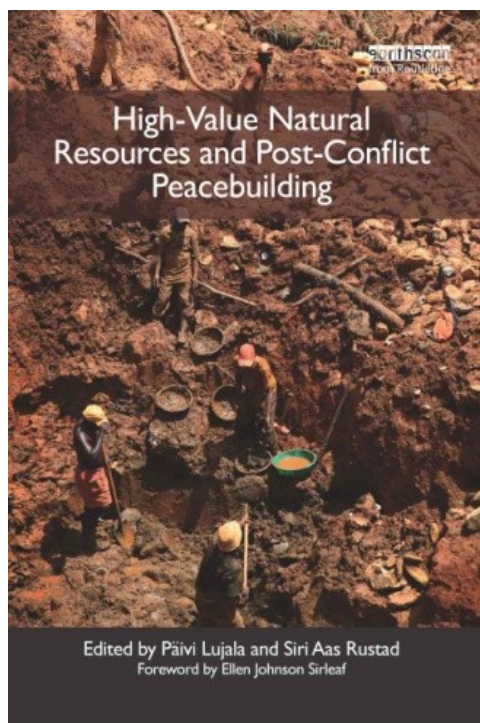


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A more formal engagement: A constructive critique of certification as a means of preventing conflict and building peace

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A more formal engagement: A constructive critique of certification as a means of preventing conflict and building peace

Harrison Mitchell

For policy makers who wish to prevent military groups from benefiting from mineral resources, a certification process that ensures a “conflict-free” mineral-trading chain is an attractive proposition. The most well-established certification system for the mineral trade, the Kimberley Process Certification Scheme (KPCS), has been in effect since 2003.¹ Supporters of the KPCS point to the scheme’s success in stemming the flow of “conflict diamonds” by verifying the origin of the gems.² This chapter argues, however, that the true success of the KPCS lies in two achievements: (1) helping to formalize the international diamond trade at the point of export and (2) providing some rationalization of the sector. By increasing their ability to tax formal trade and exports, formalization and rationalization have assisted the governments of producing countries to strengthen their fiscal link to the diamond trade. Because the achievements associated with the KPCS provide income (and foreign exchange) for often impoverished states, they are important in the context of peacebuilding; but the ability of the KPCS (or similar certificate-of-origin schemes) to prevent armed groups from benefiting from resources remains largely untested.

Although the KPCS requires producing countries to establish internal control systems to verify that diamonds are conflict free, full and genuine assurance of origin is difficult to obtain, particularly in developing countries with large artisanal mining communities, where the informality, size, and geography of the sector combine with a lack of resources, capacity, and political will (Kimberley Process 2002, sec. IV). Recent studies have confirmed that, particularly in developing states with large and informal artisanal sectors, the informal trade in diamonds

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¹ For additional perspectives on the KPCS, see J. Andrew Grant, “The Kimberley Process at Ten: Reflections on a Decade of Efforts to End the Trade in Conflict Diamonds”; Andrew Bone, “The Kimberley Process Certification Scheme: The Primary Safeguard for the Diamond Industry”; and Clive Wright, “The Kimberley Process Certification Scheme: A Model Negotiation?” all in this volume.

² For more information on the KPCS, see www.kimberleyprocess.com.

and other precious minerals within and between producer countries remains largely unmonitored (Garrett, Mitchell, and Levin 2008). In Côte d'Ivoire, for example, small quantities of conflict diamonds continue to be laundered through well-established informal trading networks whose size and effectiveness place them well beyond the control of local and international authorities.

Artisanally mined diamonds, which are produced in small mines that are often far from town centers, can easily be carried out of the country—from Sierra Leone to Ghana, for example, or from the Congo to Angola—by traders who use the gems as a lightweight and concealable form of currency, exchanging them for cash once they reach their destination. After obtaining a fraudulent origin along the way, many of these informally traded diamonds enter the formal trade in other KPCS member countries.³ This process—by which informally traded diamonds of uncertain origin enter the formal diamond trade—poses a threat to the integrity of a system that claims to offer assurance that its diamonds are conflict-free.

The realities of the informal diamond trade in Central and West Africa, where Angolan diamonds are certified in the Democratic Republic of the Congo and Sierra Leonean diamonds in Liberia, make it difficult to believe in the KPCS label of origin; they also call into question one of the primary goals of the KPCS, which is to support peacebuilding by depriving rebel groups of access to diamonds. The ease with which diamonds can be laundered through KPCS member nations (or even bypass such nations, by following an entirely informal route to trading centers such as Dubai), suggests that it remains difficult for certificate-of-origin schemes to verify their own integrity, let alone affect the vibrant and ongoing informal trade.⁴

Although this is not an argument against certification per se, it does appear that attempting to establish certification before traditionally informal sectors have been formalized is likely to undercut the ability to enforce certain tenets, such as origin, on a significant scale. In order to provide meaningful assurance of origin, national and international agencies and organizations must engage with the informal sector on two levels: first by helping to formalize exploitation and trade, and second by providing the informal sector with both the will and the means (that is, with incentives and capacity) to support assurance of origin that meets Western consumers' standards for origin and quality control.

³ For a description of the artisanal mining trade, see Garrett, Mitchell, and Levin (2008).

⁴ When measures such as sanctions are imposed on a mineral trade, severe consequences for the local population have the potential to negate the security aims of the certification scheme. Gavin Hilson (2008) describes the serious disruption and loss of income for the local population that occurred after a temporary suspension of the trade in diamonds from Ghana, which was suggested by the Kimberley Process when Ivorian conflict diamonds were allegedly being laundered through Ghana. In late 2008, when the price of minerals dropped in Katanga Province, in the Democratic Republic of the Congo, miners joined armed groups, and there was an increase in petty crime because miners were unable to find work elsewhere.

A series of studies published by the World Bank in 2003, around the time that the KPCS was established, shows that for some observers the jury was still out on whether certification schemes were truly effective mechanisms for preventing natural resource revenues from perpetuating conflict (Crossin, Hayman, and Taylor 2003). Some of the KPCS's initial proponents viewed the scheme as one of many possible means of breaking the link between natural resources and the funding of conflict, but not as a solution in and of itself (Bannon and Collier 2003). Ian Bannon and Paul Collier (2003), for example, viewed the KPCS as one of a set of actions—ranging from economic development to greater transparency—that the international community could support.⁵

Indeed, given that the KPCS was established in 2003, after the diamond-fuelled wars of Sierra Leone and Angola had already ended, the scheme's ability to prevent natural resource sales from funding rebel groups remains largely untested. The KPCS has imposed only one conflict-related sanction: a ban on diamond exports from the north of Côte d'Ivoire, which has been in place since 2005 without apparent effect on the trade in Ivorian diamonds; as noted earlier, these gems are traded through informal networks and may be brought into the formal economy through KPCS-certified trading chains (Global Witness 2006). The Ivorian example raises questions about the ability of certificate-of-origin schemes such as the KPCS to effectively prevent military groups from benefiting from supply chains, particularly where production is small enough to be absorbed into informal trading networks. That the KPCS remains largely untested in this respect should serve as a warning for proponents of similar schemes involving other minerals.

The successes to which the KPCS can point are not in preventing conflict but in boosting the benefits of diamond resources to post-conflict states. First and foremost, by providing an administrative bottleneck between international sellers and buyers, the KPCS has helped increase export tax revenues for producing countries. This has helped formalize the international trade in rough diamonds and strengthened the overall fiscal link between natural resources and the state, an important factor in peacebuilding. It has also led to some rationalization of the sector, as countries such as Sierra Leone adjusted their mining laws to limit the number of possible actors in a trading chain (in particular, by limiting the number of exporters, who operate at the point where the government can have the most control). Large private sector actors have also used the KPCS to increase the transparency of their diamond supply chains, and thereby helped manage public perceptions of their potential association with conflict diamonds. Finally, the

⁵ Bannon and Collier (2003) are supportive of the KPCS, going so far as to suggest that the scheme might be judged a success even if the most it did was to force rebels to sell at a deep discount. Though the evidence is anecdotal, one industry expert formerly associated with De Beers has suggested that after the KPCS was instituted and rebel goods became more difficult to sell, people got scared—and the price of certain rough diamonds on the Antwerp Diamond Bourse dropped (Gilbert 2010).

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Table 1. Effects of a top-down mineral certificate-of-origin scheme

<i>Likely</i>	<i>Unlikely</i>
Increase transparency and traceability in the context of formal international trade.	Eliminate avenues for the laundering of “conflict” or corruption minerals at subnational levels. Eliminate informal international trade.
Foster formalization, including taxation, at the point of export.	Foster formalization of artisanal, small-scale, and other informal forms of mining and trading.
Encourage legal (or mostly legal) actors to comply.	Remove illegal actors and military groups from the supply chain.
Increase scrutiny of the downstream mineral chain, which may lead to greater focus on upstream labor rights and environmental issues.	Eliminate upstream human rights abuses, inequality, poverty, insecurity, etc.
Place a significant monitoring burden on states, albeit while enhancing the state’s technical expertise; create new opportunities for state corruption, rent seeking, and deliberate misclassification of minerals.	Eliminate corruption, rent seeking, and deliberate misclassification by state institutions.

Source: Adapted from Garrett and Mitchell (2009).

KPCS has created a forum for expanding the debate about diamonds beyond the issue of conflict to include matters such as labor practices, the environment, and human rights.⁶

Table 1, which is based on field research conducted by Nicholas Garrett and Harrison Mitchell (2009), summarizes the likely and unlikely effects of a top-down certificate-of-origin scheme such as the KPCS. For development and peacebuilding policy makers, the outcomes enumerated in the table suggest that the role of certificate-of-origin schemes should be reevaluated. Specifically, one must ask whether the emphasis on assurance of origin is misplaced, given that such initiatives exist in parallel with well-established informal networks. Where resources are limited, should they be directed to such schemes, or would they be better allocated to other mechanisms or policy approaches? This question is particularly pertinent in light of the difficulty of effectively implementing such schemes under conditions of limited capacity.

Given that armed groups benefit from the mineral sector—and that, by operating through informal channels, they will continue to do so—the lessons of the KPCS suggest that the international community should assist countries to formalize their informal and artisanal extractive sectors, rather than compel

⁶ For expanded discussions of diamond-related human rights and labor rights issues, see the web sites of the Madison Dialogue (www.madisondialogue.org) and the Diamond Development Initiative (www.ddiglobal.org), both of which were established after the KPCS.

them to provide an assurance of origin that means little where informal mining and trading networks remain dominant.⁷ Certificate-of-origin schemes can be costly to establish and monitor over the long term, especially in developing countries characterized by low administrative capacity, lack of resources, vested interests, and well-established informal networks. In addition, if border controls and export procedures are sufficiently sophisticated to obtain the appropriate tax, assurance of origin will not even be necessary to support the fiscal link between the mineral trade and the government.

Finally, it is worth noting that many assurance initiatives are designed to meet the demands of consumers or governments in Western markets, rather than to meet the needs of artisanal mining communities and local traders. Given the right incentives and assistance, these miners and traders could work toward formalizing and professionalizing their operations, but they have been largely ignored by the international community in favor of certificate schemes that, by assuring origin, purport to serve a security function. Given that assistance with formalization could potentially pay a far greater development dividend for local mining communities over the medium to long term, the question remains whether this assistance might in fact have a far greater impact on building peace than would an uncertain promise of origin.

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⁷ Formal trade is regulated by the institutions of society and taxed and monitored by government. The formalization of informal and unregulated production and trade encompasses many reforms, including providing artisanal miners with legal rights, registering miners and traders, and imposing taxes. For a broader discussion of formalization, see Mitchell and Garrett (2009).

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