



Building International and Regional Consensus

Policy Dialogue Report No. 12:

Building Regional and International Consensus in Southern Africa: Botswana/Zimbabwe/South Africa Diamonds



31 January 2013
Burgers Park Hotel, Pretoria

SPEAKERS:

Facilitator: Aziz Pahad (Former Deputy Minister of Foreign Affairs of South Africa, 1994 - 2008)

Isabella Matambanadzo (Zimbabwean feminist activist)

Vasu Gounden (Founder and Executive Director of the African Centre for the Constructive Resolution of Disputes (ACCORD))

Ambassador Welile Nhlapo (Former National Security Advisor to the South African President; and Chair of the Kimberley Process, as of 1 January 2013)

- Tea Break -

Ambassador Roeland van de Geer (Head of the EU Delegation, Pretoria)

HE Mr Kenny Kinitiro Kapinga (High Commissioner for the Republic of Botswana to South Africa)

Speaking from the floor: **KP civil society representatives**, past and present

On behalf of SALO, **Bella Matambanadzo** welcomed everyone, thanked the donors who made the workshop possible, and introduced the Chair for the day's session, Aziz Pahad.



Aziz Pahad, in opening the discussions and introducing the speakers gave a very brief history of how the Kimberley Process (KP) was created: the issue of conflict diamonds emerged in 1998 during the Angolan and Sierra Leone conflicts. In 1999 the UN Security Council imposed sanctions prohibiting the import of rough diamonds from Angola that were not certified. In 2000 the World Diamond Council was formed to combat illegal diamonds trading in Africa, with the first meeting taking place in South Africa. November 2002 saw negotiations between governments, companies in the diamond industry, and CSOs, which resulted in the creation of the KP certification scheme. By 2012 over 90% of the diamond industry was part of the KP, involving 54 participants representing 80 countries. So it's clear, he stated, that the KP remains a very important international monitoring mechanism to stop the proliferation of diamonds from conflict areas.

The definition of conflict diamonds is, "a rough diamond used by a rebel movement or its allies, to fund or to finance conflict in undermining a legitimate government." Some argue that this definition is too limited, and should be widened to include human rights abuse. Some express concern that attempts to redefine conflict diamonds to include human rights, revenue transparency, and good governance would impact negatively on a country's sovereignty and be a pretext for regime change. The United States as Chair of the KP in 2012 started discussions to have the definition changed, but they failed to get consensus. Others point out that while raw diamonds are exported from Africa, we must also focus on who are the main beneficiaries of diamonds coming from conflict areas.

Current conflict trends on the continent



Vasu Gounden introduced ACCORD, which has been in the conflict management field for twenty years, with headquarters in Durban, and offices in a number of countries on the continent. ACCORD mainly operates in mediation through four units: peace-making, peace-keeping, peace-building, and training. They work with the UN and the AU, preparing all of the AU missions in Africa in the civilian dimensions in peace-keeping. ACCORD also produces publications, such as Africa's first journal of conflict management.

He then gave a broad analysis of the drivers of, and factors that exacerbate, current conflict trends on the continent to locate the debate of conflict diamonds.

Any society, he explained, has three sectors: the state, the private sector, and civil society. In a balanced, and stable society, power and influence are distributed amongst these – else if one sector is dominant over the other conflicts arise. We expect to see separation of powers between the administration, the judiciary, and the legislature. The military should be professional under civilian accountability. Political parties are based on values, not on narrow identities. The private sector is sustainable, independent, and diverse, with good infrastructure – commercial, financial, and physical – and regulatory environment. Civil society is independent, well-resourced, and represents a diverse set of interest groups, not just political parties or being fronts for such. Skills and resources are critical in ensuring that all of the above are in place.

In South Africa, these components are largely in place, and the country is not short of resources. Rather, the “greatest threat to our democracy is the skills deficit that we currently have, and if we don’t correct that skills deficit going forward that will be our major problem”.

Over time, there has been movement from an agricultural, to an industrial, and now an information and services sector-based society. The social contract in each of these revolved around the feudal relationship with the monarchy, the introduction of the state, and the dominance of the private sector, respectively.

The African continent hasn’t to a large extent industrialised. And, looking at the current tele-density – access to internet – South Africa also has not entered much into the information age.

Globally what we are seeing is a rise in the private sector and civil society, and a decline in the nation state. This is being driven by globalisation of the market economy, and globalisation of information. Through information, civil society organisations have a much larger reach than they had previously. Through globalisation of the market economy, in societies where the private sector is rising in ascendancy, many of the traditional functions of the state are being privatised. In other countries however, the state is still very dominant.

“... that is part of where our challenges start to arise. It doesn’t mean that the state should not be dominant. Remember that the state comes into being in order to mediate between the private sector and the citizens – that’s partly the role of the state also – to ensure that there isn’t total exploitation.”

Mr Gounden used the example of Sweden, South Africa, and Burundi to discuss the distribution of power among the three sectors. In Sweden, its population, generally all gainfully employed (62% in the private sector, 27% in the public sector, 11% in civil society sector), can migrate among the different sectors with relative ease, given that they have skills and access to resources to be able to do so, and given the distribution of power and influence among the sectors.

By contrast the problem largely on the African continent is:

“a concentration of power and influence at the centre, and a large periphery that’s marginalised ... now that’s not just government officials, that’s the private sector, that’s also people like ourselves in the NGO sector. We’re all in the centre, we have access to

resources, to capital; we're empowered, the system works for us. But largely people are marginalised. What has that resulted in? Rapidly increasing population ... that compounds the problem ... you don't have a population that's rapidly urbanising that can help to move you into industrialisation, information age, etc. The problem with this rapidly urbanising group is that they don't have skills either. They're a very young population, they're coming in, no skills, no education, totally marginalised ... They don't have disposable income, so you can't grow your economies ..."

In South Africa, 59% of the employed population are in the private sector, 23% in civil society, and 18% in the public sector. This is positive, however only approximately 30% of South Africa's population live in that centre, 70% are marginalised.

He gave the example of people employed in different government levels in South Africa to illustrate the impact of imbalance in the distribution of power and resources:

"... at a national level, the politicians ... can move into one sector or the other. Our problem in South Africa comes when we go down to the municipal level. A lot of the councillors who are in those municipalities, may not, not all of them, but a large percentage of them, do not have the same access to capital, resources, etcetera, may not possess all of the skills ... you will experience a lot of conflict at that level ... That's because people at this level, if they lose their positions, they lose everything."

In Burundi, 61% of the employed are in the public sector, 35% in the private sector, and a very small percentage in civil society.

"Now I have a very nice anecdote for you. When we first started working in Burundi – I was working there, Ambassador Nhlapo was there – it was 1995/96 or so, and we went out to a dinner with some of the Generals. And we had a very good dinner. Ambassador Nhlapo was not there; I was with my colleagues. The bill was not bad but it was not reasonable either, and the General insisted on paying the bill; you know, he said local hospitality, he will pay the bill, etcetera, and he did. After that we retired to his house to have some discussions and then the discussions revolved around how much they earned in the country and it turned out that the military people were paid, I think it was, \$50 or \$80 a month. The politician, I think was about \$150; the President was \$300 a month or something. And I can tell you when we heard this we were extremely guilty because the meal was over \$50.

So now the next morning, if you remember Ambassador, I came to the hotel and we were having breakfast and I said, Man, Ambassador, you know, I feel so guilty that we made this man pay for this thing and it was his whole salary. So the Ambassador said, No, no, look, don't worry about that, you see the milk you are putting in the porridge, that milk comes from the farm of the General. OK, now you can imagine, you can imagine now that the General and his colleagues, they will sit here, 5% in Burundi - 95% sit outside here [reference to matrix on overhead]. Now even at a national level, if they lose elections here, the General even is out – no milk. Now you can imagine, you know, it's a general condition, we should not all look like we are holier than thou, because if I put you in that situation tomorrow - and they have done it, you know; psychologists and sociologists have done these tests – that even if I put any of you in that position and you lose elections, you will also become violent."

Mr Gounden described a project that is studying Nordic models to see what lessons can be learned from their successes:

“... we are interacting now with them on a global project that’s looking at how we can begin to learn lessons from their trajectory, and how they get to this social democratic model that they have had for so many years that is the only region in the world that has levels of equity that you have seen – unprecedented. When I sat with my Swedish colleagues to try and find out how do you do this – firstly it took them about 80 years of investment in education, all sorts of things, and then it’s a generational thing. It’s a long process to get to that point ... Norway owns two percent of all global investments. They have taken that oil resource, and they have put it into pension funds for generations way into the future, and have used now only a small percentage to build a phenomenal infrastructure.”

The fact that it is a “long trajectory” makes it abundantly clear that war and militarised conflict are very costly, and “the trick is to make sure that we don’t go this way”:

“We say to our colleagues there in South Sudan when we are sitting with them, currently with the infrastructure you have, which is nothing; they are not reconstructing a country, they are constructing a new country. So they have no infrastructure, roads, etcetera ... if you go to war against inside, that development that is going to take you 80 years is going to take you 150 years ... Somalia is going to take us a long time to get out of the woods.”

In the DRC, we see another manifestation of imbalance in the public-private sector relationship:

“all that we have done over this time is mitigated conflict, we’ve stopped the war, we’ve put political elites together into a government of national unity, and we have created a stable centre. But since 1999 till today that stable centre has not closed that gap between the centre and the periphery ... that stable centre only serves the purpose of multinational corporations, unfortunately ... Our problem is how to ensure that those resources, whoever deals with that centre, that the proceeds of those resources, help to close the gap between the centre and the periphery.”

In such a context, conflict diamonds are an important piece of a much larger problem involving many different players both in and outside of Africa.

“... conflict diamonds are used to fund all those wars that are there, or they are used to fund the lifestyle of the politicians who want to remain there ... that problem is not just an African problem. That problem is also a problem of those countries from where those multinational corporations come, because we need to deal with both sides. We don’t only stop conflict diamonds from passing out. We need to stop those people that are taking those diamonds.”

He cited the example of Coltan, a derivative that is an essential component for cell phones and the aeronautical and space industry, 65% of which sits in the DRC.

“[W]here’s that Coltan going? ... Who’s buying it? ... So this is the problem – how to move in that direction, and how to ensure that we have a collective approach, all of us. And the Kimberley Process is only one part of this entire spectrum of things.”

The consequences of inequitable distribution of political power and influence, and socio-economic marginalisation, with national resource value not reinvested in the country will be continued and growing conflicts and splits:

“we will see for the next decades, several decades, low intensity protracted conflicts, escalating to full-scale civil war, as you see in Mali, as you see in Somalia, etcetera. The creation of new centres of power – if there’s marginalisation on the periphery you will get a South Sudan, you will get a Azawad in Mali, you will get several parts of the DRC, you will get a north and south Nigeria. This is the consequence if we don’t deal with the problem, and our history globally of partition is not a good one ... as humanity we have not yet developed the ability, the skills, the mechanisms to deal with this ...”

The options are to try to seek legal remedies in court, dialogue and mediate, or go to war. “That’s the options we have, and we’ve been trying to convince people that war is costly.”

Another dimension that further complicates conflicts are illicit smuggling and trafficking networks – in arms, drugs, and humans – that are financing wars.

Other factors that exacerbate situations include rapid urbanisation and climate change:

“... by 2030, fifty percent of the African population will be urban. That’s good for industrialisation etcetera. The problem with that is over 200 million individuals will be between 15 and 24; you will have an increase of 13 million a year; over half of city dwellers will be under 18 years – uneducated, no hope for the future – and they will be moving in to unplanned cities that will not have physical infrastructure, sanitation, housing etcetera – no employment. It’s a recipe for conflict. It’s not a prognosis, it’s not what is going to happen in the future – it is happening as we sit now.”

Most of the impact of climate change, according to a UN document, will be felt in Africa – increasing incidences of drought in the south, desertification in the north; disruption of historical migratory patterns for humans and animals alike; exacerbated tensions in communities over scarce resources. Currently there is a gridlock given the inability of international actors to develop consensus on appropriate responses.

Other developments include: increasing demand for African oil to support global markets; agricultural exports funnelled off the continent despite large pockets of food insecurity; political-military complexes and revenue from resources, including diamonds, fuelling long-term instabilities and short-term crises; increasing progress on alternative energies being unable to replace surging demand for fossil fuel. On the financial side, income and inequality gaps widening; the vulnerability and volatility of commodity prices; lack of efficient and widespread government taxation schemes; and lack of beneficiation.

In brief summary, current conflict trends are: military conflicts, driven by the proliferation of small arms; increasing prevalence of non-state actors; environmental conflicts as mentioned; economic competition for control of lucrative investment amongst African countries; socio-economic conflicts as a result of uneven distribution of power and influence; conflicts out of failure to create nation states, so succession, ethno-politicisation, transnational conflicts; conflicts as a by-product of the Cold War legacy such as former security personnel, special forces, agents, etcetera, now linking up with drug lords; a huge religious conflict, “[w]hat is now characterised as a broad conflict between Islam on the one hand and Judeo-Christianity on the other hand is not a fiction, it’s a reality.”

Returning to the KP, Mr Gounden stated that it highlights the importance of collective efforts:

“[t]he success of the Kimberley Process was that we all came together ... collective efforts must extend to address root causes of conflicts, mitigate violence, and ultimately transform society. That is key.”

And he stated that in the centre of all conflicts is the problem of inequality, marginalisation, and poverty:

“Anyway you cut this ... at the centre is poverty and marginalisation ... So the Kimberley Process, whatever else we are doing in trying to address conflicts, must eventually address this problem of poverty, inequality, marginalisation.”

Lastly, he mentioned that a new initiative called Global Peace has just been launched, co-chaired by Martti Ahtisaari and Graca Machel, to mobilise people at a global level to look at the issue of inequality, and how to close the gap. He warned, “[i]f we don’t, Kimberley Process, diamonds, all of these things mean absolutely nothing.”

The role of the Kimberley Process and the way forward

Next to speak was **Ambassador Nhlapo**, who as of January 2013 is the Chairperson of the KP. Ambassador Nhlapo began his talk by referencing the ongoing debates on the KP’s role and place:



“if we are not careful in the manner in which we are handling some of the issues that are very critical, we are going to do what some have said: the Kimberley Process is going to be irrelevant. We, the participants of the Kimberley Process, will be the ones who will destroy it if we do not understand it, and are not able to locate it, and define its role properly, within the context of conflict resolution as recognised by Resolution 5556 by the United Nations.”

He reminded everyone that the multi-lateral process initiated in 2000 on South African soil, to combat the scourge of “illicit trade in rough diamonds by rebel movements in order to fund activities aimed at removing legitimate governments”, and what led to the birth of KP – was an African initiated and led process. It was strengthened by close cooperation between AU Peace and Security Council, and the United Nations Security Council. The KP was endorsed by the United Nations General Assembly through the landmark Resolution 5556, and decisions of the World Diamond Council to self-regulate to ensure that no blood diamonds flow into the value chain.

“That was a major contribution by the industry, and we need to recognise that. And the basis of this main decision-making process is on consensus ... not a very simple thing to come to appreciate and conclude whether there is a consensus or not ... it’s not a simple decision-making mechanism as some people think, but it’s because of the nature of the family – the multi-stakeholder nature of the family – that you have to find a way where you can be able to reach agreement.”

The KP celebrates its 10th anniversary this year with South Africa as the Chair for 2013, expected to host two major conferences where decisions are reviewed, and the December conference where decisions on the way forward are taken.

The Chair of the KP is to report to the General Assembly on the work that has been done for that year, on the basis of which the General Assembly will assess the role that the KP continues to play in the broader scheme of ensuring the maintenance of international peace and security.

By November 2002 negotiations between governments, the international diamond industry, and civil society organisations had resulted in the Kimberley Process Certification Scheme (KPCS). The KPCS entered into force in 2003 when participating countries started to implement its rules. Diamond experts estimate that conflict diamonds now represent a fraction, as recognised by the UN continuously in their review of the implementation of the KP process, and the relevant resolutions that they have taken from time to time.

“And we are saying that this contribution ... could be measured not in terms of carats but the effects on people’s lives and livelihood ... indeed lives are lost in the process, and people’s livelihood, because the industry, in its broader sense, employs a lot of people ...”

Ambassador Nhlapo warned that the inconclusive debate about the definition of conflict diamonds, which can impact on the mandate and character of the KP, is a threat to the KP. Consensus concerns vis-à-vis human rights violations need to be further discussed, as again there is no agreement on its inclusion in the definition of conflict diamonds. And the term ‘violent armed conflict’ is open to ambiguous interpretation, but also there is no agreement on its inclusion in the expanded definition.

He raised the question of whether the KP has the capacity to deal with the magnitude of these challenges given what Mr Gounden put forward in his presentation as some of the causes of conflicts, and how they manifest.

If one looks at the history of conflicts – for example in Angola, Sierra Leone, Cote d’Ivoire, Central African Republic to some extent – there are links between conflict diamonds and mercenary structures and smuggling syndicates. When the South African Parliament legislated a law on foreign military intervention, it was an attempt to curb these activities.

“So there is a bigger challenge that the KP cannot have the capacity to deal with ...”. At the same time, Ambassador Nhlapo believed that the KP is:

“important as a building block in the broader context of resolving conflicts on the African continent and beyond, and must take advantage of the space created for it by the UN and its key organs, mandates and agencies.”

Issues identified as the KP’s weaknesses must be raised in fora with mandates and capacity to ensure genuine solutions: the Second Committee of the General Assembly, the United Nations Security Council, and the Human Rights Council are the UN structures that have mandate and resources to deal with some of these.

Also, countries that are part of the KP must fulfil their responsibilities by being more active in the AU and the UN where these conflicts are directly dealt with. If there is interest only when diamonds have been identified as a driver of conflict, that is too limited an interest.

“Where were we in Mali? The only thing we did was to issue an advisory to monitor what is happening in the diamond fields that have been occupied by the rebels, but you have a government that was already on the retreat, which could not have been capable for implementing all the requirements of the KP with the diamond fields occupied. So we are watching, we are waiting – there is a government of national unity that is being formed. At a particular stage, we’ll only be coming as the KP – Can we help you to rebuild your capacity to comply? Is that sufficient? It’s a question that I’m raising.”

It is important to keep in mind that the diamond industry can act as a springboard to expand and diversify African economies, and that the KP links to other processes. China is Vice-Chair this year, and is likely to Chair next year. How do we leverage the bilateral relationship with China to ensure that the stakeholders continue to move in the same direction? BRICS countries are all key participants of the KP, and some of the issues that the BRICS summit is to deal with are the challenges of socio-economic development on the continent. South Africa’s foreign policy posture in Africa should place it in a situation where it can play a more meaningful role.

What is also needed is strong African leadership by increasing the African footprint in the KP. “There are many African countries that are interested in the KP – how do we ensure that they come in? And how do we ensure that the African Diamond Producers Association can be able to play a more prominent and effective role in this process?”

In concluding his talk, Ambassador Nhlapo stressed that reform is necessary and desirable, however it must be the outcome of a considered process:

“I have been asked several times whether South Africa ... supports reforms, and I said, yes, in all multilateral institutions: Bretton-Woods institutions, and the UN, and its Security Council – we’ve been very vocal ... We cannot be inconsistent in our commitment to reform of multilateral institutions, but we are saying these must be the outcome of a considered process, and must not compromise the KP’s initial mandate and founding principles ... Mechanisms to ensure compliance must be strengthened in a way which satisfies the requirements of government, industry, and civil society, all of them. So it means we need to continue the dialogue amongst ourselves to ensure that we are strengthening our own mechanisms, but be sensitive to the needs of every component.”

He invited everyone, civil society in particular, to engage with him as Chair of the KP, with the common goal of finding solutions:

“as the chair, as South Africa, we are prepared to engage everybody, and we have started doing so and we will continue to do so. Those who have got genuine concerns we will listen to, we’ll engage, we’ll try to find common cause, to find solutions. If it doesn’t work, it will not be because we have not tried, but we are open, and this is an invitation I am throwing to those of civil society and NGOs who are here. The KP must create more partnerships with civil society structures involved in conflict resolution and peace-building, because we cannot operate in a vacuum – it’s not possible. And therefore the synergies and partnership that we develop will be very critical in ensuring that the KP, in this vast area of conflict resolution, as a tiny contributor, becomes more relevant and effective. We need to focus on what we can be able to assess collectively as our strength and weaknesses so that we don’t have any illusions about what we can be able to do as the KP.”

EU perspective on the Kimberley Process

Ambassador Van de Geer began with an affirmation that the EU is united in its commitment to the KP, and that it also supports “widening the issue” though:



“[n]ot so much in the KP process as such that looks at diamonds, and that is already a mouth- and a handful, but the EU is very interested to work further on the illegal exploitation of natural resources in general. And to that effect a work group is now active on the illegal exploitation of mineral resources in which we do have a very wide international participation: of course the OECD, a number of European, African, American, Asian countries; and the KP in many ways is a source of inspiration for this wider working group.”

He expressed strong support for South Africa, and Ambassador Nhlapo, being Chair of the KP.

Further strengthening KP implementation, as well as building capacity and internal mechanisms within KP itself, he stated, has been and should stay the main focus of collective efforts. The EU, seeing that need, welcomes the approval by the recent KP plenary meeting in Washington of the selection, engagement, and operation of an administrative support mechanism. The EU is very positive about the selection of the World Diamond Council to host such a mechanism, and supportive of the KP-endorsed proposals to enhance the peer review system.

“We think the internal mechanism needs to be strengthened and developed, but we also think that a peer review system for monitoring the scheme’s implementation is important because we need more statistical transparency of diamond production and freight, and that will be done through the adaptation ... of data ..., anomalies questionnaire process, and guidelines for statistical reconciliation between participants.”

He welcomed developments on monitoring, as well as inclusion of artisanal and small-scale diamond mining in the KP.

He stressed the importance of strengthening internal capacity and mechanisms, review and monitoring systems, and implementation processes, “[b]ecause if we don’t get that right there will always be possibilities to go around the process. These are technical things, but if we don’t get our homework done then we are in trouble.” Equally important is ensuring compliance, and to that end, the adoption of revised guidelines for the participation committee in recommending interim measures on serious non-compliance with KP minimum requirements:

“... we should also look at enhanced implementation and enhanced work on non-compliance ... secondly the development of a KP documents compendium, and thirdly the relaunch of work on evaluation methodologies is important, because that brings us to the heart of the matter: getting very close to the diamonds; getting very close to the trade; improving our monitoring ...”

The EU is also committed to enhancing information sharing on KP implementation and enforcement across the entire value chain, and recognises that this work has a wider reach:

“That is extremely important because we need to monitor the diamonds all the way, and you can only do that when you further develop and institutionalise your information sharing – including of course, through collaboration with national enforcement agencies and the world customs organisations ... And then we come to this wider approach ... We do fully realise on the EU side ... this work will benefit other fields of law enforcement activity such as money laundering and wider smuggling investigations, because we have to take these things together ...”

The Ambassador also welcomed the recent KP Plenary Meeting decision to reaffirm the mandate of the *ad hoc* committee on KP’s review. He advocated an approach of consideration and balance in the continuing discussion on broadening the KP’s scope in order to assess how to respond to the wider ethical issues.

“Now of course this is a difficult one. It’s already difficult enough to further get the KP right as it is, and if you broaden it too much, and if you make it a vehicle to improve everything that is wrong in the world – I’m saying this in a very positive spirit of course – then you lose direction and you become broader, but less sharp. Nevertheless ... this is part of a much wider ethical process, because let us never forget why the KP started ... to serve peace and security and human rights. So the continuing discussions and consultations of broadening the scope are important, but we should find a balance between doing that, and first improving the KP process as such. But of course we strongly support ... the need to strengthen and adapt the KP to meet future challenges in the global diamond supply chain, and provide assurances for consumers that diamonds are not tainted by violence, because ... if things are not addressed over the coming time, the industry *will* go down, which will be very strongly to Africa’s disadvantage. And the only way to really protect this is in the end also at least to refer to the wider ethical issues.”

He remarked that it is extremely important that the KP has its tripartite structure, and that civil society is one of these. Civil society, NGOs, CSOs play an important role in monitoring, research, analysis, and dissemination of information, and have contributed much to both the KP’s initial establishment and subsequent operation.

“So we welcome them, and I think the final communiqué of the KP Plenary Meeting in Washington reflects very much the importance given to NGOs by the participants, but also the important role of civil society in the KP; and ... the European Union is willing to further support their work.”

Equally, many parts of industry invest strongly in the KP. In Europe, there is pressure from the European Parliament on companies working in Africa to further develop their Corporate Social Responsibility dimension:

“... that is also one of the reasons why we feel the KP is important, because one of the roles is to prevent the industry from weakening, and illegal elements coming in, where ... corporate social responsibility is unknown, where people are absolutely not interested in that, where people are interested in making money in a quick way, and then disappear again. And our challenge ... is to keep the *bona fide* industry on board, putting them under pressure ... We are keen in the European Union to work with industry, with *bona fide* industry, so that we can jointly develop our contribution to the process. So the EU in the Kimberley Process is planning to engage with economic operators, with civil society organizations, on how best to transform our current dialogue into, let’s say, a more multi-stakeholder forum, because that is in the end the way to go ...”

Botswana and “Diamonds for Development”

HE **Kenny Kinitiro Kapinga** stated that diamonds are unequivocally the life blood of Botswana’s economy, that without diamonds, Botswana would be a completely different country.



“We are what we are, because of the contribution that diamonds have made to our economic growth and development. Diamonds will continue, for the next two decades or so ... to play a very critical role in our economic growth and development. As we speak we are in the process of having the diamond trading company relocate from

London to Gaborone so that Botswana now attains its rightful position as a major player in the global diamond industry. So you can appreciate how very important this industry is to Botswana. So we are a very willing participant and member of the Kimberley Process, because we believe it provides an opportunity to protect our diamond industry from the assault it had to endure some years ago by those who rightly believed that this industry was being used by rogues and criminals.”

He believed that the KPCS is mainly a regulatory framework, and for a regulatory framework to work it needs to be complied with. It also has to cover the entire industry, the whole cycle; and ensure that ethics and integrity permeate the whole process of mining and selling, starting with the exploration stage. The mining, extraction, selling, buying, exportation, manufacturing, and beneficiation – each and every stage has to be regulated effectively. Botswana has a licensing process for diamond cutters and polishers, and have just started the process of promoting diamond jewellery manufacturing.

In terms of contributing to making the KP an effective regulatory regime, Botswana believes it is only a legitimate government – one lawfully elected to rule a country – that can be entrusted with the responsibility to oversee such a critical industry.

“A government that has respect for the rule of law, not a government that does whatever it pleases ... a government that is averse to corruption ... effective and transparent licensing processes that regulate the three core stages of diamond industry where you have government institutions entrusted with the responsibility to license, to oversee ... *not* individuals ... Professionals with integrity not controlled by strong men in the country. Then you can be sure that the country provides a firm foundation upon which the Kimberley Process can succeed.”

In Botswana there are institutional structures responsible for legislative and policy formulations, oversight, regulation, and enforcement, to ensure that its diamonds do not end up “enriching a few individuals at the expense of the whole nation”. There is an environment whereby the people themselves know, believe, and accept that the diamond wealth is for every Motswana.

“If you ask a Motswana right now, they will tell you that they know what diamonds are for in Botswana – diamonds for development. So the people also feel that they have a proprietary right in the minerals that we produce in the country.”

The resources are applied to benefit the nation and its people, and public information is available.

“It is not a state secret ... Everybody can have access to information on revenue generated from diamonds in a given year. There is no question of the Minister of Finance not knowing where the diamond revenue has gone – no question of that happening.”

According to the 2012-2013 budget, diamonds contributed 28% – in conjunction with copper and other small minerals – to total government revenues, second only to customs revenues. About 80% of the 28% was from diamonds.

“So you can see how critical these diamonds are for our country. If you ask me as a Motswana, what diamonds have done for you? Diamonds have done almost everything for Botswana. That is why when we conducted the Diamonds for Development campaign – when the campaign on conflict diamonds was on the ascendancy, we started our own campaign which we called Diamonds for Development campaign – and we demonstrated very, very vividly how diamonds had contributed to the development of Botswana, giving any citizen, child the opportunity to go to school without paying anything – from primary school to university. I am a product of the University of Botswana, I never paid even a single Thebe from my pocket even to pay for tuition to pay for anything. It was paid for by government. I went for my post-graduate studies in the United Kingdom. I paid nothing. My government paid everything, and I am not the only citizen who can stand here and tell that story. There are thousands and thousands of us who can tell that story – what diamonds have done for our country.”

Inputs from members of KP civil society

There followed inputs from members of KP civil society (as well as others) including Comrades Maguwu and Mtisi from Zimbabwe, and Comrade Mawowa who is an academic expert with research interests in the mining sector, particularly of conflict and resource management, at the University of KwaZulu-Natal.



Shamiso Mtisi stated that he is a part of the Kimberley Process Civil Society Coalition, together with Partnership Africa Canada, and other organisations from Sierra Leone, the DRC, Liberia, Guinea, and other countries. He asserted that among the issues critical to the KP Civil Society Coalition is firstly, the redefinition of conflict diamonds to include language on human rights.

“We do not want to see a situation where diamonds revenue is being used to suppress the people. We do not want to see diamond

revenue to suppress workers; people who are working for the same diamond mining companies ... We do not want to see state-sponsored violence happening in diamond fields – that’s about human rights issues.”

The second issue is poverty, inequality, and marginalisation, what Mr Gounden identified as causes of conflict. “And for us to eliminate poverty, inequality and marginalisation, we need diamonds to promote community development, diamonds should not benefit a few individuals ...”

The third issue is that of transparency and accountability, and here access to information is critical:

“We would want a situation whereby production figures, figures of the quantities of diamonds that are produced by every company in a disaggregated manner, as well as revenue, is made public, maybe on a publicly accessible website, so that people would not speculate, but people would be able to trace and see how that money is being used. These are important issues for the Kimberley Process to focus on.”

And then lastly he commented that there’s a need to promote a “mini-KP arrangement system” in all the countries that are participants to the KP; that is, to ensure that there is dialogue between industry, government, and civil society, replicating at the intra-country level the KP arrangement that is at the international level.



Farai Maguwu stated that there seems to be a need, unanimously agreed, to establish a permanent KP secretariat to ensure that there is continuity of leadership, because the KP term of one year for office of the Chair is a very limited time for any country to influence significant changes.

On the issue of whether to widen the conflict diamonds definition and strengthen the language of human rights, he argued that in the very preamble of the KP document there is mention of human rights violations associated with diamond mining activities. Therefore it is not outside the KP’s mandate to address such abuses.

On revenue transparency, the KP document says it regulates exports and not sales:

“This is whereby we get statistics saying, such and such a country is number three diamond producer in the world, but there is no information about the revenue coming from those diamond sales. We then begin to see information that Zimbabwe is exporting 12.1 million carats per year but ... what is the impact of the sale of those 12.1 million carats to the ordinary man, to the community where the diamonds are coming from. Therefore mainly talking about exports without talking about revenues becomes irrelevant to the ordinary African.”

Lastly, he mentioned the issue of manufacturers and jewelers not being members of the KP:

“Now if we cannot regulate where the manufacturers, and the polishers, and the sellers of diamonds are getting their diamonds from, there is no optimism in saying only less than one percent of conflict diamonds are getting onto international markets. The manufacturers and the jewelers must come on board so that we ensure that there is ethical trading throughout the supply chain from the mine to the shop.”

Showers Mawowa offered thoughts on how the linkage between the mining sector and development can be operationalised within the context of the KP:

“The EU Ambassador raised what I thought is a very important question particularly as we talk about possible reforms for the KP. The issue of how do you widen scope without necessarily becoming shallow ... from where I stand I see more potential in perhaps restricting the scheme to the issues of conflict and human rights. I think more can be done to broaden the definition to address issues of human rights. When I was listening to the ambassador from Botswana, what he did in his presentation was to effectively broaden the definition of what could be a conflict diamond to include issues of corruption, to include the process in terms of how mining rights are actually granted, the effectiveness of regulating the industry, and I thought that’s something that can pragmatically be looked at in terms of harmonising the legislative regime governing diamond production and management in the KP countries. I see that as a practical way forward.”



He queried whether there is scope for peer-to-peer influence between members of the KP, for instance for Botswana’s example to influence peer countries in the KP, particularly given “the difficulties of coming up with consensus at a formal level”.

Lastly, referring to the linkages between power and conflict, and the relationship between the three sector of a nation state, he asked Mr Gounden where he would place Botswana on the continuum from Burundi to Sweden:

“... that’s an interesting question for me, because it then helps to further unpack whether the connection that has been made between the power dynamics, in terms of how it’s distributed between the civil society, the state, and the private sector, has a bearing on conflict. How does that unfold when you look at Botswana? Can we derive the same conclusions? And also bearing in mind that Botswana is listed as one of the countries that are highly unequal, so to what extent are the benefits of diamonds really trickling down to the ordinary people? And how then do we define conflict? Do we define conflict as mere stability or do we define conflict to include issues of poverty, issues of societal wellbeing, issues of happiness, issues of human progress, and all other things. So again if we look at conflict and conflict diamonds, how do we define conflict, and as far as I can see, it’s been restricted to military conflict, and I don’t know how far that can take us.”

Clever Chikwanda of SALO, a researcher in conflict studies, commented that Mr Gounden correctly indicated that all along, the interventions have been in the form of conflict mitigation, and not of conflict transformation – addressing symptoms as opposed to the root causes of the conflict. As a way to unpack the underlying causes of the conflicts, identifying key parties, such as those who are buying the diamonds, is very important.

Alice Mogwe, Director of Ditshwanelo, Botswana Centre for Human Rights asked for greater elaboration on what the challenges are in terms of engagement with civil society. Are there those who are engaging outside the KP process, and what are their fundamental concerns?

Braam Hanekom, Director of PASSOP, in his capacity as an active member in the Boycott, Divestment and Sanctions movement, and also the Young Communist League, referred to the cutting of diamonds in Israel, and the use of those profits to engage in conflict, which included the use of white phosphorous. “[I]s that not conflict diamonds? And we’d like to know to what extent Kimberley Process would look at the effect of profits from cutting of diamonds on the occupied territories?”

Victor Sibiya, former CEO of the South African Diamond Board, commented that it is critical to understand how syndicates operate:

“Where do they keep their money? Where do those diamonds go to? ... to some extent, we are looking at one side of the problem, and not fully on the other side ... At one time when we were working with police here in South Africa, there were ninety-six syndicates operating from OR Tambo alone, ninety-six on the air side.”



Mr Gounden replied to Comrade Mawowa that it is certainly an interesting question, but he cannot say without further looking into the matter where Botswana sits on the spectrum.

“... yes, there must be inequality in Botswana, remember that these diamonds were only discovered in the 70’s, am I right? ’69 ... you are not going to get a completely equitable, equal society in forty years. They have made an excellent start. They have done the right thing by ensuring that the national resource is utilised for national development. But it will take several generations before that kicks in with people being educated, opportunities being created, economy being opened up, etcetera. That takes time, and that’s why it’s so dangerous in the DRC and other places where these resources have been exploited by just a few, because it sets back development for decades.”

On the question of the definition of conflict, arms are an exacerbating factor, but basically,

“conflict is a disagreement over needs and interests. We all have needs and interests, and it’s about resources. So this is what the conflict is all about. Now in that needs and interests, I can tell you there are many needs and interests.”

As to Mr Chikwanda's question about who are the players, the dealers in diamonds, he said "[t]he faces look like you and me ... They are known ... everybody knows who they are."

On the issue of accountability and leadership, he called for honesty from all sides:

"We need to make sure we are accountable; governments in Africa must be accountable. But now also the Ambassadors were sitting here from your other countries – we need accountability in your other countries also. Our Minister of Finance, then, Trevor Manuel at a World Economic Forum meeting said there is a thing called a mutual accountability framework. When it was proposed all the developing countries signed up to it. But the developed countries, many of them, didn't want to sign up to it, because it means that their multinational corporations must now be accountable in terms of that mutual accountability framework – that there is not only one person who got corrupted here, that there is somebody corrupting that person ... it's not just about having that resource and having the systems in place and all of that – it's visionary, honest, accountable leadership."

HE Kapinga added that Botswana's total revenue and grants for the year 2012-2013 was 42.91 billion Pula, out of which, 7.78 billion was allocated to education; after education came local government with just over 4 billion Pula; then came health. "We will deal with those inequalities that manifest in themselves, but on a macro level, I think we are on the right direction."

Ambassador Nhlapo again drew a distinction between governance issues, which are much broader, and more complex "than a small area which we occupy in this broad architecture of conflict resolution," and the need to be clear, focused, strategic, and realistic about what the KP can achieve:

"Because if we fail to local the KP properly where it should be making its contribution and continue to make difference, as the UN through its resolutions have been able to identify, we are going to be making a very serious mistake, because we'll end up, as it normally happens, fighting with other people because of the mandates they have. I don't think the KP is ready to do unnecessary battles when it comes to those mandates ... I wouldn't want to spend my time trying to decide what are the nature of conflicts, and the definitions, and all of these things. They are very important to have a common basis from where we start and from where we are going, but we need to focus on where we can make a difference, because if we think we can take on everything and anything that happens because of governance or lack of it, and other issues of a political, socio-economic nature, which are broader than what we can be able to do, and what we are proven to be capable of, then we are going to destroy this very KP that we are trying to build."

However this did not mean there was not a wider scope for discussions, and a means of viewing and utilising the KP as a building block in a broader space of "complimentarities and synergies":

“When we are talking about issues that are brought to the KP, yes, because they are related to conflicts, they have to be discussed, but we are saying they are complementarities and synergies that we can only be able to establish and use the space that is provided within the UN system to deal with these issues ... we have to be honest with ourselves, and that’s why I’ve invited, and I’ll continue to invite these advocacy groups who go under civil society ... you will always have a room in the KP, but don’t divert us from the work that we are supposed to be doing. But if you can strengthen what we are supposed to be doing, that’s fine; but if you don’t find a way and walk out and try to destroy the KP from outside, then it means you don’t understand the KP. You went there for the wrong reason in the first place and I think these are the issues we must confront ...”

The Ambassador also clarified that there is no unanimity on the establishment of any secretariat:

“Multilateral institutions are hijacked by secretariats because they become everything unto those institutions ... you have to examine what secretariats have done to multilateral institutions to disempower the member states, in particular, who are supposed to be the beneficiaries and drivers of that multilateral institution. Let’s not make mistakes.”

Ambassador Van de Geer in his final remarks reiterated the EU’s enthusiastic support for South Africa and Ambassador Nhlapo as Chair of the KP this year, and summarised a few points of emphasis: firstly, the importance in dealing with the whole value chain from the mining to the consumer, which requires an integral approach, and all the parties involved working together not only in Africa but globally. Secondly, the importance of mineral exploitation for social and economic development, while keeping in mind that this is not something that can be achieved overnight. And thirdly, the need to get things right at the technical level.

“We have to be clever. We need to be pointed but integral at the same time, and we need to find a balance in addressing everything that is wrong in the world, and getting it precise within the specific objectives of the KP. But therefore, and that I would like to add, it is important that the wider issue of illegal exploitation of natural resources is dealt with as well, not within the KP as such. I agree there very much with the Chair, that we should not become, that we should not go for everything. It is important to use the KP as a source of inspiration, and as an example when it comes to dealing with other illegal exploitation as well ...”



In closing, **Aziz Pahad** thanked SALO, the donors, and all the speakers, and expressed hopes for the multi-stakeholder discussions going forward.

“We’ve still got a long way to go, and I do believe our interaction as civil society and governments can help both parties move on this trajectory of transformation of our societies to become people-centred and not just for the benefit for a few.”

The analysis and recommendations included in this Policy Dialogue Report do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole responsibility of SALO, and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

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The Southern African Liaison Office (SALO) is a non-governmental organisation which promotes informed process and debate about regional conflicts and crises. SALO does this by organising dialogue events and forums for informed discussion amongst key government and civil society actors from South Africa, the SADC region and internationally, as well as through advocacy, documentary media production, and research and analysis.

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