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The persistence of informality: Perspectives on the future of artisanal mining in Liberia

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ABSTRACT

Throughout most of the developing world, the artisanal and small-scale exploitation of high-value resources such as gold and diamonds, often takes place informally, without the proper legal authorization. Government officials often blame this informality on miners' unwillingness to comply with legal requirements. However, the lack of government capacity to adequately enforce such legislation, and the question of whether or not that legislation is actually feasible, is rarely considered to be a relevant factor determining the level of informality of artisanal mining operations. Drawing on field research in Liberia, this paper argues that many artisanal miners are in fact operating at various stages of legality, through payment of informal taxes, and following informal agreements made with local government officials. This kind of informal taxation can be seen as a locally grounded formalization, benefiting both cash-strapped artisanal miners who are unable to pay the full fees required by the Mining Code, and underpaid government officials who are presented with an opportunity to supplement their incomes. While illegal in absolute terms, these practices raise important questions regarding the feasibility and legitimacy of the current Mining Code, and the ways in which this crucial economic activity should be regulated in the future.

1. Introduction

On 6 September 2007, a small shipment of rough diamonds was legally exported from the West African nation of Liberia. The shipment was valued at 222.000 USD, and earned the Liberian government around 6.666 USD in export royalties [51]. More importantly, it marked the resumption of its trade in rough diamonds with the rest of the world, which had been banned by the United Nations Security Council since 2001. Although diamonds did play a secondary role in financing non-state armed actors in the Liberian civil war [20], Liberian diamonds mostly became known as proverbial 'conflict' or 'blood' diamonds because of their association with the war in neighboring Sierra Leone, a conflict that was closely intertwined with Liberia's own [11]. Through an alliance between the Sierra Leonean Revolutionary United Front (RUF) and the Liberian insurgent leader and former President Charles Taylor, diamonds mined in rebel-held territories in Sierra Leone in the 1990s were sold internationally through the mediation of Charles Taylor, with arms and ammunition making the return trip [20,29,43]. Investigations by the United Nations and NGO campaigners in 1999–2000 publicized how the Liberian

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Government was actively supporting the RUF, and ultimately led to the imposition of a blanket export ban on diamonds originating from the country in March 2001, through UN Security Council Resolution 1343 [46].

Previous investigations into the smuggling of diamonds by the Angolan rebel movement UNITA had brought the world's attention to the ways in which rough diamonds were being used by certain rebel movements to finance armed conflict [17]. Despite outcries in the international media, none of this was a particularly closely held secret: one of the main sources of the British NGO report that is credited with spawning the 'conflict diamonds' campaign were the annual reports and public statements of diamond industry giant De Beers, in which the company proudly mentioned how its diamond buyers, despite the ongoing conflict and the increased amounts of diamonds smuggled onto the 'open' market by UNITA rebels, had succeeded in purchasing this excess production in order to prevent price destabilization [17]. Indeed, by that time it was a well-established fact among academics, investigative journalists and the intelligence community that violent conflicts in developing countries were increasingly linking rebels and rulers with international commercial interests [11,27,34,39,40]. As far back as 1993, Belgian Members of Parliament tried to ban 'UNITA diamonds' from being traded in Antwerp, the leading world trading center for rough diamonds. The bill did not pass, and would have proven to be impossible to implement, given the difficulty with ascertaining the origin of falsely declared diamonds (and thus being able to prove in a courtroom that diamonds from country X did in fact actually come from country Y) [34, p. 103].

The global conflict diamond campaign, together with an innovative investigative approach of the United Nations Security Council, gave rise to an unprecedented effort to reform the global diamond industry. A meeting hosted by the Southern African Development Community (SADC) in the historic mining town of Kimberley, South Africa, in May 2000 became the starting point for a series of peripatetic negotiation rounds that became known as the Kimberley Process, which was subsequently supported by a UN General Assembly resolution. Remarkably fast for an initiative on this scale, a consensus was reached two years later on how to best stop conflict diamonds from entering the legitimate diamond industry, and in the process help block one avenue of funding for armed conflicts. This mechanism, the Kimberley Process Certification Scheme (KPCS), came into effect on January 1, 2003. It created a closed global market for rough diamonds, where KP participating countries are only allowed to trade rough diamonds with other participating countries, using Certificates to create a paper trail [18,53]. Regular endorsements by both the UN General Assembly and Security Council, at first supporting the KP negotiations, and after 2003 taking the form of an annual assessment presented to the assembly by the KP chair, gave the KP/KPCS the necessary legitimacy and authority to carry out its work.

In 2007, satisfied that the Liberian Government had enacted several reforms[1] that would increase the government's oversight of the mining and trading of rough diamonds in its territory, the UN Security Council lifted the diamond embargo through Resolution 1753, clearing the way for the resumption of normal trade though Liberia's participation in the Kimberley Process [47]. Ever since, however, the Liberian Government has been repeatedly criticized by both the KPCS and the UNSC for failing to make sufficient progress in formalizing its small-scale mining industry, and improve its internal controls, which has cast doubts as to whether the authorities are able to prevent diamonds from being smuggled in or out of the country. This potentially compromises the integrity of the KPCS certificates in the wider Mano River Union region [48,55].

In this paper, we will demonstrate how the transformation of a largely informal, extralegal part of the economy into a fully formalized industry is one of the key focal points of the Liberian Government, the KPCS, and the UNSC. We will also show that several characteristics inherent to the diamond industry in many developing countries, as well some of the basic assumptions underpinning the KPCS, make this formalization appear at times a Sisyphean task. Based on extensive field research undertaken in rural Liberia's diamond mining communities in 2010, 2011 and 2012, we will argue that many artisanal miners are, in fact, operating at various stages of legality, through the payment of informal taxes, and based upon informal agreements with local government officials. These informal practices can be considered coping strategies in environments governed by an inflexible legal framework that is not in tune with local realities. It can be seen as locally grounded 'formalization', benefiting both cash-strapped artisanal miners unable to pay the full fees required by the Mining Code, as well as underpaid government officials who are seizing an opportunity to supplement their incomes, while also decreasing the amount of mining activities which are wholly beyond any form of official oversight or (tacit) approval. While illegal in absolute terms, these practices raise important questions regarding the feasibility and legitimacy of the current mining legislation, while also shedding light on the inner workings of a significant part of the 'real' economy of Liberia (cf. MacGaffey's 1991 analysis of the Zaïrean economy [31]). Contrary to what is sometimes suggested in policy analyses, these mining areas do not represent 'ungoverned' territories per se [38] but are rather spaces of constant interaction and competition between local government officials, miners, traders and financiers, and non-mining community members. Following Roitman [54], such areas perfectly lend themselves to the study of the (il)legitimacy of state and non-state actors' practices, in a context where the illicit is often rendered licit.

The study of these interactions allows for better conceptualization of the realities of natural resources management with regard to easily accessible mineral deposits in contexts of fragile statehood, currently in stark opposition to enforcement-based strategies to coax informal miners and traders into joining the formal economy.

[1] Based on the KP minimum requirements, this entailed the enactment of specific legislation requiring the installation of a system of internal controls, and governing the issuance of Kimberley Process Certificates for all shipments of rough diamonds.