite a fracturing of De Beers' centralised control, the industry could self-monitor and self-discipline, while outsourcing many regulatory costs to governments. Through these changes, however, De Beers itself became increasingly subject to the disciplinary effects of a new visibility, leading it to exercise great caution with respect to its past and to its role in Marange.

These anxieties over the new disciplinary regime of the KP resonated in Roberts' timid internal report. He wrote the Debzim report shortly after De Beers' exit from Zimbabwe, and several months after his letter to *The Standard*. Despite the company's departure, its Public and Corporate Affairs desk in London continued to receive enquiries about the situation in Marange and the involvement of De Beers, and so Roberts was tasked by Public and Corporate

Affairs to compile the report, which he titled 'Diamond mining in Zimbabwe and Kimberley Process implications'.

Roberts' position, as Exploration Manager for Debzim and author of the report, relative to the positions of his intended audience in London, to whom he was obliged to answer, and who would have had various means through which to closely scrutinise what detail he offered, makes a case for the text's credibility. However, the Debzim report is sometimes notably defensive and vague, particularly in the 'cautionary note' towards the beginning, where disclaimers are put to its intended audience, including the assertion that this seemingly informative text should not be taken as 'a factual document':

This report has been put together at short notice and largely with very recently acquired information. It is unclear how much detail should have been provided in this report, and the exact scope of the report. As a result, I have attempted to provide a level of detail that would provide more answers than questions, but that would not become a thesis. I hope this has been achieved.

This report has not been reviewed by any independent person, and does not constitute a factual document, but rather consists of a summary of information received from several independent sources and that typically the information from the different sources support each other.⁴⁰

The lengths the Debzim report goes to secure its own deniability is curious, though perhaps symptomatic of a text that seeks to produce knowledge that is useful but cannot be used against its author or his superiors. Equally intriguing is the emphasis the report places upon the situation at River Ranch mine in Beitbridge. While Roberts' public letter made no suggestion as to whether Zimbabwe was KP compliant, the Debzim report quietly raised serious allegations about Zimbabwean KP violations, both in River Ranch and Marange. The

⁴⁰ Roberts, 'Diamond mining in Zimbabwe and Kimberley Process implications'. p. 2.

bulk of the report, that is six out of 11 pages, set out ‘credible and detailed evidence that River Ranch mine is illegally exporting diamonds out of Zimbabwe and is being used to launder non-Zimbabwe stones, and that this is being perpetrated and aided by senior Government officials.’⁴¹ These stones were, the report alleged, being smuggled into South Africa, as were many of the stones bought illegally in and around Marange. As Roberts concluded about River Ranch,

My assessment of the situation is that the Government/ZANU-PF which is desperate for forex is laundering DRC stones through River Ranch, and that River Ranch is crucial to these individuals as it provides a laundering vehicle. This then has implications for the Marange diamonds.⁴²

In the two pages the report took to discuss Marange, Roberts went on to state that the ‘unusual high value stones’ being exported from Marange by the MMCZ, which were ‘vastly inconsistent with De Beers’ understanding (admittedly limited) of the characteristics and value of the diamonds in this deposit, do raise questions about the possibility of non-Zimbabwean stones being laundered through the Marange deposit.’⁴³ It would emerge in later years that Debzim had indeed underestimated Marange. Yet, through River Ranch, Roberts found a way to explain to his superiors in London why Debzim’s underestimate might yet be accurate, and, furthermore, perhaps a means for them of establishing state regulation of the Zimbabwean diamond trade as an urgent matter for the KP to address, without placing too direct an emphasis upon Marange, where Debzim had very recently been prospecting. This strategy might draw the monitoring assemblage toward the Zimbabwean state and its place in the KP, rendering it an object of knowledge and a target for disciplinary intervention, without placing De Beers under scrutiny.

⁴¹ Roberts, ‘Debzim not mining diamonds in Zimbabwe’.

⁴² Roberts, ‘Diamond mining in Zimbabwe and Kimberley Process implications’, p. 9.

⁴³ Roberts, ‘Debzim not mining diamonds in Zimbabwe’.

The Debzim report's discreet knowledge production, and its curious emphasis upon River Ranch, would soon surface elsewhere. Weeks after Roberts' internal report was compiled, the WDC complained to the incoming EU Chair of the KP that uncertified rough diamonds were being exported from Zimbabwe into South Africa, from where they were then re-exported with certification, as if they were South African produce. 'While remaining mindful of Zimbabwe's membership of the Kimberley Process, such illegal exportation presents a clear threat to the integrity of the legitimate export process', cautioned WDC Chair Eli Izhakoff, at a time when the industry's reputation was being anxiously safeguarded.⁴⁴ As *Reuters* commented, 'the diamond sector is making extra efforts to police itself amid fears jewelry sales will be hit by the release of the Hollywood film *Blood Diamond* which shows atrocities in African civil wars financed by illicit gems during the 1990s.'⁴⁵ An EU spokesperson noted that while there was no civil war in or neighbouring Zimbabwe, the KP was concerned that if member countries certified exports as their own without adequate guarantee, this 'could potentially create a loophole which could allow real conflict diamonds, i.e. stones from Cote d'Ivoire, to enter the legal diamond trade'.⁴⁶

While the WDC pointed to the smuggling of diamonds from Marange, the organisation seemed more concerned with diamonds being illegally exported to South Africa from River Ranch, reflecting the same peculiar slant as the Debzim report. As Izhakoff noted, the WDC had 'heard that River Ranch diamonds are being mixed with production from the Democratic

⁴⁴ *Diamond Intelligence Briefs*, 'WDC Expresses its Concerns over Zimbabwe Diamond Sector', 2 January 2007.

⁴⁵ N. Banya, 'Zimbabwe's River Ranch says to double ore output', *Reuters*, 10 January 2007.

⁴⁶ *Polished Prices*, 'EC responds to KP investigation in Zimbabwe', 11 January 2007.

Republic of Congo'.⁴⁷ Media reportage on the WDC complaint concentrated on River Ranch, and the *Financial Gazette* in Harare reported that the focus of an upcoming probe would be on allegations that River Ranch had been used to smuggle DRC diamonds.⁴⁸ Diamonds of such an origin may well have been linked to the Second Congo War, a civil and international conflict in which numerous African states had been embroiled, including Zimbabwe. As noted in Chapter Two, this war was for the KP an unopened can of worms, the complexity of which would make a mockery of the conflict diamond definition's crude binary between 'rebel movements' and 'legitimate governments'. Though the war had officially ended in 2003, many of the commodities exploited during and as a result of the conflict continued to circulate in and on the peripheries of markets.

While De Beers had played a central role in setting up the WDC in 2000, and continued to heavily influence its function in 2007, the company's possible hand in drawing KP scrutiny toward Zimbabwe did not seem discernible to Zimbabwean officials, who countered quickly by cordially inviting a KP Review Visit. The Debzim report's content does not show De Beer's hand, though the proximity in time of the report and the subsequent WDC complaint, as well as their matching emphases on River Ranch, suggests that information gathering by De Beers through Roberts was influential. The company's strong presence within the WDC and the KP would allow for the channelling of such knowledge to key points of monitoring control that might institute investigations into the Zimbabwe situation, not least of all the KP Working Group on Monitoring (WGM). The WGM and the Review Visits and Missions that it supervised were a crucial part of the KP monitoring assemblage, and increasingly so from 2009, when the

⁴⁷ *Diamond Intelligence Briefs*, 'WDC Expresses its Concerns over Zimbabwe Diamond Sector'.

⁴⁸ N. Ncube and R. Mberi, 'Zim Under Probe', *Financial Gazette*, 4 January 2007.

KP's human rights turn emerged. Zimbabwean officials 'self-disciplined', obediently inviting a 2007 Review Visit, though they raised some concern over who might be on the visiting team.

The subsequent WGM investigation into Zimbabwean diamond mining and exports amounted to a Review Visit to Zimbabwe in mid-2007 that was Russian-led, after claims by Mines Minister Midzi that the EU Chair was hoping to use diamond smuggling allegations to justify renewed EU sanctions, first introduced in 2002 over allegations of rights violations by ZANU-PF-state actors.⁴⁹ With Russian-Zimbabwean joint mining venture DTZ-OZGEO commencing operations in Chimanimani District, Manicaland Province, in 2007, Zimbabwean officials were more amenable to a Review Visit that was led by Russia, rather than the EU.

According to the Review Visit report, while De Beers had held an EPO in Marange from 2001 until March 2006, for which it received an extension in June 2006, 'African Consolidated Resources applied for the rights to the area but in a manner that seemingly bypassed the Ministry of Mines in Harare'. ACR was then 'adjudicated as not holding the legal rights to Marange', but 'De Beers renounced their renewed title to the region'.⁵⁰ One Review Visit member would later note that the explanation concerning ACR came directly from the Mines Ministry, and was accepted by certain Review Visit members without scrutiny.⁵¹ That the Review Visit report would make such a pronouncement when ACR's dispute with government was *sub judice* lends credence to this view. The Review Visit report appeared to legitimise previous De Beers and present state operations in Marange, at ACR's expense. Having

⁴⁹ *The Financial Gazette*, 'EU Acts on Diamonds', 11 January 2007; *The Standard*, 'Major setback for Midzi', 21 January 2007.

⁵⁰ 'Report of the Review Visit of the Kimberley Process to the Republic of Zimbabwe 29 May – 01 June 2007', March 2008, p. 10.

⁵¹ Interview with anonymous member of 2007 KP Review Visit to Zimbabwe, 31 October 2014.

inspected Marange, River Ranch, and Rio Tinto's Murowa mine in Midlands province, the Review Visit report went on to conclude that 'the overall structure of the implementation of the KP Certification Scheme appears to be working in a satisfactory manner in Zimbabwe, and, in general, meets the minimum requirements of the KPCS.'⁵²

That the Review Visit findings were not more critical of the Zimbabwean state's handling of Marange was indicative of the fact that De Beers formed an influential part of the KP's founding strategic alignment, but did not monopolize it. It was also probable that the Review Visit encountered a relative calm in Marange in mid-2007, as its overflight photography of abandoned panning pits attested.⁵³ The Zimbabwean state was also self-disciplining in the face of an advancing KP monitoring assemblage.

DIGGING FOR DEBZIM'S PAST

This section continues to explore the uses of disciplinary power through an examination of contestations around the discovery of Marange's diamonds. It also anticipates the following two chapters, by shifting its focus toward the years that the KP's Marange predicament came to a head, as it tracks the changing pronouncements of Obert Mpofu, appointed Minister of Mines and Mining Development in February 2009 as part of the Government of National Unity (GNU). When, as I argue in the next chapter, a new strategic alignment of predominantly western KP actors sought to broaden the orthodox KP language of formalisation to include human rights language, ZANU-PF elements within the Zimbabwean state, led at the KP by Mpofu, showed a self-disciplining and knowledge production capacity of their own.

⁵² 'Report of the Review Visit of the Kimberley Process to the Republic of Zimbabwe 29 May – 01 June 2007', p. 23.

⁵³ *Ibid*, p. 11.

The Zimbabwean state's changing behaviour in and around Marange from 2009 (further explored in the next two chapters), together with the texts of Mpfu's performances at the KP and elsewhere, were indicative of the strategy ZANU-PF-state actors adopted in the face of the KP's human rights turn and its subsequent disciplinary effects. Firstly, Zimbabwean state actors self-disciplined selectively along human rights lines. They did not cease to violate human rights in Zimbabwe, but they reduced certain human rights violations in and around Marange. While there were occasional disciplinary lapses that were useful to the western strategic alignment, western efforts to continue producing knowledge of ongoing Zimbabwean state human rights violations through the KP assemblage were frustrated. Secondly, Mpfu and his fellow Zimbabwean government delegates at the KP made brinkman-like threats to leave the organisation if Marange diamonds were not certified, and flood the 'illicit' trade.⁵⁴ Such a move would seriously undermine the formalisation the KP had achieved since its launch. Thirdly, while Mpfu et al threatened to undermine formalisation by leaving the KP, they kept to the formalisation discourse. In the face of the human rights turn, they held that Marange's certification should be decided along formalisation lines alone. They self-disciplined along human rights lines in and around Marange to reduce human rights talk at the KP, but at the same time opposed human rights policy reform, which further restrained human rights talk.

As an adjunct to this third prong, Mpfu produced an alternative narrative of De Beers' past in Marange, pointing to an underhanded neo-colonial exploitation of African resources, which

⁵⁴ Mpfu's delegation included Attorney General Johannes Tomana, legal advisor Farai Mutamangira, and senior Mines Ministry officials. T. Msarara, 'How Obert Mpfu tamed America', *New Zimbabwe*, 16 November 2011.

forced the company to respond in formalisation speak as it vouched for a legitimate past. Debzim's contentious history in Marange certainly was murky, in part because of its nimble, discreet 2006 self-disciplining, but perhaps also because it was not as transparent about its Marange prospecting as Zimbabwean mining law required it to be. Mpofu made accusations of Debzim looting, which were baseless and created further confusion around Marange's discovery, but still had disciplinary effects. Indeed, De Beers was forced to offer itself anew as an object of KP knowledge, vouching for its prior activity along acceptable orthodox formalisation lines, and thereby helping to smother human rights talk within the KP.

In August 2008, as Zimbabwe struck an economic nadir, it was reported that authorities had intensified efforts to curb diamond smuggling and mining in Marange, and that police had arrested over 9,600 diamond panners and dealers since the beginning of 2008.⁵⁵ The findings of the 2007 KP Review Visit to Zimbabwe, presented to the KP Plenary in late 2007, had been quickly superseded by a renewed surge of artisanal mining activity across Marange's diamond fields. It was the Zimbabwe National Army's (ZNA) October 2008 arrival in Marange, as part of Operation Hakudzokwi ('you will not return'), and subsequent allegations of mass killings, which led to the establishment of Marange as a serious problem on the KP agenda. Operation Hakudzokwi marked the beginnings of a reconfiguration of the KP's founding strategic alignment, as a predominantly western strategic alignment began to dislodge itself, and challenge the orthodox formalisation talk by infusing it with a new human rights speak.

⁵⁵ J. Miller, 'Zimbabwe: Authorities arrest nearly 9,600 for illegal diamond mining', *Diamonds.net*, 7 August 2008.

A subsequent US-led KP Review Mission to Zimbabwe in mid-2009, which is a focus of Chapter Four, reported that Zimbabwean security forces were responsible for smuggling and human rights violations in Marange, and recommended voluntary suspension of Zimbabwe's diamond exports until the country met minimum KP requirements, as well as suggesting that the KP consider temporarily suspending the country from the organisation.⁵⁶ Making its positioning ever more visible in the KP's Marange predicament, De Beers openly supported both forms of suspension. Since December 2008, it had urged its 'Sightholders', authorised bulk purchasers of De Beers rough diamonds, to ensure that any non-De Beers purchases did not contain Marange stones. Photographic examples of such stones and expert instruction on identifying them were disseminated.⁵⁷

The 'Joint Work Plan' (JWP) for Zimbabwe that emerged at the November 2009 KP Plenary in Swakopmund, Namibia, fell short of an actual suspension of Zimbabwe from the KP. Instead, Marange exports were suspended, and Zimbabwe was given a June 2010 deadline to achieve KP compliance, which would be assessed by a KP Monitor. The JWP spelled out this compliance along formalisation lines, but allowed for a tacit nod to human rights concerns in requiring demilitarization of Marange. However, De Beers was less than satisfied. As its Chairman Nicky Oppenheimer wrote in December 2009,

While De Beers would have preferred more decisive action – including temporary suspension from the Kimberley Process, which would have effectively halted the country's export of diamonds until the issues in question were fully addressed – we also recognise the unique framework of governments, civil society and industry that the Kimberley Process represents, and the commitment by Zimbabwe not to export any diamonds from Marange until the monitoring program is in place.⁵⁸

⁵⁶ 'Kimberley Process Certification Scheme Review Mission to Zimbabwe, 30 June – 4 July, 2009, Final Report', 29 October 2009.

⁵⁷ De Beers, 'Report to Society 2009', May 2010, pp. 35 – 36.

⁵⁸ N. Oppenheimer, 'Diamond values shine with unblemished start', *Bloomberg*, 15 December 2009.

More decisive action would have suited De Beers' competitive interests, further hindering any future movement of Marange diamonds through the diamond trade's 'licit' channels, when estimates of the deposit's size were becoming increasingly excitable, and the Zimbabwean government, having reduced 'illicit' informal mining, was now moving to formalise diamond mining in Marange through setting up joint ventures with foreign capital. The shifting KP terrain would not be so pliant for De Beers, as Chapter Four will show. Yet, even if unsuccessful, calls for more decisive action might still have been in its competitive interests, putting it on a moral high ground and promoting its status as a leading advocate of a well-regulated diamond trade under the aegis of the KP. The company would not likely have anticipated that such calls might provoke recrimination from Zimbabwe for its past in the country. This recrimination would see a new challenge to De Beers' public portrayal of its own past in Marange, resurrecting earlier reputational threats that it experienced through Debzim.

While De Beers had been dissatisfied with the JWP, it was an early Zimbabwean lapse in the discipline this agreement imposed along formalisation lines that set off Mpofu's diatribes against the multinational. In early 2010, Mbada, one of the first of two public-private joint ventures set up in Marange in 2009, announced a 300,000 carat rough diamond auction at Harare International Airport. Though the KP had not been informed of the auction nor had the diamonds up for sale ever been viewed by the KP Monitor assigned under the JWP, Mbada Chairman Robert Mhlanga maintained that the diamonds were KP compliant.⁵⁹ KP pressures seemingly came to bear soon thereafter, and the Mines Ministry cancelled the auction.

⁵⁹ M. Nyaungwa, 'Not so fast, Mbada told, as Zim diamond circus continues with no epilogue in sight', *Rough & Polished*, 15 February 2010.

Growing international concern in certain KP circles did not die down, however. Later that month, a broad-based diamond industry coalition, including the WDC, Diamond Manufacturers and Importers of America (DMIA), Jewellers of America (JA), the Diamond Dealers Club of New York (DDC), the United States Kimberley Process Authority (USKPA), the Responsible Jewellery Council (RJC), and the Jewelers Vigilance Committee (JVC), met with senior US State Department officials to call for 'tough action on Zimbabwe'. Clearly addressing the abandoned Mbada auction, the coalition's subsequent press release highlighted that 'the JWP provided that diamond exports from the Marange area of Zimbabwe are to be fully examined for compliance by a KP designated monitor. No exports from that region are permitted until a KP designated monitor is in place.'⁶⁰ In support of KP critics calling for definitional reform, leaders in the WDC and JA also called for Zimbabwe to address allegations of human rights abuses in Marange, even if the phrase 'human rights' was not in the JWP.⁶¹

This lapse in Zimbabwean state discipline allowed western opponents to make another push for an advancing of the organisation's monitoring assemblage, chiefly along formalisation lines, but also inclusive of human rights concerns. Yet, Robert Mugabe's attitude to the KP, expressed the following month at a Tourism and Infrastructure Investment conference in Harare, bristled on the verge of defiance, 'We are trying to play it their own way, that is following the KP, but we can do it otherwise and we can sell our own diamonds elsewhere.'⁶²

Warning shots were fired. However, in the politics around Marange, Mugabe's voice would for the most part be conspicuous through its absence. Obert Mpfu would be his mouthpiece.

⁶⁰ World Diamond Council, 'Industry associations coalition meets with US State Department officials: Industry urges tough action on Zimbabwe and reforms of the Kimberley Process', 22 January 2010.

⁶¹ *Diamond Intelligence Briefs*, 'Industry associations coalition meets with US State Department officials about Zimbabwe KP compliance', 27 January 2010.

⁶² A. Bell, 'Mugabe threatens to defy diamond trade standards', *SW Radio Africa*, 17 February 2010,

The same month that Mugabe made his feelings toward the KP known, Mpofu threatened to remove Zimbabwe from the organisation. 'The KP does not own the diamond trade markets,' he told the Bulawayo Press Club, 'Zimbabwe will pull out of the KP and sell its diamonds to those markets.'⁶³ It was in this 2010 context that Mpofu also began to deploy a new narrative about De Beers' recent past in Marange. According to the Minister, 'De Beers looted our diamonds for 15 years and were sending them to South Africa without our knowledge'.⁶⁴ Mpofu held that government believed De Beers was only prospecting and carrying out tests, when the company was in fact mining covertly, and left Zimbabwe when government began to probe its Marange operations. Asked by the Bulawayo press why government also cancelled ACR's licence, Mpofu held that ACR had been awarded its licence irregularly, and that government had become aware of clandestine links between ACR and Debzim.

The Minister did not acknowledge that the purported validity of Debzim's renewed EPO in Marange had on more than one occasion been used to justify the eviction of ACR. While the veracity of the Minister's pronouncements was highly questionable, his narratives constituted a form of knowledge production that threatened to draw the KP monitoring assemblage back towards De Beers' past in Marange. In this way, Mpofu could shift the spotlight from questions around the Zimbabwean state's human rights practices, to questions around the alleged 'illicitness' of De Beers' prior activities in Marange. Mpofu drew renewed scrutiny toward Debzim's prior Marange operations, making accusations of concealment and theft. He asked why KP scrutiny should fall upon the Zimbabwean state, when a KP actor behind the

⁶³ *Diamond Intelligence Briefs*, 'Zimbabwe Mines Minister says country would readily pull out of KP', 1 March 2010.

⁶⁴ L. Dube, 'Govt accuses De Beers of looting Chiadzwa', *The Zimbabwe Independent*, 5 March 2010.

push for this scrutiny had a dubious past in the same area, for which it had not been held accountable. He threatened that Zimbabwe would leave the KP and sell Marange diamonds outside of it, if this hypocrisy was not checked.

For all KP members, failing to bring Marange under KP control would signify a broader failure to bring the rough diamond trade under control, that is, a failure to formalise it. Mpofu's brinkmanship was a threat to the legitimacy of the KP and thus the cartel, to the public legitimacy the organisation lent the trade, but also to the cartel entry barriers it helped maintain. If Marange diamonds bypassed 'licit' channels, bigger industry players would struggle to purchase them and thereby control diamond prices by controlling supply. Certainly, this outcome would also hurt the Zimbabwean diamond trade, reducing its profits. But Mpofu's brinkmanship needed only to be convincing. His diatribes became increasingly impassioned, anti-colonialist, anti-west, and pro-sovereignty, stirring credible doubt among his mostly western KP opponents, as such rhetoric had accompanied other radical measures such as the occupation and redistribution of Zimbabwe's large-scale commercial farms. The publicity he generated, the narrative he produced about Debzim's dubious discovery of Marange diamonds, was still bad publicity even if many of its claims were unsubstantiated.

KP tensions over Marange reached a high point in June 2010, after another disciplinary lapse on the part of ZANU-PF state actors, this time the arrest of NGO leader Farai Maguwu, Zimbabwe's most outspoken activist against exploitation and abuse in Marange. As Chapter Five discusses in detail, heated talks at the June 2010 Tel Aviv KP Intersessional failed to resolve disagreement. However, as a Global Witness spokesperson observed of the talks, 'The fact that Zimbabwe did not walk away from the KP, and that Mpofu sat in a room in

discussions for more than 10 hours until six in the morning seems to suggest Zimbabwe has a lot to lose'.⁶⁵ Indeed, Mpofu's brinkmanship was not likely genuine, and the ZANU-PF-state elites whose interests he represented had much to lose if they were excluded from the 'licit' KP-supervised trade.

The Tel Aviv stalemate showed signs of resolution in St. Petersburg the following month, at the WDC's 7th Annual Meeting, where a mini-summit to deal with Marange was also arranged. Following the release of Maguwu days before the annual meeting, an agreement was reached that allowed Zimbabwe to conduct two supervised exports. It was in the immediate wake of this agreement, and before a WDC audience in St. Petersburg, that Mpofu changed fleetingly to a narrative of Marange discovery much more in line with De Beers' public narrative:

The diamondiferous Marange conglomerates were identified by De Beers Prospecting Limited at the end of 2003 in their prospecting area but they did not report the discovery to the Ministry of Mines until July 2006. No primary sources for these diamonds have been identified to date. There is however a lot of evidence from the studies that De Beers conducted that the diamonds could have come from a very distal source. In their July 2006 report, De Beers concluded that the exceptionally poor quality of the diamonds they had recovered, together with the limited extent of the conglomerate made this diamond occurrence of no interest to them. De Beers' activities in this Prospecting Licence area had been focussed on the discovery of kimberlites.

De Beers had been carrying out diamond prospecting in the area from June 1996 to July 2006 when they applied for abandonment. The abandonment of the area coincided with revelations of illegal diamond mining in the area.⁶⁶

Momentarily, two competing productions of knowledge on Marange's discovery became much more aligned, as the interests of their proponents came to be less at odds. The KP's founding strategic alignment, which merged along formalisation lines, then became

⁶⁵ *Irin*, 'Zimbabwe: Conflict over diamonds', 1 July 2010.

⁶⁶ 'Speech by the Honourable Minister of Mines and Mining Development, Obert Moses Mpofu, at the World Diamond Council 7th Annual Meeting held in St. Petersburg, Russia on 15 July 2010'.

dislocated along human rights lines in 2009, began to develop into a new configuration in 2010. This reconfigured strategic alignment saw a KP that continued to uphold policy rules along formalisation lines, but in practice show a potential to discipline along certain human rights lines, leading the Zimbabwean state to shy away from acts of militarised, physical violence in Marange, as well as the persecution of civil society actors monitoring the area, such as Farai Maguwu. Once the Zimbabwean state self-disciplined in this way, its opponents lost much of the wind in their sails, and were forced to concede ground to a pro-Zimbabwe strategic alignment that continued to uphold the KP's orthodox formalisation discourse. St. Petersburg was a watershed moment, even if the western KP alignment would continue to offer flagging opposition afterwards. In this moment, Mpofu saw a decline in opposition, a surrender, and so he offered an altered 'discovery' narrative as an incentivising olive branch to the western strategic alignment.

Mpofu's 2010 St. Petersburg speech harked back to the time of De Beers' exit from Zimbabwe in 2006. Debzim officials met with Mines Ministry officials then, and presented the same findings which Roberts had reported both publicly and internally, that the deposit appeared to be of low quality. It was also likely put to the ministry that the deposit was of no commercial interest to Debzim, as Roberts had stated publicly, and in line with Debzim's efforts to give no indication that it had ever considered exploiting Marange alluvials. Mpofu was willing to concede that De Beers had thought the deposit was of poor quality and limited size, and that in any case it was after kimberlites not alluvials. He observed, therefore, that the company did not have any commercial interest, and the fact that its departure coincided with 'illegal diamond mining' was just that, coincidental.

However, even Mpofu's conciliatory St. Petersburg speech maintained that Debzim had not reported its discovery of diamonds in Marange until it realized it had lost control of them and government had already been alerted to their existence. If De Beers' had indeed been silent prior to 2006 about its discoveries, it would have been in contravention of section 391 of the Mines and Minerals Act, which held that 'Any person who discovers any precious stones shall, within ten days of the date of such discovery, give notice thereof and of the place where such discovery has been made to the mining commissioner.'⁶⁷ The 2006 Debzim report indicated that the Mines Ministry had been aware of samples being taken out of Marange since 2000, but it did not comment on whether Debzim had ever reported the findings from analyses of these samples to the Zimbabwean government.⁶⁸

Mpofu reverted to a more antagonistic line towards De Beers in October 2010, as Zimbabwe began to push for full KP certification of Marange exports, meaning exports that would be neither supervised nor limited in number, and certain western KP actors continued to resist. Heading a Zimbabwean delegation to India for the International Diamond Conference in Mumbai, followed by a visit to Surat, billed defiantly as the 'world's largest cutting center meets the world's largest diamond producer', Mpofu was quoted as saying that De Beers had plundered Marange, but eventually 'lost because what they did was not only criminal but immoral'.⁶⁹ Presumably responding to claims that Debzim had only taken samples, the Minister held that 'you don't need a sample to realize that Marange has diamonds. You pick them up as you walk through'.⁷⁰ Speaking at the Mumbai conference, De Beers CEO Gareth

⁶⁷ Mines and Minerals Act, sec 391.

⁶⁸ Roberts, 'Diamond mining in Zimbabwe and Kimberley Process implications', December 2006.

⁶⁹ A. Krawitz, 'Mpofu pushes industry to accept Zimbabwean diamonds', *Diamonds.net*, 1 November 2010.

⁷⁰ *Ibid.*

Penny re-affirmed what Mpofu had said in St. Petersburg, that the company had been searching for diamondiferous kimberlites in Marange, as opposed to alluvial prospects.⁷¹

Mpofu's accusations resurfaced again a year later in mid-November 2011. In August, MDC-T Finance Minister Tendai Biti had announced that a lack of transparency in the Zimbabwean diamond trade had prejudiced the state in excess of US\$1 billion, giving vent to MDC-T frustrations over missing diamond revenues. August also saw a boost to continued western accusations in the KP of ongoing human rights violations in Marange, as an episode of the investigative series *BBC Panorama* alleged the existence of Marange torture camps where civilians were subjected to severe beatings and sexual attack.⁷² Nevertheless, the early November KP Plenary in Kinshasa had gone well for Zimbabwean government delegates, after two mining operations in Marange were given full certification, with another soon to follow later that month. Mpofu continued his offensive, consolidating ZANU-PF gains, disciplining his western opponents, and pushing for the withdrawal of KP monitoring from Marange. Applying additional pressure, in November the Mines Ministry announced that the Zimbabwean government had facts at its disposal which proved that De Beers had 'smuggled out millions of dollars' worth of gems' from Marange, and it was 'just a matter of time before we finish our investigations and take the matter to the international court.'⁷³

As De Beers's media relations head in London Lynette Gould countered,

The presence of diamonds in the Marange area was first discovered in the period 2001 to 2003 by De Beers during its exploration search for primary deposits. The prospecting in the region was concluded by early 2006, with the conclusion that the

⁷¹ *Ibid.*

⁷² C. Manyukwe, 'Diamonds worth US\$1 billion missing', *The Financial Gazette*, 12 August 2011.

⁷³ *City Press*, 'De Beers, Zim diamond feud gets bloody', 12 November 2011.

primary source for such diamonds was not local, and De Beers moved to relinquish its prospecting rights in the region.⁷⁴

As further explanation for De Beers's decision, Gould added that 'the government had created an environment of uncertainty regarding the status and future of the concession'. Days later, *The Financial Gazette* in Zimbabwe reported that while Mpofu had put together a 'crack team' to conduct 'extensive investigation into allegations of massive diamond looting and shadowy exportation of samples by De Beers from the heart of the controversial Marange fields, said by global gem experts to bear the highest concentration of gems worldwide', it had since been found that the Mining Promotion and Development Unit (MPDU) in the Mines Ministry was missing records that would have formed the 'backbone' of the probe.⁷⁵ Investigations were now under way to establish who might be responsible.

These claims led to another response from De Beers, this time from De Beers' communications manager in South Africa, Innocent Mabusela, who said the company had exited in 2006 because it concluded that Marange did not 'fit the profile of our other activities elsewhere in southern Africa', and that 'our resources would be better invested in other areas more suited to our commercial objectives'.⁷⁶ Mabusela echoed Gould's claim that the Zimbabwean government had created an 'environment of uncertainty regarding the status and future of the concession', and that by 2006, 'the area was being worked by unmanaged, itinerate diggers. All of this resulted in an unacceptable level of risk for De Beers in maintaining a presence.' Mabusela also repeated the line taken previously by Gareth Penny that De Beers had been searching Marange and its surrounds for kimberlites:

⁷⁴ *Ibid.*

⁷⁵ *The Financial Gazette*, 'De Beers records vanish', 18 November 2011.

⁷⁶ *Ibid.*

As part of the prospecting work programme to search for the possible kimberlite sources for the diamonds emanating from the Marange area, as well as understand the geological nature of the Marange diamond deposit itself, De Beers routinely collected soil and rock samples, which were submitted to the De Beers laboratories in South Africa for analysis. Such samples were exported through and with the authorisation of the Geological Survey of Zimbabwe in accordance with all the necessary export procedures and suitably signed off. The prospecting reports detailing the results and analysis were submitted to the Minister of Mines, in accordance with the Zimbabwe legislation.

De Beers' changing portrayals of Marange over the years reflected changes to its relationship with the Zimbabwean state, and to what was widely known about the diamond fields. What remained constant from 2006, however, was the need to ensure that the company was not widely regarded as having fallen afoul of the KP's formalisation norms by acting illegally in Marange. In 2006, this was a matter of De Beers self-disciplining by removing itself from Zimbabwe, avoiding any disagreement with state officials, and reducing the possibility of any association with Marange's lawlessness. During later contestations with Mpofu, De Beers turned to the knowledge production of a discovery narrative that duly reproduced formalisation norms, but contained some departures from Debzim's 2006 public narrative.

Mabusela and Gould's claim that the Zimbabwean government had created an environment of uncertainty was a departure from Roberts' 2006 letter, as Roberts had refrained from pointing any fingers publicly at government. After delicately exiting Zimbabwe, De Beers' later support for the country's expulsion from the KP, and the subsequent recriminations levelled by Mpofu, transformed the company into an open critic of the management of Marange. Another departure from Roberts was the fact that Mabusela did not acknowledge that De Beers had ever underestimated the value of Marange. De Beers may not ever have considered the deposit to be low grade, or, in other words, having a low concentration of diamonds per

unit of ore, even if Roberts had publicly labelled it a low grade deposit. Roberts' internal report did not comment on grade, but it agreed with his public claim that the Marange deposit was of limited size, or overall mass of diamonds. His internal report also held that the diamonds were low quality. Ultimately, the average quality of Marange diamonds would prove to be low, but from a high-grade deposit of considerable size. As estimations of Marange's value began to far exceed prior estimates, De Beers avoided any admission that it had made an underestimation. Additionally, noting that De Beers' focus was on kimberlites, rather than inland alluvials, was in line with a growing corporate aversion to African alluvial diamond fields that Hollywood had served to deepen. Roberts' 2006 letter did not express this aversion. Finally, altogether new was Mabusela's forthrightness that all samples had been taken out legally, and that all prospecting results had been duly reported to government in line with Zimbabwean law. It is unclear as to whether his boldness had anything to do with the Mines Ministry's recent public acknowledgement that it was missing records, which implied it could not conclusively show a failure by De Beers' to adequately report discoveries.

Mpofu persisted with his accusations of Debzim looting in 2013, as Zimbabwe's elections drew near and its populace became an increasingly important audience of his anti-De Beers rhetoric, which made the case that legitimate indigenous tax-paying parties now occupied the diamond fields. There was, however, never any credible evidence that Debzim mined large amounts of Marange's diamonds. Indeed, as Gould maintained in yet another response to Mpofu in 2013,

If we had been mining 'tonnes' of diamonds, over a 15 year period, there would be a very large hole indeed left behind in Marange. Industrial mining of this magnitude would have been impossible to disguise, let alone keep secret. In conclusion, not only

are the allegations outrageous and incredible, but they also lack any evidence, whatsoever.⁷⁷

The evidence pointing to looting by Debzim has always been negligible, which is likely why Mpfu's repeated threats to take legal action never transpired. What mattered most to the efficacy of Mpfu's narrative was not the veracity of his claims but, firstly, the ability to draw KP scrutiny away from the Zimbabwean state, and back towards its opponents within the KP, back towards De Beers, and the predominantly-western industry establishment that it represented. Mpfu used an orthodox KP formalisation discourse to do this, but he also used an anti-western, anti-colonial discourse of Patriotic History, widely disseminated in post-2000 Zimbabwe, laying blame for the economic crisis and justifying 'indigenisation' policies that disguised an elite accumulation of which he was part. The western KP bloc could be accused of hypocrisy, because claims of looting by Debzim pointed to a breach of KP formalisation protocol, but also because of De Beers' exploitative history in colonial African countries, which could now be equated with the western bloc's interference in Zimbabwe. The recent history of discovery and looting that Mpfu invented for Debzim was part of his retaliation at the KP. De Beers was forced to defend itself along orthodox formalisation lines, vouching for its legitimate history in Marange, while Mpfu appealed to the interests of other non-western KP members such as Russia, India, China, and Dubai, all of whom entered trade or mining arrangements that profited from Marange through the more lucrative 'licit' trade. Much human rights speak would be smothered in this atmosphere.

⁷⁷ *Rough & Polished*, 'De Beers' Marange "saga" refuses to die down', 12 December 2013.

Contestations over the KP regime's disciplinary effects are further explored in the following two chapters. However, as a coda to this chapter, and as a means of casting the contestations it observes, and their effects upon knowledge, into sharper relief, it is worth examining a series of texts that emerged from geological circles once the KP's crisis had dissipated. Indeed, these texts give us a sense of the knowledge of 'discovery' that might have been produced earlier, had there not been any contestations over a disciplinary regime's powerful effects. Not only do these texts come from an authoritative expert operating at a distance from KP politics, but they are also produced after 2012, the year that the KP's Marange predicament finally abated. Having already ceased working for any of the company's prospecting or mining in Marange, this expert was cut further adrift as contestations inside the KP died down. The knowledge of 'discovery' that he produced shed further light on how preceding knowledge was manipulated in aid of disciplinary power.

GEOLOGY BENEATH THE POLITICS

In July 2013, the Geological Society of South Africa held its annual Geoforum meeting in Johannesburg. Billed as 'Africa's Premier Geological Exchange', the gathering was described as an event where 'the geological community meets to interact and share information about developments in mineral deposit projects, commodity exploration and application of various geoscience techniques from an academic and industry perspective'.⁷⁸ Geoforum 2013 was host to a particular geological presentation, entitled 'Geological and Economic Aspects of the Proterozoic Umkondo Group Diamond Placer near Marange, Zimbabwe'. Presenter and first-named author John Ward, together with co-authors de Wit, Revitt, and Abson, declined to give contact details on the authors' list because 'relevant authorities' had exerted pressure

⁷⁸ Geological Society of South Africa, 'Event Description: Geoforum 2013', retrieved 11 December 2014 at <http://gwd.org.za/events/geoforum-2013-gssa>.

on Ward regarding his views on Marange's extractive longevity.⁷⁹ Since working in exploration for De Beers, which included prospecting in Marange, Ward had moved on to consult for several of the operators working in Marange after Debzim's exit, and also for companies exploring in adjacent areas. His alluvial diamond prospecting expertise and knowledge of Marange were much needed, but his cautious outlook on the deposit's long-term future was, he later maintained, met with irritated disbelief.⁸⁰

The Ward et al presentation detailed the discovery and nature of Marange's alluvial diamond field, known in geological circles as the Umkondo placer, an accumulation of diamonds, gold and zircon formed through gravity separation during sedimentary processes that preceded the proliferation of complex life on Earth. Located on the eastern margin of the Zimbabwe craton, an area of continental crust once part of the ancient continent of western Gondwana and now situated primarily in Zimbabwe, the Umkondo Group was said to be a 'succession' or a layering of siliciclastic and carbonate rock strata, overlain and intruded by volcanic rock, and preserved in a shallow basin.⁸¹ Along the western margin of this basin, where the Marange Communal Lands lie, the 'basal' or lowest sedimentary layer of siliciclastic conglomerate was brought towards the surface. 'At one such locality', Ward et al explained,

the lowermost siliciclastic unit is a rare, well-packed, compositionally and texturally mature, cobble-pebble quartz basal conglomerate <1m thick in which abundant, coarse (5 – 7 cts/stn) diamonds were discovered in August 2001. ... [I]nitial grade estimates ranged from 1 carat to >30 carats per ton (cpt). Although the average stone size is the largest of any known diamond placer, the overall diamond quality is low – running at only ca. 10% gem and at an average price around \$50/ct.⁸²

⁷⁹ Email correspondence with J. W. Ward, 21 November 2014.

⁸⁰ Interview with J. D. Ward, Stellenbosch, 22 December 2014.

⁸¹ J. D. Ward, M. C. J. de Wit, A. W. Revitt, and J. P. Abson, 'Geological and Economic Aspects of the Proterozoic Umkondo Group Diamond Placer near Marange, Zimbabwe', Abstract for Geoforum, 3 – 5 July 2013.

⁸² Ward, de Wit, Revitt, and Abson, 'Geological and Economic Aspects of the Proterozoic Umkondo Group Diamond Placer near Marange, Zimbabwe'.

Indications were that the Umkondo diamond placer had been formed in ‘a narrow rift linked to a more open, marine basin eastwards’, perhaps an ancient sea, the western coast of which was once located where present-day Marange was now situated.⁸³ Repeated, probably long-lived and possibly tidal, reworking of sediments in this shallow depression had ‘upgraded the diamond concentration to levels as high as any of the world’s top alluvial diamond placers but with a larger average stone size than is known elsewhere.’⁸⁴ As Ward et al estimated, the Umkondo placer had yielded over 50 million carats since 2006, a significant amount more than the 3 million carats Debzim had projected in late 2003.⁸⁵ More recently, Ward called 50 million carats a conservative size estimate, suggesting that the total might be closer to 100 million carats.⁸⁶ This was a large deposit of diamonds, and the average diamond size was exceptionally large, though the great majority of them were of a low quality, with only ten percent likely to be gemstone. The deposit could never be classified as a diamond megaplacer, as this would require over 50 million carats, which Marange fulfilled, but also a 95 percent gemstone content, which Marange fell far short of.⁸⁷

According to Ward, Debzim discovered diamonds in the basal Umkondo conglomerate on Tuesday 14 August 2001 *in situ*, meaning on site.⁸⁸ Ward said that he and two others on a technical team from De Beers Africa Exploration were taken on 13 August to a camp at Bazeley Bridge by a senior Debzim official, to follow up on a trigger sample of broken pieces of

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*; Email correspondence with J. D. Ward, 21 November 2014.

⁸⁶ Interview with J. D. Ward, Stellenbosch, 22 December 2014.

⁸⁷ B. J. Bluck, J. D. Ward, and M. C. J. De Wit, ‘Diamond mega-placers: southern Africa and the Kaapvaal craton in a global context’, *Geological Society London Special Publications*, 248:1 (2005), p. 213.

⁸⁸ Email correspondence with J. D. Ward, 21 November 2014.

diamond, which was found in a sample taken from nearby in 2000. They found themselves at the site of the trigger on 14 August, joined by a local Zimbabwean geologist. Up until then, Ward had only ever seen four diamonds 'in the raw', all of them in Namibia. Thus, it came as a surprise when one of his colleagues, who had been sitting on an exposed section of the basal conglomerate, found a diamond of more than 10 carats, followed by another three on the same block. The team went on to find 23 stones in total, before finishing on 16 August. While they were initially unsure about what these 'green clasts' were, some displayed an octahedral crystal form and others had rare trigons, which pointed to a highly probable diamond origin. That these stones were so difficult to identify as diamonds was indicative of their low quality, and of the deposit more generally. As Ward maintained, De Beers

knew that it was an unusual high grade deposit ... but the \$/ct value in 2001 was \$5-10/ct. We thought the deposit was only about 3 million cts at that stage so not worth it from alluvial perspective (turned out we were wrong in terms of volume).⁸⁹

On 16 August, Debzim found another diamondiferous placer in the Chimanimani foothills on Charleswood Farm, once owned by MDC parliamentarian Roy Bennett, but occupied by war veterans in 2000. As Ward recalled, war veterans made sure that the team did not return. DTZ-OZGEO began mining for diamonds on Charleswood in 2009.⁹⁰ From 2002 – 2005, Debzim focussed on kimberlite exploration in Marange, but continued cursory observation of conglomerates and alluvials without any major bulk sampling. As Ward explained,

This phase led to the discovery of the Chikara kimberlite, a 9 ha diamondiferous kimberlite, as well as 4 other kimberlites in that cluster. These bodies are low grade. These discoveries added to the 4 so-called Marange kimberlites also found by De Beers ... in 1997. All these kimberlites show signs of geological antiquity in keeping with the age of the Umkondo and I believe that all, but in particular the Marange kimberlites,

⁸⁹ *Ibid.*

⁹⁰ *The Zimbabwean*, 'Russians mine diamonds on Bennett's farm', 9 April 2010.

have contributed to this unusual, high-grade, large stone placer in the basal Umkondo.⁹¹

Debizim had discovered low-grade kimberlites in Marange in 1997, but this did not necessarily equate to discovering diamonds. Ascertaining a kimberlite's grade involved looking for kimberlitic indicator minerals, such as pyrope garnet. When kimberlites are discovered, garnets are normally analysed to determine an interest rating in terms of diamond potential. In the case of the Marange kimberlites, the mineral chemistry did not indicate high or even moderate interest, and so Debzim would not have known the area's diamondiferous content.

After alluvials were discovered in August 2001, more low-grade kimberlites were discovered between 2002 and 2005. Contrary to what Gould claimed publicly in 2011, Debzim was aware of the possibility that the primary source for the alluvials was indeed local, or at least in part local. As Ward believed, prehistoric erosion of such kimberlites contributed to Marange's high alluvial grades. However, a widely held belief in geological circles was that the high degree of abrasion on many of Marange's diamonds was indicative of a long transport distance, thus suggesting that the main source was far away from Marange.⁹² This view was likely to have further discouraged De Beers' interests in any of Marange's kimberlites, even if Ward, and a minority of geologists, were of the view that there may have been a more local input, and that the abrasion related to a 'reworking' in a nearby 'paleo-shoreline environment'.⁹³

⁹¹ Email correspondence with J. D. Ward, 21 November 2014.

⁹² Email correspondence with J. D. Ward, 2 November 2017.

⁹³ *Ibid.*

Ward's willingness to speak in 2013 and 2014, due to no longer having any commitments to De Beers nor any of the Marange operators, was a watershed moment, even if it has not been widely recognised as such. His explanations, together with the Debzim Report, contribute to a better understanding of what happened in Marange before its infamy, when Debzim first detected diamonds, what this discovery revealed to the company, what it then decided to do in the area, and why it left so abruptly in 2006.

According to Ward, Debzim discovered kimberlites in Marange in 1997, and alluvials were discovered in late 2001, which raises questions about why the Debzim report said 2000, Lynette Gould 2001 – 2003, and spokesperson Tom Tweedy 2002.⁹⁴ Yet, while the actual discovery of the first alluvial diamond in situ, in other words the geological discovery and realization date, was in August 2001, diamonds had been discovered in samples before and after this particular date. To what extent Debzim reported these processes, the early kimberlitic discovery, the recovery of diamonds through samples, and then the discovery in situ, remains an unanswered question that begs for the elusive quarterly reports that Debzim was said to send to Zimbabwean authorities. Indeed, while De Beers most probably had not 'looted' in Marange, questions remain around the charge that Mpofu persisted with most, that De Beers had not reported its Marange discovery in the time that Zimbabwean law required it to. Mpofu's investigators reiterated in a report handed to the Minister and to *The Financial Gazette* in late 2011 that Debzim 'only reported the discovery of diamonds three years after, and when illegal miners had invaded the area'.⁹⁵ This claim was always part of Mpofu's story, despite other narrative changes and flourishes. It was possibly the one kernel

⁹⁴ *The Insider*, 'Diamonds in Marange were discovered in 2002 not 2006', 8 July 2011.

⁹⁵ *The Financial Gazette*, 'De Beers records vanish', 18 November 2011.

of truth that was always present in ZANU-PF narratives about Debzim's history in Marange, and hence perhaps the one that strongly pushed De Beers to self-discipline.

The alluvial discovery and the prospecting that followed led Debzim to hugely underestimate Marange's size. Debzim had thought 3 million carats in 2003, whereas with the benefit of hindsight in 2014, Ward put the estimate closer to 100 million carats. Despite this initial low estimate, Ward believed that Debzim might have continued prospecting in Marange, but focusing on kimberlites, had it not been for the upheavals there in 2006.⁹⁶ As the Debzim report suggested, the company might well have sought to exploit the deposit, even though it was alluvial and De Beers favoured kimberlitic prospects. This possibility would have become even more likely had Debzim eventually become more aware of Marange's size and value. However, while Debzim underestimated Marange, the diamond field was also frequently overvalued, according to Ward, who maintained that there was 'virtually no production from the 2012 peak when probably 32 million carats were produced ... In terms of production, this is up with Botswana and Russian Federation for one fleeting year.'⁹⁷ Indeed, while Ward's findings are perhaps the exception, there are few if any texts concerning Marange's discovery and its geological nature that are not shaped by political interests. The political interests exposed in the textual analysis of this chapter have been, for the most part, about manipulating the disciplinary effects of the KP's monitoring assemblage.

CONCLUSION

In the KP lay a far-reaching set of monitoring capacities that could render actors visible in novel ways, thereby giving rise to disciplinary effects, but these effects were always subject

⁹⁶ Interview with J. D. Ward, Stellenbosch, 22 December 2014.

⁹⁷ Email correspondence with J. D. Ward, 21 November 2014.

to manipulations that could have significant consequences. The KP's Core Document set out the organisation's policy rules and how they should be legislated upon in each participant state. It was a guide for the implementation of the KP's monitoring capacities. Yet, while this key policy text made such monitoring capacities possible, the practice of monitoring was not set in stone. Rather than being applied evenly from case-to-case, the many orientations of the monitoring assemblage, the cases where scrutiny was applied, and the ways in which such scrutiny was applied, depended to a significant extent upon the agency of those actors who together constituted the strategic alignment that underlay the KP. This agency had many determinants, including what actors knew, what interests they had, what other strategic alignments they were a part of or could be a part of, what influence they could thereby exert, and what discourses and knowledge production they deployed to what effect.

The focus of this chapter has been upon De Beers and Obert Mpofu, both of whom enjoyed a measure of success in manipulating KP monitoring capacities. De Beers used intelligence on River Ranch irregularities, and its close relationship with the WDC, to draw the KP monitoring assemblage towards Zimbabwe through the 2007 Review Mission. While drawing minimal attention to its own history in Marange, the company promoted the orthodox formalisation discourse in the Zimbabwean context, imposing cartel entry barriers and pushing for greater transparency of the Zimbabwean diamond trade, so that its implications for the wider trade could be gauged. Zimbabwean state elements self-disciplined, swiftly bringing Marange under enhanced control, but these actors also exerted an agency of their own, criticizing the 2007 EU Chair, leading to a Russian-led Review Visit more inclined to rubber-stamp the Zimbabwe diamond trade. As the following chapter details, Operation Hakudzokwi in late 2008 would

gift a new predominantly western strategic alignment with strong grounds upon which to call for renewed monitoring of Zimbabwe, as well as human rights reform at the KP.

This chapter has anticipated the following chapter by pursuing the truth behind the discovery of Marange diamonds, but also offering an explanation of why this subject has remained so murky. It is difficult to gauge what Mpfu et al knew about De Beers' history in Marange. Mpfu certainly seems to have been aware of a sensitivity on the part of De Beers towards this history, at least an early penchant for disassociating itself from the story of Marange, perhaps because it knew it had not properly reported to government what it had found in Marange. Thus, while De Beers manufactured a silence around its Marange past, Mpfu swooped opportunistically into this empty space of history, fabricating a past that could sustain an anti-western, anti-colonial Patriotic History discourse tailor-made for contestation within the KP. This contestation was all about the organisation's monitoring capacities, their disciplinary effects, and how these were applied.

De Beers had by this time become increasingly aligned with the western strategic alignment that favoured a combination of formalisation and human rights, while Mpfu et al set about building their own pro-Zimbabwe strategic alignment, promoting orthodox formalisation without human rights, pairing this discourse with that of Patriotic History. As we shall see, there was no clear winner: while there was no human rights policy reform to the KP's Core Document, the western strategic alignment was powerful enough to render human rights violations in and around Marange highly visible, causing Zimbabwean state elements to change their behaviour. Nevertheless, the pro-Zimbabwe alignment was powerful enough to resist policy reform. The accusations Mpfu levelled at Debzim were a part of this campaign,

which led ultimately to Zimbabwe's certification in 2012. As the dust settled and the KP moved on, the story of Marange's discovery remained unresolved, until John Ward was cut adrift from these struggles over disciplinary power to tell a new story.

BEYOND A POINT OF RETURN

Operation Hakudzokwi and a human rights turn at the Kimberley Process

I walk past a row of once greedy diamond panners, now completely subdued and contrite.

I am shocked by the human miscellany before my very eyes. There are white figures, brown figures, black figures, big and wiry thin, all made equal, initially by greed, now by captivity.

There are whites from Belgium. There are Lebanese. There are Indians.

There are Sierra Leoneans, Liberians, Mozambicans, Angolans, South Africans: a mini United Nations in sin and greed.

How did they come this far?

How did they know about this obscure place called Chiadzwa, hardly known by many indigenes of this country?

Could this explain the growing boldness in the panners, evidenced by gun crimes, including firing at law-enforcement agents?

If left unchecked, what would Chiadzwa have been tomorrow? A place of diamonds? A place of blood?

Or bloody diamonds, as Zimbabwe's enemies wished? Why is the American Embassy so interested in the goings-on at Chiadzwa?

Whichever way, the uninvited patrons of Chiadzwa will not come back.

Presidential Spokesperson George Charamba, writing as Nathaniel Manheru in *The Saturday Herald*, November 2008.¹

INTRODUCTION

In this chapter and the next, I explore why and how the KP made Zimbabwean state actors visible, and disciplined their behaviour in and around Marange along human rights lines. The

¹ N. Manheru, 'Tsvangirai: Breaking hymen on sanctions', *The Saturday Herald*, 21 November 2008.

KP's founding strategic alignment was different to the myriad alignments that constitute the monitoring assemblage of the human rights ecosystem. As we saw in Chapters One and Two, it gave rise to a monitoring assemblage based upon a language of formalisation, which made actors visible objects of knowledge, and disciplined them according to regulatory, 'licit' norms. I argue that a new strategic alignment was needed to introduce a human rights language to the KP's monitoring assemblage. As this chapter shows, the actors who brought this strategic alignment about from late 2008 onward were several western KP members, spanning civil society, industry, and governments, aided by Zimbabwean civil society actors. While it is difficult to specify to what degree this alignment was 'strategic', or in other words, how deliberate and collaborative it was, the actors in question demonstrably enabled each other through speaking a human rights language in concert, and by working in different ways to infuse parts of the KP's monitoring assemblage with this language and its norms, thereby partially subsuming the KP into the much vaster assemblage of the human rights ecosystem.

More than speaking a human rights language in concert, I show that the actors of the western strategic alignment also framed Marange and its perpetrators in concert. Marange's violence had very many perpetrators, but most could not be made visible. Yet, ZANU-PF elites certainly could, and this was key to how the western strategic alignment together framed Marange as a problem: it was about formalisation norms; it was about human rights norms; but it was also about the complicity of powerful ZANU-PF-state actors in the violation of these norms.

I speculate about the convergence of interests behind this predominantly western framing of Marange, and the accompanying human rights turn. However, regardless of these interests, the value of this story is that it offers a compelling case with which to evaluate the approach

Hopgood takes in an assessment of the future of human rights that emphasizes growing limitations to the capacities of global institutions to impose international human rights law.

This chapter's focus is upon a western strategic alignment at the KP that began to break partially away in late 2008 from the founding alignment, as a response to the rise in military violence that Operation Hakudzokwi brought. The degree of collaboration and the exact locus of interests is debatable, but I argue that the texts under examination show an alignment that failed to introduce and impose human rights policy rules and law through the KP, but still succeeded in exercising and entrenching a disciplinary power that was propagated using human rights norms. Indeed, as an aside to its intimidatory design, the Shona meaning of Hakudzokwi ('You will not return') fitted well with the impact it had upon the KP. The military operation heralded a point of no return for the organization, a powerful human rights turn.

As the texts examined in this chapter show, this human rights turn arose through a shift in the knowledge produced through the KP's monitoring assemblage, driven by the new western strategic alignment. I begin the chapter with certain texts that KP civil society actors produced just before Operation Hakudzokwi, which show that knowledge production immediately prior to the operation was still rooted in formalisation discourse. I then move through a series of texts that arose just after, from industry representatives, KP civil society actors, and then a group of KP 'experts' including civil society, government, and industry members, who were predominantly western. These texts articulated the beginnings of a human rights turn.

I then bring the chapter's focus towards American state actors, drawing on United States (US) internal communications gleaned from the Wikileaks 'cablegate' archive.² These texts reveal a growing concern that Marange would provide an economic lifeline to an ailing ZANU-PF, and an openness to narratives from interested informants who pointed to elite ZANU-PF-state actor accumulation and violence in Marange. The cables also show US diplomatic attempts to convince other governments to inhibit the 'illicit' Marange diamond trade, with Zimbabwean state violence in Marange proffered as part of the justification. While African officials were evidently suspicious of such American human rights talk, the human rights turn was further solidified with two 2009 international NGO reports that highlighted state violence in Marange and fixed blame to elite ZANU-PF-state actors. The most powerful KP expression of a human rights turn, however, came from the mid-2009 KP Review Mission to Zimbabwe, with an American *de facto* leader who ensured that the mission went beyond its KP policy bounds to include human rights language and produce knowledge about Zimbabwean state violence.

The chapter ends with the text of the 'Joint Work Plan' (JWP), which emerged afterwards at the KP's 2009 November Plenary. While the JWP did not mention the phrase 'human rights', keeping to formalisation speak, it further advanced the monitoring assemblage into Marange, rendering state practices there increasingly visible, susceptible to human rights surveillance, which the western strategic alignment might again use to push beyond policy bounds.

² It is worth underlining that these texts were for internal consumption of US state actors, not a public audience, and hence they were franker and more revealing in some ways of the perceptions of US state actors, including their agendas and assessments of the world. This provides a major contrast to many of the other texts I observe, which were often intended for public audiences, and it allows for the drawing of different kinds of conclusions.

A HUMAN RIGHTS TURN EMERGES

This section uses several NGO, industry, and KP texts from mid to late 2008 and early 2009 to show, firstly, that immediately prior to Operation Hakudzowki, KP civil society openly eschewed human rights, as far as the KP's mandate was concerned, and secondly, that when KP civil society set about making a human rights turn in response to Operation Hakudzowki, it did not do so alone but together with western industry and state actors. These observations support the argument made in Chapter Two that the KP did not start out as a human rights organisation. Furthermore, they suggest that while Operation Hakudzowki was just one in a series of events since the blood diamond campaign that revealed African state violence connected to rough diamond exploitation, bringing the conflict diamond definition into question, what set this case apart was the range of western actors across the KP's tripartite membership willing to make the Zimbabwean state's behaviour visible using a human rights lens. While I go on to speculate about different motives at play, the key point is that the KP's human rights turn and its disciplinary effects required a powerful new KP alignment to make it possible. Like all alignments, this was about different actors enabling each other increasingly by acting in concert, when none could bring about change independently of the others. This alignment was never explicit. It emerged in the framing of Marange along three vital dimensions: Marange was a problem of formalisation; but it was also a human rights problem; and those responsible were senior ZANU-PF-state actors.

In the second half of 2008, it became common knowledge that an illegal trade in rough diamonds was again mushrooming in and around Marange. Cartel members worried about the potential value of these diamonds and what impact their unregulated entry into the market might have. In early August 2008, it was reported that police had arrested around

9,600 illegal diamond panners and dealers in Marange since the start of the year. 1,912 diamonds had been recovered, and 148 suspected stolen vehicles used by dealers to buy gemstones impounded.³ Said to be worth ‘quadrillions’ of Zimbabwe Dollars, during a period of unprecedented inflation, and just before Zimbabwe changed to the US Dollar, it was difficult to gauge the value of these diamonds according to other currencies. Regardless, authorities were adamant that efforts to curb illegal mining and dealing were being intensified. As one Zimbabwean police inspector assured in a misleadingly benevolent threat,

We have tightened security at the diamond fields and the public should be warned that there are 24-hour dog and horse patrols by armed officers. So we want to warn the public that we will not hesitate to use minimum force to apprehend any culprits.⁴

News about Marange in August 2008 drew limited interest from KP civil society actors. Throughout 2008, KP civil society representatives were increasingly critical of the certification scheme. Yet, in line with orthodox KP formalisation concerns that surrounded Marange up until late 2008, Partnership Africa Canada and Global Witness’ criticisms pertained only to matters of effective regulation according to KP minimum standards, not to any questions about the scheme’s narrow scope.

Buoyed by the looming December 2006 release of Hollywood blockbuster *Blood Diamond*, KP civil society actors had pushed successfully for a string of KP reforms at the 2006 Gaborone Plenary. Yet as the cinematographic resonance of *Blood Diamond* faded from popular memory, so too did civil society representatives’ leverage diminish. KP civil society actors

³ J. Miller, ‘Zimbabwe: Authorities arrest nearly 9,600 for illegal diamond mining’, *Rapaport*, 7 August 2008.

⁴ *Ibid.*

were increasingly agitated once again in 2008, but did not show any sign of making a human rights turn, not until December 2008, when news of Operation Hakudzokwi began to spread.

KP civil society's prior orthodox positioning was abundantly clear in two reports released in October and November. Partnership Africa Canada's 'Diamonds and Human Security: Annual Review 2008', released in October 2008, maintained that efforts to halt the trade in conflict diamonds had largely succeeded, though such tainted commodities continued to emerge from Côte d'Ivoire,

But the KP challenge today is not just Côte d'Ivoire; the larger challenge is to ensure that diamonds are controlled and tracked in ways that prevent a return of the much more deadly diamond-fuelled wars of the past.⁵

The report went on to outline regulatory failures, chiefly in the Democratic Republic of the Congo (DRC), Angola, and Sierra Leone, but also in the Central African Republic (CAR), Brazil, Guyana, Venezuela, Côte d'Ivoire, Ghana, Guinea, Liberia, Republic of Congo, and lastly, Zimbabwe. The report briefly noted the Marange diamond rush that erupted in late 2006 and early 2007, as well as allegations of smuggling from River Ranch mine near Beitbridge, where a company linked to retired army general Solomon Mujuru was accused of illegally seizing the mine by the mines' previous owners. The report then turned to the 2007 KP Review Visit to Zimbabwe, which had scrutinised regulatory measures in both Marange and River Ranch, as well as Rio Tinto's Murowa mine near Zvishavane. The Review Visit included a 'knowledgeable individual representing civil society and the diamond industry', and went on to conclude that Zimbabwe met KP minimum standards. Partnership Africa Canada observed that 'howls of protest' had ensued over the River Ranch findings, but emphasized that the KP did not resolve

⁵ Partnership Africa Canada, 'Diamonds and Human Security: Annual Review 2008', October 2008, p. 1.

ownership disputes. In a remarkable declaration soon to be swept beneath the carpet, the NGO added that the KP had

absolutely no mandate to investigate or make pronouncements on human rights abuse, democracy or the governance of a country, abhorrent as it may be. Its job is to assess a country's ability to control, track and record its diamond production, its imports and exports, and to make sure that these all tally.⁶

Partnership Africa Canada agreed with the 2007 Review Visit that Zimbabwe's regulatory structures were in reasonable working order at the time of the Review Visit, despite recent upheavals.

In August 2008 the situation had taken a turn for the worse. According to the Partnership Africa Canada report, Reserve Bank of Zimbabwe (RBZ) governor Gideon Gono had informed a conference of exporters that more than 10,000 people from all over the world were visiting Mutare every month for illegal activities involving diamonds. Gono said that there were over 2,000 syndicates in Mutare, smuggling diamonds out of the country. His concerns were reiterated in a November 2008 report, co-authored by Partnership Africa Canada and Global Witness. 'Loupe Holes: Illicit Diamonds in the Kimberley Process' held that 'illicit trade in rough diamonds is one of the greatest threats facing the Kimberley Process', and called upon the upcoming November 2008 KP Plenary in New Delhi to consider a raft of reforms: an interim suspension mechanism to take swift action when faced with non-compliance; stronger government oversight of the diamond industry, including regular stock audits of companies, and the requirement that the diamond cutting and polishing sector meet KP minimum requirements; improved internal controls and increased collaboration and enforcement efforts to combat rough diamond smuggling; and development of a research

⁶ *Ibid*, p. 24.

and monitoring capacity to address illicit rough diamond flows, rather than leaving this work to NGOs and the media alone.⁷ In short, on the eve of the 2008 Plenary in New Delhi, KP civil society continued to promote an advancement of the KP's monitoring assemblage

As they had done in the KP's early years, KP civil society actors articulated these advances using an enhanced but orthodox language of formalisation, of heightened state control with industry assistance, unadulterated by human rights speak. Texts emanating from the 2008 Plenary suggested that the orthodox language of formalisation had been upheld. Released on 6 November 2008, the Plenary's final communiqué reported that continuing challenges of KP implementation in Zimbabwe had been noted, and the Plenary 'recommended further monitoring of developments and concerted actions in that respect.'⁸ The phrase 'human rights' did not feature. The communiqué added that the KP's Working Group of Diamond Experts (WGDE) had prepared a production footprint for Marange diamonds, to help authorities characterise diamond production from the area.

At first sight, Marange's diamonds were said to give a strong gravel-like impression, resembling rounded riverbed pebbles, like 'tumbled and abraded coarse chips of broken beer bottles with colours ranging from dark brown to black to darkish green'.⁹ Most surfaces were matt and dulled, with rounded corners and edges; broken surfaces displayed a metallic-like lustre. About 90 percent were coarse, low quality, with a rounded, abraded nature that made them distinguishable from other deposits. It was these industrial grade diamonds that set

⁷ Global Witness and Partnership Africa Canada, 'Loupe Holes: Illicit Diamonds in the Kimberley Process', November 2008, p. 1 and p. 6.

⁸ Kimberley Process, '2008 Kimberley Process Communiqué', 6 November 2008.

⁹ Kimberley Process Working Group of Diamond Experts, 'Footprint of rough diamonds from Marange diamond field (Zimbabwe) for import and export authorities and law enforcement', December 2008, p. 1.

Marange apart as a deposit; it was their appearance in global marketplaces that caused alarm, because their presence suggested that the other 10 percent of near gem or gem quality Marange diamonds were also present. These more valuable stones, were mostly greenish or brownish in colour, not unique, not distinguishable from many diamond deposits around the world. They could be readily absorbed into global markets with much less of a trace, thereby threatening cartel efforts to control supply. This was a formalisation concern, and it would elicit an increasingly alarmed response from industry leaders.

Alarm was intensified with new allegations of state violence in Marange, which Zimbabwean civil society actors, such as Zimbabwe Lawyers for Human Rights (ZLHR), ZimRights, and Crisis in Zimbabwe Coalition, began to pass on to western media.¹⁰ Even if state violence did not fit the purview of the KP's narrow conflict diamond definition, cartel members well knew that global consumer publics might not be so conveniently selective in their discernment. While Zimbabwean delegates at the New Delhi Plenary gave assurances that efforts were underway to bring Marange back under control, news of ineffective regulation, abuse, and exploitation circulated increasingly.¹¹ By early December, the KP was showing signs of a shift, with the initial lead taken by those most threatened by Marange, the cartel itself. On 10 December 2008, a public statement from the World Diamond Council (WDC) called 'for concerted international action to halt theft of natural resources in Zimbabwe'. As the statement opened,

Like many, the World Diamond Council is appalled and dismayed at the continuing humanitarian crisis in Zimbabwe. In this context, we are concerned that some natural

¹⁰ D. Farira, 'Eerie silence at Zimbabwe mine', *BBC News*, 4 December 2008.

¹¹ *Irin*, 'Diamonds are Mutare's best friends', 6 August 2008, *APA News*, 'Zimbabwe loses over US\$1.2 billion a month to diamond smugglers', 25 October 2008; D. Farira, 'Eerie silence at Zimbabwe mine', *BBC News*, 4 December 2008; J. Swain, 'Battle for Zimbabwe's blood diamonds', *The Sunday Times*, 7 December 2008; *Diamond Intelligence Briefs*, 'Zimbabwe's Security Forces under Scrutiny for Alleged Human Rights Abuses at Diamond Fields', 9 December 2008; C. Even. Zohar, 'Kimberley Process Urges Combating Smuggling', *Diamond Intelligence Briefs*, 23 December 2008.

resources in the country, including a small number of diamonds, are reportedly being exported illegally for the personal gain of a few.¹²

Zimbabwean rough diamond production was thought to be relatively modest, estimated at 0.4 percent of world production, much of which was exported legitimately. The international diamond industry was already providing authorities, diamond bourses, and the KP with assistance in identifying smuggled Zimbabwean diamonds, some of which had already been successfully seized. Yet, the WDC called on 'these authorities and other governments to redouble their efforts and bring those responsible to justice.'¹³ The KP's monitoring assemblage was taking hold of Marange, as an object of knowledge, and thus an object of intervention, along increasingly intricate lines of formalisation. However, the WDC also subtly referred to violence in Marange, even though it was aware that state elements were likely perpetrators. As its press release concluded,

We believe that restoring peace and stability to Zimbabwe is one of the most difficult and urgent challenges facing Africa today. It will prove impossible, however, if governments and the United Nations fail to unite with civil society, and the private sector, in their efforts to bring this about.¹⁴

The WDC press release upheld the orthodox KP language of formalisation, imploring authorities to implement better controls, and giving placatory vent to anxieties around the value of Marange and its potential impact upon markets. Yet, it also began to open new avenues of talk, of humanitarian crisis, of 'a few' benefitting through this crisis, and of a country in dire need of change, of peace and stability. The text began to erect the three dimensions along which a new alignment of western KP actors would seek to frame Marange,

¹² World Diamond Council, 'WDC calls for concerted international action to halt theft of natural resources in Zimbabwe', 10 December 2008.

¹³ *Ibid.*

¹⁴ *Ibid.*

rendering it an object of knowledge. Firstly, there were problems of formalisation. Secondly, it was implied there were problems of violence, and even if the language of 'human rights' was not explicitly used, the problem was now closer to being interpreted in such a vein, particularly because the violence was widely considered to be state-perpetrated. Thirdly, and much in line with the operation of human rights monitoring and discipline, there were 'a few' to blame for these problems. A story could be told in which the perpetrators were identifiable.

The WDC's move seemed to embolden KP civil society actors in novel ways. Two days later, on 12 December, Global Witness and Partnership Africa Canada emerged with a more aggressive position, calling for suspension of Zimbabwe from the certification scheme, due to state violence in Marange reportedly leading to as many as 50 informal miner deaths in November. Compared with KP civil society's earlier stance on the KP's mandate, outlined just weeks before, the December press release showed early signs of an accelerating shift towards human rights language. The release quoted Partnership Africa Canada leader Ian Smillie, who departed from the October 2008 report he had recently edited, and which had distanced the KP mandate from human rights,

The KP was designed to halt and prevent conflict diamonds through an international regulatory regime based on internal controls in each participating country. The perpetration of human rights abuses and indiscriminate extra-judicial killing by governments in pursuit of Kimberley Process objectives is little better than the problem the scheme seeks to end. The Kimberley Process should act to condemn and prevent such violence.¹⁵

Smillie started to straddle formalisation and human rights concerns, but such a dual KP mandate could be applied to greater effect if it was shown that ZANU-PF-state actors were

¹⁵ Global Witness, 'Conflict diamond scheme must suspend Zimbabwe', 12 December 2008.

more complicit than negligent in Marange. Thus, the NGOs' December press release further solidified a three-dimensional framing of the Marange situation. The area was far from being adequately regulated. Human rights abuses were rife. Responsibility reached all the way to the highest ZANU-PF state echelons. Bringing in this third dimension of state responsibility, the NGO press release held that Zimbabwean diamonds mined and marketed within and outside formal state control were being used to buttress Robert Mugabe's increasingly repressive regime, amid an escalating humanitarian crisis. As Annie Dunnebacke of Global Witness urged,

The Kimberley Process must take a stand against the harnessing of diamonds for systematic abuses by a pariah regime. We can no longer assume that Zimbabwe has the ability or the ethical standards needed to control its diamonds in ways that conform to the principles espoused by the Kimberley Process.¹⁶

The NGO press release also noted evidence, confirmed by Gideon Gono, that large amounts of Zimbabwean diamonds were being smuggled into other countries, in contravention of the KP, leading to smuggler arrests in India and Dubai. KP civil society thus called upon the KP to suspend Zimbabwe, 'issue a clear and unequivocal statement about the need for all Participants to observe basic human rights in the enforcement of Kimberley Process minimum standards', and to step up efforts to weed out illicit Zimbabwean diamonds from the trade.¹⁷

WDC industry representatives had subtly, perhaps reluctantly, begun a human rights turn, and KP civil society actors had made it more defined. Next, industry and civil society actors would combine with certain state counterparts to further solidify the breaking away of a new, predominantly western, strategic alignment within the KP. This collaboration emerged in the

¹⁶ *Ibid.*

¹⁷ *Ibid.*

KP Working Group on Monitoring (WGM). On 16 December 2008, the WGM met via telephone conference call to discuss the situation in Marange.¹⁸ The United States (US) informed the WGM that it would be taking what *Diamond Intelligence Briefs* called ‘a diplomatic road’, which meant raising concerns with diamond trade centres ‘at the political level’, underlining ‘the political and humanitarian crisis [in Zimbabwe] and its relation with illicit diamond trading’.¹⁹ The US was resolute that the KP demonstrate its efficacy, and that the WGM provide guidance to KP authorities around the world in detecting Marange diamonds, whilst also conducting an enquiry into statistical anomalies and smuggling patterns arising out of the area. It was supported by Canada, which acknowledged the difficulty in ‘drawing a line between the illicit diamond trade and the surrounding violence.’²⁰ Subtly pushing the new human rights agenda, Canada expressed an aversion to ongoing cooperation with Zimbabwean authorities, because of a ‘level of violence observed’ in the area that ran counter ‘to the underlying principles of the KP’.²¹

Not all the state representatives participating in the December WGM teleconference would form part of the emerging western strategic alignment. The United Arab Emirates (UAE) called simply for enhanced controls, while Russia called for a proper documenting of evidence of non-compliance, before any conclusions were drawn on such a serious matter. Mugabe flew to Moscow the following month, his first visit since 1987, to discuss closer strategic ties, including what one Zimbabwean official referred to as ‘exploitation of a strategic resource

¹⁸ Kimberley Process Certification Scheme Working Group on Monitoring, ‘Report of Fact Finding Team of Experts: Zimbabwe KPCS Compliance’, January 2009, p. 1.

¹⁹ C. Even-Zohar, ‘Kimberley Process Urges Combating Smuggling’, *Diamond Intelligence Briefs*, 23 December 2008.

²⁰ *Ibid.*

²¹ *Ibid.*

that God has given to Zimbabwe and which could be used to give the country a much-needed new lease of life'.²²

A divide between a growing human rights emphasis pushed by the emerging western alignment and an orthodox formalisation approach upheld by the rest was already evident. Nevertheless, all parties accepted that there should be further investigation, as all continued to share an interest in the survival of the KP's disciplinary regime and the cartel. Among the actions agreed upon was the writing of a report on the situation by a 'team of experts'. Released in January 2009, the WGM experts' report explained that no formal agreement had been reached on its writers' mandate, but 'the exercise was simply a fact finding process, to collect and assess compliance by Zimbabwe with KP minimum standards using data derived from KP mechanisms.'²³ This informal mandate was clearly stretched beyond orthodox KP limits by its WDC coordinator Cecilia Gardner, and its other contributors, comprising two US officials, two Canadian officials, one UAE official, WDC member Mark von Bockstael, as well as Ian Smillie and Annie Dunnebacke. Apart from the UAE official, all of the authors of the WGM experts' report were western: four North American state officials, one Canadian NGO member, a British NGO member, an American WDC official in Gardner, and a Belgian WDC official in von Bockstael. They would not have admitted as much, but I argue that their authoring of the WGM experts' report heralded a new western strategic alignment at the KP.

Outlining the events leading to its writing, the WGM experts' report held that news reports of state violence in Marange began as early as October 2008. It said a late October *Reuters*

²² NewZimbabwe.com, 'Zimbabwean President Mugabe plans Russian visit', 8 January 2009.

²³ KP WGM, 'Report of Fact Finding Team of Experts: Zimbabwe KPCS Compliance', p. 1.

article had reported on clashes between police and diamond miners, which led to deaths on both sides. Reuters alleged that thousands were entering the area, leading to diamonds being smuggled out of the country. The experts noted that further reports of state violence continued through November and into December, when *The Guardian*, *London Sunday Times*, and *BBC* all issued reports of ‘scores’ of miners killed by security forces in the area. Some reports maintained that cleared areas were now being worked by government personnel. Others stated that the Mutare mayor had confirmed there were 80 bodies at the Mutare General Hospital, and that his deputy had been asked to find land for a mass grave. Furthermore, the Dutch Foreign Minister had confirmed evidence gathered by the Dutch Embassy in Zimbabwe that poisonous chemicals were used to drive informal miners out of some areas. Noting these reports, as well as both an ‘acknowledgement’ by Gideon Gono that smuggling of industrial diamonds from Marange was rife and an ‘acknowledgement’ by Senior Assistant Police Commissioner Faustino Mazango that the state had driven illegal miners and dealers out, the WGM felt able to claim that it had ‘established that incidents of violence on the part of the government of Zimbabwe as a technique to control the region’ had occurred.²⁴

The WGM experts’ report maintained,

The reports of violence directed at diggers and dealers by the government in Zimbabwe are confirmed. In fact, there have been no real denials of these reports, and even some acknowledgement of the events, for example by the Senior Assistant Police Commissioner in Zimbabwe.

However, Faustino Mazango’s public announcement was more an inspired proclamation than an ‘acknowledgement’. He was quoted in *The Herald* on 11 December 2008, as saying:

²⁴ *Ibid*, p. 2.

Operation Hakudzokwi indeed achieved the desired results. More than 34 500 panners and vendors have been flushed out of Chiadzwa with 1 227 arrests being made.²⁵

Mazango made no acknowledgement of any violence whatsoever; government denials of any state violence would come in the months ahead. In the meantime, the WGM experts' inclination to see his words as an admission of culpability was perhaps an indication of a developing locus of alignment within the KP assemblage, a strategic alignment that sought to produce knowledge as a means of producing disciplinary power.

'Despite the violence,' the WGM report continued, 'efforts by the government of Zimbabwe remain ineffective to stop the flow of uncontrolled rough diamonds out of Zimbabwe'. In addressing the efficacy of state regulation in Marange, and thus its levels of formalisation, the WGM experts stood on more solid ground. They could draw on more evidence than reports in the media, including data provided by KP participants, and subsequent analysis offered by the KP Working Group on Statistics (WGS). Indeed, smuggling of Zimbabwe diamonds around the region and further afield was the subject of numerous news reports, but was also reflected in the statistical reporting of certain KP members. Large, unexplained industrial grade diamond export increases had recently been recorded in South Africa and Tanzania. Yet, the greater part of the WGM experts' focus was directed at irregularities in the DRC.

Due to violent conflict involving illegal miners in the DRC, production by the main diamond producing company Miba fell by 80 percent in the latter half of 2006. During this period the DRC nonetheless reported a huge increase in exports of rough industrial diamonds to Lebanon and India, rough diamonds with the same characteristics as Marange's industrials. In 2006,

²⁵ P. Matambanadzo, 'Blitz flushes out 35,000', *The Herald*, 11 December 2008.

DRC exports to India increased by 374 percent.²⁶ Despite a small reduction in industrial DRC diamond production in 2007, exports to UAE that year increased by 250 percent, with nearly 3.5 million carats exported there in the first quarter of the year, while no quarter in the previous two years had exceeded 1 million carats. DRC industrial diamond exports to the UAE continued to be inexplicably high in 2008. No relevant increase in DRC production had appeared in earlier reporting periods to explain such unprecedented increases. Furthermore, after DRC officials contacted the Zimbabwean government in early 2007 to enquire about the recent increase of the supply in the DRC of industrial diamonds with Zimbabwean characteristics, a Ministry of Mines and Mining Development official responded that two DRC nationals had been arrested in the Marange region illegally buying diamonds and allegedly smuggling them to the DRC. As the WGM experts wrote, the official therefore ‘acknowledged that Zimbabwe could be the source of the diamonds noticed by the authorities in the DRC’.²⁷

The question of corrupt Zimbabwean officials possibly involved in smuggling to the DRC was never explicitly asked, but it existed as subtext. As the WGM report explained, in 2006 Zimbabwean delegates at the KP had reported production of over 1 million carats of rough diamonds, mostly industrial grade. This amount was nearly five times the previous year. Much less of it had been exported, according to official reports, suggesting that the country had a massive stockpile. In 2007, Zimbabwean production dropped by 34 percent, according to WGS statistical analysis, while its exports rose by 85 percent. Yet, the WGM experts deduced that there ‘should’ therefore still be a Zimbabwean stockpile of nearly a million carats that had not been exported through official channels. However, ‘there was no information as to the status

²⁶ KP WGM, ‘Report of Fact Finding Team of Experts: Zimbabwe KPCS Compliance’, p. 4.

²⁷ *Ibid.*

or the location of the nearly 1 million carats of diamonds stockpile'.²⁸ Furthermore, all recorded exports and stockpiled diamonds were industrial grade, presumably raising questions around the whereabouts of the ten percent of gem and near gemstone quality diamonds said to form part of the deposit's footprint. The subtext was clear. What was in the stockpile, and what had Zimbabwean officials done with it?

As the WGM report went on to conclude, KP participants connected to the southern African diamond trade should be wary of statistical anomalies, make appropriate inquiries, and keep the KP informed, as it was 'very clear that there are unusual patterns in the volume, quality and values of stones imported and exported'.²⁹ Consistent with the administrative decision taken at the 2008 New Delhi Plenary, the report called for the adoption of interim measures, but it went further in suggesting Zimbabwe's 'suspension of exports and import operations until such time that it can be demonstrated that it is able to meet the minimum requirements of the KPCS'.³⁰

Human rights concerns did not come into the WGM report's concluding recommendations, yet the experts had already reiterated that 'widespread reports of police and military violence directed at diamond miners and dealers', together with reports of smuggling-related arrests, had led the WGM to request the report in the first place. The report made violence in Marange more visible, along with ineffective regulation, and possible state exploitation. For numerous western diplomats, these three dimensions of human rights violations, a lack of formalisation, and responsibility of the Zimbabwean state for these problems provided a

²⁸ *Ibid*, p. 5.

²⁹ *Ibid*, p. 7.

³⁰ *Ibid*.

means of attacking ZANU-PF, of limiting its capacity to draw upon Marange as a new economic lifeline, and instead promoting the Zimbabwean regime change these diplomats had long advocated. While a Zimbabwean regime change agenda may not have been shared equally among all constituents of the western strategic alignment that arose at the KP, it was a powerful, formative factor. The most influential of western governments soon took the lead.

THROUGH THE EYES OF AN AMERICAN EMBASSY

In 2008 Zimbabwe descended to a new political and economic nadir. ZANU-PF was accused of using the most extreme violence since the mass killings of the 1980s to 'win' the re-run of a presidential election, while human development indicators fell to hitherto unseen levels.³¹ Political deadlock led in mid-September 2008 to the power-sharing agreement known as the Global Political Agreement (GPA), between ZANU-PF and the two MDC factions. Mugabe remained President, and the MDC-T's Morgan Tsvangirai became Prime Minister, but disagreement arose over allocation of state ministries. Western governments and Zimbabwean civil society organisations, as the MDC-T's allies, were unsupportive of any power-sharing deal that did not considerably reduce Mugabe's presidential powers, and did not allocate ministries in a way that put the MDC-T in the ascendant. Yet, the MDC-T rejected western and civil society influence, and opted for a less advantageous agreement, after pressure by a Southern African Development Community (SADC) that favoured ZANU-PF as a more likely provider of stability, and which subscribed to an effective ZANU-PF 'Patriotic History' campaign that characterised the MDC-T as a western puppet.³² Vocal opposition from

³¹ These indicators were based on the Human Development Index, a composite statistic of life expectancy, education, and per capita income indicators. United Nations Development Programme, *Human Development Report 2010: The Real Wealth of Nations: Pathways to Human Development*, (New York, 2010), p. 27.

³² T. Hoekman, 'Testing Ties: Opposition and Power-Sharing Negotiations in Zimbabwe', *Journal of Southern African Studies*, 39:4 (2013), p. 904.

the US to the negotiations in late 2008 reflected a consensus in the western diplomatic community that ZANU-PF was on the verge of collapse, and that negotiations should be prolonged rather than resolved unfavourably for the MDC-T.³³ However, the west and the MDC-T differed on what they saw at stake in the negotiations, with MDC-T leaders physically threatened, fearful of losing national and regional legitimacy if they did not find a rapid resolution, and doubtful that digging their heels in would facilitate the regime change that the west prioritised in the short term.³⁴ In late January 2009, the MDC-T agreed to the formation of a Government of National Unity (GNU). Control of the Ministry of Home Affairs was split between the MDC-T and ZANU-PF, and with the exception of the Ministry of Finance, which was put under the control of the MDC-T's Tendai Biti, ZANU-PF kept control of the key ministries, not least of all the Ministries of Defence and Mining.

Against the backdrop of these negotiations, Marange surfaced as an increasingly prominent facet of struggle over Zimbabwe's future, and, in the face of it, western diplomats were not yet ready to let go of their aspirations to bring about regime change. Through the eyes of the American Embassy in Harare, the chief concern around Marange was that its new-found wealth might become a lifeline to an ailing ZANU-PF, and a boon to competing global superpowers Russia and China. As the texts of internal US communications gleaned from Wikileaks 'Cablegate' files show in this section, the American Embassy in Harare was highly receptive to information, to knowledge production, pointing to ZANU-PF elite accumulation in Marange, even though such information came from businessmen, a state official, a chief, and civil society actors with interests of their own in Marange and in encouraging western

³³ *Ibid*, p. 912.

³⁴ *Ibid*, pp. 916 – 917.

intervention there. At first, this information concerned inadequate regulation, smuggling, and the complicity of ZANU-PF-state elements therein. Operation Hakudzokwi was a watershed moment, however, which saw information about human rights abuses permeate American intelligence. With much assistance from a US-backed NGO in Mutare, the Centre for Research and Development (CRD), the US Embassy began to build a case, a body of knowledge, that could be used against ZANU-PF at the KP, in the interests of bringing about regime change in Zimbabwe. This case took the same three-dimensions already emerging through the WDC, KP civil society, and the WGM experts' report.

A lack of formalisation in Marange was an incontrovertible, widely-accepted fact, following the 2008 New Delhi KP Plenary's recognition of 'continuing challenges to KP implementation in Zimbabwe' and its recommendation of 'further monitoring of developments and concerted actions in that respect'.³⁵ Human rights abuses were harder to prove and quantify, but after Operation Hakudzokwi allegations abounded, and evidence became increasingly available.³⁶ However, the extent of ZANU-PF-state complicity in these troubles was unknown at this stage. Nonetheless, the US showed an openness in its internal cables to a range of assumptions about ZANU-PF-state complicity, and this was indicative of its geopolitical agenda. As I argue, a fear that ZANU-PF might somehow survive against the odds led the US into an attempt to use the KP as an instrument of regime change. While other western KP actors may not have shared the regime change agenda of the US, or may not have prioritised it as much as the US did, I will show that this agenda nevertheless became a powerful driving force behind the new

³⁵ Kimberley Process Plenary, '2008 Kimberley Process Communiqué', 6 November 2008.

³⁶ See footnotes 10 and 11 above.

western strategic alignment at the KP that called for action to be taken against the Zimbabwean state on the grounds of human rights violations.

Marange had been a concern to the US well before Operation Hakudzokwi. In a March 2007 cable that was widely disseminated among US embassies, agencies, delegations, and government departments, US Ambassador to Zimbabwe Christopher Dell noted that the country was at risk of losing its KP certification due to its government's handling of Marange's 'discovery'. The Zimbabwe Mining Development Corporation (ZMDC) had seized the deposit from African Consolidated Resources (ACR) despite the company's registered claim, as we saw in Chapter Three, and the US Embassy had heard that the Minerals Marketing Corporation of Zimbabwe (MMCZ) was illicitly funnelling Marange diamonds out of the country while using the revenue to support ZANU-PF. Indeed, Zimplats CEO Greg Sebborn had told the Embassy that the MMCZ CEO 'was overseeing smuggling of the diamonds out of Harare Airport and that the illicit trade had fuelled a sudden massive accumulation of wealth in a circle of ZANU-PF cronies.'³⁷

According to Dell, the repercussions for Zimbabwe's mining industry would be dire if ACR's appeal to the courts failed, and even more so if it was proven to the KP that a state agency had used 'revenue from the illicit sale of illicitly gained diamonds to enrich ruling party cronies'. Entitled 'Diamonds: The Government of Zimbabwe's Best Friend', the cable quoted sources who believed government had fomented the first diamond rush. Chamber of Mines CEO David Murangari reportedly told the Americans that Minister of Mines and Mining

³⁷ C. Dell, 'Diamonds: The Government of Zimbabwe's Best Friend', *Wikileaks* (13 April 2007), 07HARARE319_a.

Development Amos Midzi and Manicaland Governor Tinaye Chigudu ‘had fanned the frenzy by broadcasting support for “indigenous miners”’, while Sebborn was said to confide that government ‘orchestrated it from the start’, intending ‘to stir up anti-foreign, anti-white sentiment about mineral rights development in Zimbabwe.’ These accounts encouraged an interpretation of the Marange situation that the US and other members of the western KP bloc repeatedly entertained, that the lack of formalisation and the human rights abuses in and around the area were a direct, intended result of ZANU-PF state machinations.

The 2007 KP Review Visit to Zimbabwe was already being arranged by the European Union (EU) KP Chair at the time of Dell’s cable, and it went on to find that Zimbabwean police had since brought the fields under control. Even if this was the situation in Marange, it did not last through 2008. After the rush resurged, another US cable was sent to a similar set of addressees in early November 2008, this time by new Ambassador to Zimbabwe James McGee. Entitled ‘Regime Elites Looting Deadly Diamond Field’, much of the cable’s content was drawn from conversation with a clearly interested party: ACR CEO Andrew Cranswick. As we saw in Chapter Three, Cranswick was eager to stimulate international pressure that might encourage senior Zimbabwean state actors to form a mining partnership with his company. ACR efforts to appeal to the KP directly had failed in late 2006, but now Cranswick turned to the US Embassy. According to McGee, the businessman held that ‘high-ranking Zimbabwean officials and well-connected elites are generating millions of dollars in personal income by hiring teams of diggers to hand-extract diamonds from the Chiadzwa mine’.³⁸

³⁸ J. McGee, ‘Regime Elites Looting Deadly Diamond Field’, *Wikileaks* (12 November 2008), 08HARARE1016_a.

Cranswick maintained that while the ZMDC had brought a limited amount of mining equipment into Marange in 2006, these extractive efforts proved ineffective, and had been replaced by artisanal hands sifting the upper soil. The ACR CEO acknowledged that most diamonds mined were not being sold to regime members, but instead by artisans directly to foreign buyers. Nevertheless, he told the Embassy that numerous ZANU-PF elites, including the RBZ Governor, the Vice-President, the first lady, the Commander of the Zimbabwe Defence Force (ZDF), the Central Intelligence Organisation (CIO) Director, the Mines Minister, and the Manicaland Governor, as well as several white businessmen, were all involved in the illicit Marange trade, with some likely making several hundred thousand US Dollars a month. Whether sold to the ZANU-PF elite or not, the bulk of diamonds mined were eventually sold to foreigners, Cranswick said, mostly Belgians, Israelis, Lebanese, Russians, and South Africans, before being smuggled to Dubai and sold at the Dubai Multi Commodities Centre Authority, a dedicated economic free-trade zone for the exchange of metals and commodities, especially gold and diamonds. According to Cranswick, the highest quality diamonds were shipped instead to Belgium, Israel, or South Africa for cutting.³⁹

Cranswick was at pains to convince the US Embassy of Marange's extraordinary value. Having implicated Ernie Blom, president of South Africa's Diamond Merchant's Association and vice-president of the World Federation of Diamond Bourses, he was asked why such a reputable figure would become involved in the illicit Marange trade. After the cable's leak, he would deny ever implicating Blom, but in the cable his response was said to be that Marange's worth was simply too vast to ignore.⁴⁰ He claimed he had been confidentially shown a De Beers

³⁹ *Ibid.*

⁴⁰ S. Brümmer and I. Rawoot, 'SA dealer in Zim diamond claim', *Mail & Guardian*, 10 December 2010.

report written by John Ward, the geologist who, as we have seen, was on the Debzim team that first discovered alluvial diamonds in Marange. Cranswick maintained that the report estimated Marange to have a CPHT (carats of diamonds per hundred tons of ore) of over 1,000, while Rio Tinto's Murowa diamond mine was just 120 CPHT. As we saw in Chapter Three, Ward did come across parts of Marange with such a grade, but he knew that alluvial fields had haphazard CPHT counts that varied greatly from one spot to another. It is unlikely that Ward would have agreed with Cranswick's belief that Marange had 30 to 40 percent industrial grade diamonds while the remainder was gem quality. The KP WGDE soon compiled a Marange production footprint that negated this estimate, and in time, it would emerge that Ward's findings corresponded with the WGDE footprints.⁴¹

While Ambassador McGee was wary of Cranswick's interests, and his likely wish to elicit a US intervention in Marange, the ambassador remained open to the businessman's influence. Indeed, Cranswick offered a narrative that was concerning but also geopolitically useful to the US. It was a narrative that supported the charge of direct ZANU-PF complicity in Marange's lack of formalisation and its human rights woes. McGee's November 2008 cable explained that a US official had been sent to Marange's periphery, where repeated enquiries corroborated many of the names given by Cranswick. The official also met with Manatsawani Mutasa, a ZANU-PF Central Committee member and Manicaland resident, who maintained that the Justice Minister, Women's Affairs Minister, and President's sister were also involved

⁴¹ Later consultancy work by Ward for Zimbabwean parastatals would confirm the WGDE's ten percent gem quality estimate, as opposed to Cranswick's 60 to 70 percent. Kimberley Process Working Group of Diamond Experts, 'Footprint of rough diamonds from Marange diamond field (Zimbabwe) for import and export authorities and law enforcement', p. 3; J. D. Ward, M. de Wit, A. Revitt, and J. Abson, 'Geological and economic aspects of the Proterozoic Umkondo Group Diamond Placer near Marange, Zimbabwe', 5 July presentation given at Geoforum 2013, p. 31.

in illicit trade. The US was not yet aware of Operation Hakudzokwi's launch. Yet, a growing disquiet about Marange and who it might be benefitting was already palpable in US communications, as was a growing awareness of the burgeoning violence that might yet draw international censure and the disciplinary scrutiny of the KP's monitoring assemblage. As McGee concluded,

At present, police trying to bring order to Chiadzwa are benefitting Zimbabwean officials who see the diamond field as a new source of illegitimate income; the people of Zimbabwe are seeing little return. It is also clear that Cranswick is a businessman trying to find any pressure point he can through which to leverage his own claim. At the same time, he sheds light on an industry that is enriching many of the same old Zimbabwean elite - and causing violence and deaths that so far have received little attention.⁴²

McGee's cable held that police efforts to control Marange had been ineffective but violent, with multiple homicides on a weekly basis, and the number likely to increase as artisanal miners began to arm themselves while rogue police joined their ranks.⁴³ Hundreds if not thousands had already been killed, he said. McGee noted that during the first weekend of November, the online *Zimbabwe Times* had reported that security forces killed five panners in Marange, but on this occasion from a helicopter. Indeed, news of Operation Hakudzokwi had begun gradually to circulate, even if the operation's name was not yet widely known, and even if some accounts suggested that the operation did not mark a significant departure from the violence of the preceding periods. McGee's cable quoted a ZLHR lawyer who stated that such killings had become an everyday scenario, with up to five dying every week from police gunshot wounds and dog bites. Cranswick told the Embassy that at the height of the 2007 police clampdown, a hundred panners had been shot in a week. He maintained that police

⁴² McGee, 'Regime Elites Looting Deadly Diamond Field'.

⁴³ *Ibid.*

who were rotated into Marange on two-week shifts, to control mining and keep unauthorised diggers out, were immediately corrupted, and that the military had avoided the area out of fear of losing control of its troops. By the time Cranswick's account appeared in the US cable, however, the ZDF was already moving into Marange.

Cranswick's statement to the US Embassy that Zimbabwean military leaders would not move rank-and-file army members into Marange would soon be disproved, as the Americans turned to informants much closer to the site of Operation Hakudzokwi. On 9 January 2009, McGee sent another cable entitled 'Military expansion fuels diamond chaos in Chiadzwa' to an expanding list of US state recipients, including the Central Intelligence Agency (CIA). The cable was based largely on discussions held two days before with local chief Newman Chiadzwa, who described how the military expansion was displacing police and diverting diamond flows from the RBZ to the ZDF, without deterring an ongoing trade involving foreign buyers. Chiadzwa's questionable background, including a dozen convictions, and a willingness to change sides and story, would become more apparent later in 2009 and in 2010.⁴⁴ For the time being, however, he offered the US Embassy another concerning yet valuable Marange narrative.

Intriguing his American audience, Chiadzwa painted a picture of chaotic competition among arms of state and ZANU-PF actors. He said he suspected that Marange's military influx stemmed from a fear that ongoing negotiations between ZANU-PF and the two MDC factions might result in the MDC-T taking the Home Affairs Ministry, which included the police

⁴⁴ C. Mushanawani, 'Newman Chiadzwa jailed for five years', *The Herald*, 4 March 2010.

department. An MDC-T-controlled Home Affairs was a negotiated outcome the west pushed for in vain, up until later in January when the MDC-T agreed to the launch of the new GNU. Chiadzwa also alleged that operatives of RBZ Governor Gideon Gono, who were purchasing diamonds in Mutare with newly-printed Zimbabwean currency, had been barred by the military. Previously, the US Embassy in Harare had reported a meeting between Gono and representatives of the Russian diamond parastatal Alrosa. While Gono may have subsequently been side-lined, press reports corroborated by Embassy sources indicated that Mugabe was planning a trip to Russia the same month to discuss mining investment opportunities. McGee's cable closed worriedly, warning that because Zimbabwe's government was 'desperate for forex, such a trip could involve discussion of a Chiadzwa diamond deal between Zimbabwe and Russia'.⁴⁵

Newman Chiadzwa also confirmed that military and police shootings in Marange were ongoing. He held that many from his village, just 200 metres from where diamond mining was ongoing, had been killed, beaten, and arrested for dealing in diamonds. He said that villagers had entrusted their diamond finds to him for keeping, because he owned a safe and it was believed that his traditional status would be respected. Yet he said he had been forced to hand this diamond stash over to security forces, and was now in hiding in Harare, having also been ostracised by authorities because his nephew Shuah Mudiwa, an MDC-T candidate, beat ZANU-PF incumbent Christopher Mushowe for the Mutare West constituency parliament seat in March 2008. Mushowe was subsequently appointed Manicaland Governor in August. McGee noted that certain US Embassy sources believed his anger at the Mutare West

⁴⁵ J. McGee, 'Military expansion fuels diamond chaos in Chiadzwa', *Wikileaks* (9 January 2009), 09HARARE24_a.

constituency was an impetus behind state violence in Marange. McGee held that Chiadzwa's accounts of military violence and expansion in Marange were corroborated by a report the US had received from the CRD, which held that over 200 bodies had appeared at Mutare Provincial Hospital Mortuary, Old Mutare Mission Hospital, Sakubva District Hospital, and private mortuaries. Many of these bodies arrived with gunshot or dog bite wounds and were tagged 'BID Marange', or 'brought in dead from Marange'.

A second McGee cable based on further US conversation with Newman Chiadzwa in January, and sent to the same addressees, outlined military plans to evict as many as 25,000 Chiadzwa residents in mid-January, and place them some 60km away on a farm in Odzi owned by Chris Mushowe. The plan had been scuppered after it emerged that a Russian gold mining company had recently discovered gold in the area. Newman Chiadzwa held that the evictions were part of an effort to gain better control over Marange, whilst also providing housing for military brigades. His claims that troops were already often forcing residents to provide food and shelter were confirmed by the CRD. He said he had established a trust to raise funds for the legal defence and protection of displaced people in the area, and asked the US for assistance.

As McGee concluded,

The relocation of these villagers, if it occurs, is the next preparatory step in the GOZ's [Government of Zimbabwe's] plan to use the Chiadzwa diamond fields to bail out the failed Zimbabwe economy and prop-up the Mugabe patronage system. While we are highly sceptical of the success of that scheme, what is certain is that it would result in additional suffering for Chiadzwa residents.⁴⁶

⁴⁶ J. McGee, 'Military plans to displace thousands of residents from Chiadzwa', *Wikileaks* (23 January 2009), 09HARARE51_a.

While McGee's two cables did not name the CRD, referring only to a 'local NGO', the CRD had been linked to the US Embassy since its beginnings, and would prove to be an important informant and its leader a key figurehead for the western strategic alignment at the KP. Headed by Mutare-based activists Farai Maguwu and James Mupfumi, the CRD's first grant came from the US Embassy, a once-off \$15,000 payment through the Democracy and Human Rights Fund (DHRF), prior to the Marange crisis.⁴⁷ As classmates studying for a Masters in Peace and Governance at Africa University in Mutare, Maguwu, Mupfumi and another fellow student had begun participating in the running of workshops in rural Manicaland, held by the National Constitutional Assembly (NCA) and ZLHR.⁴⁸ These workshops focussed on teaching traditional leaders about human rights and the constitution. The three added good governance and peacebuilding to the programme, promoting the 'de-politicization' of traditional leaders and their conflict resolution methods, which in practice tended to amount to ending alignments with ZANU-PF. The CRD adopted its politically indeterminate title and was registered in 2007 as a trust. The same year, Maguwu was awarded a scholarship to study a Masters at the European Peace University (EPU) in Austria. Here, he met American Professor Paul Scott who agreed to join the CRD Board and helped secure a second grant from the National Endowment for Democracy (NED), an American non-profit organisation, which describes itself as a private foundation, but is funded by the US Congress.⁴⁹ The NED grant amounted to \$30,000 a year, paid quarterly for three years from 2008 to 2010.⁵⁰

⁴⁷ Interview with ex-CRD financial officer Sure Kasenye, Harare, 14 November 2012.

⁴⁸ The NCA was a social movement formed in 1998, a grouping of Zimbabwean citizens and civic organisations, which campaigned for Zimbabwean constitutional reform in the run-up to a constitutional referendum in 2000, wherein a new constitution proposed by President Mugabe was rejected. Though the NCA went on to form a political party of its own in 2013, the MDC's 1999 founding was an offshoot of the movement in its early years.

⁴⁹ <http://www.ned.org>, accessed 18 May 2013.

⁵⁰ Interview with James Mupfumi, Mutare, 26 February 2013.

Towards the end of 2008, the CRD became increasingly interested in the politically-charged matter of natural resource management in Marange. With encouragement from the US and other western embassies in Harare, it produced its first report on the Marange situation in January 2009.⁵¹ The report explained that Operation Hakudzokwi had intensified with the coming of the military in early November 2008, but had been ongoing for six weeks prior, implemented only by the Zimbabwe Republic Police (ZRP) during this initial period, which began approximately two months after the signing of the GPA. As the CRD maintained, it emerged after the signing that ZANU-PF had allocated itself the Ministry of Defence, while the MDC-T continued to demand Home Affairs, in line with what western actors had urged. As a CRD source was said to confide, it had become apparent that most police were happy to fall under MDC-T control,

There was a growing suspicion within the top echelons of power that the police force was no longer loyal to the ZANU-PF government and was now reluctant to carry out its duties. Suddenly the police were accused of cooperating with the illegal panners to undermine the government. A Joint Operations Command was also held in Harare which is reported to have left out [Police] Commissioner General Augustine Chihuri. At the JOC meeting the army was tasked to take over from the police in Chiadzwa.⁵²

The CRD report quoted at length a police officer who was stationed at Chiadzwa when the army came. Two helicopters landed, and several military trucks and buses arrived. The soldiers announced they had come to take over operations, under a directive issued by the President. Skirmishes between police and soldiers were said to have broken out. Police chiefs in Manicaland informed Chihuri, who did not know of any presidential directive. Police finally withdrew, as the military numbers swelled. The CRD reported:

⁵¹ Interview with Farai Maguwu, Harare, 7 December 2012.

⁵² Centre for Research and Development, 'A report of the atrocities committed by state security agents in Mutare and Chiadzwa diamond fields under "Operation Hakudzokwi" (you will not return) between November 2008 and January 2009', January 2009, p. 2.

For about three weeks the army was left alone in Chiadzwa until such a time when a decision was reached at the highest level that it was in the best interest of national security that the police and army harmonize relations. Then a hybrid force of about 1,500 soldiers, Police and CIO was put together to patrol the Chiadzwa area. But the damage had already been done. During the military operation, two helicopters flew around the diamond fields, spraying bullets all over from the sky, and in the process killing scores of illegal panners. Some were buried in mass graves using bull dozers.⁵³

The CRD report lamented that government attempts to clean up Marange's illicit diamond trade had caused a drastic rise in human rights abuses. The report was thin on evidence, citing just several anonymous interviewees and some newspaper articles. However, the text portrayed a graphic picture of violence, and predation, too disturbingly detailed to be dismissed as the fabrications of observers far beyond Marange's reach. Furthermore, it was a 'useful narrative' in the process of knowledge production around human rights violations.

The diamond fields appeared in the report as a maelstrom, drawing in people from Zimbabwe's many faltering walks of life with an elusive promise, a better means of making do, perhaps even a means of making more than just do. Students and teachers left their schools and universities. Public and private sector employees left their underpaid posts. The CRD produced a narrative of how Zimbabweans and others came to Marange by the thousands, as Operation Hakudzokwi loomed, carrying their hopes into a growing vortex of abduction, forced labour, torture, robbery, rape, and murder, of confiscated belongings, indiscriminate arrests, mass trials, clogged prisons, and full morgues, of nameless bodies riddled with bullets, dog bites, and disease. For all the CRD's empirical flaws, it produced knowledge with a first-hand authority and detail that western diplomat audiences had not

⁵³ *Ibid*, p. 3.

yet encountered, all the while painting as central antagonists the ZANU-PF bogeymen that so preoccupied the west.

The CRD report drew on the infamy of war veterans, so prominent during the invasions of white-owned farms in the country less than a decade before. It held that certain war veterans who had become senior policemen were now some of the most notorious killers in Marange. The report resurrected the military's 5th Brigade from the Gukurahundi massacres of the 1980s, claiming that it was one of three battalions that carried out Operation Hakudzokwi.⁵⁴ It spoke of Air Marshall Perence Shiri, famous for leading the 5th Brigade during the 1980s, as well as General Constantine Chiwenga, both said to be based at the Mutare Holiday Inn during the November peak of the Operation, ferried back and forth by helicopter, coordinating an army that had protected precious minerals in the DRC during the late 1990s and would now do so again at home. The NGO report prodded at western geopolitical concerns, referring to an overarching network of elite Zimbabwean accumulation tied to Chinese and Russian capital. Beneath, the report saw a proliferation of mining syndicates, unequal relationships between security force operatives and panners on the ground, violently breaching regulatory norms, and celebrated by Presidential spokesman George Charamba's nom de plume in *The Herald*, who wrote:

The untouchables of Chiadzwa are either slaving, wounded or dead. Those accused of damaging it may not use shovels, hoes or some such implements. They shall use their fingers, and accomplish the job in record time, these *gwejas* and *gwejesses*.⁵⁵

⁵⁴ Centre for Research and Development, 'A report of the atrocities committed by state security agents in Mutare and Chiadzwa diamond fields under "Operation Hakudzokwi"', p. 3.

⁵⁵ N. Manheru, 'Tsvangirai: Breaking hymen on sanctions', quoted in *Ibid*, p. 4. *Gwejes* and *gwejesses* referred colloquially to male and female illicit, artisanal diamond miners. See T. Nyamunda and P. Mukwambo, 'The State and the Blood Diamond Rush in Chiadzwa', *Journal of Southern African Studies*, 38:1 (2012), p. 147.

This section has focussed on several useful narratives that interested actors offered to the US Embassy in Harare, regarding the situation in Marange from 2007 to 2009. I have avoided pronouncing definitively on whether the claims of these narratives were true. However, I maintain that none offered conclusive evidence about the scale of ZANU-PF and state involvement in Marange's disorder and violence, even though all alleged complicity among the highest ZANU-PF-state echelons. While the US was aware of the interests behind such claims, as well as their frequent lack of conclusive evidence, it nevertheless found them concerning. Furthermore, it also understood how useful such narratives could be as a basis for producing knowledge that could be fed into and then reproduced by the KP monitoring assemblage. This would serve to render ZANU-PF and Zimbabwean state actors as objects of knowledge, thus offering the possibility of disciplining them in ways that might hinder them. Knowledge could not, however, be fed into the assemblage and be reproduced by it without effort and influence. Indeed, there needed to be an alignment to authorise such knowledge. The US could not achieve its aims inside the KP without support from other actors inside, that is, without the western strategic alignment that it would soon begin to lead.

US INTERVENTION AND WESTERN NGO REPORTAGE ALIGN

In the wake of Operation Hakudzokwi, the US moved increasingly from observation towards action. As WGM proceedings drew toward the arrangement of a mid-2009 KP Review Mission to Zimbabwe, a visit that the WGM pressed Zimbabwe into accepting, the US ensured that one of its own officials would be deployed to the mission. In the meantime, in line with US assurances to the WGM that it would be taking a diplomatic road in raising concerns around Marange, US Secretary of State Hilary Clinton, in coordination with several US Embassies in Africa, began a series of diplomatic attempts to inhibit Marange diamond flows. These

diplomatic manoeuvrings were reported on in several US cables, examined in this section. Where the US encountered opposition, the cables indicated that it drew on the same three-dimensional framing of the Marange problem as justification. In this way, the US helped the KP monitoring assemblage to encroach increasingly upon the Marange diamond trade, whilst paving the way for an alignment of western KP actors to synchronise their actions towards Zimbabwe, and gather maximum leverage in a push for KP human rights reform that threatened ZANU-PF's regime.

In December 2008, the US Embassy in the DRC approached the KP coordinator at the DRC Government's Ministry of Mines, offering information and suggestions regarding the possible movement of illegal Zimbabwean diamonds through the country. The Embassy later reported back to the Secretary of State, relaying feedback from the Ministry on the country's regulatory limitations, stemming in particular from its size and limited state capacity to control borders.⁵⁶

In April 2009, the US Embassy in Abu Dhabi discussed illicit trade in Zimbabwean diamonds with the UAE Ministry of the Economy.⁵⁷ The Ministry reportedly outlined policies and practices to control illicit trade, and maintained that its diamond trade was up for review. Enforcement mechanisms would be strengthened to ensure violators were prosecuted, not deported. Dubai customs had recently detained a Zimbabwean woman trying to smuggle a large quantity of rough diamonds from Ethiopia; while the diamonds were seized, the woman was deported. The US reminded UAE officials of the KP WGDE production footprint for

⁵⁶ S. Brock, 'DRC: Demarche delivered on illicit diamond activity in Zimbabwe', *Wikileaks* (16 December 2008), 08KINSHASA1108_a.

⁵⁷ R. G. Olson, 'UAEG outlines efforts to combat illicit Zimbabwean diamond trade', *Wikileaks*, 6 April 2009, 09ABUDHABI354_a.

Marange, and presented them with information suggesting that UAE nationals were trading in illicit Zimbabwean diamonds.

The US government was also increasingly concerned about large amounts of rough diamonds taken from Marange over the nearby Mozambican border by panners, police, and soldiers. Since January 2009, it identified Mozambique as the primary smuggling route for Marange diamonds. Newman Chiadzwa reportedly told the Harare US Embassy that while Lebanese buyers were able to develop profitable relationships with Zimbabwean security force officials and set up shop safely in Mutare, other buyers from Europe and elsewhere based themselves in the Mozambican town of Chimoio.⁵⁸ In August 2009, Clinton sent a cable out to US officials in numerous countries connected to the diamond trade, addressing 'Mozambique's role in combating illicit diamond trade from Zimbabwe'. Clinton underlined the need to urge Mozambique to join the KP and to undertake specific actions to help bring the illicit Marange diamond trade under control.

Several reports at this time by local and international NGOs had identified Mozambique as the primary outlet for illicit Marange diamonds. As Clinton noted, a report

from a small but very impressive Zimbabwean NGO, the Center for Research and Development (CRD), includes pictures taken of illegal diamond trading during an investigation undertaken in the border towns of Manica and Chimoio.⁵⁹

The diamonds in one of the CRD photographs closely resembled diamonds recently observed by the US official deployed to the 2009 Review Mission to Zimbabwe, Special Advisor for Conflict Diamonds Brad Brooks-Rubin. As the CRD reported, buyers from Sierra Leone,

⁵⁸ McGee, 'Military expansion fuels diamond chaos in Chiadzwa', *Wikileaks* (9 January 2009), 09HARARE24_a.

⁵⁹ H. Clinton, 'Mozambique's role in combating illicit diamond trade from Zimbabwe', *Wikileaks* (10 August 2009), 09STATE82807_a.

Lebanon, Dubai, Israel, and Belgium had taken up residence in the two Mozambican towns. According to Clinton, public knowledge of these buyers and the ease with which the CRD had obtained information on them, was indicative of how straightforward policing such activity would be for Mozambican authorities, and yet little had been done.

Mozambique's government had ignored a February 2009 KP invitation to become a member. Clinton's cable therefore asked the US Embassy in Mozambique to urge the government to join the KP and move decisively toward curbing ongoing illegal trade in Manica and Chimoio. The US Embassy in Maputo reported back the same month, having met with the Minister of Natural Resources, who was reportedly 'unconvinced with the human rights aspects associated with the illicit trade of Marange diamonds, likely because her ruling FRELIMO party has long-standing historical friendships with ZANU-PF'.⁶⁰ However, the Minister was open to joining the KP and to possible technical assistance from the US, though she did not want 'extra conditionalities' attached. In other words, there was a willingness to open the country up to the KP's monitoring assemblage, provided its scrutiny, and thus its production of knowledge, was exercised along the orthodox formalisation lines.

The Mozambican Minister's scepticism towards American use of human rights language was not the first the US had encountered in its dealings with African countries over matters to do with Marange. While looking to exert pressure on the DRC, UAE, and Mozambique to block channels of illicit Marange diamond trade, the US also moved decisively in 2009 to influence proceedings within the KP. In early March 2009, the US Embassy in Namibia met with the

⁶⁰ T. Chapman, 'Illicit Diamond Trade: From Zimbabwe to Mozambique', *Wikileaks* (31 August 2009), 09MAPUTO968_a.

assistant of the new 2009 KP Chair, Namibia's Deputy Minister of Mines and Energy Bernhardt Esau. Much to the chagrin of western governments and civil society representatives in the KP, it had emerged that the KP Chair was planning a visit to Zimbabwe in mid-March, with a Namibian contingent possibly accompanied by South African and Angolan officials, the Windhoek US Embassy understood, but no civil society representatives.⁶¹ Esau's assistant was said to have maintained that the visit would not be a formal review, but a chance for the Chair to 'see for himself' the situation on the ground. A formal review would follow later that year, but the US appeared in its internal cable talk to be concerned about the Chair's KP positioning and influence, as well as what possible alignments his Zimbabwe visit might be set to affirm.

As the US Ambassador to Namibia reported to the State Secretary, Esau's assistant had not seen eye to eye with the Embassy on the matter of human rights. 'When pressed on the human rights abuses perpetrated by Robert Mugabe's military as it profits from Zimbabwe's illicit diamond trade', Esau's assistant 'explained that the KP Chair wishes to address the problem without getting "diverted into the political issues"'.⁶² When it was reportedly put to her that Marange was under Zimbabwean military not private control, and that the matter was therefore 'inherently political', she responded that if the KP were to suspend Zimbabwe, the situation would get worse, as the KP would forfeit any leverage it had over the country. She was also not convinced by the fact that civil society groups, including Partnership Africa Canada, were opposed to the Chair's March visit, nor was she convinced by the Embassy's point that civil society support was crucial to the legitimacy of the KP and the Namibian Chairmanship. The US Embassy stressed that KP compliant countries such as Namibia would

⁶¹ D. Mathieu, 'Namibia: KP Chair on Zimbabwe's illicit diamonds', *Wikileaks* (6 March 2009), 09WINDHOEK85_a.

⁶² *Ibid.*

be negatively affected if other countries allowed for illicit diamond trade. This too fell on deaf ears. In similar vein to the US Ambassador to Mozambique's later comments on FRELIMO and ZANU-PF, the US Ambassador to Namibia concluded that the ruling SWAPO party in Namibia had historic ties to Mugabe and ZANU-PF, and had so far avoided criticizing the regime. It seemed Esau was 'trying to reconcile his obligations to the KP without going astray of his government's policy on Zimbabwe, a balance that may be difficult to achieve.'⁶³

Even if there was something to be said about lasting loyalties and ongoing alliances between certain African liberation movements turned governments,⁶⁴ both US ambassadors seemed unable either to see or perhaps admit that African officials' scepticism towards their talk of human rights was a genuine scepticism. Indeed, the texts of the US cables suggested a suspicion among African governments that when the US championed human rights in certain African contexts, its motives were more 'political' than human rights-focussed, more about altering those contexts in ways that favoured it geopolitically than advancing human rights causes. Rather than rendering African states and their human rights practices as objects of knowledge and intervention, this notion rendered the US and its geopolitical interests as the knowledge object.

While US cables suggested that the US met with opposition in diplomatic channels, when propagating the three-dimensional account of Marange, it was soon increasingly buoyed within the KP by western NGOs. As we saw in Chapter Two, KP civil society actors had been

⁶³ *Ibid.*

⁶⁴ See B. Raftopoulos, 'The 2013 Elections in Zimbabwe: The End of an Era', *Journal of Southern African Studies*, 39:4 (2013), pp. 963 – 970, especially p. 986; and, for a broader picture, R. Southall, *Liberation Movements in Power: Party and State in Southern Africa*, (James Currey, 2013).

hesitant to push for a human rights turn at the KP prior to Marange, despite numerous instances of African state violence connected to the rough diamond trade. They likely knew they would isolate themselves within the KP by doing so. Indeed, they knew that they would require powerful support from inside the organisation to turn it towards human rights. They would need to become part of a broader, new strategic alignment to push effectively for human rights reform. Now the ground was shifting. Such an alignment was becoming more possible. The KP's founding strategic alignment was showing greater susceptibility to change, altered by powerful western government and industry actors.

The underlying interests were not the same. Various US and EU actors wanted Zimbabwean regime change. Industry actors wanted to reduce the damage a violent, unregulated Marange could do both to its reputation and its ability to limit supply and keep prices high. KP civil society actors sought new leverage, new relevance, and reason to convince donors and supporters that they continued to bring about meaningful improvements to the KP. These distinct interests all interlocked and became mutually enabling, presenting a new context of opportunity for KP civil society, and paving the way for the new strategic alignment.

Bernhardt Esau of Namibia offered a reconciliatory public statement in late March, noting a 'high level envoy' visit to Zimbabwe that 'urged authorities to put an end to violence in Marange and bring the area under control possibly through adequate and proportional measures.'⁶⁵ He did not attribute violence to the Zimbabwean state, but cited violence as something the state could stop. He also observed that NGOs had called for the suspension of

⁶⁵ B. Esau, 'Public statement on the situation in the Marange diamond fields, Zimbabwe', March 2009.

Zimbabwe from the KP, but, repeating the view his assistant expressed to US representatives, he argued that suspension would further encourage the illicit trade, leaving its 'illegal' diamonds to defile the 'legal' trade.

Esau's comments followed a report released in early March by Partnership Africa Canada, entitled 'Zimbabwe, Diamonds and the Wrong Side of History'. Situating its title politically, the report opened with a quote from Obama's 2009 Inaugural Speech: 'To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history'.⁶⁶ Few reports could better confirm the view that western governments and KP civil society were mounting a combined attack upon ZANU-PF at the KP, solidifying a western KP bloc behind human rights reform. For KP civil society, such reform may have made moral sense, and an attack upon a serial human rights violator like ZANU-PF was justified. Yet, as we have seen, KP civil society had previously avoided making such a direct push for human rights, even though there were prior instances that would easily have justified it. What most distinguished this new instance in Marange was the powerful backing that NGOs were assured of receiving from western states and industry actors should they advance the three-dimensional framing of the Marange problem.

This backing led to a western strategic alignment. The alignment was not necessarily an open collaboration, but simply the taking of a common position by a range of actors who, in so doing, further enabled each other and the influence of this position. We may speculate, about whether or to what extent there was collaboration behind the scenes, in the corridors outside

⁶⁶ Partnership Africa Canada, 'Zimbabwe, Diamonds and the Wrong Side of History', March 2009.

Plenaries and Intersessionals, or if different actors gradually made a human rights turn as they saw others beginning to. Regardless, a western strategic alignment arose and began to alter the orientation of the KP monitoring assemblage along human rights lines. It was of little surprise that, as we shall see, this alignment also gave rise to a vociferous opposing strategic alignment, led by those who stood to lose ground in the KP and cartel, were Zimbabwe's suspension and a human rights turn to occur.

The Partnership Africa Canada report could be abridged into four empirical arguments, and a fifth substantive argument. The first three arguments reproduced the three dimensions adopted by the western KP alignment in their framing of Marange as a problem, while the last two arguments promoted a KP mandate reformed along human rights lines as a solution. Firstly, the Zimbabwean state was not regulating its diamond trade according to minimum KP standards, thereby allowing for illicit activity of which it might be part; secondly, the state, particularly the military, was committing human rights abuses as it tried to control Marange; thirdly, through its control of the military, ZANU-PF was exploiting Marange to help sustain its dominance over the state and country; fourthly, the KP was making no attempt to improve the situation in Marange. Finally, prevention of human rights abuses by states was part of the KP's mandate, part of its original design, and the KPCS should be implemented accordingly.⁶⁷

Regarding state regulation of Marange, the Partnership Africa Canada report was perhaps more moderate than the WGM experts' report, maintaining that if there had been smuggling to neighbouring countries, these activities were not conclusively evident in statistics

⁶⁷ *Ibid.*

submitted to the KP by Zimbabwe, South Africa, Tanzania, and the DRC. However, the NGO raised similar concerns around the possibility of a sizeable Zimbabwean stockpile, evidenced by Zimbabwean production and export figures, and valued at approximately \$150 million.⁶⁸ Given the state of the Zimbabwean economy, the NGO found it unlikely that the stockpile existed. It also noted that Zimbabwe's exports indicated a much higher per carat average than did its production figures, suggesting some form of fraud. Zimbabwe's production and export figures raised pressing questions about what was happening to Marange diamonds purportedly moving through KP certified state channels. Several arrests of smugglers with Zimbabwean diamonds in the country, as well as in Dubai and India, raised questions about what was being allowed outside of these channels.

As far as human rights abuses were concerned, Partnership Africa Canada had no new evidence to add. Yet, the pervasive first-hand testimonials referred to above in media and local NGO reports about a swooping helicopter, the indiscriminate shooting of fleeing panners, and the emergence of forensic evidence in overburdened Mutare morgues lent credibility to allegations of state violence that were reproduced by Partnership Africa Canada. Even if the report noted that several of the mortuary bodies belonged to people who succumbed to a cholera epidemic that killed thousands.⁶⁹

However, it was in arguing that ZANU-PF was exploiting Marange through the military to remain in power that the NGO's stores of credible evidence waned, superseded it seemed, by a widespread western discourse around how ZANU-PF might find a way to survive during a

⁶⁸ *Ibid*, p. 5.

⁶⁹ *Ibid*, p. 1 and pp. 7 – 8.

time of national economic collapse. As we have seen, 2007 to 2009 was marked by the emergence of security force mining syndicates in Marange, characterised by groups of artisanal miners hired or forced to work for police or military overseers, yet there was little evidence about the networks of accumulation of which these syndicates were part. Numerous questions lingered, and Partnership Africa Canada could not answer them. How far up and whereabouts in the state hierarchy did such networks reach? Were they competing or collaborating with the ill-equipped ZMDC, under an EU embargo since January 2009? What revenues was the ZMDC making, and where did the revenues go? Was there an overarching network making all syndicates alike, or were there competing, evolving networks with different linkages, developing around Marange, creating a more intricate, fluctuating picture that nobody could see in complete focus?

Observing this messy state of affairs from its distant Ottawa offices, Partnership Africa Canada argued that ZANU-PF's highest echelons were indeed involved. In so doing, it reinforced the discourse of a rising western strategic alignment at the KP, framing Marange's regulatory and human rights deficits as the responsibility of senior ZANU-PF-state elements, thereby helping to render them as objects of knowledge, reproduced through the KP monitoring assemblage, with new disciplinary effects.

The NGO repeatedly fell into the circularity of citing western government condemnations, sanctions, and embargoes without scrutinising them, as though these views and actions were in themselves authoritative, and not linked geopolitically to Partnership Africa Canada itself, whose foremost funders included the Canadian Department of Foreign Affairs and International Trade, which doubtless placed a high premium on the Canadian diamond trade's

place within the cartel. For example, the NGO quoted at length an EU Council statement, released after EU sanctions against ZANU-PF leaders were tightened in January 2009, because of renewed concerns over human rights violations committed by the Zimbabwean state. Unable to determine whether ZANU-PF exploitation of diamonds to remain in power was a matter of fact or just a possibility requiring investigation, the statement observed

with concern the growing trade in illicit diamonds that provide financial support to the regime. In this context, it also condemns the violence inflicted by state sponsored forces on diamond panners and dealers at Marange/Chiadzwa. The Council supports action to investigate the exploitation of diamonds from the site at Marange/Chiadzwa and their significance in possible financial support to the regime and recent human rights abuses. It calls on the Kimberley Process to take action with a view to ensure Zimbabwe's compliance with its Kimberley obligations.⁷⁰

In subsequent years, new evidence would emerge of Marange diamond revenues that evaded the national fiscus, and the emergence in Zimbabwe of what Saunders would call 'criminalized political networks spanning political, security and business elites – and national borders'.⁷¹ However, the intricacies of these networks and the extent to which ZANU-PF elements within them were able to exploit Marange to keep in power would remain murky. In March 2009, even less was known. Mining operations were rudimentary, much of the deposit unmined, and a process of formalisation of mining operations, through which new networks of accumulation arose, would only begin later that year. Western governments and NGOs depended mostly on allegations and rumours circulated in international and Zimbabwean media, in local NGO reportage, and by interested parties who approached western embassies.

⁷⁰ Statement issued by the Council of European Union Foreign Ministers, 26 January 2009, in Partnership Africa Canada, 'Zimbabwe, Diamonds and the Wrong Side of History', p. 15.

⁷¹ R. Saunders, 'Geologies of power: blood diamonds, security politics and Zimbabwe's troubled transition', *Journal of Contemporary African Studies*, 32:3 (2014), p. 379.

Nevertheless, Partnership Africa Canada constructed a narrative in which Marange diamonds were 'produced from mines that benefit political and military gangsters'.⁷² ZANU-PF controlled both the Mines Ministry and the military, Partnership Africa Canada argued, and the military was 'the de facto controller of the country's most volatile diamond resources.'⁷³ Rio Tinto's Murowa Diamond Mine was the exception, a major contributor to employment, partnering with the community in health, education and agricultural programmes.⁷⁴ Regarding Marange and River Ranch on the other hand, Partnership Africa Canada held that 'government has expropriated diamond lands and companies without due process, and has awarded the prizes to ZANU-PF cronies and to the military.'⁷⁵ Diamonds were, it narrated, 'of increasing importance to the cash-strapped government as a source of foreign exchange and a possible means of barter for embargoed goods such as military weapons and ammunition.'⁷⁶

In telling a story in which ZANU-PF was exploiting Marange to stay in power, Partnership Africa Canada made a string of assumptions that depicted ZANU-PF and the military, from elites to actors on the ground, as a cohesive apparatus of oppression, largely in control of both the state and Marange. As I argue below, while this production of knowledge was driven by an alignment of western interests, some not overly concerned with human rights for their own sake, this new knowledge still gave rise to disciplinary power along human rights lines.

In making the fourth argument, that the KP had done nothing to improve the situation in Marange, Partnership Africa Canada referred to the 2008 KP Plenary, where little progress

⁷² Partnership Africa Canada, 'Zimbabwe, Diamonds and the Wrong Side of History', p. 2.

⁷³ *Ibid*, p. 14.

⁷⁴ *Ibid*, p. 6.

⁷⁵ *Ibid*, p. 14.

⁷⁶ *Ibid*, p. 14.

had been made in reaching a consensus, and certain governments had purportedly argued that human rights were not part of the KP mandate. It did not note proceedings in the WGM, wherein a Review Mission to Zimbabwe in 2009 was becoming increasingly likely, and much more so with growing pressure from KP civil society actors, Partnership Africa Canada included. In its recommendations, the report urged the KP to 'suspend Zimbabwe until such time as there is legitimate and competent governance of the country's diamond resources.'⁷⁷ The KP also needed to verify the existence and safekeeping of Zimbabwe's stockpile, and, furthermore, 'develop a clear and actionable protocol on gross human rights abuse in the management of diamond resources.' The NGO went so far as to offer new wording for the KPCS Core Document, borrowing language from the Universal Declaration of Human Rights. Departing from its prior interpretations of the KP's reason for being, interpretations offered as recently as October 2008, it held that human rights had always been a key underpinning of the KP and a crucial part of the organisation's mandate,

Armed conflict, of course, is the ultimate thief of human rights, and so at its core, the Kimberley Process was all about stopping human rights abuse linked to diamonds. This is not a matter of semantics and it is not a stretch of the KP mandate, because the second item in the KPCS preamble clearly notes 'the devastating impact of conflicts fuelled by the trade in conflict diamonds on the peace, safety and security of people in affected countries and *the systematic and gross human rights violations* that have been perpetrated in such conflicts.'⁷⁸

The report thus insisted that the KP's mandate was the same as ever; no sudden discursive shift had occurred at the KP after Operation Hakudzokwi, no new western strategic alignment had emerged with a powerful geopolitical layer amid the convergence of its different, underlying motives.

⁷⁷ *Ibid*, p. 15.

⁷⁸ *Ibid*, p. 9.

The censure that Partnership Africa Canada directed at the KP was taken up a further notch just prior to the June 2009 KP Intersessional in Namibia, when its leader Ian Smillie announced his resignation from both the NGO and the KP. 'I am leaving PAC', Smillie's resignation letter read, 'because I feel that I can no longer in good faith contribute to a pretence that failure is a success, or to the kind of debates we have been reduced to'.⁷⁹ According to Smillie, the KP had failed to adequately deal with problems in Brazil, Côte d'Ivoire, Ghana, Guyana, Venezuela, Zimbabwe, and most recently a money laundering and smuggling axis in Guinea and Lebanon. On each occasion, damning NGO and media reports were needed to jolt officials into any action at all. The KP now appeared unwilling 'to deal with human rights abuse in alluvial diamond mining, surely a fundamental issue for a body that aims to stop "blood" diamonds'. As Smillie lamented, 'I have lost interest in trying to persuade a large group of governments that common sense must prevail over the wishes of a small group of governments.'⁸⁰

Smillie's concerns with the KP would arise later in the month at the KP Intersessional in Windhoek, Namibia. KP Intersessionals were normally dull affairs, where statements and policies agreed on in advance were fine-tuned. The June 2009 Intersessional marked a significant departure, with Partnership Africa Canada and Global Witness highlighting human rights abuses in Zimbabwe as well as smuggling and weak controls; unexplained discrepancies in Lebanon's rough diamond exports that far exceeded its imports; a peculiar 500 percent

⁷⁹ C. Even-Zohar, 'PAC's Ian Smillie Casts Final "No Confidence" Vote in Kimberley Process and Goes Home', *Diamond Intelligence Briefs*, 2 June 2009.

⁸⁰ *Ibid.*

increase in Guinea's exports over the preceding two years; and revelations that diamonds were still being mined and smuggled out of Venezuela.⁸¹

Though it was confirmed that a Review Mission would be arriving in Zimbabwe within days, Zimbabwe's Deputy Mining Minister Murisi Zwizwai, an MDC-T member, told KP delegates that Marange had been brought under control with no casualties inflicted, despite being overrun by 'cunning die-hard illegal diamond diggers'.⁸² The MDC-T soon condemned Zwizwai's claims as 'fact-hostile and evidence-free', while *Diamond Intelligence Briefs* found them to be 'in stark contrast to documented reports and testimonies that, in a bid to drive illegal diamond diggers out, the military used attack dogs and machine guns mounted on helicopters, resulting in the deaths of about a dozen people.'⁸³ A 57-page Human Rights Watch report released at the outset of the Intersessional, entitled 'Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields of Zimbabwe', put the number of deaths much higher, finding that

the army has committed numerous and serious human rights violations, including extrajudicial killings, beatings, torture, forced labor, and child labor in Marange. The first three weeks of the operation were particularly brutal – over the period of October 27 to November 16, 2008, the army killed at least 214 miners.⁸⁴

Human Rights Watch based these findings largely on multiple interviews conducted by a Zimbabwean researcher on the ground, with villagers in Marange, and medical officers and personnel in Mutare, all of whom were kept anonymous. The NGO had been aware of

⁸¹ Global Witness and Partnership Africa Canada, 'Blood diamonds – time to plug the leaks: Civil Society Groups warn Kimberley Process effectiveness compromised', 19 June 2009.

⁸² *The Zimbabwean*, 'MDC minister denies mass killings in Chiadzwa diamond fields', 25 June 2009.

⁸³ *Nehanda Radio*, 'Remarks by Zwizwai on Marange inaccurate', 1 July 2009; *Diamond Intelligence Briefs*, 'KP Meeting: Renewed Calls for Improvements in Monitoring as KP Fails Where it's Critical', 30 June 2009.

⁸⁴ Human Rights Watch, 'Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields of Zimbabwe', June 2009, p. 28.

Marange in 2008, but it was only with news of Operation Hakudzokwi that it had begun to seriously consider a potential for coordinated abuse rather than just isolated incidents, and a nexus between abusive power and an economic component that might fund it.⁸⁵ 'With the complicity of ZANU-PF,' Human Rights Watch observed, 'Marange has become a zone of lawlessness and impunity, a microcosm of the chaos and desperation that currently pervade Zimbabwe.'⁸⁶ Pointing to a wider context of state violence during the 2008 elections, Human Rights Watch reproduced the western alignment's three-dimensional account of Marange, alleging inadequate regulations, human rights abuse, and state complicity. However, it was in acknowledging that it 'was not possible to trace the proceeds of diamond sales', and, furthermore, the existence of significant evidence that ZANU-PF and military elite were struggling to control both Marange and their own operatives on the ground, that Human Rights Watch showed marginally more balance in its reportage, and perhaps a purported absence of governments among its anonymous funders.⁸⁷

Nevertheless, Human Rights Watch believed that Marange diamonds mined by security forces had enriched senior ZANU-PF officials, and provided an important revenue stream to the RBZ, which was financing ZANU-PF and military activities. Careful with its wording, the NGO held that its research 'suggests that both the bank and senior members of the party have been complicit in the human rights violations in Marange'.⁸⁸ The RBZ did not have a legal status to buy diamonds until January 2009, but had been a major buyer of illegal Marange diamonds

⁸⁵ Interview with Jon Elliott, Africa Advocacy Director at Human Rights Watch December 2007 – June 2013, 24 September 2014.

⁸⁶ Human Rights Watch, 'Diamonds in the Rough', p. 3.

⁸⁷ Human Rights Watch, 'Diamonds in the Rough', p. 47. Previous HRW Advocacy Africa Director Jon Elliott did not recall any 'ring-fence' funding allocated to the Marange case, maintaining that the NGO did not take money from governments, and that its foremost funders were the Open Society Foundation, the MacArthur Foundation, and the Ford Foundation. Interview with Jon Elliott, 24 September 2014.

⁸⁸ Human Rights Watch, 'Diamonds in the Rough', p. 47.

since 2006, according to the NGO. While the CRD had informed the west that Operation Hakudzokwi was initially a military coup over the police and RBZ, Human Rights Watch cited several soldier testimonies that held that the RBZ had bankrolled the operation. Soldiers were also allowed to benefit directly from diamond smuggling, serving to placate them as a crucial ZANU-PF constituency. Yet this arrangement had presented challenges to elite accumulation. According to one police officer quoted in the report, police 'reaction teams' were deployed to clear certain areas in Marange of both police and miners, making way for mining syndicates linked to senior government officials. It was not clear who these officials might be, but rumours abounded. Human Rights Watch noted that two areas were named after Vice-President Joyce Mujuru, 'Mrs Mujuru's Breast' (*zama ramai Mujuru*) and 'Mrs Mujuru's Anthill' (*churu chamai Mujuru*), thus suggesting her involvement.⁸⁹ ZANU-PF infighting over control of Marange had led to arrests of senior ZANU-PF officials such as William Nhara, Principal Director in the Ministry Without Portfolio. Soldiers had turned upon each other, sometimes leading to fatalities. Mines Minister Mpofu had even admitted that military, CIO, and police members deployed in Marange were resisting transfer.⁹⁰

While Human Rights Watch's on-the-ground research in Zimbabwe revealed a more chaotic picture of Marange and ZANU-PF accumulation than the preceding Partnership Africa Canada report, it still adopted the same three-dimensional framing of the Marange problem. The NGO called on the KP to hold the Zimbabwe state to the scheme's minimum standards, which included halting the smuggling of diamonds, bringing the area under effective legal control, and ensuring that all Marange diamonds were lawfully mined, documented, and exported

⁸⁹ *Ibid*, p. 48.

⁹⁰ *Ibid*, p. 51.

with relevant KP certificates⁹¹ However, Human Rights Watch held that formalisation was just one side of the coin:

Human rights concerns are implicit in the KPCS mandate, but that mandate has been too narrowly construed by its members. Human Rights Watch calls on the KPCS to broaden its remit to include serious and systematic abuses, not only by rebel groups in conflict, but also by other agencies, including governmental bodies. The abuses committed by Zimbabwe's police and army did not occur in armed conflict, but they are as serious as those the Kimberley Process was designed to address; for that reason, KPCS members should classify Marange diamonds as 'conflict diamonds'.⁹²

The texts of US cables, and Partnership Africa Canada and Human Rights Watch reports show the slow formation of a western strategic alignment at the KP, built not necessarily on open collaboration or identical interests, but around the collective shifting of the KP's orthodox formalisation discourse towards the inclusion of human rights concerns. The involvement of Human Rights Watch, which was not a regular KP participant, but attended the 2009 Intersessional to present its report, also signified encroachment of the wider human rights ecosystem. The discursive shift that arose at the KP was based upon a three-dimensional framing of the Marange problem, pointing to a lack of formalisation, to human rights violations, and to the responsibility of senior ZANU-PF-state actors. The third dimension was never clearly shown but it was a necessary means of propagating human rights speak, of fixing blame to a perpetrator and in so doing rendering that perpetrator as a knowledge object, as an object of intervention, and an object for the cultivation of human rights norms.

The construction of this narrative was indicative of the disciplinary power the western strategic alignment sought to exert within Zimbabwe and in the KP, and who they meant to

⁹¹ *Ibid*, p. 5.

⁹² *Ibid*, p. 5.

target. Ultimately, as we shall see, the regime change agenda of the US would fail. However, this agenda did not need to succeed for human rights discipline to be produced through the KP's handling of Marange. The agency of a powerful state like the US was crucial for the KP's exercising of discipline along human rights lines. What was needed was for the US to pursue its interests using human rights norms, even if these interests were not primarily about human rights gains. The US continued in this vein, through the actor it deployed to the 2009 KP Review Mission to Zimbabwe.

THE 2009 KP REVIEW MISSION TO ZIMBABWE

The Human Rights Watch report called for Zimbabwe's suspension and Marange's demilitarization, providing a strong basis for a US-led KP Review Mission to take these calls further. The 2009 KP Review Mission to Zimbabwe was in the country from 30 June to 4 July. Liberian geologist and ex-deputy Mines Minister A. Kpandel Fayia became the figurehead for the mission, after numerous other African state actors declined to take on such a fraught case. However, the mission's *de facto* leader was Brad Brooks-Rubin, the US Department of State's Special Advisor on Conflict Diamonds. Brooks-Rubin began representing the US at the WGM in January 2009, and was a key part of a concerted push for a KP Review Mission to Zimbabwe. The US Assistant Secretary of State for African Affairs from May 2009 was Johnnie Carson, previously a US Ambassador to Zimbabwe with a publicly tense relationship with Robert Mugabe. Carson pushed the State Department to apply rigorous attention to Zimbabwe.⁹³ Brad Brooks-Rubin said he had quickly developed a close relationship with the US Embassy in Harare, and believed he was the most well-informed member of the Review Mission upon its arrival in the country.⁹⁴ In addition to Fayia, he was accompanied by KP state participants

⁹³ Online interview with Brad Brooks-Rubin, 27 June 2014.

⁹⁴ *Ibid.*

from Canada, the European Community, Namibia, and South Africa, as well as the American Cecilia Gardner for the WDC, and the Liberian environmental activist Alfred Brownell.

While Zimbabwean authorities made sure the mission's itinerary was set in stone, the US Embassy arranged for mission members to get in touch with Newman Chiadzwa, who took the Liberian NGO leader, one of the two Namibian state officials, and the Canadian representative on a tour of Marange early one morning. While Newman Chiadzwa had been on the official programme, the early morning trip had not been scheduled, nor did Zimbabwean officials have an opportunity to stop it. The three Review Mission members allegedly witnessed illegal mining, and panning, while soldiers were stationed nearby. They also purportedly spoke to local people about state violence, and were shown bruises and dog bites.

The day after, the whole team had a scheduled meeting with Farai Maguwu of the CRD, arranged by the US Embassy. They were introduced to about a dozen victims of state violence, who according to Brooks-Rubin, had a compelling emotional effect upon the Review Mission, which resolved afterwards to make a strong statement.⁹⁵ On 21 July 2009, less than three weeks after the conclusion of the Review Mission, its members took the unusual step of producing an interim report, which was leaked to the public soon thereafter. This leak likely came from Brooks-Rubin, who noted that he edited the final report, and wrote much of the interim report on the flight home from Zimbabwe.⁹⁶ While the team was still preparing a final report, it concluded that 'an interim update' to the WGM and KP Chair was necessary, given

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

the urgency of the situation and the international attention it drew.⁹⁷ The interim report found that while certain operations and processes seemed to function in a manner consistent with KPCS minimum requirements, there were also serious indications of non-compliance, primarily in Marange. These findings were of course contrary to the Review Mission conclusions that Zimbabwean state officials had sought to elicit.

The interim report noted that state officials had maintained that in October 2008 the ZRP faced a critical situation in Marange, a surge of illegal panning amounting to tens of thousands of artisanal miners. Unable to cope, the ZRP was said to have requested assistance from the Zimbabwe National Army (ZNA), which supplied manpower and equipment, including two helicopters. The ZRP allegedly remained in charge of a force totalling between 1,000 and 2,000 officers and soldiers, which set about dispersing panners in Marange without firing any bullets. State officials further alleged that the 500 - 1,000 police and army personnel who remained in the area were there to provide joint security under the authority of the ZRP, and were not involved in any diamond mining or trading activities.

In contrast, the interim report held that the team had observed soldiers overseeing panning activities. It obtained documentation confirming civilian injuries and deaths from gunshot wounds at the hands of the ZNA and ZRP. It documented accounts from over 25 victims and witnesses of police and army violence committed in Marange, substantiated by its own direct observations and acquisition of documentary evidence. The team met witnesses through the facilitation of several sources; these witnesses' reports were deemed consistent in their

⁹⁷ 2009 Kimberley Process Review Mission to Zimbabwe, 'Interim Update to Kimberley Process Chair and Government of Zimbabwe', 21 July 2009, p. 1.

recollection of security force operations undertaken as well as serious injuries incurred, including shot gun pellet injuries, beatings, dog bites, rape, and forced labour. In light of these observations, the interim report held that 'information provided by the ZRP and ZNA was not complete and could be contradicted by direct evidence', and moreover that 'violence undertaken by the ZRP and ZNA in removing illegal panners and then attempting to maintain control of the area is unacceptable within the KPCS framework.'⁹⁸

The interim report offered damning evidence of violence committed by state actors on the ground. As far as the complicity of senior state actors was concerned, it was more measured than the speculations of Partnership Africa Canada, Human Rights Watch, and US diplomats conversing over internal diplomatic cables, only going so far as to insinuate that the dishonesty of these senior actors amounted to an indication of their complicity. However, the final report would go much further than this, as we will see.

Moving from human rights to formalisation concerns, the interim report maintained that the security measures in place at Marange were minimal and insufficient to prevent illegal panning. According to the ZRP, nearly 2,000 panners and buyers had been arrested in the preceding ten months, yet state officials estimated that as many as 30,000 panners were still operating illegally in the region. The team observed mining pits outside of the Marange production area. It saw people carrying sacks of gravel seemingly removed from within the production area, panners washing and sorting gravel, as well as the illegal selling of diamonds. Panners told the team about a flourishing illegal diamond trade across the Mozambican

⁹⁸ *Ibid*, p. 3.

border. Thus, while the interim report acknowledged the ‘constraints of human and financial resources faced by Zimbabwe’, it found that ‘increased efforts to maintain internal controls, prevent smuggling, increase security and enforcement issues in and around Marange are required, as it is clear that the current situation does not meet KPCS minimum standards.’⁹⁹

During a 4 July ‘close-out session’ with government, the team had begun to chart a way forward for the Zimbabwean government. The interim report revisited this set of waypoints, which would amount to a major encroachment of the KP monitoring assemblage upon Marange, using KP monitoring components both old and new, and using both formalisation and human rights discourses. First, government was asked to acknowledge non-compliance, and commit to coming back into compliance. Second, it was asked to suspend Marange production and export ‘until effective security, internal control measures and resources are in place in a manner that indicates Zimbabwe’s control and authority over the Marange diamond fields.’¹⁰⁰ Third, it was asked to demilitarize Marange and investigate security force and other officials’ abuses in the area. Finally, it was asked to cooperate in the formation of a tripartite multi-stakeholder monitoring body, consistent with KP structure, to compile and oversee a work plan for bringing Zimbabwe into compliance, as well as in the appointment of ‘a special rapporteur or other appropriate mechanism to further document the human rights concerns.’¹⁰¹

The Review Mission’s *de jure* leader Fayia reportedly offered an emotive performance at the close-out session, speaking from closing remarks that Brooks-Rubin said he had written

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid*, p. 4.

¹⁰¹ *Ibid.*

himself, but, which he maintained, all mission members were adamantly behind.¹⁰² These remarks were also leaked, appearing in the *New York Times*. As Fayia purportedly pleaded,

Minister, on the issue of violence against civilians, I need to be clear about this. Our team was able to interview and document the stories of tens of victims, observe their wounds, scars from dog bites and batons, tears, and on-going psychological trauma. I am from Liberia, Sir; I was in Liberia throughout the 15 years of civil war, and I have experienced too much senseless violence in my lifetime, especially connected to diamonds. In speaking with some of these people, Minister, I had to leave the room. This has to be acknowledged and it has to stop.¹⁰³

The Zimbabwean government had responded on 14 July prior to the interim report to the matters raised in the close-out session, acknowledging compliance issues and the need to correct them, calling for technical assistance, including advice on a multi-stakeholder monitoring body and special rapporteur, and proposing a plan for demilitarization of Marange. This plan included increased oversight of security forces, and completion of arrangements with both private investors and local communities, which for the latter included ‘a National Fund and agreed-upon terms for relocation’.¹⁰⁴ Zimbabwean state actors were showing a willingness to be disciplined along new lines. Yet they had not addressed the prickly matter of suspension, and while elaborating further on the way forward, the interim report now also recommended Zimbabwe’s voluntary self-suspension from the rough diamond trade until the KP determined that minimum KPCS standards were met. Lest Zimbabwe show opposition, the report called on the KP as a whole to initiate a ‘procedure to implement suspension of Zimbabwe from importing or exporting of rough diamonds within

¹⁰² Online interview with Brad Brooks-Rubin, 27 June 2014.

¹⁰³ 2009 Kimberley Process Review Mission to Zimbabwe, ‘Statement for close-out’, July 2009; C. W. Dugger, ‘Team Monitoring Diamond Trade Rebukes Zimbabwe’, *The New York Times*, 7 July 2009.

¹⁰⁴ 2009 Kimberley Process Review Mission to Zimbabwe, ‘Interim Update to Kimberley Process Chair and Government of Zimbabwe’, p. 4.

the KPCS for a period of at least 6 months, but until such time as a KP team determines that minimum standards have been met'.¹⁰⁵

While the western strategic alignment at the KP promoted a three-dimensional account of Marange, detailing formalisation problems, human rights problems, and state complicity, the Zimbabwean state responded by affirming just the first dimension, rejecting the other two. In short, it's response was to talk in orthodox formalisation speak, as we saw Obert Mpofu do in the preceding chapter. It showed an openness to demilitarisation, but also to formalisation with the assistance of private security and foreign capital, which meant a securing and close regulation of Marange's mining operations. It made no acknowledgement of any human rights violations in Marange, nor of any state complicity in violence or illegal exploitation there. Its move to oppose the KP's human rights turn, and any effort to saddle formalisation concerns with human rights ones, marked the beginnings of a pro-Zimbabwe strategic alignment, which arose as a counter to the western strategic alignment.

A juxtaposition of western and African KP alignments gradually became more accentuated. Remarking upon western interests at the KP, the Zimbabwean state-owned *Herald* made the point that 'if Zimbabwe had invited De Beers to manage its diamond operations, it is very doubtful that the KPCS would have been invoked to write adverse reports about Zimbabwe.'¹⁰⁶ In his capacity as Namibian KP Chair, Bernhardt Esau made a second visit to Harare in 2009, making assurances to the media there that a KP consensus had not been reached over Marange, and that the 2009 Review Mission's findings would not be taken

¹⁰⁵ *Ibid*, p. 6.

¹⁰⁶ O. Maruma, 'Country being forced to cede diamonds to the West', *The Herald*, 25 August 2009.

seriously. A stern but measured rebuke from the WGM's Belgian Chair Stephane Chardon followed, leading to a letter of 'clarification' from Esau, noting that the trip was a 'bilateral visit for informative purposes only', that he had not 'made any unilateral decision on Zimbabwe and there was no intention to pre-empt any KP procedures.'¹⁰⁷ Further to this, he said the KP's decision on Zimbabwe would be taken in light of the 2009 Review Mission's forthcoming final report.

The following month, the South African Broadcasting Corporation's (SABC) investigative current affairs programme Special Assignment aired a clandestinely filmed documentary on smuggling, abuse, and exploitation in and around Marange, which reproduced Mutare hospital mortuary records, and was secretly funded by the US Agency for International Development (USAID).¹⁰⁸ Indeed, the Americans continued to facilitate the production of new knowledge that would feed into the KP assemblage and give rise to disciplinary effects that would limit the capacity of senior ZANU-PF-state actors to benefit from Marange.

As a reconfiguring of the KP's founding strategic alignment became more evident, a 'draft final report' was circulated in October, before the final report of the 2009 Review Mission was submitted at the November 2009 KP Plenary in Swakopmund, Namibia. Brooks-Rubin said he edited the final report, wrote much of it, and came up with language that linked human rights concerns with questions of orthodox KP compliance, though he also held that the whole Review Mission backed him.¹⁰⁹ Expanding upon the interim report, and bolstering its push for

¹⁰⁷ E. Golan, 'Anatomy of a Retraction Letter: KP Chair Clarifies Zimbabwean Statements', *Diamond Intelligence Briefs*, 8 September 2009.

¹⁰⁸ SABC Special Assignment, 'Zimbabwe's Blood Diamonds', 31 October 2009; Anonymous online interview, 1 May 2014.

¹⁰⁹ Online interview with Brad Brooks-Rubin, 27 June 2014.

an advancement of the KP's monitoring assemblage into Marange, the final report set out concerns around Zimbabwe's compliance with three of the four KP Core Document sections on KPCS minimum requirements. Section II(a) required that a KP certificate accompany each export of rough diamonds, yet authorities allowed rough diamonds to exit the area without going through the certificate issuance process. Section III(c) required KP members to ensure no rough diamonds be exported to non-member countries, yet most rough diamonds smuggled from Marange exited the country through Mozambique, a non-member. Section IV(a) required establishment of a system of internal controls to prevent conflict diamonds entering rough diamond shipments in and out of a member's territory, yet smuggling channels from Marange, 'largely operated and maintained by official entities', were porous to conflict diamonds from elsewhere.¹¹⁰ Whether the Review Mission had gathered sufficient evidence to support an assertion that smuggling channels were *largely* facilitated by Zimbabwean authorities was questionable. Indeed, it was here that the third and most controversial dimension of the western strategic alignment's framing of Marange became more forceful in the final report.

The most powerful findings were yet to come. In dealing with the matter of internal controls, it was Section IV that provided the language through which the Review Mission could censure excessive state violence in Marange, allowing it to appeal to a broader KP human rights mandate, while once again fixing full blame to the Zimbabwean state. Observing the unimpeded flow of illicit diamonds from and to Marange, the report remarked that 'Lawlessness, particularly when combined with violence and largely overseen by government

¹¹⁰ Kimberley Process, 'Kimberley Process Certification Scheme Review Mission to Zimbabwe, 30 June – 4 July 2009, Final Report', 29 October 2009, pp. 32 – 33.

entities, should not be the hallmark of any system of internal controls deemed to be compliant with the provisions of subsection (a).¹¹¹ Subsection (d) was instrumental, requiring members to ‘amend or enact appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive and proportional penalties for transgressions’.¹¹² As the final report held,

With respect to subsection (d), the Team notes with concern the manner in which the ZNA and ZRP have undertaken security operations to deal with transgressions of the Precious Stones Trade Act and other relevant laws. As set forth in extensive detail in the 2007 Annual Report, Zimbabwean law provides for appropriate and dissuasive penalties; indeed, the laws were enhanced following the first rush on Marange. The Team judges that the use of extreme violence to counteract illegal mining does not correspond to the principle set forth in this minimum requirement. Although the KP does not instruct, nor does the Team intend to provide such instruction to, Zimbabwe or any other Participant as to how to implement sovereign decisions to undertake security operations, the Team concludes that the manner in which the security operations were conducted contradict the nature of this provision of the KP document.

The Team fully appreciates the challenges facing the Government of Zimbabwe in administering the Marange mine, as well as with respect to the larger economic and political issues facing the country. Nevertheless, the Government authorities must rely on the very laws they have set forth to combat illegal mining. Although they clearly do so to some extent, in light of the number of arrests in the past year, there is a concern that the authorities do not solely rely on these penalties, but also implement extrajudicial actions that the Team views as representing a concern with respect to subsection (d).¹¹³

While this passage did not refer explicitly to human rights violations, its departure from orthodox formalisation speak lay in its emphasis on excessive, extrajudicial state violence as an infringement of the KP requirement that state participants penalise transgressions of KPCS regulations in a manner that was ‘dissuasive and proportional’. Indeed, this was the first KP text to point out that ‘dissuasive and proportional’ prohibited excessive state violence. While

¹¹¹ *Ibid.*

¹¹² *Ibid*, p. 32.

¹¹³ *Ibid*, p. 34.

the text made no attempt to qualify exactly what amount of state violence might be deemed 'excessive', it judged the Zimbabwean state's actions in Marange to be so, and this paved way for it to bring more explicit mentions of 'human rights' into its recommendations.

Before making its recommendations, the final report also highlighted how the Zimbabwean state had further incriminated itself by attempting to hide its violent behaviour. The final report underlined the requirement under Section V(a) that members provide the KP with information identifying their designated authorities, relevant laws, regulations, procedures and practices, and any associated changes. As it maintained,

In each of its presentations to the KP, whether to the Chair, WGM, or Review Team, the Government of Zimbabwe has categorically denied the use of any violent measures against illegal miners or the involvement of ZNA, ZRP, or other entities in illegal diamond mining and smuggling operations. The Team does not consider these denials to have been made in good faith and views with concern the notion that a Participant would provide false information to the Chair, WGM, and other Participants.¹¹⁴

By identifying state violence and its concealment as contraventions of KP policy rules, the final report gave itself leeway to infuse the KP's formalisation discourse, and the policy rules upon which this discourse was based, with a novel human rights speak. This combination of formalisation and human rights was most plain to see in the report's recommendations.

The final report recommendations to the Zimbabwean Government reiterated the interim reports' call for self-suspension of rough diamond exports, collaboration with the KP over a joint work plan to remedy internal controls, and demilitarization. The report recommended that Zimbabwe consider 'appointment of a special rapporteur or other appropriate

¹¹⁴ *Ibid*, p. 37.

mechanism to further document the human rights concerns and violence at Marange'.¹¹⁵ 'Competent authorities' needed to further investigate security force violence against civilians in Marange. Zimbabwe should ensure that efforts to increase security in Marange were carried out in a manner respectful of human rights. The KP Chair should contact the UN High Commissioner for Human Rights and provide a summary of the final report and its evidence.

In its recommendations to the KP, the final report went further than the interim report, recommending not only suspension of Zimbabwe's rough diamond exports, but also suggesting suspension of Zimbabwe from the KP as an option. The final report held that the Committee on Participation and Chairmanship (CPC) should 'consider the full range of options', 'including suspension of Zimbabwe for a period of at least six months'.¹¹⁶ The final report also asked the KP to facilitate the appointment of an independent monitor to assist with implementation of the joint work plan. Further to this, the KP was requested to offer Zimbabwe technical and any other assistance it needed to come into KP compliance. It was recommended that such assistance be spearheaded by a 'Regional Task Force, with a structure consistent with the tripartite nature of the KPCS, to an on-going mechanism for oversight of the independent monitor, provision of technical assistance, information sharing, and other coordination efforts throughout the region.'¹¹⁷ Finally, the KP was urged to track what 'illicit Marange diamonds' had entered the 'legitimate trade', and for all participants to ensure 'enhanced vigilance' in the curtailment of such flows.

¹¹⁵ *Ibid*, p. 43.

¹¹⁶ *Ibid*.

¹¹⁷ *Ibid*, p. 44.

Reiterating its human rights concerns, the report also condemned the state's persecution of Newman Chiadzwa, following the assistance he gave to the 2009 Review Mission. It noted with concern that he had been forcefully removed from his home and his property seized. While the team was aware of ongoing legal proceedings against Newman Chiadzwa since 2007, pertaining to illegal diamond activity, it requested that the WGM be kept abreast of ongoing legal processes. At the Swakopmund Plenary, Review Mission members were shocked to see Chiadzwa in attendance, but accompanying the Zimbabwean government delegation, publicly retracting any testimony he had offered the Review Mission, and condemning western interference. Also in attendance, however, was the CRD's Farai Maguwu, whom Fayia called to speak at the main plenary session, much to the annoyance of Zimbabwean government delegates. Maguwu was repeatedly intimidated and followed by Zimbabwean state actors while in Namibia for the Plenary, and on the recommendations of western delegates decided to fly afterwards to South Africa and spend three weeks in Cape Town.¹¹⁸

While prominent at Swakopmund, the Marange issue was treated as a political hot potato. Though the WGM was meant to deal with Review Missions, it was the CPC that was meant to deal with membership and suspension. However, the CPC was chaired by India, the world's biggest diamond cutter, which was loath to stall Zimbabwean rough diamond flows to Surat's diamond-cutting hub.¹¹⁹ The issue ended back in the hands of the EU-chaired WGM, from which a Joint Work Plan (JWP) emerged after extensive negotiations.

¹¹⁸ Online interview with Farai Maguwu, 28 April 2014.

¹¹⁹ Online interview with Brad Brooks-Rubin, 27 June 2014.

In the text of the Administrative Decision that introduced the JWP, the KP Plenary welcomed Zimbabwe's acknowledgement that it had experienced 'certain challenges' in complying with KPCS minimum standards, its commitment to deal with 'credible indications of significant noncompliance' raised by the 2009 KP Review Mission to Zimbabwe, and its willingness to allow further KP monitoring and review visits to assess its progress.¹²⁰ The Zimbabwean state was allowing for an advancing monitoring assemblage to take deeper hold of the Marange trade as an object of knowledge, and this obedience was welcomed. What Zimbabwe was accepting was that it would need to subject itself to further monitoring before rough diamond exports from Marange were fully KP certified. Thus, while Zimbabwe would not be suspended from the KP, and it would not have to suspend all of its rough diamond exports, it would have to suspend all rough diamond exports from Marange.

The JWP was put forward as a guide for both assessment and progress towards Marange's certification, a guide that spoke overwhelmingly in a language of formalisation, with no direct reference to human rights concerns, no mention of the Review Mission's suggested 'special rapporteur', or alternative mechanism to investigate human rights, and indeed no mention at all of the phrase 'human rights'. In the only subtle acknowledgement of preceding violence in Marange, the JWP required a 'phased withdrawal of military personnel' from the area, a call that went widely publicized in NGO reportage and western media.¹²¹ Yet, this call was listed under the heading 'Provide security in the Marange area', which also required that private security companies be contracted for the mining areas specifically, while the Ministry of Mines and ZRP be tasked with securing the entire diamond field. Much of the document

¹²⁰ Kimberley Process Plenary, 'Administrative Decision', 5 November 2009, p. 1.

¹²¹ Kimberley Process Plenary, 'Joint Work Plan', 5 November 2009, p. 4.

concerned formalisation, setting out a range of actions to curb illegal digging, which included identification of and engagement with potential investors, who through joint ventures with the Ministry of Mines and ZMDC, would assist in setting up adequate security infrastructure and 'education of the villagers on the dangers of illegal mining and trading in diamonds'.¹²²

The document also imposed a range of requirements to render the Marange diamond trade more transparent, more visible, at least within the KP: improved paper-trail accounting for diamonds recovered by the ZRP, a reconciliation audit to account for production and sales from 2007 to 2009, establishment of 'footprints' and production estimates, quarterly reports from the Ministry of Mines to the KP Chair and WGM, and a specially-designated KP Monitor to report on JWP implementation, with a Review Mission to follow up. The KP Monitor was tasked with managing a 'supervised export mechanism', through which 'all shipments from all production sites in the Marange area will be subject to examination and certification'.¹²³

KP monitoring of Marange was greatly enhanced through the JWP. However, the JWP was yet another piece of KP policy text that eschewed human rights speak. How then could it give rise to disciplinary power in Zimbabwe and the KP that had effects along human rights lines? Two considerations were key in this regard. Firstly, the 2009 Review Mission had set a precedent in rendering the Zimbabwean state and its practices as an object of knowledge along human rights lines, even though its policy mandate was rooted in the language of formalisation. Brooks-Rubin had found a way, however tenuous, to link formalisation discourse with human rights speak. This could happen again, and was even more possible now that Zimbabwean

¹²² *Ibid*, p. 3.

¹²³ *Ibid*, p. 5.

state delegates had submitted to major encroachments by the KP's monitoring assemblage upon Marange. Secondly, while Zimbabwe had not been suspended from the KP, it had agreed to suspend its Marange diamond exports until the KP fully certified them. This gave its western opponents an advantage. Due to the KP's consensus-based decision-making policy, wherein just one state could block a decision, the Zimbabwean delegates knew that their certification could be blocked by opponents inside the KP, not least of all if these opponents could seize on any newfound knowledge of human rights violations in and around Marange.

CONCLUSION

Writing in a late November 2009 cable to the CIA, Secretary of State, and other US officials, the recently-appointed US Ambassador to Harare, Charles A. Ray, described a one-on-one meeting with EU Ambassador Xavier Marchal, wherein the recent Swakopmund Plenary came up in discussion. As Ray reported, Marchal mused that 'the outcome was as good as we could have expected', and in effect was much the same as suspending Zimbabwe from the KP, for it was now unable to sell its Marange diamonds legally until certified.¹²⁴ However,

Marchal's personal view is that, knowing at the outset that this was a battle we would lose, he is not sure that taking a firm stance on suspension was the best course of action. I pointed out to him that we also had to consider the other constituents (such as human rights NGOs, Congress, etc), to which he said he fully understood. His problem, he said, was that a suspension would have done nothing to curb human rights abuses, and wondered if perhaps there was not another course we could have taken.

'I had no answer to that question,' wrote Ray, before pointing out that other EU diplomats saw Marchal as 'too soft' on ZANU-PF. However, what Marchal was expressing was the inconvenient view that western state participants at the KP had not used the KP to defend human rights for the sake of human rights. Human rights violations were seized upon as

¹²⁴ C. A. Ray, 'Harare: Ambassador's courtesy calls on Bulgarian and EU Ambassadors', *Wikileaks* (24 November 2009), 09HARARE909_a.

justification for Zimbabwe's suspension, which would frustrate ZANU-PF elite efforts to use Marange diamonds as a lifeline, and aid the western push for Zimbabwean regime change. This strategy failed in 2009, but did such a western defeat mean a defeat to human rights?

In the wake of Operation Hakudzokwi, western NGO, industry, and government actors strategically aligned their words and actions to enable a human rights turn at the KP. This entailed a sudden injection of human rights language into KP discourse, amplified repeatedly by each of these actors at different points, in a mutually enabling manner. As we have seen, the US and other western diplomats were eager for Zimbabwean regime change, while KP civil society sought new leverage, renewed influence as a legitimate global governance actor, and human rights reform to the conflict diamond definition was a worthy target. Not only was this a worthy target to civil society actors, but unlike times gone by, it appeared an attainable one, with western government and industry actors unprecedentedly open to such a shift.

Industry actors mostly took a back seat, reluctant to push too hard for human rights reform lest it turn around and bite, but, on the other hand, they also feared what reputational threats a humanitarian catastrophe in Marange might bring to their fragile trade. And, as members of the diamond cartel that oversaw the 'licit' trade, they did not want their capacity to control supply undermined by an 'illicit' trade in the ascendant. They raised public concerns early on, introducing the initial traces of a three-dimensional framing of the Marange problem, helping to open the NGO floodgate that buoyed the work of both the US Embassy in Harare and Brad Brooks-Rubin. This strategic alignment was predominantly western, but there were Zimbabwean actors who were key too. Numerous interested Zimbabweans had the ear of the Harare US Embassy, not least of all the influential CRD and its leader Farai Maguwu.

As this chapter begins to show, the KP's western alignment had an enormous influence, even if the driving agendas of its key proponents may not have been satisfied. The international NGOs failed to build the leverage they needed to bring about human rights policy reform at the KP. Much of Marange's rough diamonds continued to elude western industry actors. The US, together with other western governments, fell short in their attempts to cut ZANU-PF's new economic lifeline off and effect Zimbabwean regime change. The pro-Zimbabwe strategic alignment repeatedly accused these governments of using human rights as a geopolitical instrument, and it successfully blocked their efforts both to suspend Zimbabwe and bring about human rights policy reform.

And yet, despite all these failed western agendas, disciplinary power along human rights lines came into effect. Through the KP's monitoring assemblage, particularly NGO watchdogs, the WGM and its Review Missions, Operation Hakudzokwi and state violence in Marange became more globally visible than ZANU-PF elite could ever have imagined it would. The extent to which western actors went to paint these elites as complicit, was indicative of a range of interests beyond human rights. However, these elites certainly did have a hand in the violence, and the ability at least to reduce it. Reduce it they did, as the situation in Marange in 2009 began to stabilise increasingly, at least along civil human rights lines. I contend that these improvements cannot credibly be seen as causally independent of the more immediate and obvious disciplinary effects of KP monitoring, such as Zimbabwean state actors agreeing to a Review Mission with westerners on it who had already underlined human rights violations in Marange, and, later on, Zimbabwean state actors agreeing to Marange's demilitarization. These improvements, and the KP's role in them, would become increasingly evident in 2010,

and thereafter. Yet, as the following chapter explores, there was one last act of Zimbabwean state excess that kept the western strategic alignment's human rights game in play.

While Zimbabwean actors were crucial, I have referred to a western strategic alignment at the KP, because this is where I see the main locus of power in the strategic alignment. This raises questions perhaps about how much of a challenge this chapter poses to Hopgood's outlook on human rights, when the locus of power seems embedded within an overarching, international institution that imposes certain forms of action through its policy rules, and when human rights norms were imposed through this institution by powerful western actors. Like the critics of Hopgood I cited in Chapter One, I acknowledge that there is much value to his critique, and in many ways, especially in the geopolitical machinations of the US, and the push-back it encountered at the KP, the Marange case validates his pessimism. Yet, as I have noted, my criticism of Hopgood relates to his narrow interpretation of the workings of power, specifically an overemphasis upon the role of global institutions that impose human rights law from above. Indeed, while the KP was a global institution that imposed rules from above, none of these rules nor their required manifestations in the domestic laws of participant states, amounted to any kind of human rights law. The failure to bring about human rights policy reform in the face of Marange, has led to institutional critiques of the KP that interpret its handling of Marange as a significant human rights failure. As I argue, neither this critique, which resembles Hopgood's legal-institutionalism, nor the Zimbabweanist scholars who highlight the KP's failure to promote economic, social, and cultural rights, have adequately recognised the vital influence of disciplinary power.

As I have shown, the exercise of power cannot be reduced to overarching, global institutions and their imposition of laws or policy rules from above. Once we begin to examine how these institutions render or are able to render offenders as objects of knowledge, we begin to discover a different form of power. As far as the human rights ecosystem is concerned, we begin to see how perpetrators can become part of a vast corpus of knowledge, disseminated across a great monitoring assemblage, transmitted between actors in civil society, states, industry, academia, the media, consumer publics, and elsewhere, such that all of these actors form part of the human rights ecosystem, inasmuch as they take in and produce knowledge of human rights norms and their violators. In Marange, the production of knowledge on state human rights violations may have been driven by a western strategic alignment, but this knowledge diffused outward into the broader human rights ecosystem: out into Zimbabwean opposition politics, which was highly conversant in human rights language; into global diamond markets, where the Zimbabwean state's actions might be rendered as knowledge that resurrected reputational effects for the cartel, an economic club that ZANU-PF-state actors were earnestly hoping to become an integral part of, not threaten existentially; and out into the wider realm of global governance and finance, not least of all to the UN, the International Monetary Fund (IMF), World Bank, African Union (AU), and Southern African Development Community (SADC), where Zimbabwean state actors sought legitimacy, inclusion, and assistance. While we should not discount the fact that, ultimately, ZANU-PF-state actors succeeded in utilising the KP to exploit an economic lifeline, it should also be recognised that they were greatly limited in the approach they could take, and that, rather than gifting opponents with further means of intervention, ZANU-PF-state actors began to self-discipline along human rights lines in and around Marange in 2009.

HUMAN RIGHTS INCARCERATED

The persecution of Farai Maguwu as an object of knowledge and intervention

You could see that the police were running, practically, because there was somebody much more powerful who was shouting at them that 'Deal with this guy, what are you doing?!'

The number of times they would go into the prison after he has been lodged there after court proceedings, and steal him from there and take him to another police station, interrogate him, and threaten to shoot and kill him, because we had an instance at Harare Central where someone was brought by the police just to threaten him, and say 'I will kill you'.

You could see that they really wanted to know who had leaked, and they were frustrated that he was not talking. They were frustrated that there were lawyers always hovering around the police station.

And they were even more furious that the lawyers were sending out every detail of what they did to him, to the point where Charamba wrote about him in his weekly column in veiled threats about what I was doing, arguing that if I wanted to be a journalist, I should just be a journalist.

Tino Bere, lead counsel for Farai Maguwu, interviewed in Harare, 11 April 2014.

INTRODUCTION

As the KP's Marange predicament wore on in 2010, a moment of indiscipline on the part of the Zimbabwean state once again inundated the KP space with human rights speak, casting renewed visibility on ZANU-PF-state actors, forcing them to correct their disciplinary lapse. The Zimbabwean state's incarceration of prominent human rights monitor Farai Maguwu, and the detailed narrative of persecution that his lawyers subsequently produced, greatly enabled the western strategic alignment at the KP, allowing it to keep the monitoring assemblage oriented towards Zimbabwean state human rights practices in and around Marange. While the disciplinary power that was produced only temporarily thwarted elite ZANU-FP-state

actor attempts to exploit Marange diamonds through 'licit' trade channels, the disciplinary effects along human rights lines were longer lasting. Readily producing knowledge of the Zimbabwean state's human rights indiscipline, the KP assemblage showed that it continued to be subsumed in the greater assemblage of the human rights ecosystem.

As prior, overlooked instances of state violence connected to African rough diamond trade during the life of the KP indicate, the ecosystem does not seize upon all opportunities. Indeed, there must be alignments that orient a monitoring assemblage towards a target. Marange precipitated a new alignment among western KP actors, a strategic alignment initiated by the World Diamond Council (WDC), led by the US and international NGOs, and driven by a coalescence of different interests, as we saw in Chapter Four. The western strategic alignment's push for human rights reform at the KP, not least of all the call for an altering of the conflict diamond definition, changed who and how blame for violence could be fixed, such that state violence now became a potential object of knowledge. The push failed along policy language lines, meaning that the conflict diamond definition still eschewed human rights, and domestic legislation of KP controls required of state participants still ignored human rights. Yet, the western strategic alignment was still able to orient the KP monitoring assemblage, and thus the human rights assemblage into which it was partially subsumed, thereby giving rise to disciplinary effects.

This chapter centres on a series of texts relating to the 2010 arrest and incarceration of Farai Maguwu, and argues that the western strategic alignment that emerged in Chapter Four made the case usable as a means of achieving disciplinary effects through the invoking of human rights norms. The texts include: the terms of reference and fact-finding reports of a

KP Monitor assigned to Zimbabwe under the 2009 Joint Work Plan (JWP), who made his partiality toward the pro-Zimbabwe strategic alignment evident by facilitating the arrest of Maguwu; a classified state document reporting on recent military activity in Marange, which Maguwu handed to the Monitor, who then passed it on to Zimbabwean authorities; three international NGO reports concerning the Marange situation in 2010, which used the classified state document as a means of fixing blame for abuse and exploitation in Marange to ZANU-PF's highest echelons; a ream of email updates from Maguwu's legal counsel led by Tino Bere, sent out to thousands to detail Maguwu's mistreatment at the hands of the state, and serving to validate and re-invigorate prior western fixings of blame to elite ZANU-PF-state actors; a range of texts produced through performances at the KP's mid-2010 Intersessional in Tel Aviv, where the western strategic alignment seized upon Maguwu's persecution and Bere's knowledge production as a way of blocking progress towards the KP's certification of Marange diamonds; and, finally, a KP agreement reached at an extraordinary Saint Petersburg summit in mid-2010, arranged to address the Tel Aviv stalemate, and concluded two days after Maguwu's release. While it is often difficult to pronounce upon the veracity of these texts' claims, their writing and dissemination is examined primarily as means of producing knowledge or shaping knowledge production, and thereby influencing disciplinary power.

Contra Hopgood's top-down legal-institutional emphasis, the chapter shows that while large international organisations are in themselves powerful alignments, actors from below can show a crucial agency of their own, manipulating and reorienting monitoring assemblages in more powerful ways than their positioning might lead us to predict. Indeed, the knowledge produced by Maguwu's counsel was vital to the new momentum the western KP alignment gained in 2010, allowing for a new reification of the Zimbabwean state as perpetrator in

Marange, one that violated the human rights of Marange's foremost human rights monitor. This lapse in the selective self-disciplining of ZANU-PF-state actors stimulated those parts of the KP's monitoring assemblage that had been infused with human rights speak, and saw the persecution of one man turned into enormous leverage within the KP. ZANU-PF needed to self-discipline after the KP interventions that ensued. It had to release Maguwu, keep violence down in Marange, and allow for local civil society monitoring in Marange to be improved, before it could attain full KP certification in 2012. At the same time, it conclusively blocked western pushes for human rights policy reform, showing what power the pro-Zimbabwe strategic alignment could muster at the KP, *if* the Zimbabwean state self-disciplined. Flagging western efforts, after Maguwu's release, to isolate Zimbabwe and promote human rights KP policy reform, has obfuscated the significant disciplinary human rights effects that the western strategic alignment brought about, whether these effects were a key objective of this alignment or not. Indeed, recent institutional critiques of the KP, which focus on rule-making, rule-maker interests, and the failure of human rights policy reform, have overlooked these effects because they do not identify the workings of disciplinary power.

A CHINK IN THE MONITOR'S ORTHODOX ARMOUR

The pro-Zimbabwe strategic alignment's troubles in 2010 began with the KP Monitor assigned to Zimbabwe under the JWP. This was unexpected, since the Monitor was a South African close to his country's governing party, and the emphasis upon formalisation and tacit eschewal of human rights in his two fact-finding mission reports placed him firmly in the pro-Zimbabwe camp. The Monitor was thus part of the KP's monitoring assemblage, but not a part that sought to use a human rights lens. The Zimbabweans and their KP allies had been careful to secure this individual as Monitor, but his terms of reference were also useful in

making no mention of human rights. However, there was one requirement that he would have to be careful about, if he was to avoid alerting those parts of the KP assemblage that might use human rights speak, such as KP civil society actors, their networks, numerous other mostly western actors in the KP plenary, actors in the Working Group on Monitoring (WGM), and actors on certain Review Missions. The chink in his armour of orthodox formalisation discourse was the requirement that he meet Zimbabwean civil society representatives. This was the point through which the western strategic alignment would find a way to advance human rights monitoring.

After Zimbabwean government delegates rejected a proposal backed by WDC and western KP members that British ex-De Beers official Simon Gilbert be appointed KP Monitor for Marange, WGM participants agreed instead on the South African Abbey Chikane. Gilbert had worked for De Beers for over 25 years, spending half this time in sub-Saharan Africa, mostly as a buyer of rough diamonds. Diamond industry journalist Chaim Even-Zohar described him as ‘amicable and capable’ with ‘a rich African experience’; yet Chikane was also ‘amicable and respected’, ‘a seasoned diplomat and experienced industry regulator’.¹ Indeed, Chikane had successfully guided the KP’s launch as its founding Chair from 2000 to 2003. Even-Zohar did not note Chikane’s proximity to the South African political establishment, now firmly in the pro-Zimbabwe KP camp.² The bad news in Even-Zohar’s view was ‘that the mandate of the Monitor is so narrow that his presence will not make any difference – it is pure window dressing and it will not change anything on the ground’:

¹ C. Even-Zohar, ‘Zimbabwe: Continuing Its Path of Deceit’, *Diamond Intelligence Briefs*, 1 December 2009; and C. Even-Zohar, ‘Monitoring Marange: Meaningless Window Dressing’, *Diamond Intelligence Briefs*, 9 February 2010.

² For an intricate, but inconclusive, and somewhat partisan account of Chikane’s political positioning in 2010, see Anonymous, ‘Zimbabwe Blood Diamonds: The Sensational Mr Abbey Chikane’, *Cryptome*, 17 June 2010.

Witnessing human rights abuses, rapes, killings and military brutality in the mining areas doesn't disqualify any diamond for certification. The Monitor's presence will not prevent smuggling. He is there solely to confirm that the administrative procedures are followed correctly.³

Even-Zohar's opinion was that the Monitor had no human rights mandate, and a formalisation mandate that would achieve little in the way of bringing the Marange rough diamond trade under 'licit' control. The 'Terms of Reference' set out for the Monitor at the 2009 KP Plenary in Swakopmund stipulated two activities: firstly, the broader task of monitoring and reporting on implementation of the JWP, also agreed to at the 2009 Plenary; and secondly, the facilitation of a supervised export mechanism. When a shipment from Marange was ready to be certified, the Ministry of Mines was to notify the Monitor, who would be on stand-by, ready to travel to Harare. On arrival, his attentions would be directed toward 'thorough examination of individual shipments and their chain of custody with a view to confirming their compliance with KP requirements', having been given 'full and unhindered access to all relevant diamond production and processing sites'.⁴ This arrangement would focus the Monitor's energies on the supervised export mechanism.

For Even-Zohar to say that Chikane's presence would not prevent smuggling at all was an exaggeration. Reporting on an initial, early March fact-finding mission to Zimbabwe, Chikane made detailed recommendations based on a wide-ranging visit that included mining, sorting and evaluation sites, and the border area between Zimbabwe and Mozambique where smuggling was believed to be rife. Mbada Diamonds and Canadile Miners, the only mining

³ C. Even-Zohar, 'Monitoring Marange: Meaningless Window Dressing', *Diamond Intelligence Briefs*, 9 February 2010.

⁴ Kimberley Process Working Group on Monitoring, 'Terms of Reference "KP Monitor for Marange"', November 2009, p. 2 & p. 3.

companies in Marange at this stage, were told they would need to do more in practice to meet the KP's minimum requirements. Security cameras needed to be installed, security personnel and diamond auditors needed training, paper trails tracking rough diamonds needed to be improved, as did the provision of production statistics. Too many government agencies were involved in monitoring and handling these diamonds, posing a further threat that some might be stolen or swapped.⁵ As far as the formalisation of Zimbabwean diamond production and trade was concerned, these recommendations would likely reduce smuggling.

Even-Zohar was more convincing in what he had to say about the Monitor's lack of a human rights mandate. In line with the fact that the JWP had made no mention of the phrase 'human rights', the Monitor's first fact-finding mission report did little to acknowledge that these had ever been a key facet of the Marange debate at the KP, nor that they had anything to do with his mandate. As with the JWP, there were subtle departures in Chikane's reporting, such as the observation that demilitarization was ongoing, and that Mbada and Canadile's operations had been demilitarized. Marange's primary human rights abusers were being withdrawn from certain parts. Chikane also voiced concerns over the disrupted livelihoods of local communities,

Communities in Chiadzwa, Marange are not connected to the mining activities in the area. They have seen a fence being erected around the diamond fields, an air strip being constructed, and trucks and bulldozers working. And they have been informed they will be relocated.⁶

Chikane's text called for 'an inclusive and well-coordinated relocation strategy', at the same time urging authorities to 'remember that the decision to relocate was taken at the height of

⁵ *Diamond Intelligence Briefs*, 'KP Monitor finds compliance of Zimbabwe's diamond stakeholders lacking', 8 April 2010.

⁶ A. Chikane, 'Kimberley Process Certification Scheme, Fact Finding Mission', 21 March 2010, p. 28.

the diamond rush and that the circumstances have since changed following the end of diamond rush'. According to the report, there needed to be room for new ideas, perhaps a classification of communities needing to be relocated, consideration of those wanting employment at mines, those wanting cash payment to start a new life elsewhere, and those ready to relocate to a designated area. He strongly encouraged a small-scale mining programme the Mines Ministry had purportedly embarked upon, and warned that communities where diamonds were mined would most likely expect a return on these resources. These were the only humanitarian threads to the Monitor's first report, a fleeting nod to civil, political, and economic rights, but these would seemingly lose their pull in the wake of his next visit, where monitoring the supervised export mechanism was his sole regulatory purpose.

For the most part, the Monitor's first report reproduced the KP's orthodox formalisation discourse, cultivating the organisation's monitoring assemblage so that it would operate by rendering state regulation of Zimbabwe's diamond trade as an object of knowledge, rather than shining a light on state human rights practices in and around Marange. Yet, the Monitor fell short in one regard, which pertained to who he met on his first visit and who he did not. Chikane met and reported on his interactions with multiple stakeholders, including the Ministry of Mines and Development, the Minerals Marketing Corporation of Zimbabwe (MMCZ), the Zimbabwe Mining Development Corporation (ZMDC), the Ministry of Finance, the Reserve Bank of Zimbabwe (RBZ), the Zimbabwe Republic Police (ZRP), industry representatives from Marange Resources, Mbada Diamonds, Canadile Miners, and Global Diamond Valuers Namibia, numerous representatives from diplomatic missions and regional economic integration organisations, and finally, the media. Yet, at no point did he

attempt to meet with Zimbabwean civil society representatives, despite the fact that the Terms of Reference that set out his mandate listed civil society as one of the relevant stakeholders from point of mining to point of export, stakeholders whom he was required to meet with so that they could have the opportunity to inform his views.⁷

Zimbabwean civil society actors, and the Centre for Research and Development (CRD) in particular, had attached themselves increasingly to the KP monitoring assemblage in 2009, by networking with western KP actors, and producing knowledge on Marange that helped infuse the organisation with a human rights discourse. Chikane's actions impeded the growth of such human rights surveillance capacities. But his actions would become an opening for the encroaching power of human rights monitoring. Western pressure inside the KP soon forced the Monitor to meet with civil society actors during his second visit.⁸ On Thursday 27 May 2010, three days into the Monitor's second mission to Zimbabwe, the government newspaper *The Herald* reported that, according to documents in its possession, the US had sought to set the agenda for the mission.⁹ A printed email from US State Department Special Advisor on Conflict Diamonds Brad Brooks-Rubin allegedly listed key issues the US wanted addressed, including meeting with civil society and the Parliamentary Portfolio Committee on Mines and Energy, which was investigating the legality of tendering procedures that led to the licensing of Mbada and Canadile. Speaking to the media in Harare the day before, Chikane maintained he had copies of various emails in his suitcase, 'messages from different countries – Canada,

⁷ Kimberley Process Working Group on Monitoring, 'Terms of Reference "KP Monitor for Marange"', p. 3.

⁸ Online interview with F. Maguwu, 7 December 2012.

⁹ M. Kadzere and A. Moyo, 'US in bid to influence Chikane', *The Herald*, 27 May 2010.

the European Union, and even some African countries’, and that a ‘naughty intelligence person decided to photocopy and make use of the emails’.¹⁰

It was a curious act, perhaps a suspicious one, for Chikane to have printed out and carried around such an email. Whether or not he was complicit in this attempt to counter western attempts to shape knowledge production through the Monitor, growing pressure for western actors to back away now came to bear from Zimbabwean government officials, with even President Mugabe appearing on ZBC (Zimbabwe Broadcasting Corporation) television news to denounce the KP on the basis of the email and allegations of US interference. This was the kind of narrative that worked for the pro-Zimbabwe strategic alignment: opposing human rights monitoring by pointing to underlying western geopolitical motives, to a western regime change agenda, which would delegitimize western talk of human rights concerns relating to Marange.

Brooks-Rubin’s email was not the only sensitive text that Zimbabwean authorities acquired from Chikane during his second mission, as they contested the orientation of the KP monitoring assemblage. If the Monitor’s later recollections were to be believed, at this time he had another document in his possession, handed to him by CRD leader Farai Maguwu, a document that he soon passed on to Zimbabwean authorities. Chikane met with Maguwu on Tuesday 25 May at the Mutare Holiday Inn. As Chikane narrated at the end of his ‘Second Fact Finding Mission Report’,

Mr. Maguwu informed the KP Monitor that he was in possession of a document that was acquired fraudulently from the files of Zimbabwe Republic Police. He handed the document to the KP Monitor. Mr. Maguwu was aware that the KP Monitor was

¹⁰ V. Sifile, ‘Govt spied on diamond monitor’, *The Standard*, 30 May to 5 June 2010.

accompanied by officers of state agencies, including intelligence agencies. A man dressed in black and claiming to be from the 'Presidency' was seated less than a meter away from the KP Monitor and Mr. Maguwu. The KP Monitor was aware of the implications of being in possession of a fraudulently acquired document and consulted with an official of the Ministry of Mines and Mining Development about the authenticity of the document and the implications of being in possession of the document, if the document was indeed stolen. The KP Monitor was in possession of this document for four days before he determined a course of action. Following legal advice, the KP Monitor concluded that the possession of a top secret document had criminal implications.¹¹

Chikane wrote that he had decided that, in terms of Section Three of the Officials Secret Act, he could be liable for imprisonment, so he passed the document on to Zimbabwean authorities. While he did not mention any handing over in his second report, it was implied, and he acknowledged doing so in an interview with *SW Radio Africa Hot Seat's* Violet Gonda two weeks after the second mission.¹² During this interview, it was put to him that Maguwu had denied giving him the document, and had alleged that he had in fact obtained the document from ZANU-PF sources and referred to it at the meeting with Maguwu for purposes of discussion. Gonda had previously interviewed Maguwu, the night before his arrest. According to Maguwu, Chikane had asked him about the document, 'I told him that I had not seen the document, it is hard for me to comment on something that I have not seen'.¹³

Maguwu continues to deny ever having had possession of this document. It is unclear if this is the case. For example, there are accounts to the contrary from his ex-CRD colleagues, including co-founder James Mupfumi.¹⁴ According to these accounts, James had used

¹¹ A. Chikane, 'Kimberley Process Certification Scheme, Second Fact Finding Mission Report', June 2010, p. 24.

¹² *SW Radio Africa Hot Seat*, 'Kimberley Process monitor Chikane defends "shopping" Zim activist to police', 11 June 2010.

¹³ *SW Radio Africa Hot Seat*, 'Arrested Zimbabwean diamond researcher "set up" by Kimberley Process Monitor', 4 June 2010.

¹⁴ Online interview with F. Maguwu, 7 December 2012; interview with S. Kasenye, Harare, 22 February 2013; and interview with J. Mupfumi, Mutare, 26 February 2013.

personal ZANU-PF connections through his brother, Central Committee Member Esau Mupfumi, to obtain the document from the offices of Canadile, one floor down from the CRD in the Fidelity Lifestyle Centre, Mutare. Maguwu, who was then given the document, was said by his ex-colleagues to have taken it upon himself to hand it to Chikane.¹⁵ That he would later deny ever seeing it, let alone being in possession of it, was perhaps understandable given the events that swiftly followed his encounter with Chikane, and the dire need that would arise for him to protect his own personal safety.

Chikane, it seemed, was also rattled by the encounter. He was at pains in his mission report and in the interview with Gonda to emphasize that the document was illegally obtained, and that he could be liable for prosecution for being in possession of it. There was another layer to his narrative, as well, which drew on his South African intelligence background, and which led him to chide Maguwu for his imprudence in the vulnerable hotel lobby context in which the two found themselves. For Chikane, this impropriety overshadowed the question of the document's authenticity,

I even met the author of the document so I was able to confirm that it is an authentic document - but you see at the end of the day, the issue for me is actually more about the fact that, you know when people are involved in intelligence operations, I think they should go to those schools so they understand how these things are dealt with. You don't walk around with a stolen document when you know you are being followed, when you know that you are fighting with the regime but you walk around with a laptop that has got all of those documents. I mean I don't want to go to that extent but I'm just saying the manner in which he handled this sensitive matter was very unprofessional, very dangerous and at least I didn't want to be associated with it in any way.¹⁶

¹⁵ Interviews with S. Kasenye, Harare, 22 February 2013; and J. Mupfumi, Mutare, 26 February 2013.

¹⁶ *SW Radio Africa Hot Seat*, 'Kimberley Process monitor Chikane defends "shopping" Zim activist to police', 11 June 2010.

As Chikane went on to tell Gonda, he was certain that state officials would find the document given to him, just like they had found the US email days before: 'I knew someone was going to find it. And had it been found in my briefcase – exactly the same way that my other emails were found in my suitcase, can you imagine what that would have meant to the Zimbabwean government and to me in particular?' Gonda's response was to ask Chikane why he had not gone instead to the KP, to the organisation that had mandated his work, rather than to those who were implicated in the document, questioning whether he was 'aware that there have been allegations of torture – human rights abuses against the same institutions to which you gave the documents'. Chikane's answer acknowledged the relevance of human rights, noting that he 'was looking at meeting someone who represented an NGO which is concerned about human rights issues but not about intelligence operations.' He said that he, however, wanted facts and figures, numbers of people tortured for example, with evidence cited, not a piece of evidence controversially obtained and anonymously passed on to the Monitor, leaving him to endure the inevitable fallout alone.

The Monitor's acknowledgement of human rights violations, as something that required detailed evidence, can be seen as an instance of selective self-disciplining, an effort to shape the advance of a human rights monitoring assemblage. To eschew human rights altogether, after Maguwu's arrest, and while being questioned on live radio, would have backfired. To ask for substantial evidence, something Maguwu and his CRD did not always provide, and which the document he handed over also did not offer, appeared reasonable. Beyond the Gonda interview, however, Chikane reverted to his more rigid eschewal of human rights concerns, producing a report that made no mention whatsoever of the phrase 'human rights'.

Instead, a brief explanation of the Farai Maguwu fiasco was narrated at the end of the Monitor's second report, an addendum with no link to anything that preceded it.

Overall, the Monitor concluded that Zimbabwe had satisfied the minimum requirements of the KPCS for certification of its rough diamond trade, based on evidence provided by the Zimbabwean government and private investors, and on the Monitor's first-hand assessment of the situation.¹⁷ Two uncertified rough diamond shipments from Zimbabwe had been detected in Dubai earlier in the year. Zimbabwean officials maintained that they had interpreted diamond production prior to the 2009 JWP to be exempt from the suspension of the Zimbabwean rough diamond trade the JWP had implemented. However, they had apologized for the misinterpretation, and the Monitor was now ready to begin certifying exports. The dispute between African Consolidated Resources (ACR) and the government was noted as a concern, since court rulings concerning ACR claims and confiscated diamonds could impact the handling of the supervised export mechanism. The Monitor stressed the KP's desire not to interfere with national law, but highlighted ACR's stated willingness to reach a settlement with the Mines Ministry, and recommended 'home brewed solutions'. Regarding the question of relocation of local communities, Chikane noted that these were still underway, and that investors were expected to contribute towards relocation expenses. The humanitarian misgivings intimated in his previous report about this process and its toll upon local communities were much diminished.

¹⁷ Chikane, 'Kimberley Process Certification Scheme, Second Fact Finding Mission Report', p. 22.

Regarding the 'demilitarization' of Marange, the Monitor maintained that it was said to be on the state agenda, but during discussions with the Parliamentary Portfolio Committee on Mines and Energy, Chikane recounted that he was informed that a gradual approach was favoured in the areas not occupied by investors, since government did not want to encourage another artisanal 'free-for-all'. When travelling through parts of these areas, the Monitor said he had come across a military settlement, where he was told concessions were being secured for the incoming Anjin Investments, a company of Chinese origin that had recently entered a non-disclosure agreement with Marange Resources to establish a third joint venture company in Marange. At a meeting with ZRP Commissioners and Zimbabwe National Army (ZNA) Chief of Staff, Chikane reported that it was acknowledged that illegal panners and illegal mining syndicates continued to venture into the diamond fields, but the Monitor said he was assured that they continued to be arrested.¹⁸ In line with discussions held with the Parliamentary Portfolio Committee, army generals stressed that as soon as investors were securely established in Marange, the military would exit, since under the normal circumstances the ZRP would be tasked with securing the fields. The Monitor suggested that the KP support this approach. Furthermore, he recommended that KP participants be invited to provide financial and technical support to the ZRP, with a view to improve their capacities and expedite demilitarization.¹⁹ Regarding the private security companies operating within the investor concessions of Mbada and Canadile, Chikane maintained they were highly reputable, and had better security than similar operations in Sierra Leone, the DRC, and even South Africa.

¹⁸ *Ibid*, p. 10.

¹⁹ *Ibid*, p. 21.

While the orthodox KP discourse of formalisation was dominant throughout both the Monitor's fact-finding mission reports, avoiding local civil society, then instigating the arrest of a prominent local activist, before going on to recommend full certification of Zimbabwe, was just the kind of behaviour that an encroaching human rights assemblage with a powerful KP western strategic alignment behind it needed to sustain its advance. With much assistance from Maguwu's legal counsel, Western KP actors would tell a story about a Monitor who deliberately ignored human rights concerns, and then facilitated violations of the human rights of Marange's foremost human rights observer. A monitoring assemblage infused with human rights discourse derived disciplinary power from narratives such as this. Attempts to silence Maguwu would greatly amplify his voice. Indeed, had it not been for a western strategic alignment that could seize upon his persecution, Zimbabwean state efforts to silence him would most likely have been successful. Maguwu's case would be used to promote the three-dimensional framing that the western strategic alignment favoured from 2009 onward, highlighting Marange as a problem of formalisation, but also human rights, and fixing blame for both troubles on ZANU-PF and military elements within the Zimbabwean state.

REIFYING THE PERPETRATOR

Chikane neglected to publicly scrutinize the contents of the document Maguwu gave him, which was compiled by the ZRP as a review of security force activity in Marange and its surrounds, and addressed to the Joint Operations Command (JOC), which consisted of military generals, the police commissioner, the prison chief, the Central Intelligence Organisation (CIO) Director General, and the Minister of Defence. Yet he vouched for its authenticity. This allowed the western strategic alignment much leeway in the interpretation of the ZRP document. There was much Chikane could have said about the document from a regulatory

perspective, showing Zimbabwean state actors how best to manage Marange in accordance with orthodox KP formalisation practices. Chikane shied away from doing so, perhaps because of how sensitive Zimbabwean state actors were to knowledge of the document's existence. Yet, in so doing, he left the text to the selective readings of actors within the western strategic alignment, who now targeted the JOC as Marange's principal perpetrator.

As this section argues, western interpretations of the ZRP document, and their concomitant efforts to fix blame to ZANU-PF elites, used dubious evidence to find new ways of rendering ZANU-PF-state activity as objects of knowledge with disciplinary effects. When these western fixings of blame in Marange are compared in the next section with the persecution of Farai Maguwu, and the more convincing fixings of blame to ZANU-PF-state actors that this elicited from the western strategic alignment, with the crucial help of Maguwu's counsel, we begin to see that Maguwu's persecution was a windfall for the western strategic alignment in 2010.

The 'Brief for Sub-National JOC by Assistant Commissioner Mawere N. on Operation Hakudzokwi Phase VII on 07/05/2010' was marked as a restricted document, and written in early April 2010 by the ZRP. As a narrative text, its design was to produce knowledge about a significant degree of state control attained in Marange in the face of considerable chaos. The document noted an increase in the presence of illicit miners in certain areas from late March to early April, attributing this to 'connivance' with illicit miners 'by outgoing contingent of 2.2 infantry battalion. The unit formed syndicates with illegal panners towards the end of its tour of duty.'²⁰ Security at illegal panning sites was tightened, and 'sweep up operations' were

²⁰ N. Mawere, 'Brief for Sub-National JOC by Assistant Commissioner Mawere N. on Operation Hakudzokwi Phase VII on 07/05/2010', 7 April 2010.

carried out to clear the area of illegal miners. Yet this had led panners to move to other areas, one of which was inhabited by local people, making it more difficult to detect illegal activity, and another area from which the military had recently removed its base. The base was re-established, along with other tents erected at other old panning sites. Old mining pits were filled in. Sweep up operations continued. Disciplinary actions were taken against offending officers, leading to their expulsion from the operation. Jobseekers gathering at the new Anjin concession were believed to also be mining illegally in its vicinity, and scheduled relocations from all three concessions were yet to be carried out. A Lance Corporal from 4.2 Battalion who shot dead a suspected illegal miner at Muchena Business Centre, and shot and injured a Constable who tried to disarm him, was being charged with murder and attempted murder. There was a 'need to supply adequate food rations to security forces to avoid cases of armed robbery and indiscipline.' Yet, the report concluded, the situation was 'under control and manageable.' The illegal miner population had greatly decreased to an estimate of 400. A total of 527 arrests had been made in April 2010. Control needed to be maintained so that the area could be made 'conducive for investor environment'.

Despite its assurances of control, the ZRP document's revelations suggested that further investigation was required by the KP Monitor to determine whether or not the area was in fact under control. Such concerns were directly relevant to the internal state controls, to the formalisation, that all KP members were expected to implement as a minimum requirement, in the interests of eliminating the possible presence of conflict diamonds from all rough diamond exports leaving any member country. Yet, Chikane did not reveal any of the contents of the briefing, even if his purported wish to have it authenticated had been part of the explanation he offered for his decision to take it to Zimbabwean authorities. The fact that he

had offered this explanation, and acknowledged that the document had been authenticated, but not considered its contents in his decision to recommend Marange for certification, placed his motives as Monitor in question. As one diamond sector observer commented,

Although he is supposed to be investigating security lapses, Chikane said he did not want to be in possession of an 'illegal' document – yet the document in question provides prima facie evidence of exactly the kind of wrong-doing that Chikane is supposed to be investigating. The institutions he voluntarily surrendered the document to, are implicated by that report.²¹

Chikane's silence around what was in the document left its contents to the mercies of interpretations far less lenient than his own. If the Monitor mishandled the ZRP document by ignoring its serious implications for Marange's formalisation, his antagonists inside the KP found other uses for it altogether. Indeed, the western strategic alignment seized upon the ZRP document as evidence of ongoing human rights abuses and smuggling linked to senior ZANU-PF actors, but once again made their own strategic alignment more plain to see through the assumptions they made about the breadth of state complicity.

In 2009, members of the western strategic alignment made a range of assertions about the complicity of senior state and ZANU-PF members in human rights abuses and smuggling in and around Marange, in the interests of fixing blame and producing disciplinary power. This complicity was cast as not just allowing numerous misdeeds, but aiding and abetting them, as we saw in Chapter Four. In 2010, actors within the western bloc publicized the ZRP document as evidence for similar assertions about complicity, despite the fact that the document pointed to the possibility that senior members of the state and ZANU-PF were, in actual fact, battling to control the Marange situation and the military itself, particularly

²¹ V. Gonda, 'Leaked document behind police hunt for diamond researcher', *SW Radio Africa*, 1 June 2010.

soldiers on the ground such as members of the outgoing 2.2 infantry battalion and presumably many others susceptible to the attractions of 'armed robbery and indiscipline' in the absence of regular food supplies.

Partnership Africa Canada's June 2010 report on Marange firmly communicated its position on complicity in violence and exploitation. 'Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe' found the ZRP document's briefing of the JOC to confirm that the JOC was 'the de facto authority in Chiadzwa'.²² Government certainly had hesitated to demilitarize the area, for reasons it put to Chikane, reproduced in his second report, and confirmed by the roving but elusive artisanal miners appearing in the ZRP document. There was also recognition in the ZRP document that the military was part of the problem, as the text's reference to 2.2 Infantry Battalion evidenced. Furthermore, it was not contentious that where the military were not themselves engaged in illegal activity, they were struggling to bring such activity under control. 'Security forces continue to lose the battle against illegal panning or smuggling,' Partnership Africa Canada concluded from the ZRP document.²³ However, in citing the document as evidence that the JOC was the 'de facto authority' in Marange, the Canadian NGO offered a narrative that encouraged an impression of complicity in abuse and exploitation, reaching across-the-board from junior military operatives on the ground all the way to their overseers in the JOC, the purported brains of the security forces. The NGO's story made it seem as if the military and the Zimbabwean state's many limbs were never a law unto themselves, but rather controlled from a central point.

²² Partnership Africa Canada, 'Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe', 3 June 2010, p. 22.

²³ *Ibid.*

This fixing of blame to ZANU-PF-state elites through the JOC's reification as chief perpetrator was drawn through the narrative of the Partnership Africa Canada report. The report tracked such complicity back to 2006. Since ACR's ejection from Marange in the latter half of 2006,

Chiadzwa has been consumed by illegality and lawlessness, much of it done with the sanction or direct involvement of parties and individuals directly related to political elites within President Mugabe's Zimbabwe African National Union (ZANU).²⁴

Putting Marange's politics in context, 'Diamonds and Clubs' positioned it along a continuum of exploitation and abuse with three other key events, namely resource plunder by the Zimbabwean military in the Second Congo War during the late 1990s, the invasion and seizure of white-owned farms in Zimbabwe in the early 2000s, and the manipulation of foreign exchange rates during the subsequent years of hyper-inflation. In each instance, the narrative ran, Mugabe and his inner circle were faced with a crisis of political legitimacy, and responded with 'carefully crafted campaigns of economic theft with which to engage in crass patrimonialism to placate key constituencies and buy more time in office.'²⁵ Indeed, Partnership Africa Canada argued,

Africa is replete with examples of protracted and often highly factionalised struggles that are made to appear like 'chaos' and 'collapse', when in fact events are being cleverly manipulated to shore up elites threatened by democracy or to carve out a profitable political economy from lootable resources – like diamonds.

This is one of those cases.²⁶

In Zimbabwe's case, according to Partnership Africa Canada, a factionalised struggle was taking place between Minister of Defence Emmerson Mnangagwa and retired head of the armed forces Solomon Mujuru, both vying to succeed President Mugabe. While this question of succession was far from resolved, both individuals were intimately tied to the workings of

²⁴ *Ibid*, p. 4.

²⁵ *Ibid*, p. 6.

²⁶ *Ibid*.

the JOC and its efforts to 'monopolize the country's diamond resources'. Indeed, the JOC was the key antagonist, the perpetrator, a vehicle to carry the central motif of blame in Marange's human rights abuses and smuggling. As the NGO argued,

The members of the JOC are the high priests of Zimbabwean politics, the final arbiters of tough decisions, and the architects of every single government-sponsored act of repression from the 1985 *Gukurahundi* massacres in Matabeleland, to the land invasions, to successive episodes of election-related violence.

The JOC is the ultimate Praetorian Guard, its tentacles control every facet of state security. It is an organization driven by two simple concerns: safeguard Mugabe's place as president, and neutralize any potential legal or political threats to their power.²⁷

In addition to the JOC's 'obvious and absolute control of the means of state violence', Partnership Africa Canada held that the state security organ saw Marange as its 'main instrument' through which to undermine the Global Political Agreement (GPA) that underlay the fragile unity government between ZANU-PF and the two MDC parties. Most effective in this regard, Partnership Africa Canada suggested, was starving the national treasury of Marange revenues, a problem already signalled by MDC-T Finance Minister Tendai Biti.

If the national treasury was not benefitting, then who was? In Partnership Africa Canada's view, 'the biggest winners were obviously the same clique of insiders and securocrats that have always benefited from illicit ZANU enterprises'. Revenues were enriching these individuals, but according to the NGO, there were also rumours of diamonds-for-guns deals with Chinese officials, which could heighten the prospect of continuing violence in Marange and in future Zimbabwean elections. As the NGO opined, past actions were often a good indicator of future behaviour: the JOC was implicated in every past episode of post-

²⁷ *Ibid*, p. 7.

independence mass violence, and any implosion inside ZANU-PF was sure to have an aggravating effect that would be harmful to the Zimbabwean populace, and ultimately to human rights in Zimbabwe.

In its recommendations, the 2010 Partnership Africa Canada report advocated a raft of measures that would have radically advanced the KP's monitoring assemblage, and along with several other global assemblages, rendered the Zimbabwean state more visible as an object of knowledge, rendered along both formalisation and human rights lines. The report called on the KP to suspend Zimbabwe until there was 'legitimate and competent governance of the country's diamond resources', which included demilitarisation, respect for the rule of law, and an end to 'harassment and abuses of panners and civil society groups alike'.²⁸ It called for KP investigations into River Ranch, and for the joint ventures of Mbada and Canadile to be scrapped, because, the report maintained, these two ventures were designed to 'facilitate the flow of diamond revenue into the pockets of ZANU patronage networks as opposed to the public treasury', thus creating 'an enabling environment for conflict within Zimbabwe that should be abhorrent to the KPCS'.²⁹

On the basis of this narrative, the report called for far-reaching interventions. The report demanded a redefinition of the policy term 'conflict diamond', which wrongly assumed that all governments were legitimate, thereby failing to consider how they too could be culpable for violence. It said that all KP state participants should join the Extractive Industries

²⁸ *Ibid*, p. 24.

²⁹ *Ibid*, p. 26.

Transparency Initiative (EITI),³⁰ and called on the KP to widen its monitoring and enforcement, beyond the rough diamond trade to all stages of the cutting and polishing process. Partnership Africa Canada held that all human rights violators in Marange should be held accountable, that the Zimbabwean government should ‘investigate and prosecute cases of abuse’, and if political interference prevented this,

PAC calls on the MDC to invite the International Criminal Court to launch an investigation – with the intention of laying charges – against all members of the ZANU leadership, particularly the JOC, who have planned and/or taken part in well-documented human rights abuses. This would not be limited to events in Chiadzwa but also include all examples of political violence since 2002, when the ICC was constituted.³¹

The NGO called on the WDC to ban all imports of Zimbabwean diamonds, and, quoting the WDC’s own policy language, to oversee the ‘development, implementation and oversight of a tracking system for the export and import of rough diamonds to prevent the exploitation of diamonds for illicit purposes such as war and inhumane acts’.³² It urged the WDC to enhance industry’s ‘weak’ system of warranties that was meant to run in parallel with the KP. Finally, it called on the United Nations Security Council to place an embargo on Zimbabwean diamonds until there was legitimate and competent governance of the country’s trade.

These recommended disciplinary measures were vast and threatening to ZANU-PF-state actors. The narrative was compelling but it rested on a weak body of evidence. Partnership Africa Canada’s findings were speculative, and marked by a string of admissions about the difficulties of producing evidence about human rights violations in Marange, especially after 2009. Getting ‘hard numbers’ of those killed or injured was an ‘inexact science’, according to

³⁰ The EITI is a global standard that promotes the open and accountable management of extractive resources, by requiring countries and companies to disclose information on key steps in the governance of oil, gas, and mining revenues.

³¹ Partnership Africa Canada, ‘Diamonds and Clubs’, p. 26.

³² *Ibid*, p. 28.

the NGO report, not least of all because of the 'fluid nature of the rush' and security force control over the area where the majority of abuses occurred.³³ Evidence was mostly anecdotal. Testimonies could be hard to come by, the NGO said, because of the geography of artisanal miners, who came from all over Zimbabwe and beyond, and of buyers, who came from all over the world, including West Africa, Europe, the Middle East, and Asia. Indeed, witnesses were difficult to track down, it said, and many only ever shared their first names with each other, or used pseudonyms, and carried no identification, making it difficult to identify victims. The NGO was nonetheless convinced that security forces continued to 'engage in routine human rights abuses',

While late 2008 and early 2009 marked the most repressive period in Chiadzwa, stories of rape, beatings, and summary executions continued to be reported to human rights groups on a weekly basis.³⁴

The only evidence Partnership Africa Canada referred to for the period after early 2009 was from the CRD, comprising 24 documented cases of physical abuse perpetrated by security forces in April 2010.

Further evidence was produced in a Human Rights Watch report also released in early June 2010. As the Human Rights Watch report's title 'Deliberate Chaos: Ongoing Human Rights Abuses in the Marange Diamond Fields of Zimbabwe' suggested, it continued with Partnership Africa Canada's narrative of state perpetration and blame. Based on more than 30 interviews with Marange community members, local leaders, government officials, company officials and representatives from human rights organizations, and compiled by a researcher unable to access the Marange diamond fields, 'Deliberate Chaos' maintained that

³³ *Ibid*, p. 18.

³⁴ Partnership Africa Canada, 'Diamonds and Clubs', p. 18.

while killings had abated, the military still controlled most of the fields despite a commitment to demilitarize, and soldiers were still involved in smuggling, as well as abuses including forced labour, torture, beatings, and harassment. The report held that ‘diamonds continue to benefit a few senior people in the government’, which had failed to investigate or prosecute the many excesses of its soldiers.³⁵

Much of the evidence that Human Rights Watch furnished was testimony from anonymous interviewees. According to a community leader, *perhaps* more than 95 percent of the diamond fields remained under military control. Senior members of ZANU-PF *stood accused* of smuggling diamonds for personal enrichment, by an official from the Parliamentary Portfolio Committee on Mines and Energy, which was also unable to access Marange. More than 4,000 families were due to be forcibly resettled, *potentially* contravening international standards of forced relocation. As one government official confided to Human Rights Watch,

Mining of Marange diamonds is characterized by confusion, lawlessness, and chaos; no one really knows what is going on, and, in the context of that confusion, in the dust storm, smuggling of diamonds is taking place on a massive scale, benefitting only a few individuals.³⁶

Herein lay the trouble with Marange as a feasible target for discipline. Information was scarce. Nobody knew what was happening at all times in all places. The result was worried conjecture and rumour about fast disappearing fortunes and who could be singled out for blame so that the rampant theft might be brought to an end. Human Rights Watch’s researcher was himself caught up in this confused finger pointing, seizing on the idea that the chaos was ‘deliberate’.

³⁵ Human Rights Watch, ‘Deliberate Chaos: Ongoing Human Rights Abuses in the Marange Diamond Fields of Zimbabwe’, 4 June 2010, p. 1.

³⁶ Human Rights Watch interview with senior official, Ministry of Mines and Mining Development, Harare, 9 April 2010, in Human Rights Watch, ‘Deliberate Chaos’, p. 9.

Partnership Africa Canada and Human Rights Watch's narratives of elite complicity in violence and exploitation were credible, but far from conclusive. Even their allegations that violence was ongoing were susceptible to denial in 2010, and increasingly limited to anonymous anecdotal evidence, in contrast to 2009, when Mutare morgues were inundated with bodies from Marange, many of them carrying bullet wounds. The ZRP document itself certainly raised pressing questions about the formalisation of Marange along the lines of KP minimum requirements, questions that a differently-aligned Monitor would have addressed. Yet, as far as violence was concerned, the document gave little evidence, only an isolated incident of murder committed by a renegade Lance Corporal and a warning that soldiers given inadequate supplies engaged in armed robbery. Where the document entered the texts of NGO reports, its evidence was distorted. The document was touted as evidence of ZANU-PF and security force elite complicity, with blame fixed to the JOC, when in fact the document indicated a loss of control, as well as steps to regain it. Nevertheless, Partnership Africa Canada and Human Rights Watch, as well as Global Witness with its own report a few weeks later in June, buttressed a narrative of ZANU-PF-state complicity in violence and exploitation. This narrative was built to a large extent on the testimonies gathered by the CRD. In addition to the CRD's account of April 2010 violence cited by Partnership Africa Canada, the local NGO's account of violence in March 2010 was reproduced in Global Witness's report, 'Return of the Blood Diamond: The Deadly Race to Control Zimbabwe's New-Found Diamond Wealth', which held that there were 26 victims of abuse including two cases of rape.³⁷ These were

³⁷ Global Witness, 'Return of the Blood Diamond: The Deadly Race to Control Zimbabwe's New-Found Diamond Wealth', 14 June 2010, p. 8.

serious allegations but nowhere near the level of abuses in the three international NGO report narratives produced in 2009.

How could these fixings of blame be reinforced? How could they be given more credibility? How could something akin to an admission of guilt, be drawn from the ZANU-PF-state elites? State actions taken against Farai Maguwu after his meeting with Abbey Chikane, together with the enthused performances of Maguwu's legal counsel before an international audience, would provide the unwitting answer. It was Maguwu's persecution that offered the western strategic alignment a much greater means of further advancing the KP monitoring assemblage along the lines of human rights norms, thereby producing disciplinary effects.

THE PERSECUTION OF FARAI MAGUWU

Persecuting individuals identified as belonging to the opposition was not new as a ZANU-PF practice. Authorities would have been alarmed that Maguwu was able to obtain a classified document that raised concerns about Marange's formalisation and KP compliance. The document also indicated that security sector reform under the GPA was lacking, since under the GPA key responsibilities for monitoring and redressing rights abuses and political violence were meant to fall under the mandate of a newly-formed National Security Council.³⁸ The JOC was meant to become just one part of this Council, together with Principals to the GPA and certain senior ministers, and was expected to report transparently and in a non-partisan manner to the unity government. The circulation of the restricted ZRP document was likely to draw criticism and scrutiny from, among many others, ZANU-PF's awkward bedfellows in government, the MDC-T. The decision to persecute Maguwu was also likely taken for the

³⁸ Gonda, 'Leaked document behind police hunt for diamond researcher', *SW Radio Africa*.

reasons international civil society would go on to allege, that Maguwu and the CRD were becoming a key source of information to the west, the media, and the public in Zimbabwe and beyond, on human rights abuses and smuggling in and around Marange. This evidence was a frustration for elites linked to Zimbabwean government delegates in the KP, and had led to Maguwu's harassment at the 2009 KP Plenary by Zimbabwean government delegates, and by the CIO in the weeks before Chikane's second visit.

Two weeks before Maguwu's meeting with Chikane, four plain-clothed CIO agents had visited the CRD's Mutare office. The visit came a day after the London-based newspaper *The Zimbabwean* detailed continuing smuggling from Marange, based on evidence from a CRD report. The NGO may well have drawn upon information from its same source in the downstairs Canadile offices that allegedly provided it with the JOC document. As the CRD held in a statement to *The Zimbabwean*,

Security loopholes at Canadile's plant in Chiadzwa are costing Zimbabwe about 2000 carats per day. Company employees have overtaken illegal panners and soldiers in supplying diamonds to local and foreign buyers, who descend on Chiadzwa daily in search of the precious stones. Many of the stones are stolen at the Density Medium Separator, popularly known as The Plant. There are no security cameras on the Density Medium Separator that separates diamonds from the soil.³⁹

According to the CRD, a South African national operating the Density Medium Separator was having a 'field day' illicitly removing diamonds from the machine. The CRD claimed it observed on average 60 buyers arriving in Chiadzwa on any given day, congregating at various business centres, buying from soldiers and Canadile employees. Canadile was said to be repeatedly firing staff for stealing diamonds, whilst two of its foreign directors were arrested in January after being caught moving 63 gemstone quality diamonds illicitly.⁴⁰ The company was failing

³⁹ G. Phiri, 'Dirty diamond deals', *The Zimbabwean*, 12 May 2010.

⁴⁰ *Ibid.*

miserably to formalise its operations; the CRD was producing knowledge about these failings, rendering the company as a knowledge object for intervention, drawing far more KP scrutiny than the company's ZANU-PF-state overseers would have wanted.

The four visiting CIO agents found the CRD offices closed, but questioned security guards. A week later, two CIO agents returned to the offices, wanting to question CRD employees about a documentary commissioned and produced by the South African Broadcasting Corporation (SABC), allegedly with the assistance of the CRD.⁴¹ As noted in Chapter Four, the SABC3 Eyewitness documentary had appeared in late 2009. It had detailed smuggling and human rights abuses, and included photographic and written record evidence from Mutare morgues. The CRD had indeed assisted in filming the documentary, which unbeknownst to many was funded by the US Agency for International Development (USAID). Again, this was knowledge production that senior ZANU-PF-state actors did not want to see. It underlined the lack of adequate regulation at Canadile, and also reinforced the 2009 human rights turn at the KP, which could lead to Zimbabwean state activity being made more visible on the international stage that was the KP space, and subsequently in a plethora of global spaces where human rights norms were upheld.

Four days later, Maguwu met Chikane at the Holiday Inn. Two days after the meeting, four CIO operatives and a dozen police officers from the Criminal Investigations Department (CID) arrived at the CRD offices. Security guards alerted employees, who quickly fled the building. One senior employee was arrested, questioned, and detained for nine hours, after returning

⁴¹ Human Rights Watch, 'Deliberate Chaos', p. 10.

to the offices later in the day.⁴² He was released without being charged, after his interrogators informed him they were looking for Farai Maguwu. Maguwu went into hiding, but soon decided to hand himself in, after police turned on his family.

Maguwu's arrest and public persecution would not likely have given rise to the disciplinary effects that it did, without the agency of his lawyers, whose own knowledge productions through texts disseminated in numerous email updates with hundreds of recipients, handed the western strategic alignment knowledge in the form of a usable narrative. As I have argued, the KP was itself a monitoring assemblage, but as soon as parts of this assemblage took on a human rights language, it became subsumed within the much vaster monitoring assemblage of the human rights ecosystem, introducing an array of ways in which Zimbabwean state actors might be rendered as knowledge objects and disciplined. Following Maguwu's arrest, the human rights monitoring assemblage began to proliferate in and around Marange. The soft-spoken Chikane could do little to stem it. He had made his own alignment plain to see, allowing his western KP critics to associate him with the pro-Zimbabwe bloc, and thus with the ZANU-PF-state, now a perpetrator reified anew.

Zimbabwean state actors spearheading Maguwu's persecution avoided any mention of the ZRP document. As argued above, this furthered the freedom of western actors to give the document whatever human rights spin they liked, without having to offset any counter-spin from the pro-Zimbabwe strategic alignment. After the CRD leader turned himself in at Mutare Central Police Station, his lawyers Tino Bere, Johane Zviuya, and Trust Maanda, all highly

⁴² *Ibid*, p. 11.

experienced human rights lawyers who had represented many individuals facing political persecution, found that the charges laid against him upon arrest were soon altered. Maguwu was always charged in terms of Section 31 of the Criminal Law Codification and Reform Act for alleged publication of falsehoods against the state with the intention or knowledge that this misinformation might prejudice the country's security or economic interests. Upon his arrest these falsehoods were alleged to have been published or communicated to the KP Monitor, yet when he appeared in court the charges made no mention of Chikane or the ZRP document. Indeed, it seemed that ZANU-PF-state actors knew what unwanted visibility the KP's monitoring assemblage could bring, and so they endeavoured not to involve it in any way in Farai Maguwu's case. Thus, the Prosecution cited, firstly, a 'March 2010 Progress report' obtained from Maguwu's residence, listing the names of nine security force members said to be involved in human rights abuses, and secondly, an email allegedly indicating that the progress report had been sent to Tor-Hugne Olsen of the Zimbabwe Europe Network (ZEN), Anton Dekker of the Netherlands Institute for Southern Africa (NIZA), and exiled Zimbabwean human rights lawyer Gabriel Shumba.⁴³

While Chikane and the Zimbabwean state remained silent about the significance of the ZRP document, and their opponents in the KP told another story, Tino Bere set about constructing the vital texts that would animate the KP assemblage with Maguwu's persecution, keeping his plight central to the KP's agenda up to and beyond the 2010 Tel Aviv Intersessional. Maguwu's treatment was not new or unusual, as far as Zimbabwean state practices were concerned, but Bere et al's performances, their moral posturing, and narrative construction,

⁴³ Bhunu J, 'Farai Maguwu versus The State' Bail application ruling, pp. 1 – 5.

sought effectively to set him apart. The outrage they whipped up on the international stage, and particularly among the western strategic alignment at the KP, was rooted in their production of knowledge and a compelling narrative in the face of a receptive KP monitoring assemblage.

Writing to Human Rights Watch about taking Maguwu's work forward, Bere set about reifying the Zimbabwean state as perpetrator, complicit in Maguwu's persecution all the way up to its highest echelons, whose interests were represented by Zimbabwean government delegates at the KP. He noted that Maguwu was likely to be absent at the upcoming Intersessional,

I believe there are meetings and conferences coming which have been robbed of Farai's participation. This is as planned by the authorities. Can ways be found to intensify presence of Farai in one form or another and advocacy for both his release and for his cause?⁴⁴

Human Rights Watch's Acting Africa Director Rona Peligal had responded to one of Bere's daily updates, asking what the international NGO could do to help. As Bere recalled, Peligal was one among 'a mailing list of over 1,000 people, possibly 2,000'.⁴⁵ He said he had to split the address list because his email server would not take so many names per email. Constructing a narrative for the KP assemblage, Bere's daily updates were sent out on most days, sometimes more than once a day, for the remainder of June, and well into July. Zimbabwean civil society was slow to take up Maguwu's cause, perhaps because of competition among civil society actors over who should monitor Marange and how it should be done, but also because Maguwu's case of political persecution was quite ordinary in the Zimbabwean context. As Maguwu's lead counsel, Tino Bere readily filled this gap. The text of Bere's email updates suggested that those authorities in charge of Maguwu gave Bere et al

⁴⁴ T. Bere, 'Re: Day 5 Update-Farai Maguwu in Court – 8th June@11am', 8 June 2010.

⁴⁵ Interview with T. Bere, Harare, 11 April 2014.

ample evidence with which to work, as he set about reinforcing the perception among the western strategic alignment that the attacks upon Maguwu were also attacks upon them, their positioning within the KP, and the human rights norms they championed there. Indeed, while Maguwu's case was not unusual, he was still in the custody of people who could do him serious harm, and by offering a useful narrative to a powerful set of western actors in the KP, Bere skilfully sought protection for his client.

Maguwu handed himself over to authorities on Thursday 3 June, after police abducted his nephew. So-called 'ransom arrests' were an increasingly popular police method of forcing individuals in hiding to hand themselves in.⁴⁶ Blessing Nyamaropa of Zimbabwe Lawyers for Human Rights (ZLHR) approached Mutare police about the nephew's detention, but fled after being threatened at gunpoint. As one of Zimbabwe's most high profile human rights lawyers, Bere then agreed to take on Maguwu's case, accompanying him to Mutare Central Police Station, after taking photographs of him so that any physical abuse subsequently meted out could be shown. On arrival at the station, Maguwu noticed his own car parked outside. The vehicle, his passport, other documents, and a laptop were all allegedly removed from his house and office without any official seizure notice. As Bere reported, Maguwu's first night in prison was without incident. However, the second, a cold winter night, the blanket he and several other inmates had over them was reportedly taken away. His lawyers said they found him shivering and feverish the next day, with a sore throat. Police did not allow any medical attention. Bere complained that no progress was made on the third day, no statement was recorded, no investigation appeared to be underway, nor was there any apparent readiness

⁴⁶ T. Bere, 'ALERT-ARREST & DETENTION OF FARAI MAGUWU-AT MUTARE on 3rd June 2010', 3 June 2010.

to take Maguwu to court, despite the fact that the legally set maximum of 48 hours of imprisonment without being brought before the court had been exceeded. Bere was convinced 'that the arrest was ordered from Harare and that it is malicious and that the delay in recording statements is intended to keep Farai in jail for as long as possible.'⁴⁷

The following day, a Sunday, Bere reported that Maguwu's lawyers rushed into the Mutare Central Police Station office, demanding that the NGO leader's rights be respected, after they received word that an Inspector Henry Dowa from Harare and his team had sought to have the NGO leader removed from his cell for interrogation. The interrogation went ahead, but Farai was returned unharmed, and it was announced that he would be taken to Harare for further investigation. Dowa's reputation as a torturer had been documented as early as 2004, when he was withdrawn from the United Nations Interim Administration Mission in Kosovo's (UNMIK) civilian police force, after British NGO Redress provided the mission with a dossier of affidavits and medical evidence detailing Dowa's history as a torturer.⁴⁸ Redress' findings were again disseminated after Dowa was connected to Maguwu's persecution, this time among members of the western strategic alignment at the KP.

Maguwu was transferred to Harare later in the day. His lawyers reportedly did a 'hot chase', chasing after his police transport to ensure he was not taken elsewhere to be tortured.⁴⁹ Bere said they arrived at Harare Central Police Station over an hour before Maguwu, however, later discovering that on the way he had been taken to Mutare General Hospital, where he was

⁴⁷ T. Bere, 'DAY 3 – FARAI MAGUWU DETENTION UPDATE-5 JUNE 2010 @9pm', 5 June 2010.

⁴⁸ The Redress Trust, 'The Case of Henry Dowa: The United Nations and Zimbabwe under the spotlight', January 2004.

⁴⁹ Interview with T. Bere, Harare, 11 April 2014.

finally medically examined, but by a nurse not a doctor. He was said to have tested negative for malaria, but was diagnosed with tonsillitis. Pain killers, antihistamines, and antibiotics were prescribed. Bere noted that Maguwu's lawyers purchased the medical supplies, and arranged with authorities that the lawyers would keep and administer the prescriptions to Maguwu on each of their regular visits. Visiting him at Harare Central Police Station on the Monday, Bere claimed that they found authorities were seeking his permission to access records inside a confiscated CRD laptop, which they did not have a password for. After consultation with his legal team, Maguwu declined, arguing that he was not the owner of the information, whilst Bere et al questioned the legality of the request.⁵⁰

Maguwu finally appeared at Harare Rotten Row Court on Tuesday 8 June, where his Defence objected unsuccessfully to him being kept on remand, and the State maintained it was not ready to proceed. Bere bemoaned its deliberate time-wasting, even if this was a standard practice human rights lawyers had to deal with when defending individuals on trial due to their perceived political affiliation.⁵¹ The following day, the Prosecutor called on investigating officer Detective Inspector Dowa to give evidence. As Bere observed, Dowa appeared to think it was a criminal offence to criticize Zimbabwe, or as the Detective Inspector called it, to make a living by 'demonizing' the country.⁵² A string of objections made by the Defence and sustained by the Magistrate reportedly led an exasperated Prosecutor to call for a five minute adjournment, which began with a confrontation between her and members of the Defence, during which she threatened not to return to Court that day and held that their client would

⁵⁰ T. Bere, 'Day 5 Update-Farai Maguwu in Court-8th June @11am', 8 June 2010.

⁵¹ S. Verheul, "'Rebels' and 'Good Boys': Patronage, Intimidation and Resistance in Zimbabwe's Attorney General's Office after 2000', *Journal of Southern African Studies*, 39:4 (2013), p. 780.

⁵² T. Bere, 'Day 6 Update-Farai Maguwu finally Appears in Court', 9 June 2010.

'rot in jail'.⁵³ Court resumed over an hour later, and to their purported dismay Maguwu's counsel then observed a greater leniency toward the Prosecution on the part of the Magistrate, who allowed questions overturned during the previous session. Bere's account of the proceedings continued to construct a narrative of outrage. Inspector Dowa found himself at liberty to proceed however he liked, Bere wrote,

Even hearsay was admitted and the police officer testified for all the imaginary witnesses he said existed. He even had the freedom to refuse to answer questions put to him, answer his own questions and continue making submissions like the state counsel when asked to just answer questions. To crown it all he even had the temerity to point threatening fingers at defence counsel when confronted with difficult questions. Despite being made to apologize, his demeanour did not improve and the proceedings became anything is acceptable. We endured it maturely and focused on the job of shredding the weak case. We should not have taken the outbursts for granted.⁵⁴

The following day, bail was denied, and Maguwu was placed on remand till 23 June, the day the KP Intersessional in Tel Aviv was scheduled to end. If ZANU-PF-state actors were seeking to shape knowledge production through the KP assemblage, by keeping Maguwu out of the Intersessional space when Marange was close to acquiring KP certification, Bere played a key part in constructing a narrative that would see these state actors fail spectacularly.

The arrangement wherein the lawyers were supposed to administer Maguwu's medicine appeared to have changed. Prison officials had allegedly removed his medication, disrupting the antibiotics course. Bere noted that he was forced to pursue a court order that Maguwu be allowed to resume his medication. Maguwu's counsel also set about making a High Court bail appeal, but as they waited on the weekend to file their papers, and after Bere and Zviuya

⁵³ T. Bere, 'Day 8 update-FARAI MAGUWU-placed on REMAND, BAIL DENIED: Thu 10/06/2010', 10 June 2010.

⁵⁴ *Ibid.*

returned temporarily to Mutare, they received news from friends and relatives of Maguwu that he had been taken on Friday night from Harare Remand Prison to Mbare's notorious Matapi Police cells, where Detective Inspector Dowa was based. On receiving the news, Trust Maanda was said to have hurried to Harare Remand Prison to investigate. When their fears were confirmed, he carried on to Harare Central Police Station, where he was joined by Beatrice Mtetwa, another high-profile Zimbabwean human rights lawyer. As Bere explained in an agitated email update,

We prevented Farai's possible torture or harassment last week by being present at almost all normal times and at the police station. We stopped the costly surveillance and visits because normally once remanded the Police no longer have control or access to the accused.

But Zimbabwe is not normal and so anything is possible. We noted the exasperation of the police with our constant high powered presence at the side of Farai and are not surprised (just infuriated) that they have acted as they did.⁵⁵

If any harm was done to Maguwu's rights or person, Bere warned, the lesson would be that the country's courts did not act to 'protect the innocent'. Having made little reference to the KP Monitor in his previous reportage, Bere was now faced with his client's worsening plight, and the likelihood that Maguwu would be kept from attending the Tel Aviv Intersessional. Bere needed to construct and disseminate a narrative, he needed to produce knowledge, which drew increasing western censure and KP scrutiny towards Maguwu's case, thereby bringing disciplinary power to bear upon Zimbabwean state representatives and their allies at the KP. He duly heaped extensive scorn on Chikane, whose character would subsequently become a key target for human rights pressure exerted by western KP actors at the upcoming

⁵⁵ T. Bere, 'DAY 9 & 10 UPDATES & FARAI MAGUWU ILLEGALLY TAKEN FROM REMAND PRISON Friday Night! Sat 12/06/2010', 12 June 2010.

Tel Aviv Intersessional. 'I hope this Abbey Chikane can sleep in peace every night knowing that an innocent human rights defender is daily being persecuted,' Bere exclaimed,

the mouth that brought alarm is being silenced before any transparent or thorough inquiry into the allegations. Chikane made the allegations and the authorities have given Farai no peace ever since. In the meantime Chikane continues a relentless personal and unfounded media attack on an innocent defenceless incarcerated human rights defender. The authorities bolstered by Chikane's public support have put maximum resources to imprison and silence Farai and announced not a single independent or judicial inquiry into these serious allegations. If any sort of weight is placed on what Chikane is advocating then it will be a shame to all concerned including the Kimberley Process community. I hope Chikane can look at himself in the mirror and feel proud.⁵⁶

Later on that Saturday, Bere sent out another update, designed to arouse greater urgency among western KP actors, and direct intensifying anger towards the character of Abbey Chikane. Bere reported that Dowa was interrogating Maguwu 'on specific allegations of what he allegedly said or gave to Chikane! Farai has denied that he ever gave any false testimony or false documents to Chikane and maintains his innocence':

He believes his persecution is a cover up of deeper wrongs done in Chiadzwa and that Chikane acted wrongfully and unprofessionally by agreeing to consort and collude with Zimbabwe authorities to tarnish the image of the sole voice of the people over Chiadzwa, the Centre for Research and Development. If there was ever a doubt of the KP Monitor's role in Farai's arrest then today is proof. Dowa told our team that he is still going to South Africa to meet Chikane after they are done interrogating Farai Maguwu.⁵⁷

Bere constructed and widely-disseminated a heroic narrative of human rights lawyers battling Zimbabwean state oppressors, the latter aided by the KP Monitor in persecuting a prominent Zimbabwean human rights figure in a way that was exceptional and alarming. On the contrary, it was common for Zimbabwean human rights monitors identified as opposition to the ZANU-

⁵⁶ *Ibid.*

⁵⁷ T. Bere, 'Farai Maguwu interrogated over interview with KP Monitor CHIKANE-Lawyers barred! Sat 12/06/2010', 12 June 2010.

PF-state to find themselves at the mercies of a judicial system increasingly plagued by political patronage in post-2000 Zimbabwe.⁵⁸ Yet, Bere et al needed to whip up international outrage in the arduous struggle for their client's freedom. They needed leverage from further afield, the much-cited 'boomerang effect', which could of course lead to disciplinary effects.⁵⁹ Bere endeavoured to render Zimbabwean state human rights practices with respect to Maguwu and Marange as an object of knowledge that told a particular story, hoping that this knowledge would be drawn into the KP monitoring assemblage, thereby giving rise to a disciplinary power that might aid Bere et al and come to Maguwu's rescue. For this to happen, Bere needed to do everything in his narrative-making power to 'mobilise' western KP actors.

While Maguwu's situation appeared to deteriorate, Bere pressed on with his narrative. He said Maguwu's lawyers were barred from NGO leader's interrogation, and reported that the interrogators threatened to physically harm Maguwu if he did not cooperate with their questioning. Bere also reported that Maguwu was visited late at night by a heavily-built senior official who he had not seen before, and who also physically threatened him.⁶⁰ He was back at Harare Central Police Station on Monday 14 June, and someone bringing food for him reportedly caught a fleeting glimpse of him seemingly in adequate health. Having been moved to Harare Remand Prison on the Tuesday, he was at the High Court on Wednesday, where the Prosecution sought to postpone his bail appeal hearing to the Friday.

⁵⁸ Verheul, "Rebels" and "Good Boys", p. 781.

⁵⁹ M. E. Keck and K. Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Cornell University Press, 1998), p. 12.

⁶⁰ T. Bere, 'DAY 15- UPDATE-FARAI MAGUWU Bail postponed to 21 June 2010-Farai In Hospital',

Justice Bhunu allowed for postponement of the bail appeal till Thursday, but, in agreement with Maguwu's counsel, ordered an immediate medical examination by a medical doctor of Maguwu's choice. On Thursday, Judge Bhunu postponed the case for ruling till Monday 21 June, while Maguwu was admitted to a clinic. According to Bere, his condition had worsened and it was determined that he would need to go into surgery for a tonsillectomy. Bere reported that one of his three police guards in the clinic sought to keep him in leg irons and chains as he lay on his sick bed, until hospital personnel insisted they be removed before surgery.⁶¹ While the surgeon stated that Maguwu would need ten days to fully recover, he was scheduled to be discharged two days later, in line with a prison's request. Bere said he and Maguwu protested vociferously, arguing that his post-operative recovery should not be placed in the hands of the authorities whose actions had led him to be operated on in the first place. Yet, on Monday 21 June, Maguwu found himself discharged to prison hospital and his bail appeal thrown out by the High Court.

The texts of Judge Bhunu's court performances provided an alternative, ZANU-PF-state narrative to Bere's email updates, criminalising Maguwu as an unpatriotic traitor, who conspired with the west, fabricating information that undermined Zimbabwean sovereignty. The Judge's ruling on Maguwu's bail appeal quoted the CRD's 'March 2010 Progress Report' at length, citing claims that 15 victims of security force violence in and around Marange had been identified in February 2010, some bitten by dogs, some shot, some assaulted. Victims had been interviewed and their testimonies recorded. Furthermore, the CRD report produced a list of eight security force perpetrators. These findings all featured as an excerpt within the

⁶¹ T. Bere, 'DAY 14- UPDATE-FARAI MAGUWU BAIL APPEAL FRUSTRATED by AG-MEDICAL EXAM ORDERED', 17 June 2010.

judgement, which also noted that the report had referred to treatment of victims in hospitals and clinics, bodies in mortuaries, as well as the sighting of graves. And yet, without scrutinizing these findings and observations any further, Judge Bhunu produced an extraordinary finding of his own:

It is common cause that the above report contains *prima facie* false statements as no one has suggested that the statements are true or has reason to believe that the statements may be true.⁶²

These ‘false statements’ within the March report were juxtaposed with an email that was sent to Maguwu from ZEN’s Tor-Hugne Olsen, allegedly as a response to the report. The email was a compelling example of international NGO efforts to support the human rights monitoring capabilities of local NGOs. Its author noted that some of the assaults described might constitute torture, and asked whether the CRD had any training in identifying what constituted torture, as opposed to assault. It asked for figures to better substantiate findings that certain communities had experienced an increase in human rights violations, and it asked the CRD to differentiate between ‘human rights violations (as in committed by the state and its apparatus, i.e. ZRP)’ and ‘human rights abuses (committed by non-state actors, individual, terrorist groups etc)’.⁶³ Having observed the report and the email, the judge upheld the magistrate’s prior assertion, that

investigations in this matter are still pending and this offense is of a serious nature. As a result the reliance on bail by the accused at this stage will not favour the interests of justice because investigations are not yet complete. As such there is a risk that the accused will interfere with investigations.⁶⁴

Judge Bhunu concurred with the magistrate about the nature of the offence,

punishable by up to 20 years imprisonment is undoubtedly a serious one. The state alleges that the appellant makes a living out of publishing false information

⁶² Bhunu J, ‘Farai Maguwu versus The State’ Bail application ruling, p. 5.

⁶³ *Ibid*, pp. 4 - 5.

⁶⁴ *Ibid*, p. 6.

detrimental to his own country. That kind of behaviour if proved is treacherous and abominable particularly in these times of economic strife.⁶⁵

The magistrate had conceded that once investigations were completed he saw no reason why Maguwu should not be granted bail pending trial. Yet the Judge was of the opinion that investigations were still in their infancy, and while he said police should not arrest in order to investigate, they had sufficient evidence at their disposal to place the appellant on remand. 'All what they need to do is to complete their investigations without interference or the ends of justice being compromised.'⁶⁶ 'Haggling' before the High Court over whether or not investigations were already complete should not have been a subject of appeal, the Judge said, but an issue to be placed before the magistrate.

Noting the Defence's arguments that the appellant had been ill-treated, denied access to medical attention, and unlawfully removed from remand prison, the Judge maintained that 'neither this Court nor the lower court could condemn either the police or the army upon the defence's mere say so without concrete evidence and before they have been heard.'⁶⁷ Indeed, 'the mere alleged misbehaviour of some overzealous state agents cannot be the basis upon which the granting or denial of bail can be assessed'. Further to this, the courts had already ruled that the appellant receive the requested medical attention, meaning that the denial of medical treatment could not be posited as grounds for bail. Finally, the Judge rejected the Defence's argument that the case against Maguwu was weak, 'having regard to the concrete

⁶⁵ *Ibid.*

⁶⁶ *Ibid*, p. 7.

⁶⁷ *Ibid.*

documentary evidence' of the two documents previously referred to. In the Judge's view, 'the available evidence points to a strong case against the appellant.'

Maguwu's bail appeal was accordingly dismissed by the High Court. That same Monday, also the day that the KP Intersessional began in Tel Aviv, he found himself removed from hospital against his will and against the judgement of his nursing staff, after authorities prevailed upon his surgeon to discharge him, allowing a prisons doctor to take over with post-operative care. His family found him alone outside the clinic, according to a Bere email, a lowly figure writhing with abdominal pain and calling for help, until prison authorities arrived to take him away.⁶⁸

In the detail of Bere et al, the Prosecution, and Bhunu's performances in and around the Maguwu court case, lay competing discursive strategies. Bere et al's was designed to draw the ire of local and international human rights NGOs, to attract the geopolitical opportunism of western governments, and provoke those parts of the global human rights assemblage that might reach through the KP and encroach increasingly upon Zimbabwe. Indeed, the KP monitoring assemblage was crucial to Bere's strategy of narrative construction. Maguwu's unusual positioning with respect to the KP offered Bere et al a rare opportunity, an exceptional moment through which to achieve a disciplinary, boomerang effect from afar. ZANU-PF elements in the Zimbabwean state moved to discredit and constrain Maguwu much as they did others like him. Yet, the way they carried out these manoeuvrings could be depicted as a crude lapse in human rights discipline in and around Marange, which no court performance from the Prosecution and Bhunu, no narrative of criminality, unpatriotic

⁶⁸ T. Bere, 'DAY 19-Update-Farai Maguwu Bail Ruling: Mon 21/06/2010 21:52', 21 June 2010.

betrayal, and fabrication, could conceal and counter upon the international state and within the KP space, where a monitoring assemblage was poised to take on this particular case, introducing extraordinary possibilities in the exercise of disciplinary power.

A KIMBERLEY PROTEST

Maguwu's persecution gave rise to significant disciplinary power because, through Bere et al, it provided a powerful monitoring assemblage with substantial evidence of human rights violations, including confiscation of belongings without warrant, detention without trial, denial of adequate medical treatment, intimidation, and illegal removal from remand prison. Bere's daily reports reproduced this evidence in detail before a sizable global audience, many of whom were part of the KP assemblage where there was a specific interest in this narrative, which so emphatically reified the Zimbabwean state as perpetrator.

There was little doubt the orders for Maguwu's persecution came 'from above', meaning that ZANU-PF elites were directly complicit, and that previous accusations levelled at the JOC with little evidence now carried much more weight than before. As a result, direct complicity was portrayed as across-the-board, from JOC elites overseeing proceedings from a distance, silencing an activist who had leaked an internal text of theirs, to Judge Bhunu's decision, so patently biased in its handling of evidence, to the Prosecution looking to deny bail and threatening to have Maguwu 'rot in jail', to the police and CIO agents entering his house and CRD offices, moving him out of his allocated cell for interrogation and intimidation, and overlooking his declining health. These acts of persecution stimulated the global human rights monitoring assemblage, as parts of it advanced through the KP assemblage.

Maguwu's persecution quickly became part of the mounting corpus of knowledge production on Zimbabwean state culpability in and around Marange, rousing the disciplinary power of human rights surveillance. It was the means by which the human rights assemblage could impose itself upon proceedings in Tel Aviv. The Tel Aviv Intersessional began on 21 June 2010, the same day Maguwu's bail appeal was rejected and he was taken away to prison hospital. The opening of the Intersessional saw a cascade of performances that invoked human rights values and bemoaned Maguwu's plight. Annie Dunnebacke of Global Witness delivered civil society's opening remarks, lamenting the need to make a speech she should not have to make. A dark cloud hung over the KP's work this particular week, she said, one that took precedence over every other agenda item or question up for discussion at the Intersessional,

As you will be aware, a member of our civil society delegation is missing today.

Farai Maguwu, Director of the Zimbabwean NGO the Centre for Research and Development, today enters his 19th day of detention in Harare. His crime? Researching and publishing information about events in Marange – providing information to the Kimberley Process and working to uphold the standards and values that underpin this scheme, and this meeting.⁶⁹

By standards and values, Dunnebacke referred explicitly to human rights norms, as if the KP had always embraced them. Dunnebacke emphasized the tripartite nature of the KP, and a symbiosis between governments, industry, and civil society. Some referred to civil society as the 'moral compass' of the KP, she said, and indeed civil society was often its 'public face' in the absence of a central KP administrative mechanism with a press office. Much of the daily work carried out by the NGOs of KP civil society entailed vouching for the relevance of the KP, and maintaining a commitment to it. Yet the previous months had brought unprecedented challenges. According to Dunnebacke,

⁶⁹ A. Dunnebacke, 'Civil Society opening remarks', 21 June 2010.

Since the crisis in Zimbabwe's diamond sector first came to the public's attention, civil society has faced ever more questions and incomprehension from NGOs, from consumers, and from diamond industry members. They simply don't understand. Why isn't the KP doing anything about the bloodshed in the Marange diamond fields? What's the point of the KP if it's not about human rights, they ask?

It has become increasingly difficult for us to answer these questions. It has become even more difficult for us to explain why we are still at the table, as the principles we fought so hard for are cast aside, as one of our colleagues rots in jail.

We won't be able to make excuses for the KP, or for our role in it, for much longer – we cannot, and will not, be complicit in the trampling of human rights. We will not stand by as the KP's commitment to halting violence fuelled by diamonds is ignored.⁷⁰

According to Dunnebacke's narrative, the members of the KP now needed to demonstrate their commitment to the organization's tripartite structure, to 'the full and unfettered participation of civil society in all aspects of KP work' on both a global and national level. Indeed, members needed to open themselves up to increasing human rights surveillance. Zimbabwe's government needed to release Maguwu immediately and unconditionally, allowing the CRD to carry on with its monitoring efforts unhindered. Dunnebacke emphasized that the KP had been created 'with one very clear reason in mind – people were dying because of diamonds, and the world demanded action.' This was still the KP's most important aim, she argued, and one that could not be cast aside because of political expediency, and certainly not at the current juncture, as the KP found itself at a crucial crossroads.

A KP Civil Society Coalition joint statement that coincided with the beginning of the Intersessional set out the coalition's demands most clearly. It began by outlining the story of Maguwu's persecution, which drew directly on Tino Bere's narrative. Maguwu had been jailed two weeks before, and since then Zimbabwean authorities had repeatedly blocked his access

⁷⁰ *Ibid.*

to lawyers, medication, and food, while also obstructing and delaying bail hearings.⁷¹ His plight, the statement insisted, had arisen because of actions taken by the KP Monitor, whose credibility was now compromised. KP civil society therefore called for Abbey Chikane's suspension as KP Monitor, suspension of the monitoring arrangement for Marange agreed upon as part of the JWP, and suspension of Zimbabwe until there was evidence that human rights abuses in the diamond field had ceased and Zimbabwe was fully compliant with KP minimum requirements.

Partnership Africa Canada and Global Witness' suggested that their continued membership of the KP, as the two NGOs leading KP civil society might be withdrawn. This was the brinkman-like impression KP civil society gave, as the Tel Aviv Intersessional saw it move into a position of greater strength. The dynamics at play were alluded to at a round-table discussion held at Tel-Aviv University, addressing government and corporate environmental and social responsibility in Africa, which coincided with the Intersessional, and was attended by Human Rights Watch and Amnesty International, key components of the broader human rights monitoring assemblage, which had become increasingly attached to the KP assemblage. After the KP crisis came up as a subject of discussion, a student asked why civil society chose to keep within the KP if the organisation had repeatedly failed in its purported mandate. The possibility of exit was indeed an industry worry. Dunnebacke had certainly insinuated such a threat at the Intersessional opening, yet Human Rights Watch Associate Director Carrol Bogert suggested a distinctly different scenario in response to the student. 'The KP is all we have,' said Bogert. Reuters and numerous Israeli newspapers had approached her on the

⁷¹ *Diamond Intelligence Briefs*, 'KP Civil Society Coalition Demands Release of Zim NGO Activist, 22 June 2010.

Intersessional's first day, asking her about Zimbabwe, 'Do you think they would find me to talk about human rights problems in Zimbabwe when there isn't a KP Intersessional meeting? The answer is no.'⁷² As Bogert explained, Human Rights Watch had limited channels through which to get its messages across to the global public, and an institution like the KP provided a vital space in this regard. The KP was a space where human rights norms could be cultivated. When global media approached NGOs at the KP, these media actors became a part of the global human rights assemblage, reproducing NGO knowledge production about a human rights violator, together with the human rights norms embedded in the story. In this regard, the KP together with Maguwu's persecution offered these NGOs new ground to gain.

Opening statements from other KP participants on 21 June showed that KP civil society actors were wielding increasing disciplinary power, that industry was also taking on the norms and knowledge productions that Bere et al had introduced, which amounted to upholding human rights as a founding KP value. KP Chairman Boaz Hirsch gravitated towards KP civil society's position, committing himself to guarding

the fine equilibrium between, on the one hand, the production of rough diamonds and their contribution to the creation of prosperity, and on the other hand, defending the fundamental respect for human rights, as stated in the core documents of the Kimberley Process.⁷³

Hirsch seemed to imply that one had to be partially sacrificed for the other, but this acknowledgement of human rights nevertheless signified the possibility of new human rights gains. Hirsch went on to emphasize the three pillars of the KP, namely governments, industry, and civil society, before acknowledging recent events that could not be ignored. Maguwu's arrest, he said, had created 'a whirlpool of negative emotions and high tensions among our

⁷² R. Segal, 'Despite Hints of Divorce, KP Family Won't Likely Separate', *Diamond Intelligence Briefs*, 22 June 2010.

⁷³ *Diamond Intelligence Briefs*, 'KP intersessional meeting commences in Tel Aviv', 21 June 2010.

participants, that threaten to deviate us from the agreed route towards an applicable solution in regard to exports of rough diamonds from Marange'. He cautioned that the Intersessional faced difficult decisions, which would have a considerable effect on the global diamond trade, and which would require KP participants to show 'maturity and flexibility'. What these warnings meant exactly was still up in the air, but KP civil society could see the disciplinary power that Maguwu's persecution was giving rise to, and the new discursive space it opened.

Annie Dunnebacke's position also found strong support from WDC President Eli Izhakoff. In his opening address, he stated:

Our goal as human beings is to ensure that the citizens of Zimbabwe are able to go about their lives without their basic rights being violated. It is for this reason that the World Diamond Council raised its voices to demonstrate against the recent detention by the Zimbabwe authorities of NGO activists. This clearly was an uncalled for and patently unjust attempt by the country's government to suppress criticism. Such actions need to be condemned clearly and without equivocation.

We call today for the immediate and unconditional release of Farai Maguwu.⁷⁴

Diamond business magnate Martin Rapaport took a harder line, seeking to represent an American consumer audience that was more human rights aware and more informed about the influx of Marange's diamonds into the 'licit' market. He embarked on a hunger strike outside the Intersessional doors, subsisting on water alone, while protesting that the KP was 'aiding and abetting severe human rights violations as it certifies, legalizes, and legitimizes blood diamonds', like 'a kosher restaurant selling ham sandwiches!'⁷⁵

⁷⁴ E. Izhakoff, '2010 Inter-sessional meeting of the Kimberley Process', 21 June 2010.

⁷⁵ R. Friedman, 'Diamond magnate goes on hunger strike', *The Jerusalem Post*, 23 June 2010.

Despite hours of negotiations, some that went late into the night and one session that went until 6am, the Tel Aviv Intersessional remained deadlocked over whether to certify Marange diamonds and allow for the resumption of exports. Partnership Africa Canada later remarked that while it was ‘an imperfect result, it was also a principled victory of sorts for those who feel the KP has increasingly lost touch with its founding principles’.⁷⁶ Much of the negotiations revolved around the KP Monitor and his findings. Chikane presented his second fact-finding mission report, claiming that Zimbabwe had ‘satisfied minimum requirements of the KPCS for the trade in rough diamonds’, and recommending that he return to Zimbabwe to begin certifying diamonds for export, in effect poisoning Marange for unrestricted export of past, present and future production. However, it was up to the WGM to make the decision, and it was during the meetings of the WGM at Tel Aviv that protracted, unresolved negotiations took place, as civil society representatives within the WGM as well as western governments, the US, Canada, and Australia in particular, took issue with Chikane’s findings and his legitimacy as KP Monitor for Marange.

Pushing the same three-dimensional framing of Marange noted earlier, the western KP bloc argued that the Monitor had not done enough to acknowledge the involvement of Zimbabwean security forces in illegal mining syndicates, smuggling, and violence. He had turned a blind eye to state culpability. The views he presented, such as those on an acceptable rate of demilitarization, tended to echo those of the Zimbabwean government, and his scrutiny was directed overwhelmingly at the question of compliance within the very limited context of Mbada and Canadile’s concessions, rather than the ‘97% of Marange outside’.⁷⁷

⁷⁶ *Other Facets*, ‘The Road to St. Petersburg: Dead-lock near the Dead Sea’, August 2010, p. 1.

⁷⁷ *Ibid*, p. 2.

Furthermore, the Monitor was accused of complicity in Farai Maguwu's persecution, having chosen to meet Maguwu in a public space in the presence of security agents, before handing a restricted military document allegedly given to him by Maguwu to state officials. Disagreeing with Zimbabwean government KP delegates over the validity and legitimacy of the Monitor for Zimbabwe's work, the western KP bloc also called for a forensic audit of all diamond stockpiles in Zimbabwe, and a KP Review Mission to Marange to examine the country's progress on all aspects of the JWP. The KP Monitor's responsibilities should be reduced. Both the audit and the Review Mission report should be positive for Marange exports to be given the go-ahead. Mbada and Canadile could be declared provisionally compliant as of 23 June, thus allowing the mines to make a single export only of goods produced after that date.⁷⁸

Zimbabwean government delegates argued that the Monitor's findings be accepted without reservation, that he certify an initial export of two million carats mined since late March 2010, and soon thereafter a second export containing stockpiled stones from as far back as 2007. Heading the Zimbabwe government delegation, Mines Minister Obert Mpofu also encouraged a rumour circulating at the Intersessional, that KP civil society had sought a one percent cut of Marange diamond export revenue in exchange for its agreement that the exports be certified. 'They say my diamonds are blood diamonds that cannot be exported,' Mpofu scoffed, 'But if we give them one percent, then, suddenly, these blood diamonds can be traded. That is extortion, pure extortion.'⁷⁹

⁷⁸ C. Even-Zohar, 'Needless Noise Over a One Percent Mistake', *Diamond Intelligence Briefs*, 29 June 2010.

⁷⁹ *Ibid.*

KP civil society rejected these claims, claiming that the rumours stemmed from a late night negotiation during which the idea was floated of using one percent from future diamond sales to set up a protection fund for Zimbabwean civil society. According to KP civil society, the idea 'was never formally put on the negotiation table by civil society groups, or anyone else, and at no point in the informal discussions was it posited as a condition for the resumption of diamond exports'.⁸⁰ *Diamond Intelligence Briefs* maintained that the idea had been part of a so-called 'non-paper', diplomatic jargon for an unofficial message, the existence of which could later be denied. The non-paper was reportedly discussed at length at the WGM negotiations, with the one percent proposal receiving enough support to be passed on by the WGM to the KP Chair as a possible recommendation, which ultimately was not adopted. As the recommendation read,

In light of the concerns with respect to the status and safety of civil society, and in recognition of the contribution provided to the Working Group on Monitoring by civil society in implementation of the Joint Work Plan, the KP should strongly urge that the investors at Mbada and Canadile set aside 1% of the net proceeds of the revenues earned from the export of rough diamonds to the creation of a civil society protection fund in Zimbabwe.⁸¹

Diamond Intelligence Briefs noted that the one percent proposal and the non-paper containing it entered negotiations after the US, joining WGM proceedings as a third party, had introduced new elements for discussion. The insinuation was that the idea was both NGO and US-backed.⁸²

Diamond Intelligence Briefs editor Chaim Even-Zohar's partialities hardened against the US and NGOs at the KP, as he became increasingly aligned to the pro-Zimbabwe KP alignment.

⁸⁰ Global Witness, 'Global Witness and PAC reject Zimbabwe diamond bribe allegations', 28 June 2010.

⁸¹ Even-Zohar, 'Needless Noise Over a One Percent Mistake', *Diamond Intelligence Briefs*, 29 June 2010.

⁸² *Ibid.*

His own interests were unclear, but as he opined, the US was legally bound to economic sanctions against Zimbabwe with the objective of achieving regime change,

Their hatred for, and disgust with, the Mugabe regime is as genuine as it is intense. The United States would never agree to the resumption of Marange rough diamond exports. Out of concern for industry or to prevent a total collapse of the KP system, it might 'abstain' and look the other way in the very best of circumstances.⁸³

According to Even-Zohar, the US had delivered the 'final blow' to negotiations by making a last-minute push for Zimbabwe's suspension. The US, he argued, had used the NGOs tactically by communicating to them that it would not support any compromise position they did not support. 'This total alignment between the US position with whatever the NGOs would decide created an unprecedented NGO empowerment out of any proportion and unparalleled in the history of the KP.' This coalition between the NGOs and the US was more than a 'shared ideology', it also reflected 'a financial reality', wherein NGOs received government funding, in this case from the US and Canada, to do campaigning that these governments could not do entirely themselves. Turning to one of Global Witness' funders, Even-Zohar noted that while the UK government was restrained from pursuing its own position because it was represented by the EU, De Beers had certainly been warned in London against its Sightholders purchasing Marange diamonds. The UK's position was almost identical to that of the US, said Even-Zohar, who appeared increasingly impatient with the symbiosis he saw between KP civil society and certain western governments. In Even-Zohar's view, KP civil society representatives needed the KP more than the KP needed them. A government-industry partnership was a realistic scenario. NGOs had 'clearly crossed the line', presumably by dominating Intersessional proceedings, permeating them with human rights speak to the point that many KP members

⁸³ *Ibid.*

felt uncomfortable and threatened. This 'crossing of the line' was about the minority holding the majority to ransom, Even-Zohar implied. He pointed to the muted response KP civil society presentations received at the main plenary during the Intersessional, and claimed that their government allies in negotiations, the US, Canada, and Australia, were the minority blocking progress towards Zimbabwe's certification.⁸⁴

The one percent proposal was controversial because it seemed to suggest that local NGOs were entitled to profit from mining in Marange, an arrangement unbecoming of civil society organisations describing themselves as not-for-profit. Yet, while Even-Zohar would make much of KP civil society's indiscretion in allowing for such an idea to circulate during negotiations, the proposal was about protecting civil society, and, more broadly, about preserving and cultivating a human rights monitoring assemblage that reached into Marange. Even-Zohar was siding with the pro-Zimbabwe alignment, and reproducing the discursive strategy that would eventually work for it, that all the western human rights speak was not about human rights concerns, but about geopolitical concerns.

Yet, even as Even-Zohar shifted alignment, he simply could not defend Maguwu's persecution, and it was here again that the influence of ZANU-PF's 'disciplinary lapse' upon the course of proceedings was so evident, offering KP civil society's human rights language a pervasiveness in the KP space that proved impossible to dislodge. As Even-Zohar conceded, Maguwu's continued persecution was an 'important contributory factor for the KP deadlock'. A KP civil society activist simply could not be jailed for doing his job. There was broad

⁸⁴ *Ibid.*

consensus, he said, among all KP participants, at least among the WDC and NGOs, that Maguwu's unconditional release was a prerequisite for progress on Zimbabwe. This was a non-negotiable demand, so much so that it hardly featured in negotiations, and, much to Even-Zohar's chagrin, gave the NGOs, the US and its two 'automatic satellites' in Canada and Australia, the freedom to not agree to anything.

CONCLUSION

As demonstrated at an extraordinary KP summit at St. Petersburg the following month, held as an adjunct to the WDC's 7th Annual Meeting, Farai Maguwu's persecution became a western means of blockage, a ganglion of knowledge that swelled and distracted from a complex set of questions around what the KP should do with the Marange diamond trade. As long as Maguwu was incarcerated, human rights speak would not die down within the KP space, and as knowledge of his plight was dispersed outward into the wider human rights ecosystem, neither would the threat to the legitimacy of the KP and the diamond cartel, brought upon the industry by the Zimbabwean state's 'ill-discipline', and the western strategic alignment's brinkman-like focus upon it. Disciplinary power came to bear, and Maguwu was released the day before the St. Petersburg summit began. This was without doubt a necessary condition for progress on Marange, but once it was out of the way, the foremost members of the western strategic alignment, deserted by a diamond hungry EU, began to see a waning of the wind in their sails. Their helpful targets for pursuing human rights norms, the perpetrators they would need to continue reifying to further their leverage at the KP now began to fade, with just a pro-Zimbabwe strategic alignment that remained, rejecting the call for human rights policy reform because it was geopolitically motivated. The more the western strategic alignment opposed Zimbabwe's certification, now that ZANU-PF-state actors were self-

disciplining along human rights lines in and around Marange, the more it would appear that this alignment's driving motives had never been about human rights for their own sake.

ZANU-PF state elements had altered their selective self-discipline, and would now begin to reap the rewards. Despite high level US and Australian envoys dispatched to St. Petersburg, tasked with joining civil society representatives in calling for deeper KP concerns over human rights to be addressed, an agreement was ultimately reached, which like the JWP made no explicit reference to human rights, and reached a series of agreements that were almost entirely rooted in orthodox KP formalisation concerns. A forensic audit report of production and sales from 2007 to late 2009 was to be carried out, as well as a general KPCS audit from late 2009 to mid-2010. A follow-up KP Review Mission would be sent to Zimbabwe later in the year to assess implementation of the JWP, and the supervised export mechanism, which the KP Monitor would continue to oversee, himself making two visits later in the year, paving the way for two supervised Marange exports. The closest the St. Peterburg agreement came to acknowledging human rights, was in observing that Marange's demilitarization was ongoing, that the Zimbabwean government fully recognized the key role of civil society in the operation of the KPCS in Zimbabwe without fear of reprisal, that the government would keep the KP abreast of Maguwu's ongoing case, and allow for a KP local focal point representing civil society to monitor in Marange 'free and unfettered'.⁸⁵ Given the KP policy mandates that had previously given rise to human rights speak and discipline, despite being rooted in a language of formalisation, these were substantial allowances, which marked an advancing of

⁸⁵ Kimberley Process, 'Report of the follow-up review mission to Zimbabwe, 9 to 14 August 2010', Annexure B, p. 81.

KP monitoring mechanisms that would readily produce knowledge along human rights lines, were Zimbabwean state actors to show indiscipline in and around Marange.

Indeed, human rights surveillance of Marange through the KP did not die down, but human rights violations did. What also diminished was the western strategic alignment's ability to harness this surveillance for their own ends, because there were less and less violations. Indeed, if the Zimbabwean state self-disciplined adequately, the west could do precious little. The western strategic alignment was unable to block Zimbabwean certification, or promote human rights policy reform, but the KP monitoring assemblage had advanced further into Marange, and its capacity to produce knowledge along human rights lines was heightened. ZANU-PF-state actors knew this. They moderated their behaviour accordingly, and moved closer to reaping the rewards of discipline.

While Brad Brooks-Rubin would feature in the follow-up Review Mission to Zimbabwe, and much contestation would occur around what recommendations it put in its final report, the Review Mission would nevertheless acknowledge that it 'did not find evidence of any recent human rights abuses or police brutality in the Marange diamond areas, which had been reported in the report of the June 2009 review mission.'⁸⁶ The ZANU-PF elites connected to the Marange trade had achieved sufficient selective self-disciplining, avoiding overt acts of weaponised, physical violence towards civilians, as well as persecution of civil society actors monitoring the diamond fields. It was, ironically, by desisting from violating human rights that

⁸⁶ Kimberley Process, 'Report of the follow-up review mission to Zimbabwe, 9 to 14 August 2010', p. 67.

they could credibly oppose human rights policy reform, as they marched steadily towards full KP certification of the Marange diamond trade.⁸⁷

⁸⁷ For a brief outline of events that led from supervised Marange exports in 2010 to full KP certification in 2012, see I. Smillie, *Diamonds*, (Polity, 2014), pp. 135 – 138; and T. Cleveland, *Stones of Contention: A History of Africa's Diamonds*, (Ohio University Press, 2014), pp. 168 – 170.

CONCLUSION

Human rights surveillance in the time of blood diamonds

A transnational opposition among neo-Westphalian governments to international human rights law, and to the global NGOs, courts, and intergovernmental organisations imposing such law from above, may gather increasing momentum. However, this does not adequately account for the ongoing impact of a fluid language and extensive 'ecosystem' of human rights monitoring, and, most importantly, the visibility this assemblage can bring to oppressive acts. Stephen Hopgood's top-down, legal-institutional outlook on human rights, and those scholars whose institutional criticisms of the KP centre on its failure to change policy rules to reflect human rights concerns, overlook the disciplinary power that is ever more pervasive in modern society. This disciplinary power is exercised when actors are rendered visible as knowledge objects through the knowledge productions of actors, institutions, and networks that align into far-reaching monitoring assemblages, and when actors are conscious that there is a possibility of themselves being rendered as such. This concluding chapter outlines how the preceding chapters have demonstrated disciplinary power, before briefly discussing what wider significance these findings have both for the KP and for Hopgood's outlook.

The story of the KP, its origins, early years, and later encounters with Zimbabwe's Marange diamond fields is, to a significant degree, about how disciplinary power constrained figures of authority. At the base of this story is the concept of the monitoring assemblage, a disciplinary regime consisting of an alignment of actors who enabled one another by using a common

discourse, allowing them to render actors as knowledge objects, thus disciplining these other actors, but also society more broadly, according to the norms promoted in the discourse.

In Chapter One, I drew upon a response to Hopgood's top-down, legal-institutional argument from Rodríguez-Garavito, who held that 'the field of human rights should be understood as an ecosystem, more than as an institutional architecture or a unified movement. As with every ecosystem, the emphasis should be on the highly diverse contributions of its members, and the relationships and connections among them.'¹ Building on both Roth's response to Hopgood, which highlights the power of pervasive human rights monitoring, and Foucault's observations of power, knowledge, and discipline, I developed Rodríguez-Garavito's notion of the ecosystem, arguing that it gives rise to a vast and powerful monitoring assemblage, a disciplinary regime that imposes a surveillance based upon the language of human rights. International human rights law is part of this regime, but the regime is not reducible to it. Rather, it is reducible to monitoring capacities, to knowledge production.

Having introduced the idea of a global human rights monitoring assemblage, I then turned to the diamond cartel, before the time of the KP. As I argued, the cartel was itself a monitoring assemblage, 'an intricate network of production quotas, quality controls, and stockpiles', as Spar called it, 'a formidable system of fixed prices and controlled distribution'.² The discourse that shaped knowledge production through this assemblage was one of close intra-corporate

¹ C. Rodríguez-Garavito, 'Towards a Human Rights Ecosystem', in Lettinga and van Troost (eds), *Debating the Endtimes of Human Rights*, p. 44.

² D. L. Spar, *The Cooperative Edge: The Internal Politics of International Cartels*, (Cornell University Press, 1994), p. 52.

regulation, disciplining all who sought to sell diamonds.³ This discourse was superseded by the launch of the KP with a language of formalisation, which continued to promote close regulation, but placed greater emphasis on a 'licit' trade, wherein states came to play an increasingly central, regulatory role in the rendering of industry actors as knowledge objects, and thus in disciplining them along the lines of formalisation norms.

There were two key factors behind the launch of the KP. The first was the gradual weakening of De Beers' near-monopolistic control of the trade, and a growing need for the company, along with other new, serious contenders entering the trade to find ways of maintaining the same cartel entry barriers, the same capacity to control supply and keep prices high. The second factor was the blood diamond campaign, and while this factor is more well-known than the first, it is still poorly understood. This limited understanding is rooted in a tendency to view international NGOs as moral watchdogs who constrain the excesses of governments and companies, as actors who in Bieri's words 'cleaned up the global diamond industry', without enough recognition of the extent to which these organisations depended upon their state and corporate targets to attain greater influence in global governance.⁴

Chapter One introduced the methodology needed to show how blood diamond campaigners initiated a strategic alignment between themselves, governments, and industry, and to show how the monitoring assemblage that developed out of this alignment exercised changing disciplinary power over time. This is a text-driven methodology that identifies a sequence of

³ For an account of how difficult it is for members of the public to sell diamonds outside of the diamond cartel, see E. J. Epstein, *Have You Ever Tried to Sell a Diamond?*, (FastTrack Press/EJE Publications, 2013), pp. 43 – 68.

⁴ F. Bieri, *From Blood Diamonds to the Kimberley Process: How NGOs Cleaned Up the Global Diamond Industry*, (Ashgate Publishing, 2010).

influential texts, and approaches them as productions of knowledge that gave rise to a series of disciplinary effects. As such a methodology recognises, this disciplinary power was shaped by what the texts rendered visible, what language and norms they used to attribute meaning, and what audiences, alignments, and assemblages reproduced such knowledge and norms.

Chapter Two's close examination of the two seminal blood diamond campaign NGO reports showed how the KP founding strategic alignment was initiated, revealing a statist-corporatist framing in these texts, which rendered rebel movements as the main problem. This framing allowed for consensus over a conflict diamond definition that only recognised the illegitimate violence of rebel movements, and subtly assumed a synonymy with the popular idea of 'blood diamond', thus supplanting the latter's broader meanings. Subsequent negotiation towards the founding strategic alignment was based upon a discourse of formalisation, and led to the development of the KP monitoring assemblage out of its cartel antecedent.

Blood diamond campaigners-turned KP civil society representatives kept to a statist-corporatist formalisation discourse during the early KP years. This was despite moments of African state violence linked to the trade, for example in the DRC and Botswana. As I argued, KP civil society actors kept to this trajectory because they saw no possible alternative to the founding strategic alignment. There was no possibility of a new strategic alignment at the KP without support from at least some of the KP's government and industry actors, which KP civil society would need to mount a credible push for a KP human rights turn.

The KP predicament that arose around Zimbabwe's Marange diamonds would, however, give rise to a western strategic alignment through which KP civil society found sufficient backing

among governments and industry to push for a human rights turn. Yet this moment would not have arrived, had it not been for the founding strategic alignment, and what it made possible. It was vital that this founding alignment emerged and persisted, and essential that the pre-existing cartel assemblage was extended through the KP assemblage, rendering industry actors as knowledge objects, and making this visibility the new norm. Indeed, while the KP assemblage that first emerged was based upon its own formalisation discourse, the new visibility it created, and the growing corpus of knowledge it produced, meant that a shift in the orthodox discourse that was used to give meaning to what was made visible, was possible under certain conditions.

Chapter Three explored the narratives of several texts that addressed the discovery of diamonds in Marange. In so doing, the chapter helped contextualise the Marange predicament that arose at the KP from 2009. More importantly, it located the contentiousness of the discovery in the KP assemblage's disciplinary effects, and in ways that actors sought to manipulate such effects by influencing knowledge production in the assemblage. Two insights on disciplinary power emerged in the chapter. Firstly, I showed how such actors as De Beers Prospecting Zimbabwe (Debizim) self-disciplined because the assemblage rendered them as objects of knowledge, and because these actors saw certain negative renderings of themselves through the assemblage as a possibility. Secondly, we saw the importance of agency. Actors could manipulate, though not entirely control, the orientation of the monitoring assemblage, and thus the knowledge it produced.

African Consolidated Resources (ACR) produced knowledge on Marange, drawing attention to its existence, encouraging the view that it was a substantial discovery, and that its fortunes

were fast disappearing through illicit channels. In this way, the company rendered Marange, and its lack of formalisation, as an object of KP knowledge and intervention. This rendering had disciplinary effects, which were felt by De Beers, as it adjusted to its own growing visibility through the KP. Perceiving a reputational threat due to its past and presence in Marange, the company made a swift and smooth exit from Zimbabwe, leaving state feathers unruffled, and temporarily nipping state accusations of illicit activity in the bud. This self-disciplining was an expression of disciplinary power, reproducing formalisation norms through an active aversion to any appearance of being linked to illicit trade. Yet, De Beers also showed agency, using its powerful position within the founding strategic alignment to orient the KP assemblage toward the Zimbabwean state's regulatory failings in Marange, and later its human rights practices.

When the KP's human rights turn came in 2009, Obert Mpofu, the Zimbabwean government's head KP delegate, created further contention around Marange's discovery, as he produced a new historical narrative of covert De Beers' looting in Marange. While the veracity of this narrative was questionable, it still produced knowledge within the KP space, and threatened to draw the assemblage back towards De Beers' disputed past in Marange. Mpofu was at times able to reset the terms of KP debate, shifting the discourse from questions around Zimbabwean state human rights practices towards orthodox regulatory questions. Mpofu imposed these regulatory questions as accusations, which also carried anti-colonial, anti-western 'Patriotic History' elements that appealed to a domestic and international audience. De Beers was repeatedly forced to affirm orthodox KP formalisation norms, vouching for the legitimacy of its past in Marange, and restricting the currency of human rights discourse across the KP assemblage.

The contestations in Chapter Three were about Marange's discovery, but more importantly, they were about manipulating a monitoring assemblage's production of knowledge, and thus its disciplinary effects in the pursuit of certain interests. The chapter ended with a brief exploration of expert knowledge produced at a remove from these effects and their repeated manipulation, which threw their contestation into sharper relief.

Chapter Four observed the human rights discursive turn at the KP that began to emerge in late 2008, in the wake of Operation Hakudzokwi in Marange, which heralded its militarization. The chapter explored this emergence, focussing on texts that point to the western strategic alignment behind it. I noted that immediately prior to the military operation, KP civil society representatives still eschewed human rights language, while continuing to push for advancements in monitoring, and thus regulatory enhancements to the KP assemblage. Yet, Operation Hakudzokwi gave rise to an array of allegations of state violence, which led to a watershed moment at the KP, as a cascade of mostly western actors signalled their willingness to back a human rights turn.

While the World Diamond Council (WDC) first expressed industry's early, but tentative humanitarian concerns over state violence in Marange, avoiding the phrase 'human rights', international NGOs and the United States (US) government soon took a more aggressive lead, pushing a three-dimensional framing of Marange as a problem comprising formalisation and human rights concerns, and painting ZANU-PF-state actors as the responsible party. Through the human rights dimension of this frame, the western strategic alignment partially subsumed the KP assemblage into the wider monitoring assemblage of the human rights ecosystem. Through the third dimension, the disciplinary power that could be effected through the KP

was maximised, as it was directed at Zimbabwean state actors. This dimension was indicative of a need for the human rights assemblage to fix blame, that is, to reify perpetrators in order to propagate. It was also indicative of who the western strategic alignment wished to target.

As I argued in Chapter Four, a powerful impetus behind the western strategic alignment was a Zimbabwean regime change agenda shared among western governments, but spearheaded by the US. As the texts of US diplomatic cables showed, the US Embassy in Harare was highly receptive to knowledge production about illicit accumulation via Marange diamonds of senior ZANU-PF-state actors, and was willing to credit knowledge that was produced by interested actors. After Operation Hakudzokwi, US intelligence was infused with allegations of state violence, including reportage from the Centre for Research and Development (CRD), which contributed to production of the three-dimensional framing of the Marange problem. The US made a series of diplomatic attempts outside of Zimbabwe to block Marange diamond flows, repeatedly deploying the three-dimensional framing as justification. While African officials were sceptical of human rights concerns, hinting at underlying western geopolitical agendas, reports from Partnership Africa Canada and Human Rights Watch on Marange reinforced the three-dimensional framing, helping to authorise such knowledge production within the KP. The readiness of these NGO reports to affirm the third dimension of ZANU-PF-state actor responsibility, despite a lack of evidence, was indicative of the western strategic alignment these NGOs sought to join in a bid to enable their own push for KP human rights policy reform.

In Chapter Four, we began to see an excellent case for a critique of Hopgood's top-down, legal-institutional outlook on human rights. Here was a western strategic alignment that failed to impose human rights norms through the making and enforcement of a global

institution's policy rules, yet still impose such norms through disciplinary power, by producing knowledge through the KP assemblage, and imbuing this knowledge with meaning using a human rights language. Calls for conflict diamond definition reform were blocked, and the Joint Work Plan (JWP) that emerged at the KP in late 2009 as a roadmap towards Marange's KP certification, made no mention of 'human rights'. Yet, discourse within the KP space was inundated with human rights speak, after the Partnership Africa Canada and Human Rights Watch reports, and the 2009 KP Review Mission to Zimbabwe all used the three-dimensional framing of Marange. The Review Mission was a crucial KP monitoring component, and while it had no explicit human rights mandate, the US was influential in introducing human rights language to the text of the Review Mission report. The JWP drew the assemblage further into Marange, and Zimbabwean government KP delegates knew that this enhanced surveillance could be utilised beyond its JWP policy mandate to again effect certain human rights norms. The western strategic alignment would readily seize upon such knowledge production, given that the Marange diamond trade was now suspended until certified through the JWP, and the KP's consensus-based decision-making setup meant western states could block certification, citing certain ongoing human rights concerns as justification.

While NGO reportage on Marange in the first half of 2010 struggled increasingly with finding credible evidence of ongoing state violence in Marange, Chapter Five concerned a lapse in self-discipline on the part of the Zimbabwean state, which offered the western strategic alignment a new windfall in its continued efforts to effect disciplinary power. Zimbabwe government delegates and their allies at the KP ensured that the Monitor assigned to Zimbabwe under the JWP was a South African diplomat who would reproduce the KP's orthodox formalisation discourse, thus rendering the Zimbabwean state's regulation of a 'licit'

Marange diamond trade as an object of knowledge, rather than its human rights practices. Yet, the requirement that Abbey Chikane meet with Zimbabwean civil society was the chink in this armour. Chikane did some of the western strategic alignment's work for it. He avoided Zimbabwean civil society on his first mission to the country. After objections were raised, he agreed to meet Farai Maguwu of the CRD during his second mission, but facilitated Maguwu's arrest soon after the meeting, before recommending in light of the second mission that Marange diamonds be fully certified.

Western readings of the secret Zimbabwean state document that got Maguwu arrested indicated a desire to keep fixing blame to senior ZANU-PF-state actors, and to use evidence of human rights violations to do so. While the ZRP document offered dubious evidence of human rights indiscipline on the part of senior ZANU-PF-state actors, Maguwu's persecution and the complicity of Chikane was the kind of flagrant resistance to human rights norms that the western strategic alignment could use to resuscitate efforts to wield disciplinary power against its Zimbabwean targets. Maguwu's lead counsel Tino Bere greatly enabled the western strategic alignment by alerting the KP assemblage through the reams of email updates he sent out to hundreds of addressees linked to the KP. Bere's texts produced a detailed, harrowing narrative of Maguwu's plight, which whipped up outrage within the KP space and encouraged a western targeting of both Chikane and Zimbabwean government delegates, through the continued deployment of human rights discourse. Despite the discursive efforts of the Prosecution and the Judge in Maguwu's case to paint Maguwu as an unpatriotic, fraudulent threat to Zimbabwean sovereignty, Bere helped achieved a boomerang effect, ultimately disciplining Zimbabwean state actors into freeing Maguwu.

Throughout the KP's Marange predicament, and in 2009 and 2010 especially, Zimbabwean state actors were made more aware of what their human rights violations in and around Marange meant. It meant they were rendered as knowledge objects, and labelled as perpetrators, and that this knowledge was disseminated outward through the KP assemblage into the vast assemblage of the human rights ecosystem. This knowledge would be passed among local, national, and international civil society actors, between actors in the Zimbabwean state, particularly members of the opposition, between state actors in other countries, and within other international organisations, the Southern African Development Community (SADC), the African Union (AU), World Bank, the International Monetary Fund (IMF), and the United Nations (UN) included, between actors in local, national, and international media, among actors in academia, both within Zimbabwe and further afield, and among industry actors, not least of all the jewellery industry. These actors were *all* part of the human rights ecosystem, in as much as they interacted with each other using human rights language, and in as much as they produced and reproduced knowledge that was imbued with meaning using a language of human rights, and that rendered perpetrators of state violence visible.

This would not be the first time that Zimbabwean state actors were rendered as objects of knowledge and as perpetrators within the human rights ecosystem, but the KP assemblage introduced new possibilities that posed novel threats. Indeed, this new knowledge of state perpetration in and around Marange posed a grave reputational threat to the diamond cartel. ZANU-PF-state actors knew they could not make a credible bid to become a part of the economic club that was the cartel, when their own human rights abuses were an existential threat to this club. The western strategic alignment knew this too, and continued to produce

knowledge of Zimbabwean state human rights violations, to justify blocking the country's access to the 'licit' diamond trade through the KP. This became a brinkman-like standoff, with Obert Mpofu repeatedly threatening to leave the KP and undercut the 'licit' trade. Yet, Mpofu and those elites whose interests he represented knew that the highest profits were to be made by joining the cartel and cooperating in the maintenance of its entry barriers. They also realised that a measure of discipline, a selective self-disciplining, was required with respect to human rights in and around Marange, to remove the wind from the western strategic alignment's sails, and to stop it from inundating the KP space, particularly KP Intersessionals and Plenaries, with persistent talk of human rights. Indeed, this human rights discourse reproduced knowledge that justified keeping ZANU-PF-state actors from benefitting from the economic lifeline that they had uncovered in Marange, but only if the actions of these actors made such knowledge production credible.

The story in this thesis drew towards an end with a striking moment at the KP's mid-2010 Intersessional in Tel Aviv. An obscure Zimbabwean activist dominated proceedings through his own absence, creating a deadlock, which soon led to an ambiguous outcome: The KP's founding strategic alignment, which merged along formalisation lines in the early 2000s, then dislocated along human rights lines from 2009, was reconfigured anew, giving rise to a novel strategic alignment wherein the KP continued to uphold policy rules along orthodox formalisation norms, but showed a potential to discipline participants along human rights lines, where there was the possibility that enough KP members might align to bring such discipline about. This curious outcome, and the prominence of Farai Maguwu in reaching it, only makes sense with the lens this thesis has offered, pointing to a production of disciplinary power via monitoring assemblages and the shifting alignments that constitute them.

What do these findings mean for Hopgood, and for the KP more broadly? As I have acknowledged, the KP's Marange case is in several ways illustrative of Hopgood's argument. Firstly, we see in this case the kind of push back against international human rights law that Hopgood sees, because to block human rights policy language reform to the conflict diamond definition was to block the introduction of any human rights soft law to KP requirements. Secondly, we see a growing opposition to western and particularly American efforts to impose human rights norms selectively and for geopolitical ends, because this relationship between such western actors and human rights has begun to lose its moral ascendancy, and, because of a situation where the US and even a bloc of western states finds itself as first among equals, challenged increasingly by rising BRIC nations and their clients on a global diplomatic stage.

Hopgood lays much emphasis on the influence of diplomatic pressure and the reciprocal interests of states, as these outlast a waning edifice of international law and its promise of impartiality. He would likely interpret the outcome of the KP's Marange predicament as a balancing of diplomatic pressures and interests in a neo-Westphalian context. While some interests conflicted, leading to the western and pro-Zimbabwe strategic alignments, other interests were reciprocal, particularly the reputation and well-being of the diamond industry, which both sides threatened in brinkman-like fashion. The curious result was failed human rights policy reform, but improved human rights state practices in and around Marange.

Yet, as I have shown, one has to look more closely at the basis of diplomatic pressure, particularly at what so enabled the western strategic alignment in a neo-Westphalian context. As I argue, disciplinary power was a great enabling factor. The KP was not a legal mechanism

so much as it was a monitoring mechanism, a monitoring assemblage that could bring to the diamond trade a visibility that was vast and unprecedented in its audience and in its scope. This visibility could lead to knowledge production that exposed practices that clashed with norms that might be codified in international law, but which were also popular norms – a matter of common moral sense to a great many of the world’s citizens, opposed to violent state oppression, and opposed to buying adornments meant to signify love and attachment but linked and even conducive to such sheddings of blood.

The question this thesis leaves for the debate over Hopgood, and the future of human rights, concerns the levers of monitoring, of human rights surveillance, and knowledge production. This question underlines the alignments that made it possible to discipline ZANU-PF-state actors through the KP. The history of the KP prior to the Marange predicament demonstrates the importance of a strategic alignment, but so too does its history after Farai Maguwu’s 2010 release. In 2011, the Angolan activist Rafael Marques de Morais published his book *Blood Diamonds: Corruption and Torture in Angola*, which detailed over 100 killings and hundreds of cases of torture allegedly perpetrated by security guards and soldiers in the diamond fields of the Lundas region.⁵ Marques reported that Angolan generals who co-owned a private security company said to be involved in the violence were criminally responsible. The generals sued for defamation, and in 2015 Marques was handed a six-month suspended sentence.

Contrasting the KP’s handling of Marange with its reluctance to address Angolan blood diamonds, Marques’ book observed that ‘it is obvious that both the KP and the concept of

⁵ D. Smith, ‘Angolan journalist given suspended jail term over blood diamonds book’, *The Guardian*, 28 may 2015.

respect for human rights can be cynically manipulated for geopolitical and strategic motives, as well as for commercial reasons'.⁶ As Marques concluded,

Leading members of the international community, including human rights advocates, are unremittingly strident in their public condemnation of the Mugabe regime. Where Angolan blood diamonds are concerned, however, these same self-styled spokespeople for the repressed have chosen to grant public support or the benefit of 'diplomatic silence' to president Dos Santos, and – in so doing - provide stability and succour to his regime. As a reward, some of their home-based companies are granted corrupt access to the vast mineral resources of the country, especially petroleum and diamonds.⁷

Marques' recriminations strongly suggest that the Marange case had its limitations as a KP precedent. These limitations are well accounted for using the theory of strategic alignments, but this theory has greater explanatory reach than a top-down, legal-institutional approach. Indeed, the strategic alignments in question do not only build global laws and institutions, they also develop wide-reaching monitoring capacities. They produce disciplinary power, and it is this power that greatly complicates Hopgood's dichotomy between lowercase and uppercase human rights, revealing a profusion of interconnections, a monitoring ecosystem, which promotes human rights norms predominantly through the production of knowledge. While state and global governance actors may constitute powerful parts of this assemblage, it is not reducible to them, nor is it reducible to the laws and institutions they preside over. Indeed, while this thesis presents a case wherein the impartiality of human rights monitoring was scuppered by state actors, it nevertheless also highlights a particular form of power, which need not be rooted in state machineries, and which may for this reason offer us a more apt theoretical means of accounting for what Hopgood has called lowercase human rights, and for how an embattled activist such as Rafael Marques de Morais might proceed.

⁶ R. Marques de Morais, *Blood Diamonds: Corruption and Torture in Angola*, (2011), p. 47.

⁷ *Ibid.*, p. 148.

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