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**Investigating the Strategic Selectivity of the Kimberley Process**

by

Marcus McCorkell

Thesis for the degree of Doctor of Philosophy

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# UNIVERSITY OF SOUTHAMPTON

## ABSTRACT

FACULTY OF SOCIAL, HUMAN AND MATHEMATICAL SCIENCES

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This study seeks to make both a theoretical and empirical contribution to scholarly understandings of global economic governance and its impacts in the global South. To do so, it takes the Kimberley Process diamond certification scheme – a regulatory regime introduced in an attempt to stem the flow of conflict diamonds onto international markets – as its central explanandum.

In theoretical terms, this study adopts the critical realism of Bob Jessop and his strategic relational approach as a means to understand the relationship between structure and agent. Jessop maintains that the structure-agent relation represents a complex dialectic, mediated to some extent by a ‘strategic selectivity’ which works through and between structure and agent to advance the interests of capital. Through a detailed examination of the dynamics of the negotiations that founded the Kimberley Process, its implementation in a key producing state (in this case Sierra Leone) and of the regime’s reform negotiations, this study tests for the existence of strategic selectivity. At the same time, in empirical terms, it provides an important insight as to the nature of the environment in which the Kimberley Process was negotiated and its effects on a crucial implementing state.

Utilising qualitative techniques in the examination of documentary and interview data, this study finds evidence which supports the notion of the existence of strategic selectivity within the context of the Kimberley Process. In the first instance, strategic selectivity works between what this study terms as ‘wider social structure’ and agent to affect the Kimberley formative negotiations such that questions of effective regulation are subordinated to the interests of capital. Second, this study finds that upon implementation, the interests (as they perceive them) of agents working within the sector are advanced or hindered by the strategic selectivity of the Kimberley Process depending on their mode of production – artisanal or industrial. Third and finally, the evidence of this study suggests that where reforms are tabled which could affect the advantages Kimberley offers to capital, the regime’s own internal protocols and modes of operation work in combination with the wider social structure to strategically select to protect the interests of capital – leaving the regime itself remarkably resistant to change.



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**Academic Thesis: Declaration of Authorship**

I, Marcus McCorkell declare that this thesis and the work presented in it are my own and has been generated by me as the result of my own original research.

Thesis Title: 'Investigating the Strategic Selectivity of the Kimberley Process'

I confirm that:

1. This work was done wholly or mainly while in candidature for a research degree at this University;
2. Where any part of this thesis has previously been submitted for a degree or any other qualification at this University or any other institution, this has been clearly stated;
3. Where I have consulted the published work of others, this is always clearly attributed;
4. Where I have quoted from the work of others, the source is always given. With the exception of such quotations, this thesis is entirely my own work;
5. I have acknowledged all main sources of help;
6. Where the thesis is based on work done by myself jointly with others, I have made clear exactly what was done by others and what I have contributed myself;
7. Either none of this work has been published before submission, or parts of this work have been published as: [please list references below]:

Signed: .....

Date: .....



## Abbreviations:

CSO: Central Selling Organisation

DDE: Dubai Diamond Exchange

EITI: Extractive Industries Transparency Initiative

GGDO: Government Gold and Diamond Office

KPCS: Kimberley Process Certification Scheme

MDC: Movement for Democratic Change

MMO: Mine Monitoring Officers

MMMR: Ministry of Mines and Mineral Resources

NDMC: National Diamond Mining Corporation

NMA: National Mineral Authority

RUF: Revolutionary United Front

SLST: Sierra Leone Selection Trust

TCC: Transnational Capitalist Class

TNGO: Transnational Non-Governmental Organisation

PAC: Partnership-Africa-Canada

UNITA: União Nacional para a Independência Total de Angola

WDC: World Diamond Council

ZANU: Zimbabwe African National Union



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On the day of her PhD submission a friend told me that a PhD is never finished, it is abandoned. That I am abandoning this thesis as close to being finished as it is can in large part be attributed to a number of people who I must thank.

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For Isla and Isabelle

*This world will be yours soon, may it be fairer.*



## Section One



## Chapter One

### Introduction

Modern consumers of the global North are increasingly understood by producers as ethical economic agents, motivated or demotivated in the market place according to the moral implications of their purchases. Accordingly, the list of formal agreements designed to guarantee to the consumer the ethical nature of the end product grows ever longer. Well known examples here include the Forest Stewardship Council, The Fair Trade Foundation and the Rainforest Alliance, all are designed to offer to the consumer the perception (if not the reality) of a guilt-free purchase. Given their growing presence in the international domain, it seems reasonable to surmise that regimes<sup>1</sup> such as these will play an increasing role in the study of international relations in the years to come and in this regard, this study seeks to make both an empirical and theoretical contribution to a growing literature (see Linton, et al, 2004; Pattberg, 2005; Sovacool and Andrews, 2015; Taylor, 2005). Introduced in 2003 in the wake of the conflict diamond controversy, the Kimberley Process diamond certification scheme conforms to this typology by seeking to regulate the global diamond industry such that conflict diamonds are excluded from consumer markets. The regime itself, drawing on a tripartite structure of states, industry and transnational non-governmental organisations (hereafter TNGOs), constituted a significant part of the international community's response to the furore regarding the role of diamonds in several protracted African civil conflicts - principally those of Angola and Sierra Leone. Whilst the regime's scope is narrow it is highly ambitious in that it seeks to monitor a tiny product, which at the same time represents an enormous store of value, from the point of abstraction through

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<sup>1</sup> This study adopts Krasner's definition in maintaining that a regime constitutes a set of "implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations" (1983, p.2). For a more detailed discussion see Brown (2001, p. 176 - 183) or Krasner (1983, p.2 - p.5).

exchange, export and import. In so doing, the Kimberley Process seeks to be a presence from the mine site, often located deep in some of the most isolated regions of Africa, to the metropolises of the global North. The implications of this endeavour for consumers, implementing states and producers large and small, particularly from the global South, are considerable and it is within the analysis of the associated ramifications that the empirical contribution of this study resides.

In the pages and chapters that follow, this study will seek to make an empirical contribution to the Academy's understanding as to how the aforementioned structures of ethical global economic governance function in the international domain. In doing so, it will present evidence supportive of the notion that the Kimberley Process works according to the interests of a Transnational Capitalist Class (hereafter TCC), whether located within the industry or within state structures, often at the expense of artisanal diamond producers working in some of the most deprived regions of the global South. This argument will be substantiated on three levels. In the first instance, this study maintains that the regime itself was initially negotiated in an environment whereby the introduction of any regulation was contingent upon its minimal impact on the profitability of the industry – with the efficacy of the regime seemingly subordinate to this imperative. From this point of departure, this study will demonstrate that upon implementation the Kimberley Process in fact often works to further the interests of fractions of national and transnational capital. To demonstrate this effect, the study draws upon the example of Sierra Leone where this research contends that state and business elites utilise the Kimberley Process to advance their own political and economic interests; formalising an arena of production previously the domain of artisanal miners. In itself this is a serious issue as it was anger within this social grouping regarding the mismanagement of the diamond sector by the Stevens and Momoh governments that saw so many take up arms against the state in the course of the country's civil war. In light of the failings this study documents in Sierra Leone, third and finally,

this study maintains that the Kimberley Process then works in defence of the interests of the TCC. In the face of TNGO calls for reform in response to the regime's obvious failings across the sector, the Kimberley Process appears to stifle these attempts where they conflict with TCC interests.

In the process of advancing these empirical arguments, this study seeks to make a meaningful contribution to neo-Gramscian theorisations of international affairs. As such, it will pursue the argument that the Kimberley Process represents an emergent aspect of capitalist hegemony which seeks to compromise with, and incorporate, class relevant forces whose opposition to industry practices, threaten to destabilise the diamond sector as a site of accumulation. From this perspective, hegemony represents a social structure which, to define it in broad terms, "represents a set of internal and external relations that persist over time". Social structure is, therefore, "underlying and unobservable, and, contra positivism [has]... real causal effects" (Joseph, 2008, p.69).

This study maintains that the Kimberley Process should be understood as both a product and cause of capitalist hegemony. From this perspective, and with the empirical arguments discussed above in mind, we can perhaps begin to conceive as to why the Kimberley Process produces the effects it does. Common sense suggests that having been negotiated within a social context where capitalism has an established hegemony, the Kimberley Process is likely to be imbued with a proclivity towards the interests of capital. From the critical realist perspective of Bob Jessop's strategic relational approach, these tendencies amount to a 'strategic selectivity' (1990; 2007), a mechanism which works between and through structure and agent to mediate agential action, conditioning and constraining it according to the prevailing hegemony present in social structure and thus advancing the interests of capital. This suggests that the negotiatory social context surrounding the Kimberley Process, and indeed the Kimberley Process itself, are likely to be sites of strategic selectivity. To date, these theoretical propositions have been left largely

unsubstantiated by detailed empirical analysis and it is towards this lacuna that this study of the global governance of the diamond industry is directed.

It is important to note at this stage that this study maintains that the relationship between structure and agent should not be thought of as one-way and in this regard this study adopts Jessop's proposition that the structure-agent relation is a dialectical one. Structure and agent, therefore, are mutually constitutive with strategic selectivity mediating the relationship. In keeping with this conceptualisation, to examine the above propositions this study has to make an analytical distinction which may at first seem slightly incongruous with the notion of a dialectical structure-agent relation but which is crucial if we are to make sense of the empirical data. For the purposes of analysis, this study must separate structure and agent. By focusing on the three junctures of Kimberley Process negotiation, implementation and reformation, inevitably this study freezes the structure-agent dialectic enabling a description as to which of the two is affecting the other at that moment and thereby revealing what the strategic selectivity is and where its basis lies. As such, this study addresses structure and agent as separate within the three junctures of analysis whilst in overall terms treating them as mutually constitutive. In the process of this analysis, this study maintains that strategic selectivity exists in all structures both social, state and multi-lateral. To distinguish them clearly for the reader, the more fluid social context which surrounds for example the Kimberley Process formative negotiations is termed as 'wider social structure'.

In broad terms, therefore, this study seeks to advance our understanding of the structure-agent dialectic. To do so, it will interrogate that relationship in the context of the Kimberley Process in the hope of revealing the influence of strategic selectivity. In so doing this study will pursue the proposition that regimes such as the Kimberley Process are negotiated within a wider social structure in which capital has an established hegemony. This makes this wider environment



strategically selective and supportive of the interests of capital. As a consequence therefore, it follows that these negotiations would produce a weak regime, but one congruent with capitalist interests – offering a causal explanation for the enfeeblement of the Kimberley Process. Furthermore, this study will investigate the notion that the strategic selectivity of wider social structure has been transposed onto the Kimberley Process itself. This would mean that the advancement of the interests of capital in Sierra Leone and the protection of those same interests in the face of the reform attempts as outlined above could both be traced to the strategic selectivity present within the regime’s modes of operation. By interrogating these propositions, the discussion that follows will describe the relationship between structure and agent in the context of the Kimberley Process over the course of a 15 year period. In so doing, it will offer an insight as to how structure and agent co-constitute and how this relationship, and the strategic selectivity inherent to it, changes over time according to the pressures each exact on the other – a proposition the discussion and diagrams of this thesis’ third chapter will explicate in detail.

In developing the arguments outlined above, this thesis will divide into three sections. The chapter which follows will seek to place this study within the field of International Relations before, in a second part, offering an account as to how, in practical terms, the study was constructed and executed. The final chapter of this section will introduce the reader to the study’s theoretical concepts and model in detail before moving on to explicate its methodology, derived from the work of Maarten Hajer, which will form the basis of the analysis of the empirical data. With the theoretical propositions established, the final two sections will carry the empirical analysis and core arguments of this thesis. The first chapter of the second section will introduce the reader to the Kimberley Process, offering a history and an account of its stipulations and modes of operation. The final two chapters of this second section will, utilising Hajer’s methodology and drawing on documentary and interview data with key participants, engage in a highly detailed analysis of the

Kimberley Process formative negotiations. In so doing, it will argue that the Kimberley Process was indeed negotiated within a strategically selective environment that fundamentally affected the shape of the final regime. The third and final section will, in its first chapter, draw on in-country research to offer an examination of the implementation of the Kimberley Process in Sierra Leone. Following this discussion, and in light of its findings, the final two chapters of this section will return to Hajer's methodology to broaden its focus and examine the recent Kimberley Process reform agenda. In so doing, these two chapters will examine the manner in which the Kimberley Process strategically selects in the face of reformist strategies so as to protect the interests of the TCC in general, demonstrating in the process how this works to protect the same interests in the locale of Sierra Leone. The discussions of these two empirical sections, therefore, resemble an hour glass schematic. Beginning with a broad discussion of the Kimberley Process negotiations as an emergent mode of global economic governance, the thesis then narrows its focus by examining, in the form of Sierra Leone, an individual case of implementation before broadening its focus once again, utilising the findings from Sierra Leone as a basis for the analysis of Kimberley Process reform agenda. The ensuing analysis, therefore, moves from an international negotiation to national implementation and then back to the international, offering in rich detail an account of a regulatory regime which, its allegiance to the principles of ethical production notwithstanding, appears primarily to protect and further the interests of the TCC.

## Chapter Two

### Design and Contribution: The How and Why of this Study

This chapter carries a joint purpose. In the first instance, by way of a literature review, it will seek to place this study within what is currently understood regarding the Kimberley Process and the workings of the international domain. As such, this study aspires to address a number of empirical and theoretical lacunae. In what follows in this chapter's first part, these knowledge gaps will be identified and the contribution of this study elucidated. Practical considerations, however, necessitate that this review be comprehensive but relatively brief. This brevity owes much to the difficulties inherent to the identification of Jessop's concept, requiring a deep engagement with the minutiae of the Kimberley Process' negotiation and implementation. As a result, this thesis draws not only on 24 lengthy qualitative interviews but also on hundreds of documents. The rich detail of the resulting empirical analysis is where the strength of this study resides, however, this level of engagement also breached the allowable space limit. With the substantive theoretical and empirical components of this study having not been subject to a great deal of scholarly attention, any literature review could not in any event be extensive. Consequently, the suggestion that the review be kept relatively short appeared a reasonable one. Following the literature review, this chapter will then move on to its second part which will offer a description as to how the study was constructed so as to make the contribution outlined in the chapter's first part. It will offer a reflective account of the study's construction, describing how its structure was developed so as to answer the core research questions. An account will also be offered as to how in practical terms the data was collected and the challenges associated with researching the diamond trade were managed. This is an important discussion. The diamond trade is notoriously opaque and as a result a certain degree of pragmatism is required of the independent researcher who wishes to work in this

field. While in practice researching the diamond trade often proved significantly easier than anticipated, at various points compromises were required that inevitably had an effect on the final shape of this study.

## 2.1 Literature Review: Placing the Study

This chapter's first part will divide in two. The first of these sub-parts, will deal with the theoretical background of this study. Beginning at a high theoretical scale, this opening discussion will introduce Gramsci's concept of hegemony and briefly discuss the interest of International Relations scholars in the concept. The discussion will then move on to the work of Bob Jessop and his theory of strategic selectivity. In so doing, this study seeks to make a contribution not only to our cognisance as to how hegemony operates and is maintained but also, of course, how the relationship inherent to the consolidation of hegemony, that of structure and agent, plays out in the international domain.

### 2.1.1 The Theoretical Contribution

As a concept, hegemony represents Antonio Gramsci's attempt to cognise the often antagonistic relationship between state, economy and civil society. More specifically, its conceptual roots owe much to the Third International and to the author's observations of the political economy of early twentieth century Italy and the failure of the factory councils in their campaign of factory occupations to ferment anti-capitalist revolution (Cox, 1983; Morton, 2007). A critical component of this failure was the policy of the contemporary government to divide and co-opt fractions of the movement, something Gramsci described as "without a doubt the greatest triumph of reaction" (Gramsci cited in Morton, 2007, p.86). This episode had a significant impact on Gramsci and his conceptualisation of hegemony, which at its core contains the notion that capitalism is maintained for the most part not by coercive force but by consent. This is achieved by one class or class fraction taking "a leading role [by achieving]...the active consent of other classes and groups" in a

relationship that is “primarily one of consent gained through intellectual and moral leadership” (Gill, 1990, p.42). According to Gramsci, in terms of the creation of hegemony a vital function is performed by intellectuals and the associated production of ‘knowledge’:

[For Gramsci] the moment of hegemony included the function of intellectuals within civil society and the role played by ideologies as consensual instruments of intellectual and moral leadership in relation to material conditions (Morton, 2007, p.91).

The knowledge produced here forms the capillary networks of hegemonic power (ibid, p.92), simultaneously creating a social structure which serves as a guiding basis for society:

I use ‘hegemony’ to mean a structure of values and understandings about the nature of order that permeates a whole system of states and non-state entities. In a hegemonic order these values and understandings are relatively stable and unquestioned (Cox cited in Joseph, 2008, p.67).

Hegemony according to Cox is a stable feature of society and indeed for Joseph it is a permanent fixture (2003, p.127). From the perspective of Joseph, structural hegemony exists as a result of the dialectical relationship between structure and agent. The latter reproduces the former through social practices in an ongoing process of disintegration and renewal enabled by the overlapping of distinct but related social structures (ibid, p.128; p.129). This account is contested by Jessop, however:

Joseph tends to take structural totalities for granted and regards their breakdown as recuperable through new hegemonic practices facilitated by an underlying structural hegemony, I question the feasibility of totalisation practices and argue that they can succeed only relatively, precariously, and temporarily within specific socially constituted spatio-temporal fixes that displace and defer many contradictions, crisis-tendencies, and conflicts to marginalized places and spaces within and beyond the boundaries of this fix and/or into the future (Jessop, 2003, p.139).

For Jessop, therefore, hegemony is inherently contested and unstable. By conceptualising hegemony as existing in such a precarious state, however, Jessop is compelled to offer an account as to how it in fact exists at all and in this regard he follows the lead of Poulantzas:

Poulantzas then focuses on the effects of the specific institutional structures and their so-called 'structural selectivity' in securing the unity of the dominant classes and fractions in the power bloc under the hegemony of a specific class (fraction) (Jessop, 1984 p.164).

According to Jessop social structures, and the prevailing hegemony therein reflected, are sites of constant contestation. As a consequence, their perpetuation (and evolution) are reliant upon a structurally inscribed strategic selectivity which provides a "structured coherence (or stability)" by rewarding "actions compatible with the recursive reproduction of the structure(s) in question" (Jessop, 2005, p.51). In other words, the prevailing hegemony in part owes its continuation to the strategic selectivity inscribed within social structure which works to "reinforce specific forms of action, tactics, or strategies and to discourage others" (ibid, p.49). This strategic selectivity is itself the effect of previous strategic interactions between

agent and structure and the ensuing patterns of strategic selectivity (Jessop, 2007, p.37).

It is within this sphere of knowledge that this study seeks to make its contribution. As a concept, strategic selectivity has been applied to a wide variety of academic spheres including higher education delivery (Dickhaus, 2010) and sustainable tourism (Bramwell, 2011). Perhaps somewhat closer to its academic roots, however, strategic selectivity has in recent years been subject to some interest within the field of International Relations. In this regard, Hay (2002a) and Lagendijk (2007) describe the power of the concepts of globalisation and regionalism respectively through the lens of strategic selectivity. Whilst these studies are clearly examples of the empirical examination of strategic selectivity, both studies concern the power of concepts and the strategic selectivity they invoke rather than offering an examination as to how strategic selectivity might function within a formal institutional setting. By contrast, in recent times the concept has been applied to the analysis of state transformation in Iceland (Clark and Jones, 2012) and Mexico (Heigl, 2011). These studies, however, remain grounded within an analysis of domestic institutions, albeit on the matter of their internationalisation. Little by way of scholarship appears to concern directly the potential for and effects of strategic selectivity within an international institution. Bieler (2005) and Perkmann (1999) to some extent address this void. Both authors examine strategic selectivity within the EU setting by, in the case of the former, examining the possibility of trade union transnationalisation, whilst the latter offers an analysis of cross border cooperation institution building. Problematically, however, both studies offer little depth in terms of explicating how strategic selectivity is operationalised. More recently, Raza (2015) provides an account of international attempts, led by the EU and US, to foster the global liberalisation of public services. Once again, however, strategic selectivity is dealt with only superficially, with detailed analysis of institutions and the understandings of individuals strangely absent. Particular scales of diplomatic

interaction are asserted as strategically selective but little explanation is offered as to why this is the case.

Between the studies outlined above there exists two notable lacunae. In this regard, the existing research either incorporates strategic selectivity but not as the central focus of analysis or its emphasis falls beyond the sphere of international institutions. This study will attempt to fill these knowledge gaps by first offering a richly detailed account as to how strategic selectivity is operationalised. In practice, this means that this thesis will seek to explain from where the strategic selectivity of institutions derives. This entails, in the first instance, a close engagement with policy makers in the hope of achieving an understanding of the strategic selectivity of wider social structure and how this affected the Kimberley Process' formation. From that point of departure, the analysis then progresses towards a close engagement with the Kimberley Process in the hope of achieving an understanding as to how the institution itself selects in favour of the interests of transnational capital. The analysis of this thesis is, therefore, distinctive in the first instance as it offers a real depth of analysis which seeks to provide a detailed insight into how strategic selectivity works. As such, in terms of theoretical contribution, strategic selectivity represents the central focus of this study. A second contribution concerns the site of the strategic selectivity. Within the fields of Politics and International Relations, the role of strategic selectivity within international institution building and institutional modes of operation have, to date, been entirely overlooked as sites of research. For neo-gramscian scholars, the nature of the interaction between agents and structure within the setting of international institution building and operation represents an important field of study and it is with the aim of addressing these theoretical voids that this study proceeds.



### 2.1.2 The Empirical Contribution

Whilst this study has its roots within the field of International Relations, the empirical data collected makes a significant contribution to academic understandings of a number of spheres of the social world. At the turn of the last century, the Sierra Leone civil war attracted considerable scholarly attention. Academics were concerned to understand the role of diamonds in the conflict itself, specifically the extent to which they posed as potential motivation and source of finance. This study takes the insights achieved by this research as its point of departure with regard to the research of both the Kimberley Process and its implementation in Sierra Leone – arenas of research where the empirical data of this study aspires to advance scholarly understanding.

#### The Sierra Leone Civil War and the Implementation of the Kimberley Process

Given its highly unusual form, Sierra Leone's civil conflict has attracted considerable scholarship over the years. Significant research conducted by, amongst others, Campbell (2004), Gberie (2005), Hirsch (2001) and Richards (1996) has resulted in an extensive literature examining many aspects of Sierra Leone's civil conflict. In the context of this study, these contributions are significant owing to their focus on the mechanisms which allowed both the Sierra Leonean government and the RUF to exploit the country's diamond resource to purchase arms, fuelling the conflict and hindering efforts aimed at its resolution. More importantly however, these authors moved beyond once popular assertions as to the monetary motivations of the RUF<sup>2</sup> by examining the grievances of RUF fighters themselves. In so doing, they have helped establish that in fact there existed some considerable

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<sup>2</sup> Research conducted by Collier and Hoeffler (2004) attached great significance to 'greed' as an explanatory factor for the onset of civil conflict in resource rich states such as Sierra Leone. However, subsequent research has cast doubt on this assertion; see Berdal (2005) for a summary of the counterarguments.

depth of grievance amongst RUF combatants towards the state, stemming from the perceived mismanagement of the economy and corruption within central government; the mismanagement of the nation's diamond sector being particularly prominent.

This study will not seek to add to this literature. Instead this research will take as its point of departure the work of the authors identified above, basing its analysis on the argument advanced by each, that Sierra Leone's diamonds and its civil conflict were intimately linked. As a consequence, this research creates a foundation upon which we can cognise the role of diamonds in the contemporary political economy of Sierra Leone. The authors discussed above identify the management of the Sierra Leonean diamond resource as a critical issue both within government and without; with its mismanagement in the period leading up to the country's civil war providing an incentive for many combatants to take up arms against the state. In attempting to regulate the Sierra Leonean diamond sector, the Kimberley Process is, therefore, entering a highly sensitive arena of governance. This study attempts to build on this research by offering recent empirical data regarding the Kimberley mandated management of the contentious Sierra Leonean diamond resource. The aforementioned scholarship indicates that the involvement of the Kimberley Process in this sector has the potential to be highly inflammatory and, building on this cognisance, this is a proposition this study seeks to address.

As a regime, the Kimberley Process places considerable demands upon the diamond producing state in the hope of rendering the product 'ethical' for consumers. There exists a significant body of literature regarding the effects of the Kimberley Process on the internal politics of selected African states – Angola (PAC, 2004a; 2007a), DRC (PAC 2004b; 2007b) Ghana (Hilson and Clifford, 2010; PAC, 2006a), Liberia (PAC, 2007c), Sierra Leone (Grant, 2005; PAC, 2004c; 2005; 2006b) and Zimbabwe (Global Witness 2010; PAC, 2009a; 2010a). This study seeks to make a contribution to this literature, and in particular it will seek to build on the research

of Le Billon and Levin (2009). This research indicated that the Sierra Leone government was attempting to fill the void in its own capacity to control its diamond fields by industrialising the sector. In practice, this has meant the penetration of the sector by international diamond firms which have forcibly driven local artisanal miners off the diamond fields. This study will seek to further this research by assessing whether these steps taken by the Sierra Leone government are related to meeting its obligations under the Kimberley Process. The research will focus on the current extent of the industrialisation of the sector and the deeper ramifications within government of its implementation of the Kimberley Process. As discussed above, with the literature regarding the causes of the Sierra Leone civil war identifying the role of diamond sector mismanagement as a key grievance for many insurgent combatants, this process of industrialisation being potentially Kimberley inspired represents an important area of empirical research with regard to the political economy and possibly even the future stability of Sierra Leone.

#### The Kimberley Process

With regard to the Kimberley Process, scholars and political commentators from a plethora of different backgrounds and academic disciplines have examined the circumstances that necessitated the Kimberley Process' investiture and implementation. Furthermore, in recent times there has been some significant research conducted into the Kimberley Process' effectiveness as a regulatory body.

At the turn of the last century the TNGOs Global Witness (1998) and PAC (Smillie, Gberie and Hazelton, 2000) introduced the conflict diamond issue to the consuming publics of the global North. These two seminal reports regarding the conflicts in Angola and Sierra Leone respectively, clearly demonstrated the role of diamond revenues in financing both government and opposition war efforts. Significantly, however, these reports also delivered a damning indictment of the diamond industry, revealing the nature of its role in terms of financing the concerned rebel

groups, UNITA in Angola and the RUF in Sierra Leone, committing atrocities against civilians both during the process of diamond extraction and the conflict fuelled by their sale. De Beers in particular was identified as fundamental to the problem. In its attempts to maintain its grip on rough diamond supply the company engaged in indiscriminate buying practices within conflict states themselves where possible, and in neighbouring states wherever not, placing considerable financial resources in the hands of the warring parties. The reports marked the beginning of the TNGO conflict diamond campaign and were followed by a considerable volume of research publications, newsletters and press releases as the TNGOs sought to maintain the public pressure that they felt could spark action from the industry and from diamond consuming and producing states (see for example Global Witness, 2000a; 2000b; 2000c). The initiation of the Kimberley Process negotiations in South Africa in May 2000 is in many regards a testament to the efficacy of this literature.

At the time of its formative negotiations, the Kimberley Process boasted a unique structure in that it sought to bring the three concerned parties of governments, industry and TNGOs together to initiate a system of global economic regulation. The direct and formal involvement of the latter two parties within a realm usually the preserve of state diplomats resulted in the generation of some considerable interest in the Kimberley Process from International Relations scholars. Bieri (2009), Feldman (2003), Haufler (2010) and Wright (2004) offer narrative accounts of the formation of the Kimberley Process whilst Grant and Taylor (2004) examine the formation of the Kimberley Process, linking it to emerging systems of global governance. Bieri (2010a; 2010b), and Tamm (2004) take a particular interest in the tripartite structure of the Kimberley Process, and offer an assessment of the TNGO campaigns and involvement in the regime itself. Similarly, taking the social influence of TNGOs as a key point of investigation, Kantz (2007) discusses the power of socialisation in terms of generating the pressures that led to the Kimberley Process' inauguration. Price (2003) provides a thorough analysis of the legal

implications of the scheme with regard to World Trade Organisation rules. Finally, research conducted by Grant (2005) examines what help the Kimberley Process may offer Southern states in terms of enabling them to capture diamond rents.

This study will attempt to add to the research outlined above by revisiting how the Kimberley Process was formed from the interaction of industry, governments and TNGOs. In so doing it will examine the proposition that while the Kimberley Process may fit easily into a liberal understanding of the emergence of global systems of governance, this ignores the structures of power prevalent in the international system which work to further the interests of capital.

This study's final arena of research that of the recent attempts at Kimberley Process reform, is a sphere of research that has attracted a lower level of scholarly interest. That said, some research has continued in this area from both scholars and TNGOs, providing an insight into the current workings of the Kimberley Process. Andrew Grant has proved both a rare and consistent scholar of the Kimberley Process. In the first instance, Grant (2012) provides an assessment of the successes and challenges of the Kimberley Process' first decade of implementation. The same author (2013a) also presents research regarding the roles of Canada and South Africa in terms of addressing the difficulties faced by the regime, whilst a second paper of the same year (2013b) examines the impediments associated with the Kimberley consensus based decision making process. In response to some of the regime's controversies, Murphy (2011) offers an account of the shortcomings of the Kimberley Process and offers suggestions as to its potential reform. Ian Smillie (2014), a long established expert on the diamond trade and former Kimberley Process observer, offers a comprehensive account of the travails of the Kimberley Process including some detail of the reform process. Finally, an extensive literature has emerged from the TNGO community concerning the efficacy of the Kimberley Process and details of the reform process (Global Witness, 2010; Global Witness and PAC, 2008; Human Rights Watch, 2009; PAC, 2006a; 2009a; 2009b; 2010a; 2010b;

2012; 2014). Much of this research has been focused on the serious failings of the Kimberley Process with regard to deliberate non-compliance by participating states, the apparent inability of some of the more impoverished participating states to eradicate endemic diamond laundering and weaknesses in the constitution of the Kimberley Process itself, particularly with the regard to the definitional terms for what constitutes a conflict diamond.

From an examination of the above literature it is apparent that a close engagement with the specifics of the Kimberley reform agenda itself has been largely overlooked by the existing literature. Clearly some accounts of particular aspects of the Kimberley reform negotiations do exist but these are neither recent nor analytical in focus. In contrast to the corpus of research addressed above, this study will offer an up-to-date and detailed account of the Kimberley Process reform negotiations, pursuing a neo-Gramscian analysis which aspires to shed light on the underlying causality of reformist decision making.

Taken in sum, this study is ambitious in terms of its theoretical and empirical knowledge contribution. Given this study's background in the field of International Relations, its aspired theoretical contribution to the cognition of the neo-Gramscian conceptualisation of hegemony, and how it is contested and evolves, represents the core ambition of this research. That said, the empirical discussion that follows is significant in its own right and contributes to an extensive literature concerning the Kimberley Process, its implementation in Sierra Leone and, more broadly, the conflict diamond issue in general. As a consequence, it is hoped that this study can generate interest within academia and beyond – providing the policy making community with an insight into an opaque field of study. Indeed, the opacity of the diamond industry, allied to several other difficulties, posed considerable challenges as to how in practical terms the contributions outlined above could be achieved. As a result, the required research necessitated careful design and some flexibility in its execution and it is towards a description of this process that this chapter now turns.

## 2.2 Research Design

As the conflict diamond issue reached the public consciousness towards the end of the last century, so academia began to take an interest in the international diamond trade (see Samset, 2002; Taylor and Mokhawa, 2003; Grant and Taylor, 2004). As discussed in this chapter's first part, more latterly interest in conflict diamonds has not so much been extinguished as reduced to a simmer. In some regards this cooling of interest is surprising given that many of the conflicts fuelled by diamonds have been resolved, making field research significantly safer. In addition, the Kimberley Process has now been in place for a sufficiently long period of time for scholars to fairly assess its efficacy. As a consequence, this study was to be conducted under much more favourable circumstances than those which confronted conflict diamond researchers of the past and yet it speaks to a field in which, in academic terms, there has been little in the way of recent research. These facts notwithstanding, conducting research into the global trade in diamonds continues to pose significant challenges. The industry itself remains highly opaque, and while time may have served to remove the confidentiality concerns of those policy makers involved in the Kimberley Process formative negotiations, the same cannot be said for those still involved in a forum whose degree of opacity is a reflection of the industry it seeks to regulate.

### 2.2.1 The Research Design as Iterative Process: Selecting the Empirical and Theoretical

My fascination with the political economy of the diamond trade is longstanding. This interest began during my undergraduate studies at SOAS where my dissertation took on a comparative form and concerned the implementation of the Kimberley Process in Sierra Leone and Zimbabwe. As a consequence, a certain amount of background knowledge had already been acquired prior to the commencement of the study in 2012. That said, all that existed in terms of

knowledge to that point was a suspicion on my part, backed to an extent by a small amount of academic literature that the Kimberley Process potentially stood to protect and even further the interests of transnational mining, often at the expense of artisanal producers (Le Billon, 2006; Le Billon and Levin, 2009). With such a cognisance in mind, the Kimberley Process became the study's referent object and two questions then immediately arose – how does one test for such a bias empirically and how do we conceptualise it if indeed it is found to exist?

What the above description hints at is the undoubtedly iterative nature of the investigation associated with this study. Social scientific research rarely proceeds in the linear read-research-write format (Gutherie, 2010, p.8) and in the case of this study that statement certainly holds true. With the Kimberley Process identified as the central arena of study, it was of course critical to gain a thorough understanding of the scheme and the commentary it has elicited. This necessitated some considerable reading and preliminary research, a process which pushed the study towards an understanding of the potential for bias in the modes of operation of the Kimberley Process and then, in turn, towards the manner in which this bias could be conceptualised. Such a mental progression informed the theoretical positioning of this study and aided in the development of a theoretical model to be tested, derived as outlined above, from the work of Bob Jessop and his concept of strategic selectivity (see Jessop, 1990, p.10). Almost simultaneously, however, the areas for empirical investigation also began to emerge. As Jessop's concept of strategic selectivity became the study's theory to be tested, so attention began to turn to the areas of research within the subject area of the Kimberley Process which might shed light on the veracity of Jessop's theorisation.

In some respects, the areas of study self-selected. If the Kimberley Process was to be investigated as potentially strategically selective, then data needed to be gathered that illustrated or refuted this notion and this immediately pointed to two areas of study. In the first instance, such a hypothesis would clearly necessitate the selection



of a case study – a state wherein the Kimberley Process had been implemented – thus enabling empirical evidence regarding the Kimberley Process’ possible strategic selectivity to be presented. As a product of this notion, however, a second area for research immediately materialised. This second area stemmed from a rationale which held that if the Kimberley Process was found to be strategically selective, then where could this mechanism be said to have its sociological roots? Such a question immediately pointed towards an investigation of the dynamics of the Kimberley Process formative negotiations in the hope that some evidence of strategic selectivity, as a function of the influence of a wider social structure, could be identified.

At this point, therefore, in the development of the study, there existed two principal areas for analysis, that of the Kimberley Process negotiations and that of an implementing state. Clearly multiple institutions and/or states could have been added so as to make the study comparative, however, the merits of a single case study in terms both of the Kimberley Process as the central institution and Sierra Leone the designated implementing state had both practical and academic advantages. In terms of the advantages of the former, testing for the effects of any regime’s implementation would clearly require considerable expenditure. This expense stems primarily from the obvious need for extensive field work involving interviews with the relevant institutional policy makers and significant time spent within the selected implementing country(s). Problematically, however, funds for such field work were limited and self-evidently, increasing the number of case-study institutions and/or states would increase these costs. Furthermore, it could not be guaranteed that interviews for the first area of study, that of the institution’s formation, could be conducted remotely via telephone or video call and that as a result, additional travel to the US or the EU could not be ruled-out. Of equal significance, however, was that academically speaking a single case study structure offered clear advantages in terms of the achievement of the study’s aims.

Yin (2013) describes five possible rationales for the single case study research design, and of these, two points stand out. In the first instance Yin argues that a single case study is well deployed where that case study can be argued to be a 'critical case' – that is, it can be considered to be testing a well formulated theory (ibid, p.51). As noted above, little empirical research has so far been deployed regarding the possible existence of strategic selectivity in the international domain, however, the theory itself is reasonably well specified (see Jessop, 1984; 1990; 1999; 2001; 2005; 2007; 2009) and as a result a single case study that allowed for a real depth of engagement appeared at the time of the study's design to be the preferable approach. In addition, a further rationale for the single case study resides in the notion that such a study can provide 'revelatory' social science (Yin, 2013, p.52). A single case study allows the researcher to engage with the case in question on a deeper level, and as a result, potentially gain access to privileged information. Clearly the Kimberley Process would form one of the institutional case studies and owing to the opacity of the diamond industry it seems clear that a single case study would be preferable for precisely this reason. Gaining access to individuals in the diamond sector, particularly within a producing state, was judged at the time of the study's devising to be a key challenge. Consequently, the ability to invest time conducting research into just one sector and one nation it was judged offered the best chance of obtaining meaningful data. Such an approach allowed for a rich understanding of the regime and selected state and consequently the opportunity to build contacts which could allow access to otherwise reluctant interviewees. These are of course practical considerations. However, it was always my suspicion, given the existing evidence regarding the Kimberley Process' implementation and indeed the illicit nature of the trade itself, that if I were to be successful in achieving access to the relevant individuals then the data provided could indeed prove 'revelatory' and be significant enough to make a meaningful academic contribution.

The practical and academic implications described above saw the idea of the addition of multiple states and/or further regimes and institutions such as the Extractive Industries Transparency Initiative or the UN's Global Compact discarded. The study, therefore, adopted a single institution as its primary case study, and with exactly the same reasoning, a single state as the supporting case study. A final question remained as to which state would be best placed to perform this function. The purpose of introducing a state as a case study was to demonstrate the ramifications for a producing state of the strategic selectivity of the Kimberley Process - should Kimberley be found to be subject to the strategic selectivity of wider social structure and therefore strategically selective itself of course. For the Kimberley Process to be strategically selective in its implementation, it would have to privilege the interests of mechanised miners over artisanal. Consequently, both mining methods have to be practised in the selected state. Of the major producers this left as potential case study states Angola, DRC, Guinea, Liberia, Sierra Leone and Zimbabwe. Sierra Leone immediately stood out. Unlike DRC and Zimbabwe, Sierra Leone has been increasingly politically stable. Moreover the diamond sectors' of Angola and Zimbabwe have in recent times been sites of significant state interference and violence (see respectively PAC 2010a; 2012; de Morais, 2011). In addition, as part of the legacy of colonialism, English is widely spoken in Sierra Leone. For Angola, DRC and Guinea colonialism embedded the European languages of Portuguese in the case of the former and French for the two latter states. To conduct field work in any of these states, therefore, would have necessitated the employment of an interpreter and additional cost.

After considerations of political stability, safety and language practicalities were taken into account, Liberia and Sierra Leone emerged as the two most desirable case studies. From that point, the equation became relatively simple. The Sierra Leonean diamond sector is much larger than Liberia's. For 2014, Sierra Leone produced nearly \$222 million in rough diamonds to Liberia's \$28 million (Kimberley Process,

2014). Moreover, historically Sierra Leone also has more significance in terms of the conflict diamond narrative. Sierra Leone's diamond sector was a key site of regulation for the Kimberley Process at its inauguration and its sector continues to be a point of close observation and real interest to contemporary Kimberley policy makers (see TG, interview 9<sup>th</sup> April 2015; FI, interview 23<sup>rd</sup> March 2015). As a consequence, I reasoned that, as a case study, Sierra Leone was more likely than Liberia to elicit interested and positive responses for interview from important international Kimberley policy makers. And indeed, judging by the interest expressed by many interviewees in the study itself, in practice so it proved.

As the theoretical basis of the study began to take shape alongside a more formalised notion as to how strategic selectivity could function in practice, a final area of research emerged. In the course of the study, if it were found to be the case that a strategic selectivity present in wider social structure affected the Kimberley Process negotiations such that a strategic selectivity was passed onto the Kimberley Process itself, then these propositions presented two questions. The first, as to how this strategic selectivity was manifested in a producing state was immediately obvious as discussed above. The second question, however, took some time to emerge and had its roots both in Jessop's theorisation and in empirical observation. Jessop maintains that the interaction between agent and structure is a recursive one (Jessop, 1999). Consequently, according to this theorisation, agents would constantly be re-engaging with the Kimberley Process. It follows, therefore, that where the strategies of agents seeking reform clash with the interests of capital it may, at this juncture, be possible to observe the strategic selectivity embedded within the regime affecting those interactions. At the same time, empirical observations also presented the idea that while the Kimberley Process may work to further the interests of capital it may also work to defend those interests from any reform attempts. As such, a third area of study presented itself based on the idea that if the Kimberley Process was found to be strategically selective in the case study

state, then what is the nature of the Kimberley Process' response? Does Kimberley function in a strategically selective fashion and negate any reform attempts which might run contrary to the interests of capital? These became key questions as the nature of Kimberley implementation in the case study state became apparent.

Researching this third area for study was complicated by the fact that, as a forum for discussion, the Kimberley Process had been dominated in recent years by a generalised reform agenda which did not explicitly relate to Sierra Leone and in fact owed much to the problems associated with the Zimbabwean diamond sector (see PAC, 2010a; 2012). What became increasingly obvious, however, was that many of the general reforms sought in the Kimberley forum were highly pertinent to the Sierra Leone diamond sector. Consequently, the response of the Kimberley forum to any strategies of reform which were antithetical to the interests of capital could potentially be expressions of strategic selectivity which may work to safeguard the interests of capital across the global trade; meaning also, of course, those fractions engaged in the Sierra Leonean diamond sector. As a result, this sphere of research was highly relevant to the study as a whole and warranted deeper research.

The process described above, and which produced the structure of this study, was neither linear nor indeed coherent. The first two years of the study's funding involved extensive reading and discussion as well as the conduction of significant field work in the UK and, towards the end of the period, Sierra Leone. This process of moving between the field and the office ultimately condensed into the identification of the three areas of study outlined above. The rationalisations which constituted this process led to the anticipation that, through the research of Kimberley's formation, implementation and reform, Jessop's theory of strategic selectivity and its modes of operation could be verified.

### 2.2.2 Gathering the Data: Methods and Practicalities

Conducting the research required by the study structure as described above was never likely to be straightforward. A first decision, the mode of investigation, was arrived at quickly. However, the practicalities of carrying out research within an industry notorious not only for its opaque nature but also for the prevalence of criminality presented considerable challenges to the point of being somewhat forbidding. Clearly the diamond trade has attracted the interest of some unsavoury people in recent times and during its civil war nowhere else, with the possible exception of Angola, were these people found in denser concentrations than Sierra Leone. I had been made aware by several researchers of West African politics that real care was still required when dealing with the Sierra Leonean diamond sector and this was advice that had to be taken seriously. Furthermore as mentioned above, the trade is famous for its opacity and despite the fact that the Kimberley Process drew in actors external to the industry such as diplomats and civil society organisations, access difficulties were highly likely. Moreover, even in the event that access could be secured, achieving a degree of candour from many interviewees could still prove problematic. Many other issues presented as the study progressed but these were the difficulties anticipated at the outset and in practice all came to play a part.

#### Methods

The first and most important issue to be resolved involved the mode of investigation. Clearly, the decision here needed to be based on the core research questions as discussed above and this almost inevitably directed the study in a qualitative direction. Strategic selectivity, whether present either as a mechanism of wider social structure or condensed in formal institutional structures, is made manifest in the cognisance of agents (in the case of the former) or is an expression of the operating procedures, rules and norms of the institution in question (in the case of

the latter). In fact, as this study discovered, this picture is complicated further by the fact that the strategic selectivity of wider social structure also affects institutional modes of operation independently of that institution's own technologies of strategic selectivity. However, testing for the presence of strategic selectivity within wider social structure requires the achievement on the part of the researcher of a deep cognition as to how policy makers understand the subject area in question; what they consider to be sound or unsound political and/or economic decision making. Along the same lines, researching institutional strategic selectivity self-evidently requires a comprehensive understanding as to how policy making within that forum is conducted. The investigative emphasis, therefore, resides in the achievement of the kind of rich detail that qualitative investigation is best placed to provide.

The in-depth qualitative interview allows the researcher to see "the social world from the point of view of the actor" (Bryman, 1984, p.77), allowing interviewees to explain in detail their understanding of a given situation. More specifically, as a mode of investigation, qualitative methods have the capacity to facilitate the researcher in terms of uncovering the strategic selectivity that exists within the cognisance of the interviewee by allowing for a "focus on deep rather than surface structures" and placing an emphasis on the often "unconscious motivation [of individuals] and the power of societal structures in constraining action" (Grbich, 2013, p.169). Such an approach had clear potential in terms of uncovering the nature of wider social structure. It also follows from this that in-depth qualitative interviews present the researcher with the opportunity to hear and understand the explanations of expert individuals and policy makers regarding Kimberley implementation and reform. The assumption, born out in practice, was that such investigative techniques would expose how Kimberley stipulations worked on the ground and also the reasoning as to why reform strategies were dealt with in the manner they were within the Kimberley forum itself. The utilisation of a

methodology, derived from the work of Maarten Hajer, was an extension of these principles. Hajer's approach, defined by the identification of discourses and related storylines, allows the researcher to get close to the argumentation and cognitive processes of policy makers. In so doing, this methodology draws attention to the clashes that inevitably result where the storylines (and their antecedent discourses) represent divergent responses to a given problem. It is at that juncture, where choices are made and rationalised that strategic selectivity can be found. It is hard to imagine how a quantitative approach could provide such detail and as such qualitative methods were deemed the most apposite.

### Practicalities

As mentioned above, from the outset it was quite obvious that the most serious threat to the success of the study was achieving access to key interviewees but in fact even identifying potential interviewees proved challenging in itself. In a study such as this, based on elite interviews, clearly there could be no random sampling. Instead key interviewees had to be identified and interviews requested. Unfortunately, as the field work progressed through the three sphere study structure, securing interviewees became increasingly challenging. In some instances, this problem was eased by a snowball like sampling pattern which saw interviewees pass me on to other individuals involved in Kimberley policy making and implementation. For the most part, however, securing interviews posed a persistent challenge throughout the study.

Before the study could commence, in accordance with university protocols, risk assessment and ethics clearance for the entire study was sought and granted. The process of identifying interviewees for all three spheres of research then began with an extensive period of documentary research in the hope of identifying the names and contact details of potential interviewees. With the industry being as secretive as it is, this took some considerable effort but did ultimately provide a small number



of names to begin the process. From that point, preparation for the field varied depending on the sphere of study concerned and each provided its own challenges. One feature, however, remained a constant throughout and that was that in practice, very few interviewees were enthusiastic respondents and many were concerned about potential repercussions. This provided me with some serious ethical misgivings. I judged that, even with regard to the most sensitive information imparted, the lives of my interviewees were highly unlikely to be at risk. That said, the careers of the study's respondents certainly could be, and in a state such as Sierra Leone, losing one's job can have devastating repercussions. This was a problem I took very seriously and consequently, regardless of the interviewee response to the question of anonymity, the identities of all respondents are withheld in the pages that follow along with any information that might distinguish them. Moreover, I handled very carefully the identities of respondents, with study notes containing any identities being stored only on password protected computers. A problem of equal scale, however, resided in the anxiety the study could potentially induce in its participants. Clearly any anxiety at all was highly undesirable and so the promise of anonymity accompanied by a proper discussion of identity protection served to reassure participants that this was an issue I took extremely seriously. In sum, these measures served to relax all of the study's interviewees and played a significant role in generating candid responses.

For the first sphere of research, the Kimberley Process formation, the identification of interviewees and the securing of access was primarily hampered by the passing of time. Civil society negotiators were relatively easy to identify as it was the research of these individuals which first introduced the conflict diamond issue to the consuming public. However, with regard to state and industry negotiators, the picture was more complex. The Kimberley Process formative negotiations were completed by early 2003 and a decade had passed between the regime's inauguration and the commencement of this study's field work. The industry was

never likely to publish the names of those involved in the negotiations and states also rarely reveal the identities of their negotiators. The identification process was also hampered by a culture, in part inculcated by the industry itself, which saw the promotion of the idea of the 'Kimberley family' – Sicilian connotations presumably accidental (OB, interview, 25<sup>th</sup> February 2015; WR, interview 14<sup>th</sup> May 2014). The Kimberley family ethos meant that the details of meetings including all participant names and minutes were, and still are, confidential. Fortunately, a prominent state negotiator had published a discreet account of the Kimberley Process negotiations. It was my great fortune that at the time the individual concerned was posted in London and so face-to-face interviews were possible. This undoubtedly helped establish a rapport which saw this individual offer me the names of other potential interviewees present at the time of the formative negotiations, including figures from industry. With this assistance, and after some quite exhaustive internet searching, contact details were located and interviews requested. Many responded positively, especially after the promise of anonymity.

The resulting interviews were a reasonable indication as to what was to follow. Prior to conducting any interviews I had consulted what is an extensive literature regarding techniques for both elite interviewing (Aberbach and Rockman, 2002; Lilleker, 2003; Mikecz, 2012) and interviewing potentially unreceptive participants (Adler and Adler 2002; Brannen, 1998; Thuesen, 2011). Certainly this reading was productive and provided significant insight into what was to come. Many of the problems expected, however, did not arise with regard to my engagement with civil society participants which instead presented their own unique challenges. In the first instance, prior to the field work commencing, of the two TNGOs most heavily involved in the conflict diamond controversy I had particularly high hopes with regard to London based Global Witness. In practice, however, despite repeated requests for interviews, Global Witness proved every bit as inscrutable as the industry and refused to offer any meaningful assistance. Fortunately, PAC were

significantly more forthcoming and current and former staff were willing participants throughout, although many were much keener to discuss contemporary Kimberley issues than historic ones and this meant careful interview management. In addition, and in keeping with the attitude of the state negotiator discussed above, the two further state negotiators interviewed as part of this first sphere of research proved very forthcoming, with any confidentiality concerns eased by the passing of time.

Industry negotiators provided a very different challenge. As a part of the research community and external to the clandestine and exclusive milieu of the diamond trade, I was clearly regarded as 'other' and consequently an object of suspicion. The diamond trade has been subject to a considerable amount of negative media commentary in recent years and I represented a potential continuation of that. Perhaps as a result, all industry participants were guarded in their responses and some were quite hostile – this was expected. What was not expected, however, were the techniques utilised by some to avoid imparting any meaningful information. Most large scale mining companies frequently employ public and government affairs officers who are additionally often tasked with Kimberley negotiations. This made these individuals ideal study participants. Problematically though, and in a pattern that was to repeat throughout the study with both industry and sometimes government figures, these individuals, once resigned to offering an interview often proved to be highly media trained. This meant that many respondents were outwardly exceptionally polite and accommodating but, once asked a question, would take the opportunity to embark on a rambling monologue. This resulted in the participant offering the information that they and the company wished to impart rather than that which I requested – treating the study as a public affairs exercise. In response, I developed a technique designed to exhaust this predilection. Unlike a journalist, I was not bound by time pressures. Consequently, at the outset, I stressed how concerned I was not to keep them from other appointments. I

repeated this question around the hour mark. This always elicited an effusive response that I was no imposition and that they were available for as long as needed. This resulted in long interviews which were almost always most revealing during the final 30 minutes.

The second sphere of study that of Kimberley Process implementation in Sierra Leone represented the study's most challenging phase. Prior to travel, as much research as possible was conducted in the hope of identifying relevant organisations and likely interviewees. This research notwithstanding, gaining access to and conducting the interviews themselves still posed significant difficulties. In the first instance, Freetown is not well served with basic amenities. Mains electricity is almost non-existent, land line phones *are* non-existent and internet provision is somewhat patchy. In sum this meant that establishing contact with interviewees was very difficult. Consequently, securing interviews resulted in a considerable amount of unannounced visits, or 'door stepping' in journalism parlance. This sometimes occasioned slightly tense questioning outside industry and government offices with armed and confused security contractors. As a tactic, however, it was highly effective and I was often offered a stifling waiting room as reward. I also benefitted in the first two weeks from being in Freetown at the same time as a group of MSc students from the University of Bradford. This group was travelling on an official study visit and by quietly following them on group trips I gained access to offices and then individuals that I have no doubt would otherwise have been closed to me.

The Sierra Leone phase of the study produced particularly acute problems with regards to confidentiality and many interviewees expressed considerable concern. All of the reassurances outlined above were offered to respondents, however, the problem of audio recording was something of an issue. Confidentiality concerns have long been known to affect the validity of interviewee responses (Aquilino, 1994) and it became clear to me that, for this phase of the study, the suggestion of the

production of material evidence of the interview in the form of a voice recording might have at best elicited more guarded responses or at worst led to the immediate termination of the interview. Self-evidently, both scenarios were undesirable and so the suggestion was never made. Instead, during interviews I took extensive notes and at the interview's conclusion, instantly headed to the nearest café or bar to write a detailed account.

With regard to the conduction of interviews, each sector of civil society, industry and state officials posed their own specific difficulties. As a group civil society were the most exposed to potential repercussions for study participation and the associated concerns became manifest during my first interview. A civil society interviewee became extremely irate when asked to sign a consent form on the basis that this may have been used for identification. Fortunately this situation arose after the interview had been completed but as a result, I resolved not to ask others for anything similar unless I felt sufficient rapport had been established. Interviewing state sources also posed difficulties. My principal government source had been recommended by a contact at the World Bank and while this individual was a senior official in the office, s/he was clearly still concerned about my presence with regard to others working in his/her office. Given the partitioned but still quite open nature of the office, the respondent was at times very guarded and used body language to convey meaning rather than words to keep others from hearing. On what was to be my final visit to these offices, I came to understand why as several junior officials vigorously made their objections to my presence known. On a previous visit I had witnessed a small scale mechanised miner (and as discussed below, subsequent study participant) openly pay a bribe to one of these officials in the office waiting room and clearly my visits were a concern to them. My line of questioning with this individual was always very measured and delivered in low tones to avoid others over-hearing, however, just my presence was clearly causing an issue. My source

insisted that s/he would see me but our discussion was short and s/he made it clear that this should be my last visit and I agreed.

The final group to be targeted for interview was Sierra Leonean based industry. As much by good fortune as by design, the study benefitted from industry sources from mechanised miners both large and small. In the case of the former, achieving the interview involved several tricky encounters with security and the resulting interview was afflicted in a rather acute way by the dynamics arising from media training as discussed above. This was dealt with in the aforementioned manner however, and some interesting data was collected. The small scale miner interview was achieved by a stroke of considerable good fortune. Small scale mechanised mining is a source of some controversy in Sierra Leone as mentioned above and discussed in greater detail in later chapters, consequently I was concerned that gaining a source from this key grouping may prove impossible. During the several hours spent in the Sierra Leonean Government Gold and Diamond Office waiting room, however, I was fortunate to strike up a conversation with a South African small scale miner. This individual was presenting his first meaningful package of diamonds for Kimberley accreditation and export, one which was to guarantee the future viability of his company. Quite possibly riding a wave of good will, this individual committed to an interview and provided this study with some highly relevant data.

The final sphere of study was afflicted by many of the difficulties as outlined above but the interviews were, at least in terms of execution, slightly more straightforward. This owed much to my increasing experience of conducting interviews within this topic area, however, it was also true that in the case of civil society there was significant congruence between the data that the study required and what interviewees wished to discuss – namely the recent Kimberley reform agenda. Challenges remained, however. Kimberley government negotiators were hard to identify and, in fact, given the recent nature of the topic under discussion, both

respondents were more guarded than those interviewed in connection with the first area of research. This was overcome by earnest assurances of anonymity including a commitment from myself regarding exactly how the respondents would be referred to in-text. Securing interviews with industry on the reform agenda was more challenging still. Given the role of figures from UAE in stifling recent attempts at Kimberley reform an interview with an official from the Dubai Diamond Exchange (hereafter DDE) would have been highly desirable. Unfortunately, despite repeated attempts, no one involved in the UAE's Kimberley involvement would consent to an interview. Fortunately, the position of the UAE in Kimberley meetings was well known and had not only been related by several other interviewees but was also identifiable via video recorded presentations UAE officials had made in recent years to various diamond industry conferences. During this process, for the first time in the course of conducting field research, my 'otherness' to my interviewees became a serious impediment to the research itself. The Western origins of many of the individuals involved in the UAE's diamond trade notwithstanding, these officials had carefully positioned the DDE as the diamond exchange of choice for the African producer states whose diamond production had proved so controversial in recent times. Much of the criticism of this behaviour had come from Northern states, civil society organisations and researchers and had centred on the UAE's permissive attitude to these regimes' diamond related (mis)behaviour. As a researcher from a Northern university, therefore, I would undoubtedly be viewed with high suspicion and despite my numerous emails and telephone conversations emphasising my impartiality and my enthusiasm for hearing the DDE side of the story, the offer of an interview was sadly not forthcoming.

Despite the above incident, in general whether overseas or in the UK, my field work appeared to have been advanced by my status as a PhD researcher. State and civil society interviewees clearly viewed their discussions with me as a way of

(anonymously) widening their public reach. Additionally, certainly in the study's initial phase, many interviewees understood that researching the diamond trade was difficult and were therefore, out of sympathy, receptive to my appeals for assistance. Further, in the study's latter stages, I became something of a novelty. Freetown and Sierra Leone was at the time of my research an extremely safe and friendly place, however, the international community appear to perceive it very differently and those working for international organisations were allowed to travel around Freetown only in official vehicles and certainly not on foot. Consequently for some interviewees, being an independent researcher of the Sierra Leonean diamond trade gave me a (somewhat undeserved) status which increased the interest of some interviewees in both myself and the project which I sensed resulted in an increase in candour.

As should be clear from the above discussion, designing and conducting this study posed some considerable challenges. Investigating a sociological phenomenon as ethereal as strategic selectivity, and exploring the breadth of its reach, required careful thinking in terms of designing an approach. This need was exacerbated by the fact that, as the study developed, it became increasingly apparent that to truly test for the presence of strategic selectivity would require a close engagement with the in house negotiations and modes of operation of a regime that regulated an exceptionally opaque industry. As much by luck as judgement, however, these constraints were circumvented and some meaningful data collected. Certainly, in combination with pre-existing documentary evidence, more than enough data was gathered that could be applied to the testing of this study's theoretical framework. Before this analysis can begin, however, clearly a detailed discussion of this theoretical framework, derived from Bob Jessop's strategic relational approach, is warranted and it is towards this task that the following chapter is devoted.



## Chapter Three

### Theorising and Investigating Policy Making

At base, this study proposes to pursue an uncontroversial investigative structure. In simple terms it will set out a theoretical position and then test for it through empirical investigation. The following chapter will set the basis for this approach. To do so, this chapter will divide into three parts. In its first, the chapter will aim to describe the three theoretical concepts, derived from the work of Bob Jessop, which form the basis of this study's theoretical foundation. A second part will seek to integrate these three concepts and explore how they might interact within a policy relevant negotiation. The chapter's third and final part will then, in light of the preceding discussion, introduce the study's methodological approach based on the work of Maarten Hajer. This methodology will create a basis for an in-depth analysis of the policy making environment that surrounds the Kimberley Process.

This chapter's first two parts will therefore be concerned with this study's core theoretical propositions, namely that there exists within social structure a bias termed by Jessop strategic selectivity. It is here argued that strategic selectivity helps us to understand both the delimited form that negotiations take with regard to emergent governance bodies and at the same time the selectivity bias inscribed within the governance body that is established. The emergent phase is, of course, deeply affected by the associated argumentation and compromises of the relevant parties. But, this study maintains that much will depend upon the 'condensation of social forces'<sup>3</sup> that converge around any given issue area and the resources/influence that the interested parties bring to bear on the subject. Which

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<sup>3</sup> This notion is based on Jessop's concept of the state (itself derived from the work of Poulantzas) as the material condensation of class forces (see Jessop, 2007, p.125). A slightly different wording is used here as the forces at play in the Kimberley debates cannot be contained within the Marxian concept of class.

forms of governance are and are not deemed acceptable in dealing with the issue at hand will be heavily influenced by the particular configuration of interested parties.

Once operational, any given governance body that is established will have associated with it its own particular strategic selectivity. Although this inscribed strategic selectivity will be heavily influenced by the original configuration of social forces that converged on the given issue-area, there are several reasons why the operational phase should be treated separately. First, the actors that constitute the configuration of social forces may change. For example, pre-figurative protest groups may dissipate or move to a new issue, or dissatisfied participants in the emergent phase may choose to disengage. Depending on the degree of institutionalisation, principal-agent relations and the question of degrees of autonomy may also arise. Second, the resources that each actor can bring to bear may alter if the governance body is given resource allocating powers. Finally, the establishment of a governance body will change the spatio-temporal horizons for the actors involved, given that emergent processes are usually relatively short-lived. Such a change has the potential to change the playing field: suiting the capabilities of certain agents to operate over greater temporal and spatial horizons, thus enhancing the likelihood of success for the strategies of those agents.

The detailing of these theoretical propositions and the methods this study will utilise to test for them form the basis of this chapter, whilst testing for them forms the central task of this study's two empirical sections. This chapter, therefore, sets the foundations of this thesis.

### 3.1 The Theoretical Concepts

The first part of this chapter will seek to outline the three concepts of strategic selectivity, hegemony and accumulation strategy which together constitute the theoretical basis of this study. In so doing, it will establish a point of departure for the chapter's second part which will be concerned to explain how these concepts

may combine in practice to affect policy making in the international political economy. As such, this opening section will explore in some depth the core features of Jessop's strategic relational approach. In terms of placing the concepts cognitively, hegemony and accumulation strategy should be considered on somewhat different terms to that of strategic selectivity. The latter concept, the first to be addressed in this section, works to aid our understanding as to how strategies are formulated and decisions regarding their furtherance made. The two former concepts differ in that they directly address substantive aspects of the Marxist understanding of political economy, offering respectively an explanation as to how class struggle and the contradictions of the capitalist mode of production can be resolved.

### 3.1.1 Strategic Selectivity

In its most basic form, strategic selectivity as a concept suggests the presence of an embedded bias within social structures which selects and privileges certain strategies, and by derivation, the agents which pursue them. Initially conceived by Jessop in relation to state structures, this study takes seriously Jessop's assertion that it is a mistake "to ask where strategic selectivity is located because that would be a structuralist reading" (Jessop, 2009). As such, this study maintains that strategic selectivity does not begin at the boundaries of state institutions, assuming such boundaries could be straightforwardly delineated, but in fact is a phenomenon that "must be analysed on a case-by-case basis" and that can be found within "'wider relations or conjunctural situations' rather than exclusively in the system or structure" (ibid). Accordingly, this study maintains that strategic selectivity is not exclusively manifest within state structures or regimes (Jessop, 1990, p.10) but is also operative within wider social structures. Furthermore, owing to the capacity of agents to act reflexively, strategic selectivity will work to (re)constitute wider social structures, resulting in both structure and agent existing in a complex dialectic that produces and reproduces both. Strategic selectivity therefore, both adopts, and seeks to contribute to, the critical realist methodological approach concerning the

relationship between structure and agent. As a consequence, prior to any elaboration of the concept itself, it is important to outline how this study approaches the structure/agent problematic.

In drawing on the critical realism of Bhaskar (2005), the strategic relational approach adopts a particular understanding of the structure/agent debate. The critical realist perspective suggests that social structures should be thought of as both determined and determinative<sup>4</sup>. From this point of departure, the strategic relational approach maintains that “neither agents nor structures are real, since neither has an existence in isolation from the other – their existence is relational (structure and agent are mutually constitutive) and dialectical” (Hay, 2002b, p.127). As such, following in the critical realist tradition, the strategic relational approach does not acknowledge, except for the purposes of analysis, any meaningful separation of structure and agent as they “are in practice completely interwoven” (ibid, p.127). Strategic selectivity as a concept fits into this schematic as a meditating factor. As we shall see, strategic selectivity works through and beyond structure, both material and ideational (ibid, p.212), to affect how agents cognise the social world and formulate strategies and also how those strategies are received by states, institutions and regimes.

While the principal conceptual undertaking of strategic selectivity resides in providing an explanation of the complexities of the structure/agent relation, the concept itself begins from a relatively straightforward theoretical foundation:

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<sup>4</sup> This leaves critical realism distinct from both Durkheimian structuralism and Weberian individualism as an approach to the structure/agent problematic. For a full account of Durkheim and/or Weber’s approach to the structure/agent relation and their conceptual separation from the critical realist approach, see Bhaskar, (2005) *The Possibility of Naturalism*.

[Strategic Selectivity] can be understood as a bias relative to specific strategies pursued by specific forces to advance specific interests over a given time horizon...A given type of state, a given state form, a given form of regime, will be more accessible to some forces than others according to the strategies they adopt...[and] will be more suited to the pursuit of some types of economic or political strategy than others because of the modes of intervention and resources which characterise that system (Jessop, 1990, p.10).

Simply stated, according to Jessop strategically selective institutions, states and regimes carry an inherent bias which works to progress some political and economic strategies (and consequently the agents that sponsor them) at the expense of others. How, in specific terms, this bias is made manifest and what it means for agents in practice is an empirical question that this study will seek to address through an analysis of the formation of the Kimberley Process, its implementation in the context of Sierra Leone and the efforts of class relevant forces with regard to compelling the regime's reform. The addressing of such a question can be reliably guided by the concepts integral to strategic selectivity. In accordance with the key theoretical propositions of this study elaborated fully below, this study's investigatory process will, in the chapters that follow, include the achievement of a cognisance of the form of the wider structure in question (for example does the dialectic structure/agent relation exist within a capitalist environment and if so what form does it take), an understanding of the structural form in question (be it state, multilateral or regulatory regime) which may select through different mechanisms and finally how agents interact with that structure in strategic terms in search of reform.

Strategic selectivity as described by Jessop implies that structures such as the state, institutions and regulatory regimes become inscribed with a particular selectivity which exists as a condensation of past and present strategies pursued by agents,

who are themselves acting within a determinative wider social structure. The strategies pursued by agents, both present and historic, therefore work to form and reform the strategic selectivity of the structure in question, and as such, form the agential aspect of the structure/agent dialectic (Jessop, 2007, p.37). Amongst these formative strategies are included both hegemonic projects and accumulation strategies as will be discussed below. What this means in practice, however, is that social structures have the capacity to privilege certain class forces depending on this selectivity. Of particular note here is that within capitalist societies, this strategic selectivity, determined by the form of the society itself, results *a priori* in a selectivity within the crucial structure of the state which works on behalf of the capitalist class:

The structural [i.e. strategic] selectivity of the state means that it is not a neutral instrument equally accessible to all social forces and equally adaptable to all ends. Instead it has an in-built, form-determined bias that makes it more open to capitalist influences and more readily mobilized for capitalist policies (Jessop, 1990, p. 147).

The capitalist state, therefore, is no neutral arbitrator of economic and social relations but is in fact inscribed with a strategic selectivity which favours the interests of the capitalist class. As an extension of this principle, this study will take as a fundamental point of investigation the notion that this bias, influenced by the capitalist form of the society in question, may as a result be present in wider social structure and formal regimes/institutions beyond those of the state. In practical terms, however, exactly how the mechanisms through which this selectivity is made manifest will vary depending on the structural form in question.

When in operation, strategic selectivity can be effective through an array of different mechanisms. While this study seeks to posit the notion that strategic selectivity may exist within a range of social structures, the concept as originally conceived by Jessop, was couched in terms of an analysis of the state. It is important to bear in

mind in the discussion that follows therefore, that what Jessop considers to be the strategically selective mechanisms of the state, this study considers to be potentially applicable to wider social structures. To proceed in light of this, for Jessop with regard to the state, there exist some principle modes through which strategic selectivity is effective:

The structural selectivity of the state consists in a complex set of institutional mechanisms and political practices...Included here are: selective filtering of information, systematic lack of action on certain issues, definition of mutually contradictory priorities and counter-priorities, [and] the uneven implementation of measures originating elsewhere in the state system (Jessop, 2007, p.127).

It follows then, that strategic selectivity within the state (and potentially wider social structure) can become manifest in two principal regards. In the first, the state can select via the mechanisms of its internal apparatus and in the second it may select via the intricacies of the political decision making process itself. In the case of the former this may, for example, present as a straightforward lack of institutional capacity to implement certain strategies whilst the latter may enable selectivity simply because “[p]articular intellectual skills are required for participation, especially as official discourse and bureaucratic secrecy obscure the realities of political power” (ibid, p.127). From this point of departure, however, Jessop offers the beginnings of an explanation as to how strategic selectivity may function in social structures beyond the formal structures of the state. In so doing he identifies a third form of strategic selectivity, one which still exists within the state but also within all other social structures and regimes. While this third form of selectivity is certainly less formal and mechanistic it is no less effective as a result.

Social structures often work to compress or stretch time and space. In so doing they privilege or disadvantage agents depending on their ability to operate according to the spatio-temporal rhythms of the regime in question:

All structures privilege the adoption, as a condition for success, of certain spatial and temporal horizons of action by those seeking to control, resist, reproduce, or transform them. Thus the spatio-temporal selectivity of...[a] structural configuration involves the diverse modalities in and through which spatial and temporal horizons of action in different fields are produced, spatial and temporal rhythms created, and some practices and strategies privileged and others hindered according to how they 'match' the temporal and spatial patterns inscribed in the relevant structures (ibid, p.46)

The spatio-temporal rhythms of structures provide their own selectivity. They do so by creating a playing field that suits the capabilities of certain agents to operate over certain temporal and spatial horizons, thus enhancing the likelihood of success for the strategies of those agents. For example, within a capitalist environment and in the context of a negotiation, time limits are often set so as to constrain costs – often this has the capacity to favour particular agents. Those whose interests are directly affected are likely to have a considerable pre-existing knowledge base, they will also be inclined, and indeed may well have the wherewithal, to purchase large amounts of skilled labour time to deal with the issue at hand. Such agents are able to secure a distinct knowledge advantage over rival negotiators who are not in possession of similar financial resources and who are now precluded from taking the time required to achieve a comparable knowledge level. Disadvantaged agents do not, however, remain supine in the face of this, or in fact to any form of strategic selectivity; over time they react, altering their positions and strategies according to the selectivity with which they are presented. In so doing, the strategic selectivity of institutions, organisations or regimes becomes a factor beyond the formal



auspices of structure. Strategic selectivity is no clandestine mechanism. Agents “take account of this differential privileging through ‘strategic-context’ analysis when choosing a course of action” (Jessop and Sum, 2006, p.325). We can posit the notion, therefore, that in keeping with the critical realist understanding, there exists a dialectic relationship between agent and structure, one that inevitably sees strategic selectivity significantly affecting agential strategic autonomy (Jessop, 2007, p.46).

While agents take account of the strategic context of the structure they are dealing with, strategic failure remains a possibility. Failure can occur on behalf of agents principally because either the strategy is simply not selected in any meaningful way by the structure in question or because it is selected but then becomes subject to distortion via structural translation. In the case of the latter, “the relationship between inputs and outputs is variable and depends on internal states of the legal or political system” (Jessop, 1990, p.99). Successful strategic inputs are not merely transmitted by structure but are in fact translated by it. Thus, whether agents achieve strategic success or failure, the nature of strategic selectivity and structural translation makes the pursuit of strategies recursive on both counts. Both successful and failed strategists in terms of selectivity, will engage in reflexive action, reassessing strategies before renewing their engagement with structure. As such, “agents are reflexive, capable of reformulating within limits their own identities and interests, and able to engage in strategic calculation about their current situation” (Jessop, 2007, p.41). This strategic reflexive action on the part of agents creates a basis for a recursive interaction between agent and structure:

[T]he scope for the reflexive reorganization of structural configurations is subject to... the recursive selection of strategies and tactics [which] depends on individual, collective, or organizational learning capacities and on the "experiences" resulting from the pursuit of different strategies and tactics in different conjunctures (Jessop, 1999, p.52).

Agents have the capacity to assess the extent of their success, think reflexively and reformulate strategies accordingly. This forms a basis for an agential recursive interaction with structure, one which ultimately conditions both. In this manner, strategic selectivity reaches beyond formal structure into wider society (re)forming 'identities and interests' and affecting as a result the strategies agents "consider in the first place, the strategies they deploy in the final instance and the policies they formulate" (Hay cited in Jessop, 2007, p.49). The strategic selectivity of structure therefore, and the reflexive engagement it necessitates, has the capacity to alter the identities and cognition of agents, and crucially as a consequence, the strategies they pursue.

Conceived by Jessop primarily in relation to the capitalist state, but from the perspective of this study relevant to all social structure as well as its formal manifestations, the concept of strategic selectivity is of great assistance in terms of theorising the relationship between structure and agent. Should strategic selectivity exist within social structure or its formal institutions, this mechanism has the potential to condition the cognition of agents both prior to and during policy making interactions. Cognition of the nature of this mechanism therefore becomes critical to understanding policy making in the social world. Within this sphere, Jessop guides future research by arguing that strategic selectivity is a reflection of the condensation of the balance of forces within the society in question. Empirical evidence, therefore, should be examined for the many possible ways strategic selectivity works within structure to further the interests of class fractions – in a capitalist social context then, this would of course translate as capitalist class fractions. A discussion of an agenda for the research of this theorisation constitutes an element of this chapter's following part.

### 3.1.2 Hegemony:

The capitalist mode of production inherently entails the systematic exploitation of labour by capital. Explaining how these relations are maintained socially, for the most part without the need for direct repression, remains a core challenge of Marxist scholarship; an explanatory task that Antonio Gramsci attempted to resolve theoretically through the concept of hegemony. As such, hegemony represents a resolution, however partial and temporary, to one of the two destabilising relations associated with the capitalist mode of production - that of the struggle between classes (the second being inter-capitalist competition). This sub-section will engage in a detailed explanation of Jessop's interpretation of hegemony. Initially it will deal with the concept in the abstract before moving onto a discussion concerning its practical manifestation in the form of hegemonic projects. In so doing the discussion will explore what conditions are required for the establishment and maintenance of a successful hegemony.

The extraction of surplus value through the exploitation of labour represents a defining feature of the capitalist mode of production<sup>5</sup>. The reproduction of the capitalist system therefore requires a discursive device that masks the exploitative nature of capitalist production, working to create a temporary social equilibrium between the exploited and exploiting classes that renders the process palatable to both. The establishment of hegemony has the capacity to achieve this task:

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<sup>5</sup> According to Marx's analysis, labour is the source of value. Within a capitalist mode of production, during the average working day, the worker creates more value than is socially necessary for its reproduction. In practice this means that the capitalist need only pay wages to the worker at the level of that which is socially necessary. The difference between the value created during the average working day and that which must be paid to the worker to ensure the reproduction of his/her labour power is the capitalist's surplus value. The creation of surplus value which can then be reinvested is the basis of capitalism's distinctive Money-Commodity-Money exchange relation. This relation is exploitative simply because the worker receives less value in the form of wages than he/she creates (see Callinicos 1993, p. 105-139).

[Hegemony] involves the interpellation and organisation of different 'class relevant' forces under the political, intellectual and moral leadership of a given class (fraction) or, more precisely, its political, intellectual and moral spokesmen (Jessop, 1984, p.243).

The process of interpellation<sup>6</sup> contained within hegemony works to organise previously opposed class forces under the leadership of a hegemonic class or class fraction. In the context of a capitalist system, the capitalist class diffuse the social tensions integral to the exploitation of wage-labour through the creation of a popular discourse that presents parochial class or class fractional interests as, at the same time, in the general interest. The intention here is "to bring social forces and institutions into conformity with the requirements of capitalist reproduction" (Jessop, 2002, p.6). The achievement of hegemony establishes the leadership of a class or class fraction, however, "the key to the exercise of such leadership is the development of a specific *hegemonic project*" (Jessop, 1990, p.208, emphasis in original).

A hegemonic project can be conceived of as a political device designed to resolve class struggle and as such must specify "a 'policy paradigm' within which conflicts over competing interests and demands can be negotiated" (ibid, p.210). This policy paradigm sets the stage for the creation of a 'national-popular' programme which portrays the parochial economic interests of the hegemonic class as the general interest:

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<sup>6</sup> With regard to a hegemonic project, interpellation involves the 'subjectification' of the individual, and by the extension of this process, the class or class fraction. Althusser explains subjectification as a process in which a hegemonic project or, to use his broader term, an ideology "'functions' in such a way that it 'recruits' subjects among the individuals...or 'transforms' the individuals into subjects"(Althusser, 1971, p.174). In this manner individuals understand themselves through the lens of the ideology or hegemonic project and are thereby interpellated. Althusser uses the example of a police officer 'hailing' an individual with 'hey you there!' As the individual turns around "he becomes a *subject*. Why? Because he has recognized that the hail was 'really' addressed to him, and that 'it was *really him* who was hailed' (and not someone else)" (ibid, p.174).

[Hegemonic projects] can resolve the abstract problem of conflicts between particular interests and the general interest. This involves the mobilisation of support behind a concrete national-popular program of action which asserts a general interest in pursuit of objectives that explicitly or implicitly advance the long term interests of the hegemonic class (Jessop, 1984, p.243).

Created and disseminated by intellectual elites such as journalists, philosophers, politicians and sociologists, hegemonic projects involve the development of a popular discourse which presents the economic interests of the hegemonic class or class fraction as general (Jessop, 1990, p.214). To be effective, however, hegemonic projects must extend beyond mere discursive device.

Hegemonic projects, in order to be accepted by subordinated classes and class fractions, must offer something more substantial than a carefully crafted discourse. The establishment of hegemony requires compromise on behalf of the hegemonic class or class fraction necessitating “the sacrifice of certain short term interests,” and the enabling of the “flow of material concessions for other social forces” whose support is fundamental to the successful realisation of a hegemonic project (ibid, p.208). In practice, a hegemonic project should dovetail closely with the prevailing accumulation strategy, given that wealth – a source of material concessions - must be created before it can be redistributed (ibid, 208).

A successful hegemonic project, therefore, must establish widespread support to become embedded. The consolidation of this position, however, requires an ability to diffuse resistance:

The organisation of hegemony involves not only the mobilisation of support through the coupling of particular interests to the general interest postulated in a given 'hegemonic project' but also requires the management of resistances which counter-pose particular interests to the general interest and/or propose alternative hegemonic projects (Jessop, 1984, p.245).

Hegemonic projects contain mechanisms for the management of resistance, and coercion and compromise are the means by which neo-Gramscian scholars traditionally conceive as to how this is achieved (ibid, p.245). However, it must also be considered that hegemonic projects are subject to strategic selectivity as described above and as such exist in a dialectic relation with societal structures. Hegemonic projects help formulate the balance of forces within any society and thus work to reformulate social structures accordingly, modifying their strategic selectivity. In this regard structure becomes imbued with a selectivity, meaning the prevailing hegemony enjoys the "structural privileges inscribed in a given state form (including its forms of representation, intervention and internal articulation)" which select for hegemonic "forces and their interests at the expense of other forces" (Jessop, 1990, p.209).

To become established, therefore, any hegemonic project must create a policy paradigm and a discourse capable of presenting parochial economic interests as general. Finally, it must contain mechanisms capable of diffusing resistance, be it through the flow of material concessions to subordinated classes or the strategic selectivity the hegemonic project imbues within societal structures. It is important to note however, that while strategic selectivity may help to diffuse resistance to a hegemonic project, this relationship is not one way. Between hegemonic projects and strategically selective structures, there exists a complex dialectic which results in the shaping of both.

At any one time there exist multiple hegemonic projects in any given society which have the potential to become established. Consequently hegemonic projects, just as accumulation strategies as will shortly be discussed, are subject to the forces of strategic selectivity which work to exclude, select and shape competing projects:

Attention must be paid to how particular... class-relevant struggles are related to more general problems of maintaining social cohesion under bourgeois hegemony. This requires one to go beyond particular struggles to see how different particular interests and concerns and/or hegemonies are coerced into conformity with a viable national-popular outlook and programme. In this context it must be realised that...there can be alternative hegemonic projects. And, as Poulantzas indicated,...hegemony must be seen in terms of its dual determination by structures and strategies (Jessop, 2007, p.33).

Hegemonic projects do not emerge in a social vacuum; they resonate with pre-existing hegemonic projects and reinforce/compliment the (always temporary) resolution to class struggle they present. As such they are subject to strategic selectivity. Hegemonic projects are formed by agents strategically in the cognisance of the prevailing hegemony. They are selected according to their fit with prevailing structures and strategies which, once selected, they have the capacity to alter.

What is clear from much of the argument above is that hegemony and its associated hegemonic projects are often conceived of as high scale phenomena – that is to say they are understood at the level of the national or even transnational level. A difficulty exists here as this study has a clear focus on an individual sector and its modes of regulation. The diamond sector therefore, despite its extremely broad transnational nature, must be considered at a low scale. In this context, Jessop offers little guidance as to how hegemonic projects might operate across politico-economic scales, however, common sense dictates that they must – hegemony must have

lower scale manifestations in order that it be made 'real' across any given geopolitical formation. Adam Morton, a student of Jessop's, is of some assistance here and points out that in fact "Gramsci explained the way in which world hegemony may consolidate itself locally within a nodal national setting" (Morton, 2007, p.150). He then goes on to cite Gramsci on this point:

It is in the concept of hegemony that those exigencies which are national in character are knotted together...A class that is international in character has – in as much as it guides social strata which are narrowly national (intellectuals), and indeed frequently even less than national: particularistic and municipalistic (the peasants) – to 'nationalise' itself in a certain sense. (Gramsci cited in Morton, 2007, p.150).

Hegemony, therefore, works across scales. A transnational capitalist class must consolidate hegemony at low scales and in practice it follows that this will most likely involve class fractions pursuing hegemonic projects, derived and in support of the overarching hegemony. Such hegemonic projects will be expressed through a variety of sites (academia and new and old media for example) and if required, can be formulated and deployed in support of a sector's particular accumulation strategy should that strategy prove out of step with the wider balance of social forces.

The realisation of a successful hegemonic project renders the exploitation inherent to the capitalist mode of production palatable to key social groupings and as such provides a temporary resolution to the issue of struggle between class forces. As a consequence, it creates a stable social basis for the extraction of surplus value into the long term. In achieving this, a successful hegemonic project will entail the distribution of real material and/or social benefits to the subordinated classes and at the same time contain mechanisms for the repression of viable alternatives. Hegemonic projects, therefore, secure the social conditions for the reproduction of



the capitalist system. Hegemonic projects, however, represent only one half of the solution to the incoherence of the capitalist system. Hegemonic projects do nothing with regard to resolving the inherent economic problems and contradictions associated with the capitalist mode of production; a problematic requiring the formulation of a coherent accumulation strategy.

### 3.1.3 On Accumulation Strategies:

While the realisation of a hegemonic project provides a temporary resolution to the issue of class struggle, for the accumulation of capital to proceed there must also be some form of resolution to the contradictions (and resulting crisis tendencies) inherent to capitalist production itself. The concept of an accumulation strategy represents an explanation, economically speaking, for the existence of periods of stable economic growth within capitalist societies. According to Jessop, such economic growth is enabled by accumulation strategies which provide a partial and temporary resolution for the contradictions inherent to the capitalist mode of production. In addition, an accumulation strategy must also resolve the issue of struggle between fractions of the capitalist class and as such an accumulation strategy must contain social as well as economic aspects. This section will attempt to draw out the key components of the concept of an accumulation strategy, exploring its constitutive elements and under what circumstances it might be formed and become embedded.

In its most basic format, the concept of an accumulation strategy is seemingly straightforward:

An accumulation strategy defines a specific economic 'growth model' complete with its various extra-economic preconditions and also outlines a general strategy appropriate to its realisation (Jessop, 1990, p.198).

While this definition appears relatively unambiguous there exist three elements within this short quotation that require deeper engagement. In schematic order, we

must understand what is implied by the term 'various extra-economic preconditions' and what the working content of a 'general strategy appropriate to its realisation' infers. Finally, the phrase 'specific economic growth model' requires proper delimitation. An understanding of these three conditions reveals the social and economic constitutive elements of the concept. The first two describe the manner in which an accumulation strategy might address potential social barriers to capital accumulation whilst the last indicates how an accumulation strategy deals with barriers of a purely economic nature. This section will first examine under what conditions an accumulation strategy might resolve the former before moving on to discuss how it may achieve the latter.

In simple terms, the 'extra-economic preconditions' of an accumulation strategy are those which allow capitalist accumulation to consolidate and reproduce. Capitalism, on its own terms, is not capable of self-reproduction and consequently an accumulation strategy relies on external forces such as the state, the law and the balance of economic forces within the society itself as the 'extra-economic preconditions' which secure its establishment and successful operation (Wetherly, 2005, p.122). In terms of a general strategy of realisation - for an accumulation strategy to become successfully established within a given spatio-temporal context it must, in a real sense, dovetail with broader societal pressures:

In general terms we can say that an accumulation strategy that is not to be merely 'arbitrary, rationalistic and willed' must take account...of the balance of social, economic and political forces (Jessop, 1990, p.200).

The balance of economic forces (and any hegemony contained therein) at any particular conjuncture creates a strategically selective social structure which selects and shapes any given accumulation strategy and its prospects of becoming embedded. However, "within these constraints [applied by the selective nature of the balance of forces] there will typically be several economic strategies which could

be pursued" (ibid, p.200). It follows, therefore, that what is required for an accumulation strategy to become successfully established once selected, is dependent on what Jessop terms above as a 'general strategy appropriate to its realisation'.

For an accumulation strategy to become established it must provide a "basis for an institutionalized compromise between opposed social forces" (Jessop, 2002, p.30). With this in mind, any 'general strategy' for the realisation of an accumulation strategy will aim to provide, for as long a period of time as possible, just such a compromise. In this regard, an accumulation strategy will attempt to provide a solution to the problem of struggle between the various fractions of the capitalist class. To achieve this, and become successfully established, an accumulation strategy must head off contradictory strategies and subversions that may be being pursued by agents within the capitalist economy and that may rise and threaten the coherence of the interdependent circuit of capital. As such an accumulation strategy must "unify the different moments in the circuit of capital (money or banking capital, industrial capital, commercial capital) under the hegemony of one fraction" thus ensuring the economic coherence of the system (Jessop, 1990, p.199). With these relations in place, an accumulation strategy can be said to have established what Jessop terms as an 'economic hegemony' and therefore a stable basis for accumulation.

A characteristic then of an economic hegemony is that it has a limited social base, unifying as it does only the various fractions of the capitalist class. In practice this means that the accumulation strategy it is associated with remains contested by the subordinated classes. As far as the wider class struggle is concerned, therefore, under conditions of economic hegemony, an accumulation strategy requires a resort to coercion via "the structurally inscribed power of *economic domination*" (ibid, p.205,

emphasis in original)<sup>7</sup>. While this may provide social stability in the short to medium term, coercion is unlikely to be the stable originator of a basis for long term accumulation. Consequently, for an accumulation strategy to become deeply entrenched within its wider politico-economic context a broader hegemony as outlined in the previous section is required:

It should be emphasised that an accumulation strategy must not only take account of the complex relations among different fractions of capital and other economically dominant classes but must also consider the balance of forces between the dominant and subordinate classes. A strategy can be truly 'hegemonic' only where it is accepted by the subordinate economic classes (ibid, p.201).

An accumulation strategy that takes account of relations between fractions of capital has the capacity to establish an economic hegemony. However, this suffices as a basis for accumulation only in the short to medium term. For an accumulation strategy to become a basis for longer term economic growth it must be accompanied by a supporting hegemonic project capable of rendering the accumulation strategy in question palatable to the subordinated classes. In so doing, the wider hegemonic project negates the necessity of coercion, thus creating a stable environment for accumulation into the longer term.

Where only an economic hegemony is established, however, the accumulation strategy in any particular economic space or time remains deeply contested. All the establishment of economic hegemony achieves is the provision of "a stable framework within which competition and conflicting interests can be conducted without disturbing the overall unity of the circuit of capital" (ibid, p.199). The achievement of hegemony, as discussed in the previous section, serves only to frame debate, constraining it within prescribed boundaries; it does not end it.

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<sup>7</sup> For further discussion of economic dominance see Jessop 1990 p.201.

Compromise on behalf of the hegemonic class fraction is the constant price of maintaining hegemony.

A cogent strategy for realisation, combined with an internal logic that is to some extent congruent with extra-economic pre-conditions, allows for the possible establishment of an accumulation strategy. It does so simply because the establishment of an accumulation strategy requires some form of resolution to the problem of class struggle, in the short term at the very least. While this analysis is helpful in terms of providing some indication as to how an accumulation strategy might become embedded, it gives little indication as to what elements might constitute an accumulation strategy in practice.

As Jessop states above, an accumulation strategy is a 'specific economic growth model' that allows accumulation to occur. As such an accumulation strategy must provide a fix for the economic contradictions inherent to the capitalist mode of production<sup>8</sup>, thus allowing accumulation to occur within the context in which it is devised and applicable:

[Accumulation strategies are a] means of imposing a provisional, partial, and unstable 'substantive unity' on the various interconnected formal manifestations of the capital relation and thereby securing the conditions for relatively stable periods of economic growth (Jessop, 2007, p.24).

An accumulation strategy works as an economic formula that, assuming its coherence, serves as a fix for the inherent contradiction present in the mode of capitalist production under question. In creating this fix, accumulation strategies

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<sup>8</sup> According to a Marxist analysis there are many contradictions inherent to the capitalist system, labour as a cost of production and a source of demand, use-value against exchange-value and the relation of capitalist competition to nature are but three examples. Indeed it is these "seemingly irreconcilable contradictions that lead capitalism into the cataclysms of crises" (Harvey, 2006, p xxxii). For a discussion of the contradictions of capitalism and Marx's theory of capitalist crisis see Harvey (2006).

will “typically displace and defer their material and social costs beyond the social, spatial, and temporal boundaries of that compromise” (Jessop, 2003, p. 142). When realised, therefore, an accumulation strategy creates a stable economic space in which accumulation can occur. In terms of time frame, however, the inherent contradictions of capitalist production render this fix continually insecure.

With an accumulation strategy in place, accumulation can proceed on a stable basis within a given temporal horizon. However, “regimes [and strategies] are always partial, provisional and unstable” (Jessop, 2000, p.337). Accumulation strategies remain a temporary solution simply because “the contradictions and dilemmas of capitalist formations are insoluble” (Jessop, 2003, p.142). As a result crises of accumulation will inevitably recur, undermining the accumulation strategy in question, thus provoking either the reformulation of the current strategy or the creation of a new one. Such crises of accumulation within a capitalist economy can occur at any economic scale. As a result, the response will require strategic dialogue between agents operating on the scale affected, in order that a new or reformulated accumulation strategy be devised.

To this point, the preceding discussion outlines how an accumulation strategy might become established and also what purpose it might serve within the capitalist mode of production. But while there has been some acknowledgement as to the extent to which accumulation strategies are contested, there has been no discussion as to how an accumulation strategy might in practice change or even fail. In this regard, an accumulation strategy can falter through a failure to address either of its two primary objectives; the bridging of the economic or class based contradictions that remain inherent to the process of capital accumulation.

With regard to the purely economic dimension, any accumulation strategy failure results principally from a lack of attention to the interests of industrial capital:

[There is a] determinate role of industrial capital in the overall accumulation process. Thus even if banking or commercial capital enjoys hegemony...this must ultimately be compatible with the continued valorisation of industrial capital. If such valorisation does not occur...there will be a declining mass of surplus value for distribution among all capitals. In turn this will provoke a general crisis of capital accumulation...that can be resolved...only by developing a new and relevant accumulation strategy (Jessop, 1990, p.200).

Industrial capital remains the fountain head of wealth within a capitalist system. Thus an accumulation strategy must, if it is to survive beyond the short term, offer a suitable basis for the valorisation of industrial capital. Failure to do so will inevitably result in the need for the reformulation or reinvention of the accumulation strategy. A lack of economic coherence to any given accumulation strategy will ultimately, therefore, prove fatal; however, an inability to resolve class struggle through the achievement of a stable hegemony can also result in a crisis of accumulation strategy.

As noted above, any accumulation strategy necessitates for its success the formulation and achievement of at least an economic hegemony if not the realisation of a hegemonic project. The establishment of hegemony represents the required resolution to class struggle, producing a social equilibrium that allows capital accumulation to proceed. As such, in practice, hegemony requires economic concession and sacrifice from the hegemonic class or class fraction with regard to subordinate classes. It follows then that "in the absence of such sacrifices on the part of a hegemonic fraction...a crisis of hegemony will occur" (ibid, p.200). If such a crisis were to be made reality with the result that the prevailing hegemony fails then so also will the accumulation strategy it supports. Consequently, a failure on the part of any accumulation strategy to address both social and economic

contradictions within the capitalist mode of production will result ultimately in its reformulation or demise.

As in the case of hegemony and hegemonic projects it can appear from the preceding discussion that an accumulation strategy exists on at a high economic scale – planned and operationalised at the national or international level. However, just as in the case of hegemony, an accumulation strategy cannot float above society, it must have roots in that society and affect ‘real world’ outcomes. It follows, therefore, that accumulation strategies must manifest at a variety of scales, a proposition Jessop supports:

Accumulation strategies are formulated on many scales of economic activity from the different units of a firm through the branch or region to the national or supra-national bloc. Different types of actor play a leading role in each case (Jessop, 2002, p.279).

Accumulation strategies can, therefore, be conceived as being formed at the micro, meso and macro scales. In real terms, this suggests that economic agents will co-formulate a broader accumulation strategy by pursuing accumulation strategies particular to their respective sectors. In a very real sense, therefore, there must exist a dialectical relationship between economic scales that is reflected in the prevailing accumulation strategy. Following this logic a high scale accumulation strategy becomes both an ordered and ordering principle for accumulation within a given economic space.

An accumulation strategy, therefore, represents a key bridging concept that offers an explanation for the often quite lengthy periods of economic stability within the innately unstable capitalist mode of production. A successful accumulation strategy comprises a policy formula that at once allows for the valorisation of capital whilst remaining cognisant of the balance of social forces to produce an economic hegemony based on that policy formula, thus temporarily resolving social struggle



within fractions of the capitalist class. This is the dual task an accumulation strategy must achieve if it is to become successfully embedded within any politico-economic context. It should not be forgotten, however, that accumulation strategies also rely on prior validation for their successful establishment. The balance of forces within any society, formed through current and historic economic and social events, work in practice through social structures as a selecting mechanism for any accumulation strategy formulated on any scale. As such, a strategy must be first selected before it can become established and this is achieved on the basis of its fit with pre-existing economic and social structures.

### 3.2 Theorising Policy Making Under Conditions of Strategic Selectivity

The question remains, therefore, as to how the three concepts outlined above aid us in terms of our understanding of politico-economic policy making. It is this study's contention that the three theoretical concepts of strategic selectivity, accumulation strategy and hegemonic project can be combined to offer a meaningful explanation as to the nature of policy negotiation, regime/institution creation and then, upon implementation, regime/institution stasis in the face of attempts by agents to alter its form. For this argument to be sustained, however, it is necessary to theorise exactly how these concepts may interact to produce outcomes in the abstract before testing for their presence in 'real world' scenarios - a task this study aims to achieve via an investigation of the establishment and operation of the Kimberley Process diamond certification scheme. What follows below, therefore, is a brief discussion, aided by visual representation, as to how these concepts interact. This process will establish this study's research agenda by outlining key social phenomena in need of explanation; a process that will guide this study's empirical investigation.

#### 3.2.1 Policy Negotiation and Regime/Institution Formation

The foundational argument of this study, derived from the work of Jessop as outlined above, resides in the notion that there exists a bias within social structure

– a strategic selectivity – that in part determines agent behaviour and cognition of social reality, but which is itself determined by agential action. This strategic selectivity acts upon political and economic agents by circumscribing what they believe to be possible, appropriate and desirable. As discussed above, the strategic selectivity of social structure is contingent upon the composition of the balance of forces. Following the collapse of the Soviet Union, with a few notable exceptions, capitalism has become established in one form or another, and to a greater or lesser extent, in almost every state across the globe. Under such conditions, it seems reasonable to suggest that transnational social relations would be predominantly (but not wholly) capitalist in form. Consequently, if Jessop is correct in his theorisation, this will be reflected in the condensation of social forces at the global level, exhibiting strategic selectivities with regard to various issue-areas that extend beyond state borders. A wider social structure, therefore, pertains at the global level and is reflective of relations between states, classes and other social forces.

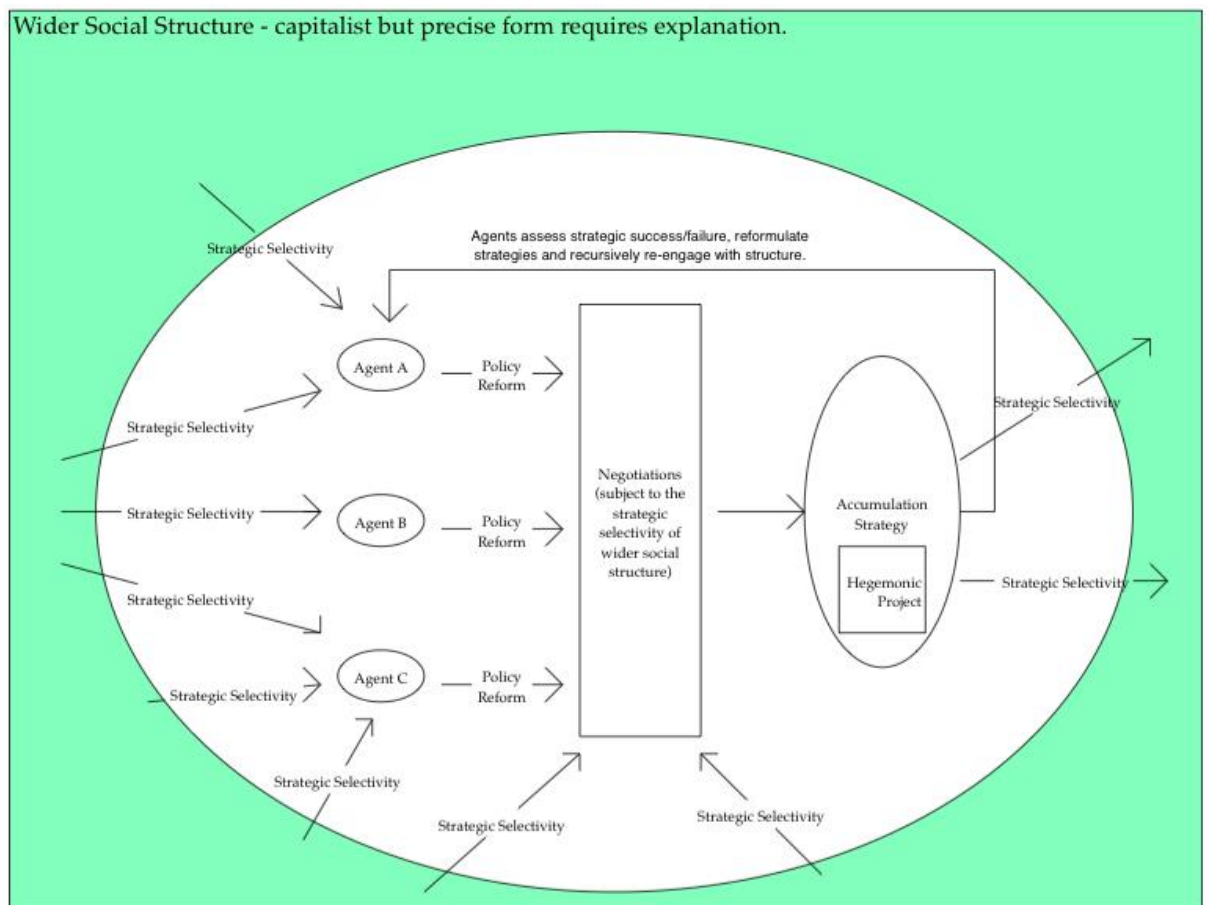
Where a particular accumulation strategy associated with a specific production process becomes contested (as a result of its conflict with the balance of forces within wider society), if the industry affected is to survive, a reform of that accumulation strategy to take account of the shift in the balance of forces must take place. In many cases this often involves the (re)construction of regulation or the (re)construction of regulatory regimes or institutions. Within the process of negotiation regarding possible regulation or the construction of a regime or institution, the strategic selectivity of social structure works upon agents prior to any negotiation regarding the form of regulation/regime. It does so by guiding agents' understanding of the problem area and also the solutions to it in terms of their suggestions for policy reform. The obvious point of investigation then becomes how this strategic selectivity becomes manifest – what the salient features of this capitalist social structure are in this context, and how they work to select the interests of the capitalist class.

Prior to the commencement of any negotiations, therefore, agents will have formulated policy suggestions as to how that accumulation strategy should be reformed; this often translates in practice to mean that they also will have formulated policy suggestions as to the nature of any regulation or regulatory regime/institution. While such suggestions would be created from a relationship with social structure and its strategic selectivity, agency still plays a vital role. Policy suggestions are subject to the strategic selectivity of wider social structure but they are also subject to the (mis)calculation of agents. Agents are not in possession of perfect knowledge regarding the social world that surrounds them. This can lead agent A, going into a negotiation, to pursue a policy agents B and C cannot agree too. This will occur because agent A has made a miscalculation, presenting a policy which conflicts with the strategic selectivity of social structure. So for example, where social structure is reflective of the principles of ethical neoliberalism, policy suggestions which would result in the total abolition of health and safety regulation or, on the other hand, policies which restrict the geographical movement of capital are unlikely to be adopted by other negotiating agents owing to their conflict with ethical neoliberal social structure and its resulting strategic selectivity. What this means in practice is that negotiations are sites of mutual learning for agents whereby they come to understand the preferences of others and, therefore, as a result feel the concealed power of the strategic selectivity of social structure which, via the preferences of others, prevents the adoption of some policies whilst enabling the adoption of others. In terms of an agenda for research this cognition reveals two challenges. The first challenge is simply to prove the existence of this strategic selectivity through the description of the phenomenon in real world settings and how it affects the reformulation of industry regulation and consequently its accumulation strategy. A second resides in the examination of this strategic selectivity in the hope that, as in the case of the investigation of strategic selectivity in the context of policy formation, more can be learned regarding the shape of social structure and, therefore, the basis of its strategic selectivity.

At this point of the investigation, with the negotiations examined and the policy outcomes understood, the shape of any regulation or regulatory regime/institution will be self-evident. Moreover, because the regulation or regulatory regime/institution was agreed within a multi-stakeholder negotiatory environment (albeit one skewed towards the interests of capital via the invisible hand of strategic selectivity), that regulation forms a feature of the now reformed industry accumulation strategy and can – as a compromise that achieves the consent of oppositional class relevant forces – be conceived of as incorporating a micro-hegemonic project. A core proposition of this study, however, resides in the notion that the strategic selectivity of wider social structure is then referred onto the resulting formal regime or institution, with the Kimberley Process providing the point of empirical investigation, which will then operate in a strategically selective manner. Consequently, an obvious final point of investigation here involves the examination of the manner in which this strategic selectivity is made manifest in the regime's/institution's real world modes of operation – a proposition this study proposes to examine via a study of the Kimberley Process' modes of operation in Sierra Leone.

This theorisation as to how Jessop's concepts interact in the context of a policy negotiation to produce a strategically selective regime/institution can be represented diagrammatically as below:

Figure 3.1: Wider Social Structure and the condensation of social forces with regard to any given issue-area.



### 3.2.2 Regime/Institutional Stasis under Conditions of Contestation

If we work on the basis of the conjecture described above, with strategic selectivity now embedded within the regime/institution in question and operating in the interests of capital, that temporary compromise between class relevant forces which underpins the accumulation strategy and its hegemonic project, will inevitably prove fleeting. In turn this will lead to those class relevant forces re-engaging with the regime/institution and attempting to negotiate with other stakeholders its modes of regulation. To establish that these events actually occur in real world scenarios, dissenting class forces within a particular sphere of regulation must be identified and their wants regarding regime/institution reformation must be noted.

In practice those dissenting class forces attempting to reengage with other stakeholders to force a reformation of the regime/institution in question are often by default also seeking a partial reformation of the sector's accumulation strategy. Two factors here can prevent or enable this reformation. In the first instance, the strategic selectivity of the regime/institution itself may work to protect the interests of capital by thwarting those reform attempts. This can occur by existing regime structures proving obstructive to specific groups of agents who may find meeting those modes of operation difficult or even impossible – for example small organisations dealing with a large transnational institution may struggle to present their ideas in appropriate diplomatic language or may lack the funding required to attend relevant meetings and/or conduct the research necessary to provide counter-active evidence. In the second instance, should the strategically selective modes of operation of the regime/institution in question become markedly out of step with the wider balance of forces this can lead to a much broader array of social forces engaging with that regime/institution in the hope of compelling its reform. Should such a challenge become widespread there is the potential for the hegemonic project to fail, undermining the accumulation strategy and threatening its survival. However, with the strategic selectivity of structure itself a reflection of the balance of forces, such a challenge would, given time, alter this strategic selectivity accordingly, allowing for the reformation of the regime/institution to occur. While an alteration to the strategic selectivity of structure may occur it should not be overplayed – assuming there is no systemic change in the mode of accumulation (from capitalism to socialism for example) then strategic selectivity will continue to follow an essentially capitalist pattern albeit with fractional alterations.

Such a theorisation of the nature of regulation in the international political economy requires substantiation in a number of areas. Following the identification of the dissenting agents and their suggested reforms, an assessment of their success or failure when interacting with said regime/institution in terms of compelling its

reformation must be analysed for evidence of strategic selectivity. This would include a full elaboration of the reasons as to why achieving significant change has proved difficult or impossible (attributable to the hegemonic project and, therefore, its strategic selectivity remaining effective) whilst engaging critically with those instances of apparent success (attributable to the hegemonic project having faltered, leading to an alteration in strategic selectivity). In the case of strategic success for reforming agents, this would necessitate examining those instances and drawing on the views of the affected agents to assess the real terms extent of that success. Such an examination should reveal mechanisms of strategic selectivity and how they protect the interests of capital by rendering the regime/institution impervious to change.

The recursive engagement of agents with a formal regime/institution, the many ways in which its strategic selectivity and, in a broader context, its hegemonic project work to maintain that structure (and its corresponding accumulation strategy) in the face of that recursive contestation thus allowing for a stable period of economic growth is a complex theorisation. It can, however, be represented diagrammatically:

Figure 3.2: Wider Social Structure under Relatively Stable Conditions.

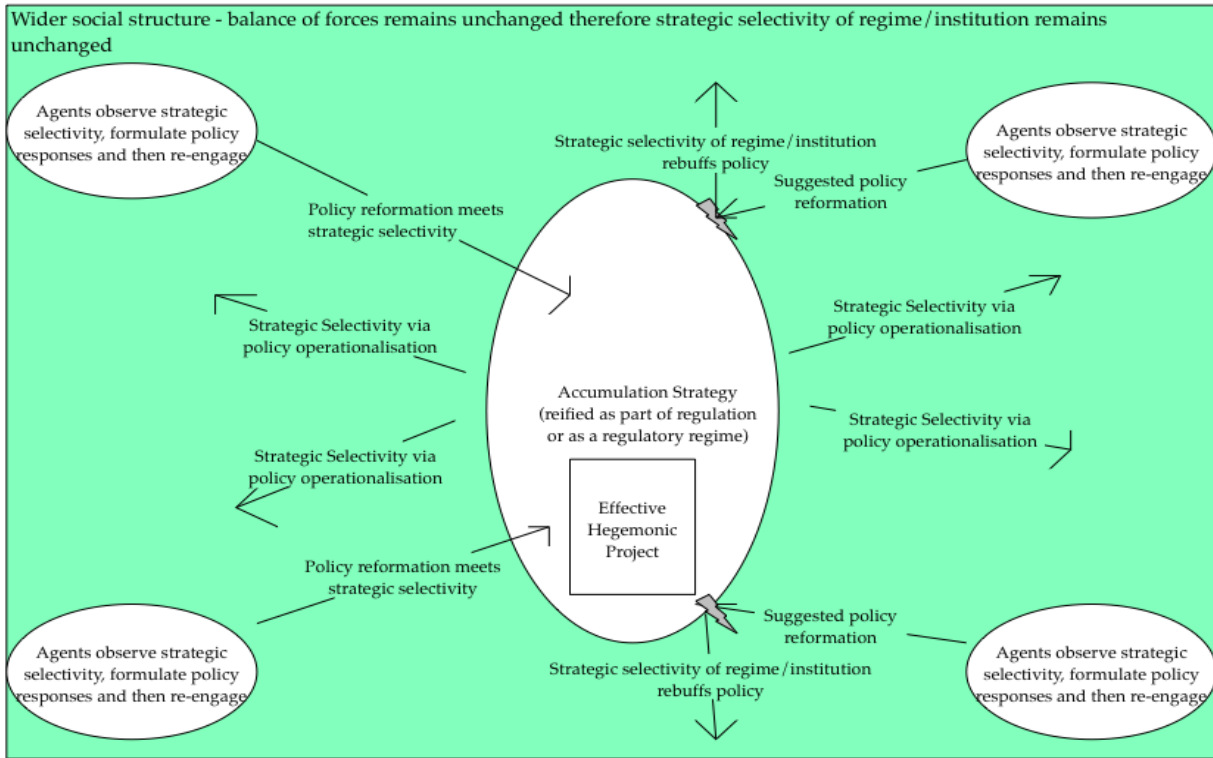
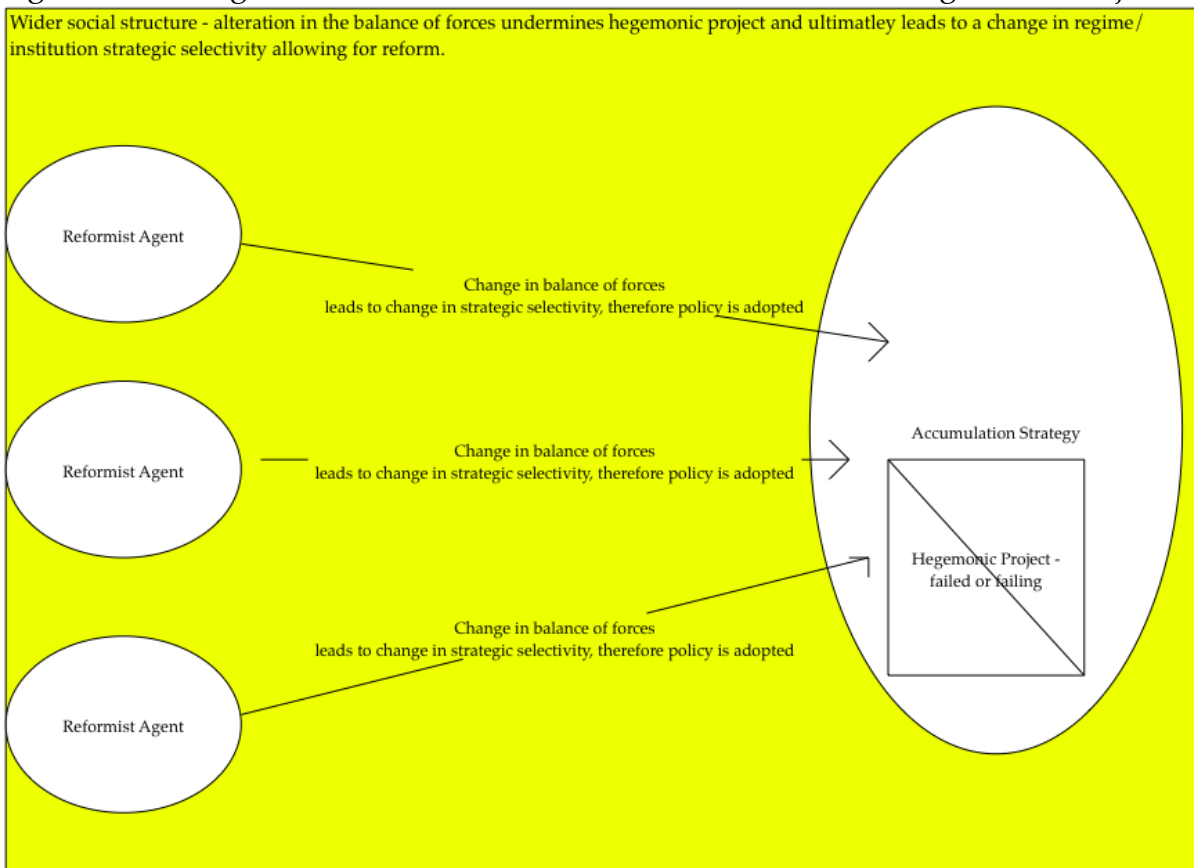


Figure 3.3: Change in the Balance of Social Forces and Failure of Hegemonic Project.





The theorisation outlined above poses a host of research questions which can only be answered through empirical investigation. Such an investigation may prove fruitful, however, as it has the capacity to offer the basis of an understanding as to how politico-economic decision making is conducted and, therefore, what forces are at work in the creation of the resulting regulatory regimes/institutions. In addition, such investigation may also offer some explanation as to why such regimes/institutions often appear so rigid and resistant to reform.

### 3.3 The Methodology

To address the research agenda outlined above, clearly a deep analysis of the exchanges between agents regarding the Kimberley Process' formative negotiations and those negotiations aimed at its reform is required. Developed in the context of the politics of environmental discourse, Maarten Hajer succeeded in creating a methodology that allows researchers seeking to uncover the intricacies of argumentative exchange to achieve just that – a close understanding of those relations which generate compromise, agreement and continued contestation within a negotiatory environment. As discussed in this chapter's introduction, however, this study does not seek to adopt Hajer's constructivism and consequently its methodology is a derivation rather than a reflection of his work. In the most straightforward sense possible then, this study seeks to adopt the logic of Hajer's methods only, which, applied in the context of the historic and contemporary debates that surround the Kimberley Process, offer the researcher the analytical means to explain the subtleties of those debates. In light of this, what follows below is an explanation of Hajer's methodology.

Termed by Hajer as an argumentative discourse analysis, this methodology comprises the three constitutive elements of discourse, storyline and discourse coalition. Schematically, the two former elements combine to produce the latter, consequently in the interests of clarity, these three concepts will be discussed in the

order in which they appear, achieving as a result not only an explanation of each individual element but also an account of their interaction.

### 3.3.1 Discourses

Within Hajer's methodology the concept of discourse forms the spine of his analysis regarding argumentative interaction. Ultimately discourses give an indication as to the social positioning of interacting agents within a given policy area; with appeals to the principles contained therein allowing for the possibility of agreement.

Understood in popular terms, discourse is taken to refer to a conversational exchange. In this context, however, Hajer acknowledges this definition but goes on to confer a more complex meaning to the term:

Discourse is here defined as a specific ensemble of ideas, concepts and categorisations that are produced, reproduced and transformed in a particular set of practices and through which meaning is given to physical and social realities (Hajer, 1997, p.44).

There are a number of points to be made regarding this definition of the concept. According to the above, a discourse is in fact an umbrella term for an array of 'ideas, concepts and categorisations' which taken together constitute a particular standpoint on a particular issue. In practice, this translates to mean that any given discourse will contain a number of elements derived from a variety of different domains of knowledge. This has the potential to add a degree of incoherence to any given discourse, and indeed this is not unusual (ibid, p.44). To explain the extent to which a discourse presents a coherent argument, Hajer suggests we should look "to the (routinized) practices through which a specific discourse... is produced" (ibid, p.45). This suggests that the individual agents involved in discourse propagation and indeed the context in which that discourse is expressed have a real effect on its form – Hajer provides the example here of a court of law, however, the same principles apply to diplomatic or academic discursive exchanges (see Hajer, 2005,

p.301). These sites of contestation are significant as it is within their confines (and through their 'practices') that discourses are subject to change and transformation.

In terms of the nature of the relationship between discourses and political actors, Hajer is not overly explicit. In general terms, however, Hajer tacitly suggests that discourses precede and shape an argumentative context; that is to say that discourses exist before agents exchange views and are separate from the agents themselves. Agents draw on a pre-existing discourse, or on the substantive elements of a discourse, when constructing storylines (an argumentative device to be discussed shortly). Discourses are, therefore, not purposively constructed by an agent, but are utilised by them:

In politics we characteristically deal with mixes of elements drawn from various discourses. In most cases we do not find one simple discourse that structures the utterances of all contributors to a given political discussion (Hajer, 2006, p.70).

From the above quotation we can take the inference that it is discourse(s) that 'structure the utterances' of agents as opposed to agents deliberately constructing discourses. As such, discourses in this context can best be conceived of as a societal level understanding of a particular issue. They are the cognitive basis upon which agents draw when constructing storylines.

For the researcher, Hajer's discourse as a concept, poses a number of problems. Principal amongst them and the most obvious is, how we go about identifying discourses in concrete, real world settings, but also how do we conceive of discourse construction and change? As far as the first point is concerned, Hajer provides us with some explicit guidance:

Policy discourse is to be defined by the analyst him/herself in terms of the key ideas, concepts and categorisations that the analyst finds in a particular discussion (Hajer, 2000, p.137).

As a consequence, it is the job of the researcher to draw out the discourse. That discourse is, however, unlikely to be expressed by an agent as a whole in one communicative instance. Indeed, even those individuals that express elements of a discourse in a given speech or written statement may not recognise in that instant that they are in fact expressing an aspect of a wider discourse. However, that same individual “should recognise a discourse when it is pointed out to them by the analyst” (Hajer, 2005, p.301). Consequently, the researcher must piece together a discourse by extracting its various constitutive elements from the relevant agents spoken and written statements. Such a discourse analysis “would [seek to] bring out a certain regularity in the particular ideas, concepts and categories” that characterise and define the underlying positioning of agents or groups of agents within a particular policy debate (ibid, p.300).

A discourse as conceived in this context, therefore, represents the underlying positioning of agents within a given debate. It is not explicit and is often not conceived of as a discrete whole by agents, however, with the various elements taken in sum it will express the underlying positioning of particular agents within the sphere of debate in question. As will become apparent during this study’s application of Hajer’s methodology, discourses are critical to understanding how policy negotiations are conducted and agreement is reached. Agents develop a feel for the discursive positioning of the opposed agents and tailor their arguments accordingly, attempting to appeal to that position either rhetorically or by offering concrete compromises. This can result in a compromise solution that sees Agent A give ground either rhetorically or in real terms on a suitable policy stipulation relating to Agent B’s discursive position in the hope of convincing Agent B to adopt an element of their own discursive positioning which Agent A considers fundamental to their interests. Such compromise, however, involves skilled negotiating and is secured according to Hajer through the careful creation and deployment of appropriate ‘storylines’.

### 3.3.2 Storylines

Within a negotiation, storylines play a crucial role in terms of facilitating agreement. In such a context “the regulation of conflict over inter-discursive problems...depends on and is determined by the effects of certain storylines” (Hajer, 1997, p.62). Storylines are, therefore, social devices which function, in the context of a policy negotiation, as the vessel through which disagreement is expressed and agreement reached. In the function of this role, storylines take on a number of characteristics:

Storylines are narratives on social reality through which elements from many different domains are combined and that provide actors with a set of symbolic references that suggest a common understanding. Storylines are essential political devices that allow the overcoming of fragmentation and the achievement of discursive closure (ibid, p.62).

Storylines, therefore, appear as argumentative devices which, when deployed by Agent A are designed to suggest/offer the impression to Agent B of a shared common understanding of the problem area in question. As such, storylines “bring together previously unrelated elements of discourse and thus allow for new understandings and create new meanings” (Hajer, 2000, p.140). It follows, therefore, that where storylines form agreement they “facilitate [discourse] coalition formation” (Hajer, 2003, p.104). Storylines often contain linguistic devices such as metaphors, “analogies, historical references, clichés [and] appeals to collective fears or senses of guilt” (Hajer, 1997, p.63). Such linguistic devices assist agents in terms of convincing others of their discursive positioning and as such essentially “argumentative discourse analysis holds that the power of storylines...[resides in] the idea that it ‘sounds right’” according to the discursive positioning of the target agents (ibid, p.63).

This study bases its analysis on the notion, derived from the above that, within a policy negotiation, agents pursue policy related strategies by constructing storylines with the express purpose of convincing the opposed agents to adopt an aspect of their discursive positioning. To do so they construct storylines which at once push their own discursive persuasion but which at the same time deploy metaphors, tropes and rhetorical devices all designed to make that storyline 'sound right' according to the underlying discursive positioning of the opposed agents. By deploying such storylines this study contends that Agent A appeals or 'speaks to' the underlying discursive positioning of Agent B, making Agent A's discursive positioning appear generally congruent with that of Agent B thus facilitating agreement. Should a storyline succeed in performing this function then, as noted above, it has the effect of forming a discourse coalition between agents around this particular issue.

### 3.3.3 Discourse Coalition

In not adopting Hajer's constructivist approach, this study will leave behind a number of elements of his discourse coalition. In so doing, the concept itself is significantly simplified and, therefore, deserves only a precursory discussion here. This study adopts the basis of the concept as described by Hajer:

The argumentative approach holds that in the struggle for discursive hegemony, coalitions are formed among actors (that might perceive their position and interest according to widely different discourses) that, for various reasons (!) are attracted to a specific (set of) storylines (ibid, p.65).

Discourse coalitions are, therefore, formed by storylines and involve the clustering of agents around a particular perspective presented in the storyline, and relevant to the subject under debate. Where a discourse coalition is formed, therefore, it can be said to have created a "common discourse...in which several practices get a meaning in a common political project" (ibid, p.65).

In light of the above, this study understands a discourse coalition to be the result of an agreement reached following an exchange of storylines stemming from particular discursive elements and leading to the adoption of one element by both parties. Consequently, in the context of a negotiation, this study understands a discourse coalition as a union of agents formed around a particular issue who then pursue the argument contained therein collectively with regard to other negotiating agents. Should this element of the discourse achieve a high level of consensus it can then be “translated into institutional arrangements” – it then becomes possible to speak of ‘discourse institutionalisation’ (ibid, p.61).

### 3.3.4 The Logic of the Methodology

In combination, the three concepts outlined above (discourses, storylines and discourse coalitions) have the capacity to direct this study’s empirical research. In the first instance, research will be conducted to establish and document the various elements of the discourses which surrounded the conflict diamond debate. From this point of departure both primary and secondary data will be collected and examined for the storylines deployed by the negotiating agents which this study maintains are in fact deliberately designed to ‘sound right’ and thereby appeal to the discursive positioning of the opposed negotiating agents. Should those opposed agents, owing to the persuasive nature of that storyline, shift their discursive positioning as a result then we can say that a discourse coalition has been formed on this issue. From this point, however, this study proposes a modest innovation.

In the context of a protracted negotiation regarding the introduction of a new regulatory regime/institution, conducted between numerous parties, where agreement is reached inclusive of all parties on a specific point of argument, a discourse coalition could be conceived of as existing between all agents. Hajer refers to this moment, where all agents concerned arrive at a point of agreement, as ‘discursive closure’ (ibid, p.62). Where agreement is reached on a particular point

of contestation, however, this study maintains that this forms an element of an 'emergent discourse' which then begins to structure or frame those on-going negotiations. This occurs simply because if a point within a negotiation is agreed then negotiations often proceed on that basis, and this has the potential to be problematic for negotiating agents.

Decision making and policy adoption is often the result of accommodation, with Agents A abandoning a given policy as they engage in mutual learning through dialogue with other negotiators and assess that the costs of that policy outweigh its benefits. As the negotiations progress, however, later policy decisions may be taken that alter Agent A's understanding of that earlier policy decision. A key problem then exists for Agent A in that Agents B and C have assumed that agreement on that earlier policy has been reached and may be unwilling to return to it. Agents B and C may then impress upon Agent A the benefits of the terms of the previous agreement, emphasise time constraints, downplay the impact of other subsequent agreements upon the agreement in question or maintain that altering that previous policy prescriptions will necessitate the renegotiation of other related and previously agreed policies. Following this, and depending on the balance of social forces, agents B and C may then simply refuse to reopen the issue. In this manner, preceding agreement and the creation of an emergent discourse generates a negotiatory momentum or weight that works to preclude revision. As the negotiations proceed, and agreements on various policies are reached, an emergent discourse materialises as a result, signifying a new discursive positioning within the domain in question for the agents concerned.

### 3.4 Conclusion

In combination the concepts of discourse, storyline, discourse coalition and emergent discourse outlined above have the capacity to direct the research of the theoretical propositions discussed in this chapter's opening part. Hajer's description



of his core concepts introduces an element of ambiguity to his methodology. This ambiguity, combined with the need to adapt the methodology to fit a different ontology and empirical application, mean that the methodology adopted in this study should be considered a derivation, as opposed to an exact reflection, of Hajer's work. This issue notwithstanding, the basis of Hajer's methodology still offers an invaluable set of analytical tools which at once prove nimble enough to allow the researcher to keep pace and account for a highly fluid and evolving social context (a negotiation) whilst also enabling s/he to achieve a deep understanding of the subtleties of its progression.

As such, the methodology outlined above will allow this study to test for the theoretical propositions discussed in this chapter's first part – principal amongst them, the various mechanisms through which strategic selectivity is made manifest within a (recursive) policy negotiation. More specifically, Hajer assists by allowing us to get close to the decision making environment, and in doing so, clearly enabling the identification of the negotiatory juncture where two oppositional storylines collide. What is then revealed is the reasoning behind the acceptance of one storyline (and the associated policy prescription) over another. As the discussion immediately above makes clear, ostensibly the reason one storyline is accepted over another by a negotiating agent can be attributed to its resonance with the underlying discourse of the agent in question. However, as the discussion of the following chapters will demonstrate, the negotiatory process regarding any given policy area often involves the production by *all* opposing negotiatory parties of storylines that resonate with the opposing negotiators underlying discourse. Consequently, the reason as to why the storyline (and associated policy prescription) of negotiator A is accepted by negotiator B and not the reverse is a crucial point of investigation which has the potential to reveal the basis upon which structures, social and formal, strategically select. In essence, Hajer's methodology allows us to interrogate what was so compelling about the accepted storyline (and the associated

discourse upon which it draws). This creates a key point of investigation regarding the cognisance of the agent, or how the norms or modes of operation of the institution in question, work to advance the interests of capital – thereby revealing the strategic selectivity of social or formal structure. This is an important distinction to make. By following Hajer's methodology, the study is provided with the key data concerning the successful appeal via a storyline by a negotiatory agent (drawing on that agent's discursive positioning) to the underlying discourse of an opposing agent which sees that storyline (and associated policy) accepted. This data, however, does not provide us with causation. As the discussion of the following empirical chapters will demonstrate, the reasons as to why that storyline was effective, and why the linked discursive element was attractive, is where true causality for the agreement resides. As such, this study maintains that the strategic selectivity of structure provides us with the causal mechanism that sees certain storylines (and the discourse) accepted – advancing the interests of capital as a result.

In the two empirical sections that follow, the above methodology will allow for a meticulous analysis of the Kimberley Process and the negotiations concerning its formation and reform. These analytical tools are not required for the analysis of the regime's implementation in Sierra Leone, which necessitates only a straightforward policy analysis. In all of three spheres of empirical analysis, however, the influence of strategic selectivity is rendered clearly discernible by the detail of this study's empirical data.

## Section Two



## Chapter Four

### The Kimberley Process: An Introduction

This study's first empirical section will present evidence from both primary and secondary sources which in combination suggests that, in keeping with Jessop's proposition, there does in fact exist a strategic selectivity within wider social structure that works to privilege the interests of the TCC. This occurs as the strategic selectivity of wider social structure conditions social events such as a regulatory negotiation and thereby imparts that strategic selectivity to the final outcome – the regulatory regime itself, and in this case the Kimberley Process. This argument will be pursued across three chapters. The opening chapter of this section will seek primarily to set a foundation for those which remain. To do so, it will divide into two principal parts. The first will provide a straightforward history of the emergence of the Kimberley Process including a summary of some of its key elements. This discussion, it is hoped, will provide a background for the investigation which follows. The chapter's second part will, in keeping with Maarten Hajer's methodology, outline the two discourses that emerged in the transnational policy domain regarding the conflict diamond issue. The following chapter will then take this discussion as a point of departure, utilising Hajer's methodology in order to gain a deep understanding of the negotiations themselves. Finally, the third chapter will seek to examine this understanding, interrogating it for evidence of the strategically selective nature of wider social structure before examining the modes of operation of the Kimberley Process itself in order to establish exactly how this innovation in global governance then works to strategically select in the interests of the TCC.

## 4.1 The Kimberley Process and its Origins

This chapter's first of two parts will seek to introduce the Kimberley Process, offering an account of the circumstances that necessitated its inauguration, its protocols and stipulations and finally those aspects of its operational record not covered in the chapters which follow. The international diamond industry is a somewhat niche field of knowledge. As such, it is hoped that this discussion will render this section's remaining chapters easier to follow for the reader uninitiated in the obscure and strikingly opaque trade in rough diamonds. This chapter's opening part will discuss the changing nature of conflict on the African continent following the break-up of the Soviet Union and the ending of the Cold War. It will then move on to a brief appraisal of the research community's interpretation of these conflicts. In the closing years of the last century, these two facets combined to greatly influence policy making with regard to the international trade in rough diamonds leading ultimately to the inauguration of the Kimberley Process. The chapter will then offer an account of these events, outlining at the same time the key features of the Kimberley Process, including its aims and methods. That these methods have failed to realise the lofty aims of the Kimberley Process has become increasingly apparent over the course of the last decade and any historical account of the Kimberley Process cannot ignore this. As such, this first part will conclude with a brief account of those failures not discussed in the chapters which follow.

The roots of the Kimberley Process can be traced back to the international furore generated by the nature of a small number of seemingly intractable civil conflicts being fought in West and Southern Africa at the turn of the last century. Africa as a continent bore many of the costs of the indirect nature of the Cold War. In the case of intra-state conflict in the global South, the two competing superpowers armed both state and rebel belligerents according to their professed political ideology (Kalyvas and Balcells, 2010). As a consequence, many Southern intra-state conflicts that occurred during the Cold War decades contained an element of superpower

competition (Byman and Van Evera, 1998). The 1989 collapse of the Soviet Union, however, would fundamentally change those intra-state conflicts. Across the global South, after the Cold War, intra-state combatants were compelled to draw “more heavily on commercial sources of support to sustain their military and political activities” (Le Billon, 2012, p.1). This change, to the sources of conflict finance, profoundly altered the nature of those conflicts themselves while also creating serious funding issues for political elites in peaceful African states:

A large number of Africa’s states were sustained by the patronage they attracted from Cold War protagonists...the loss of support following the decline of superpower rivalry...undercut the ability of African leaders to maintain their regimes without resorting to war or reinventing patrimonialism in new and innovative forms (Jackson, 2002, p.44).

In many cases, therefore, under conditions of peace or conflict, state elites and/or combatants turned towards the violent exploitation of natural resources in order to fill the funding gap created by the conclusion of the Cold War (Le Billon, 2008, p.345). In the cases of, in particular, Angola, DRC, and Sierra Leone this resulted in state elites and/or insurgent groups engaging in the exploitation of alluvial diamond deposits<sup>9</sup> - selling them onto international markets, or exchanging them directly, to purchase arms (respectively, Global Witness, 1998; Dietrich, 2002; Smillie, Gberie and Hazelton, 2000).

This alteration in the nature of the conflicts afflicting these states gave rise to some considerable debate within the research community. The possible proceeds

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<sup>9</sup> There exist two types of diamond deposit, alluvial or secondary and point or primary. Alluvial diamond deposits are shallow-lying, can be easily mined by artisanal panning and are often spread over large geographical areas. They are, therefore, often considered to be a ‘lootable’ resource for would-be combatants. By contrast, primary deposits are located in subterranean kimberlite pipes that require significant investment and expertise to exploit. They are as such considered ‘nonlootable.’ All of the conflicts discussed here involve the exploitation of alluvial deposits. For more on the difference between the two types of deposit in terms of their impact on civil conflict see Lujala, Gleditsch and Gilmore (2005).

available to combatants through the exploitation of primary commodities and/or the appropriation of private property, either via the capture of the state or territory, was identified by some academics as not just a source of funding towards the cost of waging war but also as potential motivation for combatants (Collier and Hoeffler, 1998). From this cognisance many researchers and commentators engaged in a reconceptualization of the combatants engaged in civil conflict in the global South. Rather than political agents, they increasingly became characterised primarily as criminals, thereby placing greed and economic gain at the forefront of how these conflicts were understood, relieving them in the process of much of their moral weight (see Kaplan, 1994; Campbell, 2004).

As the attention of the international community grew, conflict minerals became the subject of international sanctions. The June 1998 UN Security Council resolution 1173 prohibited all states from “the direct or indirect import from Angola to their territory of all diamonds not controlled through the Certificate of Origin issued by the Government of Angola” (UN, 1998, p.3). This was followed in 2000 by Security Council resolution 1306 which applied the same measures to Sierra Leone (UN, 2000, p.2). Simultaneously, two TNGOs, Global Witness and PAC began investigating the role of the diamond industry in the conflict diamond issue. In 1998 Global Witness published *A Rough Trade: The Role of Companies and Governments in the Angolan Conflict* followed shortly after by PAC’s *The Heart of the Matter: Sierra Leone, Diamonds and Human Security* (Smillie, Gberie and Hazelton, 2000). Both of these documents proved to be seminal within the conflict diamond debate as they succeeded in exposing the complicity of the diamond industry itself in the conflicts in Angola and Sierra Leone:



De Beers is part of the [conflict diamond] problem. In its efforts to control as much of the international diamond market as possible, it is no doubt purchasing diamonds from a wide variety of dubious sources... If De Beers were to... stop purchasing large amounts of diamonds from countries with a negligible production base, much could be done to end the current high levels of theft and smuggling [the basis of conflict diamond exploitation] (Smillie, Gberie and Hazelton, 2000, p.72).

The investigations undertaken by Global Witness and PAC exposed the role of industry as, at the very least, the facilitator of the conflict diamond trade. At the time of the reports' publication, De Beers still operated as an industry monopolist (Le Billon, 2012, p.96; Smillie, 2014, p.29). In this capacity, De Beers was attempting to control the supply of rough diamonds through the purchase on the open market of as much of global diamond production as possible. In the case of its buying offices in DRC and Guinea, this meant the company was purchasing diamonds that were mined and smuggled out of UNITA or RUF held territory (see respectively Global Witness, 1998, p.14; Smillie, Gberie and Hazelton, 2000, p.3). In real terms, this translated to mean that the diamond industry was in effect funding these rebel groups and, therefore, prolonging the conflicts in which they were engaged. Morally speaking, this raised a series of questions for the industry that the concerned TNGOs were determined it would have to answer.

Now in possession of the knowledge of the industry's role in the conflicts in Angola and Sierra Leone, a coalition of TNGOs set about disseminating this knowledge to the consumer. It was assumed that if these facts were passed to the consumer (or even just the threat of this) then that would be enough to force the industry into taking the conflict diamond issue seriously. As such, the TNGOs began a series of publicity campaigns. They sent boxes of cut glass 'diamond rings' to newspaper editors with accompanying literature outlining the conflict diamond problem (Grant and Taylor, 2004, p.390). Another particularly successful conflict diamond

public awareness advertisement depicted a Sierra Leonean child, a victim of the RUF practice of multiple amputation, under the slogan “has the ring on your finger cost the arm of this child?” (Wright, 2004, p.706). These campaigns made an impact almost immediately and exposed the internal workings of the industry not just to the consumer but also to many working within the industry itself:

[T]he diamond wars were the secret of the diamond trade until, quite suddenly, they were not. It seemed to happen in an instant, as if a curtain had been ripped aside and there was the diamond business, spattered with blood, sorting through the goods (Hart cited in Grant and Taylor, 2004, p.390).

The TNGO campaigns had a significant effect on powerful figures within United States Congress. In 1999 and 2000 Tony Hall introduced three bills to US Congress calling for a ban on the import of diamonds not accompanied by a certificate of origin (Tamm, 2002, p.29). With the US at the time accounting for 48 per cent of global diamond consumption, should any such bill pass, clearly this would have presented a serious problem for the industry (ibid, p.27). The response of the diamond industry and of many diamond producing states was rapid and at times desperate. Botswana, at the time the world’s largest diamond exporter (Hazelton, 2002, p.3) and dependent for a third of its GDP on diamond extraction (ibid, p.20) became increasingly panicked and approached British officials, the key rough diamond importing state, seeking a mutual solution as a UK diplomat related:

[The UK government] had some fairly strong pleas from the likes of Botswana, I don't think this is talking out of school too much, who were desperately worried that...their diamond industry was, partly as a result of what was happening in Congress... under real threat and that...would have been an absolute disaster for them. So they were desperate and were lobbying us very intensely behind the scenes to actually even have a bilateral deal... because all the stones were coming out of Botswana and coming into the UK through De Beers. And then going out to places like the US after that. And we had to say...we understand your fears and worries but actually what we're looking for is a much broader multilateral agreement and not a bilateral one (WR, Interview 30<sup>th</sup> January 2014).

Such a response would have been extremely disappointing for Botswana and for many other states involved in the diamond trade who were not afflicted by conflict; Namibia for example relied on the industry for 13 per cent of its GDP (Hazelton, 2002, p.20) while the diamond cutting and polishing industry in India was estimated to employ a million people (Kuriyan, 2002, p.1). The attitude of the UK government on this matter was highly significant, however, in terms of the direction any future regulation might take given the position of London within the rough diamond industry's global supply chain:

Eight countries – Botswana, Russia, Canada, South Africa, Angola, Democratic Republic of Congo, Namibia and Australia – produce the bulk of the world's gem diamonds and most of the producing entities within these countries conform to an explicit set of rules...and sell the bulk of their rough diamonds to the Diamond Trading Company<sup>10</sup>, a DeBeers-owned entity based in London (Spar, 2006, p.196).

London is a key city in the global rough diamond supply chain. It sits between the country of extraction and the cutting and polishing centres, from where the diamond is passed onto retail jewellers. Consequently, the position of the UK government as outlined above is extremely problematic for producing states as if the UK refuses to verify bilateral certificates of origin and then pass that onto US importing authorities then this would mean that 48 per cent of the global retail market for diamonds would immediately be closed. In effect, therefore, the attitude of the British government left diamond producing states with no real alternative but to pursue a multilateral agreement.

The South African government, in a likely response to lobbying from De Beers, convened a meeting regarding the conflict diamond issue at Kimberley, South Africa in May 2000 (Bieri, 2010b, p.6). Attending were representatives from 38 states as well as, unusually, key figures from industry and the TNGO community (Grant and Taylor, 2004, p.387).<sup>11</sup> In a move that provides a minor yet prescient example of the strategic selectivity that the following chapters will contest was a conditioning

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<sup>10</sup> In June 2001 the De Beers owned Central Selling Organisation was retitled as The Diamond Trading Company (Spar, 2006, p.203). Elsewhere in this study the company is referred to as either the Central Selling Organisation (CSO) or the Diamond Trading Company (DTC) depending on the historical context under discussion.

<sup>11</sup> Following the Kimberley meeting, many figures from the TNGOs and from within industry, principally De Beers, pushed for the creation of a single body to represent the industry at future Kimberley Process meetings. This led in July 2000 to the creation of the World Diamond Council (hereafter WDC) which then spoke for the entire industry throughout the negotiations and indeed continues to do so up to time of writing (OB, Interview 23<sup>rd</sup> April 2014; Bieri, 2009, p.15).

feature of the negotiations, the latter were subject to something of a vetting process prior to an offer of attendance as a leading TNGO negotiator related:

The Minister of Mines in South Africa had called the meeting...[she then called us at the TNGO and] I think what she was interested in knowing was whether we were just a bunch of anti-capitalist Bolsheviks out to destroy industry or whether we could actually come to grips with this thing in a more serious way. I guess we passed muster and... she invited everyone to come to Kimberley (WP, Interview 22<sup>nd</sup> January 2014).

Having 'passed muster' with the South African Minister of Mines, figures from the TNGO community were invited to the Kimberley meeting. For many present, there appeared to be significant progress towards a resolution to the conflict diamond issue – this impression was, however, to prove something of a mirage as a TNGO negotiator related:

[T]he idea of a certification scheme...and some of the underlying principles, all of that came out fairly easily in two or three days...and the minister said basically, 'it's a done deal'. We'll have a technical meeting in Luanda in a month...to wrap it all up and it'll be settled. So everybody left Kimberley thinking that we were on a roll but we weren't...it got very, very complicated and it took dozens, I think a dozen formal meetings and another maybe two dozen informal meetings...to get the whole thing hammered out (ibid).

Many of the negotiations' foremost debates will not be addressed here. They will be discussed in detail as the chapters which follow attempt to document and chart the nature of the strategic selectivity of wider social structure. What is important, however, is to note the outcome of the negotiations which created not only a global, industry wide, regulatory regime but also, in effect, a new industry accumulation strategy.

Before any meaningful policy discussion could begin, a definition was required to establish exactly what a 'conflict diamond' was. As will be discussed shortly, in terms of the future integrity of the Kimberley Process, the decisions taken here were to prove disastrous, undermining the regime's credibility from the very outset. However, as far as Kimberley Process regulations are concerned, conflict diamonds were agreed to be "rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments" (KPCS, p.3). While this definition allowed policy making to proceed, it appears to have been agreed in some haste, containing serious flaws that were to be exposed over the course of the Kimberley Process' first decade of operation.

The Kimberley Process is founded on the basic premise that if the rough diamond supply chain can be successfully sealed, it then becomes possible to certify the diamonds within it as conflict free. As such, participating states must "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" (ibid, p.7). In this endeavour participants are required to take into account "the further options and recommendations for internal controls" present in Annex II (ibid, p.7). In practice, therefore, participating states with regard to their mine sites, should:

- Ensure that all diamond mines are licensed by the state and to allow only those mines so licensed to mine diamonds.
- Ensure that prospecting and mining companies maintain effective security standards to ensure that conflict diamonds do not contaminate legitimate production.
- All artisanal and informal diamond miners should be state licensed and only those persons so licensed should be allowed to mine diamonds (ibid, p.13).

These regulations are designed to formalise the sector, generating a physical control of diamond mining sites, both alluvial and kimberlite, and also those individuals engaged in mining. These measures, it was hoped, would prevent conflict diamonds from being mined by insurgent armies as international markets would only be accessible to state licensed miners. It was also anticipated that these measures would prevent diamonds from being smuggled from conflict afflicted states onto the mine sites of close neighbours and then laundered into the Kimberley system.

With the mine sites now at least theoretically sealed, Kimberley Process stipulations dictate that diamonds can only be Kimberley approved where they are exported with a “Kimberley Process Certificate...[that] accompanies each shipment” which can only be issued by the participating state (ibid, p.5). The supply chain is then sealed as each participating state is required to “ensure that no shipment of rough diamonds is imported from or exported to a non-Participant” (ibid, p.6). Such a structure created an inherent pressure on states to join, lack of status in international law notwithstanding:

[The closed system] meant that they [producing or consuming states] had to be inside that tent because if they're outside that tent then they're screwed. They had to come in...we went from that initial six...to a dozen to 16 to 30 to 70 plus...So as that process went on so more and more countries realised they had to be in this (WR, Interview 30<sup>th</sup> January 2014).

Faced with the prospect of being prevented from trading with other participating states, any laggards quickly came into the fold meaning that 54 states constituted the initial Kimberley Process participation (Grant and Taylor, 2004, p.394) and as of writing that number stands at 81 (Kimberley Process Basics).

There are a number of safeguards written into the agreement designed to ensure proper compliance. Rough diamonds can only be exported when accompanied by a tamper and forgery proof Kimberley Process certificate (KPCS p.7) and in

containers that are similarly resistant (ibid, p.12). Further, participants must compile and share diamond production, import and export statistics (ibid, p.16). Additionally in terms of enforcement, participants are required to “amend or enact appropriate laws or regulations to implement and enforce the Certification Scheme and to maintain dissuasive...penalties for transgressions” (ibid, p.7). To test for compliance, after an extensive negotiation that ran past the Kimberley Process’ inauguration date, a peer based review mechanism was written into the agreement. This system allowed for ‘review visits’ which each participant must entertain periodically and ‘review missions’ which are a special measure designed to test for compliance where there “exists credible indications of significant non-compliance” (ibid, p.10). Both forms of review are conducted only where the participant consents to the remit of the review team and its size and composition (ibid, p.10). Finally, the agreement allows for modification only under conditions of consensus (ibid, p. 11).

#### 4.1.1 Challenges and Failures:

The Kimberley Process has been in operation for just over a decade; it has, however, proved a chastening one for its architects. A number of controversies have seen the credibility of the Kimberley Process fatally undermined, ultimately resulting in leading campaigner Ian Smillie and the TNGO Global Witness abandoning it entirely in protest. Many of the Kimberley Process’ challenges, this study contends, have their roots in the strategic selectivity of wider social structure and as a result will be dealt with in the chapters that follow. While this study seeks to trace the effects of strategic selectivity for the modes of operation of the Kimberley Process, it does not claim that every Kimberley definition and stipulation relates to this strategic selectivity. Many other factors shaped the Kimberley Process, not least amongst them human error and a very understandable lack of foresight. This brief final discussion will focus on the two key challenges (and failures) that have beset the Kimberley Process since its inauguration. Both issues surround the Kimberley Process’ dealings with the participation of Zimbabwe.



With the benefit of hindsight, what is immediately apparent from the conflict diamond definition adopted by the negotiators is that conflict diamonds can only be mined by rebel groups. States or private companies that engage in human rights abuses in the process of diamond production are ignored. In recent times, in the context of Zimbabwe, this definition has significantly undermined the Kimberley Process. Party elites within Zimbabwe's ZANU, in collusion with private companies, have engaged in the smuggling of rough diamonds and have also effectively sanctioned mass killings and forced labour by Zimbabwean military units, rotated onto the Marange diamond field so as to enable their exploitation of the resource in exchange for their loyalty (see Global Witness, 2010; PAC, 2010a). It is reasonable to argue that by most standards, diamonds produced under such conditions could be considered to be 'conflict diamonds'. However, with its insistence that conflict diamonds can only be mined by rebel groups, the Kimberley Process has proved to be hamstrung by its definition and has as a result struggled to suspend Zimbabwe's membership.

This study's empirical evidence clearly suggests that the adopted conflict diamond definition was a straightforward error of judgement by the negotiating parties created by an understandable fixation on the problem as it existed at the turn of the century:

[At the time of the discussion regarding the definition of the conflict diamond] we were very much focused on what the RUF were doing, what UNITA was doing in Angola and...yeah it was about rebel movements... and what you were doing was essentially protecting the sovereign state (WR, Interview 14<sup>th</sup> May 2014).

At the time of the negotiations, with conflicts ongoing in Angola and Sierra Leone, clearly the negotiators focused on the problem that confronted them – UNITA and the RUF selling diamonds for arms. This short term focus resulted in a conflict

diamond definition that implicated rebel movements, undermining the Kimberley Process from the very outset. Related to this problem, however, was that written into the Kimberley Process agreement was a mechanism that prevented any real alteration to its form.

The problem of the Zimbabwean military's human rights abuses on the Marange diamond field created a serious point of argument within the Kimberley Process (Haufler, 2010, p.412). Zimbabwe's breaches of the spirit of the Kimberley Process agreement, if not its actual protocols, led to vociferous calls from the TNGO community for a change in the definition of what constituted a conflict diamond:

[The Kimberley Process] was designed to protect governments from rebel movements... This is reflected in the definition of conflict diamonds found in KPCS founding documents... This definition is outdated and needs changing. It erroneously assumes all governments are "legitimate" and does not recognize that such governments... could engage in acts of terror or criminality as egregious as any rebel movement (PAC, 2010a p.24).

Problematically however, as mentioned above, the Kimberley Process agreement can only be changed via consensus – or more importantly via a particular understanding of what the term 'consensus' actually means:

The Interlaken agreement, on which everything is based now, was accepted by a consensus and I think the Chair at that meeting said we need everybody to agree on this, we can't have anybody saying after the fact that they didn't like it....That got locked in as a decision making process without I think anybody actually noticing... I always understood the word consensus from the dictionary definition which means most people agree...Not that everybody agrees, but the idea of consensus in the Kimberley Process is that everybody must agree and if one doesn't agree then the thing won't go forward, so in dealing with Zimbabwe it only took one or two to block any kind of action (WP, Interview 22<sup>nd</sup> January 2014).

Clearly then, a lack of understanding of the definition of one term has led to the protection of another – it would be ironic if the outcome was not so tragic for the artisanal miners of Zimbabwe. A misunderstanding concerning the exact meaning of the term 'consensus' has allowed for the adoption of a decision making arrangement that made alterations to the final Kimberley agreement very difficult. This prevented any alteration to the definition of the term 'conflict diamond' and to some extent protected political elites in Zimbabwe. This issue remains today as reformers' attempts to alter the conflict diamond definition continue to be rebuffed by the Kimberley Process (OB, Interview 23<sup>rd</sup> April).

These two issues have proved extremely serious to the credibility of the Kimberley Process. They are not, however, the agreement's only weaknesses as the chapters which follow will explicate.

#### 4.1.2 Summary

The exploitation of rough diamonds for the purposes of funding conflict created (and indeed continues to create) a number of problems for policy makers, industry and the TNGO community. The Kimberley Process represented something of a soft

option for world leaders at the time – a possible solution to some of Africa’s most protracted and bloody conflicts through economic regulation as opposed to hard-nosed military intervention. That it has largely failed to regulate the global diamond industry undoubtedly owes something to understandable errors of judgement. The chapters which follow, however, will argue that many of the problems that have arisen as a result of Kimberley regulation do not in fact owe their provenance to human error but actually have their basis within the strategic selectivity of wider social structure. To explore this notion, this study will, as previously discussed, adopt Maarten Hajer’s methodology of discourse analysis. In doing so, it will attempt to engage in a deep examination of the Kimberley Process negotiations and how agreement was forged through, to use Hajer’s terminology, agents exchanging storylines in support of their respective discourses. In order to engage in this analysis in a meaningful way, however, it must first be established exactly what the social positioning’s or discourses of the negotiating agents were, and it is towards this discussion that the chapter will now turn.

## 4.2 The Conflict Diamond Discourses

This chapter’s second and concluding part will attempt to bridge the preceding discussion with that which follows in this section’s second chapter. To do so it will outline the discourses that emerged regarding the conflict diamond issue within certain sections of transnational society in the years spanning the turn of the last century. As outlined in the previous chapter, discourses are the heuristic foundation of Maarten Hajer’s methodology and represent the “ensemble of ideas, concepts and categorisations” which allow agents to understand and give meaning “to physical and social realities” (Hajer, 1997, p.44). Agents “make sense of the world by drawing on the discourses available to them” (ibid p.53) and as such do not create discourses themselves but utilise those already present within a given social milieu. In the context of the issue regarding what were to become known as conflict diamonds, two principal discourses from which agents derived their arguments

and storylines can be discerned – both related to the current and future shape of the global diamond industry. This chapter’s second part will divide in two, outlining each of these discourses. The first discourse, in its most basic form, presents the diamond industry as culpable for the trade in conflict diamonds and, therefore, in need of urgent and deep reform – this discourse will be referred to hereafter as *culpability and reform*. The second discourse stands in almost direct opposition to *culpability and reform* and presents the mainstream industry as the innocent victim of broader social forces, meaning that its internal structures should be left untouched – this discourse will, therefore, be referred to as *innocent and conservative*. Both discourses contain a number of elements regarding the shape of the industry and the form any potential regulation should take.

The discussion that follows will attempt to outline these two discourses as clearly as possible and as a result will involve no direct quotation in order to illustrate their presence. As will become apparent upon reading the following chapter, storylines – the rhetorical devices by which agents attempt to convince others of their discursive positioning – are an expression of discourse. Consequently, to produce direct quotation here to illustrate the presence of the discourse would also inevitably lead to the quotation of storylines. This has the potential to create confusion for the reader as similar quotations would be utilised in both this and the following chapter to make related although distinct arguments. In place of direct quotation, therefore, this second part will, following the discussion of the discursive element in question, provide references to relevant illustrative passages.

#### 4.2.1 Discourse: *Culpability and Reform*.

The 1990s witnessed the role of rough diamonds in many civil conflicts on the African continent increasingly debated within transnational policy making circles. Particularly for those within the TNGO community and for some within academia and diamond consuming state institutions, the structure of the diamond industry

itself was to some extent culpable for the emergence of conflict diamonds. From this position, therefore, it was considered that the industry must be subject to deep reform. A number of elements comprise this discourse – a generally hostile one from the perspective of the TCC.

The *culpability and reform* discourse had at its foundation the notion that the very core of the diamond industry was deviant. As discussed above, since its early history and its founder, Cecil Rhodes' famous statement that the supply of diamonds to Europe should roughly equal the number of engagements, De Beers had attempted to control the supply of rough diamonds onto the world market, thereby artificially inflating their price (Spar, 2006, p.198). Through the success of De Beers and its multitude of subsidiaries, this policy effectively placed the company as the sector monopolist (Le Billon, 2012, p.96; Smillie, 2014, p.29). According to the *culpability and reform* discourse, however, such an industry structure is deeply problematic. From the perspective of the *culpability and reform* discourse, the diamond industry's – and indeed any industry's – deviation from free market principals leaves it out of step with the (apparently) competitive commerce of the modern era and has the capacity to not just produce ambivalent or sub-optimal economic outcomes but can in fact produce 'bad' social outcomes (see Global Witness, 1998, p.6). This is made manifest by De Beers' apparent need, as industry monopolist, to purchase as much as possible of global rough diamond production – inevitably leading to it purchasing conflict diamonds on the outside market (see Smillie, Gberie and Hazelton, 2000, p.27). This element of the *culpability and reform* discourse, therefore, presents the very structure of the rough diamond industry as a core element of the conflict diamond problem – facilitating market access for combatants selling rough diamonds to fund their insurgencies.

According to the second element of the *culpability and reform* discourse, any industry structure that produces an unethical product is in fact a problem unto itself. This element of the discourse maintains that modern consumers (and as a result

investors) expect the companies from which they purchase commodities to produce those commodities 'ethically' (see Global Witness, 1998, p.7). While the parameters of 'ethical production' remain unspecified within the *culpability and reform* discourse, consumers are assumed to innately understand the concept and demand that companies adhere to its principles (see Global Witness, 2000a, p.26). Indeed this is particularly the case in the context of diamond production where, with the product itself often gifted as a symbol of love, a particular obligation is placed on the diamond industry. It must, as a result, be especially careful not to contravene the laws of 'ethical production' (see *ibid*, p.34). Should the diamond industry do so, it can expect to be punished by consumers who, it is tacitly argued, may alter their buying habits (see *ibid*, p.34; Global Witness, 1998, p.2). In sum, therefore, the *culpability and reform* discourse maintains that consumers demand ethical diamond production and if this is not forthcoming then the industry will be punished in the market place through related shifts in the consumption of gem stones.

Consumer buying habits represent a fundamental aspect of the *culpability and reform* discourse. Relating to these habits, a third key tenant of the *culpability and reform* discourse resides in the notion that, where consumers are not in possession of 'the full facts' regarding the nature of diamond production within conflict zones, efforts can and should be made to inform them (see Smillie, Gberie and Hazelton, 2000, p.76). Consumers in possession of such information may, as maintained in the second discursive element outlined above, alter their buying habits placing the industry under pressure to reform (see Global Witness, 2000a, p.1). Clearly if the industry was to fail to respond quickly to this pressure this may prove damaging (see Smillie, Gberie and Hazelton, 2000, p. 75). For the *culpability and reform* discourse, however, such damage is justified simply because 'lives are more important than jobs' (see WP, Interview 22<sup>nd</sup> January 2014). Consequently, this third discursive element adopts the position that information campaigns designed to

educate the consumer regarding the human costs of conflict zone diamond production are justifiable, their damage to the diamond industry notwithstanding.

While damaging the diamond industry may be justified owing to its humanitarian costs in some locales, this does not mean that the *culpability and reform* discourse rejects the notion that diamond production can generate 'good' social outcomes in others. Indeed, a fourth element of the *culpability and reform* discourse maintains that in certain states, diamond exploitation does indeed produce 'good' social outcomes by contributing towards the development of the host state's economy (see Global Witness, 2000a p.31; SJ, Interview 20<sup>th</sup> January 2014). This discursive element, therefore, puts the 'reform' into the *culpability and reform* discourse as it tacitly acknowledges that the industry should ideally be preserved as a profit making sector to the assumed benefit of Southern diamond producing states.

The *culpability and reform* discourse is not solely concerned with the industry however; it also takes a particular view of those agents in conflict states mining diamonds to fund their insurgencies. According to the *culpability and reform* discourse, insurgent groups such as Angola's UNITA and Sierra Leone's RUF are nothing more than criminals in pursuit of economic gain (see Smillie, Gberie and Hazelton, 2000, p.48). This discursive element works to delegitimise these rebel organisations as political groups, portraying them as a result as almost purely economic agents.

In terms of the reforms to the industry that should be pursued, the *culpability and reform* discourse insists that the industry itself is absolutely crucial in terms of guiding this process. This discursive element acknowledges that there are very few experts on the diamond trade external to the industry (see Global Witness, 2000a, p.9). Consequently, the views of the diamond industry must not only be sought in terms of any future reform of the sector but must in fact be given special consideration (see Global Witness, 2000d). It follows that this discursive element



tacitly acknowledges that figures within the diamond industry, owing to their positioning within the industry itself, are best placed to offer expert guidance on the direction the proposed reforms should take.

A seventh and final element of the *culpability and reform* discourse regards the expenditure of time. This discursive element maintains that the humanitarian situation in, specifically Sierra Leone and Angola, creates a real time pressure in terms of forcing a resolution to the conflict diamond issue (see Smillie, Gberie and Hazelton, 2000, p.76). This translated, once the notion that the solution lay in the creation of a regulatory regime, into an understanding that that regime should be created and implemented as rapidly as possible (Hain, p.2). As such, the seventh element of the *culpability and reform* discourse maintains that while a solution to the conflict diamond issue must be found, it is also crucial given the humanitarian implications, that that solution must also be arrived at quickly.

These seven elements of the *culpability and reform* discourse constitute in sum a specific cognisance of the conflict diamond problem and indeed offer some suggestions as to the direction any solution should take. With adherents within the TNGO community and powerful diamond consuming states, this discourse was to prove influential in terms of framing the conflict diamond debates and the Kimberley Process negotiations which followed. In many regards, due to the fact that the issue (and its accompanying discourse) was largely introduced by the TNGOs, some elements of the *innocent and conservative* discourse can, to some extent, be viewed as a reaction to the agenda set by the *culpability and reform* discourse.

#### 4.2.2 Discourse: *Innocent and Conservative*.

The *innocent and conservative* discourse, as an understanding of the global diamond sector, had most of its adherents and sponsors within industry and diamond producing state circles. Broadly speaking the *innocent and conservative* discourse maintains that while the industry's internal structures maybe something of an

anomaly in global trade, as far as the conflict diamond issue is concerned those structures are blameless. In addition, those same structures are, to a significant extent, responsible for generating economic growth within certain southern producing states and are, therefore, deserving of protection and preservation. While the *innocent and conservative* discourse contains fewer distinct elements than the opposed *culpability and reform*, it was to have a profound effect on the negotiations as the following chapter will examine.

A core element of the *innocent and conservative* discourse resides in the notion that the monopolistic structure of the diamond industry is a legitimate format in terms of the accumulation of capital. This discursive element maintained that, with the supply of diamonds considerably higher than that which reaches the market, if it was not for the monopolistic behaviour of De Beers then the global price of diamonds would collapse resulting, for consumers, in a reduction in the value of their diamond asset and for diamond producing states, in a loss of revenue. In addition, such a collapse would also lead to the diminishment of a broad and lucrative industry. By contrast, De Beers' monopolistic accumulation strategy maintains the product as a source of accumulation for all concerned (see De Beers 1995 Annual Report cited in Global Witness, 1998, p.7; OB Interview 23<sup>rd</sup> April 2014). As such, De Beers' strategy for managing the sector, despite its monopolistic appearance, works to the benefit of all.

A second element of the *innocent and conservative* discourse builds on the first in the sense that it seeks to specify and emphasise particular spheres where these benefits are felt. For the *innocent and conservative* discourse, the diamond industry is a crucial element driving the economic development of specific southern states (see United States Government, 2000a; WDC, 2000a, p.1). Importantly, stemming from this proposition is the argument that because of its role in this economic development, the industry (and its profits) should therefore be protected from damage (see *ibid*, p.1). It follows that the industry and its profit generating abilities must be preserved

in the context of the conflict diamond issue and, suggests implicitly as an extension of this, from any overzealous attempts to reform the industry to exclude those conflict diamonds from the trade (see USG, 2000a).

According to a third element of the *innocent and conservative* discourse, the industry deserves protection not just on economic grounds but on moral grounds as well. This is simply because according to the *innocent and conservative* discourse the mainstream industry (for the most part De Beers) is not to blame for the trade in conflict diamonds. From this perspective, conflict diamonds are, contrary to the claims of the *culpability and reform* discourse, in fact not a natural by-product of a deviant structure but are in fact entirely exogenous to a legitimate industry (see OB Interview, 23<sup>rd</sup> April 2014; USG, 2000b; WDC, 2000b, p.1). Consequently, this third element, in effect, absolves the industry and its structure (and thereby its overwhelmingly dominant firm De Beers) of blame for the trade in conflict diamonds thus rendering it as another victim of a trade external to the industry and that can, therefore, be dealt with without great alteration to those innocent industry structures.

A fourth and final element of the *innocent and conservative* discourse has its basis within the proposition that, in the context of any possible regulation, the industry is an essential site of expert knowledge. According to the *innocent and conservative* discourse the diamond industry is highly technical and not well understood by outsiders. This can lead agents to suggest naive and crude solutions to the conflict diamond problem (see OB Interview, 23<sup>rd</sup> April 2014; WDC, 2000a, p.1; Rapaport, 2000, p.19). It follows from this position that the expert opinion of industry must be given special consideration. Consequently in sum, this final element of the *innocent and conservative* discourse maintains that industry is a crucial repository of expert knowledge and, therefore, the font of 'practical' and 'workable' solutions to the conflict diamond problem – the rational extension of this proposition is that industry opinion should be afforded particular consideration.

In places, the *innocent and conservative* discourse clearly stands in direct and overt contrast to certain elements of *culpability and reform*. In others, however, such as the perspective on industry expertise, there is clearly some overlap and, therefore, room for agreement between the adherents of each discourse. Indeed, as the following chapter will examine, as the Kimberley Process negotiations progressed the storylines produced in the furtherance of the *innocent and conservative* discourse appear to have proved highly convincing to many agents within diamond consuming states and the TNGO community. Consequently, many elements of the *innocent and conservative* discourse formed the basis of agreement on certain issues. As a result, the footprint of the *innocent and conservative* discourse is highly discernible in the 'Kimberley discourse' that was to emerge from the negotiations. An examination of exactly what it was that made these storylines so convincing, however, and that created as a result a regulatory regime (and reformed accumulation strategy) highly conducive to the interests of the TCC, is the subject of this section's final chapter.

### 4.3 Conclusion

This chapter has sought to provide an introduction to the Kimberley Process and the debates and discourses that emerged from the social events that precipitated its formative negotiations. The Kimberley Process is unique in that from the outset of the negotiations it sought to incorporate a broader range of agents – industry and TNGOs as well as states – than would ordinarily have been the case in a negotiation of this type (Bieri, 2009, p.19). Clearly it was the hope of all concerned that such a structure would naturally lead to a negotiation based upon a wide spectrum of views, incorporating as a result those perspectives contained within the two discourses outlined above. It was hoped that this negotiating structure would produce a broadly considered agreement, achieving a consensus from all parties as to the way forward. That it achieved this consensus, however as will become clear in the chapters which follow, must be considered the most hollow of victories.

Certainly, as the next chapter will discuss in detail, stemming from the discourses outlined above, a full exchange of arguments and storylines ensued from this negotiating structure producing an agreement to which all parties consented. This section's final chapter will engage in a close examination of those negotiations, however, and will argue that, their inclusive nature notwithstanding, the resulting agreements that produced the Kimberley protocols and stipulations outlined above were in fact guided by a sociological mechanism, the strategic selectivity of wider social structure, that worked to produce a largely ineffective final regime skewed dramatically towards the interests of the TCC. To enable this discussion, however, a full understanding of the nature of the Kimberley Process negotiations must be reached and it is towards this end that the analysis of the following chapter is devoted.



## Chapter Five

### Tracing the Formative Debates of the Kimberley Process: The Exchange of Storylines

For many observers, a notable feature of the Kimberley Process resides in the comparative brevity of its formative negotiations. For a multilateral agreement to be negotiated in three years is remarkable and perhaps suggestive of a relatively straightforward task. This is misleading. The Kimberley Process sought to regulate a complex and clandestine industry and involved dozens of meetings between states, TNGOs and industry. Under such circumstances, the brevity of the negotiations can be explained by their intensity as opposed to any easily forged agreement. The debates involved were extremely numerous and ranged from the laughably small - one meeting involved a protracted discussion regarding the size of the certification paper (Smillie, 2014, p.81) - to the very grand, and the regime's compatibility with World Trade Organisation regulations (Feldman, 2003).

This chapter will, utilising both primary and secondary data, select and trace the most telling of the Kimberley Process formative debates. It will, as previously discussed, utilise a methodology described by Maarten Hajer to explain how agreement was reached, as agents pursued strategies via the invocation of storylines in the hope of appealing to the underlying discourses adhered to by opposed agents. By documenting the exchange of storylines and how agreement was forged, this chapter enables the next to engage in a deeper examination of those agreements. This will allow the next chapter to feel out the edges of an underlying causal mechanism in the shape of a strategically selective wider social structure and document how this served the interests of specific fractions of the TCC. This chapter will prepare the ground for that examination. To do so it takes a top down approach, illustrating how decisions reached either immediately before or in the early stages of the negotiations created an emergent discourse which led to a cascade of decision

making, working to constrain later debates surrounding some of the finer technocratic detail. In so doing, this chapter documents how the negotiations progressed to create a Kimberley Process which temporarily assuaged class relevant forces (in the form of the TNGOs) and ,therefore, doubled as both a reformed industry accumulation strategy and a hegemonic project. Formed as it was, however, from a dialectic relationship between agent and strategically selective social structure, the outcome seems unlikely to be balanced, a proposition left for the following chapter.

## 5.1 The Early and Pre-Negotiation Debates

The discussion that follows divides into three parts, each dealing with a crucial sphere of debate. All examine arguments that spanned the lead up to the Kimberley Process negotiations and the early part of the formal negotiations themselves. In keeping with Hajer's methodology, each part documents the storylines of the agents active within that particular debate, and attempts to offer a putative account of the outcome by highlighting how these storylines appealed to the underlying discourses surrounding the conflict diamond issue. This analysis, therefore, provides the basis for the discussion of the same debates to be conducted in the following chapter which seeks to explicate the deeper causal mechanisms that underpinned these agreed outcomes. In terms of the course of the negotiations, these early debates are crucial to understanding why the later technocratic debates took the form they did. Decisions taken in the early debates resulted in mutually formed understandings as to the nature of the conflict diamond problem, thereby creating an emergent discourse that framed the debates which followed.

### 5.1.1 The Consumer Campaign

In terms of the conditioning of the negotiations as a whole, perhaps the most significant discursive element discussed in the previous chapter concerns the notion that consumers demand 'ethical' diamond production. This discursive element,



adopted principally by the TNGOs and by some diamond consuming states, maintains that if the industry did not reform its accumulation strategy to take account of this alteration in the balance of forces in consuming societies, then the market may see a weakening of demand in the shape of the informed consumer altering their buying habits. This could occur organically or possibly as a result of a TNGO led consumer campaign. In reality, this amounts to a threat, as the implication is that should the industry accumulation strategy remain unaltered then changes to consumer buying habits may affect its longevity. From this perspective the industry can only reform or decline but either outcome is ethically justified, according to the *culpability and reform* discourse, in the face of an accumulation strategy that is costing lives.

For the TNGOs, the principle proponents in general of the *culpability and reform* discourse, their initial storyline deployed in association with the above discursive element utilised a high degree of subtlety and is, as a result, somewhat complex; its evolution as the negotiations progressed only compounding this. The base storyline, however, is distinctly evident within the documents from which the discursive element itself can be discerned:

The Project Team understands that an effective consumer campaign could inflict damage on an industry which is important to developing economies and to poor people working in... countries such as Namibia, South Africa, India and Botswana... [Campaigners] would have to consider how many lives in countries like Sierra Leone, Angola and the Congo these jobs are worth (Smillie, Gberie and Hazelton, 2000, p.75).

Quotations such as the above are representative of the early storyline deployed in particular by the TNGOs. Contained here are a number of important contestations and acknowledgments all designed to appeal to the opposed agents within industry and diamond producing states.

In the first instance, there is an attempt to bridge conceptually with the *innocent and conservative* discourse in that there is an acknowledgment that the diamond industry is indeed important to the development of the economies of certain Southern states. As such, the TNGOs employ a storyline above that acknowledges that the industry is 'employing people' and 'developing these nation's economies.' In addition, integral to this storyline is a normative assertion entirely in keeping with both discourses that the development of an economy is a 'good' thing and that this 'good' has been felt in the aforementioned states. The fact that the authors consider this to be a social good is evidenced by the fact that this is something that, as the above quote acknowledges, would have to be taken into account before any consumer campaign could be launched.

There are a number of reasons to be deeply sceptical of this aspect of the storyline (and the discursive elements that produced it) and as will be discussed in the following chapter, there are hints here of an underlying cognition of social reality that may function as a strategically selective social structure. In particular, questions as to the extent of the 'good' that diamond led economic growth and 'development' have delivered for diamond producing states are assumed away. For now, however, it is important to note that all these debates are simplified by this storyline, as Hajer suggests they often are, and are reduced to an acknowledgment that the diamond industry can drive economic development, and indeed has done, and that this can produce 'good' social outcomes for the societies in question.

A second aspect of this storyline is deliberately more overt. There is a clear threat to industry here that, while the TNGOs consider economic development in the aforementioned states important, those considerations do not override the moral position that 'lives are more important than jobs'. As such, a publicity campaign designed to disseminate knowledge to the consumer may be justified. Carried within this notion is a core element of the *culpability and reform* discourse. The implicit assumption here is that the consumer will respond and that, therefore, the

notion of ethical diamond production is one that consumers expect. It follows that the market can be stimulated through an information campaign and that changes in demand will force industry to comply or suffer a decline in sales.

Industry and key diamond producing states developed a repost in the form of two connected storylines clearly designed to resonate with *the culpability and reform* discourse and thereby appeal to the TNGOs. The first storyline involved a strong engagement with the mass media of diamond consuming states in an attempt to highlight the social benefits associated with diamond production. In this manner, the head of India's state run Gem and Jewellery Export Promotion Council was keen to stress that the Council was having to introduce measures designed to ensure that "India's legitimate industry, which employs about a million people... [is not] disrupted by the international ban on conflict diamonds" (McGivering, 2000). Others were more specific as to the damage already being caused, Louis Nchindo, a Debswana<sup>12</sup> executive, was quoted stating that the TNGO campaigns were already "destroying economies which count heavily on legitimate diamond sales, like Botswana" (BBC, 2001). The TNGO conflict diamond campaign is, so this storyline maintains, a threat to large scale employment within these states and is seriously damaging their economic prospects. Moreover, a second storyline argues that the ramifications of this have the potential to cause even more fundamental damage:

[In reference to South Africa, Namibia and Botswana]. These societies are struggling to achieve decent living standards. It would be a terrible irony if the world community curbed the trade in conflict diamonds in ways that punished peaceful African societies, thereby increasing the risk of new instability (WDC, 2000a, p.1).

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<sup>12</sup> Debswana, as the name suggests, is a joint venture between the government of Botswana and De Beers.

The suggestion contained within this second storyline is that there are a series of virtuous connections associated with diamond production. The argument that the diamond industry is assisting in the aforementioned states' 'struggles to achieve decent living standards' makes it easy for the WDC to align its interests with those of South Africa, Namibia and Botswana. It follows from here that it is necessary to protect these states, and of course to do that the industry must also be protected. This storyline then makes a further connection. Having posited the notion that diamond production increases living standards, the storyline then argues that there is a causal relationship between diamond production, increases in living standards and peaceful societies. To damage these nations' diamond sectors would inhibit their attempts to improve living standards, thereby creating an increased 'risk of new instability.'

Taken as a whole, the storylines presented here by industry and producing states attempt to forge compromise in three ways. Firstly, just by engaging in the manner outlined above, both industry and diamond producing states tacitly acknowledge and accept the facet of the *culpability and reform* discourse which maintains that consumers do indeed demand ethical diamond production and that if this is not forthcoming, consumption patterns may shift. This is significant as this acknowledgement produced a first element of the discourse that was to emerge from the Kimberley Process negotiations (termed hereafter as the emergent discourse) and that was to form part of its hegemonic project. Second, by emphasising as powerfully as possible that diamond production has the capacity to create 'good' outcomes, understood via the trope of 'development', this aspect of the storyline speaks directly to the *culpability and reform* discourse which is in conformity with this perspective and in so doing attempts to forge agreement. Finally, both storylines in combination attempt to avoid the moral position that 'lives are more important than jobs' and instead seek to illustrate how many jobs are potentially at stake and how the loss of these jobs could conceivably cost lives

through the creation of ‘new instability’. These storylines, therefore, posit the notion that the campaign against conflict diamonds could become counterproductive. As the negotiations progressed there is evidence that this storyline achieved some success in terms of bridging the gap between the two discourses, allowing for the formation of a discourse coalition around this issue.

The Outcome:

The TNGOs seemed to be responsive to the industry and diamond producing states’ storylines. A lead TNGO negotiator and strategist asserted that a consumer campaign and any related call for a consumer boycott “didn’t make a lot of sense especially once we got their attention and the negotiations started” (WP, Interview, 22<sup>nd</sup> January 2014). Once industry and producing states were brought to the negotiating table the threat of a consumer campaign was significantly reduced as a meaningful form of leverage for the TNGOs. Why the TNGOs allowed this to happen owes much to their own tacit acknowledgment of the arguments presented in the industry and diamond producing states’ storyline as outlined above and of course by derivation, their acceptance of certain elements of the *innocent and conservative* discourse.

In the first analysis, the alteration on the part of the TNGOs in terms of underlying discourse is hard to discern. When industry and diamond producing states utilised the above storyline stressing the importance of the industry for economic development in certain key Southern states, the TNGOs continued to rebuff such assertions on moral grounds just as before:

[Industry] talked about how important the diamond industry was to countries like South Africa, Botswana, Namibia the cutting and polishing industry in India... But [what] I often said in response to that kind of thing was while that’s very true, how many jobs in South Africa equate to a death in Sierra Leone (ibid).

By responding in such a manner WP reveals that ostensibly, for the TNGOs, lives remained more important than jobs and that, therefore, the threat of a consumer campaign could still be justified. When pressed on this topic, however, TNGO interviewees stressed that actually for the most part these threats were indeed increasingly superficial and were deliberately held back and left “lurking there in the background” (ibid). The fact that the threat of a consumer campaign was largely left as a tacit one, despite the enormous reservations the TNGOs harboured regarding the enforceability of the final regime, suggests an alteration in stance and a shift in the TNGO discursive positioning. This shift can certainly be linked to the growing salience of the importance of ‘development’ within the cognisance of the TNGOs:

The Botswana government started a PR campaign called diamonds for development because they were fearing [sic] for their business model...But the developing [sic] NGOs in Fatal Transactions were very aware of that and they were all on the ground in countries like Botswana. My own organisation...was working in Botswana...and that was a message that we understood very well (SJ, Interview, 20<sup>th</sup> January 2014).

Contained here is some evidence of the potential impact of the industry and diamond producing states’ storyline on the TNGOs. Interviewee SJ, a key TNGO negotiator, recalls the government of Botswana’s view concerning the positive developmental impact of diamond exploitation and maintains that this was something ‘we understood very well.’ What appears to have occurred during the negotiations is that, as storylines were exchanged, a heavy influence was brought to bear on the TNGOs. The industry storyline succeeded in ‘sounding right’ in terms of the *culpability and reform’s* commitment to the notion that the market can produce ‘good’ outcomes and that diamond production, can indeed lead to ‘development’. The storyline deployed by industry and diamond producing states emphasised these purported positive social effects of diamond production and, as the above

quote demonstrates, this appears to have registered with the TNGOs. Consequently, despite widespread frustration within the TNGO community, particularly with regard to monitoring and enforcement of the regime as will shortly be discussed, there were no large scale consumer campaigns. Indeed this subtle alteration was acknowledged by the TNGOs themselves:

Concern about possible economic damage to these countries [Botswana, Namibia and South Africa] has caused NGOs campaigning against conflict diamonds to be less aggressive where consumers are concerned, than might otherwise have been the case (Hazelton, 2002, p.19).

The outward rhetoric of their negotiators and indeed many of the findings of their own research notwithstanding, the TNGOs appear to have accepted the arguments presented in the storyline deployed by industry and the diamond producing states. As the following chapter will expound, this study maintains that in fact beneath these storyline exchanges and the concomitant agreement and alteration in stance from the TNGOs, there resides a causal mechanism in the form of a strategically selective social structure which in actuality frames the cognition of agents and facilitates agreement along lines congruent with the interests of the TCC. For now however, it is important to note that this shift produced a second element of the emergent discourse which maintained that damaging the industry would damage the development of key Southern states and may in fact prove counterproductive in terms of creating and/or maintaining peace. As a result, this discursive element maintains that agents cannot in fact make a choice to protect 'lives over jobs' the two are inextricably linked. Under such conditions, a campaign designed to inform the ethical consumer of the conflict diamond issue, thus causing a shift in demand for diamonds, itself becomes ethically problematic. Thus campaigns such as these should remain a veiled threat. This threat, however, was the crucial leverage available to the TNGOs in terms of compelling industry and diamond producing states to address the conflict diamond issue on TNGO terms, and its effective

nullification was to prove crucial as the negotiations descended into the realms of technocratic detail.

### 5.1.2 'Legitimate' or 'Illegitimate': Setting the Bounds of Industry Reform

Within the TNGO community and certain diamond consuming states, the conflict diamond issue was connected fundamentally to the industry's monopolistic structure. There resides here a clear association between this argument and the *culpability and reform* discourse which maintains that deviation from free market principles has the capacity to not just produce ambivalent or sub-optimal economic outcomes but in fact can produce 'bad' social outcomes. The storyline deployed here relied on a number of argumentative devices all designed to convince industry and producing states to reform the industry's accumulation strategy. Industry responded with a storyline of its own before quickly ceding ground and altering its accumulation strategy – a shift that sanitised a large proportion of the industry, and as a result, formed a third element of the emergent discourse which to some extent served to protect it from calls for further structural reform.

As discussed in previous chapters, prior to the Kimberley Process negotiations, De Beers as a company operated an accumulation strategy which had as one of its core aims, the inflation of the world price of rough diamonds through the control of all diamond supplies (Campbell, 2004, p.108; Smillie, 2014, p.29). Indeed, so successful was the company in this period, that to talk of the rough diamond industry was to talk of De Beers<sup>13</sup>. As part of its accumulation strategy, De Beers engaged in a practice whereby, if the company did not directly mine a given deposit, it attempted to ensure that the company that did so was contracted to sell its output to the De Beers owned CSO. However, where such arrangements could not be reached, De Beers engaged in the practice of 'outside market buying'. This involved the company establishing field offices within diamond producing regions which

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<sup>13</sup> For an outline of the De Beers accumulation strategy prior to 2000 see Campbell (2004 p.99-138).



coordinated the procurement of as much output as possible, thereby maintaining its grip on supply. However, at the very outset of the debate concerning the role of diamonds in conflict, this element of the accumulation strategy proved extremely problematic:

[De Beers argue] that “our outside buying operations are a vital ingredient of our management of the world market...” These operations are a system of buying offices and individuals located in countries...such as Angola, Guinea and the DRC...This system has resulted in unaccountability and created an opaque screen, enabling the diamond industry to buy diamonds regardless of ethical considerations, such as its suppliers could be combatants (Global Witness, 1998, p.5).

The storyline here is clear, the industry/De Beers accumulation strategy is itself illegitimate. In highlighting this, Global Witness was attempting to link De Beers' efforts to maintain a higher price for rough diamonds than the market would dictate to the funding of conflict. This storyline of course speaks to the element of the *culpability and reform* discourse which maintains that the diamond industry's deviation from free market principles can produce 'bad' outcomes. Certain U.S. departments were adherents to this element of the *culpability and reform* discourse as evidenced by the Department of Justice charging De Beers in 1994 with violation of the country's antitrust laws (Campbell, 2004, p.117). As such, this storyline would chime with the authorities in the United States, adding an extra dimension to the TNGO argument that the anti-competitive nature of the accumulation strategy is unethical and that as a result De Beers and the sector it dominated was in need of reform.

For some time De Beers had, in keeping with the *innocent and conservative* discourse which maintained that monopolies remain an acceptable form of accumulation, defended its attempts to control the supply of diamonds via the utilisation of a

storyline which argued that its accumulation strategy was not only ethical but beneficial to all involved. Such a storyline would appeal to the *culpability and reform* discourse and its TNGO proponents:

There is no one concerned with diamonds, whether as producer, dealer, cutter, jeweller or customer who does not benefit from it. It benefits not only the shareholders of diamond companies, but also the miners they employ and the communities that are dependent on their operations (De Beers 1995 Annual Report cited in Global Witness, 1998, p.7).

The accumulation strategy operated by De Beers as the dominant fraction, spread real material benefit to other key class fractions within the industry. The company, however, quickly altered its strategy. Seemingly in response to the TNGO storylines such as the above and the related and evolving cognisance of policy makers in powerful consuming states<sup>14</sup>, De Beers abandoned this aspect of the *innocent and conservative* discourse, tacitly conceding that its pursuit of an industry monopoly and its related practice of outside market buying had indeed produced a 'bad' social outcome. As a consequence, this shift created a discourse coalition around the issue, producing a third facet of the emergent discourse. This is evidenced by the De Beers submission to a U.S. Congressional hearing regarding the conflict diamond issue in 2000 where the company announced that the issue of outside buying had been resolved:

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<sup>14</sup> The TNGO research/policy documents elicited considerable debate within policy making circles, particularly in the US, eventually culminating in the adoption of the Clean Diamond Act. For an account of the debates within U.S. Congress see Feldman, (2003).

The company's outside buying offices...accepted only those Angolan diamonds that were accompanied by an official certificate of provenance... In October 1999, moved by concerns over the reliability of some of the certificates of provenance, the company went even further, ending...[the buying of] all Angolan diamonds... The company subsequently reviewed all of its buying operations in West and Central Africa...[and] has since ceased all of its outside buying operations (De Beers, 2000, p.10).

The move away from outside buying was a significant change to the De Beers/industry accumulation strategy. However, while the storylines of the TNGOs and related U.S. government policies attempted to compel the industry to move away from this practice, the alteration itself may in fact have owed more to an internal De Beers strategic review that predated the conflict diamond issue. This review resulted in a management drive designed to move the company away from what it termed as 'price support' to one that would enable it to down-stream production and break into the more lucrative jewellery sector (OB, Interview, 23<sup>rd</sup> April 2014). Thus the company engaged in a voluntary relinquishing of its role as industry monopolist<sup>15</sup>, making the closing of its outside buying offices a logical step. This, however, does not detract from the fact that ostensibly, in response to the TNGO storylines, De Beers had given ground on the issue of its monopolistic behaviour, thereby creating the third element of the emergent discourse – a move that may have worked greatly to its benefit on a related point of debate.

There are a number of noteworthy points concerning De Beers' shift away from the practice of outside buying and price support. In the first instance, the closing of its

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<sup>15</sup> The extent to which De Beers has in fact relinquished its role as industry monopolist remains an area of contention, however. See Spar (2006).

outside buying offices, especially in DRC, Guinea and Liberia, was perceived by the negotiating TNGOs as a welcome concession:

[As of late 1998] no longer is the 'soaking up' of 'open market goods'... an inevitable consequence of the need to stabilize the world price of diamonds. Governments have ceased to accept this as an argument for non-interference, as have consumers. Indeed... the diamond industry has itself begun to change its position... There have been encouraging actions and statements... in response to pressure from governments, the United Nations and from a small number of non-governmental organisations (Global Witness, 2000a, p.1).

What is clear from the above statement is that the authors perceive the shift away from outside buying to be at least partly a response to the effect their own storylines had both on governments and the industry directly. This concession from De Beers is significant because these moves added credibility to the industry's storylines deployed in support of the *innocent and conservative* discursive element which maintained that conflict diamonds were exogenous to the industry as opposed to a fundamental part of its monopolistic accumulation strategy as the TNGOs argued. This shift worked to constrain the course the Kimberley Process negotiations would take as the following chapter will explain.

Outcome:

De Beers' alteration in its accumulation strategy to effectively end its outside buying and its attempts to monopolise supply, meant that itself and the rough diamond industry became, at least notionally, separate entities. De Beers rendered itself, its subsidiaries, residual suppliers and customers separate to the rest of the rough diamond industry, the so called 'outside market' – a small portion of the whole. This strengthened the credibility of the WDC's position which, in keeping with the *innocent and conservative* discursive element, maintained that conflict diamonds

were exogenous to the mainstream industry. In support of this position, the WDC invoked a number of storylines during the negotiations which sought to frame the problem as one of a separate legitimate trade, crucially now comprising the still overwhelming market leader De Beers, as suffering from a situation whereby conflict diamonds were “with the connivance of corrupt officials... sneaked into *normal* channels” (WDC, 2000c, p.1, emphasis added). This ‘legitimate industry’ storyline was partnered with a further supporting WDC storyline:

[The WDC seeks] to ensure that conflict diamonds are excluded from the legitimate diamond trade... The WDC and governments recognize the important role that diamonds play in the economic development of many diamond mining and producing countries; the WDC, therefore, seeks... [a system] of controls that does not harm the legitimate diamond industry (WDC, 2000b, p.1).

With the significant portion of the industry represented by De Beers now separated from the outside market, that portion of the industry could then be presented as ‘legitimate’. It follows as a result that the issue then becomes how to exclude conflict diamonds from the legitimate industry. This serves, to some extent, to turn the debate away from discussions about wholesale reform as, following this reframing, all that now needs to be achieved is the more limited task of excluding conflict diamonds from an otherwise healthy trade. As we can observe in the above, however, this first storyline is combined with a second that works rhetorically to connect the ‘legitimate’ trade to ‘good’ outcomes (understood again as economic development) thus appealing to the *culpability and reform* discourse and adding further weight to its argument that reforms, presumably regulatory, should not harm the newly created legitimate industry.

The combination of the legitimate and illegitimate industry storyline with that of the diamonds and development storyline made for a powerful argument against

wide ranging reform of the sector. Indeed, there is some evidence that these storylines, appealing as they did to the discursive positioning of many of the opposed agents, may have had some considerable effect. A PAC press release of 2002 notes that “worries within the U.S. Trade Representative’s office that the Kimberley Process might restrict the *legitimate* diamond trade had acted as a brake on effective government action” (PAC, 2002, p.2 emphasis added). Indeed the TNGOs themselves also appeared to accept that the abandonment of outside buying and the concomitant alteration to the industry’s monopolistic structure amounted to a legitimisation of the De Beers led sector of the industry:

It is vital that a long-term solution to this very complex problem be found... [that can] protect the legitimate diamond economies. It is clear that there is a need to create a ‘chain of custody’ within the diamond trade... that can work with existing structures and patterns of trade (Global Witness, 2000a, p.1).

This quotation, taken from a Global Witness report published in 2000 contrasts with the same organisation’s position just a year earlier when it argued that “if De Beers are as serious as they insist, this will mean far reaching changes within the entire industry to address the growing problem of diamonds from conflict zones” (Global Witness, 1999). To talk in 2000, after De Beers’ shift in accumulation strategy, of ‘working with existing industry structures to protect a legitimate economy’ represents a distinct softening of approach. This change seems to acknowledge that the shift from outside buying and price stabilisation goes far enough to cleanse industry structures such that they can now be accommodated and left unchanged. The issue now becomes ‘how to protect a legitimate industry’ in the midst of the creation of a new regulatory regime. That the industry’s storylines should have such an effect on the stance of the TNGOs is perhaps surprising. As we will see in the following chapter, the industry remained tainted by over a decade of dealing in conflict stones and this shift from De Beers did little to expunge that. However, the

TNGOs and progressive minded states do appear to have accepted the De Beers' storylines that, following the cessation of outside buying, there existed a legitimate industry that could be worked with and should be preserved. This study proposes the argument, to be developed in the following chapter, that such acceptance by the reformist forces is a consequence of the influence of an underlying strategically selective social structure which works to condition agents towards that acceptance.

While the exchange of storylines outlined above occurred prior to the onset of the formal Kimberley Process negotiations, the effect of this exchange within those negotiations should not be underestimated. The tacit agreement reached here formed a discourse coalition between the concerned agents, producing a fourth element of the emergent discourse. With outside buying eradicated and the laws of the free market now supposedly introduced to the industry, this discursive element credibly maintains that the conflict diamond issue is indeed exogenous to a separate and legitimate industry – now agreed and established in the second element of the emergent discourse by the negotiating agents, to be capable of generating the social good of economic development. This discursive element carries an integral logic to the effect that, with a legitimate industry now present, it should be subject to preservation (and protection) rather than fundamental reform. A discourse coalition on this issue works to constrain debate by rendering any policy suggestions that may result in serious reforms of the industry both unnecessary and undesirable from the perspective of a now legitimate industry structure capable of generating the social 'good' of economic development. As the following chapter will explore, the discourse coalition around this discursive element worked to frame the debate during the negotiations themselves, keeping it within conservative bounds.

### 5.1.3 The Format: A Legal or Politically Binding Agreement?

A final crucial early debate worked to further constrain the possible pathways open to the negotiators. The exchange of storylines here concerned the debate as to

whether the resulting regulatory regime would carry the force of international law. For the TNGOs this was absolutely crucial, however, it was opposed by the key diamond consuming states of the U.K and the U.S. This debate was to have a significant impact in terms of how the debate progressed and also how, in future, the Kimberley Process would be implemented.

Stemming from the *culpability and reform* discursive element which maintained that diamond production can produce 'good outcomes' and is, theoretically at least, desirable, the TNGOs argued that for the industry to be sanitised and create only 'good outcomes', the final regime had to have the force of international law. This argument was presented with a particularly emotive storyline given the historical context:

The strongest possible agreement can be reached through a legally binding agreement... We urge that all members of the Kimberley Process pursue this objective... Only then will the full force of law be brought to bear on those individuals and countries that are perpetuating conflict through senseless acts of terrorism funded by diamonds (Global Witness, 2001).

This Global Witness press release is clearly designed to resonate with the *culpability and reform* discourse, an element of which maintained that groups such as UNITA and the RUF were simply not legitimate political actors and were in fact little more than criminals. As such, the above Global Witness storyline, given the negotiations' historical positioning in the same period as the 2001 Al Qaeda attacks in New York, would have resonated strongly with certain key diamond consuming states. Surprisingly, however, this storyline made little impression and the argument itself was largely rebuffed by the negotiating governments who favoured a politically binding agreement.



In opposition to the TNGOs' position, the negotiating states, particularly the UK, pushed a single key storyline in support of a politically binding agreement which attempted to speak to the *culpability and reform* discourse (and the TNGOs position) that humanitarian considerations meant that any agreement must be reached as quickly as possible. The UK delegation attempted to speak to this aspect of the *culpability and reform* discourse through the presentation of a storyline which argued that any attempt to secure a legally binding agreement would be extremely costly in terms of time. In the first instance, the point was made to the TNGOs that, in terms of time, if "you got deep into the UN process" in an attempt to secure a legally binding agreement "then you're lost because [of] all that wider horse-trading that goes on in the UN" (WR, Interview, 14<sup>th</sup> May 2014). Furthermore, even if a legally binding agreement passed "through the UN, the chances of Congress ratifying that agreement is [sic] pretty low because they just don't...like the UN" (WR, Interview, 30<sup>th</sup> January 2014). And finally, while negotiators acknowledged that there remained a slight possibility that an internationally legally binding agreement could be passed through Congress, this it was emphasized could "take a very long time. There are... [treaties] awaiting ratification by Congress that go back to the 1960s" (WR, Interview, 14<sup>th</sup> May 2014). In sum, therefore, this storyline was highly dissuasive for any adherent to the *culpability and reform* discourse in pursuit of a timely agreement. A Kimberley Process written into international law could take huge amounts of time to pass through the UN and then US Congress, and indeed such attempts may ultimately prove fruitless. Thus, with the additional assurance offered to the TNGOs concerning the supposed similarity in practical terms of a politically and legally binding agreement (WR, Interview 30<sup>th</sup> January 2014), the argument for a political agreement became a cogent one, resonating strongly with the *culpability and reform* discourse and its concern for a quick resolution. This of course relies on the ability of the negotiating agents to create a political agreement that could be enforced without the weight of international law. In turn this would

rely on a credible system of oversight, whereby effective implementation could be monitored.

Outcome:

The negotiating TNGOs, whilst not content with the notion that 'politically binding' was as far as the agreement could go in terms of formalisation, nonetheless "recognised that if there was [to be] consensus on the type of agreement... it was around a strongly worded, quite detailed" but politically binding one only (ibid). In principle, therefore, the TNGOs accepted to some extent that the Kimberley Process would not carry the weight of international law. That the TNGOs agreed and accepted this storyline owes much to the underlying influence of the strategic selectivity of wider social structure, a proposition the following chapter will discuss in more detail. On the basis of this agreement, however, a discourse coalition formed on two issues, thus creating elements five and six of the emergent discourse. The fifth discursive element maintains that a Kimberley Process inscribed in international law is simply not feasible and the sixth surrounds the notion that compromises must be made if progression is to be achieved under conditions of time constraint. What is interesting to note at this point is that in the former case, the coalition was formed, at least as far as the TNGOs were concerned, on the understanding that 'a strongly worded and quite detailed' agreement could carry enough weight to ensure effective implementation. But, as will shortly be discussed, as the negotiations progressed it became apparent that the stipulations that would be required to make the agreement enforceable and effective in the eyes of the TNGOs would not be agreed. What followed as a result was a period of intense negotiation involving appeals to both the emergent and the *culpability and reform* discourses in order to gain agreement from the TNGOs for the final document. This is significant as the following chapter will explore. For now, however, it is worth noting that the lack of stringent enforcement mechanisms, combined with the politically binding nature of the agreement, meant that the Kimberley Process was

severely weakened as an effective regulator; to the considerable advantage of class fractions within industry and diamond producing states.

## 5.2 The Technocratic Debates

With the negotiations proper underway, the attention of the agents turned towards the finer details of the regime that would govern how it would work to regulate the sector. This involved discussions on a vast array of topic areas and to address all of them is beyond the scope of this study. What follows is an account of the debates and decisions that were to prove crucial in terms of moulding the Kimberley Process into its final form – a form that clearly favoured the interests of concerned fractions of the TCC.

### 5.2.1 Potential Methods for the Visual Identification of Origin of Rough Diamonds

Initially, for the TNGOs the transparency issue largely depended upon the establishment and open declaration of the origin of rough diamonds. Such transparency would readily identify those companies which dealt in diamonds sourced from conflict zones and, as the *culpability and reform* discourse suggests, would expose them to possible sanction by the international community and/or by the market forces of consumers and investors who are assumed to disapprove of such actions. The initial TNGO argument to emerge from this discursive element maintained that the origin of rough diamonds could be ascertained visually through either expert or technological scrutiny, or via a system of diamond ‘hall-marking’<sup>16</sup>. The core of this argument from the TNGOs’ perspective was contained in the Global Witness report *Conflict Diamonds: Possibilities for the Identification, Certification and Control of Diamonds* (2000a). In support of this position, the report presented a

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<sup>16</sup> For a full account of the various human and technological methods available for the purposes of verifying a diamond’s origin of extraction see Global Witness (2000a).

storyline containing a number of elements designed to see the fundamental arguments contained therein acknowledged by industry:

This report seeks to examine the possibilities for controlling the entry of conflict diamonds into the legitimate diamond industry and to establish... whether diamonds can be identified by country of origin (Global Witness, 2000a, p.1).

Noticeable here is that the above, the very first statement of a document designed exclusively to argue for the adoption of methods intended to visually identify rough diamonds according to origin, is an acknowledgement that there exists a 'legitimate diamond industry.' Resonating strongly with the fourth element of the emergent discourse as discussed above which maintained that there was indeed a legitimate industry that required preservation, this storyline is designed to appeal to industry on the basis that the utilisation of visual identification methods to establish origin can help protect this, post-outside buying, legitimate industry. This however, was not the only element of this TNGO storyline:

There is considerable concern within the industry about issues such as the creation of synthetic diamonds, the practice of fracture filling and the proliferation of colour treatment enhancements upon rough diamonds. These have made certification within the industry a key issue (ibid, p.23).

There existed at the time of the Kimberley Process negotiations considerable concern regarding the creation of synthetic and artificially enhanced diamonds. The above quotation from a Global Witness report deliberately highlights this issue before offering an apparent solution that has the capacity to solve both this and the conflict diamond issue:

[De Beers] declare that... “the inscription of selected polished stones with the De Beers name and an individual security number will give consumers greater confidence when purchasing diamonds.” This has several possibilities relating to the issue of conflict diamonds as Chaim Even-Zohar, the editor of Diamond Intelligence Briefs has noted “...if environmental or child labour issues would come up at any time in the future, it will become easier to defend the diamond industry” (ibid, p.23).

The storyline deployed here is clearly designed to ‘sound right’ according to the perspective of the *innocent and conservative* discourse in that it speaks to the industry’s fundamental argument that the industry (and product) must be protected – owing to its potential to deliver development and thereby social ‘good’. This storyline speaks to this discourse, highlighting how diamond hall-marking can protect the product from one of the industry’s greatest concerns, the infiltration of synthetic diamonds. At the same time, however, it also points out that, as previously recognised, these methods can help resolve ethical issues, including conflict diamonds.

Running concurrently with the technology debate was also an exchange on the possible use of expert or so called ‘run-of-mine’ rough diamond identification<sup>17</sup>. This was presented by the TNGOs and some diamond consuming states as an additional visual identification method:

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<sup>17</sup> Run-of-mine identification involves the expert examination of diamonds in order to establish their origin. Rough diamonds carry characteristics particular to the locale of their production, as such, through expert examination against a sample (or through prior knowledge of those characteristics) the stated origin of a package of diamonds can be verified. For a discussion see Global Witness (2000a).

Dr Jeff Harris notes that there are 44 surface features for the octahedron which, when coupled with statistical analysis of run-of-mine production...could lead to a practical and relatively low-tech methodology to assist identification (ibid, p.9).

This storyline contains two elements. In the first instance, by referencing the views of a renowned geologist (and quoting him extensively throughout the publication), there is a clear appeal to the 'expert' industry judgement so crucial according to the *innocent and conservative* discourse and its industry advocates. Second, there is also a clear acknowledgement of the *innocent and conservative* discourse, and its related fourth element of the emergent discourse, in that run-of-mine identification is presented as a low cost, low tech and therefore 'practical' solution that does not require a large and potentially damaging restructuring of a 'legitimate' industry<sup>18</sup>.

The introduction of any visual identification methods to the final agreement was, however, met with some considerable resistance from certain producing states and also from within the industry itself. Both argued against adoption, each utilising particular storylines designed to convince the TNGOs of their position.

For many diamond producing states, the argument against the adoption of technology to aid in the visual identification of diamonds stemmed from the second and fourth elements of the emergent discourse and was presented through a storyline designed to highlight the problems associated with implementation. This storyline carried two elements. In the first, it attempted to highlight that adopting technology was effectively "adding another layer [of bureaucracy] to the Kimberley Process" (WR, Interview, 14<sup>th</sup> May 2014). This aspect of the storyline was a direct appeal to the (mutually agreed and, therefore, adhered to) fourth element of the emergent discourse in that additional restructuring/regulation of a now legitimate

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<sup>18</sup> The UK pursued similar arguments and storylines with regard to run-of-mine identification. See Appendix, WR, Interview, 14<sup>th</sup> May 2014.

sector should be kept to a minimum. This storyline would 'sound right' to a number of powerful diamond consuming states and indeed the TNGOs who proved sensitive to such arguments. The second aspect of this storyline concerned practicality. For any agreement to be effective, clearly it would have to be feasible in terms of implementation. However, many "governments said no, what we would not like... [is] pressure on us to implement a sort of high tech solution because we're... not ready to do that" (ibid). Again, such a storyline would resonate strongly with the TNGOs via the second and fourth elements of the emergent discourse which resulted in all parties agreeing that the now legitimate industry, as the deliverer of development and its related (but assumed) social goods, deserved protection. Ultimately, therefore, if the resulting regime proves unworkable because governments are unable to implement it, then ethical diamond production cannot be guaranteed, and consequently neither can the longevity of the industry.

The industry also opposed visual identification methods. They argued that technology was unworkable, utilising a storyline which maintained that its introduction would require fundamental changes to the way the industry was structured with the implication being that this would carry damaging costs (Smillie, 2014, p.94). This argument and storyline would, once again, resonate with the second and fourth elements of the emergent discourse which maintained that there was, in the context of a post outside buying accumulation strategy, a legitimate development inducing industry that deserved protection. Furthermore, in terms of expert run-of-mine identification, this was argued by industry also to be impractical:

[A]n expert could be reasonably sure of the geographical origins of quite small parcels of diamonds, even individual diamonds... however, in general it will be much more difficult to tell the origin of rough gem diamonds when they are not run-of-mine, when there are only individual stones or small parcels available, or when diamonds from different sources have been mixed together...a single rough diamond cannot be identified with certainty...not to the level of evidence required for a court of law (De Beers, cited in Smillie, Gberie and Hazelton, 2000, p.67).

The storyline presented in the above quotation was maintained throughout the debate on the issue. Indeed, in its testimony to Congress, De Beers argued that in instances where diamonds were presented in small or mixed packages “identification then becomes a matter of guesswork” (De Beers, 2000, p.9). This storyline speaks to the *culpability and reform* discursive element which maintains that industry’s expertise must be respected and utilised in the search for a possible solution.

Outcome:

For both TNGOs and advocates amongst diamond consuming states these storylines appear to have been effective. The introduction of technology was abandoned by the TNGOs as a possible solution owing to the extent to which the industry would need to be restructured in order to facilitate it. Run-of-mine identification methods were also not included in the final agreement and being as the above quotation from PAC cites De Beers as to why run-of-mine was, at least ostensibly not feasible, clearly the TNGOs accepted those arguments. As a consequence, all methods of visual identification of rough diamonds were discounted as viable solutions to the conflict diamond issue. While the following chapter will examine this issue in more detail, for now it is important to note that,



combined with the agreement concerning the political rather than legal nature of the final regime, the rejection of all methods of visual identification worked to further weaken the Kimberley Process. In addition, there are good reasons to be sceptical of the decisions taken here in terms of the veracity of the assertions from industry. In sum, and as the next chapter will examine, the acquiescence of the TNGOs and the acceptance of such claims is perhaps suggestive once again of a possible underlying strategic selectivity which in fact worked to condition the cognition of the agents involved along lines congruent to the interests of the TCC.

### 5.2.2 The Extent of the Chain of Custody

With the available methods of visual identification of origin debated and discarded, as a regime, the Kimberley Process became highly dependent on its certificate of origin scheme. Ostensibly, as discussed in the preceding chapter, this certificate was to guarantee the origin of diamonds through the application of a chain of warranties designed to flow from the, now fully government controlled and regulated mining sites, throughout the supply chain. While this discussion was certainly not without its controversies, with the regulatory regime now so dependent on the certificate of origin, many of the provisions that were integral to it were agreed with comparative ease, a key example here being the measures designed to guarantee control of the original mine site which were to prove so crucial upon implementation<sup>19</sup>. That said some debate did emerge regarding the extent to which the chain of warranties, which underpinned the certificate of origin, should extend down the production pipeline from mine to consumer.

For the TNGOs, stemming from the first element of the emergent discourse which maintains that the consumer does demand ethical production (tacitly highlighting the danger of ignoring such demands), the argument regarding the extent of the

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<sup>19</sup> The measures on internal controls were proposed and accepted by the negotiating parties with little objection. For a brief account from a leading industry negotiator see GAC, Interview, 18<sup>th</sup> December 2013.

chain of warranties was straightforward; the system had to extend through the rough diamond cutting and polishing centres for the certificate of origin scheme to be credible. Without such a guarantee, conflict diamonds could be laundered in cutting and polishing countries (for the most part India) by arriving in rough form, to be cut and then mixed with certified stones before re-export, thereby rendering the industry as once again potentially unethical (Smillie, 2014, p.118). What was required, therefore, was a chain of custody that followed the diamonds through the cutting and polishing centres, an argument presented by the TNGOs with a familiar storyline:

Without an effective international certification system, without an internal Indian chain of warranties...the Indian diamond industry—the largest in the world—will be as vulnerable as any other... The only difference for India is that, being the biggest, it has more to lose if conflict diamonds are not effectively and convincingly stopped (Kuriyan, 2002, p.14).

The supporting storyline here is clearly designed to resonate with the first element of the emergent discourse which maintains that consumers do demand ethical production and could change their buying habits if this desire is not met. In the above quotation, the PAC researcher is utilising a storyline designed to appeal to this underlying discourse by pointing out that India has ‘a lot to lose’ if conflict diamonds are not ‘convincingly stopped.’ Problematically for the TNGOs, however, given the fact that it was agreed, as represented by the second element of emergent discourse, that the industry deserved protection and that, therefore, consumer campaigns would be undesirable for all concerned owing to their potentially deleterious effects, the TNGOs were effectively claiming that a change in consumer buying habits could occur organically without any help from the TNGOs; an argument industry in particular appear to have found unconvincing.

For industry, a chain of warranties that would continue through the cutting and polishing process was not practicable. The above storyline presented by the TNGOs seems to have gained little traction with industry, which deployed its own storyline in support of its position:

Global Witness and others may wish to establish more controls within the cutting centres to ensure that rough that is smuggled into the cutting centres is not turned into legitimate polished. Frankly this is a noble idea. It is also impractical and unworkable given the fact that once diamonds are in the cutting centres they must move freely (Rapaport, 2000, p.19).

Industry (in this instance through renowned industry figure Martin Rapaport) utilised their own storyline which stressed the impact the introduction of such a system would have on existing industry structures. Arguments such as these would resonate with both the second and fourth elements of the emergent discourse which together maintained that the industry, being legitimate (post-outside buying) and an apparent source of development, must be preserved and protected from damage - including damage from perceived over-regulation.

Outcome:

The industry's storyline as outlined above would have, very likely, appealed to certain states within the negotiations who were clearly adherents to the second aspect of the emergent discourse that the industry needed to be protected. The UK negotiators for example had a mandate, following discussions with the UK Department for Trade and Industry, to negotiate a new piece of legislation. However, as an extension of this, in general the UK negotiators were of the view that, with regard to the proposed regime, it was "absolutely crucial that the industry itself...is broadly content... They may not run out the bunting... but they would at least see the wisdom" in the proposals (WR, Interview 14<sup>th</sup> May 2014). A Kimberley policy stipulation that industry maintained would have required large scale and

costly restructuring would clearly not, as Rapaport suggests, have been regarded by industry as wisdom. As a consequence, the industry's storyline would have appealed to the emergent discourse and would, therefore, by derivation have appealed to many states within the negotiations and even to the TNGOs themselves. The fact that consensus was reached here and that this area of the diamond production pipeline remained unregulated suggests that the industry's storyline was indeed effective. As is the case with the all of the agreements discussed in this chapter, the following chapter will examine the social context behind this agreement for the guiding influence of the strategic selectivity of wider social structure.

### 5.2.3 Monitoring – Independent or Peer Review or Nothing?

Clearly fundamental to the success of a certificate of origin scheme is a robust system designed to test for compliance. Only then can any guarantee be given that the measures designed to control the diamond sector within producing states are effective and work to prevent the open sale or laundering of conflict diamonds. Under the rubric of a politically binding agreement, without a system to test for compliance, clearly any agreement could be reached in negotiation and simply be ignored in practice. As such, the issue of monitoring for compliance became an area of protracted and heated debate amongst the parties, one that once again produced a weighted compromise that embedded the strategic selectivity ever-present within the debate, in the Kimberley Process itself as the following chapter will discuss.

For the TNGOs, the issue of monitoring for compliance with, for example, the stipulations on the maintenance of controls on artisanal mines and the collation of statistics could only come via the utilisation of regular and impartial review visits. For the TNGOs, such monitoring was absolutely fundamental to the success of the scheme. This argument was carried in a number of storylines:

The absence of effective monitoring in the Kimberley Process provisions compromises an otherwise significant agreement. This shortcoming must be remedied if the Kimberley Process is to halt the conflict diamond phenomenon and bring greater stability to Africa, making diamonds a force for development rather than an engine of terror and state collapse (Smillie, 2002, p.13).

There are two elements within this short quotation that sum up the TNGO approach to this issue. In the first instance, without effective monitoring for compliance, in the absence of a legally binding agreement there was clearly no obligation to abide by Kimberley Process stipulations. To state, therefore, that the lack of 'effective monitoring compromises' the agreement is an attempt to appeal to the first element of the emergent discourse. What is contained here is a modest threat that if the agreement is compromised then the 'ethics demanding consumer' may become aware that the agreement is ineffective and as a result demand may fall. However, as discussed above, the TNGOs had tacitly acknowledged that the consumer campaigns that could inform the ethics demanding consumer should be withheld as the industry deserved protection owing to its contribution towards the assumed 'good' of economic development – part of the second element of the emergent discourse. Consequently, just as in the case of the debates surrounding the extent of the certificate of origin where a similar storyline was also utilised, this storyline did not carry a great deal of credibility.

In addition, a second storyline can be discerned from the above quotation, one that concerns the 'conflict diamond criminal' and terrorist supporter. Published soon after the September 11<sup>th</sup> New York attacks, the report's use of the highly emotive tropes of 'terror' and 'state collapse' and connecting them to the conflict diamond issue is clearly an attempt to appeal to the *culpability and reform* discourse and powerful diamond consuming states. Both of these storylines provided, the TNGOs argued, a compelling case for the sector's reformed accumulation strategy to include

“regular, credible, independent monitoring of all national rough diamond control systems” (ibid, p.4).

The TNGOs’ storylines, however, ultimately proved ineffective. For many states, principally Russia, China and some unnamed African states, the idea of external monitoring proved highly problematic (WR, Interview, 14<sup>th</sup> May 2014). These states’ principal argument was carried in a storyline which highlighted concerns over the extent to which such a system would involve external interference in sovereign states (SJ, Interview, 20<sup>th</sup> January 2014). How seriously we should take these objections is open to question and will be discussed in the following chapter. However, the industry was equally concerned with independent reviews and deployed a storyline in support of this argument which appears to have resonated with the second and fourth elements of the emergent discourse and the objecting states. A lead UK negotiator related that the basis of this storyline resided in the proposition that the diamond industry was a “highly secretive industry, with good reason. You don’t want to talk about deals in a multi-billion dollar industry, [with] a product that’s...highly susceptible to theft” (WR, Interview, 30<sup>th</sup> January 2014). As a result, industry vehemently opposed external monitoring:

The idea of introducing a complete set of strangers into that [monitoring] equation for industry was particularly bad news because they were very nervous ...about the degree to which they were going to have to open up their books...[to] someone who may have a very, very different agenda...they hated that (ibid).

This storyline may have had some resonance with the second and fourth elements of the emergent discourse which maintained that the industry itself needed protection from any potential damage – including possible Kimberley Process regulation. This storyline, therefore, presents industry confidentiality as a protective layer. While this storyline may not have carried much weight with the

TNGO its real force lay in its resonance with powerful states such as Russia and China who were also adherents to these aspects of the emergent discourse. The Russian diamond producer Alrosa was, at least partially at the time, a public asset and was covered by state confidentiality laws (OB, Interview 23<sup>rd</sup> April, 2014). As such, the storyline of industry regarding the need for confidentiality would have resonated strongly with Russia and also China who, as will be discussed in the following chapter, for their own reasons were very keen to keep much of their diamond information confidential. Consequently, in the case of third party verification of statistics and information exchange, the Russian negotiators blended storylines regarding sovereignty and the prior existence of confidentiality laws to make their argument against such stipulations persuasive:

[The threat of] third party validation...caused the Russians and the Chinese to completely freak out. I mean for the Russians...they genuinely required legislation for the information to be released... let alone some UN type organisation or whoever coming along and verifying...that was just some sort of nightmare scenario for them, the Chinese similarly (WR, Interview, 14<sup>th</sup> May 2014).

Russia maintained this storyline, that confidentiality laws and state sovereignty made independent reviews for compliance impossible, for some time during the negotiations to the point where it became “absolutely clear that some governments would never accept an outside third party” conducting the monitoring of state compliance (WR, Interview, 30<sup>th</sup> January 2014). At the same time, however, the TNGOs refused to accept the confidentiality storyline as valid, creating a serious impasse.

In response a key Northern state brokered a compromise solution which proposed a peer review system to be conducted by participating members of the Kimberley Process itself. This proposal was presented to the dissenting parties with a unique

storyline. For industry and the opposed states the storyline emphasised how little such a system would alter existing practices:

[W]e had to give some verbal assurances to industry that we would be incredibly discreet with the information that we got. We'd never publish it obviously. We never go into the detail of their commercial transactions. But what we would do would be very public within the Kimberley Process and say that we'd conducted x number of inspections...and this is what we found (ibid).

It was repeatedly argued that it would be possible for the information garnered as a result of peer review to be exchanged securely within the "Kimberley family" (ibid). Such a storyline speaks to the fourth element of the emergent discourse in that it highlights that the peer review proposal necessitates only a very limited change to the industry's currently operating accumulation strategy in that the monitoring of implementation would have to occur and the findings reported but, crucially, only within the bounds of the 'Kimberley family.' This reassurance, however, clearly does not address the issues regarding sovereignty raised by the opposed states. Russia and China insisted that any system could allow for review missions only "where there are credible indications of significant non-compliance" and "with the consent of the Participant concerned" (Smillie, 2002, p.4).

Outcome:

Under the conditions demanded principally by Russia and China, peer review was clearly unacceptable to the TNGOs (Global Witness, 2001; PAC, 2002; Smillie, 2002). However, with their key source of leverage in terms of forcing an agreement, the threat of a consumer campaign, effectively nullified there was little left to them in terms of compelling a more favourable compromise. Consequently, as a leading state negotiator related, they were presented with a stark choice:



[The TNGOs] tried to rally others to come round and put pressure on various governments...[but] it was quite clear to us as governments... that if we didn't get a peer review system then we wouldn't get anything...those were the options (WR, Interview, 30<sup>th</sup> January 2014).

The TNGOs' commitment to consumer campaigns, as reflected in their agreement with the second element of the emergent discourse, was considerably weakened by the time the debates concerning review mechanisms took place, they therefore appeared to have little leverage over this apparently absolutist position. Furthermore, the above storyline appealed to the sixth element of the emergent discourse concerning time constraints and the need for compromise so as to enable the negotiation's progression. Whether it be as a result of engagement with the UN or US Congress there existed a fear that the debate could reach paralysis and as a result of its progress "there was a real momentum behind the Kimberley Process which... governments and industry and NGOs were keen to maintain" (WR, Interview, 14<sup>th</sup> May 2014). Going into the final scheduled meeting before the deadline for inauguration, this pressure undoubtedly had an effect on the TNGO position regarding the nature of the regime's monitoring mechanism, as a lead negotiator explained:

When we got to Interlaken [the inauguration meeting] by then we'd had these dozen formal meetings and dozens of others. The cost had been enormous and...there were a lot of things still missing from the agreement including a monitoring mechanism, [but] it was pretty clear that we were not going to get any further by having more meetings and that if we pushed it [external review]...some governments [might] walk away...the Russians might have defected (WP, Interview, 22<sup>nd</sup> January 2014).

What this quote demonstrates is the extent to which pressure, generated by the negotiations' progression and time consuming nature, pushed the TNGOs towards consenting to the Kimberley Process' inauguration which went ahead without any review mechanism at all. Perhaps best conceived as a thread-like storyline organically self-generating throughout the negotiations, the storyline tacitly presented to the TNGOs was essentially 'agree to inaugurate the Kimberley Process with peer review or no review, or hold up proceedings further costing more time and money whilst allowing the trade in conflict diamonds to continue'. This storyline of course spoke to the sixth element of the emergent discourse concerning the importance of timely progression. That the TNGOs were so concerned with the progression of time offers a clue as to the nature of the underlying influence of strategically selective wider social structure. The following chapter will argue that it was this influence, that caused the TNGOs to accept this storyline and agree to inaugurate the Kimberley Process with no review mechanism at all – a decision that was to work greatly to the benefit of the TCC.

While the TNGOs did eventually accede to a peer review mechanism, their concern about timely progression and, crucially, their apparent adherence to the second element of the emergent discourse that effectively precluded the use of consumer campaigns, meant that there was little recourse available to the TNGOs in terms of compelling agreement for a more rigorous independent review mechanism at the time of inauguration. Taking into account its politically binding nature, such a weak monitoring mechanism has proved extremely problematic in terms of the efficacy of the Kimberley Process.

### 5.3 Conclusion

This chapter has sought to chart the nature of the key Kimberley debates so as to allow for the analysis of the chapter that follows. The debates and resulting decisions outlined above all had a significant impact on the form the Kimberley

Process was to take and indeed, as will shortly be discussed, it appears that the agreements forged here owed much to the underlying influence of the strategic selectivity of wider social structure. The cumulative effect of these agreements, as the chapters which follow will also aim to demonstrate, has produced a strikingly weak and ineffective regulatory regime which works greatly to the benefit of particular fractions of the TCC. In Jessopian terms, however, the negotiations did produce a revised accumulation strategy which, as it achieved the active consent of the dissenting class relevant force in the form of the TNGOs (however temporarily), managed to balance the class struggle at the heart of production thus allowing accumulation in the sector to proceed. As such, the Kimberley Process also represents a hegemonic project. However, as the research model discussed above suggests, a hegemonic project can only secure a temporary resolution to class struggle and in the case of the Kimberley Process, the temporary nature of this resolution is clearly evident. As the next chapter will examine, the Kimberley Process negotiation appears to have been conducted within the context of a strategically selective social structure which worked to condition the cognition of the negotiating agents thus enabling the acceptance of storylines and the forging of agreements where there may well have been other, perhaps more efficacious alternatives available; albeit alternatives that may not have been so congruent with the interests of the TCC. In turn, however, this influence of wider social structure appears to have resulted in a strategic selectivity itself becoming embedded within the mechanisms of the Kimberley Process to the benefit of class fractions within industry and diamond producing states. In practice, as this study's final section will demonstrate, this has elicited the recursive engagement of the TNGOs, the dissenting class relevant force, with the Kimberley Process in the hope of altering its stipulations. For the most part, however, this engagement appears to activate the strategic selectivity embedded within the Kimberley Process as a result of the debates outlined above, leaving the regime itself remarkably impervious to change.



## Chapter Six

### Social Structure, Strategic Selectivity and the Kimberley Process

At the time of its inauguration, the Kimberley Process was hailed by the international community as a genuine answer to the conflict diamond problem. Unfortunately, a host of factors saw this early optimism dwindle as the Kimberley Process' integrity was challenged and repeatedly undermined over the course of its first decade. As previously discussed, this study will not seek to document all of the Kimberley Process' faults. What this chapter will do, however, is attempt to trace the roots of some of these issues. To do so, this chapter will divide into two parts. It will first build on the analysis of the previous chapter, examining the play of discourses and storylines as well as their final outcomes. Through this analysis, this study will attempt to locate and trace deeper causal mechanisms in the wider social world which generated the basis of the three discourses discussed in the previous chapter and which worked ultimately to favour the interests of the TCC by shaping the internal structures of the Kimberley Process. This bias, present within wider social structure, contributed towards the failures of the Kimberley Process, and represents a sociological mechanism described by Jessop as the strategic selectivity of social structure. The chapter's second part will attempt to take this argument further by examining the ramifications of the strategic selectivity of social structure for the modes of operation of the Kimberley Process.

This chapter will seek to elaborate Jessop's concept of strategic selectivity. It will pursue the argument that, in the context of an innovation in global governance, strategic selectivity exists within two domains - the second emerging as a part of the first but autonomous from it. The first domain is that of wider social structure wherein strategic selectivity works to create an underlying cognisance amongst the negotiating agents. Strategic selectivity in this domain appears to stem primarily from the ecological dominance of the capitalist system which in turn creates

amongst agents a conviction that its furtherance will serve the common good. In the context of a negotiation this works to preclude the adoption of measures that may impede capitalist expansion. This domain should be conceived of as antecedent, issuant of its regulatory progeny. This second domain, the emergent regime, is distinct but an extension of wider social structure. In that regard there exists here causation but not correlation. The domain of wider social structure, and the strategic selectivity contained therein, creates the shape of the regulatory progeny which appears to inherit strategic selectivity but not its precise empirical form – selecting in its own distinct way as a result. What this means in effect is that the two domains of wider social structure and emergent regime are related but discrete.

Following on from the above propositions, this chapter will argue that the domains of wider social structure and emergent regime both work to strategically select in favour of the interests of the TCC. The strategic selectivity of social structure worked upon the Kimberley Process negotiations to create an underlying cognisance amongst the agents that led to a negotiation and policy making environment heavily circumscribed according to what could be achieved without conflicting with the interests of capital. As such, the wider social structure of transnational society and its strategically selective nature created the Kimberley Process as an emergent regime. What is interesting, as this chapter's second part will discuss, is that the antecedent strategically selective negotiations appear, unforeseen by the negotiators at the time, to have imparted strategic selectivity to the emergent regime itself via a resulting policy inclusion and exclusion which work to extend strategic selectivity as a mechanism in innovative and novel ways unique to this domain. As will be argued throughout this chapter, the final result is an emergent regime, shaped according to the strategic selectivity of its antecedent wider social structure, but which goes on to select in ways unforeseen by the negotiators and that, as a result, makes its operation highly conducive to the interests of the TCC.

## 6.1 Tracing the Domain of Social Structure: Strategic Selectivity and the Kimberley Process Negotiations

This chapter's opening part will engage in a close analysis of the debates, exchanges of storylines and policy outcomes that characterised the negotiations as outlined in the preceding chapter. In so doing, this analysis will aim to trace the nature of the domain of social structure whilst simultaneously testing for the presence of strategic selectivity. This analysis will move through the debates in turn, extrapolating from each its possible causal mechanism and thereby offering an explanation as to why during the negotiations certain policy decisions were taken. This process will set the scene for this chapter's second part, outlining as it will the strategically selective nature of the emergent regime's antecedent wider social structure.

### 6.1.1 The Consumer Campaign

The preceding chapter outlined the arguments and storylines, stemming from the initial and emergent discourses, that punctuated the decision making process and which culminated in the TNGOs abandoning the notion of a conflict diamond consumer campaign. The consumer campaign was effectively dropped as a meaningful form of leverage on the grounds that such campaigns could damage the economic development of, principally, Botswana, Namibia and South Africa (Hazelton, 2002, p.19). The WDC, deploying storylines designed to bridge the *innocent and conservative* discourse with the opposed *culpability and reform*, continually pressed this argument making the additional point that damaging the economic growth of these states had the potential to presage social unrest (WDC, 2000a, p.1). These arguments and associated storylines proved convincing to the TNGOs, producing the second element of the emergent discourse. Consequently, while overtly the threat of a consumer campaign remained should certain demands not be met, in reality their credibility became ever more diminished as the negotiations progressed (OB, Interview 23<sup>rd</sup> April 2014).

That the TNGOs should respond to the WDC storylines and adopt an element of an emerging discourse that saw them abandon the notion of consumer campaigns on the basis that they may hinder the economic development of just a few southern states is in many regards surprising. Such a cognisance suggests the presence of a guiding social structure which inspired within agents an understanding of the social world that placed great emphasis on the perception of economic development as a tool for delivering benefits to any given society. The commitment of the TNGOs to this perspective is perhaps best demonstrated through a discussion of two features of the diamond industry which the TNGOs, in their commitment to the sector as deliverer of social benefits, had to ignore.

In the first instance, while it may be true that the diamond industry was driving economic growth and societal welfare in certain southern states (although there are good reasons to be sceptical of this as will shortly be discussed) it is also true that set against this were huge social costs. Up to the turn of the century diamond production had been implicated as a significant form of insurgent funding in conflicts in Angola (Global Witness, 1998), DRC (Dietrich, 2002), Liberia (Le Billon, 2012) and Sierra Leone (Smillie, Gberie and Hazelton, 2000). Cumulatively these conflicts cost slightly fewer than 3.5 million lives (Le Billon, 2012, p.92). With this in mind, it is perhaps surprising that the TNGOs proved sensitive to industry and diamond producing states' storylines that the diamond economy deserved preservation owing to its positive impact on development in just a handful of southern states.

There exists a second argument, known to the TNGOs at the time but seemingly ignored, as to why industry's claim that it was a generator of societal welfare should have been treated with more scepticism. In 2002 researcher Ralf Hazelton, working for PAC, published *Diamonds: Forever or for Good? The Economic Impact of Diamonds in Southern Africa*. The report asked the simple question "To what extent do diamonds contribute to development in South Africa, Namibia and Botswana?" It



concluded that “[t]he answer is ambiguous” (p.19). The report argued that the exploitation of diamond deposits was in fact not generating the social good assumed to stem from the related economic development:

Botswana, Namibia and South Africa have all slipped appreciably [down the Human Development Index]. With the exception of Botswana, diamonds contribute little to total government revenue in the region, and their contribution to employment in all three countries is small and declining...This means that diamonds cannot be identified...with good development (ibid, p.19).

The report added that even in Botswana, where government diamond revenues are significant, “the overall poverty rates...are actually higher than in many other African countries” and that “60 per cent of the population still live on less than \$2 a day” (ibid, p.19). Given that this analysis originated from one of the key negotiating TNGOs, it is remarkable indeed that those same organisations should allow concerns over the developmental impact of consumer campaigns on these states to act as an effective break to their usage.

From the perspective of the TNGOs, at the time of the Kimberley Process negotiations, diamond industry structures had provided finance for conflicts across the African continent while their own research had cast considerable doubt over industry’s claims regarding its supposed redeeming quality – that it was capable of generating societal benefits via economic growth/development. These factors notwithstanding, as the preceding chapter examined, the TNGOs to some considerable extent accepted the industry and diamond producing states’ storylines, forming the basis of the second element of the emergent discourse, which maintained that because of this supposedly positive developmental impact the industry should be preserved and that, therefore, any possible consumer campaign should be withheld. This indicates that agents within the TNGOs may have formed

a cognisance, influenced by the nature of the domain of wider social structure, which understood private industry, capitalist led economic development and the resulting creation of wealth as the foremost provider of social goods. Such a social structure would generate a strategic selectivity as it would create an understanding amongst agents that the needs of the economy can serve the needs of society and that, therefore, meeting private economic needs are critical to the generation of societal wellbeing. Such a cognisance appears to have precluded the use of consumer campaigns.

In the context of the Kimberley Process, the domain of wider social structure proved to be strategically selective in two ways. In the first, it worked ultimately as an underlying causal mechanism that prevented the TNGOs from mounting consumer campaigns which had the potential to seriously damage the diamond industry. Second, the same characteristic of social structure simultaneously ruled out the use of consumer campaigns as a source of leverage for the TNGOs within the negotiations on the basis that such campaigns may have not only damaged the diamond industry but also the prospects for wider economic development. What is striking in this instance is the power of this understanding. Even in the context where the connection between industry, economic development and social good was indicated to be dubious, where the industry was connected to loss of life on a vast scale; the perspective remained, that this same industry could generate social good and, therefore, deserved preservation. In this instance, wider social structure appears to have worked to strategically select pre-emptively, preventing the TNGOs from mounting damaging consumer campaigns and/or using the threat of them as leverage during the negotiations. What this meant in practice, as will shortly be discussed, is that the TNGOs were unable to gain any real traction when it came to compelling the abandonment or incorporation of certain policies within the emergent Kimberley Process, resulting indirectly in the strategic selectivity of

wider social structure passing on to the emergent regime via the resulting policy adoptions and exclusions.

#### 6.1.2 'Legitimate' or 'Illegitimate': Setting the Bounds of Industry Reform.

As the preceding chapter examined, following De Beers' apparent acceptance of the storylines related to the *culpability and reform* discourse, the company shifted strategy and ended its practice of outside market buying. This shift appeared to lead to a distinct softening of approach from the TNGOs regarding industry structures. The diamond industry went from being in need of far reaching structural reform (Global Witness, 1999) to one which in fact possessed legitimate structures that could be worked with (Global Witness, 2000a, p.1). This alteration in stance led to a discourse coalition between the negotiating parties, resulting in the formation of the fourth element of the emergent discourse which implicitly suggested that, post-outside buying, there exists a legitimate industry in possession of a structure that could be accommodated. Such a shift on the part of the TNGOs is, once again, surprising. There were many outstanding ethical issues associated with the industry's structures that were largely ignored during the negotiations suggesting, as above, the presence of a wider social structure guiding the cognition of the negotiating agents. Moreover, that this social structure worked to create conservative tendencies amongst those agents provides further evidence regarding its strategically selective nature.

As discussed in the previous chapter, in response to the *culpability and reform* discourse and related storylines, De Beers ended its outside market buying in 2000 (De Beers, 2000, p.10). To some extent, this sanitised industry structures in the eyes of the TNGOs. What this ignores, however, is that the practice of outside buying formed part of an accumulation strategy that, it could be argued, fundamentally tainted the sector. Outside buying was designed to artificially inflate the price of diamonds through the control of supply (Campbell, 2004, p. 129; Smillie, 2014, p.29).

By the time of the commencement of the Kimberley Process negotiations this “strategy resulted in a large stockpile of stones...valued by the company [De Beers] at \$4 billion” (Campbell, 2004, p.129). As outside market buying did not end until 2000 many of these stones almost certainly had their origin in conflict zones. Indeed De Beers itself infamously as much as admitted buying Angolan conflict diamonds in its annual reports throughout the 1990s (See Global Witness, 1998).

Over the course of the 1990s UNITA, it is estimated, succeeded in exporting from Angola over \$1 million of rough diamonds every day (Smillie, 2014, p.55). These are large sums and it is hard to imagine that a considerable amount of these conflict diamonds failed to reach the De Beers stockpile. This flow would almost certainly have been augmented with Sierra Leonean conflict diamonds from the De Beers buying office in Guinea (Campbell, 2004, p.126). Theoretically speaking, the presence of this stockpile that enabled De Beers to continue to profit from its involvement in the production of conflict diamonds could have created a serious dilemma for the negotiators. During the Kimberley Process negotiations, however, the issue was never seriously discussed (SJ, Interview, 20<sup>th</sup> January 2014; WR, Interview, 30<sup>th</sup> January 2014). These diamonds were clearly illegally exported, denying the governments of Angola and Sierra Leone significant tax revenue and yet there was no discussion of the possibility of any payment of reparations to these governments whereby De Beers, which had handled stolen goods and profited from their sale, might offer some form of compensation.

The ending of outside market buying appears to have worked to some extent to quell calls for far reaching changes to the De Beers accumulation strategy. This seems to have stifled debate on serious issues such as the De Beers rough diamond stockpile. These events are suggestive of a wider social structure which worked to embed amongst the negotiating agents an entrenched aversion to regulation. This was a perspective adhered to by many key agents from each of the negotiating parties as a TNGO negotiator revealed:

[I]ndustry's concern was that the agreement not be so expensive and so clunky...that it wouldn't be workable. NGOs wanted something that was effective but... what we would have designed would have been expensive and clunky and unworkable (WP, Interview, 22<sup>nd</sup> January 2014).

WP demonstrates here that for the industry and TNGOs, the very notion of regulation was in general potentially problematic. On this basis there existed a real concern that the proposed regulation would prove debilitating for the industry. State actors were equally concerned. Following discussions with UK government departments, the mandate of the UK's negotiating team appears to have been circumscribed by a general aversion to economic regulation, as a leading UK negotiator relates:

[I]f you were the British government what was your hesitation about the Kimberley Process?... [I]t was the complete reversal of policy from deregulation to actually...regulating that industry and if you were DTI or now BIS you were just horrified<sup>20</sup>. I remember...when I explained to them what we had in mind and they went 'oh my god you can't do that' (WR, Interview, 14<sup>th</sup> May 2014).

Perhaps even more revealing, however, was how agreement on this issue was reached as the same interviewee related:

[We] worked on DTI in the background and tried to explain more about it [the Kimberley Process] and about how any regime we hoped would be a relatively light touch regime...and actually what we were proposing wasn't some awful draconian throwback to... 1960s socialism (WR, Interview, 30<sup>th</sup> January 2014).

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<sup>20</sup> The DTI was the UK's Department for Trade and Industry which evolved into the Department for Business, Innovation and Skills – BIS.

Clearly expressed here, from within the state structure itself, is a powerful aversion to any form of industry regulation that worked to delimit the UK's approach to the negotiations. Indeed, this was a perspective seemingly also shared by both industry and TNGOs. This in itself hints that wider social structure may in fact possess a neoliberal character. The notion that markets function most efficiently where deregulated is a key tenet of neoliberal politico-economic orthodoxy (Brenner and Theodore, 2002, p.350). Such cognition in this context would rule out deep regulation and, therefore, potentially costly alterations to the industry's accumulation strategy. This characteristic of wider social structure appears as a result to select strategically in favour of industry.

In the context of the Kimberley Process negotiations a neoliberal like aversion to economic regulation worked to embed a strategic selectivity via deliberate omission. With the matter of outside market buying addressed and a discourse coalition formed around an element of the emergent discourse which maintained that industry structures were now 'legitimate', this in turn meant that significant issues internal to the industry, such as De Beers' tainted rough diamond stockpile, were simply not discussed. It seems reasonable to posit the notion that this readiness on the part of the negotiating agents to accept a post-outside buying industry as 'legitimate' may owe something to an adherence to an underlying social structure, essentially neoliberal in character, which held that regulation must be 'light touch' and therefore not 'clunky and expensive'. This would negate the possibility of any real discussion of, for example, the De Beers stockpile and the introduction of structures of compensation for the defrauded states. With wider social structure informing the debate in such a way, the negotiations became strategically selective as such a cognition ruled out any significant and potentially costly reforms to industry structures. In this manner, this aversion to deep regulation and industry restructuring ultimately worked to impart, from wider social structure, several forms of strategic selectivity to the emergent regime which, when the Kimberley

Process became operational, as will be discussed in this chapter's concluding part, the TCC were to fully utilise.

### 6.1.3 The Format: A Legal or Politically Binding Agreement?

The negotiations concerning the standing of the Kimberley Process within the international domain were of critical importance to the future implementation of the agreement. For the TNGOs, the ideal basis for implementation lay in the passing of the Kimberley Process into international law (Global Witness, 2001). Achieving this, however, was to prove extremely problematic. In terms of forging agreement, the storylines produced by the diamond consuming state negotiators did much of the hard work. These storylines appealed to the *culpability and reform* discourse and its concern with the achievement of a timely settlement. As such, these storylines stressed the argument that passing the Kimberley Process agreement through both the UN and US Congress would be extremely time consuming and may even prove impossible (WR, Interview, 14<sup>th</sup> May 2014). As the preceding chapter documents, these storylines proved effective and the concern of the TNGOs for a quick resolution took precedence over their desire for a legal rather than politically binding agreement. This debate serves to illuminate an essential characteristic of the wider social structure that lay behind this discursive positioning, revealing in the process further avenues for strategic selectivity.

There is no reason to be sceptical of the assertion that the passing of the Kimberley Process through the UN system and then through US Congress would have been time consuming. It may also have ultimately proved unsuccessful. Why the negotiating agents felt such time pressure is, however, an interesting question as this cognition had significant effects for the form of the negotiations. In January 2002 Sierra Leone's President Kabbah declared the nation's civil war to be at an end (Harris, 2013, p.116). In Angola, Jonas Savimbi's death at the hands of government forces the following month effectively ended the UNITA insurgency (International

Crisis Group, 2003, p.3; Tamm, 2004, p.701). It is true that the events in Sierra Leone and Angola should be placed in their historical context and at the time it could not be certain that peace in these states would be sustained. There can be little question, however, that these events created some breathing space with regard to time pressure.

That the storylines aimed at the *culpability and reform* discursive element regarding the time consuming nature of the negotiations proved decisive in convincing the TNGOs to accept a politically binding agreement is revealing. This agreement from the TNGOs came despite its impact on the power of the agreement and in the face of an easing of humanitarian concerns. What this suggests is the presence of an underlying concern – a feature of wider social structure – that underpinned the *culpability and reform* discourse regarding the expenditure of time. Within the capitalist economy, labour power is a purchase commodity. The longer the Kimberley Process negotiations continued the more labour power was required. Additional to this expense were its associated costs such as travel, accommodation and subsistence. For many TNGOs, in addition to the time pressures generated by humanitarian concerns, the expenses associated with this were considerable and created a time pressure of their own (WP, Interview 22<sup>nd</sup> January, 2014). Moreover, a further concern existed for the TNGOs as it became increasingly apparent that crucial states such as Russia may become frustrated with the time consuming nature of the negotiations and simply walk away from the process (ibid).

The anxiety regarding time constraints hints at a social structure that works to create time pressure resulting in time compression. Within a social context in which capitalism is ecologically dominant, the faster outcomes can be achieved, the lower their costs. It follows that social structure would create an understanding amongst agents that the capitalist playing field is one where the game should be played as quickly as possible. In a context where economic regulation is in genesis, as in the



case of the Kimberley Process negotiations, the compression of time has the capacity to be strategically selective.

Time compression frequently involves the demarcation of a set time span and the creation of deadlines. Restricting time in such a manner often works in the interests of capital simply because in a context of a negotiation with an existing regulatory body or over the formation of a new one, the interests of industry are directly affected. In turn this means that industry will often invest in larger amounts of labour time to deal with the issue than can states or civil society organisations. The implications of this are myriad, however, in the context of the Kimberley Process, a social structure that generates time compression strategically selects in favour of industry ostensibly in two ways. In the first it means that industry, which under conditions of time constraint will invest more labour time than either states or TNGOs, gains a likely knowledge advantage. States could be a viable potential competitor here but in the context of the Kimberley Process, this was unlikely<sup>21</sup>. Second, time compression almost inevitably creates a tendency for decision makers to gravitate towards options that do not hold up progression, thereby requiring a greater investment of time. It seems reasonable to posit the notion that this will create a bias towards more conservative options and a reduced deviation from the status quo. Additionally, industry with its greater knowledge base is in a position to raise objections to any policies that clash with its interests. This is problematic for other negotiating parties as it holds up progression, increases time costs and, therefore, makes those parties more likely to acquiesce to industry's wants in order to keep the negotiation moving.

In the context of the Kimberley Process, the perception of time pressure amongst the negotiating agents created a tendency towards a politically rather than legally

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<sup>21</sup> For many of the key producing states, the industry and state were difficult to separate. Diamond production in the states of Botswana, Namibia and Russia was conducted under the rubric of public – private – investment; see for the former two Hazelton, 2002; and for the latter OB, Interview, 23<sup>rd</sup> April, 2014.

binding agreement – the less time consuming and more conservative option. This was to prove significant as will be discussed in this chapter's second part. What appears to have occurred in this instance is that as wider social structure created a time compression that pushed the negotiators towards a politically rather than legally binding agreement it worked to impart strategic selectivity to its progeny emergent regime. In practice, the adoption of a politically binding agreement created significant leeway for certain fractions of the TCC, upon implementation of the Kimberley Process itself, to pursue their economic interests unhindered by the introduction of new regulation. Intrinsicly, therefore, the conditioning of wider social structure directed the negotiations along specific lines which as we shall see, worked to embed a strategic selectivity within the emergent Kimberley Process.

#### 6.1.4 Potential Methods for the Visual Identification of Origin of Rough Diamonds

Methods of visual identification of rough diamonds play no official role in the Kimberley Process Certification Scheme. Diamond producing states presented storylines, designed to appeal to the fourth and second elements of the emergent discourse, which argued that such measures would involve the creation of a highly technical bureaucratic burden which needed to be avoided (WR, Interview, 14<sup>th</sup> May 2014). At the same time, industry appealed to both the *culpability and reform* discourse and, in common with the producing states, the second and fourth elements of the emergent discourse by maintaining that the adoption of such techniques would involve fundamental and potentially damaging changes to its structures whilst also in its 'expert' view providing, in the case of run-of-mine, an inexact assurance of origin (Smillie, 2014, p.94; De Beers, 2000, p.9). That there is an element of truth to these assertions is not in doubt. What is open to debate, however, is the extent to which these assertions make the proposed methods of visual identification unworkable. Many of the storylines and related appeals to the TNGOs' discursive positioning deployed by diamond producing states and industry carried significant but unacknowledged normative elements. The acceptance of these

arguments by the TNGOs, despite the existence of alternative and potentially viable solutions and despite the enormous drawbacks associated with the adoption of a system of verification dependant solely upon a certificate of origin, suggests once again the presence of a wider social structure that worked to condition the cognition of the negotiating agents in a manner that strategically selected in favour of fractions of the TCC.

It can be argued that many of the assertions designed to counter the arguments in favour of the implementation of methods of visual identification were, to some extent, spurious. Some diamond producing states objected to technological methods of visual identification on the basis that they simply didn't have the capacity to implement such a solution (WR, Interview 14<sup>th</sup> May 2014). Regarding states such as Angola and Sierra Leone, the principal implementers of this technology there seems little point in questioning these objections. Set against this, however, is the fact that these states were attempting to regulate, and thereby protect the integrity of, a product upon which an entire industry was based. The diamond industry is a lucrative one. At the time of the Kimberley Process negotiations in 1999, diamond jewellery retail sales worldwide totalled \$56 billion (Global Witness, 2000a, p.3). In 2000 De Beers alone recorded a profit of \$1.2 billion (Campbell, 2004, p.137). Under such conditions it is surprising that states with the limited capacity of post-conflict Angola and Sierra Leone should be expected to carry the burden of guaranteeing the integrity of such a profitable industry's product.

There have been instances of industry providing assistance to diamond producing states with limited capacity (GAC, Interview 18<sup>th</sup> December 2013). However, it seems reasonable that in this instance industry could have been asked to go into partnership with the relatively few states that would require assistance and help bear the costs of implementing such methods of visual identification. Indeed, in many Northern states, similar arrangements are standard practice:

[T]here was always a strong argument... that whatever you do in providing a service to an industry that you should recoup that...[w]ith aviation security you expect the likes of British Airways and Easy Jet and so on to actually bear part of that cost, and they do (WR, Interview, 30<sup>th</sup> January 2014).

The fact, however, that the argument that a lack of capacity made the introduction of technology unworkable was allowed to stand suggests an aversion to state-led imposition of costs on the private sector. While this is clearly something of a double standard with regard to politico-economic governance between global North and South it is entirely in keeping with neoliberal developmental orthodoxy towards Southern economies – its *laissez faire* approach to the management of the private sector and its insistence on the necessity of ‘rolling back the state’ (Ayers, 2009, p.9; Kiely, 2007, p.170). Clearly the notion that states might compel industry to bear some of the costs of imposing a regulatory regime conflicts with these principals, just as it conflicts with the UK DTI’s insistence that any regime should be ‘light touch’ (WR, Interview 30<sup>th</sup> January 2014). The fact that the argument against technology on the basis of state capacity proved convincing is suggestive of a wider social structure which is, with regard to politico-economic decision making in the global South, intrinsically neoliberal in nature. Indeed, this aspect of wider social structure is clearly discernible in the fourth element of the emergent discourse, resulting from a tacit agreement amongst the negotiating agents that extensive forced restructuring of a now legitimate industry should be avoided. This aspect of social structure strategically selected in favour of industry in that it precluded the imposition of additional costs upon it. Moreover, the decision to exclude technology from the Kimberley Process and rely instead exclusively on a certificate of origin, in part because of the acceptance of the above argument, imparted from wider structure to the emergent regime both a strategic selectivity of policy inclusion and exclusion as this chapter’s second part will discuss.

A second method of visual identification considered and dismissed was run-of-mine identification. This method was discounted following the 'expert' intervention of De Beers, appealing to the *culpability and reform* discourse, which maintained that such methods were inexact and could not produce "the level of evidence required for a court of law" (De Beers, cited in Smillie, Gberie and Hazelton, 2000, p.67). That opinion, however, ran contrary to the expert views of those sought by the TNGO community and even against some from within the diamond industry itself (see respectively, Global Witness, 2000a, p.9; SJ, Interview 20<sup>th</sup> January 2014). Moreover, some states decided to utilise run-of-mine techniques regardless. Indeed a state Kimberley Process enforcement official related an instance where it had in fact been used effectively:

We had a consignment from DRC arrive... [and] my inspector said to me that I can assure you that that particular batch of diamonds there has not come from the DRC...[So] we informed customs...who came along and seized them as an illegal import... [A few months later] we asked them what was happening and they were prosecuting the company (WR, Interview 14<sup>th</sup> May 2014).

The fact that this states' customs office was prepared to prosecute using run-of-mine identification as evidence suggests that the expert analysis offered by De Beers may have been more normative than factual. What the acceptance of this point of view indicates, however, is a cognisance amongst the negotiating agents, very much in keeping with the *culpability and reform* discourse, which places a great deal of faith and value in industry based expertise. This tendency, first identified by Weber, may in fact have its roots in wider sociological structures, created by the ecological dominance of capitalism:

Weber argued that as the growth of bureaucracy and the pursuit of rationalism increased this would demand greater specialization and thus give rise to ever more professional experts. Accepting Marx's view that power derives from the ownership and control of the means of production, Weber argued that power could also derive from knowledge of, and involvement in, the operation of the means of production (Horrocks, 2009, p.113).

There appears, therefore, to be here further evidence of the nature of wider social structure. As outlined above, in the case of the adoption of technology, social structure appears to create in agents an almost neoliberal aversion to state intervention. Furthermore, as Weber and Marx suggested it might, social structure under conditions of increased capitalism-inspired specialisation generates within agents a tendency towards a reliance on industry expertise, working in this case to disguise as fact the normative position that run-of-mine identification was inexact. Consequently, the *culpability and reform* discursive element which stresses the importance of industry expertise appears to be an expression of this aspect of wider social structure. These factors combined during the negotiations to strategically select out the use of methods of visual identification. Interestingly, as far as the modes of operation of the Kimberley Process are concerned, once again the strategic selectivity of wider social structure has the potential to be the antecedent of the strategic selectivity of the emergent Kimberley Process. This is simply because the decision taken here to abandon methods of visual identification resulted in the adoption of a series of Kimberley Process regulations which possess the capacity to be highly advantageous to the TCC.

#### 6.1.5 The Extent of the Chain of Custody

As a regulatory regime the Kimberley Process attempts to seal the diamond production chain, protecting it from infiltration by conflict diamonds. As such, how

far the certificate of origin extends through that chain of production is critical in terms of preventing conflict diamonds from being laundered into the system. As discussed in the preceding chapter, however, industry argued that maintaining the Kimberley Process certificate of origin through the rough diamond cutting and polishing centres would require an unacceptable degree of industry restructuring (Rapaport, 2000, p.19). This perspective, in keeping with the second and fourth elements of the emergent discourse which maintained that the industry (and its rate of profit) must be preserved in the face of new regulation, was accepted by the negotiating parties as a justification for not compelling the cutting centres to implement the certificate of origin system.

There are reasons to be sceptical of the extent to which the cutting and polishing centres would in practice require restructuring, however. Clearly the introduction of the Kimberley Process certificate of origin to the cutting and polishing centres would necessitate the introduction of additional paperwork – supposedly a problem for the industry given “that once diamonds are in the cutting centres they must move freely” (ibid, p.19). However, diamonds possess “a higher value-to-weight ratio than almost any other substance” (Dietrich, 2002, p.2). As such their progress throughout the chain of production is in any case meticulously documented. To add the additional means of verification required to carry the certificate of origin through the cutting centres is, therefore, hardly unreasonable as leading TNGO campaigner Ian Smillie relates:

It would be simple enough to include cutting and polishing houses in the KPCS. All owners know precisely what enters and leaves their factory. Everything is carefully identified, weighed and watched. Even the diamond dust that results from polishing is weighed and sold...It would not be a major effort to require these companies to produce invoices relating to a KP authorised import (Smillie, 2014, p.118).

It is striking, given the relative ease with which the certificate of origin could have been extended to include the cutting and polishing centres, that the argument that this introduction would require too much in the way of industry restructuring carried any weight. That it did so is once again suggestive of a wider social structure which created a deep seated aversion to any increase in bureaucracy or the imposition of any additional costs on industry. As such, as an industry source related, the introduction of the certificate of origin to the cutting and polishing centres was regarded as “an administrative issue... [that] would have been very costly”(OB, Interview 23<sup>rd</sup> April 2014). In this case, social structure worked to select out the imposition of a certificate of origin on the cutting and polishing centres on the grounds that it would have seen the sector incur increased regulation and running costs – despite the probability that both increases would have been very small. This strategic selectivity of wider social structure also had ramifications in terms of the emergent Kimberley Process’ modes of operation, generating loop holes for certain fractions of the TCC to exploit and thereby embedding a strategic selectivity of exclusion within the Kimberley Process as will be discussed shortly.

#### 6.1.6 Monitoring – Independent or Peer Review or Nothing

As the preceding chapter documented, the notion of independent monitoring of Kimberley Process compliance was opposed by the key states of Russia and China on the basis that it contravened the norms of sovereignty (SJ, Interview, 20<sup>th</sup> January 2014). Furthermore, these states to some extent shared industry’s concerns regarding the impact on the industry’s systems of confidentiality, necessitated so it was argued by the product itself being highly susceptible to theft (WR, Interview 30<sup>th</sup> January 2014). These storylines were tacitly accepted by some states owing to their resonance with the emergent discourse but were rejected by the TNGOs. Interestingly, however, as a result of earlier decision making, the TNGOs adherence to the second element of the emergent discourse which maintained that the industry should be preserved, prohibited a TNGO exit and resulting use of consumer



campaigns and, therefore, in turn prevented any great resistance to the absolutist position adopted by Russia, China and the industry. This resulted in the TNGOs accepting at first a Kimberley Process with no monitoring mechanism at all, only to consent to a severely weakened peer based system shortly after inauguration.

A significant aspect of Kimberley Process monitoring involved the collection and crucially the sharing of diamond production, import and export statistics (WR, Interview 30<sup>th</sup> January 2014). For the Russians in particular this was extremely problematic because, with the Russian diamond producer Alrosa still partially publically owned, its operating statistics were covered by state confidentiality (OB, Interview 23<sup>rd</sup> April 2014). Consequently, any compulsion to share these statistics internationally could be conceived as an infringement of sovereignty. There is some evidence, however, that there existed deeper, unacknowledged, issues underlying the sovereignty objection.

In the first instance, Russian objections may have been based on the fact that “if you’re a civil servant in Russia and you’re privy to state secrets, your pay grade is higher” (WP, Interview 22<sup>nd</sup> January 2014). Russian objections, therefore, may have been born more of a desire to protect the interests of state based fractions of the TCC than any high-minded concern regarding the sovereignty of the state. In addition, Alrosa were at the time contracted to sell their production to De Beers at a set price. However, a significant proportion of this production was in fact being smuggled to certain African states to be laundered onto international markets and sold at a higher price – a practice known as submarining (ibid). With this information in mind, it is possible to look at the Russian objections regarding sovereignty infringement in a different light. What in fact appears to have occurred is that social structure, in this case present within the Russian state bureaucracy, created a tendency towards the protection of the economic interests of fractions of the TCC, in this case middle and high ranking officials within Alrosa/state structures. However, to attempt to block the monitoring of statistics on this basis would be

highly embarrassing, consequently the notion of sovereignty infringement appears to have been utilised as a justifying discourse.

The strategy of industry was not radically different. While industry, in an attempt to appeal to the second and fourth elements of the emergent discourse (that the industry deserved protection), maintained that security prerogatives were the basis of its concerns with monitoring, there are good reasons to be sceptical of this. As one prominent TNGO negotiator explained, by the turn of the century, “the industry had become badly infected with criminality”<sup>22</sup> (ibid). There existed the belief for many within industry that if they were required to open up their books to enable the monitoring of statistics that this “would lead to a vast increase in their tax bill” (WR, Interview 30<sup>th</sup> January 2014). Industry opposition to monitoring, therefore, appears to stem from the somewhat calculating position that the pursuit of profit outweighs ethical considerations. Indeed, a key industry negotiator related his “deep frustrations with some people in the industry who just weren’t getting it [the need for the consideration of ethics], either through ignorance or through an unwillingness” (OB, Interview 23<sup>rd</sup> April 2014). To claim, however, that a collective lack of morality existed in the industry, therefore, creating an overriding concern with profit above all else, is perhaps both unfair and simplistic. Marx and Engels first noted the propensity of a geographically expanding capitalist system to create supply chain social dislocation:

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<sup>22</sup> There were many illicit or illegal practices within the diamond industry aside from the practices of submarining and the laundering of conflict diamonds. ‘Round-tripping’ allowed diamond firms to artificially inflate their turnover for the purposes of raising finance (Smillie, 2014, p.127). Smuggling for the purposes of UN sanctions busting, tax evasion and transfer pricing was also common (see respectively Global Witness, 1998; WP Interview 22<sup>nd</sup> January 2014; Smillie, 2014, p.127).

All old-established national industries...are daily being destroyed. They are dislodged by new industries...that no longer work up indigenous raw material, but raw material drawn from the remotest zones... In place of the old wants...we find new wants, requiring for their satisfaction the products of distant lands (Marx and Engels cited in Harvey, 2010, p.157).

As the capitalist system expands and develops its inputs become ever more geographically diffuse. This naturally adds a degree of complexity to supply chains that see raw materials not only travel great physical distance but also pass through an ever greater number of hands in the process. The expansion of capitalism, therefore, does not only result in time-space compression as Harvey suggests (ibid, p.158). As capital and supply chains globalise, the space between first labourer and final capitalist increases, but at the same time so too do the number of individuals along the supply chain which separate them. In the case of the highly complex diamond supply chain this creates what could be described as an emotional dislocation between, for example, the artisanal miner in remote eastern Sierra Leone and the diamond dealer in London or Antwerp. The dislocating nature of this system, for many within the diamond industry, turned the ethically problematic practice of purchasing conflict diamonds into an issue that was somewhat abstract as a former rough diamond buyer and employee of a major diamond miner explained:

[T]he gravel on the river side...that's where the journey begins and then... probably you sell it to a croupier and then another group and it goes through so many hands, and once it comes through the hands you just, you know I suppose it's just human nature... It's just something I'm going to get cash for, it's part of my business and you don't think about where it came from. And that was something that we had to make sure that the industry did realise, that provenance was an important aspect (OB, Interview 23<sup>rd</sup> April 2014).

The ecological dominance of capitalism in its globalised stage appears to have impacted upon wider social structure to the extent that ethical issues that occur towards the beginning of supply chains can appear remote and abstract to economic agents at the end. This in itself has the capacity to be strategically selective because as economic agents are separated from the deleterious social impacts of their accumulation strategy, so too are they abrogated of any moral responsibility to reform that strategy – reforms that may well prove costly. There were undoubtedly some within industry whose objections to the crucial issue of monitoring, without which the Kimberley Process could be rendered highly ineffective in certain locales, were based purely on an amoral desire to avoid increased costs through taxation and/or the threat of criminal prosecution. However, it appears equally possible that social structure, under conditions of the ecological dominance of capitalism, worked to separate the Northern dealer/capitalist from the Southern miner/labourer. This dislocation becomes strategically selective as it creates within the cognisance of the Northern dealer a moral blind-spot which allows the dealer to object to monitoring in order to prioritise profit over a now distant/abstract ethical issue.

The counter-arguments and storylines of Russia, China and the diamond industry to independent monitoring of Kimberley Process compliance, designed to appeal to the second and fourth elements of the emergent discourse, were tacitly accepted by some diamond consuming states as their suggestion and widespread acceptance of a peer review system indicates. This system restricted information exchange to the “Kimberley family” (WR, Interview, 14<sup>th</sup> May 2014) and allowed for review visits only under circumstances whereby there existed “credible indications of significant non-compliance” and where the participant in question acquiesced to the visit (Smillie, 2002, p.4), thus speaking respectively to both industry and state objections. That this solution was proposed, based on the notion that the Kimberley Process should be ‘light touch’, suggests an acceptance of the second and fourth elements of the emergent discourse which itself owes its roots to the existence of a wider social

structure which generates a broad aversion to the imposition of regulation on industry. In addition, it also suggests that the norms of sovereignty are deeply embedded in social structure generating a powerful counter-argument that prevented more strident calls for the adoption of independent monitoring. That these aspects of wider social structure are strategically selective is abundantly clear. The norm of sovereignty afforded Russia the opportunity to protect the economic interests of its domestically based fraction of the TCC, while the acceptance of industry's objections to the sharing of information prevented the extension of potentially costly transparency measures in terms of taxation and litigation.

While the negotiating states demurred to the principles of sovereignty and, to at least some extent, accepted the need to preserve industry structures in keeping with the second and fourth elements of the emergent discourse, the TNGOs did not. Problematically for the TNGOs the options available in terms of forcing the adoption of a more robust monitoring mechanism than peer review would have appeared extremely limited given the direction the negotiations had taken. Broadly, there were two potential forms of leverage available. In the first instance, they could have refused to agree to the Kimberley Process inauguration and continued to negotiate. A second option would have involved the TNGOs threatening to walk away from the negotiations entirely. In the event, neither of these two forms of leverage were utilised, giving once again further indications regarding the nature of social structure.

The first option, that of continuing to negotiate, would have involved further expenditure of labour time. As discussed above and acknowledged by a TNGO negotiator, this expense made this option unattractive to some extent on the grounds of cost (WP, Interview 22<sup>nd</sup> January 2014). Such a stance lends greater weight to the notion that the ecological dominance of capital generates a social structure which attaches monetary costs to the expenditure of time – presenting an advantage to those agents who are able to purchase more of it. In the case of the

Kimberley Process negotiations this creates an aversion within the TNGOs towards continuing to push for a monitoring mechanism as it would have increased their costs. Clearly, therefore, time constraint, a product of social structure within the ecological dominance of capital, strategically selects for the concerned fractions of the TCC by contributing towards the prevention of potentially costly transparency measures being included in the final regime.

What is interesting to note in terms of time pressure is that this pressure can be referred elsewhere, combine with other aspects of social structure, and multiply in significance as a result. It is possible that the TNGOs may have been able to bear the increased monetary costs of stalling the Kimberley Process inauguration, enabling them to continue to negotiate (*ibid*). In practice, however, social structure precluded this. Time pressure also affected Russia's continued participation and had inauguration been delayed then "the Russians might have defected and if we had lost the Russians the whole thing would have gone belly up" (*ibid*). Such a collapse would prevent any Kimberley Process humanitarian impact as well as endangering the entire industry and its assumed developmental gains. As such, the pressure associated with the monetary cost of time and its knock-on effects for the future viability of the industry appears to have worked in a strategically selective manner, preventing a course of action which could have carried real costs to certain fractions of the TCC.

The second option available to the TNGOs in terms of forcing the adoption of a rigorous monitoring mechanism would have been to threaten to leave the negotiations and begin consumer campaigning. Faced with the absolutist arguments and storylines against independent monitoring from Russia, China and the industry, such a course of action would have been the obvious one to take. Monitoring for compliance is evidently fundamental to the implementation of any regime, without it the regime can simply be ignored in practice. It is, therefore, striking that the TNGOs did not leave the negotiations especially since, as

highlighted above, the conflicts in the key states of Sierra Leone and Angola were winding down by the time of the negotiations' final meeting in late 2002, reducing the humanitarian imperative to stay (Harris, 2013, p.116; Tamm, 2004, p.701).

In real terms however, as discussed in the previous chapter, the threat of a consumer campaign had been rendered largely impotent by the arguments and storylines exchanged relatively early on in the negotiations. Those debates resulted in the creation of the second element of the emergent discourse which maintained that the industry must be protected owing to its status as a deliverer of economic development. As discussed above, this suggests a cognisance amongst the TNGOs, itself a result of wider social structure, which places a great deal of faith in the ability of economic development to provide social goods. The fact that the TNGOs did not walk away from the negotiations at this point, despite the enormous ramifications of the lack of an effective monitoring system for the integrity of the Kimberley Process, adds further weight to the notion that the TNGOs were adhering to the principles of a wider social structure which created a cognisance that elided economic development with societal well-being. Such an understanding amongst the TNGOs prevented them from abandoning the negotiations and beginning consumer campaigns simply because, as an industry negotiator commented, this had the potential to make them "responsible for the destruction of an entire economy, an entire country like Botswana... [T]hat would have really fucked up their CV... [and] I think they realised that" (OB, Interview 23<sup>rd</sup> April 2014). In this manner the strategic selectivity of social structure meant that the TNGOs had to surrender the issue of independent monitoring of Kimberley Process compliance. In this instance, therefore, the strategic selectivity of wider social structure worked to embed strategic selectivity within the emergent regime. It did so by creating a strategic selectivity of exclusion through the resulting abandonment of independent monitoring. At the same time, however, it also resulted in the strategic inclusion of

a peer review system which worked to extend the interests of the TCC in ways peculiar to itself.

Given the opaque and at times criminal nature of the diamond industry, the issue of monitoring for compliance was always going to be an area of contention and subterfuge. Amongst this, however, it is still possible to discern the effects of social structure and its strategically selective nature. The dislocating effects of expanding global supply chains, the desire of state structures to protect the interests of its capitalist class and an underlying belief in the ability of economic development to deliver societal benefits all appear to form part of a social structure that precluded the adoption of a rigorous monitoring mechanism that may have proved costly to certain fractions of capital. These facets of wider social structure worked to strategically exclude the notion of independent monitoring, greatly to the benefit of industry and state based fractions of the TCC. At the same time, however, this decision making, stemming from wider social structure, worked to embed a further strategic selectivity within the emergent Kimberley Process via the resulting adoption of a compromise peer review system as will shortly be discussed.

#### 6.1.7 Summary: The Shape of Social Structure

The preceding discussion offers a number of insights as to the nature and shape of social structure as an underlying causal mechanism. In particular, three beliefs or principles recurred throughout the negotiation with a further four playing a lesser role. All, however, appear to have created strategically selective tendencies within the negotiations. In the first instance, a fundamental guiding principle, present in the debates regarding the potential utilisation of consumer campaigns and in the crucial debates surrounding the nature of monitoring, lay in the notion that economic growth/development is critical to societal well-being. This places considerable emphasis on the well-being of economic agents, generating a propensity towards strategically selective outcomes. Second, the creation of labour



time as a commodity, a function of the capitalist mode of production, clearly creates time pressures which favour the adoption of conservative, status quo policy options. This in itself results in an uneven playing field which strategically selects in favour of those who can afford to purchase the greatest quantities of labour time and deploy it within a given temporal horizon. This aspect of social structure was greatly in evidence as an underlying causal mechanism in the debates regarding the status of the Kimberley Process (legal or political) and those which surrounded its monitoring format. A third prominent aspect of social structure is the politico-economic perspective which maintains that the capitalist economy in general functions most efficiently where political interference is kept to a minimum. This perspective, in keeping with neoliberal politico-economic orthodoxy, works to circumscribe state-led industry regulation that imposes any additional costs on that industry or that may result in non-market led restructuring. This aspect of social structure was greatly in evidence within the debates regarding the extent of the need for the 'outside-market buying industry' to be restructured as well as within the debates on methods of visual identification and the degree to which the certificate of origin should extend down the supply chain.

Four further aspects of social structure emerged within the debates regarding methods of visual identification and monitoring. In the case of the former, a reliance on the expertise of industry, itself as Weber suggests a result of capitalist social relations, appears to have played a significant role as a causal mechanism. For the latter debate, the norms of sovereignty appeared to carry considerable power in terms of limiting debate regarding the extent of monitoring enabling those same sovereign state structures to protect the interests of indigenous fractions of the TCC. A final aspect of social structure to emerge in this debate concerned the emotional dislocation of globalising supply chains which separated first producer from final capitalist to the extent that it enabled potentially moral capitalists to make amoral, but cost effective, decisions. While these four causal mechanisms appear to have

played a lesser role as aspects of wider social structure, all proved to be strategically selective in favour of the TCC by preventing potentially costly alterations to the industry accumulation strategy. Undoubtedly this interchange of discourses and storylines, coupled with the conditioning presence of the strategic selectivity of wider social structure, makes for a complex narrative. As such, it may prove instructive to provide a diagrammatic simplification and a table of these findings follows this conclusion.

All of the aforementioned aspects of social structure worked to condition the Kimberley Process negotiations along lines favourable to the industry. What is striking, however, is that as wider social structure strategically selected in favour of the TCC it also worked to impart strategic selectivity to the emergent regime by conditioning decision making in such a way as to lead to the adoption and exclusion of certain policies from the Kimberley Process. These policies then appear to select independently of wider social structure and in ways unique to themselves, a phenomenon that this chapter's concluding part will explore.

Figure 6.1: Table of Discourses, Storylines, Agreement and Strategic Selectivity

Policies and Storylines	Discursive Element Targeted	Agreement	Underlying Causation
<p><b>Policy: The Consumer Campaign Threat.</b></p> <p>TNGO storyline(s): Industry creates development but 'lives are more important than jobs'</p> <p>Industry/producing states storyline(s): 1) Campaigns threaten development as consumers may revolt (acknowledgment creates emergent 1<sup>st</sup> element). 2) Industry creates econ. development and state stabilisation.</p>	<p>IaC<sup>23</sup> - Industry is important to development. →</p> <p>CaR - Industry can theoretically generate 'good' outcomes. →</p>	<p>✕</p> <p>TNGOs tacitly accept the importance of industry/development so consumer campaigns are withheld (creates emergent 2<sup>nd</sup> element). →</p>	<p>WSS creates a cognisance that econ. development is 'good', despite scant evidence in this instance. This leads to the effective abandonment of consumer campaigns. Structure therefore strategically selects, protecting the interests of the TCC.</p>

<sup>23</sup> Abbreviations: 1) IaC = Innocent and Conservative discourse. 2) CaR = Culpability and Reform discourse. 3) wss = Wider Social Structure. 4) Emergent = Emergent Discourse.

<p><b>Policy: Legitimate or Illegitimate Industry (Outside Buying).</b></p> <p>TNGOs storyline: De Beers'/industry's monopolistic behaviour makes it illegitimate.</p> <p>Industry storyline: Monopolistic behaviour has benefited all and is therefore ethical.</p> <p>Industry storyline: Post outside buying industry is legitimate and deserves protection.</p>	<p>CaR – Deviation from free market principles leads to 'bad' social outcomes</p> <p>CaR – Any industry that is unethical is a threat to its own existence</p> <p>CaR – Industry, theoretically, can generate 'good' outcomes.</p>	<p>Industry acknowledges outside buying is a problem and announces its cessation (creates emergent 3<sup>rd</sup> element).</p> <p>TNGOs accept that industry is now legitimate with structures that can be worked with (creates emergent dis. 4<sup>th</sup> element)</p>	<p>Industry structures far from sanitised <i>but</i> aversion to deep regulation, stemming from wss, prevents calls for deeper reforms. This strategically selects as it stymies debate as to potentially costly reforms and/or compensation for defrauded states</p>
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<p><b>Policy: Legal or Politically Binding Agreement.</b></p> <p>TNGO Storyline: conflict diamond smugglers are terrorists who should be subject to int. law.</p> <p>UK Storyline: A Kimberley Process written into int. law would be time consuming.</p>	<p>CaR: rebel groups are not legitimate political agents.</p> <p>CaR: Humanitarian concerns → generate pressure towards the introduction of regulation asap.</p>	<p>✗</p> <p>TNGOs reluctantly accept that passing the Kimberley Process into int. law is unfeasible on the basis of time constraints (creates emergent dis. 6<sup>th</sup> element).</p>	<p>Wss works strategically selectively as it creates time constraint which favours status quo options – thus preventing the int. prosecution of Kimberley Process TCC transgressors.</p>
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<p><b>Policy: Extent of the Chain of Custody</b></p> <p>TNGO Storyline: If chain of custody is not extended to cutting and polishing centres then scheme isn't credible.</p> <p>Industry Storyline: Extending chain of custody would require (costly) industry restructuring.</p>	<p>Emergent: Consumers demand ethical diamond production.</p> <p>Emergent: Post outside buying industry deserves preservation and protection.</p>	<p>✗</p> <p>TNGO storyline fails to convince key states. Indeed TNGO commitment to the emergent discourse may also have played a role. Consequently cutting and polishing centres are excluded.</p>	<p>Wss creates within agents an aversion to regulation, bureaucracy and the imposition of <i>any</i> additional costs on industry – this is strategically selective as it prevents such costs being incurred, no matter how small.</p>
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<p><b>Policy: introduction of methods of diamond origin visual ID.</b></p> <p>TNGO Storylines:          1) Experts say low cost run-of-mine ID effective          2) Visual ID can prevent 'legitimate' industry infiltration by conflict diamonds.</p> <p>Producer State Storyline:          1) Run-of-mine adds bureaucracy.          2) No capacity to implement.</p> <p>Industry Storyline:          1) Introduction of run-of-mine would involve industry restructuring          2) Run-of-mine unreliable</p>	<p>IaC: expert input crucial to solution</p> <p>Emergent: Post outside buying industry deserves preservation and protection.</p> <p>Emergent (2<sup>nd</sup> and 4<sup>th</sup>): Post outside buying industry, responsible for stabilisation and development of Southern states, deserves preservation/protection</p> <p>CaR: Industry's expert view must be given special respect.</p>	<p style="text-align: center;">X</p> <p style="text-align: center;">X</p> <p>TNGOs accept that run-of-mine is unreliable and adds to costs/bureaucratic burden on states (and as a result industry).</p>	<p>Wss precludes the imposition of costs on industry as regulation must be 'light touch' – strategically selective as industry could have been asked to assist financially in implementation. Additionally run-of-mine is effective and utilised by some states. Reliance on industry expertise, generated by capitalism, further prevents industry from incurring implementation costs – social structure again strategically selects.</p>
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<p><b>Policy: Monitoring, independent, peer or nothing.</b></p> <p>TNGO Storyline: 1) No monitoring leaves the agreement worthless. 2) It also means that diamonds can still fund terrorism/instability.</p> <p>Russia et al Storyline: Monitoring will encroach on state/industry sovereignty and confidentiality.</p> <p>Industry Storyline: Monitoring may intrude on industry confidentiality.</p> <p style="text-align: center;">↓</p> <p>UK Storyline: Peer review offered as compromise (tacit acceptance of sovereignty and confidentiality storyline)</p>	<p>Emergent: Consumers demand ethical diamond production</p> <p>CaR: Rebel groups are not legitimate political agents</p> <p>Emergent (2<sup>nd</sup> and 4<sup>th</sup>): Post outside buying industry, responsible for stabilisation and development of Southern states, deserves preservation and protection</p> <p style="text-align: center;">↓</p> <p>Emergent: Post outside buying industry deserves preservation and protection</p>	<p style="text-align: center;">✕</p> <p style="text-align: center;">✕</p> <p style="text-align: center;">✕</p> <p>No Agreement – but no breakdown in negotiations.</p> <p style="text-align: center;">↓</p> <p>TNGOs grudgingly accept these storylines and agree to inaugurate the Kimberley Process with no review mechanism - negotiating a peer review system at a later date.</p>	<p>Wss (as manifested in emergent 2<sup>nd</sup> element) prevents TNGOs from walking away either at this point or later in the monitoring debate as there is a risk this move could damage the industry and the assumed ‘good’ of econ. development. This is strategically selective as ultimately it sees the TNGOs stay within the process and finally acquiesce to weak monitoring/weak Kimberley Process.</p> <p style="text-align: center;">↓</p> <p>Notion of ‘sovereignty and confidentiality’ strategically selective as they prevent independent review. This protects state based TCC and those in partially state owned industry.</p>
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<p>Russia and China: Tacit, agree to peer review compromise or hold up proceedings further.</p>	<p>Emergent: Compromise is necessary as timely settlement is vital</p>	<p>(agreement as above)</p>	<p>Wss creates cognition within industry – ‘supply chain dislocation’ – that allows moral agents to object. Strategically selective as it prevents independent review that may expose tax evasion etc.</p> <p>Wss works strategically selectively as it creates time constraint – felt by TNGOs - which bars extended monitoring debate. Time also creates chance that Russia may quit, damaging the Kimberley Process’ (and industry’s) credibility – a problem given the strategic selectivity of emergent dis. 2<sup>nd</sup> element discussed above.</p>
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## 6.2 Strategic Inclusion and Exclusion: The Strategic Selectivity of the Kimberley Process

The debates which flowed from social structure, as documented above, worked to constrain decision making, strategically selecting and creating a tendency towards policy making which worked in the interests of the concerned fractions of the TCC. What is interesting to investigate is the extent to which those decisions, stemming from the domain of wider social structure, ramified and shaped the emergent Kimberley Process. What appears to occur is that while the emergent regime shares as a result a strategically selective nature with that of its antecedent wider social structure, it operationalises that strategic selectivity via novel means. These means are made manifest through the resulting strategic exclusion of potentially costly policies for the TCC and through the strategic inclusion of policies that select directly on behalf of specific fractions of the TCC. What follows below in this chapter's concluding part is an attempt to outline the strategic exclusion and inclusion that in sum constitutes the nature of the Kimberley Process' strategic selectivity in operation. Much of this has already been extensively researched by those within academia and the TNGO community. There remain, however, significant areas which have not been subject to investigation. The following discussion will chart these areas, setting the agenda for this study's second domain of empirical research, the findings of which will occupy the third and final section of this thesis.

### 6.2.1 The Strategic Selectivity of a Politically Binding Agreement

As discussed in this chapter's first part, the strategic selectivity of wider social structure produced time pressures that precluded any attempt to inaugurate the Kimberley Process into international law. As the discussion that follows will demonstrate, this decision was to prove strategically selective as the emergent Kimberley Process, operating with politically binding enforcement only, now

worked to exclude the possibility of international legal sanction for certain practices whilst at the same time a political agreement actually worked to enable others in the face of Kimberley regulation designed specifically to prevent them. Thus in this case we see the emergent regime, as a result of the abandonment of attempts to achieve a legally binding agreement, inheriting strategic selectivity from wider social structure in both its inclusive and exclusive forms.

The obvious drawback of a politically binding Kimberley Process is that quite simply this meant that the integrity of the Kimberley Process relied on each state not only enacting domestic legislation but also then enforcing it. Should any given state chose not to enforce such legislation in any given case then, without a legally binding treaty, there exists no “mechanism internationally to challenge them when they fail to take action” (WR Interview 14<sup>th</sup> May 2014). As a result, there is the potential here for the politically binding nature of the Kimberley Process to strategically select in the interests of certain fractions of the industry as a prominent government negotiator related:

I think it provided some wriggle room for the industry... actually I have to be very careful here because I have no evidence of that, but if I was a member of industry who was...nervous about what was going to be happening then I would take some comfort from knowing that wherever it [the theoretical breach of Kimberley Process protocols] came out, I would not be [internationally] legally bound (ibid).

With no international legal obligation, enforcement of the Kimberley Process is effectively left to the discretion of the state within which the breach is alleged to have occurred. This has the potential to create a conflict of interests in cases where the state and industry are heavily intertwined. For example if Debswana were to be found in breach of Kimberley Process protocols, “in that situation, in Botswana, you [as a Debswana executive] can bring an enormous amount of influence to bear on

that government" (ibid). In this instance it is, therefore, possible to discern strategically selective effects transferring from the domain of wider social structure to that of the emergent Kimberley Process. The abandonment of attempts to inaugurate the emergent regime into international law resulted in the adoption of a politically binding agreement which, upon implementation of the regime, possess the potential to be a strategically selective inclusion simply because a politically binding agreement allows for industry and state based fractions of the TCC to collude in profitable breaches of Kimberley protocols as under such conditions there exists little or no danger of prosecution for doing so.

That the enforcement of Kimberley protocols is left to individual states in accordance with the regime's politically binding nature has proved to be a strategic inclusion is well demonstrated through an examination of the Zimbabwean diamond sector. At the turn of the last decade, the Zimbabwean public-private partnership companies of Canadile and Mbada, in collusion with ZANU party officials (who were at the time in coalition government with the MDC) became heavily involved in the smuggling of rough diamonds through neighbouring Mozambique. This practice was of course illegal according to Zimbabwean law and in complete contravention of Kimberley Process protocols (Global Witness, 2010). However, when in 2010 two Canadile executives, also directors of a Mozambican mineral export company (located in the smuggling centre of Manica just across the Zimbabwe/Mozambique border) were arrested on suspicion of smuggling, the charges were quickly dropped (ibid, p.14). Had the Kimberley Process been enshrined in international law, such violations could be prosecuted in The Hague, however, as a politically binding agreement, state and industry fractions of the TCC could be in breach of Kimberley Process regulations and yet continue to profit from diamond exports. As such, the politically binding nature of the Kimberley Process is a strategic inclusion as it grants, to those fractions of the TCC who are able to collude with fractions internal to the state in profitable breaches of its protocols, a

tacit legal immunity. The Kimberley Process could of course suspend or expel the state in question but, owing to certain regulatory blind-spots, even this does not greatly hinder the TCC in its pursuit of profit as will shortly be discussed.

The politically binding nature of the Kimberley Process strategically selects in a second and more fundamental manner. A legally binding agreement would have compelled any state that wished to export rough diamonds to join the Kimberley Process. The problem for many states with small deposits, however, is that “where diamonds do not bring in much revenue” the cost of implementing the Kimberley Process “is simply too high” (Smillie, 2014, p.124). This may well have resulted in states with small deposits not signing the agreement, creating a significant legal obstacle for the TCC that either prevented them from exploiting the deposit concerned or criminalised under international law those that did so. By contrast a politically binding agreement places no obligation on any state to be signatory to the agreement. This means that small deposit states simply do not have to join and, therefore, the TCC are still able to accumulate via the exploitation of that small deposit and without fear of international prosecution.

For those fractions of the TCC invested in small deposits in non-signatory states, a politically binding agreement allows diamonds to be sold between Kimberley Process non-signatory states or they can be laundered into Kimberley Process channels via a regulatory omission to be discussed below. Once again, therefore, strategic selectivity refers from wider social structure to the emergent regime via the strategic exclusion of the force of international law. This strategic exclusion works to embed strategic selectivity within the Kimberley Process as, with no international legal enforcement, space has been left for smaller deposits to remain viable for the TCC. Indeed, some evidence exists that fractions of the TCC, particularly those invested in small deposits in Cameroon and Gabon, have utilised this space:

[I]t took Cameroon a full ten years to join [the Kimberley Process, and] Gabon is still not a member, preferring to allow its diamonds to make their quiet way into the (under) world without the cost and bother of KP membership... [This is] undoubtedly the reason for the minimal participation of many other countries (ibid p.124).

Owing to its politically binding nature, elites in small deposit states such as Gabon and Cameroon have no need to engage in the potentially prohibitive 'cost and bother' of joining the Kimberley Process and can continue to export without fear of international prosecution. In this manner, the emergent Kimberley Process strategically selects on behalf of fractions of the TCC. It does so as without the force of international law it cannot compel all rough diamond exporting states to join and implement costly internal regulations or cease exporting. Furthermore, its lack of legal status also means that those who chose not to join and yet continue to export cannot be prosecuted according to international law. These two factors combine to enable those fractions of the TCC located/invested in states with small deposits to continue to profit from the exploitation of those deposits despite the inauguration of the supposedly prohibitive Kimberley Process.

As a consequence of the constraints present within the antecedent domain of wider social structure, the Kimberley Process negotiators abandoned attempts to enshrine the emergent Kimberley Process in international law. Upon operationalisation, this failure and the resulting politically binding status for the Kimberley Process provided a strategic selectivity to the emergent regime by both inclusion and exclusion. In practice, this reshaping of the industry accumulation strategy has worked to protect specific fractions of the TCC within both industry and the state from Kimberley regulations. In the case of many diamond exporting states, the relationship between political elites and mining companies is a very close one meaning that a politically binding Kimberley Process is a strategic inclusion as a political agreement places the credibility of the regime in the hands of domestic

legal systems behind which lie political elites who may have no wish to enforce Kimberley Process inspired legislation should it block avenues of accumulation – as in the case of Zimbabwe. In addition, the lack of any mechanism for international legal enforcement for the Kimberley Process represents a strategic exclusion which works to protect the interests of any fraction of the TCC invested in a small deposit state as it allows for mining to continue outside of the auspices of the Kimberley Process but without the threat of individual sanction by the international legal system.

### 6.2.2 The Strategic Selectivity of 'Light Touch' Regulation

As discussed above, within the negotiations, wider social structure appears to have created a strategically selective cognition amongst the negotiating agents which precluded extensive regulation and restructuring of the industry. This resulted in the adoption of a strictly limited certificate of origin system and the abandonment of methods of rough diamond visual identification. These decisions, however, stemming from the strategic selectivity of wider social structure, resulted in the strategic inclusion and exclusion of a series of stipulations with regard to the emergent Kimberley Process which then worked to strategically select in ways entirely distinct from that of wider social structure but that rendered the Kimberley Process highly conducive to the interests of specific fractions of the TCC.

With fears over the extent to which the industry would be required to restructure prominent in the minds of the negotiators, the notion that the Kimberley Process certificate of origin should continue through the cutting and polishing centres was abandoned. What this meant in effect was that the cutting and polishing centres were largely left open as sites where rough diamonds, extracted and exported outside the auspices of the Kimberley Process, could be laundered into the system and sold in northern consuming states as Kimberley approved:

[If an individual wishes to smuggle/launder diamonds it is possible] to avoid the Kimberley Process entirely and take the diamonds straight to a cutting and polishing factory...[cutting and polishing] is done in many countries but an estimated 85 percent by volume is done today in India. So if you can get the goods past India's Directorate of Revenue Intelligence (DRI), there are no further hurdles... because the Kimberley Process takes no interest in what enters or leaves a cutting or polishing factory (Smillie, 2014, p.117).

What this means in practice is that when diamonds are smuggled from a Kimberley Process participant, such as Zimbabwe, or when they are exported from a non-participant, such as Gabon, these diamonds can still enter the system via the cutting and polishing centres, leaving avenues of accumulation open for the concerned fractions of the TCC. In this manner, the decision not to extend the certificate of origin to the cutting and polishing centres, stemming from the strategically selective domain of wider social structure, transmits strategic selectivity to the emergent Kimberley Process via the exclusion of the cutting and polishing centres. This strategic exclusion means in real terms that the practice of diamond smuggling from non-Kimberley approved sources remains a viable mode of accumulation for the TCC, a practice the Kimberley Process explicitly hoped to prevent.

The commitment to 'light touch' regulation also played a significant role in the debates which precluded the adoption of methods and technologies that may have assisted in the visual identification of origin. Once again, this strategically selective aspect of wider social structure has ramifications for the emergent Kimberley Process, embedding strategic selectivity within its structures.

In terms of policy options, the adoption of methods of visual identification led organically to the inclusion of a certificate of origin system (OB, Interview 23<sup>rd</sup> April 2014). In effect, therefore, the certificate of origin became the sole method of

establishing whether a diamond had been mined in accordance with Kimberley Protocols. This is highly problematic. To use the example of Sierra Leone – critical to the conflict diamond narrative and part of the empirical investigation that constitutes this study's third section – Sierra Leone has alluvial diamond fields that extend to some 20,000 square kilometres (Maconachie, 2009, p.74). Even today, to police this vast area, the Sierra Leone state employs very few monitoring officers, who are in possession of neither communications equipment nor vehicles (CM, Interview 10<sup>th</sup> March 2014). Monitoring officers police vast areas and also vast numbers. In 2002, towards the end of the civil war, there were an estimated 200,000 artisanal miners in Sierra Leone (Pratt cited in Le Billon and Levin, 2009, p.703). In addition, the diamonds these officers seek to control, "are among the easiest commodities to smuggle," invisible to metal detectors, they can be concealed easily about (or within) a smugglers person (Campbell, 2004, p.37). Finally, as is often remarked, in common with many other African states with alluvial diamond deposits, Sierra Leone has extremely porous borders (Grant and Taylor, 2004, p.396). Under such conditions it is clearly impossible to control the mine sites in line with Kimberley Process requirements.

The conditions outlined above mean that in practice many alluvial diamond fields remain open. It is entirely possible, as this study's next section will discuss, that diamonds could be smuggled from, for example Sierra Leone, onto an alluvial mine site in neighbouring Guinea and laundered into the Kimberley system as Guinean diamonds. This is potentially advantageous to the TCC because as well as for the purposes of funding conflict, diamonds have long been smuggled out of producing countries to avoid taxation (Le Billon, 2012, p.117). Applying a certificate of origin to rough diamonds where no real control of the origin mine site exists clearly does nothing to disrupt either practice. Consequently, the adoption of a certificate of origin system introduces, upon implementation, a strategic selectivity - it can, therefore, be conceptualised as a strategic inclusion. However, had one or more



methods designed to enable the visual identification of diamonds been built into the Kimberley Process such activities would have been made significantly more difficult. If for example the Kimberley Process stipulated that run-of-mine diamond experts had to be employed by the Guinean authorities in Conakry these experts, on a random spot-check basis, would be able to intercept at least some of these smuggled stones, potentially initiating legal proceedings against the individuals concerned. Clearly this would increase costs for those fractions of the TCC, such as Russian 'submariners' as discussed above and those fractions local to the West African sub-region as the next section will examine, who engage in such practices. As such the abandonment of methods of visual identification in favour of a certificate of origin represents a strategic policy exclusion and inclusion respectively. These innovative forms of strategic selectivity are of course the progeny of the antecedent wider social structure where strategic selectivity created an understanding amongst agents that a certificate of origin system was preferable to any method of visual identification as any new regime should ideally be 'light touch'.

The decision to abandon methods of visual identification of origin in favour of a certificate also appears to have opened up the potential for at least two further opportunities for accumulation for the TCC. These two areas have so far received little in the way of investigation and it is the ambition of this study's empirical research conducted in Sierra Leone to shed light on these two possible opportunities. In the first instance, the adoption of a certificate of origin system appears to possess the potential to add a further form of strategic selectivity via strategic inclusion as it places an obligation upon the signatory states to control alluvial mine sites and license all artisanal mines and miners (KPCS, p.13). Clearly, given the issues outlined above for post-conflict states such as Sierra Leone, bearing in mind their capacity, such stipulations are likely to prove especially onerous. As such, the Kimberley Process may either place pressure on signatory governments to formalise

the artisanal sector, or alternatively provide a justifying discourse for this process which political elites can use to nullify domestic opposition to this formalisation. In the likely absence of state capacity to regulate and formalise alluvial diamond fields, states at least ostensibly, have little option but to turn to the private sector for assistance in meeting their Kimberley obligations. Under such circumstances, the state can sell concessions to international mining companies who establish control over the concession by forcibly excluding artisanal miners. They then extract the diamonds in accordance with Kimberley protocols.

The extent to which the above process is occurring and whether the Kimberley Process compels local elites to do this or provides a convenient excuse for a potentially lucrative practice are questions for this study's next section. What is important to note at this stage, however, is that had technologies or methods of visual identification been adopted, this may have negated the need for such controls. The origin of diamonds could be checked via random run-of mine inspections or even finger-printed through the development and utilisation of one of the many forms of technology outlined by Global Witness at the time (see Global Witness, 2000a, p. 11-14). As discussed above as in the case of airport security, industry could have entered into partnership with governments to create such a system and help bear the costs (WR Interview 30<sup>th</sup> January 2014). Such measures would have reduced the imperative for absolute control of the mine site, allowing artisanal production to continue, testing the product rather than relying on the control of vast diamond fields. Instead, the adoption of a certificate of origin once again potentially opens avenues for fractions of the TCC located within mining companies and producing state bureaucracies to accumulate capital via the dispossession of artisanal miners on the pre-text that this formalisation of the sector is required to meet Kimberley Process standards. Consequently, the strategic selectivity of wider social structure may have worked to embed an entirely separate form of strategic selectivity within

the emergent regime via the strategic inclusion of the certificate of origin system – a proposition this study's next section will address.

A second, final and more straightforward form of strategic selectivity with the potential to emerge from the decision to abandon methods of visual identification regards the enabling of graft within the state bureaucratic system. The Kimberley Process relies upon the issuing of a certificate of origin by the exporting country which certifies that those diamonds are conflict free. In order to credibly achieve this, each exporting country must be able to “track the diamonds being offered for export back to the place where they were mined” (Global Witness and PAC, 2004a, p.4). In practice, this creates the potential for the injection of a number of bureaucratic layers through which diamonds have to pass between extraction and export<sup>24</sup>. Within a system so open to abuse, this creates numerous opportunities for bureaucratic graft thus creating the potential for the maintenance and/or extension of neopatrimonial systems of governance<sup>25</sup>. Alternatively, should any method or technology designed to visually verify the origin of diamonds have been utilised, this may well have greatly simplified the system requiring only a final verification by the exporting authority either by technology or by run-of-mine expert evaluation. While obviously this would not prevent all opportunities for graft, it does seem reasonable to suppose that it could reduce those opportunities considerably. The decision to abandon methods of visual identification in favour of a certificate of origin system therefore appears, once again, as a strategic inclusion that has the potential to work in the interests of state based fractions of the TCC.

The desire for a light touch regime, stemming from the strategic selectivity of wider social structure, ultimately led to both the inclusion and exclusion of a series of Kimberley Process policies and stipulations that worked, unforeseen by the

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<sup>24</sup> For an example as to how the introduction of certificate of origin system can add layers of state bureaucracy see Dietrich 2002, p.20.

<sup>25</sup> For a discussion of the neopatrimonial theory of the state see Erdman and Engel (2007).

negotiators, to strategically select through methods entirely distinct from those of its antecedent social structure. When formulating the industry's revised accumulation strategy, negotiators deliberately avoided regulating the cutting and polishing centres and abandoned methods and technologies of visual identification of origin in favour of a certificate of origin system for fear of over-burdening industry with costly regulation. These decisions may, after investigation, prove to be strategically exclusive and inclusive and responsible for the introduction of a further layer of strategic selectivity to the Kimberley Process. In the case of the former, the exclusion of the cutting and polishing centres appears to have worked to maintain avenues of accumulation for fractions of the TCC by allowing diamonds to be laundered into the Kimberley system. Additionally, the inclusion of a certificate of origin system may extend the interests of state based fractions of the TCC by providing new sources of funding for the neopatrimonial system whilst also potentially enabling continued tax avoidance and the incursion of formal industry into areas of production previously the preserve of artisanal producers.

### 6.2.3 The Strategic Selectivity of a Peer Monitored Kimberley Process

As this chapter's first part examined, the strategic selectivity present within the domain of wider social structure contributed to the decision, post-inauguration, to opt for a peer monitoring mechanism as opposed to an independent system of verification. Ostensibly, objections regarded sovereignty and industry confidentiality. These issues contributed towards some negotiating agents effectively blocking the incorporation of an independent system of compliance monitoring, leading instead to the adoption of a compromise peer review system. In this regard, the domain of wider social structure proved to be strategically selective as the ecologically dominant capitalist system worked to prevent the adoption of an independent review system according to the interests of the TCC as discussed above. What was not foreseen by the negotiators at the time, however, was that the resulting adoption of a peer review system by the emergent regime

could in practice prove to be a strategic inclusion, introducing, as will shortly be discussed, the potential for peer review to strategically select according to the interests of the TCC. In addition, the fact that independent compliance monitoring was excluded from the emergent regime has the potential to negate many of the possible hazards the implementation of the Kimberley Process may have posed the TCC in terms of the future accumulation of capital. Its exclusion, therefore, appears strategic as its absence from the final regime also has the capacity to greatly favour the interests of the TCC.

For concerned fractions of the TCC, the peer review mechanism of the Kimberley Process allows considerable scope for the avoidance of potentially extremely problematic Kimberley Process stipulations. The compromise adopted allows for peer review only where there exists “credible indications of significant non-compliance” (KPCS, p.10). Such wording is self-evidently ambiguous. This issue notwithstanding, such an approach means that review missions are conducted on an ad-hoc basis and their “size, composition, terms of reference and time-frame” are determined “with the consent of the Participant” (ibid, p.10). What this means in practice is that the state receiving the review mission has a significant amount of agency regarding the it’s terms (even whether there is one), and can as a result utilise this leverage to protect those fractions of the TCC that might be engaging in profitable practices that contravene Kimberley regulations. Indeed, some states appear to have utilised this leverage. Venezuela avoided a review mission for several years in the mid-2000s by simply refusing to respond to Kimberley Process communications and, therefore, tacitly withholding its consent (Smillie, 2014, p.111). When it did finally acquiesce to receiving one in 2008, it circumscribed the make-up of the review team and where it could travel – excluding entirely any mine sites (MSI-Integrity, 2013, p.15). Angola behaved similarly in 2005 (Smillie, 2014, p.132). These decisions may not have been made explicitly in the interests of the TCC but

they do demonstrate that the inadequacies of the peer review system could be used for this purpose.

Given the often close relationship between producing states and diamond companies<sup>26</sup> the fact that the peer review system is so amenable to host state manipulation clearly affords those fractions of the TCC, either within or close to political elites, a degree of protection from Kimberley protocols. Peer review, therefore, appears as a strategic inclusion that may serve to embed strategic selectivity within the Kimberley Process. While there is little existing research indicating that this mechanism has so far been used by a participating state, this is an issue this study's empirical research will investigate in the context of Sierra Leone and will discuss in the section that follows. What is important to note for now is that the peer review system has at least the potential to be strategically selective. What is more quantifiable at this stage, however, is that adoption of a peer system over the independent system proposed by the TNGOs almost certainly represents a strategic selectivity.

For many within industry and those political circles involved in diamond production, theoretically speaking the Kimberley Process posed a potentially serious threat to the future accumulation of capital. At the historical juncture of the Kimberley Process negotiations, many of the conditions of diamond production

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<sup>26</sup> The relationship between producing states and mining companies is often close. Festus Morgae, then president of Botswana, described his government's relationship with De Beers as beyond a marriage and more akin to that of Siamese twins. In addition De Beers' relationship with the governments of South Africa and the UK was undoubtedly close (Bieri, 2010b, p.6). In Sierra Leone, the country's major producer has enjoyed strong relations with political elites throughout its evolution from Branch Energy to DiamondWorks to Koidu Holdings and now to Ocea. DiamondWorks received its principal concession, Sierra Leone's only Kimberlite mine, in 1995 almost certainly owing to its connections with Executive Outcomes the mercenary company hired by the Sierra Leone government to combat the RUF (Smillie, Gberie and Hazelton, 2000, p.7) Since then Sierra Leone's governments have taken an active interest in the company's wellbeing, even deploying senior government ministers to arbitrate its disputes with local communities (PAC, 2004c, p.5).

outlined above via the example of Sierra Leone relating to a lack of state capacity to control the sector also applied to Angola (PAC, 2004a; Global Witness and PAC, 2004a), CAR, (Dietrich, 2002), DRC (ibid; Global Witness and PAC 2004b), Ghana (PAC, 2004c) and Guinea (Gberie, 2001). There would almost certainly have been others including, if the smuggling practice of 'submarining' could be proved, Russia, which at the time of the negotiations was the world's second largest diamond exporter (Hazelton, 2002, p.14). Had the TNGOs demands for "effective, regular, independent monitoring of all national control systems" (Smillie, 2002, p.10) been met, many of these states would almost certainly have been found to be non-compliant with Kimberley Process stipulations and, therefore, liable for a trade suspension. For the economic aspirations of the fractions of the TCC concerned, this would obviously have been catastrophic. The fact that regular independent monitoring was rejected by the negotiators appears as a result to represent a strategic exclusion which worked to prevent Kimberley Process protocols from seriously affecting the TCC's prospects for accumulation.

As a result of the strategically selective nature of the wider social structure as discussed above, a peer based monitoring system was adopted ahead of an independent one. This decision itself passed mechanisms of strategic selectivity onto the emergent Kimberley Process via the inclusion of a peer review system and the exclusion of an independent one. The strategic selectivity of wider social structure, therefore, resulted in the adoption of a peer review system which upon implementation worked as a strategic inclusion as it allows the potential for state based fractions of the TCC to protect industry fractions from Kimberley regulations that may hinder methods of accumulation now rendered illicit by its introduction. Further, the prohibition of independent monitoring appears to work as a strategic exclusion as it offered some protection to those fractions of the TCC invested in states such as Sierra Leone who had no real prospect of being able to meet Kimberley Process requirements, meaning that those states could be subject to

suspension. The antecedent strategic selectivity of wider social structure, therefore, passed mechanisms of strategic selectivity to the emergent regime's modes of operation, selecting on behalf of the TCC. At the same time, however, it is abundantly clear that this strategic selectivity had the effect of severely weakening the Kimberley Process as a regime via the failure to incorporate an effective regime of monitoring for compliance. Ostensibly, therefore, this inadvertently prioritises the rights of the TCC to accumulate capital over the rights of those populations affected by diamond fuelled conflicts. This assumes of course that had Kimberley Process protocols been properly implemented that they would have worked in the interests of those populations – an assumption that there is good reason to be sceptical of as the discussion of, in particular, the certificate of origin system above suggests.

### 6.3 Conclusion

This chapter and section has sought to test for, and follow, the effects of the strategic selectivity of wider social structure. It argues that social structure is indeed strategically selective and that as a result, strategic selectivity is passed onto the emergent regime of the Kimberley Process via the adoption of policies which, through their operationalisation, work to select in the interests of the TCC in ways distinct from those of its antecedent social structure. The empirical evidence of this study suggests that the strategic selectivity of wider social structure worked to condition the cognisance of the involved agents leading to a negotiation conducted with such an overriding concern for the health of the diamond industry that almost any measure that could have harmed it even slightly was effectively vetoed. This strategic selectivity, unforeseen by the negotiators at the time, resulted in the formation of an emergent regime whose policy inclusions and exclusions worked upon implementation greatly to the advantage of the TCC. In practical terms, these strategic policy inclusions and exclusions constitute a revised industry accumulation strategy/emergent regime that is remarkably conducive to the



interests of the TCC. It's politically binding nature, limited scope and lack of serious monitoring work in combination and mean that as a regime the Kimberley Process does little to prevent profitable actions that may breach its protocols while its adoption of a certificate of origin over methods of visual identification has the potential to extend the writ of the TCC deeper into one of the few industries that still has space for a significant artisanal sector. As such strategic selectivity has contributed significantly to the creation of a remarkably toothless regulatory regime that in all probability achieves little in terms of controlling and cleansing the international trade in rough diamonds but that crucially achieves even less in terms of hindering the accumulation of capital for concerned fractions of the TCC. Moreover, for the TCC the Kimberley Process may even extend the possibilities for accumulation within the sector whilst also rendering those avenues secure going into the future.

Interestingly, in terms of future accumulation the Kimberley Process potentially offers further assistance to the TCC. While the Kimberley Process negotiations produced a reformed accumulation strategy it also produced a hegemonic project. Hailed at the time as the solution to the conflict diamond issue, the Kimberley Process diffused to some extent the opposition of the TNGOs to the industry as a form of accumulation, whilst also working to convince sceptical consumers that diamonds were once again an ethical product. What is interesting however, is how the Kimberley Process, despite its well documented failings and resulting criticism, has maintained its position as a hegemonic project over time, continuing to render the sector safe for accumulation. The following section will examine how the Kimberley Process has continued to succeed as a hegemonic project in the face of sustained critique whilst also examining, via the empirical example of the Sierra Leone diamond sector, how in real terms it continues to strategically select in the interests of the TCC.



## Section Three



## Chapter Seven

### Sierra Leone and the Kimberley Process

The formation of a regulatory regime for the diamond industry was an enormous achievement – indeed in 2003 Global Witness and PAC were jointly nominated for a Nobel Prize for their work in this area. Since the Kimberley Process' inauguration, however, many of the negotiators may have achieved Frankenstein's insight – giving life to something is not in of itself a success. As touched on in the final chapter of the preceding section, for many of the negotiating agents, what came after the Kimberley Process' inauguration was extremely disappointing. This chapter will, through a detailed analysis of the Sierra Leonean diamond sector, expand on the arguments of the final section of the preceding chapter. It will do so, by presenting empirical evidence supportive of the notion that errors of judgement and the influence of a strategically selective social structure created within the Kimberley Process a series of loop holes. This enabled those fractions of the TCC concerned to continue to pursue avenues of profit-making unaffected by Kimberley regulation, making the regime itself a strategically selective structure. Worse still perhaps, as postulated in the final part of the previous chapter, there exists some possibility that Kimberley Process policy stipulations may not only further the interests of the TCC, but may in fact do so at the expense of artisanal producers – a key social grouping involved in the onset of some of the conflicts the Kimberley Process hoped to play a part in resolving. Consequently, given the sensitive nature of the domain in question the Kimberley Process has the potential to exacerbate the at times fraught relations between artisanal miners, the central state and those fractions of the TCC engaged in mechanised mining in those nations. Problematically, however, as the following chapter will examine in detail, for those agents attempting to reform the Kimberley Process in light of its shortcomings, the body itself has proved remarkably resistant to change.

Through a discussion of the Sierra Leone diamond sector, this chapter will contend that the Kimberley Process has, as argued in the preceding chapter, inherited strategic selectivity from wider social structure – although not its precise empirical form. Following a brief introductory discussion of the history of the political economy of diamonds in Sierra Leone, this chapter will present evidence regarding the ramifications of the implementation of the Kimberley Process for the internal politics of Sierra Leone; a key state in the conflict diamond debate and one in possession of an apparently challenging diamond sector towards the regulation of which the Kimberley Process was specifically designed. It will argue that, in its modes of operation in this locale, the Kimberley Process is indeed strategically selective, creating new avenues for the furtherance of the economic interests of the TCC whilst achieving little in terms of preventing Kimberley prescribed profit seeking activities.

As far as the schematic of this study is concerned, the analysis of this chapter provides a vital empirical demonstration of the strategic selectivity of the Kimberley Process within a specific setting. In so doing, it also provides the basis for the discussion of this study's final two chapters. With a cognisance as to how the Kimberley Process selects in favour of the TCC in the locale of Sierra Leone established by this chapter, the analysis of the two that follow can examine the manner in which Kimberley operates in the face of reform attempts which could negate the Sierra Leonean based TCC advantage garnered by its strategic selectivity. These reform attempts may not be a response by the TNGOs and other progressive forces to the Sierra Leonean situation as described below, however, as these chapters will demonstrate, where those reform attempts could damage the interests of the TCC in Sierra Leone and elsewhere, the Kimberley Process strategically selects to protect the general interests of the TCC.

## 7.1 The Political-Economy of Diamonds in Sierra Leone: A Brief History

Before any discussion as to the significance of the Kimberley Process to the contemporary political-economy of Sierra Leone can proceed, some understanding of the nature of the sector and its relationship to wider Sierra Leonean society must be established. To the contemporary observer, Sierra Leone's diamond sector might seem of little consequence. By international standards the resource itself is not large, 2014 Kimberley Process statistics place Sierra Leone as the world's tenth largest producer by value (Kimberley Process, 2014a). By contrast, however, domestically speaking, Sierra Leone's diamond fields have always been an important political arena, and in fact continue to be so up to the time of writing. Indeed, Sierra Leone's diamond sector has long been a site of social turbulence and in more recent times it looms large in the nation's unfortunate narrative. Over several decades the mismanagement of the sector by successive governments, often accompanied with violence, played a significant part in creating a basis for the country's 1991-2002 civil war. It is in this context that the Kimberley Process must be understood. While it may appear the most international of regimes, the Kimberley Process if effective would reach right down into the societies in question, reordering their diamond sectors and the social relations that surround them. In Sierra Leone those social relations, based on a long history of conflict and exploitation, are extremely fraught and any regulatory regime would have to be well conceived to avoid inflaming any residual issues. As a consequence, this chapter's first part is critical to the discussion which follows regarding the ramifications of the implementation of the Kimberley Process, explaining as it does the historic social relations which the regime has the ability to help calm – or inflame.

Geologically speaking, the Sierra Leone diamond deposit is quite distinctive. The country currently has only one functioning kimberlite mine located in the east of the country mined by Koidu Holdings – a subsidiary of the Benny Steinmetz Group. Consequently, up until 2012 when the company upgraded its processing capacity,

Sierra Leone's diamond exports were overwhelmingly the product of the artisanal exploitation of alluvial deposits (see NMA, 2014, p.6). In many ways this is unsurprising when it is considered that Sierra Leone's alluvial diamond fields extend to some 20,000 km<sup>2</sup>, with as many as 250,000 artisanal miners employed within the sector (Maconachie, 2009, p.74; Keili and Thaim, forthcoming, p.327).

The attempts of Sierra Leone's governments to control the nation's diamond resource and derive an income from its exploitation have been a feature of the state's political economy for many decades (Harris, 2013). In this context, the nature of Sierra Leone's diamond resource is important. Alluvial deposits are easily exploited by low skilled labour and this, coupled with the perception of the potential for lucrative returns has, since the advent of diamond mining in Sierra Leone, worked to attract large numbers into the sector in the hope of a life changing find (Campbell, 2004, p.19). This point was made in the preceding chapter but it bears repetition, controlling the vast areas and numbers as outlined above would offer a test for any state, and in addition, Sierra Leone's deposits are almost exclusively located in the country's eastern districts, close to the porous Liberian and Guinean borders and remote from the authority of the central state (Silberfein, 2004, p.216). Such characteristics present obvious difficulties for the state in terms of regulating the sector and capturing rents. These difficulties notwithstanding, however, successive governments operated particular methods of governance which ultimately positioned the sector even further from both the state and its potential to deliver real social benefits to the nation's citizens; alienating many of those citizens in the process.

At the advent of independence in 1961 the Sierra Leone Selection Trust (hereafter SLST), a De Beers subsidiary, had been the principal diamond producer for nearly three decades (Hirsch, 2001, p.27). For most of that time, however, the company had, with assistance from the Sierra Leone Army, been engaging in almost constant and often violent operations designed to control the numbers of illicit artisanal miners



digging alluvial deposits on its concessions (Campbell, 2004, p.19). These operations began a long history of violence in the sector, sowing the seeds of discontent within local mining communities regarding the manner in which the sector was managed. This anger was seemingly not just directed towards the SLST but also encompassed some chiefs local to the fields and political elites in Freetown viewed by those communities as complicit in the violence (Le Billon, 2012, p.106).

After six years of independence, the management of the sector took a turn for the worse following the election victory of Siaka Stevens. The rapacity of Stevens' near two decades in office was extraordinary, earning from Sierra Leoneans the moniker of the "seventeen year plague of locusts" (Hirsch, 2001, p.29). His destruction of the state, however, was distinctive and carried a purpose:

Underpinning Stevens' pragmatism in co-opting, eliminating and harassing opposition... was his strategy of placing himself at the pinnacle of a patron-client system which had as its foundation the diamond trade (Harris, 2013, p.71).

Stevens administered a system of governance, financed by the diamond sector, which was neopatrimonial in the extreme (ibid, p.72). In 1970 the Stevens' government redefined the basis of diamond mining in Sierra Leone by embarking on a government/SLST joint venture – the National Diamond Mining Corporation (hereafter NDMC) (Hirsch, 2001, p.27). The agreement meant that in practice corporate decision making was done from within the Stevens' government, an arrangement which proved to be extremely detrimental to the company's viability as those integral to Stevens' patronage network engaged in theft and smuggling from within the company (Smillie, Gberie and Hazelton, 2000, p.44). Beginning in 1970 and progressing through the departure of De Beers in 1984 up until the

effective winding-up of the NDMC in 1989<sup>27</sup> diamond mining became ever more informal. This was deliberately engineered by Stevens so as to enable the extension of the patronage system (Harris, 2013, p.73).

Stevens retired in 1985 and passed on the presidency to his handpicked successor Joseph Momoh (Fashole-Luke, 1988, p.76). Politically speaking, under Momoh's rule there was little real change. Although the beneficiaries altered, the patrimonial state system was largely maintained and indeed, with the implementation of the armed forces led Operation Clean Sheet designed to evict illicit artisanal diamond miners, so too was the state led violence on the diamond fields (Harris, 2013, p.79). By 1989, however, the international mis-en-scene had altered considerably. With the Cold War winding down and the pressures of IMF structural adjustment programs resulting in a retreat of the neopatrimonial state, Momoh became increasingly reliant on allies from his home town of Binkolo (*ibid*, p.79). This retreat of the neopatrimonial state left many not associated with the 'Binkolo Mafia', often rural youth, excluded from an already exclusive system (*ibid*, p.96). Inevitably this increased resentment towards those associated with the central state and the perceived mismanagement of the nation's natural resources. By the end of the 1980s the state was in crisis. In 1990 the IMF suspended its credit, teachers were no longer paid, the education system collapsed and civil servants stripped their offices to feed their families (*ibid*, p.79; Hirsch, 2001, p.30). The following year the RUF crossed Sierra Leone's eastern border.

Comparing conflicts for their brutality feels rather crass. It can be said though that Sierra Leone's civil war was a horrid affair and diamonds are widely considered to have played a significant role in the violence – unfortunately, however, there is simply not the space to deal with the debates which surrounded that involvement

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<sup>27</sup> The NDMC did not actually cease to exist at this point, however, its official exports dropped to almost nothing from 1988/89 (see Smillie, Gberie and Hazelton, 2000, p.51).

here<sup>28</sup>. There are though, two points with regard to the role of diamonds in Sierra Leone's civil war which should be made as they are important to the discussion which follows. In the first instance, the exploitation of the nation's alluvial diamond deposits clearly provided a source of finance for the warring factions (Smillie, Gberie and Hazleton, 2000, p.9; Lujala, Gleditsch and Gilmore, 2005, p.539). Secondly, grievance regarding the (neopatrimonial) management of the diamond sector played a role in convincing many combatants to take up arms against the state. This grievance was clearly expressed in the RUF's pamphlet *Footpaths to Democracy*, the group's only real war-time statement of policy:

No RUF/SL combatant or civilian will countenance the re-introduction of that pattern of raping the countryside to feed the greed and caprice of the Freetown elite... It is these very exploitative measures instituted by so-called central governments that create the conditions for resistance (RUF, p.4).

The pamphlet raises the mismanagement of the diamond sector on several occasions. Diamond mining has "despoiled [the land] and the irresponsible and corrupt mining magnates leave [only]...craters that breed mosquitoes, malaria and cholera" (ibid, p.7). It appears quite clear that anger at the management of the nation's resources, principally diamonds, provided at least some of the impetus for war:

Homelessness, injustice and corruption in the diamond sector did provide a cause - or at least a rationale - for some combatants to join and support the RUF in Sierra Leone (Le Billon, 2012, p.107).

There can be little question that Sierra Leone's diamond sector played a role in terms of creating the conditions for war and it undoubtedly worked to prolong it.

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<sup>28</sup> For a discussion of the debates surrounding the nature of Sierra Leone's civil war see Harris (2013).

Despite the centrality of Sierra Leone within the conflict diamond issue, however, the Kimberley Process was not designed explicitly to remedy the political issues outlined above. Its basic aims are twofold, to secure the production of participating states at the mine site up until the first point of export and secondly to seal the export and import procedures of participants; both are intended to prevent conflict diamonds from being smuggled into these processes – and thereby being laundered as clean stones. Given these objectives it is immediately apparent from the preceding discussion that in the politico-economic context of Sierra Leone the Kimberley Process, in effect the latest attempt to regulate Sierra Leone's diamond sector, has the potential to be rather incendiary. On the one hand, the Kimberley Process inspired formalisation of the sector and the introduction of some transparency offers the possibility that the sector could serve the purposes of social advancement whilst also preventing the sector from being utilised as a source of insurgent finance. On the other hand, however, if implemented without due concern for the nature of the sector in individual locales, or if subject to nefarious political interference, there clearly exists the distinct possibility that the Kimberley Process could provide a source of further friction, potentially helping to re-create the type of grievances which contributed towards Sierra Leone's descent into civil war.

## 7.2 The Strategic Selectivity of the Kimberley Process: The Case of Sierra Leone

Unfortunately for those affected, the defeat of the RUF in Sierra Leone's eastern districts has not translated into peace within the nation's diamond sector. Social unrest and violence remain common phenomena within the sector and, depressingly for its architects perhaps, this study finds that Kimberley Process stipulations may play a contributory role here. This chapter's second part will carry two arguments. In the first instance it will seek to demonstrate how the Kimberley

Process as a regulatory regime has inherited strategic selectivity from its antecedent wider social structure, and, therefore, through its modes of operation, works in the interests of the TCC. Whilst pursuing this argument, however, this second part will also seek to demonstrate how that strategic selectivity possesses the capacity to reignite longstanding grievances in the sector by facilitating the re-emergence of some of the sector's historic management practices as outlined above.

As discussed in the final chapter of the previous section, there existed at the time of the Kimberley Process negotiations two potential methods that could help establish a diamond's origin. The TNGOs identified several technologies, either in existence or under development, that could serve this purpose and that would allow state officials to verify the origin of diamonds (see Global Witness, 2000a). The TNGOs also sought expert opinion on the issue of run-of-mine visual identification of origin and discovered that this method was also potentially viable (see *ibid*, p.9). Both methods, however, were excluded from the Kimberley Process, with the strategic selectivity of social structure influencing decision making to the effect that the former method was discounted on the grounds of cost and the latter on the grounds of reliability. As an industry negotiator recounted, ultimately it was the disqualification of these alternatives that led to the adoption of a certificate of origin system (OB, Interview 23<sup>rd</sup> April 2014).

The adoption of a certificate of origin system, stemming from the strategic selectivity of the Kimberley Process negotiation, was to have a profound effect on the regime upon implementation. The empirical evidence garnered from this study's examination of the Sierra Leone diamond sector suggests that the resulting policy inclusions and exclusions have embedded a strategic selectivity within the Kimberley Process which then works to favour the interests of the TCC – and in the context of the certificate of origin system this selectivity is made manifest in several modes of operation.

From the very base of the diamond production pipeline, the mine site, a certificate of origin system appears to strategically select in the interests of the TCC. In the context of Sierra Leone, the implementation of a certificate of origin system was always likely to prove highly problematic. Such a system attempts to exclude conflict diamonds from the diamond supply chain by controlling all diamond mine sites. The mine and its produce are then considered 'conflict-free'. In practice, however, in order that this status be maintained, full control of all mine sites must be sustained so as to prevent insurgent groups, domestic or international, from smuggling conflict diamonds onto a mine site and then laundering those diamonds into the system as legitimate conflict free stones. Controlling an alluvial mine site, however, presents a number of serious difficulties as discussed above and combine to make the sector highly amenable to any potential conflict diamond smuggler – stones could be easily smuggled onto any number of mine sites and cooperative local miners and/or dealers are likely to be straightforward to find<sup>29</sup>.

To gain control of diamond mining and prevent the laundering of conflict diamonds, the Kimberley Process stipulates that each participant must “establish a system of internal controls designed to eliminate the presence of conflict diamonds” (KPCS, p.7). While this stipulation is somewhat open, the document then directs participants to Annex II and a series of recommendations which state that all mines and miners be licensed and that only those so licensed should be allowed to mine (ibid, p.14).

The Sierra Leone government has, at least ostensibly, attempted to comply with the Kimberley Process' stipulations on internal controls. The country's 2009 Mines and Minerals Act requires that artisanal miners be licensed and that this license include a description of the area to be mined (NMA, p.58-59). In addition, all mining is subject to the supervision of state appointed Mines Monitoring Officers (hereafter

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<sup>29</sup> For evidence of this likelihood see Levin and Gberie (2006).

MMOs) whose role it is to generally supervise the business affairs of dealers, agents and exporters (Levin and Gberie, 2006, p.33). They must also ensure that those mining are licensed in line with the Mines and Minerals Act and work to prevent illegal activities such as smuggling. In order to remain in Kimberley Process compliance, in practice, Sierra Leone simply must employ MMOs and this situation appears to have worked to the advantage of those fractions of the TCC located within the Sierra Leone government.

A Freetown based industry expert related that originally it was envisaged that MMOs would be a high level appointment requiring qualifications to at least the equivalent of UK A-level if not undergraduate degree level, however, this idea was subsequently blocked from within the government (NG, Interview, 5<sup>th</sup> March 2014). There appears to have been some art behind this decision. Blocking any formal qualification requirement for the role of MMO removes any quantifiable barrier as to who may be appointed to the position. The result of this has been that the appointment of MMOs has, from the outset, been subject to political interference with the appointment of individuals to the role becoming a lever of the neopatrimonial state (ibid; BB, Interview 11<sup>th</sup> March 2014). Indeed, in recent times so integrated into the operation of the neopatrimonial state had MMO appointment become that the Ministry of Mines and Mineral Resources (hereafter MMR) succeeded in appointing more than its budget could possibly have allowed it to pay (NG, Interview, 5<sup>th</sup> March 2014).

In many regards the role of MMO is ideally suited to the purposes of political patronage. MMOs are required to supervise all mining activities both artisanal and industrial and in this role there is ample opportunity for self-enrichment. A source from a Sierra Leone based industrial miner related that illegal mining (unlicensed) is rife in Sierra Leone, leaving MMOs with an obvious option:

[I]f you are an MMO and two or three of you arrive at an illegal site with 20 or 30 miners working there what are you going to do? Many MMOs take the attitude that if you can't beat them, you join them (CM, Interview, 10<sup>th</sup> March 2014).

MMOs often engage in the harassment and extortion of artisanal miners – a situation exacerbated by the government appointing more officers than it could afford to pay, effectively, therefore, requiring MMOs to pay themselves (NG, Interview, 5<sup>th</sup> March 2014).

The Kimberley Process is of course not directly responsible for the creation of the role of MMO. In practice, however, it would clearly be difficult for any participating state to maintain that it was Kimberley Process compliant without employing MMOs. Indeed, in 2006 Ghana's continued Kimberley Process participation was made conditional on, amongst other measures, its ability to monitor and generate effective oversight of its diamond mines and markets – a process that would inevitably necessitate the utilisation of MMOs in one guise or another (Kimberley Process, 2006, p.4). In this sense, therefore, the Kimberley Process and its adoption of a certificate of origin proves to be a strategic inclusion as it allows for the creation of a further layer of the patrimonial state by providing a rationale for the appointment of MMOs, appointments that can be made for political ends. What is also important to note is that in this instance the inclusion of a certificate of origin does not only make the Kimberley Process strategically selective in the interests of state based fractions of the TCC but it also works disproportionately against artisanal miners who must deal with harassment from MMOs and for whom the extortion of income is more egregious than a large scale industrial miner more capable of meeting those costs. In practice of course this harassment has the potential to reignite the anger of mining communities with regard to the management of the diamond resource which, as discussed above, was a feature of Sierra Leone's social milieu in the lead up to the outbreak of the nation's civil war.



The Kimberley Process inspired imperative to control all mine sites so as to enable the application of a certificate of origin carries a second and potentially more divisive strategic selectivity. In recent times the post-war governments of Presidents Tejan Kabbah and Ernest Bai Koroma have pursued a broadly similar policy with regard to the diamond fields:

[The primary focus now is] to attract bigger mining companies, which means foreign investment... They are easier to monitor. They keep a paper trail... The alluvial mines are a problem. They always have been... Until we are able to attract companies like KH [Koidu Holdings] to invest in the alluvial mines – which are overwhelmingly dominated by artisanal miners – the problem of...smuggling, will remain with us (President Kabbah, cited in PAC, 2005, p.1).

The desire to reduce the size of the artisanal sector through the industrialisation of alluvial mining has seemingly been the policy of both post-war Sierra Leone governments (Le Billon and Levin, 2009, p. 703-704). In practice, this policy has resulted in the widespread selling of concessions to, mostly external, medium scale industrial miners (NG, Interview 5<sup>th</sup> March 2014). Such a policy has caused these miners to attempt to enforce their right to exclusively mine the concession by preventing, sometimes violently, local artisanal miners from gaining access to the ground itself. Such action, coupled with the exploitative working conditions utilised by those miners with regard to the employment of local people, has been the driver of a great deal of social unrest within the diamond producing regions in recent times (BB, Interview 11<sup>th</sup> March 2014; NG, Interview 5<sup>th</sup> March 2014; Le Billon and Levin, 2009 p.708). At heart, such social tensions are in fact an expression of wider pressures generated by the expansion of the market economy. In this instance we see a clash between, on the one hand, the central state sponsored expansion of the capitalist mode of production (and the associated protection of the rights of private property) and on the other, local conceptions of land ownership based on the

customary land tenure system administered by the chief and the paramount chief (Le Billon and Levin, 2009, p.699; Unruh and Turray, 2006, p.2-3). The Kimberley Process is of course not directly responsible for such social unrest, or the clash between capitalist and customary conceptions of property ownership which underpin it. However, it does appear to be playing a facilitating role for those fractions of the TCC who stand to profit from the expansion of the capitalist conceptualisation at the expense of the customary.

Administrative justification for the industrialisation process comes in two parts. In the first instance, industrialisation is justified on the grounds that the introduction of mechanised mining would lead to 'development' (CI, Interview 28<sup>th</sup> February 2014). A senior figure at the GGDO argued that the government anticipated that industrialisation would drive development by increasing production and generating greater tax revenue (DG, Interview 5<sup>th</sup> March 2014). The second argument arrayed as justification for industrialisation resides in the relationship between this policy and the Kimberley Process. When, in response to the social unrest created by industrialisation civil society organisations challenge policy makers in this area, beyond the development argument, policy makers often reply that such measures assist Sierra Leone in the task of meeting its obligations under the Kimberley Process; that is to say, its obligations under Section IV and Annex II which require participants to establish a system of internal measures designed to control all diamond mining (BB, Interview 11<sup>th</sup> March 2014; KPCS, p.7 and p.13-14).

Mechanised mining companies, in the course of the protection of their concessions would naturally seek to control access to that concession. These larger scale operations are also easier to license and monitor and, as President Kabbah noted, are more likely to keep detailed records of transactions than the extremely informal and densely populated artisanal sector. A GGDO source confirmed that as far as industrialisation of the artisanal sector was concerned, significant causation could indeed be ascribed to the need to meet Kimberley Process stipulations on internal

controls (DG, Interview 5<sup>th</sup> March 2014). Indeed, it must also be noted that the same source supplied to the author a restricted access report commissioned by the Kimberley Process which recommended greater stringency with regard to the enforcement of internal mining controls (See, MSI, 2013). When questioned as to the potential significance for Sierra Leone of such a report the source replied that its impact might be considerable but that industrialisation could protect Sierra Leone from any resulting action or Kimberley Process reform (DG, Interview 5<sup>th</sup> March 2014). In this instance, the official in question was once again attempting to justify industrialisation by referring to the importance of Kimberley Process compliance, especially in light of a report emphasising the need for better implementation of internal controls. How much credence any of these justifications should be given is open question, however, with some sources claiming that in fact the driving force for industrialisation may lie in the opportunities for graft inherent to the sale of concessions (CI, Interview, 28<sup>th</sup> February 2014; BB, Interview, 11<sup>th</sup> March 2014).

The industrialisation of the alluvial mining sector and the selling of concessions to external mining companies who then constrain the ability of local people to access the resource has proved highly provocative. The Kimberley Process may not be the key driving force behind this phenomenon, however, its use as a form of justification for this policy underlines the strategic selectivity of the regime itself. The Kimberley Process does require participants to control their diamond fields, a task that in reality was always going to prove extremely onerous for a state as poorly resourced as Sierra Leone. It follows that this provides figures within the state a justification for a policy which privileges the interests of the TCC – in the form of industrial miners – over that of artisanal producers and local communities. In addition, a further expression of the Kimberley Process' strategic selectivity can be found here as the selling of these concessions ostensibly to meet Kimberley Process requirements opens further avenues for the self-enrichment of state officials. This of course, as in the case of MMO appointments, advances the interests of those

fractions within the state seeking positions amenable to the extension of the neopatrimonial system. Finally, it is important to note with regard to industrialisation the striking extent to which this policy correlates with those of Sierra Leone's past governments. As outlined above the SLST, often with the assistance of the armed forces, engaged on several occasions in the violent removal of artisanal miners from the company's concessions, whilst at the same time state officials utilised the diamond sector to extend the reach of the neopatrimonial state. As we can discern from the above, there is some evidence that similar practices are recurring, raising concerns regarding the long term stability of Sierra Leone.

The exclusion of any method of visual identification of origin from the Kimberley Process creates a further and very straightforward form of strategic selectivity. With no such method in place, when a parcel of diamonds arrives for Kimberley certification at the first point of export, the system relies on a state (and MMO) supervised production pipeline which in basic form sees, in the case of artisanal production, diamonds pass from digger - miner - dealer - exporter (Levin and Gberie, 2006, p19). On this basis, the certificate of origin is then applied at the point of first export which verifies the site of the diamond's extraction. Problematically, however, if the MMO supervision of the pipeline is compromised and no method of visual identification of origin is in use, then stones of external origins can potentially be inserted at almost any point. In practice, this means that diamonds of external origin can be inserted into the pipeline, an exercise that would enable the exponent to take advantage of a more accommodating tax regime in a neighbouring state or even to launder conflict diamonds. Certainly in the case of the former practice there appears to be some evidence that such activities may be occurring between the Mano River states.

For some time Sierra Leone has operated a tax regime distinct within the region. Sierra Leone's neighbours Guinea and Liberia apply a three percent export duty on all diamonds and while Sierra Leone applies the same rate for almost all of its

classifications of diamonds, for those classed as ‘special stones’ a 15 percent export duty is applied (NMA, 2014, p.4). This duty, combined with a level of MMO effectiveness which according to a senior GGDO source “should not be over emphasised”, appears to have led to a considerable amount of cross border smuggling of special stones (DG, Interview 5<sup>th</sup> March 2014). Indeed, despite having several MMOs permanently stationed on site, in the case of Koidu Holdings the country’s largest single producer the NMA 2014 report remarks with some irony that “it is interesting to note that Koidu Limited has never brought a special stone that attracts the 15 percent duty category” (CM Interview, 10<sup>th</sup> March 2014; NMA, 2014, p.5). In addition, the report notes that despite Sierra Leone’s extensive history of producing special stones, in recent years only two such stones had been declared for export, with the 2011 stone widely understood to have been declared as a result of ignorance of the law (ibid, p.4; TG, Interview 4<sup>th</sup> December 2014)<sup>30</sup>.

In conjunction with the above conditions, it is also interesting to note that neighbouring Liberia, a state whose diamond deposits are both small and of industrial grade (worth at best a lowly \$25 per carat), shares similar or perhaps even more severe regulatory problems to Sierra Leone in that its mechanisms of internal control have long been in a state of almost total collapse (WP, Interview 21<sup>st</sup> November 2014). Somewhat predictably for 2013, Liberia, despite the exceptionally low quality of its deposits, exported diamonds to an average of \$367 per carat as where Sierra Leone, an acknowledged producer of world-class gem quality diamonds, managed only \$303 per carat (Kimberley Process, 2013). This places Liberia behind only Lesotho and Namibia in terms of the quality of ‘its produce’ (ibid).

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<sup>30</sup> While the author was conducting field work in Freetown, the 15 percent export duty was in fact dropped to three percent. This was attributed by several interviewees (mostly off the record) to the Vice-President becoming involved in the export of a very large diamond – and that the existence of this diamond had become common knowledge in Freetown, therefore, making the avoidance of this tax difficult (see NG, Interview 5<sup>th</sup> March 2014).

What appears to be occurring in the Mano River region is that, with so few large diamonds being declared for export, Sierra Leone's largest gem diamonds are simply being smuggled out of the country to be laundered into the Liberian production pipeline, thus evading Sierra Leone's higher rate of tax (see TG, Interview 4<sup>th</sup> December 2014; WP, Interview 21<sup>st</sup> November 2014). This of course is a serious contravention of Kimberley Process protocols. However, so completely reliant on the certificate of origin system is the Kimberley Process that it is able to do little to prevent this practice. Had the Kimberley Process incorporated some form of visual identification of origin, even just on an ad hoc spot check basis at first point of export, to some extent this practice could be curtailed. In reality, however, the adoption of a certificate of origin system and the resulting abandonment of the incorporation of any method of visual identification of origin appears as a strategic exclusion as it does little in real terms to prevent fractions of the TCC from engaging in a practice that is both illegal and in contravention of Kimberley protocols but that allows those concerned to move diamonds without hindrance to lower tax jurisdictions for the purposes of export.

The case of Sierra Leone highlights what is in fact a wider issue for the Kimberley Process – one that it is struggling to come to terms with as will be discussed in the following chapter. It is also important to note, however, that this issue is fundamental to the utility of the Kimberley Process. The Kimberley Process is after all a regulatory regime designed to control the movement of rough diamonds across borders and if diamonds can be moved from a high to a low tax jurisdiction then so too can diamonds be moved out of a conflict state to be sold onto international markets.

In terms of the implementation of the Kimberley Process certificate of origin system, there exist two further possible expressions of strategic selectivity. In the first instance the need to certify diamonds according to origin presents an obvious need for a certifying office and indeed the Kimberley Process stipulates that each

participating state should “designate an Importing and an Exporting Authority” and “collect and maintain relevant official production, import and export data” (KPCS, p.7). As in the case of the creation of the post of MMO, the establishment and staffing of an office designed to certify diamond origins represents a Kimberley Process stipulated addition of a layer of bureaucracy which can be manipulated for political purposes. According to interviewee NG, a Freetown based industry consultant and expert, the GGDO has historically been a site of significant corruption and remains a constant subject of political inference and pressure (NG, Interview 5<sup>th</sup> March, 2014). Indeed, there is some evidence that corruption at the GGDO is not just historic. NR, a small scale industrial miner related that in order to get a Kimberley Process certificate signed by the relevant administrator at the GGDO he was compelled to pay a fee:

You know that man you saw, Mr J, he’s a crook [the author encountered Mr J whilst waiting at the GGDO]. When it came to him signing the KP documents he said he wanted something so I offered him \$20. He gave it back to me and said ‘no I need at least \$50’ (NR, Interview 4<sup>th</sup> March 2014).

Clearly there exists at the GGDO opportunities for officials to engage in self-enrichment and while no interviewee stated directly that appointments to positions at the GGDO were subject to political patronage, a local industry expert discussed at some length the extent to which the MMR (politically speaking the controlling arm of the GGDO) was very certainly subject to such pressures (NG, Interview 5<sup>th</sup> March 2014). Given these conditions, it seems reasonable to posit the notion that appointments to the GGDO may also be connected to the exigencies of political patronage.

Self-evidently, the introduction of a Kimberley Process certificate of origin requires the appointment of officials who are charged with the duties of assessment and authentication of the chain of warranties designed to guarantee a diamond’s origin.

Given the vagaries associated with the MMO supervised chain of warranties, an element of discretion is inevitably incorporated into this role. In this sense, the certificate of origin introduces an additional form of strategic selectivity to the Kimberley Process, stipulating as it does the creation of roles highly amenable to the purposes of graft and which, therefore, allow for appointments to such roles to be exchanged for political support.

Pursuing the Kimberley Process certificate of origin system up to the point of export reveals a final possible expression of the system's strategic selectivity. As discussed above the Kimberley Process core document states that participants must take regulatory steps to ensure that conflict diamonds are excluded from their supply chains. To do so, they should take account of the Annex II recommendations which state specifically that diamond exporters "should be registered and licensed by each participant's relevant authorities" (KPCS, p.14). Sierra Leone complies with the Kimberley Process in this regard and those wishing to export must be licensed to do so (MMR, 2004, p.9). While information is hard to come by, there is some evidence that this policy predates the introduction of the Kimberley Process and was in fact introduced as part of the 1994 Mines and Minerals Act (see Government of Sierra Leone, 2007, p.10). That said, the implementation of the Kimberley Process makes the use of such licenses effectively mandatory regardless as to how the system is performing, and indeed in Sierra Leone the system is eliciting some controversy.

Bureaucratically speaking there exist two methods by which an individual may export diamonds from Sierra Leone. In the first instance, the would-be exporter can purchase an exporters licence from the MMR at a cost of \$35,000, having done so this individual is then termed as 'the Principal' (NR, Interview 17<sup>th</sup> March 2014). A Principal then has the right to sell four sub-licenses at the rate \$8500 each, presenting an alternative and cheaper method of export to other would-be exporters who can then export under the Principal's license. Recently, however, this system has



become open to abuse. A medium scale industrial miner related the details of a highly irregular practice involving this system. Having exported diamonds legally on a sub-license for some time, interviewee NR was contacted by his Principal who informed him of a change of practice to the effect that if he wished to continue exporting under the Principal's license he would have to import the currency used for all diamond purchases through the Principal's Sierra Leone bank account which would then be returned to him (*ibid*). Such a practice is highly suspect. It is possible that the funds involved could simply be stolen by the Principal, although this seems unlikely. More probable, however, is that this practice can be used to launder the proceeds of other illegal activity. Sierra Leone law requires that exporters "show evidence of importation of all foreign currency inflows" (MMR, 2004, p.9). If the Principal can demonstrate money flowing into his/her account from external sources such as his/her sub-licensees and is then able to repay that sub-licensee in cash (which he/she may have accumulated via illegal means). S/he has now laundered that money effectively, can provide the stipulated evidence for its existence and, therefore, can now pass it through official banking channels.

Clearly the license system works well for those fractions of the TCC with the financial resources to purchase a Principal License and who have an interest in hiding the proceeds of illegal activities – a sub-section of exporters that may not be insignificant bearing in mind the above discussion regarding the widespread cross border smuggling of special stones. While it is true that the Kimberley Process is not responsible for the introduction of the export licensing system, its presence as a transnational regulatory body makes the licensing system mandatory and, therefore, makes it very easy for the interested fractions of the TCC located within the Sierra Leone state apparatus to justify its continued existence. From the above discussion it is of course not entirely clear as to why state based fractions might wish to engage in such justification, however, it certainly does appear that the licensing system enjoys political support. When interviewee NR approached the

MMMR for a list of other sub-license holders so as to try and achieve some form of collective action with regard to his Principal, officials initially agreed, only for the request to be rebuffed at a later date. NR was certain that this was a result of the Principals exploiting political connections (NR, Interview 17<sup>th</sup> March 2014). It seems reasonable to posit the notion that such relationships are unlikely to be one-way and that as a result state based fractions may exchange such support for the political support of Principal License holders who, just simply to have the wherewithal to purchase a Principal License, are likely to be wealthy and influential figures. As such, the Kimberley Process' insistence on the implementation of a licensing system works strategically selectively, creating the opportunity as it does for both state and private sector based fractions of the TCC to further their interests.

From the preceding discussion it appears that the implementation of the Kimberley Process certificate of origin system, in the context of Sierra Leone, strategically selects in the interests of various fractions of the TCC. The strategic selectivity of the Kimberley Process is not, however, restricted purely to the policy adoptions stemming from the implementation of the certificate of origin system. The expressions of strategic selectivity to be discussed below were addressed to some degree in the preceding chapter and consequently further discussion of those expressions here will be kept deliberately brief. It is, however, important to discuss them as they are operationalized in the context of Sierra Leone as they offer further explanation as to how, in particular, the Kimberley Process does so little to disrupt highly profitable patterns of trade which contravene its stipulations.

As discussed in the previous section, the initial petitions of the TNGOs notwithstanding, the Kimberley Process does not carry the force of international law. The preceding chapter touched upon the problems associated with this omission in the context of Zimbabwe, and to a lesser extent the same principles apply to Sierra Leone. The lack of international law backing the Kimberley Process is significant here because, as discussed above, with the smuggling of special stones

so prevalent in Sierra Leone and with state and non-state actors engaged in corrupt practices regarding certification and licensing, the Kimberley Process' lack of standing in international law translates to mean that the regime must rely on domestic law enforcement agencies – and a matching political will – to pursue prosecution and ensure compliance. In this case, however, political will appears to be absent as a recent PAC investigation revealed:

Enforcement staff at the airport [Lungi International, Freetown] report around three to four cases of attempted smuggling or diamond-associated fraud at the airport each month but are not aware of anyone ever being prosecuted for these activities. (PAC, 2010b, p.18).

The report also notes that in the key producing region of Kono, where Koidu Holdings have their kimberlite operations and from which a special stone has never been declared for export despite accounting for more than half of Sierra Leonean exports for 2012 and 2013, officials were not aware of any diamond related prosecutions in the region (NMA, 2014, p.6, PAC, 2010b, p.17). With Sierra Leone state agents seemingly unwilling or unable to pursue prosecutions regarding diamond related activities, prohibited by the Kimberley Process and, therefore, illegal according to Sierra Leone law, there is very little to either disrupt the above discussed practices or to dissuade individuals from engaging in them. Should the Kimberley Process have been passed into international law then of course such practices could be investigated and prosecuted externally. The lack of international legal enforcement, therefore, appears as a strategic selectivity as it means in practice that the Kimberley Process is little obstacle or deterrent to those fractions of the TCC profiting from diamond smuggling and other illegal practices within the Mano River region.

In addition to a lack of international legal enforcement the Kimberley Process' weak monitoring in the context of Sierra Leone also appears to strategically select in the

interests of the TCC. Based on this study's data, it is apparent that Sierra Leone is not in compliance with the Kimberley Process (CI, Interview 28<sup>th</sup> February 2014; ID, Interview 3<sup>rd</sup> March 2014; NG, Interview 5<sup>th</sup> March 2014; BB, Interview 11<sup>th</sup> March 2014). This is of little consequence, however, if those mechanisms designed to test for compliance are ineffectual and certainly in Sierra Leone this has proven to be the case. Several study participants raised the issue of a recent Kimberley Process review visit to the Mano River region and indeed one study interviewee was a member of the review team itself which uncovered significant failings with Sierra Leone's internal controls (CI, Interview 28<sup>th</sup> February 2014; CM, Interview 10<sup>th</sup> March 2014; BB, Interview 11<sup>th</sup> March 2014). There has, however, been little by way of response to these failings. Interviewee CI intimated that this lack of action could be attributed to the fact that there was such little transparency involved in the review process. Having submitted his contribution to the final report, CI was then prevented from reading the final draft submitted to the Kimberley Process (CI, Interview 28<sup>th</sup> February 2014). In addition, despite lobbying from civil society, the report remains unpublished (BB, 11<sup>th</sup> March 2014).

By adopting a peer as opposed to an independent review mechanism the Kimberley Process provides significant scope for the recipient state to avoid difficult questions regarding its compliance. Not only can it circumscribe the make-up and terms of reference for any prospective review team but there is also no compulsion either on the state in question or on the Kimberley Process to publish the reports emanating from such missions. Reports are circulated only as far as the 'Kimberley family' (WR, Interview, 14<sup>th</sup> May 2014). This scenario carries an inherent advantage for the state in question as it prevents external scrutiny and, therefore, wider pressure for that state to be suspended. In addition, in doing so it restricts information regarding possible noncompliance to the safe environment of the 'Kimberley family' – a family that, for reasons that will shortly be discussed, has proved remarkably inactive in terms of sanctioning noncompliance. The net result of this is that, despite the

submission of a review visit report documenting its noncompliance, Sierra Leone's exports continue to be Kimberley Process approved. Such a weak monitoring mechanism clearly strategically selects in favour of the TCC as it prevents the Kimberley Process from potentially suspending Sierra Leone's participation, a move that would be extremely damaging to the interests of those fractions invested in the country's diamond sector. In addition, the lack of any action against either Sierra Leone or any of the other states in the Mano River region also allows for practices prescribed by the Kimberley Process but which are highly profitable, such as the above described smuggling of special stones to lower tax jurisdictions, to continue unfettered.

### 7.3 Conclusion

The Kimberley Process' role in Sierra Leone is a complex one. In sum, however, its modes of operation offer some support for Jessop's theory of strategic selectivity, and it is remarkable how, in the context of Sierra Leone, the regime has proved so amenable to the economic interests of fractions of the TCC. Attempts to comply with the regime, through the appointment of MMOs, the creation of an accrediting role with regard to diamond origin and the introduction of the licensing system, appear to have been implemented with an eye on the extension of the neopatrimonial state. It is also striking how the Kimberley Process is being utilized as a justification for activities such as industrialisation which extends the writ of transnational mining into a realm previously the preserve of domestic artisanal producers. Sierra Leone's diamond sector has long been an informal arena and the formalization process prescribed by the Kimberley Process, and utilized as a justification by Sierra Leone state agents for industrialisation, appears to have created significant tensions as capitalist notions of private property clash with local conceptions of land ownership. Moreover, what must also be of concern is the similarity of the contemporary systems of governance that the Kimberley Process is in part eliciting with those practiced prior to Sierra Leone's civil war and which were to some extent

responsible for the ensuing violence. History is of course not necessarily a guide to future events but it must be said that the comparison is an uncomfortable one.

Many of the issues associated with the Kimberley Process' implementation in Sierra Leone are far from unique to this locale and the Kimberley Process has experienced even more acute implementation problems elsewhere; most notably in Zimbabwe. Agents principally from the TNGO community but also from participating states and certain sections of industry have as a result attempted to engage with the Kimberley Process and reform its stipulations accordingly. The ensuing policy reforms may not have been conceived directly in relation to the issues outlined in this chapter but many would, however, affect the ability of the TCC to gain an advantage from the regime in Sierra Leone and beyond. In response, as the final two chapters of this study will demonstrate, the strategic selectivity of the Kimberley Process has worked either to directly block reform or divert those reforms along lines congruent to the interests of the TCC, both in Sierra Leone and beyond, thus maintaining the advantage the regime provides.

## Chapter Eight

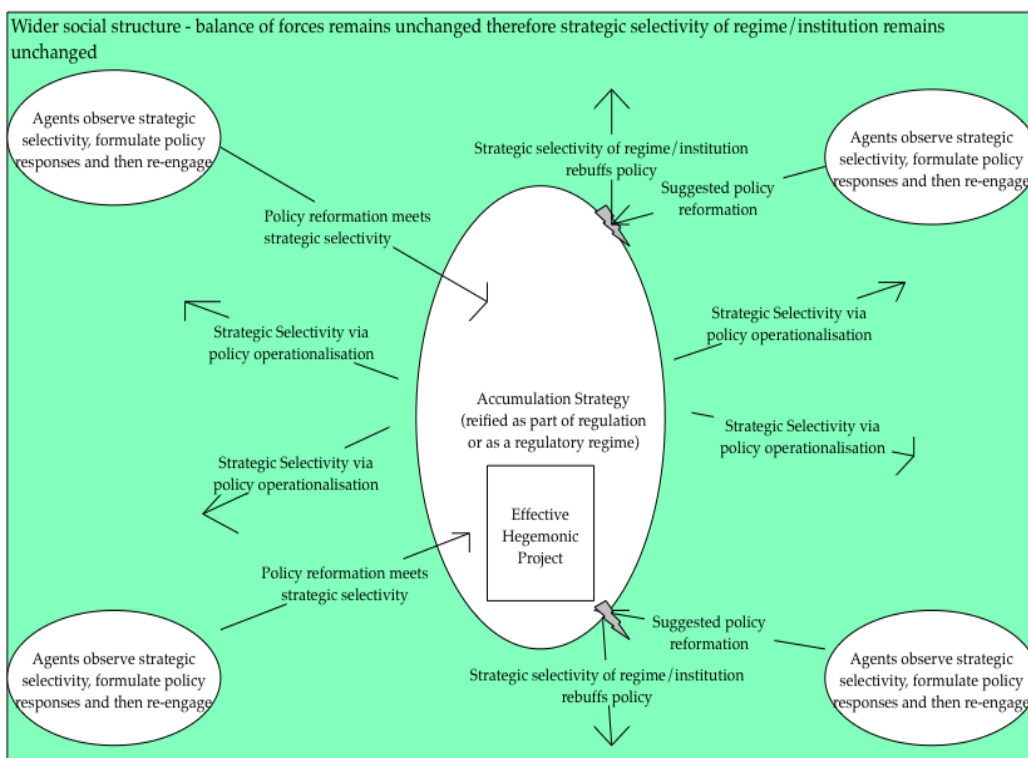
### Kimberley Process Reform: The Exchange of Storylines.

Clearly, to those involved in the diamond sector in Sierra Leone the difficulties associated with the implementation of the Kimberley Process in this locale, as outlined in the preceding chapter, are well understood. In response, as this study's research model suggests, agents drawn principally from Sierra Leone based civil society organisations have observed those failings and have recursively re-engaged with the Kimberley Process so as to press for reform. Theoretically speaking, these agents should be greatly assisted by the fact that many of the problems associated with Kimberley Process implementation are far from unique to Sierra Leone. Particular issues relating to the implementation of the Kimberley Process here are in practice shared with other participating states which often suffer similar problems but in a more acute form. Consequently, as far as Kimberley Process reform is concerned, civil society groups in Freetown find significant allies amongst the Kimberley Process TNGO civil society coalition of which they are a part and from certain powerful consumer states. While these agents may all seek the same Kimberley reforms, they often do so in response to the manifestation of that given problem in a separate location. At Kimberley Process meetings what this means in practice is that reforms that would alleviate an issue in Sierra Leone are often articulated in relation to similar issues in other participating states and are debated on those terms. What is interesting to note, however, is that while such widespread support should make Kimberley reform feasible, in reality this has proved to be far from the case. Despite its demonstrable weakness and the myriad issues associated with its implementation, the Kimberley Process appears to have altered very little. This chapter will seek to identify and examine those attempts designed to bring about Kimberley Process reform. It will, however, restrict itself to those reforms

relevant to the situation in Sierra Leone only, setting those attempts at wider Kimberley Process reform beyond the scope of this study.

The analysis of this chapter will rest on the methodology applied in the preceding section derived from the work of Maarten Hajer. In doing so, it will present a basis of supporting qualitative evidence, drawn from documentary research and first hand interviews, pertaining to the existence of a strategic selectivity inherited from wider social structure. As in the case of the final two chapters of the preceding section, this analysis will be conducted across both this and the following (and final) chapter of this section. In their analysis these two chapters will test the hypothesis that, in practice, strategic selectivity has worked to frustrate any attempts at Kimberley reform that may run counter to the interests of the TCC – and in fact often works to further those interests. Indeed, it may prove instructive at this point to return to the second diagram of the research model as discussed in section one, chapter three:

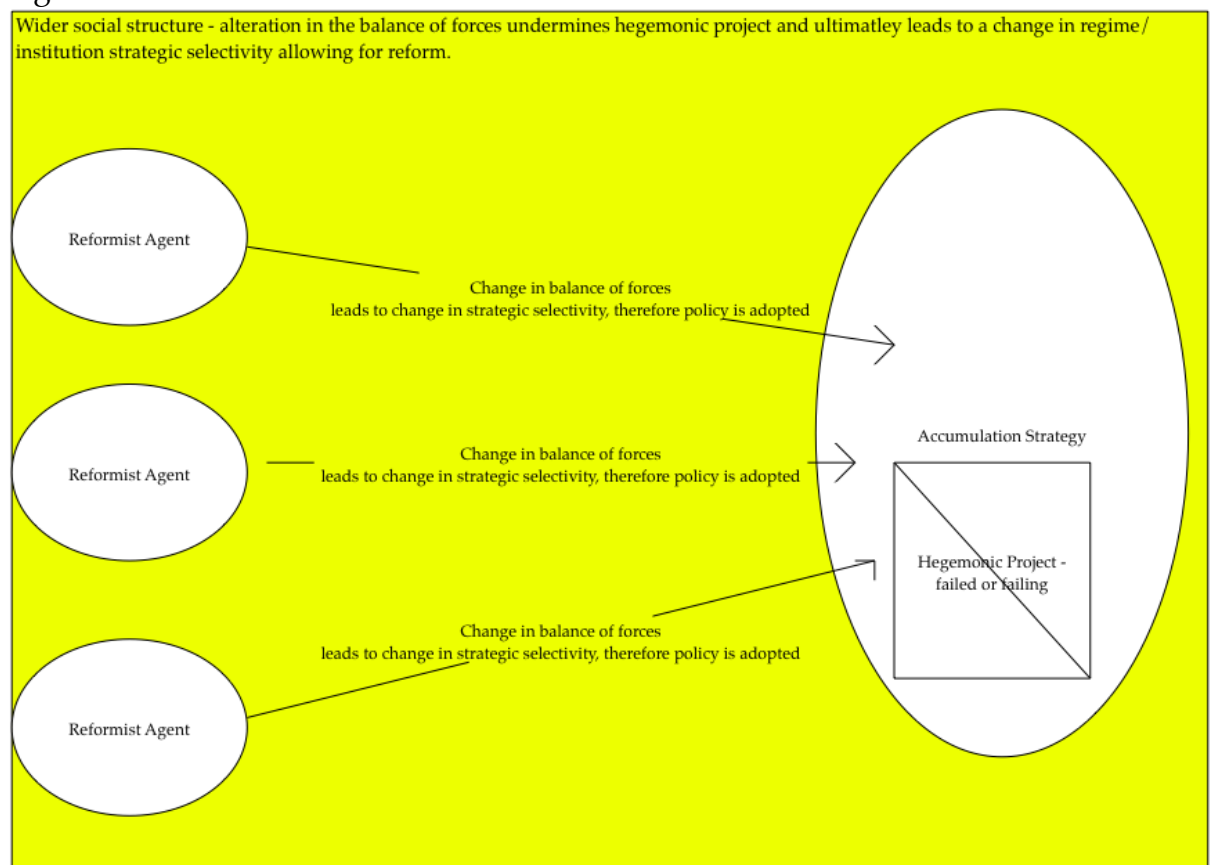
Figure 8.1





The following two chapters will, therefore, test for the postulates as outlined in the above diagram by charting the reform attempts of the relevant agents and examining in detail the successes and failures of those reform attempts for the influence of strategic selectivity. These successes and failures will of course offer some indication as to the balance of forces in wider society regarding this issue and, therefore, the health of the Kimberley Process hegemonic project. Should reform attempts prove effective, this would suggest either a congruence with the regime's existing strategic selectivity or a change in the balance of forces and a concomitant need to reformulate the hegemonic project. This would then lead to a shift in the regime's strategic selectivity which in turn allows for that reform to occur as per the diagram offered in chapter three:

Figure 8.2



Alternatively, should those reform attempts prove ineffectual this would suggest that the balance of forces under which the Kimberley Process was negotiated have

remained largely unaltered. This would leave the hegemonic project in place and a strategic selectivity still functioning in the interests of the TCC as illustrated in the first of the above diagrams and discussed in detail in the preceding section.

This chapter will engage in a close analysis of the debates surrounding those Kimberley reforms which may have offered a remedy to Sierra Leone's numerous problems as outlined in the preceding chapter. To do so, it will utilise the same structure and methodology as the preceding section, outlining in the first instance the discourses which underpinned the reform debates before moving on to discuss the exchanges of storylines, themselves an expression of those discourses, through which certain strategies and associated policies were adopted or deflected.

## 8.1 The Discourses

This chapter's opening part will seek to describe the discourses which served as the basis for the Kimberley Process reform debate. To do so it will conform to the principles of the first chapter of the preceding section used to describe the discourses of the negotiating parties. In that sense, the descriptions that follow will contain no direct quotation and will instead incorporate a reference directing the reader to relevant evidence, either documentary or interview data. As discussed prior to the elucidation of the discourses of the first section, this presentation is necessitated owing to the fact that a storyline is an expression of an underlying discourse and consequently contained within any given quotation designed to demonstrate the use of a storyline, there will also be evidence of the underlying discourse, potentially confusing the reader unnecessarily. In practice, this means that the descriptions that follow will be brief. This brevity owes something to the absence of direct quotation but it can also be explained by the simple fact that the reform agenda, as it is relevant to Sierra Leone, is a narrower field of research than that of the formative Kimberley Process negotiations. It follows, therefore, that comparatively speaking, the discourses involving Kimberley Process reform are not

as broad as those utilised during the regimes formation as documented in the preceding section.

This study maintains that there exist two discourses which have served as the basis for the Kimberley Process reform debate which will be termed hereafter as the *reform discourse* and the *stasis discourse*. Each discourse had its own specific adherents/proponents amongst the negotiating agents and, as a former TNGO negotiator related, as a result those agents often negotiated on that basis:

[The TNGOs], we were trying to build up a coalition of like-minded groups...and that was very much the way that stuff got negotiated in the KP. You would try and get a group of people, industry, government, civil society that was supporting an issue...and then lobby...So on reform it was very much Canada, the US, Europe...it was industry, some elements more than others, industry [were] very fractured<sup>31</sup> (TO, Interview 19<sup>th</sup> February 2015).

While inevitably on any given issue there may be some fluctuation as to the parties, broadly speaking the *reform* discourse finds its greatest support amongst the agents outlined above – including of course the TNGOs. In the case of the *stasis* discourse, interviewees identified adherents/proponents as including Angola, China, India, Namibia, Russia, South Africa, United Arab Emirates and Zimbabwe along with a significant proportion of the industry represented within the WDC (see *ibid*; HD, Interview 5<sup>th</sup> February, 2015; TG, Interview 4<sup>th</sup> December 2014; WP, Interview 22<sup>nd</sup> November 2014). Clearly these two groupings do not encompass the entirety of the Kimberley Process participation and there, therefore, appears to have existed, on

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<sup>31</sup> Given its opaque nature it is difficult to assess the true extent of the alterations the industry underwent over the course of the first decade of this century. It certainly does appear, however, that those alterations have been significant. Estimates suggest that De Beers' share of rough diamond production fell from 65 percent at the turn of the century to around 35 percent at the time of writing (Campbell, 2004, p.133; WR, Interview 14<sup>th</sup> May 2014; OB, Interview 25<sup>th</sup> February 2015). This retreat from De Beers has created space for other players such as the Russian miner Alrosa and the Dubai Diamond Exchange trading hub to grow in stature.

some reform policies at least, a middle ground pool of largely unaffiliated participants (for a discussion of this see OB, Interview 25<sup>th</sup> February 2015). Under such conditions, exchanges of storylines can be conceived as an attempt to appeal, not only to those adherents of the opposed discourse as can be expected, but also to those unaffiliated.

#### 8.1.1 Discourse: *Reform*

As in the case of the discourses surrounding the Kimberley Process formation, the *reform* discourse carries a number of substantive elements. These elements are particularly evident in the many policy papers and press releases produced by the TNGO community but they are also readily apparent within the interview data collected for the purposes of this study. It barely requires stating that the underlying position of the *reform* discourse resides in the notion that the Kimberley Process is in need of reform.

A core principle of the *reform* discourse resides in the notion that consumers demand ethical diamond production and that if this is not forthcoming, then markets can discipline the industry (see Global Witness, 2007, p.1; Global Witness, 2010, p.4; PAC, 2009a, p.10; Smillie, 2010, p.15). This principle is a survivor from the *culpability and reform* discourse which informed the Kimberley Process formative negotiations – hardly surprising given that the agents, TNGOs and certain Northern states, were the adherents/proponents in both cases.

Implied in the notion that consumers demand ethical production and that if this is not forthcoming then the industry could be disciplined is a second element of the *reform* discourse which has its basis in the pervasive understanding that the continued good health of industry is desirable. Behind this lies the assumption that economic growth and development is self-evidently a ‘good’ thing across all societies and geographical spaces (see Governments of the United States and South Africa, 2011, p.1; PAC, 2009a, p.2; PAC, 2012, p.27). Indeed this element of the

discourse appears to suggest that social benefits flow a priori from economic advance. As in the case of the above first element, in this assumption, the *reform* discourse clearly shares much in common with the *culpability and reform* discourse and works to inform many of the storylines advanced in connection with the Kimberley Process reform agenda.

A third element of *reform* discourse resides in the notion that the sovereign state is the key decision maker in the international political economy and is, therefore, the foremost driver of change. From this point of departure, it follows that the *reform* discourse maintains that the success of the Kimberley Process hinges almost entirely on the ability of state agents to address its failings (see Global Witness and PAC, 2005, p. 7; Global Witness, 2009a, p.1). This element, tacitly for the most part, accepts as valid the norms of sovereignty, leading *reform* adherents/proponents to adjust their storylines accordingly (OB, Interview 25<sup>th</sup> February 2015; TG, Interview 9<sup>th</sup> April 2015).

In terms of the cognisance of the negotiating parties, the *reform* discourse makes a key assumption. This fourth element of the *reform* discourse maintains that those agents engaged with the Kimberley Process are concerned as to their standing within it. This element assumes that agents are sensitive to critique, care as to how they are perceived by others and are as a result, to some extent, committed to the success and continued existence of the regime in question (see Global Witness, 2010, p.2; PAC, 2006a, p.10; PAC, 2012, p.8; TO, Interview 19<sup>th</sup> February 2015).

A fifth and final element of the *reform* discourse concerns the role of expert consultation. This perspective accepts that the diamond industry is an exceptional one and that, therefore, expert opinion on policy making within the Kimberley Process should be both sought and respected (see PAC, 2010b, p.14; HD, Interview 5<sup>th</sup> February 2015).

### 8.1.2 Discourse: *Stasis*

Whilst the *stasis* discourse was very much in evidence during the Kimberley Process reform debates, as will become apparent as this analysis progresses over this and the following chapter, in many reform debates it was simply not the deciding factor. In fact, in some instances there is no evidence of storylines stemming from the *stasis* discourse at all – there was often no need of them. This occurrence was itself a function of the strategic selectivity of the Kimberley Process which facilitated a negotiatory environment wherein debates very often didn't have to be won as the strategic selectivity of the regime could be relied upon to block policies not agreeable to the *stasis* discourse and its adherents/proponents. In many instances, however, debates did occur and storylines stemming from the *stasis* discourse were utilised, at least in the preliminary stages of any given debate, in an attempt to appeal to those advocates/proponents of *reform* and convince them to willingly accept the infeasibility of their position. Problematically as far as this study is concerned, the data upon which the following analysis is built is by necessity often not in fact derived from the first-hand accounts of *stasis* discourse adherents/proponents. Of the participating states identified above as the key adherents/proponents of this discourse and who could be contacted directly, none consented to interview<sup>32</sup>. Consequently the *stasis* discourse and its related storylines are by necessity extrapolated from first-hand accounts of Kimberley reform debates or from documentary accounts of those same debates. In terms of research design this situation is not ideal. However, a picture of this discourse and the related storylines can certainly still be accurately deduced. To assist here, this study can draw on a significant body of in-depth qualitative interviews which take in personal accounts of the debates from across the Kimberley Process' tripartite structure. This data can

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<sup>32</sup> Over the course of this study, representatives and/or Kimberley Process responsible institutions from India, Namibia, South Africa, United Arab Emirates and the United Kingdom were contacted – none, however, consented to interview.

also be complemented with the available documentary evidence to create a full description of the *stasis* discourse.

In contrast to the *reform* discourse, *stasis* maintains that the Kimberley Process has largely been a success (OB, Interview 25<sup>th</sup> February 2015; Meeus, 2013; Mpofu, 2012). Understood as a success, it follows that the Kimberley Process should be celebrated and not only requires little in the way of alteration but, in fact, needs no other organisation to complement its work. The position of the *stasis* discourse, therefore, is that the international trade of rough diamonds is the regulatory realm solely of the Kimberley Process. Kimberley works effectively in this a realm and its position as the sole regulator should be respected and maintained.

A second element of the *stasis* discourse regards the notion of sovereignty. According to this perspective the sovereignty of the state and its freedom to govern its own affairs as it sees fit is sacrosanct. As far as this concerns the Kimberley Process reform agenda, this means that any international agreement that may impinge on this principle, regardless of the morality of the issue at hand, carries no inherent legitimacy. Consequently, while it is understood that certain international agreements may involve the state voluntarily surrendering sovereignty on a particular issue, such concessions must be subject to careful negotiation and receive the full acquiescence of the state affected. Moreover any given state may, if it so chooses, legitimately dismiss the policy in question if it understands it as counter to its interests (OB, Interview 25<sup>th</sup> February 2015; TO, Interview 19<sup>th</sup> February; WP Interview 21<sup>st</sup> November 2014).

In its third element, the *stasis* discourse in fact parallels the *innocent and conservative* discourse of the Kimberley Process formative debates and to some extent echoes that of the *reform* discourse. This element flows from the discursive positioning surrounding the issue of sovereignty and maintains that where sovereignty is to be surrendered with regard to a particular issue or policy reform it should be done so

only after 'expert' consultation (HD, Interview 5<sup>th</sup> February 2015; Meeus, 2013). This perspective maintains that the mandate to rule on any given issue can only reside with those in possession of the expertise to adjudicate on that issue. Clearly, however, the nature of 'expertise' means that it is always possible to maintain that it cannot or does not span discrete fields of knowledge. This cognisance, as will be examined over the coming two chapters, has worked greatly to the advantage of the TCC.

Contrary perhaps to any precursory impression, the *stasis* discourse is far from dismissive of the Kimberley Process as a body. In fact, the fourth element of the *stasis* discourse has its basis in a concern that the Kimberley Process itself must be seen as a success in the wider world – and, therefore, also amongst consumers (see Meeus, 2012). Such a concern stems from a recognition, however grudgingly offered or faintly adhered to, that consumers do to some extent demand ethical diamond production – behind this concern obviously lies a fear that if consumers feel this is not being delivered then they can discipline the industry in the market place (see Blom, 2014). What follows from these propositions is that as far as those advocates/proponents of the *stasis* discourse are concerned, the KP needs to be seen externally as a success. In practice, what this should also mean is that those adherents/proponents of the *stasis* discourse should be sensitive to criticism regarding their own Kimberley compliance and be willing to alter their behaviour accordingly.

Finally, a sixth element of the *stasis* discourse in common with its third, is essentially a continuation of the *innocent and conservative* discourse utilised during the Kimberley Process formative negotiations. This element places an emphasis on the economic contributions of the diamond sector and tacitly makes the argument that as a result the diamond industry is deserving of protection and preservation. Indeed this argument carries even greater validity, as is often stressed, owing to the



industry's contribution to the development of African economies in particular (see WDC, 2007, p.3; Blom, 2012; Meeus, 2012; Asscher, 2014, p.1).

## 8.2 The Kimberley Process Reform Debate: The Exchange of Storylines

This chapter's second and final part will detail the exchanges of storylines between the negotiating agents concerned with Kimberley Process reform. It will however, restrict this discussion to only those particular issues relevant to the situation in Sierra Leone. In so doing, it will offer an explanation as to why the negotiatory outcomes took the shape they did. The reader will notice that a striking feature of the following, compared to the preceding section's analysis of storyline exchange, is the lack of compromise on the part of the agents involved. This is a telling aspect of many of the Kimberley Process reform debates and represents a critical point of analysis. As a result, this chapter's concluding part will create a basis for the following chapter which will argue that this lack of compromise can be attributed to the strategic selectivity of the Kimberley Process; a strategic selectivity that enabled the defenders of the status quo to negotiate in the knowledge that ultimately Kimberley structures could be utilised to prevent any substantive changes to the regime itself. The previous chapter performed the function of outlining how in a 'real world' setting the Kimberley Process works to advance the interests of the TCC. As such, the structure of the following discussion will be based on the issues raised in the context of Sierra Leone and will seek to demonstrate how the regime works to dismiss policy reforms which may damage those interests. Those policy reforms and their related storylines may be presented by negotiators as remedies to general problems experienced across a range of states or they may relate to a specific instance within a specific state. As far as this study is concerned, however, the state to which the policy reform is raised in relation to is relevant only to the extent that that state's Kimberley related problem is shared by Sierra Leone. Accordingly, where the Kimberley strategic selectivity works to protect the interests

of the TCC in for example, DRC, it is also defending the interests of the TCC in Sierra Leone - this study's central empirical example.

### 8.2.1 The Conflict Diamond Definition

As discussed in the preceding chapter, a serious problem with regard to Sierra Leone's diamond resource resides in the continued presence of violence and social unrest associated with its exploitation. The harassment of artisanal miners and the incursion of medium scale mechanised mining interests being a key driver here (BB, Interview 11<sup>th</sup> March 2014; NG, Interview 5<sup>th</sup> March 2014; Le Billon and Levin, 2009 p.708). Clearly, however, this kind of violence is not prescribed by Kimberley Process stipulations:

[Violence associated with] dispossession, forced displacement, or child labour, apparently did not qualify as "gross human rights violations" under the Kimberley Certification Scheme. The international scheme only recognized the violence of "rebel movements aimed at undermining legitimate governments" selecting not only which, but also whose violence's mattered (Le Billon, 2006, p.791).

The lapse in judgement that saw state or private sector violence omitted from the Kimberley Process conflict diamond definition set the basis for a fundamental part of the reform agenda. In the context of Sierra Leone, an alteration in the definition of what constitutes a conflict diamond to take account of the types of violence outlined above would of course work to render illicit in the eyes of the Kimberley Process many of the practices described in the preceding chapter. Consequently, Freetown based civil society have consistently called for a change in the conflict diamond definition in the anticipation that such an alteration would change practices within the sector (CI, Interview 28<sup>th</sup> February 2015). This notion gained considerable support within the wider Kimberley Process policy making community as the extent of the violence perpetrated by the Zimbabwean authorities

on the Marange diamond fields became increasingly apparent (Global Witness, 2010; Human Rights Watch, 2009).

The drive to alter the conflict diamond definition so as to incorporate state and private sector violence in the process of diamond production has proved a major point of contention within the Kimberley Process. The key agents pursuing this change deployed a number of storylines designed to appeal to the opposed agents and their underlying *stasis* discursive positioning. The first of these storylines is undoubtedly a survivor from the formative debates as a former TNGO negotiator relates:

[During the formative Kimberley debates, industry and producing states] were terrified of...[a] devastating consumer turn-off and NGOs successfully used that threat...[to] get them into the KP...[W]e tried to do the same kind of thing with... changing the definition... [we argued] people don't want to buy diamonds that have been produced in situations of violence. You know, whether that's strictly speaking the conflict diamond situation from a rebel group or whether it's the government's own forces or whether it's a situation of kind of informal violence and so on. So that's how it was kind of presented, consumers are becoming more ethically aware and you're not responding to that (TO, Interview 19<sup>th</sup> February 2015).

With its basis in the first element of the *reform* discourse regarding the ethics demanding consumer, the evidence here suggests that the TNGOs deployed a storyline on this issue designed to resonate with the fourth element of the *stasis* discourse. This element accepts that the longevity of the diamond industry is dependent on that industry's ability to provide what consumers are assumed to demand – ethical diamond production – and that if this is not forthcoming then the market will discipline the industry in the form of declining sales. Ultimately this is

the tacit suggestion of the storyline as outlined above; the TNGOs by mentioning consumer mores are effectively cautioning laggards as to the possible outcome of inaction.

The 'ethics-demanding consumer' storyline, however, was not the sole storyline designed to press for the adoption of an altered conflict diamond definition. In practice, both within Kimberley meetings and perhaps more importantly outside them, specific rhetorical devices were deployed with the express purpose of embarrassing those advocates of the *stasis* discourse opposed to the definition reform. For example:

To argue for a minimalist interpretation of what a conflict diamond is...ignores the Kimberley Process brand... [Which makes] a promise to consumers that the diamonds it certifies are not linked to human harm. As evidence grows of how diamonds are in fact linked to state-sponsored human rights abuse, the Kimberley Process brand is being dragged through the mud, once again endangering those communities, countries and companies that depend on diamonds (Smillie, 2010, p.15).

Contained in the above passage is clear evidence of a storyline which was to be deployed frequently by those advocates of the *reform* discourse. Without resorting to naming specific individuals, the TNGO author of this passage seeks to embarrass those opposed to definitional reform. Quite clearly, Smillie attempts to create such embarrassment by fashioning the image of the Kimberley Process being 'dragged through the mud' and by then linking this to the (assumed) developmental human costs of doing so. In addition, such a storyline is made effective by the fact that this perspective is presented within a PAC policy document, released and promoted within the public domain in the hope of attracting wider media attention.

As in the case of the 'ethics-demanding consumer' such a storyline is designed to speak to the fourth element of the *stasis* discourse which maintains that the market

will discipline the industry if it fails to meet consumer wants – and that as a result the Kimberley Process must be seen as a success. Understood in such a context, exposing and embarrassing Kimberley participants regarding the regime’s lack of efficacy could prove a successful storyline and indeed it was one pursued with some vigour by the TNGOs throughout the reform debates. In this regard, a senior TNGO negotiator confirmed that a deliberate strategy designed to push for reform was to publish reports detailing an issue, a possible reform, and the supposedly spurious nature of the objection in the hope that by making those reports public “you hope or work to make sure that the media picks them up [and]... that makes governments and industry pay attention. Its public embarrassment, it isn’t the logic of the argument it’s the embarrassment” that holds the potential for reform (WP, Interview 22<sup>nd</sup> January 2014).

The storylines deployed by those agents in favour of definitional change elicited a varied response from the advocates of the *stasis* discourse which can be separated into four distinct storylines. Broadly speaking these storylines were designed to prevent (often via delay) the adoption of a definitional change and while, as of the time writing, these efforts were to prove successful this success owes more to the strategic selectivity of Kimberley structures than to any attempt on the part of *stasis* advocates to bridge with the *reform* discourse as the following chapter will discuss.

In the first instance, the storyline utilised by those advocates of the *stasis* discourse in opposition to conflict diamond definitional change was highly confrontational with regard to the TNGO community. In fact, this storyline appears to make no discernible attempt to forge compromise with those advocates of the *reform* discourse. In this fashion, this first storyline adopts the position of outright denial with regard to state and private sector human rights abuses within the diamond pipeline and, therefore, tacitly argues that an expansion of the conflict diamond definition is unwarranted:

I would not be the same person that had worked [with the TNGOs during the Kimberley Process formation]...if there was even the most single moment of doubt that this whole story of a torture camp [in Zimbabwe] brought by the BBC was a terrible...lie cooked by some frustrated people within the civil society community (Meeus, 2013).

This quotation from the sometimes UAE representative and chairman of the Dubai Diamond Exchange Peter Meeus<sup>33</sup> represents a key storyline from the perspective of the *stasis* discourse<sup>34</sup>. Clearly this storyline is not designed to court the TNGOs and there appears to be little attempt to speak to the *reform* discourse. It could be argued that this storyline may have been designed to influence otherwise neutral states with an inclination towards the *reform* discourse; however, this seems unlikely to be its core purpose as the evidence of diamond related violence in Zimbabwe was overwhelming. A more plausible proposition perhaps is that the true purpose of this storyline may lie in an attempt by Meeus to court the favour of African producing states by being seen to fight their corner thus garnering or reinforcing their support for the *stasis* discourse in general but more specifically for its first element which maintains that the Kimberley Process has largely been a success and requires as a result little or no alteration. Consequently, the tacit argument, as a former TNGO negotiator related, is that “the Americans are trying to gang up on us and they hate us and this is more neo-colonialism’...[by doing so Meeus] tries harder to be more African than most Africans” (WP, Interview 21<sup>st</sup>

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<sup>33</sup> Meeus’ position as both a state and industry representative was confirmed by a number of interviewees and is highly controversial (HD, Interview 5<sup>th</sup> February 2015; TG, Interview 4<sup>th</sup> December 2015). Clearly occupying both positions represents a serious conflict of interest as will be discussed in the following chapter.

<sup>34</sup> As previously noted, many proponents of the *stasis* discourse declined to participate in this study and Meeus in one such individual. Consequently, their storylines are traced through accounts of their positioning given by other interviewees present at Kimberley meetings and from their public pronouncements and authored documents. In this instance Meeus is elaborating a storyline in a presentation external to the Kimberley Process, however, other interviewees corroborated that this storyline was utilised also within Kimberley meetings (see WP, Interview 21<sup>st</sup> November 2014; TG, 4<sup>th</sup> December 2014).

November 2015). In practice, this storyline seems most likely to be designed to solidify the alliance between the UAE and the African producer states within the Kimberley Process forum.

A second storyline presented in opposition to definitional reform owes its foundations to the second element of the *stasis* discourse concerning the sanctity of state sovereignty:

[The WDC] insist[s] that the expanded definition be carefully considered, with all parties consulted, and that a decision be arrived through consensus...The purpose of the Kimberley Process is to defend the diamond pipeline... It should never become a tool to advance the narrow political interests of one group or another (WDC, 2012, p.5).

To make mention of ‘the need to consult all parties’ on the road to a consensus decision is to construct a storyline that has its base within the *stasis* discourse, and that is as a result supportive of the principle of sovereign decision making. Moreover by arguing that the Kimberley Process should not be used to ‘advance narrow political interests’, the WDC is tacitly arguing that the forced imposition of the interests of one group of participating states over another is illegitimate – a position that works to further reinforce the sovereignty principle. Indeed, a former TNGO negotiator not only confirmed the use of this storyline but argued that in the case of some African producing states this storyline was carried with considerable stridence:

[T]here was really a kind of an upsurge in confidence from the African diamond producing countries just to say, ‘you can’t tell us what to do. These are our resources and we are going to exploit them in the manner we see fit’... [S]o that also kind of came into the question of you know changing the definition, just you know, ‘don’t tell us what to do, these are our choices’ (TO, Interview 19<sup>th</sup> February 2015).

By utilising such a storyline the African diamond producing states, with the support of the WDC, are overtly asserting the rights of sovereignty and as such are drawing on the second element of the *stasis* discourse. There is some evidence that such a storyline would appeal to the important and influential states of Russia and China (and perhaps other neutral states) and may, therefore, seek to achieve a greater level of consensus around this principle (see TG, Interview, 4<sup>th</sup> December 2014). In addition, this storyline also makes some attempt to appeal to the *reform* discourse and its third element. This element of *reform* is often only tacitly and begrudgingly acknowledged by its adherents, however, sovereignty it seems is accepted as a powerful norm and one which has at least some inherent validity. Consequently, the 'these are our choices' storyline may have some resonance with the *reform* discourse even if its adherents are sceptical as to its validity under these conditions.

With roots also in the second element of the *stasis* discourse a third storyline pressed further the supposedly inviolable premise of state sovereignty. However, unlike the first two storylines discussed above, the position adopted here by those opposed to reform, as related by a TNGO negotiator, was not absolute. In other words, there is within this storyline the potential at least for discussion and compromise:

I think that for people who were democratically challenged, to say it diplomatically, they saw this [definitional reform] as the thin end of the wedge and [that] we would start talking about systemic violence and then later it would spread to other stuff so they just wanted to nip it in the bud (TG, Interview 4<sup>th</sup> December 2015).

The storyline related here is implied but makes a clear attempt to appeal to the first element of the *reform* discourse in that there is a tacit acknowledgment that ethics in diamond production may at least be a desirable goal. However, it then maintains that introducing human rights considerations to the conflict diamond issue may lead to a broadening of the spaces within those societies in which such principles



could be seen as valid. For those negotiating, therefore, such a move may create issues for their compatriot political elites in other spheres. What is noticeable about this storyline is that it leaves space for negotiation – an opportunity that the advocates of the *reform* discourse sought to grasp by presenting a persuasive counter-storyline:

[We argued] we were not going to be looking at a country's wider human rights problem, we were not going to be going after Zimbabwe for its election related violence or Israel for the West Bank or the US for Guantanamo or Canada for treatment of first nation people or China - Tibet or Russian - Chechnya. I mean we weren't going to have those discussions, it was clearly about diamond related violence (ibid).

This storyline endeavours to bridge with the *stasis* discourse by attempting to speak to its second element and its concern with the preservation of the sovereignty of the state. This storyline implies that any surrender to an external authority of the right of the sovereign state to govern as it pleases within its own borders will be strictly limited to its diamond sector. This counter-storyline, however, appears to have gained little traction.

Whilst it can certainly be argued that the three storylines outlined above make scant attempt at compromise with the *reform* discourse, it is somewhat surprising that a fourth and final storyline should offer an opportunity for just that:

So let me come with a solution [to the inclusion of human rights within the conflict diamond definition]...obviously human rights are a precious thing which should be defended...[But] I cannot give the right to judge over whether human rights have been violated to organisations that have accused me wrongly [of violations]...But there are bodies in the world that... have within their structure the experience...to judge, institutions which we can respect (Meeus, 2013).

In contrast to the first two of the three preceding storylines, there is here a clearly discernible attempt to bridge with the *reform* discourse and to thereby appeal to its advocates. Whilst Meeus may deny that human rights violations have occurred in certain states, in the above quotation he is plainly utilising a storyline that indicates that such abuses are unacceptable. This storyline, therefore, represents something of a concession to those supporters of *reform* by being in accordance with the discourse's first element. As such, this statement is designed to convince the opposed agents within the TNGOs and consuming states of the need for a policy prescription which maintains that an objective assessment of potential human rights breaches must be incorporated into the Kimberley Process so as to enable judgement under any expanded definition. This policy prescription and accompanying storyline has been pursued with some enthusiasm by those advocates of the *stasis* discourse within Kimberley meetings (see HD, Interview 5<sup>th</sup> February 2015). While at first it may appear that this policy prescription and storyline may offer a way forward for all concerned, in terms of definitional change, it does in fact appear to be an expression of the strategic selectivity of the Kimberley Process as the following chapter will discuss.

#### Outcome:

For those proponents of the *reform* discourse the counter-storyline outlined above was to prove unsuccessful, with certain portions of industry and principally the African diamond producing states continuing to object to definitional reform (TG, Interview 4<sup>th</sup> December 2014; OB, Interview 25<sup>th</sup> February 2015). As of the time of writing the debates concerning the alteration of the conflict diamond definition continue (as they have done for some years). At the recent Kimberley plenary meeting in China the issue was again discussed and resulted only in a "commitment to continue the dialogue" (WDC, 2014, p.1). As will be discussed in the following chapter, this study maintains that the lack of compromise here can be explained by the strategic selectivity of the Kimberley Process. Kimberley structures seem work

to negate compromise by institutionalising delay through various means whilst still allowing for the kind of conciliatory discussion that has the capacity to keep frustrated agents engaged (but unsuccessful). This has the effect of preventing, potentially damaging unilateral action to the Kimberley hegemonic project in the form of state and TNGO defections and consumer campaigns.

### 8.2.2 The Secretariat

For Freetown based civil society a possible remedy for the issues afflicting the diamond sector in Sierra Leone may lie, at least in part, in the introduction of a Kimberley Process secretariat. In particular, the introduction of such a body would provide, it was hoped, an opportunity for smaller producing states such as Sierra Leone to assume the responsibility of Chairing the Kimberley Process (BB, 11<sup>th</sup> March 2014). Chairing the Kimberley Process should in theory provide a greater voice to the nation performing this role as “you can control the agenda, you can control the debate and the discussion” (WP, Interview 21<sup>st</sup> November 2014). Assuming the Kimberley Process Chair is expensive for the state concerned and Sierra Leonean civil society hoped that the creation of a secretariat would alleviate some of the associated administrative costs, making the role more attractive for the Sierra Leone government (BB, Interview 11<sup>th</sup> March 2014). The hope for the TNGOs was, therefore, clearly that if Sierra Leone was able to assume the Chair then they would in turn be better able to affect the agenda to the extent that the problems afflicting the Sierra Leonean diamond sector could be addressed directly. Once again, however, it is interesting to note that this particular call for Kimberley reform was not isolated to those concerned with the political economy of the Sierra Leonean diamond sector. In fact the call for the creation of a Kimberley Process secretariat was taken up by a broad array of agents within the Kimberley forum in the hope of improving the regime’s efficiency. This, it was anticipated, could be achieved by allowing a secretariat to arrange meetings, communicate the agenda to all participants and to function as an institutional memory (HD, Interview 5<sup>th</sup> February

2015; TG 4<sup>th</sup> December 2014). Given that the Kimberley Process encompasses some 54 participating states (the EU is a single participant) the introduction of a secretariat would seem a reasonable proposition, however, this notion caused considerable controversy, lengthy debate and for many ultimately an unsatisfactory outcome as the following chapter will discuss.

For those agents pressing for the introduction of a secretariat this policy was initially presented with a single key storyline, stemming from the first element of the *reform* discourse, and designed to speak directly to the fourth element of the *stasis* discourse. As such those advocates of *reform* presented a storyline which tacitly argued that, for the Kimberley Process to be seen as a success by consumers, it needed to be effective and that this in turn required administrative coherence – a quality that it was argued a secretariat could provide:

The main things we focused on were the inefficiency of the organisation...If you're not in a couple of the working groups...then you have basically no idea what's going on in the KP at any given time. So if you're Switzerland or Korea or Tanzania, you don't have a clue... I mean there are times literally when people... would be emailing me a month before a meeting saying 'is there a meeting...?' I mean no communication at all... When we had the Zimbabwe crisis... we could have got through that much more efficiently if there had been a secretariat (HD, Interview 5<sup>th</sup> February 2015).

There is some evidence contained within this comment from a former state negotiator of a storyline designed to appeal directly to the fourth element of the *stasis* discourse. As interviewee HD indicates, at Kimberley meetings it was a deliberate strategy of those advocates of the *reform* discourse to draw attention to the inefficiency of the Kimberley Process. By doing so, the implication of this storyline is that for Kimberley to be seen as a success by consumers, as the fourth

element of the *stasis* discourse maintains it must, it is essential that it function efficiently and this requires a secretariat. Indeed outside of Kimberley meetings the attempts of the advocates of the *reform* discourse to appeal to this fourth element of the *stasis* discourse with regard to the secretariat were more overt:

[The cost of establishing a secretariat] is a small amount and one that no consumer would object to if it led to a certification system that governments, the industry and civil society could point to with pride and say, '*it works*' (Smillie, 2010, p.17, emphasis in original).

As in the above quotation from state negotiator HD, Smillie, a former Kimberley Process TNGO negotiator himself, is making an explicit attempt to link consumer expectations of an efficiently functioning Kimberley Process to the establishment of a secretariat. In concert with the attempts of HD, therefore, Smillie is attempting to forge agreement on this issue by appealing to the fourth element of the *stasis* discourse. On balance, however, the evidence suggests that 'the consumer demands an efficient Kimberley' storyline made little impact with the proponents of the *stasis* discourse who deployed their own highly distinctive storyline as a defence for the status quo.

With its roots in the third element of the *stasis* discourse regarding the sanctity of the principles of sovereignty, opponents of the establishment of a Kimberley Process secretariat utilised a storyline designed to appeal to the third element of the *reform* discourse, which places an emphasis on the centrality of the state within the Kimberley forum and which accepts the norms of sovereignty, in the hope of dissuading its proponents:

[The opponents to the creation of a secretariat argued that by] calling it a secretariat it would have executive powers of some kind and there would be a risk of creepage in terms of power and they want sovereignty to remain with [Kimberley] plenary...[The concern was that a Kimberley

secretariat would] start developing policy by itself – and it'll be surreptitiously done. This is what they fear (OB, Interview 25<sup>th</sup> February 2015).

The mention here, by a leading industry negotiator, of the issue of 'creepage in terms of power' with regard to the sovereignty of the Kimberley Process plenary (and therefore its constituent states) appears to indicate the utilisation of a storyline which seeks to implant the notion that, by creating a secretariat, the Kimberley Process is almost inevitably introducing a body that will, by degrees and over the course of time, become an autonomous body. The suggestion then follows that such an organisation may seek to develop and pursue an independent political agenda. Such a storyline clearly speaks to the *reform* discourse and its, albeit tacit, acknowledgment of the principles of sovereignty.

This study's interview data certainly appears to support the notion that the 'politicking secretariat' storyline had some considerable effect as a state negotiator related:

[E]veryone was phobic of talking about a secretariat because they were worried that a secretariat would have some kind of policy or political voice on the KP and they wanted to avoid that and they wanted to really neutralise it and make it purely about paper pushing (FI, Interview 23<sup>rd</sup> March 2015).

As a consequence of the 'politicking secretariat' storyline, therefore, a secretariat was introduced to the Kimberley Process but under the guise of an 'Administrative Support Mechanism' (hereafter ASM) and being as "words are everything in the Kimberley Process" this alteration in terminology played a considerable role in the creation of what is now termed the ASM (OB, Interview 25<sup>th</sup> February 2015).

While the introduction of the ASM may appear as something of a victory for those in favour of reform, in practice the substantive details of this arrangement

effectively neutralised it as a means of generating a more equitable and efficient Kimberley as its advocates in both Sierra Leone and in the wider international community had hoped. In reality, the ASM was created, and in terms of its efficacy, destroyed simultaneously. Whilst the discussion as to the cause of its effective nullification must wait for the following chapter, the details of exactly how agreement as to the format for the ASM was reached does, however, concern us here as a series of storylines were exchanged in order to achieve a particular form. For the TNGOs and reform minded states their preferred form was conveyed with some familiar storylines:

We argued for a professional office similar to what you see in EITI [Extractive Industries Transparency Initiative] where you could have...people who understood issues with the KP and diamonds and artisanal mining and you know technical knowhow – very small though like may be five people...[It] would provide advice on technical matters it would be one that would help the KP chair... be the sort of institutional knowledge about things...it would organise teleconference calls and would help with the actual organisation of the KP... and I think we had a very modest budget I think it was under a million bucks. It was pretty reasonable. That was our position and our perspective (TG, Interview 9<sup>th</sup> April 2015).

This statement from a leading TNGO negotiator contains three storylines and appears as an expression of the *reform* discourse and its first and second elements. These two discursive elements maintain that consumers demand ethical diamond production and that if this is not forthcoming then they may shift their buying habits – to the detriment of an industry whose continued good health is broadly desirable owing to its contribution to the development of producing states. The three storylines expressed by the TNGOs and the reformist states are here clearly discernible. In the first instance, the reformist agents are emphasising the

professional and expert nature of the proposed body in the hope of appealing to the *stasis* discourse and its concern that policy should always be formed on the basis of expert consultation. A second storyline seeks to bridge with the *stasis* discourse by emphasising how such a format for the ASM would assist the Kimberley Process in terms of efficiency. Such a storyline may have some resonance with the fourth element of the *stasis* discourse and its concern with the notion that Kimberley must be seen to be effective in the eyes of consumers. Finally, a third storyline concerns cost; clearly this storyline attempts to speak to the *stasis* discourse by emphasising the relatively low financial commitments associated with the introduction of such a format for the ASM. In this regard, this storyline attempts to speak to the sixth element of the *stasis* discourse and its assertion that the diamond industry is of benefit to (developing) producing states and, therefore, requires careful preservation – in this instance in the face of any increase in industry regulation.

While reform minded agents may have believed that these storylines built a reasonable case for the introduction of a centralised and professional ASM as interviewee TG argues above, those advocates of the *stasis* discourse clearly did not feel this was the case:

[T]he counter-proposal was really put on the table by the World Diamond Council [WDC] and it sort of had a very decentralised system where I think you had it split into I think about five parts...We, I just thought it was a very cumbersome, it wasn't very efficient... [But] the response back [to the proposal for a centralised ASM] was that, countries like Russia and others, was that we were creating a bureaucracy that was going to get very unwieldy [and] very costly...and the WDC's perspective won (ibid).

Clearly for many sceptical Kimberley participants the storylines arrayed in support of a centralised ASM failed to resonate strongly enough with the *stasis* discourse to



bring about the adoption of this format. Consequently, concerns about the cost implications of such a body coupled with the fear of an encroaching bureaucratic inertia (itself related to cost concerns) saw the rejection of a centralised ASM in favour of a disparate support mechanism. Clearly given the stress on cost implications as justification, there resides the potential here for the effects of strategic selectivity. For the sake of clarity, however, a full discussion of this area must wait for the following chapter.

### Outcome

Its final format notwithstanding, clearly it is possible to view the creation of any ASM in any format as a victory for those agents in favour of Kimberley Process reform. Certainly an ASM does exist and it can, ostensibly, offer support to any state wishing to assume the Chair. Theoretically this should make such a proposition both possible and more attractive for a state such as Sierra Leone which can then use this position to drive a reform agenda that may speak to those issues internal to its own diamond sector. Such an understanding is, however, misleading. This section's concluding chapter will argue that in fact the strategic selectivity present within the secretariat debate resulted in the creation of an entirely dysfunctional ASM which then works strategically selectively to maintain the advantages enabled by the implementation of the Kimberley Process.

### 8.2.3 Review Visit Report Transparency

With the country affecting so many apparent breaches of Kimberley Process protocols, a real issue highlighted by Sierra Leonean civil society was a lack of transparency regarding review visit findings. Freetown based civil society representatives argued that should such findings be made public it would enable the application of greater pressure from civil society with regard to the Sierra Leonean government (BB, Interview 11<sup>th</sup> March 2014). By implication of course, such transparency would also accord pressure groups external to Sierra Leone, including

the Kimberley Process itself, the same resource – creating, theoretically at least, significant pressure to comply. What is revealing about the Kimberley debate regarding increased transparency, however, is that in essence there appears to have been no counter storyline to that offered by those advocates of the *reform* discourse. The *reform* discourse storyline offered was tacitly accepted by the proponents of *stasis*, and ostensibly at least, transparency with regard to review visit findings was greatly increased. Unfortunately, however, this apparent victory for those in favour of reform was to prove something of a false summit – an issue the following chapter will address.

With the objective of increasing transparency in mind, specific agents – advocates of the *reform* discourse – implemented a particular strategy that carried with it a tacit yet powerful storyline as a leading TNGO negotiator related:

On the issue of the reports I think that was a pretty significant win and again I think we were lucky... [as we] had representatives from countries like the United States who in their role as being the Chairman... essentially just took the lead and started posting things online... I think just doing a reverse onus where they said 'we are going to put everything online unless you tell us...what it is you don't want publicised and then... if you don't say you don't want it publicised we are essentially going to publicly post it' (TG, Interview 9<sup>th</sup> April 2015).

The United States Chaired the Kimberley Process in 2012 and by acting in the manner described above effectively used a storyline designed to appeal to the fourth element of the *stasis* discourse. That fourth element maintains that the Kimberley Process must be seen to be a success in the eyes of consumers. From such a position it follows that for any participant to openly request that a report be suppressed, under conditions whereby all documents are published as a matter of course, such a request would very likely result in legitimate questions from the wider TNGO

community, and potentially the international media, as to why the state in question has requested that suppression. Such a request may also see questions raised as to what the Kimberley Process is hiding on behalf of a participant, and perhaps more importantly, why it is willing to assist in this manner. Clearly such a situation would have the potential to damage the Kimberley Process' veneer of efficacy with regard to conflict diamonds and, therefore, also damage consumer confidence. Consequently, this US strategy saw the 'openly state the objection' storyline tacitly accepted by the proponents of the *stasis* discourse.

### Outcome

The 'openly state the objection' storyline was an astute political manoeuvre by the US that left opponents to the principle of greater transparency with little option other than to submit. Consequently as of 2012, in theory at least, review visit reports and other potentially restricted documents are published on the publically accessible part of the Kimberley Process website<sup>35</sup>. For civil society groups in Sierra Leone such reforms provide, in the event of a Mano River region review visit report being published, the means through which to lobby their own government with regard to greater compliance. While this may appear as a 'win' for the progressive elements within Kimberley, there are perhaps reasons to be more sanguine as to the likely outcome of this manoeuvre. As will be discussed in the following chapter, the strategically selective mechanisms present within the Kimberley Process have the capacity to render this win meaningless in practice, and indeed there exists some evidence that these mechanisms may in fact be affecting the efficacy of this transparency agreement – potentially offering a vital service to the interests of the TCC.

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<sup>35</sup> For confirmation see <<http://www.kimberleyprocess.com/en/documents>>

#### 8.2.4 Smuggling and Tax Evasion

A fundamental issue regarding Kimberley implementation in the context of Sierra Leone concerns the ease with which smuggling can be conducted and the extent to which that practice is occurring (BB, Interview 11<sup>th</sup> March 2014; CM, Interview 10<sup>th</sup> March 2014; DG, Interview 10<sup>th</sup> March 2014). Whilst this issue has been raised at Kimberley meetings with regard to the situation in the Mano River region, the problem of diamond smuggling for the purposes of tax evasion became entangled within wider debates which had at their centre the UAE and its perceived role as a transfer pricing facilitator (BB Interview 11<sup>th</sup> March 2014). The intransigence of the UAE with regard to this problem not only worked to prevent the adoption of reforms that may have assisted in preventing Mano region smuggling for the purposes of tax evasion, it also pushed those agents in favour of the related Kimberley reforms to follow an entirely different path in order to secure them – one which sought to bypass the Kimberley plenary entirely. Interestingly, this reaction appears to have been achieved with little in the way of storyline exchange. While the following chapter will address this issue in detail, what is important to note at this point is that both outcomes have the potential to further the interests of the TCC – indicating the presence of strategic selectivity.

To some extent, addressing the issue of smuggling and tax evasion within the Mano region could potentially be achieved through the improved training of diamond valuers and through an investment in improvements in the running of the region's diamond export offices. Such initiatives would better enable the exporting authorities within each Mano region state to identify non-indigenous production submitted for export. Theoretically this may enable, for example, Liberian valuers in Monrovia to identify Sierra Leonean production being declared as Liberian for tax purposes. This could lead to an increase in prosecutions and potentially a related fall in smuggling. As this chapter has documented, it is very often the case that Sierra Leonean Kimberley issues feed into wider problems with regard to

implementation and compliance and Sierra Leone's problem with smuggling and tax evasion is no exception. Sierra Leone's travails in this area have to some extent been overshadowed by a similar problem with regards to the UAE – problems that could also potentially be resolved via increased Kimberley attention with regard to diamond valuation in producing states.

UAE has, for many observers, a problematic relationship with certain African producing states, the basis of which was well surmised by a 2013 Financial Action Task Force report (hereafter FATF):

The value of the exported rough diamond [from UAE] and the average price per carat is almost 50% higher than the value of imported rough diamonds. For 2011, the average price per carat for export in the United Arab Emirates is 74% higher than the average price per carat on import.

These are the same rough stones going in and out (FATF, 2013, p.32).

What appears to be occurring in the case of UAE is that diamond exporters within African producing states such as Zimbabwe and DRC are colluding with state employed diamond valuers so as to precipitate the undervaluation of diamonds and their concomitant undervaluation on Kimberley Process export documents (PAC, 2014). The motivation behind this practice is quite straightforward; UAE applies zero percent tax to all imports and exports as where the export tax in DRC stands at 3.75 percent (ibid p.2 and p.17 respectively). Consequently, diamonds can be undervalued in DRC so as to avoid export tax and then imported and traded at their true value in zero-tax UAE, creating a considerable tax economy.

The undervaluation of diamonds on KPCS certificates is a breach of Kimberley stipulations as described in Annex I (see KPCS p.12). In addition, such practices not only allow conflict diamonds to be hidden in artificially low export statistics they also quite obviously reduce the fiscal base of some of the world's most poorly resourced governments. This course of events is likely to elicit a response from those

advocates of the *reform* discourse given its assertion regarding the consumers concern with ethical diamond production. However, this issue is a relatively recent one within the Kimberley forum and there appears to have been little historical discussion regarding any possible remedies:

During its chairmanship of the Kimberley Process in 2011, DRC sought to make undervaluation of diamonds one of its legacy issues. Although it received support... the issue stalled in the face of industry resistance, and was largely overshadowed by the debate about whether or not to lift export restrictions on Marange diamonds from Zimbabwe (PAC, 2014, p.22).

Unsurprisingly perhaps given the salience of the Zimbabwe crisis during this period, there appears to have been little by way of storyline exchange regarding undervaluation. What has become apparent in more recent times, however, in the wake of the publication of the 2013 FATF report and of PAC's 2014 report *All That Glitters is not Gold*, both of which raised the issue of diamond undervaluation, is that UAE were prepared to pre-emptively utilise a storyline which, in common with many of the storylines outlined above, makes no attempt to forge agreement on this issue. Indeed it seems likely that this storyline was deployed specifically to close down any discussion of Kimberley reform that might see greater provision for training and/or closer scrutiny of producer state diamond export valuation:

So they [Meeus and other UAE representatives] come, it seems to me, wanting to basically engage on the basis that all their systems trading in diamonds in Dubai are absolutely world class, there is nothing that needs to change. So they just come in a sort of defensive mode trying to say... that everything is hunky dory and that transfer pricing is not a problem (FI, Interview 23<sup>rd</sup> March, 2015).

Such a storyline appears to have had a profound impact upon how the progressive forces within the Kimberley Process concerned with the issue of smuggling and tax evasion in the context of Sierra Leone have approached reform in this area. Clearly this stance would indicate the UAE's opposition to any Kimberley reforms designed to improve diamond export valuation, a perspective that also closes a possible avenue for alleviating Sierra Leone's problems with diamond smuggling and tax evasion.

### Outcome

Essentially, UAE's storyline on the issue of undervaluation and transfer pricing, which involves a complete denial of the problem, has seen the TNGOs and progressive states abandon the Kimberley meetings as a potential site in which such issues could be addressed, preferring instead to use the Kimberley forum as means to address the affected states themselves directly:

I think in the KP that...sometimes when the KP is presented with an idea...they find excuses to reject it... I think... if you do this [regional] approach that we're doing in West Africa, you get the political support of four countries, these four countries agree that they're going to do it. It doesn't matter what Dubai says, Dubai is not part of the conversation, this is about four countries agreeing that they want to work together on an issue (TG, Interview 4<sup>th</sup> December 2014).

The stance of UAE as outlined above renders the prospects of Kimberley Process reform designed to bring about better diamond valuation remote. In the context of the Mano region this means smuggling and tax evasion are unlikely to be addressed directly by the Kimberley Process. The outcome of this course of events, as interviewee TG outlines above, is that those seeking better compliance in the region have pursued strategies towards that end, still ostensibly under the auspices of the Kimberley Process but not designed to alter the regime itself directly.

### 8.3 Conclusion

What should be apparent from the analysis of this chapter is the extent to which the tone of the debates altered from those debates that surrounded its formation to the more recent debates regarding its reform in the light of its short-comings. In the case of the former, where there was disagreement, the negotiating parties often gave ground to achieve a compromise agreement; in the case of the latter, however, the tone of the exchanges of storylines seems to have hardened considerably. Increasingly it seems that, in particular those advocates of the *stasis* discourse have often been entirely implacable in their opposition to certain reforms – a negotiatory position that those in favour have struggled to counter. While there are differences between these two spheres of analysis it is interesting to note that for the TCC involved in the Kimberley Process' formation, the protection of their interests lay within a strategic selectivity that had its basis in social structure, and so although the TCC was compelled to give ground on particular points its material interests were, to a significant extent, safe-guarded. However, as the following chapter will discuss while the strategic selectivity of social structure continued to play a role in the debates regarding Kimberley reform, for the most part the TCC could now rely on the internal mechanisms of the Kimberley Process itself to work strategically selectively in their interests – facilitating the lack of compromise that we witness above.



## Chapter Nine

### Strategic Selectivity and the Kimberley Process Reform Agenda

What is evident from the discussion of the preceding chapter is that the exchanges of storylines regarding Kimberley Process reform resulted in remarkably little progress. This chapter will seek to identify the underlying causation of this inaction and will argue that the strategic selectivity of the Kimberley Process, itself inherited from wider social structure, represents the mechanism which explains the regime's stalled reform agenda. It must also be remembered, however, that the influence of strategically selective wider social structure can still be felt within the Kimberley Process negotiating forum – such debates don't take place in a social vacuum – and as such its conditioning effects can also be detected within the reform debates. With this in mind, this chapter will move through the reform debates, as discussed above, detailing the effects of strategic selectivity on those debates before outlining how these effects work in practice to further the interests of the TCC. The political economy of Sierra Leone and the effects of this strategic selectivity for the concerned fractions of the TCC will form the primary focus of this discussion; however, attention will also be given to the effects of this strategic selectivity on the interests of the wider TCC.

#### 9.1 Strategic Selectivity, the Secretariat debates and the ASM

The two preceding chapters of this section discussed in some detail the possible benefits not only to a state such as Sierra Leone but also to the wider Kimberley community of the creation of a secretariat. It was anticipated that the creation of such a body would enable those states with fewer resources such as Sierra Leone to Chair the Kimberley Process and indeed more broadly the expectation was that it would improve the efficiency of the body itself to the assumed benefit of all concerned. An extensive exchange of storylines notwithstanding, the proposal of a

centralised secretariat was rejected by Kimberley Process participants in favour of a highly decentralised 'Administrative Support Mechanism'. In fact this debate, followed by the resulting adoption of the ASM, is a microcosm of this study's broader argument as these debates were themselves affected by the strategic selectivity of wider social structure which then in turn created a strategic selectivity within the Kimberley Process itself as the analysis of this chapter will demonstrate.

Ultimately the storyline which appears to have precipitated the adoption of the ASM in its current form resided in the notion that a secretariat would become cumbersome and expensive – this storyline maintained that the TNGOs' proposal would create a "bureaucracy that was going to get very unwieldy [and] very costly" (TG, Interview 9<sup>th</sup> April). That this argument prevailed is surprising given the practicalities of the proposition itself:

For anyone in or connected to the diamond industry to decry the possibility of having to spend a small amount of money on a... [secretariat] makes no sense whatsoever. If a secretariat were to cost double the numbers here, and if the cost were to be borne by the industry alone, it would represent less than 0.007% of global annual diamond sales, less than \$7.00 on every thousand-dollar diamond ring. This is a small amount and one that no consumer would object to (Smillie, 2010, p.17).

The costs to the diamond industry of establishing a secretariat were extremely small. In addition, as this source points out, there is no suggestion that the profit margins of the sector would suffer as the secretariat costs could be recovered from the consumer. The fact that even these small costs were deemed prohibitive suggests the influence of a strategically selective social structure which appears to render unreasonable the notion that the industry could be asked to bear *any* additional costs. This aspect of the strategic selectivity of social structure was observed in the

preceding section and certainly the debates surrounding the creation of a secretariat provide further evidence of this proclivity.

A further example of the aversion to the imposition of any additional cost on industry can be found in the very same secretariat debate. As noted above, with regards to a secretariat there was concern of a “risk of creepage in terms of power” and that such a body might “start developing policy by itself” (OB, Interview 25<sup>th</sup> February 2015). In addition, further concern centred on the notion that to introduce such a body would be to effectively create a bureaucracy that may prove ‘unwieldy’. These arguments formed a persuasive feature of the storyline which eventually saw the proposition of a centralised secretariat abandoned. Once again, that such arguments should prove so convincing is somewhat surprising, this is particularly the case given the manner with which business within the industry is already conducted – a necessity when the high value nature of the product is considered:

You look at the way in which you know big companies, whether its De Beers, Alrosa, Endiama you know take your pick – if it’s a diamontaire even in Surat - these guys will be able to account for every single bloody stone, down to the stone. I mean if you go into a, for example, any sorting house in the world...a guy who’s working in a sorting room, you’re evaluating whatever it is, you’re given a parcel of diamonds, you open up that parcel and you have to account for every single carat. They count it, they weigh it, they do everything (TG, Interview 9<sup>th</sup> April 2015).

Diamonds have an extraordinarily high value but owing to their physical features they are also easily stolen and as such the industry as part of its day-to-day management incorporates a considerable amount of accounting and cross-checking. Regardless, therefore, as to whether a secretariat would in fact increase this bureaucratic burden it hardly seems that its establishment would prove overly onerous to an industry that must already be considered intensely bureaucratic.

Furthermore, the notion that such a body may prove unwieldy and power hungry also seems unlikely being as the policy suggestion was that the secretariat should have a staff of just five people and that its mandate be restricted solely to administrative matters (ibid). Such a body is hardly either unwieldy or indeed a threat to the sovereignty of some of the world's most powerful states.

Consequently, it certainly appears that those arguments arrayed in opposition to a secretariat, and their acceptance, can be attributed to motives other than the idea's intrinsic merits in this instance. As such, it seems reasonable to posit the notion that such a cognisance may in fact owe much to an understanding of political economy that has its basis in neoliberal economic policy making.

For those advocates of neoliberal political economy "the governmental power which they chiefly fear is that vested in bureaucratic agencies" this is simply because "[t]heir economic critique of interventionism stresses mal-allocation and disequilibria" (Oliver, 1960, p.124). Such a cognisance would clearly generate reluctance with regard to the establishment of a Kimberley Process secretariat. According to this mode of thought, the introduction of a secretariat to the regulation of the industry would result in 'mal-allocation' and, therefore, ultimately incur costs for the industry. It certainly seems possible that this notion may in fact be what lies behind the concern that the secretariat may surreptitiously acquire power. It seems unlikely that such a body could seriously threaten the sovereignty of a state such as Russia over its diamond sector. That said, it is possible to conceive of a situation whereby such a body, simply through the power associated with its own internal modes of administration with which the industry and producing states would have to comply, may result in both bearing additional costs, no matter how small. Theoretically these costs would be unavoidable as they are inherent to the very existence of a bureaucratic agency and would occur even where that body has no formal policy making mandate. It seems that such concerns were very real for the industry:

[T]he diamond industry is one that has 8000 trade associations... So on one level my guess is that the industry thought we can't, not another secretariat, not another organisation, not another thing that we have to pay for... That was my sense, that the industry was worried about that (HD, Interview 5<sup>th</sup> February 2015).

It therefore seems reasonable to contest that the abandonment of the idea of a centralised secretariat on the basis that this would create an unwieldy and power hungry bureaucracy may in fact be an expression of strategically selective wider social structure and one in possession of neoliberal characteristics – a hypothesis discussed in some detail in the preceding section.

What appears to be characteristic of the secretariat debate is that, despite the intrinsic merits of such a body in terms of facilitating the efficient operation of the Kimberley Process, ethical considerations were subordinated to those of cost. Regardless of the fact that the associated costs would have been small, it certainly appears that such concerns played a significant role in the rejection of a centralised secretariat. Consequently, in this instance it seems that the strategic selectivity of social structure worked to render unreasonable the notion that the Kimberley Process should establish a secretariat on the apparent basis that such a body may increase costs by proving obstructive to the diamond trade and, therefore, the concerned fractions of the TCC.

## 9.2 Kimberley Reform: Strategic Inclusion and Exclusion

### 9.2.1 The ASM: A Strategic Inclusion

As this chapter progresses, the nature of the ASM as a strategic inclusion will become increasingly apparent. The evidence of this study suggests that the introduction of the ASM has made little material difference to the efficient running

of the Kimberley Process and in fact the organisational void that it was intended to fill affects many of the debates that this chapter will address. Consequently, much of the strategic selectivity associated with the lack of a proper bureaucracy at the heart of the Kimberley Process will in fact not be discussed directly here but will instead be something of a recurring theme as the chapter and its arguments develop. Before the chapter can move on, however, there is a strategic selectivity associated directly with the ASM, one which involves the utility of the ASM itself to a state such as Sierra Leone.

Whilst the introduction of such a disparate body as the ASM may not have been the optimal outcome in the eyes of those adherents/proponents of the *reform* discourse, the establishment of any system to support the Kimberley Process Chair could be seen as a significant progression. Theoretically this should reduce the administrative burden and enable Sierra Leone and other states like it to chair the Kimberley Process and to have the problems associated with their own sectors' placed high on the agenda. It is hard to argue, however, that in practice the ASM offers this relief to the Chair.

It is telling perhaps that many prominent Kimberley negotiators, both past and present, cannot name the four functions of the ASM and which institutions are responsible for administering those functions (see FI, Interview 23<sup>rd</sup> March 2015; TG, Interview 9<sup>th</sup> April 2015; WP, Interview 21<sup>st</sup> November 2014). In fact, one former state negotiator maintained that the ASM was so "remarkably inefficient... [that it was] arguably not much better than what we had before" - which was nothing (HD, Interview 5<sup>th</sup> February 2015). In some instances, nothing is precisely what the ASM has offered. Ghana for example was supposedly the ASM's provider of advice and support on technical assistance, however, this "resulted in zero activity, zero. Nothing happened at all...I don't think they even issued a single email to anyone" (WP, Interview 21<sup>st</sup> November 2014). Whilst the ASM fails to offer support it also, it appears, fails as an administrative mechanism. When one participating state

requested it communicate with other participants the ASM again proved inadequate:

[To achieve a given outcome you need] a written procedure to get responses from a minimum number of KP participants within a certain period of time and they [ASM] hadn't sent it to everyone so it was very frustrating... we hadn't even been sent it ourselves (FI, Interview 23<sup>rd</sup> March 2015).

Since its introduction the ASM has proved to be deeply inadequate in terms of offering support to the Kimberley Process Chair. Its disparate nature perhaps and a lack of commitment and/or capacity from those charged with administering its functions has produced an ASM that scarcely deserves the acronym. For a state such as Sierra Leone the inefficiency of the ASM may make it hard for civil society to lobby their government to assume the Chair simply because political elites can legitimately reply that the state does not have the capacity to do so where the ASM offers no substantive assistance. Consequently, the creation of the ASM appears to be a strategic inclusion as its inefficiency provides a reasonable argument that may reduce any pressure on Sierra Leonean political elites to Chair the Kimberley Process – a role that may have enabled Freetown based civil society to draw the international community's attention to the nation's non-compliance, thereby threatening the economic interests of those fractions of the TCC invested there.

### 9.2.2 Conflict Diamond Definitional Change: Strategic Exclusion

For many within the TCC, an alteration in the conflict diamond definition designed to incorporate violence perpetrated by state and private sector agents could prove a significant barrier to capital accumulation. Certainly in the context of Sierra Leone such a change could greatly alter the terms on which the industrialisation process as described in this section's opening chapter could proceed. Should such an alteration be adopted, then the kinds of social unrest and violence that have been a

feature of the incursion of industrial players onto Sierra Leone's artisanal diamond fields could render those diamonds illicit in the eyes of the Kimberley Process. In practice, this makes the stifling of those attempts to alter the conflict diamond definition led by the advocates of the *reform* discourse a strategically exclusive outcome. Whilst the exchanges of storylines as discussed in the previous chapter give an indication as to how the disagreements have continued, it does little to indicate why there has been no resolution to the issue and what the underlying causes of that might be. The following discussion will posit the notion that the lack of agreement on this issue owes much to the Kimberley Process and the strategically selective structures of the regime itself. This strategic selectivity has worked to reduce the leverage available to progressive forces within the Kimberley Process, delaying seemingly indefinitely, decision making on this issue. The net result of this is the production of a long term institutional inertia which ultimately maintains the legitimacy of the violence associated with the displacement of Sierra Leonean artisanal miners in the eyes of the Kimberley Process.

In the first section of this study's analysis it was noticeable that while the notion had its limits, the threat of the ethics demanding consumer carried considerable weight with those advocates of the *innocent and conservative* discourse and was a real force that drove the reform of the industry's accumulation strategy and the concomitant formation of the Kimberley Process. It is striking, therefore, that similar storylines deployed by advocates of the *reform* discourse should prove so ineffective. The alteration in the amount of leverage that this storyline offered agents within the debates regarding the Kimberley Process' formation as opposed to its reform can perhaps best be explained via the strategic selectivity of the regime itself, conceived of in its broadest sense. In this manner simply as a function of its very existence the Kimberley Process generates a strategic selectivity:



[T]he conflict diamonds [TNGO] campaign had not been funded for about three or four years directly...[c]onflict diamonds were just not interesting or sexy or new enough. People thought that that was an issue that had been...solved by the Kimberley Process... People have seen the film [Blood Diamond] and they see at the end that there's this nice negotiating and that the Kimberley Process has started and they're like oh that's ok then (TO, Interview 19<sup>th</sup> February 2015).

As evidenced by this statement from a former TNGO negotiator, there was a perception within the Kimberley forum that the regime itself had convinced consumers that the issue of conflict diamonds and unethical diamond production was one that had been dealt with. Indeed, this perception may have some validity to it and while there have been no studies conducted as to this notion, the drop in TNGO funding for the related campaign provides a telling indication. What this meant in real terms was that when negotiating on a particular issue the argument was often heard that "consumers don't care...and if consumers don't care, why are we bothering doing this" (HD, Interview 5<sup>th</sup> February 2015). Such an attitude would clearly undermine arguments regarding the possibility that consumers may alter their buying habits if the industry continued to operate within the limits of the current conflict diamond definition.

In the parlance of this study's research model the negotiating agents appear to have believed that the Kimberley Process, a successful hegemonic project in their eyes, had altered the balance of forces in wider society to the extent that consumers were no longer concerned with the conflict diamond issue. What this means within the Kimberley forum as a result is that the Kimberley Process itself provides those agents opposed to the definitional change the confidence to block the policy whilst also precipitating a related drop in the confidence of those agents arguing for the change. The regime itself, therefore, is strategically selective in the interests of the TCC as it appears to have either altered consumers' understandings of the conflict

diamond issue or at least the perceptions of the Kimberley negotiators of consumer understandings. This then makes storylines designed to apply pressure to producing states and industry based on the notion that consumers demand definition change – and to embarrass them for blocking that change – are unlikely to generate significant leverage with regard to those agents. In turn, this then allows producing states to either flatly deny that this is a valid point of reform or to raise objections to that reform based on notions of sovereignty with little fear of repercussion. As such, the Kimberley Process provides a resource to the TCC that works in defence of their interests, thus making the regime itself strategically selective.

Speaking in broad holistic terms the Kimberley Process works to diffuse social forces which may expedite definitional change. This does not necessarily mean, however, that this strategic selectivity insulated conservative agents entirely from the pressures generated by the TNGOs and progressive states regarding definitional reform. For the Kimberley Process to continue to perform its legitimising function in the eyes of consumers the continued engagement of the TNGOs was crucial. In 2011, however, in protest at the inaction of the Kimberley Process with regard to the conflict diamond definition, Global Witness announced its withdrawal from the Kimberley Process. The recollection and analysis of a former TNGO negotiator of the reaction of industry to this announcement is revealing indeed:

You'd have thought you'd just kicked...[the industry representative's] puppy, he was so sad. It was "oh, oh you can't do this, is there no way? Oh" ...[but much of industry ] just didn't care because civil society wasn't leaving, as long as they can keep a few...[the Kimberley Process was safe] (TO, Interview 19<sup>th</sup> February 2015).

The withdrawal of Global Witness was a potentially a serious blow to the credibility of the Kimberley Process in the eyes of consumers and as such threatened its status as a hegemonic project. As a result, even the most conservative agents may have felt pressure to make concessions so as to keep the remaining TNGOs engaged. This pressure may be what lies behind the quotation and storyline from UAE and industry representative Peter Meeus (2013) as outlined in the preceding chapter. In an attempt to appeal to the *reform* discourse, this storyline acknowledges the importance of human rights and (tacitly) its role in the Kimberley Process before suggesting that these principles are not best judged by the Kimberley Process itself but by an external body. This may give the outward appearance of a concession to those advocates of the *reform* discourse (including the TNGOs) but in practice this debate as to which body should judge possible human rights violations, and the violation of any reformed conflict diamond definition, has merely provided a distraction which appears to have performed the role of keeping the TNGOs engaged whilst also at the same time working to trigger Kimberley Process mechanisms that enable strategic selectivity via institutionalised delay:

[Those opposed to definition change argued that] if a conflict diamond situation came up under the new definition we [the Kimberley Process] don't have a mandate to make that kind of decision and we're not the experts, it should be other organisations that are the experts on that. So then you'd say alright then which organisation do you want to link it to? Then they'd say...they won't understand the diamond trade so it can't be up to the UN or another organisation... it should be up to the KP because this is where those issues should be discussed...[E]ach of those arguments are legitimate on their own but it's when you put them together you sort of see the circularity (HD, Interview 5<sup>th</sup> February 2015).

This quotation from a former state negotiator demonstrates two forms of strategic selectivity – that of the continuing influence of wider social structure and of the

Kimberley Process itself. As discussed in the final chapter of the preceding section, building on Marx's insight that power derives from the ownership of the means of production, Weber noted that the expertise created here generates a power of its own (Horrocks, 2009, p.113). This power was in evidence in the preceding section as the ownership of the means of production, as Weber suggested it would, generated a reliance on expertise, one that within the extraordinarily opaque diamond industry created a reliance on diamond industry knowledge – a feature of wider social structure that proved to be strategically selective. In this regard it is possible to discern from the above the discursive power of the 'expert' which works to render certain fields of knowledge as discrete spheres where only expert opinion, garnered from the ownership of the means of production, is considered valid. In this context, this cognisance on the part of the negotiating agents allows the argument concerning the introduction of human rights concerns into the conflict diamond definition to become circular as one field of expertise with regard to the diamond industry clashes with another – that of human rights. By creating this clash, this feature of social structure proves to be strategically selective as it generates a delay that protects the interests of the TCC.

What is also important to note is that, as the study participant notes above, the nature of this argument is indeed circular but only when such arguments are put together does this become apparent. The fact that this debate has continued for some years demonstrates something of interest about the workings of the Kimberley Process<sup>36</sup>. Had a proper secretariat been in place and functioning as its advocates anticipated then such a body could have operated as an institutional memory, recording minutes of the meetings and reminding negotiators of previous discussions and contradictions. Indeed, the same state negotiator noted that in the

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<sup>36</sup> Tracing the lineage of this argument has proved somewhat difficult. However, it seems reasonable to assume that the notion of introducing an external body to arbitrate on the presence of human rights abuses within diamond production may have been proposed at least as early as 2013 if not before (see Meeus 2013).

not unrelated instance of the human rights abuses in Zimbabwe a secretariat would have greatly enabled an efficient and concise debate and ultimately a more timely resolution:

When we had the Zimbabwe crisis...you had all these big months-long, year-long impasses... because those kinds of [secretariat] systems weren't in place and...It was just communicating and ultimately it was then moving from just communicating to ultimately facilitating...[and] communicating back and forth to parties what others are saying and you know, 'this is what they're saying what do you think' (HD, Interview 5<sup>th</sup> February 2015).

In the absence of a secretariat there is little in the way of a central point of reference which negotiators can look to for the details of past discussions regarding a particular point of debate. Consequently, there is the potential for debates to become circular and seemingly interminable, as appears to be the case with idea that the conflict diamond definition should be expanded to include state and private sector violence. This after all was a debate which to some extent was introduced following the revelations of violence on Zimbabwe's diamond fields in 2009 but which at the 2014 Kimberley Process Plenary still resulted in only a commitment to continue the debate (see respectively PAC, 2009a; WDC, 2014, p.1).

In the context of the debates surrounding the reformation of the conflict diamond definition, therefore, the Kimberley Process must be considered to be working in a strategically selective manner. In the first instance the regime itself works to prevent pressure for reform from the wider international community including consumers as it provides industry and producing states with a greater level of confidence with regard to consumers who are considered to be placated. At the same time, however, the regime's structures offer a source of protection to the Kimberley Process as a hegemonic project as the lack of a secretariat ensures that decision making can be

deliberately stalled. In effect this has allowed those agents opposed to definitional reform to offer the possibility of dialogue so as to keep the vital legitimating force of the TNGOs engaged in the Kimberley Process. Global Witness took the decision to leave the Kimberley Process on the basis that that they “weren’t going to stand around and be used” so that industry and producing states could present the argument to consumers that “we’re being ethical and we’ve got this scheme and Global Witness are in it...[so diamonds] must be ok” (TO, Interview 19<sup>th</sup> February 2015). However, other TNGOs did remain engaged and it seems reasonable to suggest that the possibility of dialogue and progression on the issue of definitional reform may have played a role in maintaining this. “For a lot of people having a completely ineffective Kimberley Process was the best thing that can [sic] happen”; however, in order to survive as a hegemonic project and protect the interests of the TCC the regime must keep vital class relevant forces engaged, in this case the TNGO legitimating agents - and yet over time unsuccessful (ibid). Ultimately, this is precisely what the Kimberley Process and its lack of secretariat achieves; it works to maintain the image of an effective regime in the eyes of consumers whilst keeping reform minded and legitimating agents engaged but controlled. As far as the interests of the TCC in Sierra Leone (and indeed beyond) are concerned this situation is ideal as it maintains the image of the Kimberley Process as an effective guardian of ethics whilst allowing the violence that has characterised the process of industrialisation and the dispossession of artisanal miners to continue unhindered by any threat of sanction under a revised conflict diamond definition. As such, in this instance it would certainly appear that the Kimberley Process strategically selects in favour of the TCC making the institutionalised delay of definitional reform a strategic exclusion.

### 9.2.3 Review Visit Report Publication: Strategic Exclusion

For some working within Sierra Leonean civil society a serious problem in terms of addressing the issues their nation was experiencing in terms of implementing the Kimberley Process lay in the lack of review visit report transparency (BB, Interview 11<sup>th</sup> March 2014). As of 2011 there was no obligation on either the Kimberley Process or the recipient state to publicly publish review visit reports. This lack of transparency meant that, in the event of a review visit that highlighted Sierra Leone's Kimberley Process non-compliance, it would be more difficult for civil society both Sierra Leone based and transnational to pressure the government into addressing those issues as the findings could not be discussed in the public domain. The previous chapter traced the exchanges of storylines on this issue and documented the 'openly state the objection' storyline deployed by the 2012 Chair, the United States, which ultimately facilitated the publication of review visit reports and, theoretically at least, set a formative precedent. At first glance this appears as something of a victory for those in favour of Kimberley Process reform, however, in practice it may prove to be a hollow one as the strategic selectivity of Kimberley Process structures work, at least in part, to neutralise this change.

There can be no question that the US strategy of publishing Kimberley Process documents and review visit reports unless there were open objections was effective. As discussed in the preceding chapter it is possible that the tacit acquiescence of Kimberley Process participants was obtained on the basis of the fear of reputational damage in the eyes of consumers. However, as the analysis above illustrates those opposed to reform do not seem to have been concerned as to consumer opinion as their faith in the Kimberley Process hegemonic project superseded it. The acquiescence of Kimberley Process participants to this reform may, therefore, owe its causation to those agents who may have objected acquiring a particular understanding as to the details of the reform itself:

[A]s civil society we have to also ensure that depending on the KP Chair that the Chair...who has the job of posting that information, actually does. So you know some countries are very open to transparency like the United States but you could also have countries like Angola or China where there is not really a tradition of that kind of openness who can sort of just conveniently forget to publish something (TG, Interview 9<sup>th</sup> April 2015).

This comment from a TNGO interviewee reveals much about the reform instigated by the United States. While as noted above the United States initiated transparency reform through unilateral action and thereafter precedent, there were no substantive alterations to the Kimberley Process core document itself (see KPCS). What this means is that there is no formal obligation on the Chair to actually do anything and, therefore, the publication or not of review visit findings is left, to some extent, to the discretion of the Chair. Interviewee TG points out that states such as China and Angola do not have a great tradition of transparency which it seems is a reasonable assessment. China and Angola are/were respectively the 2014 and 2015 Kimberley Process Chairs and while the debate as to the 2016 Chair produced no outcome at the 2014 Kimberley plenary it is entirely possible that UAE may assume this role<sup>37</sup>. South Africa assumed the Chair in 2013, and given its historic support for Zimbabwe despite its obvious breaches of Kimberley Process stipulations and its record of state sponsored diamond related violence, South Africa too may have been far from amenable to increased transparency (PAC, 2009a; TO, Interview 19<sup>th</sup> February 2015).

Consequently, since the initiation of greater transparency by the United States in 2012, South Africa, China and Angola have assumed the Chair with the UAE quite

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<sup>37</sup> The debate as to which state should Chair the Kimberley Process in 2016 has proved a major point of contention in recent times. UAE and Australia expressed an interest in assuming the role, however, the Kimberley plenary in Guangzhou could not achieve a consensus as to which should do so (see Kimberley Process, 2014b, p.2)



possibly performing the role in 2016. In that time, there has been one review visit report and one review mission report published publicly on the Kimberley Process website with these concerning Russia and Cote D'Ivoire respectively dating from 2013 (see Kimberley Process Documents). There have been none since, including the non-publication of the report from the 2012 Liberia Review Visit which also visited Sierra Leone and which civil society in Freetown are keen to see published (BB, Interview 11<sup>th</sup> March 2014). Indeed, this pattern seems unlikely to change as Angola, the 2015 Chair, has itself been subject to critique regarding widespread and gross human rights abuses on its diamond fields in the northern Lunda provinces (Marques de Morais, 2011). Further, the possible 2016 Chair UAE, as already discussed, has been accused of systemic financial irregularities (FATF, 2013). The argument that either state is, therefore, Kimberley compliant is tenuous in the extreme. This of course does not mean necessarily that either state would refuse to publish a critical Review Visit report of another participant, but it seems reasonable to suggest, however, that it may make it less likely, particularly when it is considered that that publication may affect a future Kimberley Process Chair who could then publish critical material in retaliation. In addition, as an industry negotiator pointed out, transparency concerns are deemed to be legitimately superseded by "national security issues and commercial issues and IP issues and so on" leaving plenty of scope for the Chair and the state in question to collude to prevent publication of an unfavourable report (OB, Interview 25<sup>th</sup> February 2015).

Speaking hypothetically, the ASM could also play a role in terms of helping to introduce greater Kimberley Process transparency. The ASM is tasked with the role of publishing material on the Kimberley Process website once given the authority to do so by the Chair (TG, Interview 9<sup>th</sup> April 2015). In theory the ASM could pressure the Chair to allow publication and could even adopt the stance of the United States and publish automatically unless instructed otherwise. However,

given the emaciated structure of the ASM, as discussed above, such a move seems highly unlikely.

Taken as a whole, the supposed victory of the intervention of the United States in 2012 seems to have been a false one as the power the Kimberley Process invests in the Chair continues to leave much to the discretion of the incumbent. The pressure of the TNGOs to publish notwithstanding, this appears to have resulted in little by way of the extension of the transparency principle to the publication of Review Visit reports. Consequently, despite the initiative of the US, the Kimberley Process review mechanism and the regulations regarding the publication of those Review Visit findings remains strategically selective as the Chair can still prevent publication. In addition, while the ASM may at least in theory be in a position to follow the US lead and either pressure the Chair to publish or do so itself unilaterally this seems unlikely as its organisation, itself a reflection of the strategic selectivity of wider social structure, has rendered the ASM astonishingly incoherent. Thus in the case of the transparency reform debate there appears to be both a strategic inclusion and exclusion. In the first instance, the lack of a centralised secretariat proves once again to be a strategic exclusion as it works strategically selectively to prevent the exposure of Sierra Leonean and other participating states' non-compliance to powerful external social forces. More generally, however, the action of the US with regard to increasing transparency proves itself to be an unwitting strategic inclusion. By acting as it did, the US set a precedent that others could choose to follow; but it did not alter the Kimberley Process core document. As a consequence, the reformist forces within the Kimberley forum, as the previous chapter documents, clearly believe that progress on the issue of transparency has been made whilst in practice the degree of transparency remains a discretionary function of the Kimberley Process Chair. As such, the Kimberley Process continues to strategic select on behalf of the TCC as the Chair retains the capacity to block the publication or unfavourable reports that could form the basis of a campaign beyond

the Kimberley forum by reformist forces designed to bring about the suspension of trade from a given state. The action, therefore, of the United States proves a strategic inclusion as it has achieved little in terms of forcing greater transparency whilst at the same time it appears to have given reformist forces the false impression that meaningful progress has been achieved.

#### 9.2.4 Smuggling, Tax Evasion and Strategic Inclusion

This section's opening chapter documented in detail Sierra Leone's struggle to meet Kimberley Process stipulations regarding the control of diamond mine sites. Sierra Leone's diamond fields are vast and its MMOs are too few, poorly paid and under resourced to effectively control them (IK, Interview 10<sup>th</sup> March 2014; Maconachie, 2009, p.74). This coupled with the absence at first point of export of any method of visual identification of diamond origin within the Kimberley Process' modes of operation has meant that little appears to have changed with regard to the movement of diamonds within the Mano River region. Sierra Leone's tax regime for special stones was, until March 2014, more stringent than that of its neighbours and as a consequence the TCC invested in the country could easily move stones to either Liberia or Guinea to take advantage of this, Kimberley Process regulation notwithstanding. One potential way of combating this issue would have been to invest in capacity building within the state run Kimberley Process export offices in the region and to formally introduce run of mine diamond origin identification techniques to the Kimberley Process itself. However, as the analysis of the exchanges of storylines in the previous chapter document, within the Kimberley forum such concerns feed into wider debates regarding the behaviour of UAE within the international diamond trade. As the preceding chapter documents, UAE pursued a highly antagonistic storyline which denied there existed any issue at all with its import and export systems. It appears likely that this opposition may have played a role in the reformist forces opting to deal with the issues afflicting the

Mano region outside of the formal Kimberley Process forum– albeit still under the Kimberley aegis.

As the following discussion will explore, behind the decision to move away from any attempt to reform the Kimberley Process itself in this area may have been a cognisance of the strategic selectivity of the regime which rendered the likelihood of a timely introduction of measures designed to increase the capacity of producer state Kimberley export offices slim in the extreme. This in turn pushed those in favour of reform with regard to the Mano River region towards ‘a Regional Approach’. For the TCC invested in the region this shift could have created some alarm as reforms that may have run counter to their interests may then have been pursued away from the Kimberley forum and away, therefore, from formal institutional mechanisms that may protect their economic interests. In practice, however, as the following discussion will argue, there was little need for TCC concern. Those agents in favour of reform via the Regional Approach, rather than attempting to compel the region’s states and industry to invest in more robust diamond origin identification mechanisms at point of export instead applied pressure to the Sierra Leonean government with regard to the reformation of its tax regime – a stance that, as will become clear, favours the economic interests of the TCC and in so doing, hints at the influence of the strategic selectivity of wider social structure.

The fact that the UAE should prove to be such an obstacle to Kimberley Process reform is at first glance surprising. While the Kimberley Process does indeed rely on a consensus by unanimity decision process, in practice wider pressures qualify this mechanism making the utilisation of the veto power extremely difficult for the less powerful states in the international system:

It comes down to the country. So Russia could block something on their own easily... [owing to] their relative power as a country...[But] somewhere like Liberia wouldn't probably have the strength to block something on their own...because they would have a lot of pressure put on them outside. They know they are beholden to a bunch of other countries within the Kimberley Process for aid and so on... and Zimbabwe they were able to call on this discourse of Southern African unity and anti-neo-imperialism and so on. So they didn't stand alone...you can't see the Kimberley Process as existing in a vacuum, it's very much about other processes and other things that are going on as well (TO, Interview 19<sup>th</sup> February 2015).

In theory, therefore, it should be entirely feasible for other states to apply pressure to UAE on this issue and bring about consensus in the event of a debate designed to introduce greater Kimberley scrutiny of diamond exports. In reality, however, the Kimberley Process' modes of operation make this far from straightforward. At the heart of the problem here lies the fact that the Kimberley Process makes no stipulation as to who can represent a participant, creating real issues in terms of the efficacy of the regime. As such, where a close enough relationship exists, figures in industry are able to represent states in the Kimberley Process:

So Dubai [UAE], a number of African governments, [at Kimberley meetings] if you look at the people who are sitting behind those pegs [pause] they're industry people...and this is one of the things that KP insiders like to argue about but doesn't catch on outside, the conflict of interest problems in the KP are legion, legion. And so...anything that happens, that comes from Dubai now, he's a Belgian [Peter Meeus], who works for the Dubai Diamond Exchange [hereafter DDE]... for all intents and purposes, on every KP call, on every KP meeting... if you want to find the KP representative, its Peter Meeus (HD, Interview 5<sup>th</sup> February 2015).

That Peter Meeus, the Chairman of DDE can double as the UAE Kimberley Process representative appears to have worked to prevent reforms that may have had an impact on the issues of tax evasion and smuggling. What appears to have occurred in recent years is that Meeus has worked to appoint influential political figures from other Kimberley Process participants to lucrative positions within DDE so as to stifle any reform debates that may run counter to the interests of DDE and its partners:

Dubai has a massive problem with transfer pricing...There's other things...everywhere I've been, whether its border towns in Mozambique, whether it's in Zimbabwe, whether it's in West Africa I mean every single dodgy diamond goes to Dubai to get a second life. So... if you think about these appointments to the DDE by Peter Meeus, very strategically done to shut down discussion... about Dubai's behaviour (TG, Interview 4<sup>th</sup> December 2014).

Meeus it seems has worked very deliberately to appoint influential officials from states such as DRC, Namibia, South Africa and Zimbabwe with the result that "when it becomes time to take a position on something" at a Kimberley Process meeting "those individuals essentially parrot whatever UAE says" (ibid). The ability

of figures from industry to double as state representatives proves to be a strategic inclusion as it provides those agents two benefits. In the first instance, the opportunity to lead resistance to any proposals that may affect their economic interests from within Kimberley meetings offers the TCC a real advantage. For the industry/state representative, aside from the immediacy of being able to affect outcomes as they arise, such a position allows other state representatives whose support may have already been acquired through illicit means a focal point and an argumentative base from which to object. Clearly, for resistance to a given reform which concerns a particular state to be effective, that state's representative must first object before others can 'parrot' – as without that initial objection for other state representatives to object would obviously expose those individuals to scrutiny regarding their motives. Second, the ability to act as a state representative provides to the TCC the ability to utilise the apparatus of the state for their own purposes. This includes the foreign affairs and diplomatic arm of the state and the access to high level political spheres that this provides. Indeed the extent of the influence this power offers in some Southern states appears extraordinary:

[I]n China we had a discussion about who's going to be the [2016] Chair, [UAE or Australia]...I asked [a friend in the DRC delegation]...who are you going to support and [he says]...'we are going to support Australia mostly because of the issue of transfer pricing'... And we get to China and we are doing the tour du table of where governments sit on this issue... [S]uddenly DRC has changed its mind and it's supporting a country that is probably the biggest country...ripping off DRC. [And I said to this friend] what the fuck is going on, how can you have changed your mind? He says 'I don't want to talk about it, I'm really pissed off.'... It was a matter of...UAE sent around a bunch of heavies to the Ministry of Mines in Kinshasa that morning – vote changed...I like said to this guy this is ridiculous you guys look foolish... [When DRC was] Chair...they

wanted to [make]...transfer pricing one of their legacy issues and here they are giving... the thumbs up to the UAE. It's unbelievable (ibid).

Interviewee TG demonstrates here the extent of the influence of DDE/UAE. Transfer pricing between itself and UAE was the key Kimberley Process related issue for DRC and yet they were prepared to alter government policy, quite literally overnight, in order to satisfy DDE/UAE demands. Placed in the context of events such as these it is perhaps easy to understand why those in favour of any Kimberley Process reforms that may tackle the issue of tax evasion and its correlates would chose to pursue reform away from forums such as the Kimberley plenary, wherein DDE/UAE can so easily affect the outcome – and would obviously attempt to do so given the extent to which any Kimberley reform on the issue would clash with DDE/UAE interests. As such, the lack of Kimberley Process stipulations as to who can represent a participating state within the Kimberley forum clearly introduces a strategic selectivity to the Kimberley Process. This absence of protocol allows fractions of the TCC to act as state representatives which in turn allows them to work with corrupt officials from other participating states, illicitly garnering their support, so as to insulate DDE/UAE from pressure from progressive participants who may wish to pursue reforms which might run counter to the economic interests of the TCC.

In the case of Sierra Leone, therefore, at least theoretically, DDE/UAE opposition to reforms such as a Kimberley enforced increase in investment in export office capacity building has the potential to protect the interests of those fractions of the TCC invested there. Reforms designed to increase export office capacity may have led to the introduction of much greater scrutiny of diamond exports to ensure correct pricing and, therefore, that the proper tax is accrued by the exporting authority. This in turn may have either on its own led to increased detection of stones which did not originate from the country in which they were declared for export or led to the more formal incorporation of a method of visual identification



of diamond origin to the Kimberley Process. In either case, such moves would most likely have considerably increased the TCC's risk exposure when smuggling special stones from Sierra Leone to the lower tax jurisdictions of Liberia and Guinea. Consequently, the fact that fractions of the TCC can frustrate such reforms proves to be strategically selective as it protects the interests not just of those concerned with transfer pricing between UAE and certain producing states but also of those engaging in similar practices in West Africa.

While in the case of the UAE there can be little question that the ability of agents from the TCC to double as state representatives enables those agents to further their interests within the Kimberley Process, this has not worked to insulate entirely those fractions invested in Sierra Leone. The ability to foster opposition within the Kimberley forum to measures that may have resulted in a global strengthening of export office capacity does not prevent those in favour of reform targeting individual states – such as Sierra Leone – who are found to be in clear breach of Kimberley stipulations but who do not have the capacity to buy the support of other participating states who may be able to insulate it from pressure for reform within the formal Kimberley Process forum. Indeed, as the previous chapter argued it may have been that DDE/UAE opposition to such reforms, and its general intransigence on almost any reform issue, that was responsible for progressive agents pursuing reforms in non-compliant states in this way. Such a move may once again threaten the interests of the TCC invested in those states as reformist agents can use their non-compliance as leverage to push through reforms that may run counter to those economic interests. Indeed, following a 2013 review visit to Liberia, which also allowed for a survey of the wider Mano region's Kimberley Process compliance, this is precisely what appears to have occurred:

[A]ll these countries [Liberia, Guinea and Sierra Leone]... acknowledged that they were all...struggling to meet KP compliance on these issues [internal controls] and so we said listen this is in your interests...either we are going to take a very forceful approach and you guys are going to have to dig yourselves out of it and its going to impact on your right to export [as the Kimberley Process becomes involved]...or you can get on board with this idea of a Regional Approach (TG, Interview 9<sup>th</sup> April 2015).

TG here demonstrates the leverage that serious non-compliance with Kimberley stipulations provides to those seeking intra-state reform – DDE/UAE’s opposition to general Kimberley Process reform notwithstanding. Such intervention from those seeking state level reforms designed to bring about Kimberley Process conformity may have been of real concern for the TCC invested in Sierra Leone, however, once again it appears that the strategic selectivity of wider social structure has worked to negate this threat.

The Regional Approach that interviewee TG refers to above is in many ways a surprising intervention as a significant part of this drive for reform resides in the notion that in West Africa, in terms of bringing about Kimberley compliance it is a good idea “to create policy harmonisation” in an effort to “avoid these things that act as drivers to smuggling” (TG, Interview 4<sup>th</sup> December 2014). By taking the Regional Approach, those in favour of greater Kimberley Process compliance appear to send a particular message to those members of the TCC in the Mano region whose behaviour contravenes Kimberley Process protocols. Essentially, the argument seems to be that rather than attempting to innovate and strengthen these states’ Kimberley Process internal controls and prosecute those who contravene them, those pushing for reform effectively communicate to the TCC that to prevent Kimberley Process contravention we are simply going to push for the alteration of the laws which, in the short term, are providing the motivation behind those actions.

For many in favour of reform within the region, the tax disparity between the Mano River states lay at the root of their Kimberley Process non-compliance. As such, states within the region were encouraged to synchronize their tax regimes on special stones, the idea here being that such an alteration would discourage the smuggling of such stones from 15 percent tax Sierra Leone to three percent tax Guinea or Liberia (TG, Interview 4<sup>th</sup> December 2014). As discussed in this section's opening chapter this outcome was achieved in early 2014 as Sierra Leone dropped its export tax on special stones to the prescribed three percent (see DG, Interview 5<sup>th</sup> March 2014). There can be no question that such an alteration would render smuggling for the purposes of tax evasion futile; however, as will shortly be discussed, in many ways this is a strange argument and associated policy change as it brings about greater compliance not by strengthening Kimberley Process systems to ensure diamonds mined within a given state are exported under the auspices of its government, but instead this reform simply removes just one of the many motivations the TCC may have to smuggle diamonds. In the event of a conflict in Sierra Leone and its Kimberley suspension, once again the TCC will seek to smuggle. Alternatively, should a state either within the region or external to it decide to drop its diamond export tax below the Mano region's three percent then once again the incentive to smuggle is restored. In effect, therefore, this reform in taxation appears to be both an expression and extension of globalisation's infamous so-called 'race to the bottom' whereby the hyper (or unregulated) mobility of capital – in this case rough diamonds – compels policy convergence on taxation at lowest point amongst diamond exporting states<sup>38</sup>.

The Regional Approach as it seems a relatively recent innovation within the Kimberley Process, however, the policy prescription as outlined certainly appears to display the effects of the strategic selectivity of wider social structure. In this regard it is perhaps surprising that Sierra Leone should have to reduce its taxation

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<sup>38</sup> For a concise explanation of the concept of the 'race to the bottom' see Spar and Yoffie, 2005, p.30.

on special stones. Sierra Leone is by some distance the region's largest rough diamond exporter; Liberia, Cote D'Ivoire and Guinea are comparatively minor players (see Kimberley Process Statistics, 2014). Indeed, the former state is a producer almost exclusively of industrial grade diamonds; even Liberia's "best diamonds are around \$25 a carat" and there is "no report of a single stone of any value, of any note, being discovered [there] ever", whilst Cote D'Ivoire's rough diamonds have been subject since 2005 to UN Resolution 1643 meaning that it is Kimberley Process suspended (WP, Interview 21<sup>st</sup> November 2014; UN, 2005, p.3). In the case of neither state, therefore, should the rate of export duty on rough diamonds valued at over \$500,000 be of any concern. As a result, under the circumstances it is surprising that Sierra Leone should be prevailed upon to reduce its rate of taxation rather than it being suggested that there be a compromise figure reached or indeed that the other Mano River states should increase their rates of taxation to meet that of Sierra Leone's. This is especially the case when it is considered that, in a separate policy area within the Regional Approach, an industry negotiator asserted that there is a provision for the utilisation of visual methods of diamond origin identification (OB, Interview 9<sup>th</sup> April 2015). With this facility available it is questionable as to why the region's taxes would require harmonisation at all as stones could simply be assessed for their origin when presented for export, creating a significant smuggling deterrent as discussed throughout this study. It seems reasonable to suggest, therefore, that the strategic selectivity of wider social structure may be a conditioning feature within this policy sphere.

The final decade of the 20<sup>th</sup> century saw the rise of the neoliberal 'Washington Consensus' within the international political economy. This developmental orthodoxy advocates, in the case of Southern states, trade liberalisation and therefore the lowering of the rates of import and export duty within those states (Williamson, 2000, p.252). For a considerable period spanning the turn of the

century the Washington Consensus achieved a real pre-eminence as a politico-economic tool-kit with regard to the development of Southern economies (Naim, 2000, p.505). In turn it seems reasonable to suggest that it may be this influence, a potential feature of wider social structure, that may lie behind the policy prescription that pushed Sierra Leone to 'harmonise' its tax rate downwards rather than the other Mano River states raising theirs to meet it. In this case, therefore, wider social structure appears once again to strategically select on behalf of the TCC as its possible influence resulted in a tax reduction in Sierra Leone as opposed to a region wide increase in tax on the export of special stones.

It must also be noted that the policy of tax 'harmonisation' was in fact adopted in preference to a policy that may have seen progressive forces pushing the Mano River states and the industry located there to invest in methods of diamond origin visual identification such as run-of-mine. Such a move would have allowed the Mano states to identify non-indigenous production being declared for export for the purposes of tax and as such would have constrained the mobility of capital, handing economic sovereignty back to the state by allowing the rate of export duty to be decided according to the wishes of each individual state. The fact that such methods were ignored may also be attributable to the strategic selectivity of wider social structure. As discussed in the final chapter of the preceding section, neoliberal politico-economic orthodoxy emphasises as a general principle the rolling back of the influence of the state and the promotion of market forces as society's governing agent (Williamson, 2000, p.257). Clearly such a cognisance would preclude the idea that the state could be asked to extend its bureaucratic reach or that industry could be compelled by the Sierra Leonean state to help meet the costs of the creation of a run-of-mine (or similar) system. Consequently, that such methods were ignored suggests that those progressive forces pushing for reform in the region may have been influenced by a strategically selective wider social structure – neoliberal in form – which worked to prevent the adoption of a policy that may have carried

direct and significant implementation costs to the TCC invested in the region whilst also leaving it beholden to whichever rate of taxation the Sierra Leonean government may decide upon.

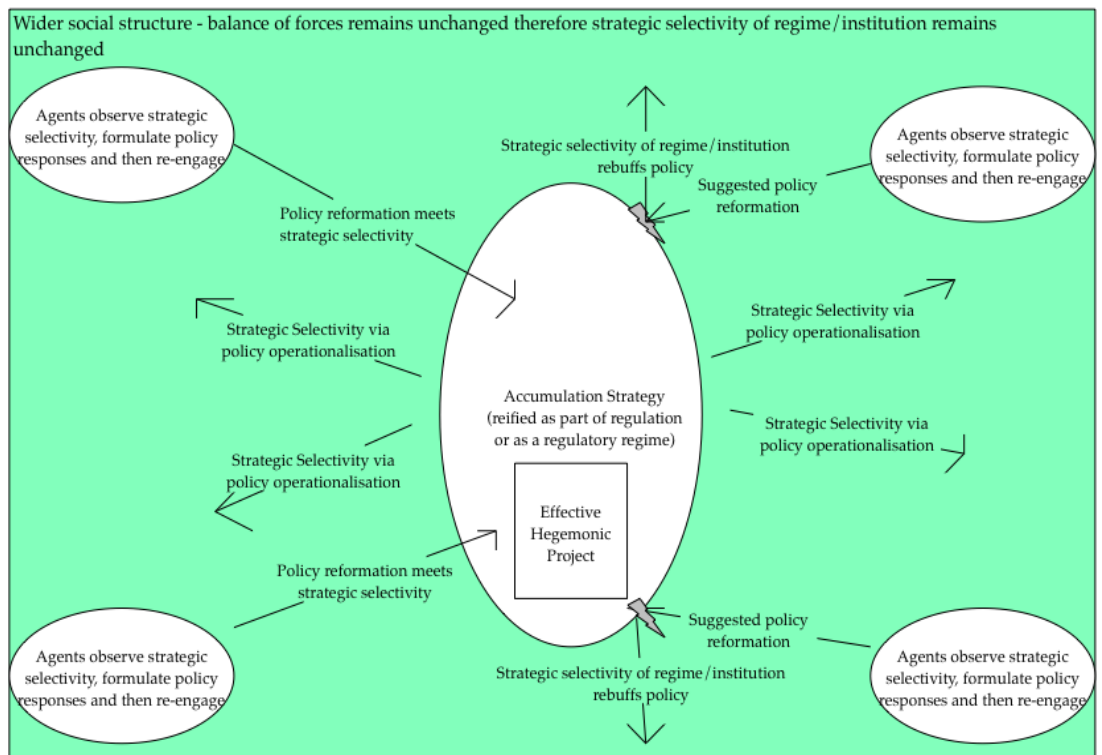
Enabled by the strategic selectivity of the Kimberley Process, the power of the UAE within the Kimberley forum has the potential to have profound implications for the manner in which those fractions of the TCC invested in the global trade in diamonds are able to operate. With DDE/UAE able to prevent possible reforms which may have resulted in a Kimberley mandated increase in investment in the diamond exporting offices of producing states, practices such as diamond undervaluation, transfer pricing and, as outlined in this section's opening chapter, smuggling and tax evasion within the Mano region are allowed to continue unfettered. However, as the above analysis reveals DDE/UAE opposition may have resulted in a potentially problematic political innovation for the TCC invested in the Mano River states. DDE/UAE intransigence appears to have played a significant role in compelling progressive forces to seek reforms away from the auspices of the formal Kimberley Process that may have worked to curtail such practices. Remarkably, however, the fragmentation of the transnational policy making sphere with regard to diamonds far from damaging TCC interests, appears once again to have extended them as the strategic selectivity of wider social structure intervenes to condition policy making in ways that actually work to ensure the legal provision of the economic benefits of once illegal practices.

### 9.3 Conclusion

The analysis of this section's three chapters reveals the remarkable extent to which the strategic selectivity of the Kimberley Process has worked to curtail the ambitions of those agents seeking its reform. In the first instance, a lack of a centralised body to direct the regime's operation works to institutionalise delay whilst the absence of regulation regarding where state representation must come from works to block

reform that may clash with the interests of those fractions of the TCC able to insinuate themselves into Kimberley debates in the guise of state representatives. Even where reform is achieved, as in the case of the introduction of greater transparency, the Kimberley Process' modes of operation threaten to render that reform meaningless. With regard to this study's research model these findings suggest that the balance of forces in wider society have remained largely unaltered since the introduction of the Kimberley Process. As one former TNGO negotiator related "[p]eople have seen the film [Blood Diamond] and they see at the end...that the Kimberley Process has started and they're like oh that's ok then" (TO, Interview 19<sup>th</sup> February 2015). The findings of this study's second section certainly suggest that, crucially, those within the Kimberley forum believe this to be case. Consequently, if the balance of forces in society have remained unchanged then there is little pressure to alter the Kimberley Process and as such it will continue to strategically select accordingly:

Figure 9.1



With the balance of forces seemingly unaltered (indicating that the Kimberley Process hegemonic project remains effective) then the strategic selectivity of the Kimberley Process prevents its own reform and, therefore, also the reform of the industry accumulation strategy. What is interesting, however, is that the strategic selectivity of the Kimberley Process remains effective only so long as it keeps all the agents concerned engaged and committed to pursuing the governance of the industry under its auspices. As the discussion immediately above indicates, should progressive agents become so frustrated with the lack of reform that they seek to actuate those reforms independently of the Kimberley Process forum, then clearly the power of the Kimberley hegemonic project diminishes. In the case of the Regional Approach to reform within the Mano River region, this is precisely what appears to have occurred. Clearly such a development would be of concern for the TCC accept that, with the balance of forces in society unmoved, wider social structure continues to select accordingly meaning that any reform of the sector conducted in the region is done so in such manner as to not conflict with the economic interests of industry.

For those wishing to see genuine reform of the global diamond trade such conclusions are far from encouraging. Either within the Kimberley Process forum or without, meaningful reform is unlikely to be manifest until the balance of forces in society permits an alteration in the strategic selectivity of wider social structure and a concomitant change in the Kimberley Process itself. Clearly the exploitation and forced dispossession of artisanal miners in Sierra Leone, and the violence associated with that, is not enough to compel that change and neither have been the killings perpetrated against the artisanal mining communities of Zimbabwe and Angola in recent times. Consequently, as a former TNGO negotiator commented, it appears that for the Kimberley Process to alter, it may take a “big blow up, maybe some catastrophe that no one can anticipate” – only this could offer real and effective “pressure points now” (WP, Interview 21<sup>st</sup> November 2014).



## Conclusion

Hay notes that “political analysis is often a case of stating and re-stating that which is obvious but all too rarely reflected upon” (2002b, 129). In many regards, the proposition that a strategic selectivity may be present within social structure is a rather obvious one, but this study offers no apology for that. As the hegemony of capitalism consolidates, the health of the capitalist system and that of human society are increasingly taken to mean the same thing within the global North – a proposition this study substantiates. That agents should come to regard the protection and furtherance of the interests of capital as a priority therefore, thus creating strategic selectivity, is hardly surprising. But if the notion that social structure may carry strategic selectivity was in many ways obvious, then the means through which we might go about finding the evidence for its existence was markedly less so.

In broad terms, this study was designed to empirically test Jessop’s strategic relational approach, and more specifically the notion that the structure/agent dialectic is mediated by strategic selectivity. As described in the opening section of this thesis, Jessop maintains that policy making is an iterative process whereby agents are constantly interacting with structure, seeking to alter rules/policies according to their interests. Jessop postulates that this structure/agent relation is a dialectic one, wherein the strategies of agents are deflected where they conflict with an inherent strategic selectivity. Furthermore, this notion suggests that strategic selectivity also affects the formulation of those strategies at the very outset as it reaches beyond structure to condition agents and what they conceive as possible and even desirable. Actors remain capable of demonstrating agency through the formation of strategies, however, the success or failure of those strategies is dependent on their congruence with the existing strategic selectivity. This strategic selectivity may alter if the prevailing hegemonic project falters. Accordingly, this may result in broad and/or powerful societal forces pursuing reformist strategies in

a concerted fashion with regard to structure. However, in the absence of broader support, agents seeking reform must contend with the strategic selectivity as they find it.

In practical terms, to test Jessop's conceptualisation it became clear that this study would have to follow a research agenda that had at its core a close empirical examination of a policy making process. In doing so, this study would have to establish what policies agents pursued within an initial negotiation, allowing for the interrogation of the reasoning as to why some policies were accepted and others rejected. In turn, it was anticipated that this process would not only enable the researcher to test for the presence of strategic selectivity within social structure but it would also reveal whose interests that strategic selectivity currently serves. From this point of departure, it would clearly be necessary to observe the effects of that policy negotiation, or any resulting regime, on the ground. This would reveal the extent to which the strategic selectivity of the policy negotiation had been passed onto the resulting policy or regime. The answer to this question could then serve as a useful basis for the testing of Jessop's iterative policy making phase. Should agents be unhappy with the manner in which the policy or regime works in practice, then Jessop maintains that they will re-engage with the policy making process in the hope of affecting reform. As such, to test Jessop on this point, a final area of investigation would need to focus on the response of agents to the effects of the policy or regime. Do they iteratively re-engage with social structure, or any regime resulting from the initial negotiating phase? And if so, how does social structure and/or the regime respond to those reform attempts? This would allow for the researcher to not only test for the continued presence of strategic selectivity but to also test for any changes to that strategic selectivity (resulting from alterations within social structure) such that the sought after policy reforms might be accepted. Taking the Kimberley Process and the diamond industry as its empirical focus, this study pursued the above research agenda through what could be thought of as an

hour-glass research design. Beginning at the level of the transnational, this study concentrated on the dynamics of the formative Kimberley Process negotiations. It then narrowed its focus so as to examine the effects of the Kimberley Process on a single producing state, Sierra Leone, before moving back up to the level of the transnational to analyse the attempts of the concerned agents to reform Kimberley in light of its failings. In sum, the empirical analysis of the final two sections of this thesis present evidence which suggests that strategic selectivity both exists and has real causal affects in terms of mediating the structure/agent relation.

In the more fluid sphere of wider social structure, the analysis of this study's second section suggests that this structure existed at the conscious and sub-conscious levels of those agents involved in the Kimberley Process formative negotiations, affecting their negotiatory strategies (and, therefore, the associated storylines). This underlying cognisance carried a strategic selectivity, which appears to have worked according to the interests of those fractions of transnational capital invested in the diamond industry by conditioning the thought processes of the negotiators such that they became averse to any policy which might impose costs on the diamond industry. The notion that this was likely to have serious costs with regard to the integrity of the regime itself seems to have been largely ignored. This proclivity appears to be true even with regard to those agents, principally from within the TNGO community, who witnessed first-hand the cruelties associated with capitalist accumulation in the conflict zones of West and Southern Africa.

With the Kimberley Process negotiated in an environment so heavily slanted towards the interests of capital, it would perhaps be unsurprising if upon implementation the regime itself worked to protect and further those interests. In the first chapter of its final section and in-keeping with its research agenda, this thesis sought to explore this proposition by presenting evidence as to the effects of Kimberley implementation for the key producing state of Sierra Leone. The resulting analysis suggests that in the context of Sierra Leone, Kimberley does

indeed work to further the interests of capital; whether located within the state or the private sector. For state elites, Kimberley provides opportunities for graft and thereby assists in the management and continuation of neopatrimonial technologies of governance, whilst for industry based capital it works to open an arena of accumulation previously the domain of informal artisanal production. Taken in sum, for those familiar with the recent history of Sierra Leone, the evidence of this study makes for uncomfortable reading. Aside from the moral implications of transnational capital's encroachment, the mismanagement of the nation's diamond sector encouraged many Sierra Leoneans to join the RUF during the country's civil war. That the sector remains as dysfunctional as ever, and that the Kimberley Process may be exacerbating this state of affairs, is not a comforting thought. External interventions in the African political landscape, regardless of the background intentions of the actors involved, have always been fraught with difficulty and the Kimberley Process appears to be no exception.

In its final two chapters, this study engaged closely with the attempts of concerned agents who were found, as Jessop suggests, to be iteratively re-engaging with the Kimberley Process in the hope of affecting reform in the light of its failings. This reform agenda could have alleviated many of the problems associated with the regime's introduction in Sierra Leone – it was, however, largely rebuffed. In its discussion of this iterative re-engagement, this study found that the failure of the concerned agents to elicit reform can be ascribed to a strategic selectivity which continued to work according to the interests of the TCC. Reified now within the formal modes of operation of the Kimberley Process, but still felt also through the continuing influence of wider social structure, strategic selectivity worked to either defer or block progressive policy making which conflicted with the interests of the TCC. The evidence of this study suggests that the strategic selectivity enacted here through the modes of operation of the Kimberley Process must be understood as qualitatively different to that encountered in the second section. During the

formative negotiations, the environment was more fluid and the agents themselves more willing to compromise – albeit from within the confines of a social structure which strategically selected according to the interests of capital. With the Kimberley Process now in existence, however, this study's closing chapters illustrate that capital could often rely instead on the Kimberley Process' protocols and modes of operation to defend their interests. With Kimberley structures in place, capital often had little need to even attempt to compromise with class relevant forces seeking reform, as in the formative negotiations, and instead could afford to adopt absolutist positions in the knowledge that Kimberley protocols worked to defend their interests.

Moving on to discuss these findings on more theoretical terms, as outlined above, the overall purpose of this study resides in its exploration of Jessop's strategic-relational approach. In this regard, this study finds that, within each of arena of analysis, strategic selectivity is indeed inherent to the structure/agent dialectic, shaping the cognisance of agents in a negotiatory setting according to the interests of capital and producing a regime which works to protect and further those interests. Across the three arenas of analysis, and the 15 years they span, it is also noticeable that the strategic selectivity in question has remained unaltered. As figure 9.1 and the closing discussion of the final chapter of this thesis suggest, this can most likely be attributed to the fact that agential interaction with structure has not been of sufficient force to alter that strategic selectivity such that the interests of capital become less salient. As such, the strategic selectivity of wider social structure and of the Kimberley Process has remained unaltered, meaning that the interests of capital continue to be given primacy.

The evidence of this study substantiates the above propositions. In its second section, this study appears to suggest that as the accumulation strategy of the diamond industry became out of step with the balance of forces in society, a reformation – in the shape of the Kimberley Process negotiation – was required.

Within this arena, however, wider social structure (and the hegemony of capital) remained unaltered and thus still worked in the form of strategic selectivity to condition the negotiations along lines congruent with the interests of capital. The agreements between capital and the dissenting class relevant forces forged during the negotiations (forming the Kimberley Process) represented, a reformation of the industry accumulation strategy and a new hegemonic project. Problematically however, the strategic selectivity of the Kimberley Process in its implementation (in Sierra Leone and elsewhere) contributed to increasing disquiet within the TNGO community who then sought to reform the accumulation strategy. That they largely failed to do so as this study's final two chapters attest can, in theoretical terms, be attributed to the continued existence of the Kimberley Process as a viable hegemonic project – keeping the industry in step with the balance of forces in wider society. This, therefore, leaves the strategic selectivity of the Kimberley Process unaffected as there is no change in the wider balance of forces that could circumvent it and force reform. In sum, this means that the Kimberley Process will continue to function in the interests of capital until such time as wider societal forces beyond those of the TNGOs and reform minded state agents come in to play.

Arriving at the theoretical and empirical findings outlined above proved far from straightforward and it is perhaps appropriate at this point to reflect on the research process itself and identify any lessons which can be taken forward. Producing a doctoral thesis is undoubtedly a fraught process and each study will pose its own unique challenges to the researcher. In the case of this study, clearly the biggest obstacle to its success surrounded the effective collection of primary interview data.

From the moment of its inception this thesis was designed as an empirical testing of a theoretical proposition. Self-evidently, therefore, for this study to progress to the point whereby it could be accepted as a thesis, a significant amount of high quality empirical data would need to be collected. Problematically, however, the study also had at its heart an industry with a deeply ingrained culture of opacity.

The diamond industry is notoriously secretive, sometimes with good reason. Diamonds are immensely valuable and largely untraceable and they are, therefore, highly susceptible to theft. Indeed, it is on these grounds that 'Kimberley Family' secrecy is imposed on state and TNGO negotiators. It must also be said, however, that there are less good reasons for the industry's secrecy. In rough form, the subjective nature of their valuation makes the buying and selling of diamonds ideal for the purposes of money laundering. This has introduced an unsavoury element, as transnational criminal networks and even Al Qaeda linked groups seek to utilise diamonds as a method to move and launder the proceeds of their activities (FATF, 2013).

As a consequence of the above factors it was judged that individuals even from the mining multi-nationals and state negotiating teams were unlikely to be enthusiastic interviewees. This problem would only be more acute in Sierra Leone where the post-conflict industry was still largely run by an unholy nexus of criminals, former mercenaries and rent-seeking state elites. These factors notwithstanding, securing rich interview data was absolutely vital to the success of the study and this created considerable pressure in the early years of the project. That this issue was overcome can be ascribed to a combination of luck and persistence. In the case of the former, I was fortunate to encounter some surprisingly forthcoming interviewees at various points of the project who were happy to pass me on to other individuals of interest. However, where prior contact could not be established through either emails or existing contacts, a more direct approach was required. As such, this study greatly benefitted from pre-existing journalistic techniques, particularly the practice of 'door-stepping' which involves the researcher simply arriving at an interviewee's place of work uninvited and requesting an interview. Particularly in the Sierra Leonean context, this was quite forbidding at times, but as a research technique it was highly effective.

For others within the research community considering conducting a study within an arena known for criminality and/or opacity there is some encouragement in the experience described here and indeed these approaches may prove transferable. It is important to remember that structures of secrecy are constituted by individuals – some of whom may feel that the associated practices are either unwarranted or function as a means to hide behaviours with which they are uncomfortable. The experience of this study shows that not only can such individuals be found but they are also often not alone in their disquiet and may well be willing to contact other potential interviewees on the researcher's behalf as a result. Of course, the researcher has to locate that crucial first interviewee, but if this can be achieved then even the most opaque field of research can suddenly open up. This study also provides some encouragement for researchers who are not able to locate such individuals. The practice of door-stepping is perhaps best avoided, however, as a method of last resort it is effective. Security guards are often confused when confronted by a researcher seeking an interview – they can be obstinate and threatening. But so long as the researcher approaches such situations with a passive demeanour, violence is extremely unlikely and s/he is likely to be shown into reception. At this point, it seems that the physical presence of the researcher makes it harder for the target participant to ignore or refuse an interview request. It may still take several hours of patient waiting, but on each occasion this method was utilised an interview was eventually conducted.

Of course there are drawbacks to these two approaches. Sampling participants in the snowball fashion described above inevitably limits the range of interviewees the study can draw on and door-stepping can be intimidating. However, these two approaches have the potential to produce high quality data within fields of study that might otherwise remain impenetrable to social scientists. As such, they may well prove useful to other researchers working in fields which display similar characteristics to the global diamond trade.



Given the initial concerns regarding the difficulties of collecting interview data, it was somewhat ironic that in the analysis stage of the project a serious issue emerged regarding how to make sense of the considerable amount of data that was, in the event, collected. To do so, this study utilised a derivation of Maarten Hajer's argumentative discourse analysis and in so doing utilised a modest methodological innovation that may be of interest to other researchers adopting critical realist and/or neo-Gramscian approaches in the hope of capturing the complexities of multi-agent negotiations. Hajer's approach directs the attention of the researcher not just towards the argumentative devices agents utilise to convince others of their points of view but also to the underlying discourses which produce those arguments. It is however, fundamentally constructivist in its approach in that it understands these discourses and storylines as the generative mechanisms of the social world. This study, however, adopted only the typologies inherent to Hajer's methodology. By doing so, this study was able to concentrate on the interplay of storylines, allowing for the point at which one storyline was accepted over another to be identified. From this point it became possible to interrogate the reasons as to why any given storyline was accepted or rejected by the negotiating agents, enabling this study to engage in a critical realist and neo-Gramscian analysis – and ultimately to produce the insights outlined above.

It is possible to view the theoretical and empirical insights produced by this study as somewhat disheartening. Expressed in Jessopian terms, unless the balance in wider society can be altered such that the Kimberley Process as a hegemonic project is questioned by a more forceful agential interaction, then the strategic selectivity of the Kimberley Process will remain in place. This in turn suggests that as things stand, progressive forces will continue to have to try and pick a path between achieving genuinely ethical diamond production and the interests of capital. It remains to be seen if this balance can be achieved. More optimistically, it is worth noting that a central and recurrent theme of the work of both Marx and Gramsci is the assertion

that political economy is in a constant state of flux. The balance of forces in society is not fixed. It may, as the source at the conclusion of previous chapter suggests, require another significant diamond industry related humanitarian crime to alter the balance of forces and undermine the Kimberley hegemonic project to produce another groundswell of agential force and meaningful reform. One must hope, however, that such an event is not required. In the absence of such an alteration, however, this study affords us an insight as to how one institution of ethical global economic governance currently operates to both defend and advance the interests of capital in the global economy. It suggests that other similar institutions, subject to the same constraints and pressures produced by strategic selectivity, may conform to these same patterns of policy making. Further research in this area is therefore required, however, it seems highly likely, the best intentions of the negotiators involved notwithstanding, that these agents' interactions with strategically selective social structure will continue to produce a scenario whereby ethical concerns are subordinated to the interests of capital.