

CIVIL SOCIETY'S ROLE IN SHAPING ZIMBABWE'S DIAMOND GOVERNANCE

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EXECUTIVE SUMMARY

Zimbabwe confirmed that alluvial diamonds had been discovered in the Marange area in Mutare District in 2006. However, as in many other African countries, the promise diamond mining holds for economic growth has been eroded by a lack of transparency and accountability. The country's diamond sector has been bedevilled by smuggling, opaque licensing, human rights abuses, self-enrichment by executives and public officials, and extremely limited accrual of diamond revenues to the fiscus, among others. Civil society monitoring and lobbying at local, national and international levels has played a critical role in improving the governance of Zimbabwe's diamond sector. This briefing highlights the actions civil society has taken to promote transparency and accountability in Zimbabwe's diamond sector. It concludes that civil society has contributed significantly towards better diamond sector governance in Zimbabwe in the last 10 years. It has also helped to broaden the view of what constitute conflict diamonds among international bodies such as the Kimberley Process (KP) Certification Scheme, the World Diamond Council (WDC) and the World Federation of Diamond Bourses (WFDB).

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INTRODUCTION

Outdated laws, weak oversight, opaque licensing and policy inconsistencies have fuelled corruption, illicit financial flows and other forms of resource plundering

Zimbabwe is a mineral-rich country with significant potential for the discovery of further deposits. Yet despite the fact that mining accounts for a significant share of gross domestic product, various problems have limited its contribution to the country's development. Outdated laws, weak oversight, opaque licensing and policy inconsistencies have fuelled corruption, illicit financial flows and other forms of resource plundering. The most infamous plundering occurred in the Marange diamond fields, to the extent that Zimbabwe became the focus of global debates on conflict diamonds. Yet when alluvial diamonds were first discovered, many in Zimbabwe had expected that diamond revenues would contribute to an economic turnaround, ending the country's dependence on foreign aid and generating revenue for local communities and broader development priorities.

Political elites, the military and police, company executives and officials were among a network of actors that engaged in opaque deals in the diamond sector in a manner that deprived the country of this potential source of revenue.¹ Consequently, human rights abuses, smuggling and tax evasion became the order of the day. In response to these problems, Zimbabwean civil society organisations (CSOs) pursued a number of strategies geared towards the promotion of good governance in the diamond sector. This paper reviews this CSO lobbying and the subsequent changes embraced by the state and international actors.

THE MARANGE DIAMOND RUSH

The Marange diamond fields cover an area of 566.5km² in the southern part of Mutare District near Zimbabwe's border with Mozambique.

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The discovery of the fields coincided with an economic crisis in Zimbabwe. It created significant anticipation within the government, with claims that the country would realise up to \$2 billion a year from the diamond sector.² Then minister of mines Obert Mpofu intimated that the country would no longer need to borrow from the international community, and would become an economic powerhouse instead.³ However, following the discovery the government was ill prepared – and possibly unwilling – to ensure good governance in the sector. Different players (including the police, army generals, central intelligence officers, company executives and state officials) benefitted from the illicit activities that followed.

Under an operation codenamed *Chikorokoza Chapera* ('No more panning'), the police set up check points along the Mutare–Marange road, allowing only those willing to offer bribes access to the fields.⁴ Selected artisanal miners would be permitted to enter the fields for a period determined by the size of the bribe they paid.⁵

In reaction to this, and to the ever-increasing illegal artisanal mining, the state then deployed the military, ostensibly in the belief that it was more disciplined and would put the state's interests ahead of personal gain. However, some analysts contend that the decision to deploy the army to the diamond fields was a strategy to give key army units access to diamond revenues, in the face of the broader economic meltdown.⁶

FIGURE 1 LOCATION OF THE MARANGE DIAMOND FIELDS



Source: Google maps

The army was deployed to the Marange diamond fields in 2008 in Operation *Hakudzokwi Kumunda* ('You will not come back from the fields alive'). Many saw this name as a message to the artisanal miners that the army would not shy away from using force to bring order to the diamond fields. Once deployed, the military was to be associated with significant loss of life and human rights abuses, including torture, rape, beatings, abduction, irregular detention and imprisonment.⁷ The soldiers also started looting the diamonds. The use of forced labour (including children and women) became widespread, with soldiers purportedly developing a duty roster of villagers reporting to them to dig for diamonds under armed guard.⁸ Allegedly, more daring army personnel stole diamonds and cash from miners and traders using official guns while wearing civilian clothes.⁹ Under Operation *Wakazviwanakupi* ('Where did you get the property?'), theft by members of both the police and the army extended from the diamond fields to surrounding villages, targeting cash, rough diamonds, mobile phones, furniture and clothes.

The mining licensing process was generally questionable, with some licensees allegedly being granted licences despite their not having any experience in mining. Most of these licences were awarded to companies that formed joint ventures with the state, the police and the army. Subsequently, rampant corruption by executives, public officials and security forces representing state interests in diamond mining was reported. For example, *The Herald* newspaper reported that millions of

dollars had been misappropriated by the management of the state-run Marange Resources.¹⁰ It also reported that in 2010, executives of Canadile Miners allegedly smuggled \$100 million worth of diamonds out of the country and sold them on the black market.¹¹ Some officials went on property-buying sprees within and outside the country, while other executives and government officials were arrested after being found in possession of diamonds.¹² President Robert Mugabe estimated that \$15 billion worth of diamonds could have been lost through illicit trade by 2015.¹³ As a result, civil society campaigned for transparency and accountability in the country's diamond sector.

CIVIL SOCIETY RAISES THE ALARM

Civil society can play an important advocacy and watchdog role. It encourages and facilitates direct citizen participation in governance, holds economic actors to account, scrutinises state actions and advocates for improved governance. It is in this context that over the years, more often than not it has been civil society actors that have brought attention to the problems in Zimbabwe's diamond industry.

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The Centre for Research and Development (CRD) was one of the first CSOs to raise the alarm regarding the poor governance of Zimbabwe's diamond sector in 2006. It collaborated with international CSOs – including Global Witness, Human Rights Watch and Partnership Africa-Canada – in profiling diamond governance problems in Zimbabwe. These organisations in turn raised the Zimbabwean case internationally. In 2009 the CRD produced a documentary detailing the extensive human rights abuses and opaque deals in the Marange diamond fields. The documentary was aired on the South African Broadcasting Service's *Special Assignment* programme on 27 October 2009.¹⁴ This encouraged other civil society groups to join efforts to bring attention to the abuses taking place in the Marange diamond fields. As a result, their concerns were also tabled before international bodies such as the KP, the WDC and the WFDB.

The KP defines conflict diamonds as 'rough diamonds used by rebel movements to finance wars against legitimate governments'.¹⁵ It was set up to break the link between the trade in diamonds and armed conflict, which historically has affected the peace, safety and security of people in diamond-rich countries, particularly in Africa. The KP certifies the import and export of rough diamonds, and exporters are issued with a certificate confirming that the diamonds do not originate from an area with armed conflict between rebels and a national government. This prevents the flow of conflict diamonds into legitimate international trade. Civil society argued that Zimbabwean diamonds were indeed conflict diamonds, despite coming from an area without an insurgency against the state, due to the human rights abuses perpetrated by the Zimbabwean government and security forces against artisanal miners and other civilians in Marange.

Through the KP Civil Society Coalition, Zimbabwean civil society lobbied for the cessation of diamond exports from Zimbabwe and the suspension of Zimbabwe from the KP. In response the KP sent a review mission to Zimbabwe in 2009 to investigate. The KP review mission corroborated civil society reports of severe government-sponsored violence against civilians and widespread smuggling.¹⁶ This marked a turnaround in the KP's view that conflict diamonds could only originate

from territories held by rebels that were fighting legitimate governments. The findings of the review commission culminated in the suspension of Zimbabwe's diamond sales.¹⁷

The WDC and the WFDB, both active participants in the KP, had also held that conflict diamonds originated exclusively from war zones in which rebels were actively fighting a government. The WDC represents diamond manufacturing and trading companies through a System of Warranties that requires all consignments of diamonds and diamond products to be accompanied by a written warranty on invoices throughout the supply chain. The warranty statement seeks to provide an assurance that the diamonds do not originate from a conflict zone. The WFDB is a federation of bourses that deal in diamonds, precious stones or jewellery, and was established to provide a common set of trading practices. It also seeks to ensure that conflict diamonds do not enter the diamond trade.

Following the KP's recognition of Marange diamonds as conflict stones, the WDC agreed that it could no longer rely on the definition of conflict diamonds established by the KP in 2003, and would instead need to develop a model that would enable it to address the issues raised by civil society in countries such as Zimbabwe.¹⁸ In April 2009 the WFDB also banned trade in Marange diamonds on the grounds of poor diamond governance, including smuggling and human rights violations.¹⁹ With all three major diamond bodies having been successfully swayed by civil society to revisit their understanding of Marange diamonds, Zimbabwe subsequently agreed to a Joint Work Plan (JWP) with the KP aimed at bringing the country back into compliance by improving the governance of its diamond sector. The JWP required the Zimbabwean state to address human rights concerns, demilitarise the diamond fields, take concrete action to address smuggling and legalise small-scale mining.²⁰

A year after the adoption of the JWP, the KP sent its representative, Abby Chikane, to review the Zimbabwean diamond sector to determine if the country was complying with its requirements. Following this visit, the KP decided that Zimbabwe had made progress in implementing some elements of the JWP. It certified a supervised auction of Marange diamonds.

However, civil society argued that opaque deals and human rights abuses were still rampant, and that Zimbabwe was therefore still not complying with the KP's minimum standards. Some civil society actors lobbied international buyers to boycott the Marange diamond sales. Subsequently, in September 2010 two European banks refused to transfer money generated from Marange diamond sales. Antwerp, one of the key centres of the diamond trade, also declared that it would not buy diamonds from Marange.

At its seventh annual meeting in St Petersburg in July 2010, in recognition of the important role civil society had played in getting Zimbabwe to adopt minimum standards in the diamond sector, the KP introduced a civil society Local Focal Point (LFP), appointed by the KP Civil Society Coalition. The LFP consisted of a technical committee of CSOs working in the natural resources area (with special emphasis on the ongoing work around the Marange area). It was tasked with investigating the current situation and supporting the KP Monitor in monitoring compliance with KP demands for good diamond governance.²¹ Importantly, the

LFP was to help protect CSOs and diamond sector human rights defenders. This was a significant victory for civil society, as the Zimbabwean government and the KP undertook not only to protect civil society but also to give it a serious platform to contribute towards the improvement of diamond governance. Subsequently, the LFP played an important monitoring role, submitting regular reports to the KP Working Group on Monitoring.

In March 2011 the sitting chair of the KP, Mathieu Yamba, approved the sale of Marange diamonds from all mines with immediate effect, arguing that Zimbabwe had complied with KP demands. The KP's civil society partners, as well as KP members such as the US and the EU, objected to this unilateral decision. They argued that Zimbabwe still lacked adequate diamond governance measures. For example, the military had drawn down its forces in Marange in order to ensure that the trade embargo on Marange diamonds was lifted, but it still maintained a presence in the diamond fields. State security personnel were appointed to various positions, including as executive officers, administrators and security officers, in most of the mining ventures that were awarded licences. A further problem was that the private security guards who took over from the military in most areas allocated to mining companies were also perpetrating gross human rights violations, including setting dogs on artisanal miners and killing with impunity.

Civil society actively lobbied for the KP to adopt a new definition of conflict diamonds.²² The KP has since acknowledged that the 'conflict diamond definition should refer to rough diamonds used to finance armed conflict or other situations relating to violence affecting diamond-mining areas', but to date the definition has not been changed.²³ Further to this, the WDC has acknowledged that it must respond to civil society demands and is on record as arguing that the KP definition of conflict diamonds should be broadened to include those directly connected to violence, corruption and human rights violations.²⁴ Commentators have argued that crafting such a definition may take several years, as unanimous consensus in the KP is needed.

At the local level, CSOs have been fighting for the recognition of community rights, including the provision of compensation to families displaced by the state as a result of the diamond exploitation. The CRD and other CSOs have also argued that the government should appoint an independent commission to investigate diamond mining's impact on human rights and take appropriate measures to redress the situation.²⁵

Civil society pressure also resulted in the government's agreeing to reform mining policy and legislation affecting diamond mining in Zimbabwe. In November 2012 the government introduced a diamond policy aimed at promoting the sustainable development of the diamond sector.²⁶ It also introduced the Minerals Amendment Bill of 2015 to the Mines and Minerals Act of 1963, which had numerous weaknesses that manifested in poor resource governance. The proposed bill is aimed at addressing some of these problems, although it too has weaknesses. The bill should:

- include a requirement for conducting human rights impact assessments;
- ensure that communities that are or could be adversely affected by mining operations derive direct, regular and significant benefits from mining operations,

including mining shareholding, revenue allocation, access to employment and the provision of infrastructure for local use;

- ensure representation for community-based organisations and CSOs on the Mining Board; and
- compel companies to make their production and revenues a matter of public record.

Civil society has begun lobbying different stakeholders – including the executive and parliamentarians – so that its concerns and recommendations are highlighted in different consultative forums prior to the adoption of the bill.

In addition to its engagement on the Minerals Amendment Bill, civil society has argued that an effective diamond mining legislative environment should include a Diamond Act, which would be more comprehensive in promoting transparency and accountability, and address issues specific to the sector. In this endeavour, the CRD convened a once-off conference of international experts that drafted a prototype ‘Zimbabwe Diamond Bill’ that would be ideal for Zimbabwe. Lobbying in this regard has been ongoing.

Acknowledging anomalies in its licensing system and the lack of operational capacity among the current mining companies in Marange, the government has embarked on a diamond mine consolidation process. As part of the consolidation process, in 2016 the government took over all the diamond mining companies in Manicaland Province to form a single state-owned entity, the Zimbabwe Consolidated Diamond Company (ZCDC). Some mining companies have resisted the consolidation process by taking the government to court. The legal challenges by mining companies have affected ZCDC production outputs in Marange.²⁷ The minister of mines reported that the government’s decision was meant to promote accountability and transparency in the mining and trading of diamonds.²⁸ In this context civil society has been calling on the government to undertake an inclusive due diligence process that includes expediting policy reforms and adopting the Zimbabwe Mining Revenue Transparency Initiative (ZMRTI) prior to consolidation. The ZMRTI is an international standard for transparency in Zimbabwe’s extractive industry payments and receipts, where mining companies publish what they pay to the Zimbabwean treasury and the government is required to publish what it receives from the companies, thereby enhancing revenue transparency.

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CONCLUSION

Optimism at the discovery of alluvial diamonds in Zimbabwe’s Marange area was soon soured by smuggling, opaque licensing, human rights abuses and self-enrichment by executives and public officials. Subsequently, civil society intervened and played an integral part in promoting transparency and accountability through an extended monitoring and lobbying process. Key international bodies were pressured into taking action, going beyond their written definitions of conflict diamonds in order to respond to cases such as Zimbabwe. Due to this civil society influence, the reforms adopted by Zimbabwe to date include the consolidation of diamond mining companies, the introduction of a diamond policy and attempts to amend the 1963 mines and minerals legislation. Civil society continues to play a

critical role in the diamond sector through monitoring the implementation of the diamond governance reforms.

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